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**ELECTRONICALLY  
FILED**

1/18/2022

K. BIEKER, CLERK OF THE COURT  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF CONTRA COSTA - MARTINEZ  
A. Stewart, DEPUTY CLERK

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **FOR THE COUNTY OF CONTRA COSTA**

11 IRMA EUBANKS, individually, and on behalf  
12 of other members of the general public  
13 similarly situated;

14 Plaintiff,

15 v.

16 YAPSTONE, INC. DBA  
17 RENTPAYMENT.COM, an unknown business  
18 entity; and DOES 1 through 100, inclusive,

19 Defendants.

Case No.: MSC18-00956

Honorable Edward G. Weil  
Department 39

**CLASS ACTION**

**ORDER GRANTING PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

Date: October 14, 2021  
Time: 9:00 a.m.  
Department: 39

Complaint Filed: May 11, 2018  
Trial Date: None Set

1 This matter has come before the Honorable Edward G. Weil in Department 39 of the  
2 Superior Court of the State of California, for the County of Contra Costa, for Plaintiff Irma  
3 Eubanks' ("Plaintiff") Motion for Preliminary Approval of Class Action Settlement.

4 Having carefully considered the papers, argument of counsel, and all matters presented to  
5 the Court, and good cause appearing,

6 **THE COURT RULES AS FOLLOWS:**

7 Plaintiff Irma Eubanks moves for preliminary approval of her class action settlement with  
8 Defendant Yapstone, Inc. ("Defendant"). The motion for preliminary approval initially was heard  
9 on February 11, 2021. At that time, the Court indicated that the settlement appeared to be  
10 approvable, subject to certain questions. The ruling stated as follows:

11 **A. Background and Settlement Terms**

12 The original complaint was filed May 11, 2018. It is a class action complaint alleging that  
13 defendant violated the Labor Code by failing to provide required overtime and minimum wages,  
14 meal and rest periods, proper wage statements, and reimbursement of employee business  
15 expenses. The case does not include a claim under PAGA.

16 The settlement would create a gross settlement fund of \$1,500,000. The class  
17 representative payment would be \$15,000. Counsel's attorney's fees would be \$600,000 (40% of  
18 the settlement). Litigation costs would not exceed \$75,000. The settlement administrator (Phoenix  
19 Settlement Administrators) would cap its costs at \$9,000. Thus, the net settlement amount  
20 available to the class would be \$801,000. The fund is non-reversionary. The gross settlement  
21 would be paid in three installments: one of \$750,000 within sixty days after final approval of the  
22 settlement, a second of \$375,000 one year later, and a third of \$375,000 two years after the first  
23 payment. The allocation of each payment is set forth in Paragraph 4(D) of the settlement  
24 agreement. It states that the first payment would pay "two-thirds of each Settlement Class  
25 Members Individual Settlement payment." (This would be about \$533,466.) The supporting  
26 memorandum of points and authorities, however, states that the first payment will include "the  
27 first half" of the settlement payments. (Memorandum, at 4: 13-15.) The first payment also would  
28 be allocated to cover the representative payment all of the litigation costs, one-half of the

1 settlement administrator's fees, and "partial payment of attorneys' fees to Class Counsel in an  
2 amount that would allow the Settlement Administrator to distribute the remaining half of  
3 Individual payments to Settlement Class member after the Second Settlement payment date."  
4 (Settlement Agreement, Par. 4(D)(1).) The meaning of this last phrase is not entirely clear to the  
5 Court, nor is it consistent with the other language of the same paragraph. Paragraph 4(D)(2),  
6 however, refers to the second distribution only including one-third of the individual payments, so  
7 it appears that the intended distribution is 2/3 then 1/3, not half-then- half. The third installment  
8 would consist of settlement administration costs and attorneys' fees.

9         The class would consist of current or formerly hourly-paid employees who worked for  
10 Defendant within California during May 11, 2014, to the date of an order granting preliminary  
11 approval of the settlement. Funds would be apportioned among the class based on their number of  
12 work weeks during the class period. Checks will be apportioned 20% to wages (with appropriate  
13 reduction of withholding of taxes) and 80% to penalties and interest. Notice to the class would be  
14 provided, which would include the number of work weeks. The class members will not be  
15 required to file a claim. Class members may object or opt out of the settlement. They may dispute  
16 their number of work weeks. Various prescribed follow-up steps will be taken with respect to  
17 mail that is returned as undeliverable. Uncashed checks from the first installment would be  
18 cancelled and reallocated to the remainder of the funds distributed to the class in the second  
19 installment. Uncashed checks from the second installment would be cancelled and sent to the  
20 State Unclaimed Property Fund.

