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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA

11 DIMITRI DIXON and RYAN SELTZ, individually,  
12 and on behalf of all others similarly situated,

13 Plaintiffs,

14 vs.

15 CUSHMAN & WAKEFIELD WESTERN, INC.,  
16 CUSHMAN & WAKEFIELD, INC., and  
CUSHMAN & WAKEFIELD OF WASHINGTON  
DC, INC., and DOES 1-50, inclusive

17 Defendants.  
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Case No. 3:18-cv-05813-JSC

**SUPPLEMENTAL DECLARATION OF  
LAURA L. HO IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF CLASS,  
COLLECTIVE, AND REPRESENTATIVE  
ACTIONS SETTLEMENT**

Date: September 2, 2021  
Time: 9:00a.m.  
Dept: Courtroom E, 15th Floor  
Before: Hon. Magistrate Judge Jacqueline Scott  
Corley

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15 *Attorneys for Plaintiffs. Proposed Class and*  
16 *Collective Members, and Aggrieved Employees*

1 I, Laura L. Ho, declare as follows:

2 1. I am a member in good standing of the Bar of the State of California and a partner at the  
3 law firm of Goldstein, Borgen, Dardarian & Ho (“GBDH”), in Oakland, California. I, along with  
4 Outten & Golden LLP and Shavitz Law Group, P.A., am counsel of record for the Plaintiffs in the  
5 above-captioned matter (together “Plaintiffs’ Counsel” or “Class Counsel”). I submit this  
6 supplemental declaration in support of Plaintiffs’ Motion for Preliminary Approval of Class,  
7 Collective, and Representative Action Settlement, ECF 114 (July 1, 2021), and in response to the  
8 Court’s Order Requesting Supplemental Briefing Re: Plaintiffs’ Motion for Preliminary Approval,  
9 ECF 126 (Aug. 5, 2021). I have personal knowledge of the facts set forth in this declaration and could  
10 and would testify competently to them if called upon to do so.

11 2. The total number of Settlement Class/Collective Members is 476 – there are 111  
12 California Settlement Class Members and 367 Non-California Settlement Collective Members. There  
13 are two Settlement Class/Collective Members who fall into more than one point category because they  
14 moved to/from California. The number of Settlement Class/Collective Members for each point  
15 category is as follows:

- 16 • One Point Settlement Collective Members (*i.e.* Non-California Opt-in Eligible  
17 Plaintiffs): 347
- 18 • Two Point Settlement Collective Members (*i.e.* *Seltz/Dixon II* Opt-in Plaintiffs): 20
- 19 • Three Point California Settlement Class Members (*i.e.* *Dixon I* Class Members who did  
20 not opt-in to the FLSA claim): 101
- 21 • Four Point California Settlement Class Members (*i.e.* *Dixon I* Class Members who also  
22 opted into the FLSA claim): 10

23 3. Plaintiffs’ Counsel estimates (after subtracting the amounts contemplated in the  
24 Settlement Agreement for settlement administration costs, attorneys’ fees and costs, service awards,  
25 and the PAGA payment to the LWDA) that from the Net Settlement Fund the distribution amount for  
26 each point category will be as follows:

- 27 • One Point Settlement Collective Members (*i.e.* Non-California Opt-in Eligible  
28

1 Plaintiffs): \$1,343,825 (about \$28 per workweek)

- 2 • Two Point Settlement Collective Members (*i.e. Seltz/Dixon II* Opt-in Plaintiffs):
- 3 \$98,150 (about \$57 per workweek)
- 4 • Three Point California Settlement Class Members (*i.e. Dixon I* Class Members who did
- 5 not opt-in to the FLSA claim): \$1,524,983 (about \$85 per workweek)
- 6 • Four Point California Settlement Class Members (*i.e. Dixon I* Class Members who also
- 7 opted into the FLSA claim): \$167,709 (about \$113 per workweek)

8 4. The only portion of the Settlement Fund that Defendants are not required to pay is the  
 9 amount allocated to any Non-California Opt-in Eligible Plaintiff who does not submit a claim form.  
 10 See Stipulation and Agreement to Settle Class, Collective, and Representative Actions, ECF 115-1,  
 11 (“Settlement Agreement”) §§ 1.41(a), 2.8(a).

12 5. In my July 1st declaration submitted in support of preliminary approval, I provided the  
 13 Court with the Final Approval Order in *Garcia v. PPG Indus., Inc.*, No. 3:15-cv-00319-WHO (N.D.  
 14 Cal. July 22, 2016). In the *Garcia* case, Judge Orrick granted final approval of a settlement structured  
 15 like the one proposed here, consisting of a California Rule 23 settlement class and an FLSA collective  
 16 of individuals who affirmatively joined the action. The settlement agreement contemplated payments  
 17 for three groups of people: California class members, individuals who had already opted into the FLSA  
 18 claim, and anyone outside of California who was eligible to opt into the FLSA claim but had not yet  
 19 done so. The FLSA-eligible non-opt-ins were required, in order to participate in the settlement, to  
 20 submit a claim form and opt in to be able to receive a settlement payment. The settlement provided  
 21 that any amounts not claimed by those FLSA settlement members who were eligible to opt in would  
 22 remain the property of the defendant, while all of the amounts allocated to California class members  
 23 would be paid by the defendant. California settlement class members were not required to submit a  
 24 claim and opt into the settlement in order to receive their settlement award. After the settlement was  
 25 preliminarily approved, 45 of 122 non-California individuals, or about 37%, who were eligible to  
 26 submit claim forms did so for a total of 62.4% of the amount claimed. A copy of the *Garcia* settlement  
 27 agreement is attached as Exhibit A.



