

1 Yosef Peretz (SBN 209288)
yperetz@peretzlaw.com
2 Shane Howarter (SBN 311970)
3 showarter@peretzlaw.com
PERETZ & ASSOCIATES
4 22 Battery Street, Suite 200
San Francisco, CA 94111
5 Tel.: 415.732.3777
6 Fax: 415.732.3791

7 Martin M. Horowitz (SBN 79073)
mhorowitz@h-rlegal.com
8 Stephanie Rubinoff (SBN 98229)
9 srubinoff@h-rlegal.com
HOROWITZ & RUBINOFF
10 180 Grand Avenue, Suite 1380
Oakland, CA 94612
11 Tel.: 510.444.7717

12 Attorneys for Named Plaintiffs ADRIANA HAYTER
13 LARINE SHIELDS, and TAYLOR EVANS

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF SAN FRANCISCO**

16 ADRIANA HAYTER, LARINE SHIELDS,
17 and TAYLOR EVANS; individually, and on
18 behalf of all other similarly situated persons;
and ROES 1-100,

19 Plaintiffs,

20 vs.

21
22 EWALD & WASSERMAN RESEARCH
23 CONSULTANTS, LLC, a California limited
24 liability corporation; KATRIN EWALD, an
individual; LISA WASSERMAN, and
individual; and DOES 1-20,

25
26 Defendants.
27
28

Case No. CGC-19-577753

**DECLARATION OF ZACHARY COOLEY
ON BEHALF OF SETTLEMENT
ADMINISTRATOR SIMPLURIS, INC.
IN SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: November 10, 2021

Time: 9:15 a.m.

Dept.: 304

Judge: Hon. Anne-Christine Massullo

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DECLARATION OF ZACHARY COOLEY

I, ZACHARY COOLEY, declare the following facts to be true and correct and if called as a witness would testify competently to the same:

I am employed as a Case Manager by Simpluris, Inc. (“Simpluris”) the claims administrator in the above-entitled action. My business address is 3194-C Airport Loop Drive, Costa Mesa, CA 92626. My telephone number is (714) 640-5616. I am over twenty-one years of age and authorized to make this declaration on behalf of Simpluris and myself.

2. Simpluris, Inc. is a Class Action Settlement Administration company located in Costa Mesa, CA. It is founded by individuals who have each managed hundreds of settlements, along with professionals in the areas of Software Development, Third-Party Claims Administration, Mail-House Operations, and Call Center Support Management.

3. Simpluris was appointed by the Court as Settlement Administrator to administer the settlement in accordance with the terms of the Joint Stipulation of Amended and Restated Class Action and PAGA Settlement entered into by the parties (the “Settlement”). Simpluris has been responsible, among other things, for: (a) emailing, printing and mailing the Notice of Class and Representative Action Settlement (“Class Notice”); (b) receiving undeliverable Class Notices; (c) receiving and validating requests for exclusion; and (d) answering questions from Class Members. If the Court grants final approval of the Settlement, Simpluris will be responsible, among other things, for: (e) calculating individual settlement payments, distributing funds, and tax-reporting following final approval; (f) mailing settlement checks; and (g) and for such other tasks as the Parties mutually agree or the Court orders Simpluris to perform.

NOTIFICATION TO THE CLASS

4. On July 21, 2021, Simpluris received the Court-approved Class Notice from Plaintiffs’ Counsel. The Class Notice advised Class Members of their right to opt out from the Settlement, object

1 to the Settlement, or do nothing, and the implications of each such action. The Class Notice advised
2 Class Members of applicable deadlines and other events, including the Final Approval Hearing, and
3 how Class Members could obtain additional information. The Estimated Settlement Share was pre-
4 printed with the name and address of the Class Member, number of work weeks used to calculate
5 his/her estimated settlement share, and instructions for challenging the dates. A sample Class Notice
6 is attached hereto as **Exhibit A**.