21         Based on the estimated class size (about 322), the average net settlement share is about  
22 \$2,487.

23         Substantial formal discovery was undertaken, and the matter settled after three sessions  
24 with an experienced mediator. Plaintiff's counsel, while generally stating that the settlement is  
25 based on an evaluation of the strengths and weaknesses of the case, has not provided any specific  
26 discussion of the evidence in this case, or analysis of the potential value of the case.

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1           **B. Legal Standards**

2           The primary determination to be made is whether the proposed settlement is “fair,  
3 reasonable, and adequate,” under *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801,  
4 including “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of  
5 further litigation, the risk of maintaining class action status through trial, the amount offered in  
6 settlement, the extent of discovery completed and the state of the proceedings, the experience and  
7 views of counsel, the presence of a governmental participant, and the reaction ... to the proposed  
8 settlement.”

9           California law provides some general guidance concerning judicial approval of any  
10 settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of*  
11 *California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement  
12 contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405,  
13 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, “[t]he court cannot surrender  
14 its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere puppet  
15 in the matter.” (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d  
16 658, 664.) As a result, courts have specifically noted that *Neary* does not always apply, because  
17 “[w]here the rights of the public are implicated, the additional safeguard of judicial review,  
18 though more cumbersome to the settlement process, serves a salutatory purpose.” (*Consumer*  
19 *Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 48, 63.)

20           **C. Attorney fees**

21           Plaintiffs seek 40% of the total settlement amount as fees, relying on the “common fund”  
22 theory. Even a proper common fund-based fee award, however, should be reviewed through a  
23 lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503, the  
24 Supreme Court endorsed the use of a lodestar cross-check as a way to determine whether the  
25 percentage allocated is reasonable. It stated: “If the multiplier calculated by means of a lodestar  
26 cross-check is extraordinarily high or low, the trial court should consider whether the percentage  
27 used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the  
28 court is not necessarily required to make such an adjustment.” (*Id.*, at 505.) Following typical

1 practice, however, the fee award will not be considered at this time, but only as part of final  
2 approval.

3 Similarly, litigation costs and the requested representative payment of \$15,000 would be  
4 reviewed at time of final approval. Criteria for evaluation of such requests are discussed in *Clark*  
5 *v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804-807.

6 **D. Discussion**

7 First, the Court is concerned that counsel have not provided any discussion of the  
8 strengths and weaknesses of the case in order to justify the settlement amount.

9 Second, the Court is concerned about the installment provisions. Installment payments  
10 create a risk of non-payment, and increase the likelihood that some class members will not be  
11 found. Accordingly, a justification should be provided for the delay. (If it requires the provision  
12 of confidential business information, an appropriate application under CRC 2.550 can be made.)  
13 The Court has noticed that the allocations of each payment are structured such that the largest  
14 portion of the risk of future non-payment falls on the attorneys themselves, which is appropriate.  
15 In addition, the agreement does not address the plaintiffs' remedies in the event of non- payment.  
16 The parties may wish to consider an acceleration clause, a short grace period, a stipulation to  
17 entry of a judgment, or other remedies appropriate to protect the class members' interests. These  
18 issues need to be addressed before the settlement can be approved.

19 Third, the agreement, in Paragraph 3(A) contains very broad release language "including  
20 any other claims that were or could have been alleged during the Class Period based on the  
21 factual allegations pled in the operative Complaint." Plaintiffs in this case did not give a PAGA  
22 notice and therefore are not authorized to pursue or settle the State's PAGA claims. Accordingly,  
23 in the Court's view, PAGA claims could not have been alleged in this case, and are not released.

24 The parties need to clarify that they share the same interpretation.

25 Fourth, the settlement provides for payment of penalties, but is not clear about the basis  
26 for them, since this is not a PAGA case. The specific statutory basis for the penalties needs to be  
27 clarified.

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1 After continuing the matter more than once, the parties now have submitted supplemental  
2 materials.

3 As to the first issue, an acceptable analysis of the value of the claims has been provided,  
4 through plaintiff's counsel's supplemental declaration.

5 As to the second issue, the parties report that the settlement provides for distribution of  
6 two-thirds of the settlement to the class before the second installment payment, the provision of a  
7 ten-day grace period on the installments, interest at the legal rate for missed payments, and an  
8 acceleration clause if any payment is more than thirty days late. These address the Court's  
9 concerns about the structure of the payments. The parties also have filed a redacted declaration  
10 concerning the financial issues associated with the defendant, along with a motion under CRC  
11 2.550 seeking that the un-redacted version of the declaration be filed under seal. The motion sets  
12 forth adequate grounds to grant the motion, but the proposed order granting it does not meet the  
13 requirements of Rule 2.550(d), which requires that the court grant the motion only if "it expressly  
14 finds facts that establish" five separate matters. (It also refers to Defendant "Remington Lodging  
15 & Hospitality, LLC," which needs to be corrected.) Counsel are directed to electronically file a  
16 notice of lodging of confidential documents, to lodge the unredacted version of the conditionally  
17 sealed documents with the declaration as provided under Rule 2.551(d) by hard copy with the  
18 Civil Clerk's office, and to submit a proposed order meeting the requirements of the rule to the  
19 Complex Litigation Department electronic mailbox. Once the order is entered, the Court will  
20 review the documents. If these tasks are accomplished and the motion to seal is granted, the  
21 motion to seal currently set for October 28, 2021, will be vacated.