1           6.       Plaintiffs' Counsel estimates that about 30% of Non-California Opt-in Eligible  
2 Plaintiffs (*i.e.* those who will receive one point per workweek) will submit a claim to receive an award  
3 under the settlement. Proportionally, that would total about \$403,147.39 of the portion of the fund that  
4 is allocated to that group. In other words, it is possible that Defendants will not have to fund about  
5 \$940,677.24 of the settlement. If the claims rate is about proportional to the portion of the fund that is  
6 claimed, then Defendants will be obligated to pay all other portions of the Total Settlement Fund –  
7 totaling around \$4,000,000 after accounting for the expected claims rate. *See* Settlement Agreement  
8 §§ 1.41(a), 2.8(a). However, in Plaintiffs' Counsel's experience, the larger awards are more likely to  
9 be claimed, resulting in a higher percentage of the fund claimed than the percentage of claims filed. In  
10 the *Garcia* case mentioned above, about 37% of those eligible to submit a claim did so and claimed  
11 over 60% of the available funds.

12           7.       The majority of Non-California Opt-in Eligible Plaintiffs will see an award amount  
13 worth thousands of dollars on their Notice. The median estimated pre-tax award for this group is  
14 \$4,704.26 and the average estimated pre-tax award is \$3,872.69 (including both *Dixon II* and *Seltz*  
15 non-opt-ins).

16           8.       Plaintiffs understood during settlement negotiations that the only way Defendants  
17 would agree to include Non-California Opt-in Eligible Plaintiffs, who had previously been sent court  
18 ordered notice of the opportunity to opt into ongoing litigation, in the global settlement was to  
19 structure the settlement such that Defendant did not have to pay them unless they first affirmatively  
20 opted in, but this time with a substantial settlement already in the offering.

21           9.       Plaintiffs' Counsel estimates that the settlement value of Defendants' change in pay  
22 practices – both reclassifying Junior Appraisers as non-exempt and providing unrecoverable base pay  
23 to Appraisers who previously received recoverable draws – is worth an estimated \$500,000 through the  
24 end of this month. Plaintiffs' Counsel calculated this number by looking at the settlement value of the  
25 claims in *Dixon I* and *II* and extrapolating the value of each claim between January 1, 2021 (when  
26 Defendants restructured their pay to Appraisers and Senior Appraisers receiving recoverable draws)

1 through August 31, 2021, and by extrapolating the *Seltz* claims from September 9, 2019 (the date  
2 Defendants reclassified Junior Appraisers) through August 31, 2021.

3 10. The Parties have agreed that any funds from checks that remain uncashed by Non-  
4 California Eligible Plaintiffs who submit a Claim Form but fail to cash checks shall be distributed to  
5 the National Employment Law Project (“NELP”). NELP is a nonprofit organization dedicated to  
6 strengthening the law and policies protecting low-wage and unemployed workers and conducts  
7 research and publishes reports used to advocate for better work-related policies. NELP is an  
8 appropriate *cy pres* recipient because its work is nationwide, like the geographic distribution of Non-  
9 California Eligible Plaintiffs, who worked for Cushman in approximately 30 states. Because Non-  
10 California Eligible Plaintiffs must submit a Claim Form (with their current address) to participate, and  
11 those who participate will receive a settlement check in the mail following final approval, Plaintiffs’  
12 Counsel anticipates that any distribution to NELP will be modest. I have not served on NELP’s board,  
13 been employed by NELP, or have any other personal interest in NELP.

14 11. To be clear, the Notices will be sent by both mail and email and any representation in  
15 Plaintiff’s motion for preliminary approval that notice would be sent by mail *or* email was made in  
16 error.

17 12. The Parties have also agreed to revisions to the proposed notices, including to address  
18 the Court’s concerns regarding the minimum amount and information about Class Counsel’s motion  
19 for attorneys’ fees and costs and the right to object to the request. The proposed notices have been  
20 revised to reflect that possibility and a redlined version of the notices are attached hereto as Exhibits B-  
21 D.

22 13. The notices have also been revised to reflect the fact that the estimated Net Settlement  
23 Fund from which the settlement awards are calculated could increase should the Court decide to award  
24 less than Plaintiffs’ requests for settlement administration costs, attorneys’ fees and litigation costs,  
25 and service awards. *See* Settlement Agreement § 2.8(c), (d), & (e). Should that happen, it is possible  
26 that the individual payment amounts for Settlement Class/Collective Members could slightly increase.

1           14.     Plaintiffs' Counsel has calculated the estimated maximum damages exposure for each  
2 claim in each case, assuming total victory on all claims for all potential class and collective action  
3 members through May 31, 2021. Attached as Exhibit E is a chart reflecting those damages estimates.  
4 For these estimates, Plaintiffs assumed that Class/Collective Members worked an average of 10 hours  
5 per week in overtime for both FLSA and California overtime claims. Plaintiffs also accounted for the  
6 fact that Junior Appraisers were reclassified as non-exempt on September 9, 2019, and that Defendants  
7 changed its pay practices for Appraisers and Senior Appraisers who received only recoverable draws in  
8 January 2021.

9           15.     For California Class Members, Plaintiffs assumed an average of five missed meal and  
10 rest periods per week, and an average of \$12.50 in unreimbursed expenses (for costs associated with  
11 Appraisers' use of their personal cell phones for business purposes) per week. For the California wage  
12 statement violation, which has a shorter statute of limitations period, Plaintiffs assumed that every  
13 Class Member who had an overtime or meal/rest period violation also had a wage statement violation  
14 in the same pay period. For the California waiting time penalties, Plaintiffs assumed that each Class  
15 Member who stopped working for Defendants in the applicable limitations period had a violation and  
16 accrued 30 days of wages as a penalty. Plaintiffs made the same assumptions for purposes of  
17 calculating PAGA penalties.

18           16.     Of course, this *maximum* exposure is not a realistic assessment of what Defendants  
19 would likely have to pay if the case were tried to judgment. In my prior declaration, I summarized  
20 some of the difficulties in proof and litigation risks that Plaintiffs would face should Plaintiffs have to  
21 continue litigating, including that Defendant would argue that Appraisers worked very little overtime if  
22 any; overtime hours are inherently difficult to prove; and the difficulties in litigating exemption cases  
23 through class certification, summary judgment, and trial.