8 5. On August 2, 2021, Counsel for Defendants provided Simpluris with a mailing list
9 containing the name, last known address, Social Security Number, and pertinent employment
10 information during the Class Period for the Class Members. The Class List contained data for 54
11 unique Class Members.

13 6. The mailing addresses contained in the Class List were processed and updated utilizing
14 the National Change of Address Database (“NCOA”) maintained by the U.S. Postal Service. The
15 NCOA contains changes of address filed with the U.S. Postal Service. In the event that any individual
16 had filed a U.S. Postal Service change of address request, the address listed with the NCOA was
17 utilized in connection with the mailing of the Notice Packets.

19 7. On August 12, 2021, after updating the mailing addresses through the NCOA, Notice
20 Packets were mailed via First Class Mail to 54 Class Members contained in the Class List.

22 8. If a Class Notice was returned by the USPS as undeliverable and without a forwarding
23 address, Simpluris performed an advanced address search (i.e. skip trace) on all of these addresses by
24 using Accurint, a reputable research tool owned by Lexis-Nexis. To date, Simpluris has received 9
25 Class Notices returned as undeliverable. Simpluris used the Class Member’s name, previous address
26 and Social Security Number to locate a current address. Through the advanced address searches,
27 Simpluris was able to locate 7 updated addresses and Simpluris promptly mailed Notice Packets to
28

1 those updated addresses. Ultimately, 2 Class Member's Notices were undeliverable because Simpluris
2 was unable to locate a current address.

3 **EXCLUSIONS AND OBJECTIONS**

4
5 9. Class Members were instructed in the Class Notice that the deadline to submit a request
6 for exclusion is October 12, 2021. As of this date, Simpluris has not received any requests for exclusion
7 from the Settlement.

8 10. Class Members who wished to object to the settlement were directed to file their
9 objection with the Court and serve a copy of the objection on the attorneys for the parties. As of this
10 date, Simpluris has not received any objections.

11 12. The most current weekly report is attached hereto as **Exhibit B**.

13 **BREAKDOWN OF SETTLEMENT FUND**

14 13. As of this date, there are 54 Participating Class Members who will be paid their
15 portion of the Net Settlement Amount, estimated to be \$73,450.00. The Net Settlement Amount
16 available to pay Participating Class Members was determined as follows:

17		
18	Gross Settlement Fund:	\$ 144,000.00
19	Less Attorneys' Fees and Costs (Requested) -	\$ 52,000.00
20	Less Settlement Administration:	-\$ 4,300.00
21	Less PAGA Penalties (75% of \$3,000):	-\$ 2,250.00
22	<u>Less Plaintiff Service Awards (Requested)</u> -	<u>\$ 12,000.00</u>
23	NET SETTLEMENT FUND	\$ 73,450.00
24		

25 As of this date, the *highest* Settlement Share to be paid is approximately \$9,597.43 and the
26 *average* Settlement Share to be paid is approximately \$1,360.19. These amounts are not final since
27 the payment amounts are dependent on the approval of the deductions from the Gross Settlement
28 Fund.

ADMINISTRATION COSTS

14. Simpluris’ total costs for services in connection with the administration of this Settlement, including fees incurred and anticipated future costs for completion of the administration, are \$4,300.00. Simpluris’ work in connection with this matter will continue with the calculation of the settlement checks, issuance and mailing of those settlement checks, etc., and to do the necessary tax reporting on such payments.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 19th day of October, 2021, at Louisville, KY.

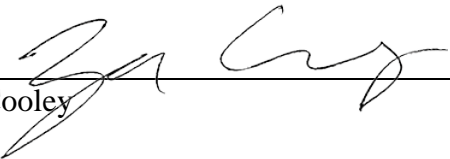

Zach Cooley

EXHIBIT A

**NOTICE OF CLASS AND REPRESENTATIVE
ACTION SETTLEMENT**

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.*

However, your legal rights are affected by whether you act or don't act, so read this notice carefully.