22 As to the third and fourth issues, the parties have made appropriate clarifications.

23 Before finally determining whether the proposed settlement can be preliminarily  
24 approved, the Court needed to review the information in the unredacted declaration of David  
25 Durant. Accordingly, the motion for preliminary approval was continued to October 28, 2021 to  
26 allow for entry of the order to seal records and review of the declaration.

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1           **E. Conclusion**

2           Defendant having complied with the direction in the Court’s order concerning the motion  
3 to file documents under seal, the Court grants the motion. The parties were directed to file a  
4 proposed order setting forth the Court’s prior rulings on the motion for preliminary approval, in  
5 addition to the other findings included in the proposed order. The parties were directed to obtain a  
6 date for a hearing on final approval from the Department 39 Clerk.

7           **THE COURT HEREBY ORDERS AS FOLLOWS:**

8           1.       The Court preliminarily approves the Stipulation of Settlement of Class Action and  
9 Release of Claims (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as  
10 “EXHIBIT 2” to the Supplemental Declaration of Edwin Aiwazian in Support of Plaintiff’s  
11 Motion for Preliminary Approval of Class Action Settlement. This is based on the Court’s  
12 determination that the Settlement falls within the range of possible approval as fair, adequate, and  
13 reasonable.

14           2.       This Order incorporates by reference the definitions in the Settlement Agreement,  
15 and all capitalized terms defined therein shall have the same meaning in this Order as set forth in  
16 the Settlement Agreement.

17           3.       It appears to the Court on a preliminary basis that the Settlement is fair, adequate  
18 and reasonable. It appears to the Court that extensive investigation and research have been  
19 conducted such that counsel for the parties at this time are able to reasonably evaluate their  
20 respective positions. It further appears to the Court that the Settlement, at this time, will avoid  
21 substantial additional costs by all parties, as well as avoid the delay and risks that would be  
22 presented by the further prosecution of the case. It further appears that the Settlement has been  
23 reached as the result of intensive, serious and non-collusive, arms-length negotiations, and was  
2 entered into in good faith.

25           4.       The Court preliminarily finds that the Settlement, including the allocations for the  
26 Attorneys’ Fees and Costs, Enhancement Payment, Settlement Administration Costs, and  
27 payments to the Settlement Class Members provided thereby, appear to be within the range of  
28 reasonableness of a settlement that could ultimately be given final approval by this Court. Indeed,

1 the Court has reviewed the monetary recovery that is being granted as part of the Settlement and  
2 preliminarily finds that the monetary settlement awards made available to the Class Members are  
3 fair, adequate, and reasonable when balanced against the probable outcome of further litigation  
4 relating to certification, liability, and damages issues.

5         5.         The Court concludes that, for settlement purposes only, the proposed Class meets  
6 the requirements for certification under section 382 of the California Code of Civil Procedure in  
7 that: (a) the Class is ascertainable and so numerous that joinder of all members of the Class is  
8 impracticable; (b) common questions of law and fact predominate, and there is a well-defined  
9 community of interest amongst the members of the Class with respect to the subject matter of the  
10 litigation; (c) Plaintiff's claims are typical of the claims of the members of the Class; (d) Plaintiff  
11 will fairly and adequately protect the interests of the members of the Class; I a class action is  
12 superior to other available methods for the efficient adjudication of the controversy; and (f) Class  
13 Counsel is qualified to act as counsel for Plaintiff in her individual capacity and as the  
14 representative of the Class.

15         6.         The Court conditionally certifies, for settlement purposes only, the Class, defined  
16 as follows:

17                 All current and former hourly-paid or non-exempt employees who worked for  
18                 Defendant within the State of California at any time during the period from May  
19                 11, 2014 through the date of this Order.

20         7.         The Court provisionally appoints Edwin Aiwazian, Arby Aiwazian, and Joanna  
21 Ghosh of Lawyers *for* Justice, PC as counsel for the Class ("Class Counsel").

22         8.         The Court provisionally appoints Plaintiff Irma Eubanks as the representative of  
23 the Class ("Class Representative").

24         9.         The Court provisionally appoints Phoenix Settlement Administrator ("Phoenix") to  
25 handle the administration of the Settlement ("Settlement Administrator").

26         10.         Within twenty (20) business days after entry of this Order, Defendant shall provide  
27 the Settlement Administrator with the following information for each Class Member: full name,  
28 last known address, last known telephone number, Social Security number, and Workweeks  
("Class Data") in conformity with the Settlement Agreement.