24           17.     The proposed Net Settlement Fund (\$3,128,000 or \$3,134,666.67 including the  
25 \$6,666.67 PAGA distribution amount to California aggrieved employees) is, in Plaintiffs' Counsel's  
26 view, more than fair and reasonable, given the applicable litigation risks. Plaintiffs' Counsel has  
27  
28

1 estimated the settlement value of these claims by applying discounts according to the various litigation  
2 risks:

- 3 a. To estimate the settlement value for Non-California Opt-In Eligible Plaintiffs  
4 (receiving one point per workweek), Plaintiffs applied a 60% discount to  
5 account for the inherent difficulties of proving hours worked, an additional 50%  
6 discount to account for Defendants' fluctuating workweek defense, a 50%  
7 discount to account for the risks of litigating exemption defenses, a 50%  
8 discount to the liquidated damages to account for Defendants' good faith  
9 defense, and an overall 45% discount to account for the fact that this group of  
10 workers had an opportunity to join the FLSA claims and declined that  
11 opportunity, would not be properly before the court, and would likely recover  
12 nothing.
- 13 b. For the *Dixon III/Seltz* Opt-Ins (receiving two points per workweek), Plaintiffs  
14 applied the same 60% discount for the risk of proving hours, the same 50%  
15 discount for Defendants' fluctuating workweek defense, the same 50% discount  
16 for the risks of litigating exemption defenses, the same 50% discount to  
17 liquidated damages, and an overall 10% discount to account for the risk of  
18 decertification.
- 19 c. For the California Settlement Class Members who did *not* opt-into the FLSA  
20 claim during litigation (receiving three points per workweek), Plaintiffs applied  
21 a 60% discount to the value of the overtime claims to account for the difficulties  
22 in proving overtime hours worked; a 80% discount to the value of the meal and  
23 rest break claims to account for the difficulties in proving the number of missed  
24 meal and rest periods; a 50-95% discount on each claim to account for the risks  
25 of proving liability on each claim; a 50% discount to each of the class claims to  
26 account for the burden of moving for class certification and possibility of  
27 decertification; and a 99% discount on the value of the PAGA claim to account  
28

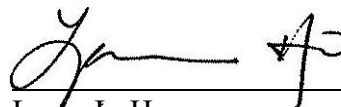
for the defense arguments against penalties when substantial wages are recovered and the court's discretion to reduce PAGA penalties, particularly in the face of pay practice changes.

- d. For the final group, the California Settlement Class Members who *did* opt-into the FLSA claim (receiving four points per workweek), Plaintiffs applied the similar discounts as with the three-point group: a 60% discount to the value of the overtime claims; a 80% discount to the value of the meal and rest break claims; a 50-95% discount per claim for risks proving liability; and a 99% discount on the value of the PAGA claim. Plaintiffs also applied a 50% discount to the liquidated damages to account for Defendants' fluctuating workweek defense and an additional 50% discount to the liquidated damages to account for Defendants' good faith defense.

18. For the Court's convenience, I have attached a copy of a document retrieved by my office from Westlaw and cited in our supplemental brief: Complaint, *Khanna v. Inter-Con Sec. Sys, Inc.*, No. CIV S-09-2214 KJM GGH, ECF 1 (E.D. Cal. Aug. 11, 2009). A copy of that document is attached hereto as Exhibit F.

19. I have also attached a copy of a second document retrieved by my office from Westlaw and cited in our supplemental brief: First Amended Complaint, *Flores v. Alameda Cty. Indus. Inc.*, No. 14-cv-03011-JD, ECF 15 (N.D. Cal. Aug. 12, 2014). A copy of that document is attached hereto as Exhibit G.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct. Executed this 19th day of August, 2021, in Oakland, CA.



\_\_\_\_\_  
Laura L. Ho

# EXHIBIT A

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24 **Attorney for Plaintiffs and the Putative Class**  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

HECTOR GARCIA, ROBERT CAHIGAL,  
BRIAN HOLLIDAY, and TINA DIEMER,  
on behalf of themselves and all others  
similarly situated,

Plaintiffs,

v.

PPG INDUSTRIES, INC.,

Defendant.

Case No. 3:15-cv-00319-WHO

**SETTLEMENT AGREEMENT**

The Parties to this Civil Action, acting through their representatives and attorneys and with the assistance of mediator Mark Rudy, reached an agreement concerning the essential terms of a settlement of this Civil Action, subject to preparation and execution of a comprehensive written settlement and release agreement, and further subject to approval by the Court. The Parties now enter into this Agreement.

**1. DEFINITIONS**

The terms set forth below shall have the meanings defined herein wherever used in this Agreement (including its Exhibits).

**1.1** “Agreement” means this written Settlement Agreement, which sets forth the terms of the settlement and final amicable resolution of this Civil Action.

**1.2** “Civil Action” means the above-captioned action, inclusive of the claims asserted therein pursuant to the federal Fair Labor Standards Act and California Labor Code.

**1.3** “Court” means the United States District Court for the Northern District of California (Hon. William H. Orrick presiding).

**1.4** The “Named Plaintiffs” are Plaintiffs Robert Cahigal, Hector Garcia, Brian Holliday, and Tina Diemer.



1           **1.5**     The “Opt-in Plaintiffs” are the Named Plaintiffs and those other individuals who filed  
2 (and did not withdraw) written consents to join this action pursuant to 29 U.S.C. § 216(b). Class  
3 Counsel and Defense Counsel have agreed upon a list of all Opt-in Plaintiffs, which is attached to  
4 this Agreement as **Exhibit A-1**. For purposes of this Agreement only, Defendant does not contest  
5 the validity of the written consents filed by the Opt-in Plaintiffs, the eligibility of the Opt-in  
6 Plaintiffs to participate in the Civil Action, or the right of the Opt-in Plaintiffs to participate in the  
7 settlement in accordance with the terms of this Agreement.