«IMbFullBarcodeEncoded»

«FirstName» «LastName» «BusinessName»

«Address1» «Address2»

«City», «State» «Zip»-«ZipDPC3»

SIMID «SIMID»
«BarcodeString»

TO: All persons who worked for Ewald & Wasserman Research Consultants, LLC, as a Part-Time Telephone Interviewer, or another similar position, classified as an hourly non-exempt employee in the State of California from August 1, 2015 to July 19, 2021.

The California Superior Court, County of San Francisco has granted preliminary approval to a proposed settlement (“Settlement”) of the above-captioned class and representative action (“Class Action”). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class and Representative Action Settlement (“Notice”) carefully.

The Court has certified the following class for settlement purposes (“Class” or “Class Members”):

All persons who worked for Ewald & Wasserman Research Consultants, LLC as a Part-Time Telephone Interviewer, or another similar position classified as an hourly non-exempt employee in the State of California from August 1, 2015 to July 19, 2021.

The purpose of this Notice is to provide a brief description of the claims alleged in the Class Action, the key terms of the Settlement, and your rights and options with respect to the Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS AND REPRESENTATIVE ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

DO NOTHING

If you do nothing and the Court grants final approval of the Settlement, you will be mailed a check constituting payment for all of the claims resolved in the Settlement. This Notice provides information about the settlement payments, the scope of the release, and updating your mailing address.

	<p>You can read more about how your settlement payment will be calculated by going to https://peretzlaw.com/press and viewing the Proposed Settlement Agreement in its entirety.</p>
OPT OUT	<p>If you do not want to participate as a Class Member, you may “opt out,” which will remove you from the Class. If you opt out of the Settlement and the Court grants final approval of the Settlement, you will not be sent any payment for your class claims or be bound by any release of your class claims through the Settlement. However, you will be mailed payment for your PAGA claims and will be bound by the release of PAGA claims in the Settlement. This Notice provides information about how to opt out, the deadline to opt out, and updating your mailing address. You can also find more detail about the scope of the class and PAGA claims in Sections 3 and 4 below.</p>
OBJECT	<p>If you object to the Settlement and the Court grants final approval of the Settlement, you will be mailed a check constituting payment for all of the claims resolved in this Settlement. You will also be bound by the release of all claims released in this Settlement. This Notice provides information about how to object, the deadline to object, the settlement payments, the scope of the release, and updating your mailing address.</p>
DISPUTE THE NUMBER OF WEEKS YOU WORKED	<p>The class and PAGA payments will be apportioned based on the number of workweeks each person worked for Ewald & Wasserman Research Consultants, LLC in California between August 1, 2015 and July 19, 2021. The number of workweeks Ewald & Wasserman Research Consultants, LLC’s records reflect you worked in the relevant time period is set forth in Section 6 below. If you believe that you worked a different number of workweeks, you may submit a workweek dispute. You may submit a workweek dispute no matter how else you’ve responded to this Notice. This Notice provides information on how to submit a workweeks dispute and the deadline to submit a workweek dispute in Section 6 below.</p>
UPDATE YOUR CONTACT INFORMATION	<p>You can contact the Claims Administrator to update your contact information. If settlement payments are sent, they will be mailed to your address on file. It is important to keep your mailing address up to date if you want to receive a settlement payment.</p>

WHAT INFORMATION IS IN THIS NOTICE

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1. *What Is This Case About?*

This class and representative action entitled *Adriana Hayter, et al. v. Ewald & Wasserman Research Consultants, LLC, et al.* was commenced by Plaintiffs Adriana Hayter, Larine Shields, and Taylor Evans (the “Plaintiffs”) in the San Francisco County Superior Court (Case Number CGC-19-577753) against E&W, Katrin Ewald, and Lisa Wasserman (“Defendants”) for alleged wage and hour claims on behalf of other hourly, non-exempt employees working for E&W. A class action means that the Plaintiffs seek to represent all similarly-situated employees who may have been subject to Defendants’ practices. A PAGA representative action means that Plaintiffs seek to enforce certain penalties contained in the California Labor Code by alleging claims against Defendants on behalf of on behalf of similarly-situated persons, the Labor and Workforce Development Agency (“LWDA”), and the State of California.