1           11.       The Court approves, both as to form and content, the Notice of Class Action  
2 Settlement (“Class Notice”) attached hereto as “EXHIBIT 1.” The Class Notice shall be provided  
3 to Class Members in the manner set forth in the Settlement Agreement. The Court finds that the  
4 Class Notice appears to fully and accurately inform the Class Members of all material elements of  
5 the Settlement, of Class Members’ right to be excluded from the Settlement by submitting a  
6 request for exclusion, of Class Members’ right to dispute the Workweeks credited to each of them,  
7 and of each Settlement Class Member’s right and opportunity to object to the Settlement by  
8 submitting a written objection to the Settlement Administrator. The Court further finds that  
9 distribution of the Class Notice substantially in the manner and form set forth in the Settlement  
10 Agreement and this Order, and that all other dates set forth in the Settlement Agreement and this  
11 Order, meet the requirements of due process and shall constitute due and sufficient notice to all  
12 persons entitled thereto. The Court further orders the Settlement Administrator to mail the Class  
13 Notice by first class mail to all Class Members within seven (7) calendar days of receipt of the  
14 Class Data, pursuant to the terms set forth in the Settlement Agreement.

15           12.       The Court hereby preliminarily approves the proposed procedure, set forth in the  
16 Settlement Agreement, for seeking exclusion from the Settlement. Any Class Member may  
17 choose to be excluded from the Settlement by submitting a timely written request for exclusion to  
18 the Settlement in conformity with the requirements set forth in the Class Notice, to the Settlement  
19 Administrator, postmarked no later than the date which is sixty (60) calendar days from the initial  
20 mailing of the Class Notice to Class Members (“Response Deadline”), or, in the case of a Class  
21 Notice that is returned as undeliverable and re-mailed, an additional fourteen (14) calendar days  
22 from the original Response Deadline. Any such person who timely and validly chooses to opt out  
23 of, and be excluded from, the Settlement will not be entitled to any recovery under the Settlement  
24 and will not be bound by the Settlement or have any right to object, appeal, or comment thereon.  
25 Class Members who have not submitted a timely and valid request to be excluded from the  
26 Settlement (i.e., Settlement Class Member) shall be bound by the Settlement Agreement and any  
27 final judgment based thereon.

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1           13.           A Final Approval Hearing shall be held before this Court on **June 30, 2022 at 9:00**  
2 **a.m.** in Department 39 of the Contra Costa County Superior Court, located at 725 Court Street,  
3 Martinez, California 94553, to determine all necessary matters concerning the Settlement,  
4 including: whether the proposed settlement of the action on the terms and conditions provided for  
5 in the Settlement is fair, adequate, and reasonable and should be finally approved by the Court;  
6 whether a judgment, as provided in the Settlement, should be entered herein; whether the plan of  
7 allocation contained in the Settlement should be approved as fair, adequate, and reasonable to the  
8 Class Members; and determine whether to finally approve the requests for the Attorneys' Fees and  
9 Costs, Enhancement Payment, and Settlement Administration Costs.

10           14.           Class Counsel shall file a motion for final approval of the Settlement and for  
11 Attorneys' Fees and Costs, Enhancement Payment, and Settlement Administration Costs, along  
12 with the appropriate declarations and supporting evidence, including the Settlement  
13 Administrator's declaration, by **June 8, 2022**, to be heard at the Final Approval Hearing.

14           15.           To object to the Settlement, a Class Member must submit a written objection to the  
15 Settlement Administrator by mail, postmarked on or before the Response Deadline. The objection  
16 must be signed and must contain the information that is required, as set forth in the Class Notice,  
17 including and not limited to the grounds for the objection.

18           16.           The Settlement is not a concession or admission, and shall not be used against  
19 Defendant as an admission or indication with respect to any claim of any fault or omission by  
20 Defendant. Whether or not the Settlement is finally approved, neither the Settlement, nor any  
21 document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts  
22 thereof, shall in any event be construed as, offered or admitted into evidence as, received as or  
23 deemed to be in evidence for any purpose adverse to the Defendant, including, but not limited to,  
2 evidence of a presumption, concession, indication or admission by Defendant of any liability,  
25 fault, wrongdoing, omission, concession, or damage, except for legal proceedings concerning the  
26 implementation, interpretation, or enforcement of the Settlement.

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17. In the event the Settlement does not become effective in accordance with the terms of the Settlement Agreement, or the Settlement is not finally approved, or is terminated, cancelled or fails to become effective for any reason, this Order shall be rendered null and void, shall be vacated, and the Parties shall revert back to their respective positions as of before entering into the Settlement Agreement.

18. The Court reserves the right to adjourn or continue the date of the Final Approval Hearing and any dates provided for in the Settlement Agreement without further notice to the Class Members, and retains jurisdiction to consider all further applications arising out of or connected with the Settlement.