8           **1.6**     The “FLSA Class Members” are the individuals identified by Named Plaintiffs as  
9 being entitled to supplemental overtime wages earned in connection with the payment of incentive  
10 compensation associated with work performed from 2012 through 2015, excluding, however, all  
11 Covered California Rule 23 Class Members and Opt-in Plaintiffs. Class Counsel and Defense  
12 Counsel have agreed upon a list of all FLSA Class Members, which is attached to this Agreement as  
13 **Exhibit A-2**.

14           **1.7**     “Class Counsel” means Laura L. Ho, Byron Goldstein, William C. Jhaveri-Weeks, of  
15 the law firm of Goldstein, Borgen, Dardarian & Ho (300 Lakeside Drive, Suite 1000, Oakland, CA  
16 94612) and Bruce Fox and Andrew Horowitz of the law firm of Obermayer Rebmann Maxwell and  
17 Hippel LLP (BNY Mellon Center 500 Grant Street Suite 5240 Pittsburgh, PA 15219).

18           **1.8**     “California Rule 23 Class Members” means all individuals employed by PPG  
19 Industries, Inc. and/or any subsidiary (including PPG Architectural Finishes, Inc.) and/or any  
20 predecessor (including Akzo Nobel Paints LLC) in California during the period of January 22, 2011,  
21 through September 15, 2015, and who were classified as non-exempt, excluding, however, all Opt-in  
22 Plaintiffs and FLSA Class Members. While some of the Opt-in Plaintiffs who worked in California  
23 are also technically California Rule 23 Class Members, they shall be subject to the provisions of this  
24 Agreement pertaining to the Opt-in Plaintiffs, not those pertaining to the Covered California Rule 23  
25 Class Members (e.g., they will not receive Notice pursuant to Section 3.3 and they will not have the  
26 ability to request exclusion from the settlement, or object to the class action settlement).

27           **1.9**     “Covered California Rule 23 Class Members” means all California Rule 23 Class  
28 Members (excluding all Opt-in Plaintiffs and FLSA Class Members) who have been identified by

1 Class Counsel as being eligible to receive an Individual Settlement Allocation, as set forth in  
 2 **Exhibit B**, and identified by Class Counsel based upon the following criteria:

3 (a) Were employed as California Territory Managers and, according to Class Counsel, were  
 4 owed supplemental overtime compensation as a result of bonuses paid;

5 (b) Were employed as California non-exempt employees who worked for those organizations  
 6 where, according to Class Counsel, alleged wage statement violations occurred: AC THD  
 7 West; AC NA Lowes San Diego; Arch Coat NA Lowes Phoenix; Refinish Dist-LA; Refinish  
 8 Cust Trng-Zone A; Corp Credit Svcs Refinish; Spraylat; Ind Coat CRC; Ind Coat TrueFinish;  
 9 PMC Chino DC; AC Homax; AC Mkt – Central California; AC Mkt – Northern California;  
 10 AC Mkt – So Cal North; AC Mkt – So Cal South; AC Mkt – WA/OR/AK; and Akzo Arch  
 11 Coat US; Aerospace Mojave;

12 (c) California TM's who were terminated and for whom, according to Class Counsel,  
 13 additional supplemental overtime was due;

14 (d) California THD employees who, according to Class Counsel, incurred internet business  
 15 expenses; and

16 (e) California class members that, according to Class Counsel, have PAGA claims for non-  
 17 payment of wages, wage statement violations, waiting time penalties, unreimbursed business  
 18 expenses (as set forth above in 1.9(a)-(d)), and direct deposit violations for all California non-exempt  
 19 employees that worked at the following organizations: AC Homax; AC Mkt - Central California;  
 20 AC Mkt - Northern California; AC Mkt - So Cal North; AC Mkt - So Cal South; AC Mkt -  
 21 WA/OR/AK; AC NA Lowes San Diego; AC THD West; Akzo Arch Coat US; Arch Coat NA Lowes  
 22 Phoenix; Fresno Human Resources; Fresno Info/Fin Svc; Fresno Maintenance; Fresno Shipping;  
 23 Fresno Tank; Fresno Wareroom; Fresno Yard; Spraylat; Sylmar 10 Transtech Prod; Sylmar 14  
 24 Transtech Quality; Sylmar 40 Polycarb Cell; Sylmar 45 Acrylic Cell; Sylmar 46 CNC Commercial;  
 25 Sylmar 47 Prepress; Sylmar 48 Coatings Cell; Sylmar 49 Opticor; Sylmar 50 Start Center Cell;  
 26 Sylmar 51 CNC Military; Sylmar 52 Process Engineering; Sylmar 63 Formulations; Sylmar 71  
 27 Shipping/Receiving; Sylmar 72 Prod Control; Sylmar 73 Maintenance; Sylmar 74 Quality; Sylmar  
 28 75 Design Engineering; Sylmar 76 Tooling; Sylmar 82 Compliance; Sylmar 84 Human Resources.

1 (f) Defendant's agreement to the list of Covered California Rule 23 Class Members does not  
2 signify any agreement or admission that the individuals included on the list are, in fact, entitled to  
3 any relief under the California Labor Code; Defendant specifically denies any liability with respect  
4 to the claims asserted on behalf of the Covered California Rule 23 Class Members.

5 **1.10** "Participating Claimants" means all Opt-in Plaintiffs, all FLSA Class Members who  
6 timely return a valid and effective executed Opt-in Claim Form, and all Covered California Rule 23  
7 Class Members who do not request exclusion from the class.

8 **1.11** "Defendant" means Defendant PPG Industries, Inc.

9 **1.12** "Defense Counsel" means Robert W. Pritchard, Christopher Michalski, Karin Cogbill  
10 and Sophia Behnia of Littler Mendelson, P.C.

11 **1.13** "Parties" means the Named Plaintiffs (on behalf of themselves and all Opt-in  
12 Plaintiffs, all FLSA Class Members and all California Rule 23 Class Members), and Defendant.