The various wage claims that Plaintiffs alleged include purported failure to pay minimum wage, failure to pay overtime, failure to provide meal and rest periods, failure to provide sick leave, and related claims including penalties under the California Labor Code. Plaintiffs allege that Defendants modified their employees’ time records by reducing their reported worked-time to avoid paying them for all time worked and earned overtime wages, and by allegedly inserting uncompensable time to satisfy meal period requirements. Plaintiffs also allege that Defendants withheld meal and rest breaks required by law and denied employees’ paid sick leave.

Defendants expressly deny each and every allegation detailed above. Defendants expressly deny that they did anything wrong or that they violated the law and further deny any liability whatsoever to Plaintiffs or to the Class. There has been no finding or determination of wrongdoing against Defendants. The Court has not made a determination on the merits of the above allegations.

To read the pleadings in this case, and for a full list of claims, visit: <https://www.sfsuperiorcourt.org/online-services> and look up this case using the case number or parties’ names in the paragraph above.

Both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong, and the Court has not made any determination in favor of the Plaintiffs or the Defendants in this case. By agreeing to resolve the lawsuit, all parties avoid the risks and cost of a trial.

2. *Why Have I Received This Notice?*

The Court has ordered the parties to this class and representative action to disseminate notice to the class to inform members of their options. Ewald & Wasserman Research Consultant, LLC's records indicate that you may be a Class Member. The Settlement will resolve all Class Members' Released Claims, as described in Section 3 below.

You are a Class Member if you are or ever were an hourly (non-exempt) employee of as a Part-Time Telephone Interviewer, or another similar position, at any time from August 1, 2015 through July 19, 2021.

The Superior Court of the County of San Francisco has conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court will hold a Final Approval Hearing concerning the proposed settlement on November 10, 2021 at 9:15 a.m., before Judge Anne-Christine Massullo, located at 400 McAllister Street, San Francisco, California 94102, Department 304.

3. *How Does This Settlement Affect My Legal Rights?*

The Settlement provides payments to all Class Members in exchange for giving up the right to sue Defendants individually for the conduct described in the lawsuit (the "Released Claims").

The Released Claims are all claims asserted in the Action or any other claims, demands, obligations, actions, causes of action, liabilities, debts, promises, agreements, attorneys' fees, losses or expense, known or unknown, suspected or unsuspected, filed or unfiled, that Class Members that could have been asserted based on the facts alleged in the Action.

The time period for the Released Claims is the same as the Class Period, and runs from August 1, 2015 through July 19, 2021.

4. *How Do I Opt Out Or Exclude Myself From This Settlement?*

If you do not want to take part in the Settlement, you must mail a written request for exclusion to the Claims Administrator. The written request for exclusion must: (a) state your name, address, and telephone number; (b) state your intention to not wish to be part of the Class, to be bound by, and/or to receive funds pursuant to the Settlement; (c) be addressed to the Claims Administrator; (d) be signed by you or your lawful representative; and (e) be postmarked no later than October 11, 2021. You must mail your request for exclusion to the Claims Administrator at Hayter et al v Ewald & Wasserman Research Consultants et al, PO Box 26170, Santa Ana CA 92799.

By opting out, you will not receive a full settlement payment and will be able to pursue your individual claims against Defendants in a separate lawsuit. Regardless of whether or not you opt out of the full settlement, you will not be able to pursue a representative action under the Private Attorneys' General Act ("PAGA"), Labor Code § 2699, for your employment claims with Defendants covered by this lawsuit. PAGA representative lawsuits are brought by individuals on behalf of similarly situated persons, the LWDA and the State of California. Payments from the Gross Settlement Fund are being made to the LWDA and to you in exchange for a release of PAGA claims, irrespective of whether or not you opt out of the broader Settlement.