**IT IS SO ORDERED.**

Dated: JAN 14 2022

By:   
The Honorable Edward G. Weil  
Judge of the Superior Court

# **EXHIBIT 1**

**NOTICE OF CLASS ACTION SETTLEMENT**  
**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF CONTRA COSTA**

*Irma Eubanks v. Yapstone, Inc. DBA Rentpayment.com*  
Contra Costa County Superior Court Case No. MSC18-00956

This Notice has been approved by the Court. This is not a solicitation from an attorney.

**TO: ALL CURRENT AND FORMER HOURLY-PAID OR NON-EXEMPT EMPLOYEES WHO WORKED FOR YAPSTONE, HOLDINGS INC. SUED AS YAPSTONE, INC. DBA RENTPAYMENT.COM. WITHIN THE STATE OF CALIFORNIA AT ANY TIME DURING THE PERIOD FROM MAY 11, 2014 THROUGH [PA DATE].**

**PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED.**  
**YOU MAY BE ENTITLED TO RECEIVE MONEY FROM THE PROPOSED CLASS ACTION SETTLEMENT.**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT</b>	
<b>DO NOTHING</b>	If you do nothing and the Settlement is granted final approval by the Court, you will receive an Individual Settlement Payment and give up your rights to ever sue any of the Released Parties for any of the Released Claims set forth below.
<b>EXCLUDE YOURSELF</b>	If you request exclusion from the Settlement by submitting a timely and valid Request for Exclusion to the Settlement Administrator by [Response Deadline] you will receive no monetary benefit from the Settlement and will not be bound by the Settlement, including the release of Released Claims against the Released Parties.
<b>OBJECT</b>	If you do not request to be excluded from the Settlement, you may object to the Settlement by submitting a timely and valid Notice of Objection to the Settlement Administrator by [Response Deadline], and you will remain subject to the Settlement and will still receive an Individual Settlement Payment if the Settlement is granted final approval by the Court.

If your name or address changes or is different from the one on the envelope enclosing this Notice, please notify the Settlement Administrator by calling [ADMIN'S PHONE NUMBER] to provide corrected information.

**1. WHY DID I GET THIS NOTICE?**

You have received this Notice because records of Yapstone, Holdings Inc. sued as Yapstone, Inc. DBA Rentpayment.com. ("Defendant") indicate that you are a member of the following Class: all current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the period from May 11, 2014 through [date of Preliminary Approval] and may be entitled to receive money from the proposed class action settlement.

This Notice describes a proposed class action settlement of the lawsuit entitled *Irma Eubanks v. Yapstone, Inc. DBA Rentpayment.com*, Superior Court of California, County of Contra Costa, Case No. MSC18-00956 (the "Action"). The Class Action Complaint for Damages (the "Complaint") was filed in the Action on May 11, 2018. This Notice is being sent to you by the order of the Superior Court of the State of California for the County of Contra Costa, which preliminarily approved the Stipulation of Settlement of Class Action and Release of Claims ("Settlement" or "Settlement Agreement") on [PA date]. This Notice informs you of the terms of the proposed Settlement, describes

your rights in connection with the Settlement, and explains what steps you may take to object to, or exclude yourself from, the Settlement. **If you do not exclude yourself from the Settlement and the Court grants final approval of the Settlement, you will receive an Individual Settlement Payment and be bound by the terms of the Settlement and any final order and judgment.**

## **2. WHAT IS THIS LAWSUIT ABOUT?**

The Action was filed by Plaintiff Irma Eubanks (“Plaintiff”) on behalf of all hourly-paid and non-exempt employees who worked for Defendant during the period from May 11, 2014 through [date of Preliminary Approval] (“Class Period”) in the State of California.

The Complaint in the Action contains class allegations against Defendant for: (1) failure to pay overtime wages; (2) failure to provide meal period premiums; (3) failure to provide rest period premiums; (4) failure to pay minimum wages; (5) failure to timely pay all wages due upon separation of employment; (6) failure to timely pay wages during employment; (7) failure to issue wage statements in compliance with California Labor Code § 226; (8) failure to keep requisite payroll records; (9) failure to reimburse business expenses; and (10) violation of California Business & Professions Code § 17200 *et seq.* based on the alleged failures set forth in (1) through (9). Defendant and the other Released Parties (as defined below) deny each and all of the claims and contentions alleged by Plaintiff. The Court has not made any rulings regarding the merits of the Action. The Released Parties deny and continue to deny all of Plaintiff’s allegations.