13 **1.14** "Claims Administrator" means KCC Class Action Services, LLC.

14 **1.15** The "Preliminary Approval Order" means the order to be entered by the Court  
15 granting preliminary approval to the settlement described in this Agreement following submission to  
16 the Court of Plaintiffs' motion for an order granting preliminary approval to the California Rule 23  
17 class action settlement described in this Agreement, certifying a California Rule 23 class for  
18 settlement purposes only, authorizing notice of the settlement to the Covered California Rule 23  
19 Class Members, conditionally certifying an FLSA settlement class, authorizing notice of the  
20 settlement to the FLSA Class Members, and setting a date for a hearing to consider final approval of  
21 the settlement following notice to the Covered California Rule 23 Class Members and FLSA Class  
22 Members ("Fairness Hearing"). The proposed Preliminary Approval Order that will be submitted to  
23 the Court with the Plaintiffs' motion is attached as **Exhibit C**.

24 **1.16** The "Final Approval Order" means the order to be entered by the Court (1) granting  
25 approval to the FLSA settlement described in this Agreement; (2) granting final approval to the  
26 California Rule 23 class action settlement described in this Agreement; and (3) dismissing the Civil  
27 Action with prejudice in accordance with the terms of this Agreement. The proposed Final Approval  
28 Order that will be submitted to the Court with Plaintiffs' motion is attached as **Exhibit G**.

1           **1.17** “Effective Date” means the date upon which all of the following have occurred in the  
2 Civil Action without any material alteration of the terms of this Agreement: (a) entry of the Final  
3 Approval Order; and (b) the expiration of the appeal rights of the Parties, FLSA Class Members and  
4 Covered California Rule 23 Class Members. In the event no notice of appeal, or request to extend  
5 the time to appeal, is filed, the date of expiration of the appeal rights of the Parties, FLSA Class  
6 Members and Covered California Rule 23 Class Members shall be deemed to occur 35 days after  
7 entry of the Final Approval Order. However, in the event no California Rule 23 Class Member  
8 presents objections to the proposed settlement, and Class Counsel and the Parties file with the Court  
9 a waiver of their right to appeal after entry of the Final Approval Order, then the Effective Date shall  
10 be the day after the filing of the waiver.

11           **1.18** “Released Parties” means: (a) PPG Industries, Inc. and PPG Architectural Finishes,  
12 Inc.; (b) Akzo Nobel N.V. and Akzo Nobel Paints LLC; and (c) the predecessors, successors, present  
13 and former affiliates, parents, subsidiaries, insurers, officers, directors, agents, members,  
14 shareholders, general partners, limited partners, owners, beneficiaries, representatives, heirs,  
15 attorneys, assigns (including without limitation, any investors, trusts, or other similar or affiliated  
16 entities) of, and all persons acting by, through, under or in concert with, any of the entities named in  
17 sections (a) and/or (b) of this paragraph, including any person or entity that was or could have been  
18 named as a defendant in the Civil Action.

19           **1.19** “Maximum Gross Settlement Amount” means the maximum amount of money to be  
20 paid by Defendant in connection with this Agreement. The Maximum Gross Settlement Amount is  
21 \$500,000. Under no circumstances shall Defendant be required to pay more than the Maximum  
22 Gross Settlement Amount in connection with the settlement of the Civil Action (except that  
23 Defendant shall be responsible for the payment of the employer share of FICA, FUTA, and SUTA,  
24 from funds outside the Maximum Gross Settlement Amount). The Maximum Gross Settlement  
25 Amount shall be allocated to the Settlement Payment Allocation, the Attorney’s Fees and Expenses  
26 Payment, the Enhancement Payments, the Reserve Fund, the Administrative Costs, and the Claims  
27 under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), as follows:  
28

1           (a)     The “Settlement Payment Allocation” means that portion of the Maximum  
2     Gross Settlement Amount to be allocated and made available for payment to the Opt-in Plaintiffs,  
3     FLSA Class Members and Covered California Rule 23 Class Members in accordance with this  
4     Agreement. The total Settlement Payment Allocation is \$279,584.03, although this amount may be  
5     increased in accordance with Section 1.19(b)-(c) if the Court reduces the Attorney’s Fees and  
6     Expenses Payment and/or the Enhancement Payments. The “Individual Settlement Allocation” for  
7     each of the Opt-in Plaintiffs, FLSA Class Members and Covered California Rule 23 Class Members  
8     is set forth in **Exhibits A-1, A-2 and B**. The cumulative total of each Individual Settlement  
9     Allocation of all Opt-in Plaintiffs, FLSA Class Members and Covered California Rule 23 Class  
10    Members shall equal the Settlement Payment Allocation.

11           (b)     The “Attorney’s Fees and Expenses Payment” means the total amount of  
12    money (up to \$171,665.97) to be paid by Defendant to Class Counsel in accordance with the Final  
13    Approval Order, as attorney’s fees and costs and expenses incurred in the Civil Action. Prior to the  
14    submission of the motion seeking entry of the Final Approval Order, Class Counsel will seek an  
15    award of attorney’s fees not to exceed \$166,665.97, and an award of its actual costs and expenses in  
16    an amount not to exceed \$5,000. Defendant will not oppose this request. If the Court awards less  
17    than \$171,665.97 as the total Attorney’s Fees and Expenses Payment, this shall not be a basis for  
18    voiding this Agreement; rather, the difference in the amount awarded shall be re-allocated to the  
19    Settlement Payment Allocation, thereby increasing each individual’s Individual Settlement  
20    Allocation.

21           (c)     The “Enhancement Payments” means the amount of money (up to a total of  
22    \$8,000) to be paid by Defendant to the four Named Plaintiffs. Prior to the submission of the motion  
23    seeking entry of the Final Approval Order, Class Counsel may seek an award of enhancement  
24    payments of \$2,000 each to the four Named Plaintiffs, for a total of \$8,000, in recognition of their  
25    work in this Civil Action on behalf of the Opt-in Plaintiffs, FLSA Class Members and Covered  
26    California Rule 23 Class Members. These payments shall be treated as non-wage income and shall  
27    be in addition to whatever payments these individuals may be eligible to receive as FLSA Class  
28    Members and Covered California Rule 23 Class Members. Defendants will not oppose this request.