The Final Judgment entered following approval of the Settlement by the Court will bind all Class Members who do not request exclusion from the Settlement (Eligible Class Members).

5. *How Do I Object to The Settlement?*

If you are a Class Member who does not opt out of the Settlement, you may object to the Settlement, personally or through an attorney, by mailing a written Objection and mailing it to the Claims Administrator at Hayter et al v Ewald & Wasserman

Research Consultants et al, PO Box 26170, Santa Ana CA 92799 postmarked by October 12, 2021. The Objection must state: (a) your full name, address, telephone number and signature (or signature of your authorized representative); and (b) describe, in clear and concise terms, the legal and factual arguments supporting the objection.

Class Members who timely file valid objections to the Settlement may appear at the Final Approval Hearing, either in person or through the objector's own counsel, provided the objector has first notified the Claims Administrator by sending his/her written objections to the Claims Administrator, postmarked no later than October 12, 2021.

Class Members who fail to object in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement.

Again, to be valid and effective, any objections must be mailed to the Claims Administrator postmarked on or before on or before October 12, 2021.

If the Court approves the Settlement, Class Members who object will be mailed a settlement payment for the class and PAGA claims and will be bound by the terms of the Settlement, including the full release of claims.

6. *How Much Money Can I Expect to Receive From This Settlement?*

The Settlement provides for a Gross Settlement Amount of \$144,000. Plaintiffs will request disbursements of \$52,000 for attorneys' fees and costs; \$4,000 each, totaling \$12,000 for Named Plaintiffs Enhancements; up to \$5,000 for administrative costs, and \$3,000 for an LWDA fund. If all of those amounts are approved in full, there will be \$72,000 in the Net Settlement Fund, which will be used to pay participating Class Members for the class claims, and \$3,000 in the LWDA fund, which will be used to pay the Labor and Workforce Development Agency and all Class Members, including Class Members who opted out, for the PAGA claims. If those amounts are not approved in full, then the Net Settlement Fund will increase.

If you do not opt out, you will get a proportionate amount of the Net Settlement Fund based on the number of workweeks you worked for Ewald & Wasserman Research Consultants, LLC during the relevant time period. Your payment will be calculated according to the following method: first, dividing the Net Settlement Amount by the total number of Eligible Work Weeks to arrive at the Eligible Work Week Rate, and then second, by multiplying the resulting Eligible Work Week Rate by the total number of your Eligible Work Weeks.

The amount you will receive cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes. Based upon the calculation above, your approximate share of the Net Settlement Fund is as follows: \$«MERGED_Class_EstSettAmnt_CALC», less taxes. This is based on Ewald & Wasserman Research Consultant, LLC's records, which show you worked «MERGED_Class_WW_CALC» Eligible Work Weeks during the Class Period.

Regardless of whether or not you opt out, you will get a proportionate amount of the LWDA fund. \$2,250 (75%) of the LWDA Fund will go to the Labor and Workforce Development Agency, and the remaining \$750 will be divided among all Class Members using the same method described in the paragraph above. Your approximate share of the LWDA Fund is as follows: \$«MERGED_PAGA_EstSettAmnt_CALC», less taxes. This is based on Ewald & Wasserman Research Consultant, LLC's records, which show you worked «MERGED_PAGA_WW_CALC» Eligible Work Weeks during the Class Period.

The total payment you receive from the Net Settlement Fund (if you do not opt out) and the LWDA is your Individual Settlement Payment. One-third of your Individual Settlement Payment will be treated as unpaid wages. Applicable taxes will be withheld from the wages portion of your Individual Settlement Payment only and reported on an IRS Form W-2. The remaining two-thirds of your Individual Settlement Payment will be treated as penalties, interest, and non-wages and will be paid pursuant to an IRS Form 1099.