After engaging in extensive investigation and a day of mediation before an experienced mediator, during which both sides recognized the substantial risks of an adverse result in the Action for either side, and extensive post mediation negotiations, Plaintiff and Defendant (together, “Parties”) agreed to the Settlement that was preliminarily approved by the Court on [PA Date]. The Court preliminarily appointed Plaintiff as representative of the Class (“Class Representative”) and Plaintiff’s counsel as counsel for the Class (“Class Counsel”). The Parties believe that this Settlement is a fair result for the Class.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by any of the Released Parties that Plaintiff’s claims in the Action have merit or that they have any liability to Plaintiff or the Class on those claims. The Parties and their counsel have concluded that the Settlement is advantageous, considering the risks and uncertainties to each side of continued litigation.

## **3. WHAT IS A CLASS ACTION?**

In a class action lawsuit, one or more persons sue on behalf of other people who have similar claims. Irma Eubanks is the Class Representative or Plaintiff in the Action, and she asserts claims on behalf of herself and the Class. Yapstone Holdings, Inc. sued as Yapstone, Inc. DBA Rentpayment.com. is the Defendant. A class action allows the Court to resolve the claims of all the class members at the same time. A class member is bound by the determination or judgment entered in the case and may not file his or her own lawsuit on the same claims that were decided in the class action unless he or she excludes him or herself from the settlement. A class action allows one court to resolve all of the issues in a lawsuit for all the class members who choose not to exclude themselves from the settlement.

## **4. WHO IS INCLUDED IN THE CLASS?**

A Class Member is anyone who is a member of the Class, defined as all current or former hourly-paid or non-exempt employees who were employed by Defendant Yapstone Holdings, Inc. in the State of California at any time from May 11, 2014 to [PA Date].

Settlement Class Members are Class Members who do not submit a timely and valid Request for Exclusion.

## 5. WHAT ARE THE TERMS OF THE SETTLEMENT?

In exchange for the release of Released Claims against Released Parties, Defendant will pay One Million Five Hundred Thousand Dollars (\$1,500,000) ("Gross Settlement Amount"). After the below-listed amounts are deducted from the Gross Settlement Amount, the remaining amount ("Net Settlement Amount") will be available for payment to Settlement Class Members.

- **Enhancement Payment:** Plaintiff will request from the Court an award of Fifteen Thousand Dollars (\$15,000) in recognition of her efforts and the risks in assisting with the prosecution of the Action.
- **Attorneys' Fees and Costs:** Class Counsel will request from the Court no more than Six Hundred Thousand Dollars (\$600,000) as attorneys' fees for litigation and resolution of the Action, and no more than Seventy-Five Thousand Dollars (\$75,000) for reimbursement of actual litigation costs and expenses. Class Counsel has been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.
- **Settlement Administration Costs:** The costs of settlement administration are estimated not to exceed Nine Thousand Dollars (\$9,000), which pays for tasks such as mailing and tracking this Notice, mailing checks and tax forms, and reporting to the Parties and the Court.

Defendant will pay the Gross Settlement Amount over the course of three years after the Court has granted final approval of the Settlement and the Effective Date, as defined in the Settlement Agreement, has lapsed. Following the Effective Date, Defendant will fund the Settlement in three (3) installments, as follows: (1) the first installment payment in the amount of \$750,000 ("First Installment Payment") within sixty (60) calendar days after the Court's Final Approval of the Settlement, (2) the second installment payment of \$375,000 ("Second Installment Payment") no later than one (1) year after the First Installment Payment date, and (3) the third installment of \$375,000 ("Third Installment Payment") no later than two (2) years after the Second Installment Payment date.

There shall be a grace period of ten (10) calendar days to fund each installment payment ("grace period"). Time being of the essence, in the event of late payment of any of the installment payments as provided in the Settlement, after the grace period, Defendant shall be required to pay statutory interest in accordance with California state law between the date the payment was originally due and the date the payment is made, and such interest will be distributed to the Settlement Class Members. Additionally, if an installment payment that is due has not been paid within thirty (30) calendar days of the original due date ("late payment"), any and all remaining installment payments will be accelerated such that the remaining installment payment(s) and balance of the settlement must be paid within sixty (60) calendar days after the date the late payment was originally due.

Without the approval of the Court, the Parties may mutually agree to early payment of any or all installment(s).

If you do not request to be excluded from the Settlement and the Court grants final approval of the Settlement, you will be issued your Individual Settlement Payment by way of two (2) installments as follows: two-thirds of your Individual Settlement Payment within fourteen (14) calendar days after the First Installment Payment and the remaining one-third of your Individual Settlement Payment within fourteen (14) calendar days after the Second Installment Payment.

If the Settlement Administrator deems it necessary in order to comply with applicable tax requirements, it will proportionally withhold and remit the employee's share of taxes in connection with the wages portion of the Individual Settlement Payment from each partial Individual Settlement Payment distribution. If a Settlement Class Member fails to cash or negotiate his or her first partial payment check from the First Installment Payment within one hundred eighty (180) calendar days of issuance, then, that check will be cancelled, the funds associated with that cancelled check will be included in the second check to be issued to the Settlement Class Member, and the Settlement Administrator may withhold and remit any and all of said employee's share of taxes on the wages portion of the Individual Settlement Payment from the check issued from the second distribution to Participating Class Members irrespective of any prior withholding and remittance undertaken in connection with issuance of the first check.