1 If the Court awards less than \$8,000 as the total Enhancement Payments, this shall not be a basis for  
2 voiding, objecting to or appealing from the Final Approval Order; rather, the difference in the  
3 amount awarded shall be re-allocated to the Settlement Payment Allocation, thereby increasing each  
4 individual's Individual Settlement Allocation.

5 (d) "Administrative Costs" means the maximum amount of money (\$28,500) to  
6 be paid by Defendant to the Claims Administrator for the services it will provide under this  
7 Agreement. Defendant shall not be responsible for any costs of settlement administration that may  
8 exceed this amount.

9 (e) In addition to the foregoing, the Parties shall allocate \$2,250, payable to the  
10 Labor and Workforce Development Agency, to the Plaintiffs' PAGA claim (the "PAGA  
11 Allocation"), brought by Named Plaintiffs on behalf of all FLSA Class Members and California  
12 Rule 23 Class Members who worked for Defendant in California at any time between December 3,  
13 2013, through September 15, 2015 ("PAGA Participants"). Class Counsel has determined the FLSA  
14 Class Members and California Rule 23 Class Members that are entitled to a PAGA allocation and  
15 damages.

16 (f) In addition to the foregoing, the Parties allocate \$10,000 to a Reserve Fund to  
17 allocate to individuals who (i) erroneously were not identified on Exhibits A-1, A-2 or B but can  
18 establish a valid claim as an FLSA Class Member or Covered California Rule 23 Class Member, or  
19 (ii) were identified in Exhibits A-1, A-2 or B, but who may have missed a filing deadline and/or who  
20 can produce evidence that the information used to calculate his/her pro rata share of the settlement  
21 was inaccurate. The Claims Administrator will make a final determination of whether any  
22 individual qualifies for the Reserve Fund, and if so for how much, after consultation with Class  
23 Counsel and Defense Counsel. The Reserve Fund shall be included in the Settlement Payment  
24 Allocation and distributed on a pro rata basis to all Participating Claimants, including those  
25 qualifying pursuant to this paragraph, prior to the distribution of Individual Settlement Allocations.

26 (g) The total of the Settlement Payment Allocation, the Attorney's Fees and  
27 Expenses Payment, the Enhancement Payments, the Reserve Fund, the Administrative Costs and the  
28 PAGA Allocations shall not exceed the Maximum Gross Settlement Amount.

1     **2.     RECITALS AND SETTLEMENT TERMS**

2             **2.1**     This case is a putative FLSA collective action and a putative California Rule 23 class  
3     action brought by the Named Plaintiffs on behalf of individuals who were employed by PPG  
4     Industries, Inc. and/or any subsidiary (including PPG Architectural Finishes, Inc.) and/or any  
5     predecessor (including Akzo Nobel Paints LLC) and who: (a) were identified by Named Plaintiffs as  
6     being entitled to supplemental overtime wages earned in connection with the payment of incentive  
7     compensation associated with work performed from 2012 through 2015; and/or (b) were employed  
8     in California during the period of January 22, 2011, through September 15, 2015, and who were  
9     classified as non-exempt. With respect to the individuals in the first group, Named Plaintiffs claim  
10    that Defendant failed to pay them all supplemental overtime wages earned in connection with the  
11    payment of incentive compensation associated with work performed from 2012 through 2015, in  
12    violation of the FLSA and the California Labor Code. With respect to the individuals in the second  
13    group, Named Plaintiffs assert various additional claims under the California Labor Code, including  
14    claims that Defendant failed to provide accurate wage statements, claims that Defendant owes  
15    waiting time penalties to former employees who were employed in California and who were not paid  
16    all supplemental overtime wages owed at the time of their termination, claims related to direct  
17    deposit, and claims for reimbursement of business expenses. The Named Plaintiffs sought  
18    compensation on behalf of themselves, the Opt-in Plaintiffs, the FLSA Class Members and the  
19    California Rule 23 Class Members, for alleged unpaid wages, penalties and reimbursement of  
20    business expenses, as well as other relief under the FLSA and California state law, including  
21    liquidated damages, interest, penalties, litigation costs and expenses, and attorney's fees.

22             **2.2**     Defendant vigorously denies the allegations in the Civil Action and states that it did  
23    not violate the law and that it has no liability for any claims raised in the Civil Action, but has agreed  
24    to the terms of this Agreement in order to avoid the expense and disruption of further litigation.  
25    Nothing in this Agreement shall be deemed or used as an admission of liability by Defendant or the  
26    Released Parties, or an admission that a class should be certified for any purpose other than  
27    settlement.

28



1           **2.3** During the pendency of this action, Class Counsel conducted discovery concerning  
2 Defendant's policies, payroll practices, and wage statements, on behalf of the FLSA Class Members  
3 and the California Rule 23 Class Members. The Parties engaged in a formal, arm's length mediation  
4 on September 15, 2015, conducted by mediator Mark Rudy.

5           **2.4** It is the intention of the Parties that this Agreement shall constitute a full and  
6 complete settlement and release of all Released Claims as defined in Section 5 herein against all  
7 Released Parties.

8           **2.5** In exchange for the dismissal of the Civil Action with prejudice and the settlement  
9 and release of all Released Claims as defined in Section 5 herein against all Released Parties, and  
10 otherwise subject and pursuant to the terms and conditions of this Agreement, Defendant has agreed  
11 to pay the Maximum Gross Settlement Amount.

12           **2.6** The Parties shall cooperate in the formal steps necessary to carry out the terms set  
13 forth in this Agreement, which is subject to approval by the Court.