It is strongly recommended that upon receipt of your Class Member Settlement Payment check, you immediately cash it or cash it before the 180-day void date shown on each check. If any checks remain uncashed or not deposited by the expiration of the 180-day period after mailing, the Claims Administrator may send out a second round of checks to Class Members who deposited their initial check. The second round of payment will take the total unclaimed funds and pro-rate the amount to each Class Member who cashed their initial check by number of Eligible Work Weeks, in the same method as the first round so long as the check is no less than \$25. Any unclaimed funds after the second round of payments shall be paid to mutually agreed upon non-profit *cy pres* recipient subject to Court approval.

7. *How Do I Dispute My Number of Workweeks?*

If you believe the number of Eligible Work Weeks records listed in Section 6 is incorrect, you may provide documentation and/or an explanation to show contrary information to the Claims Administrator at Hayter et al v Ewald & Wasserman Research Consultants et al, PO Box 26170, Santa Ana CA 92799 postmarked on or before October 12, 2021.

If you submit a timely written dispute as to the number of workweeks, you should submit written proof proving your dispute. Defendants' records will be presumed accurate and Defendants will investigate and determine if the dispute appears to be valid. If your dispute is not approved, you will still be able to participate in the settlement.

You should keep a copy of all documents you send to the Claims Administrator, especially if you are disputing your number of workweeks.

8. *How Will the Attorneys for the Class and the Class Representative Be Paid?*

The attorneys for the Class and Class Representatives will be paid directly out of the Gross Settlement Amount, in an amount to be determined by the Court but not to exceed \$52,000, inclusive of attorneys' fees and costs of suit.

9. *How Can I Get More Information?*

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Claims Administrator at the telephone number (888) 369-3780, toll free. Please refer to the Ewald & Wasserman Research Consultants, LLC class action settlement. You may also visit <https://peretzlaw.com/press> to view this Notice, the full Settlement Agreement, the Complaint in this lawsuit, and all documents filed in connection with preliminary and final settlement approval.

This Notice does not contain all of the terms of the proposed Settlement or all of the details of these proceedings. For more detailed information, you may refer to the settlement website above. Additionally, the Court's docket and documents on file in this action are freely available at <https://www.sfsuperiorcourt.org/online-services>.

You may also contact Plaintiffs' counsel at (415) 732-3777 or send an email to yperetz@peretzlaw.com and they will provide you with a copy of the electronic versions of the Settlement documents or case documents free of charge.

PLEASE DO NOT TELEPHONE THE COURT OR COURT'S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.

EXHIBIT B



10/19/2021

Case Manager Name: Zach Cooley

Case Manager Email: zcooley@simpluris.com

Case Manager Direct Line : (714) 824-8560

Hayter et al v Ewald & Wasserman Research Consultants et al
Superior Court of California County of San Francisco
Case No. CGC19577753

Case Milestones

Preliminary Approval Order	July 19, 2021
Data Due	August 02, 2021
Notification Mailing	August 12, 2021
Opt Out Deadline	October 12, 2021
Objection Deadline	October 12, 2021
Dispute Deadline	October 12, 2021
Final Approval Hearing	November 10, 2021

Response Summary

Total Class Members: 54

"Total Responses Submitted" is based on responses processed as of date reflected on the report.

	Total	Rate	Deficient	Dispute	Late
Opt Out Form	0	0.00%			
Valid	0	0.00%			
Invalid	0	0.00%			
Pending	0	0.00%	0	0	0
Change Of Address Form	0	0.00%			
Valid	0	0.00%			
Invalid	0	0.00%			
Pending	0	0.00%	0	0	0
Dispute Form	0	0.00%			
Valid	0	0.00%			
Invalid	0	0.00%			
Pending	0	0.00%	0	0	0

Mailing Details

Mailing Title	Mailed	Returned	Remailed	Undeliverable
Notice Packet	54	9	7	2