Any checks issued to Settlement Class Members from the second distribution will remain valid and negotiable for one hundred and eighty (180) calendar days from the date of their issuance. After that time, the amount of any such unclaimed checks will be transmitted to the Unclaimed Property Fund of the State Controller's Office in the Settlement Class Member's name.

## 6. HOW DO I RECEIVE AN INDIVIDUAL SETTLEMENT PAYMENT?

**You do not need to do anything in order to receive an Individual Settlement Payment from the Net Settlement Amount.**

All Settlement Class Members (i.e., Class Members who do not request exclusion from the Settlement) are eligible to receive money from the Net Settlement Amount. Each estimated Individual Settlement Payment is the *pro rata* allocation of the Net Settlement Amount based on the Class Members' total Workweeks.

Settlement Class Member's Individual Settlement Payment will be determined by dividing the total number of workweeks worked by the Settlement Class Member during the Class Period by the total number of Workweeks of all Class Members, and multiplying the resulting figure by the Net Settlement Amount.

The Workweeks of each Class Member were calculated based on Defendant's records. According to Defendant's records:

**During the period from May 11, 2014 through [PA Date], you were employed by Defendant as an hourly-paid or non-exempt employee in the State of California for a total of [# of WW] Workweeks. Your estimated Individual Settlement Payment is [est. ISP].**

Your Individual Settlement Payment reflected on this Notice is only an estimate. If the Court grants final approval of the Settlement, your actual Individual Settlement Payment may be higher or lower than estimated. The Individual Settlement Payment is subject to reduction for the employee's share of taxes with respect to the wages portion of the Individual Settlement Payment.

If you dispute the number of Workweeks allocated to you, you can submit a written dispute ("Workweek Dispute"). To be valid, your Workweek Dispute must include documentation and/or an explanation to show contrary information. For the Workweek Dispute to be timely, it must be mailed to the Settlement Administrator, post-marked on or before [Response Deadline] at the following contact information:

*Irma Eubanks v. Yapstone, Inc. DBA Rentpayment.com*  
c/o [Redacted]  
[Street]  
[City, CA Zip Code]  
[Phone Number]  
[Fax Number]

***If your address changes before you receive your Individual Settlement Payment checks, please contact the Settlement Administrator to update your address.***

## 7. WHAT IF I DON'T WANT TO PARTICIPATE IN THIS SETTLEMENT?

You have the right to request exclusion from the Settlement. To do so, you must submit a timely and valid Request for Exclusion to the Settlement Administrator.

For the Request for Exclusion to be valid, it must include: (i) the case name and number of the Action (*Eubanks v. Yapstone, Inc. DBA Rentpayment.com*, Contra Costa Superior Court, Case No. MSC18-00956); (ii) your full name, signature, address, telephone number, and last four digits of your Social Security number; and (iii) a clear statement of your request to be excluded from the Settlement. For the Request for Exclusion to be timely, it must be mailed to the Settlement Administrator at the contact information listed above, post-marked on or before [Response Deadline].



Any Class Member who does not submit a Request for Exclusion to the Settlement Administrator, or who fails to otherwise comply with the specific and technical requirements of this section, will be subject to the Settlement and release of Released Claims against the Released Parties. Class Members who submit a timely and valid Request for Exclusion are not subject to the Settlement and cannot submit a Notice of Objection.

**If you timely request to be excluded from the Settlement, you will not be entitled to receive any payment under the Settlement.** Class Counsel will not represent your interests if you request to be excluded.

## **8. WHAT IF I WANT TO OBJECT TO THIS SETTLEMENT?**

Any Class Member who has **not** requested to be excluded from the Settlement may object to the Settlement by submitting a valid and timely Notice of Objection and may appear at the Final Approval Hearing described below. The Final Approval Hearing is scheduled to take place on [Date] at [Time] in Department 39 of the Superior Court of the State of California for the County of Contra Costa, located at 725 Court Street, Martinez, California 94553.

For the Notice of Objection to be valid, it must include: (i) the case name and number of the Action (*Eubanks v. Yapstone, Inc. DBA Rentpayment.com*, Contra Costa Superior Court, Case No. MSC18-00956); (ii) the objector's full name, signature, address, telephone number, and last four digits of his or her Social Security number; (iii) a written statement of all grounds for the objection; and (iv) whether the Settlement Class Member intends to appear at the Final Approval Hearing.