14 **3. APPROVAL AND NOTICE PROCEDURES**

15           **3.1** The Parties shall seek Court approval of this Agreement as follows:

16           **(a)** by filing with the Court, no later than fourteen (14) days following the date on  
17 which this Agreement is executed by all Parties, Plaintiffs' motion for an order granting preliminary  
18 approval to the California Rule 23 class action settlement described in this Agreement, certifying a  
19 California Rule 23 class for settlement purposes only, authorizing notice of the settlement to the  
20 Covered California Rule 23 Class Members, conditionally certifying an FLSA settlement class,  
21 authorizing notice of the settlement to the FLSA Class Members, and setting a date for a Fairness  
22 Hearing; and

23           **(b)** by filing with the Court, within the time period set forth in Section 3.4,  
24 Plaintiffs' motion for an order (i) approving the terms of the FLSA settlement as described in this  
25 Agreement and (ii) granting final approval of the California Rule 23 Class Action Settlement  
26 described in this Agreement.

27           Also, in connection with, and prior to, the Plaintiffs' motion seeking entry of the Final  
28 Approval Order, Named Plaintiffs will file with the Court their motion for: (1) an Attorney's Fees



1 and Expenses Payment, comprising a request for attorney's fees not to exceed \$166,665.97, and  
2 actual costs and expenses in an amount not to exceed \$5,000; and (2) Enhancement Payments of  
3 \$2,000 each to the four Named Plaintiffs. Defendant will not oppose this motion.

4 **3.2 Notice and Claims Procedure for FLSA Class Members.**

5 (a) Not later than fourteen (14) days after the date of the Court's issuance of the  
6 Preliminary Approval Order, Defendant will provide the Claims Administrator with an Excel chart  
7 listing the last known addresses of the FLSA Class Members who are identified on **Exhibit A-2**.

8 (b) Within fourteen (14) days after receipt of the information set forth in 3.2(a),  
9 the Claims Administrator shall mail, via First Class United States mail, the Notice of Settlement of  
10 Collective Action Lawsuit in the form attached as **Exhibit E**, together with an Opt-in Plaintiff  
11 Settlement Claim Form and Release (the "Opt-in Claim Form" in a form substantially similar to the  
12 attached **Exhibit F**) (collectively, "the Opt-in Notice Packet"), to each FLSA Class Member. The  
13 Claims Administrator shall perform a national change of address database review prior to mailing. If  
14 any Notice Packet is returned as undeliverable, the Claims Administrator shall promptly advise Class  
15 Counsel and attempt to locate such FLSA Class Member through one skip trace and, if a new  
16 address is identified, shall promptly mail an additional Opt-in Notice Packet to such person.

17 (c) If an Opt-in Claim Form is returned by an FLSA Class Member within the  
18 time period set forth in Section 3.2(d) but is in some way deficient, the Claims Administrator may  
19 contact the FLSA Class Member who returned the Opt-in Claim Form to notify that individual of the  
20 deficiency and give him/her a chance to correct the deficiency, provided that the correction is  
21 postmarked within the Opt-in Claim Period or within 10 days of the date of mailing the cure notice,  
22 whichever is later.

23 (d) FLSA Class Members who return a properly executed Opt-in Claim Form  
24 postmarked within forty-five (45) days following the date of initial mailing of the Opt-in Notice  
25  
26  
27  
28

1 Packet (the “Opt-in Claim Period”) shall become Participating Claimants. Within fourteen (14) days  
2 following the expiration of the Opt-in Claim Period, the Claims Administrator shall provide Class  
3 Counsel and Defense Counsel with an Excel chart listing the names of the FLSA Class Members  
4 who qualify as Participating Claimants. The original Opt-in Claim Forms shall be submitted to  
5 Defense Counsel, and a copy shall be provided to Class Counsel. FLSA Class Members who  
6 become Participating Claimants shall be entitled to payment of their Individual Settlement  
7 Allocation as set forth below. FLSA Class Members who do not become Participating Claimants  
8 shall not be entitled to payment of their Individual Settlement Allocation, and any amounts not  
9 claimed shall remain the property of Defendant.  
10

11  
12 **3.3 Notice Procedure for Covered California Rule 23 Class Members.**

13 (a) Not later than fourteen (14) days after the date of the Court’s issuance of the  
14 Preliminary Approval Order, Defendant shall provide the Claims Administrator with an Excel chart  
15 listing the last known addresses of the Covered California Rule 23 Class Members who are  
16 identified on **Exhibit B**.

17 (b) Within fourteen (14) days after the date of the Preliminary Approval Order,  
18 the Claims Administrator shall mail, via First Class United States mail, the Notice of Proposed  
19 Settlement of Class Action Lawsuit and Fairness Hearing (“Rule 23 Notice”) in the form attached as  
20 **Exhibit D**, to all Covered California Rule 23 Class Members using each individual’s last known  
21 address. The Claims Administrator shall perform a national change of address database review prior  
22 to mailing. If any Rule 23 Notice is returned as undeliverable, the Claims Administrator shall  
23 promptly advise Class Counsel and attempt to locate such California Rule 23 Class Member through  
24 one skip trace and, if a new address is identified, shall promptly mail an additional Rule 23 Notice to  
25 such person.

26 (c) Any Covered California Rule 23 Class Member who does not wish to become  
27 a Participating Claimant may request exclusion from the class by submitting a signed request for  
28 exclusion to the Claims Administrator. To be effective, such request for exclusion must include the

1 individual's name and an unequivocal statement that the individual requests to be excluded from the  
2 class, and it must be received by the Claims Administrator within forty-five (45) days following the  
3 date of the initial mailing of the Rule 23 Notice (this 45-day period shall be referred to herein as the  
4 "Opt-Out Period"). The Claims Administrator shall deliver copies of each request for exclusion to  
5 Class Counsel and Defense Counsel not later than five (5) business days after receipt thereof. Class  
6 Counsel shall, within ten (10) business days of the end of the Opt-Out Period, file with the Clerk of  
7 Courts copies of all requests for exclusion so received. All Covered California Rule 23 Class  
8 Members who do not request exclusion from the class shall be deemed Participating Claimants. If  
9 ten percent (10%) or more of the Covered California Rule 23 Class Members request exclusion from  
10 the Class during the Opt-Out Period, Defendant may in its sole discretion elect to void this  
11 Agreement by providing written notice to Class Counsel and to the Court within thirty (30) days  
12 after receiving notice that the above-referenced event has occurred. In the event Defendant elects to  
13 void the Agreement, the Agreement shall be terminated and shall have no force or effect, and the  
14 Parties shall not request entry of the Final Approval Order.