For the Notice of Objection to be timely, it must be mailed to the Settlement Administrator, post-marked on or before [Response Deadline]. Any Class Member who does not submit a timely written objection to the Settlement Administrator, or who fails to otherwise comply with the specific and technical requirements of this section, will be foreclosed from objecting to the Settlement and seeking any adjudication or review of the Settlement, by appeal or otherwise. Class Members who submit Notices of Objection must make themselves available for deposition.

You have the right to hire your own attorney, at your own expense, to submit an objection or to appear on your behalf at the Final Approval Hearing. You may, but are not required, to appear at the hearing to have your objection considered.

Submitting an objection will *not* exclude you from the Settlement. You will still have the right to receive an Individual Settlement Payment, unless you have requested to be excluded from the Settlement.

## **9. WHAT CLAIMS DO I RELEASE IF I DO NOT EXCLUDE MYSELF FROM THIS SETTLEMENT?**

If you do not exclude yourself from the Settlement, upon the Effective Date and conditioned upon full satisfaction of Defendant's payment obligations, you and all Participating Class Members will be deemed to have released the Released Claims against the Released Parties.

The Released Claims means any and all claims for damages, fees, costs, statutory penalties, and interest, that have been alleged, including any other claims that were or could have been alleged during the Class Period based on the factual allegations pled in the Operative Complaint for: (1) Failure to Pay Overtime Wages under California Labor Code sections 510 and 1198; (2) Failure to Pay Meal Period Premiums under California Labor Code sections 226.7 and 512(a); (3) Failure to Pay Rest Period Premiums under California Labor Code section 226.7; (4) Failure to Pay Minimum Wages under California Labor Code sections 1194, 1197, and 1197.1; (5) Failure to Pay Final Wages On Time under California Labor Code sections 201, 202, and 203; (6) Failure to Pay Wages Timely under California Labor Code section 204 and 210; (7) Failure to Furnish Accurate Wage Statements under California Labor Code section 226(a); (8) Failure to Maintain Payroll Records under California Labor Code section 1174(d); (9) Failure to Reimburse Business Expenses under California Labor Code sections 2800 and 2802; and (10) Unfair Business Practices under California Business and Professions Code section 17200, *et seq.*

Released Parties means Defendant Yapstone Holdings, Inc. and its subsidiaries, predecessors, successors, affiliates, past and present parents, and any of their respective past or present assigns, officers, directors, members, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, attorneys, consultants, and each of their respective successors and predecessors in interest.

## 10. DO I HAVE A LAWYER IN THIS CASE?

The Court has ordered that, for purposes of this Settlement, the interests of Plaintiff and the Class Members are represented by Lawyers *for* Justice, PC to serve as Class Counsel. Class Counsel's contact information is as follows:

Edwin Aiwazian, Esq.  
Arby Aiwazian, Esq.  
Joanna Ghosh, Esq.  
**LAWYERS *for* JUSTICE, PC**  
410 West Arden Avenue, Suite 203  
Glendale, California 91203  
Telephone: 818.265.1020  
Fax: 818.265.1021

If you want to be represented by your own lawyer, you may hire one at your own expense.

## 11. WHAT IF MY INFORMATION IS INCORRECT OR CHANGES?

If your name or address are incorrect, or if they change after you receive this Notice, it is your responsibility to inform the Settlement Administrator of your updated information. You may contact the Settlement Administrator at the following contact information:

*Irma Eubanks v. Yapstone, Inc. DBA Rentpayment.com*

c/o [ ]

[Street]

[City, CA Zip Code]

[Phone Number]

[Fax Number]

## 12. FINAL APPROVAL HEARING

A hearing will be held in Department 39 of the Superior Court of the State of California for the County of Contra Costa, located at 725 Court Street, Martinez, California 94553, on [date] at [time] to determine whether final approval of the Settlement should be granted ("Final Approval Hearing"). The Court will also decide whether to approve the allocations for Attorneys' Fees and Costs, Enhancement Payment, and Settlement Administration Costs. The Court may reschedule the Final Approval Hearing without additional notice to Class Members. It is not necessary for you to appear at this hearing.

## 13. FURTHER INFORMATION

The foregoing is only a summary of the Settlement. To see a copy of the Stipulation of Settlement of Class Action and Release of Claims (which sets forth the precise terms and conditions of the Settlement), the Court's Preliminary Approval Order, and the operative Complaint filed in the Action, you may view all such files in the following ways: 1) online at the Settlement Administrator's website: [Insert web address]; and 2) online on the Contra Costa County Superior Court's website: <http://icms.cc-courts.org/tellme/> and input the Case Number: MSC18-00956

**IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS**, you may contact the Settlement Administrator at [ ] or the Class Counsel listed above in section 10.

***PLEASE DO NOT TELEPHONE OR CONTACT THE COURT OR DEFENDANT'S COUNSEL FOR INFORMATION REGARDING THIS SETTLEMENT.***