15 (d) Any Covered California Rule 23 Class Members who wish to present  
16 objections to the proposed settlement at the Fairness Hearing must do so first in writing. To be  
17 considered, such statements must be sent to the Court in accordance with the Court's Procedural  
18 Guidance for Class Action Settlements, and be postmarked by a date certain, to be specified on the  
19 Notice, which shall be for each California Rule 23 Class Member forty-five (45) days after the initial  
20 mailing of the Claims Administrator of the Notice. An objector who timely submits a written  
21 objection may appear at the Fairness Hearing either in person or through counsel hired by the  
22 objector. An objector who wishes to appear at the Fairness Hearing must state his or her intention to  
23 do so at the time he or she submits his or her written objections. An objector may withdraw his or  
24 her objections at any time. No Covered California Rule 23 Class Member may appear at the  
25 Fairness Hearing or appeal from the Final Approval Order unless he or she has filed a timely  
26 objection that complies with the procedures provided herein. Any Covered California Rule 23 Class  
27 Member who requests exclusion from the class may not submit objections to the settlement. The  
28

Parties may file with the Court written responses to any filed objections no later than fourteen (14) calendar days before the Fairness Hearing.

**3.4 Final Settlement Approval Procedures.**

(a) Not later than fourteen (14) calendar days before the Fairness Hearing, the Named Plaintiffs will submit Plaintiffs' motion for Final Certification of the settlement classes and Final Approval of the Settlement Agreement. Prior to filing the motion, Class Counsel shall permit Defense Counsel an opportunity to review the motion and propose revisions. The date of the Fairness Hearing will be set by the Court.

(b) At the Fairness Hearing, the Parties shall request that the Court issue a Final Approval Order in all material respects identical to **Exhibit G**.

**4. PAYMENT OBLIGATIONS**

**4.1** No later than seven (7) days following the Effective Date, the Claims Administrator shall provide a report to Class Counsel and Defense Counsel stating the total amount of funds (not exceeding the Maximum Gross Settlement Amount, with the exception of the employer share of FICA, FUTA, and SUTA) required to satisfy all payment obligations pursuant to this Agreement. This report shall state the amount of the Court-approved Attorney's Fees and Expenses Payment, the amount of the Court-approved Enhancement Payments, the amount of the Court-approved Administrative Costs and the amount of the PAGA Allocations. The report shall also state the total amount allocated to Participating Claimants. The report shall also state the amount needed to satisfy the employer share of FICA, FUTA, and SUTA.

**4.2** Not later than seven (7) days thereafter, Defendant shall remit the amount needed to satisfy its obligations under this Agreement (including the amount needed to satisfy the employer share of FICA, FUTA, and SUTA) to the Claims Administrator to be held in escrow for the purpose of making payments as provided in this Agreement.

**4.3** The Claims Administrator will make the Attorney's Fees and Expenses Payment (in the amount directed by the Court and in no event more than \$171,665.97) by wire transfer or by check delivered to Class Counsel at an anticipated date no later than seven (7) days after the Claims Administrator receives the payment from Defendant. In advance of the Effective Date, Class

1 Counsel will provide the Claims Administrator with the tax-payer identification numbers for Class  
2 Counsel, executed W-9 forms, and wire instructions. The Named Plaintiffs, FLSA Class Members,  
3 Covered California Rule 23 Class Members and Class Counsel expressly waive any rights that they  
4 may have to recover any other attorney's fees, costs and expenses relating to the Civil Action.

5 **4.4** Except as otherwise provided herein, the Parties shall bear responsibility for their  
6 own fees, costs, and expenses incurred by them or arising out of this litigation and will not seek  
7 reimbursement thereof from any party to this Agreement or the Released Parties.

8 **4.5** The Claims Administrator will make the Enhancement Payments (in the amount  
9 directed by the Court and in no event more than \$8,000 in the aggregate) within fourteen (14) days  
10 after the Claims Administrator receives the payment from Defendants. Any such Enhancement  
11 Payments awarded shall be in addition to payments that the recipients are entitled to as Participating  
12 Claimants. Any such Enhancement Payments awarded by the Court shall be distributed by the  
13 Claims Administrator in separate checks mailed contemporaneously with the mailing of checks to  
14 Participating Claimants and shall be reported to state and federal taxing authorities as non-wage  
15 income.

16 **4.6 Payments to the Participating Claimants.**

17 (a) The Claims Administrator shall make payment to the Participating Claimants  
18 within fourteen (14) days after the Claims Administrator receives the payment from Defendant.  
19 Each Participating Claimant's Individual Settlement Allocation shall be as determined by the Claims  
20 Administrator as set forth in Sections 1.19 and **Exhibits A-1, A-2 and B**. For income and payroll  
21 tax purposes, for Participating Claimants who are not from California, fifty percent (50%) of each  
22 Individual Settlement Allocation shall be allocated as wages (which shall be subject to required  
23 withholdings and deductions and reported as wage income; the employee's share of payroll taxes  
24 associated with any individual's wage payment will be paid from that individual's Individual  
25 Settlement Allocation), and the remaining fifty percent (50%) shall be allocated as liquidated  
26 damages, interest and other non-wage recovery (which shall not be subject to withholdings or  
27 deductions and shall be reported as non-wage income). For income and payroll tax purposes, for  
28 Participating Claimants who are from California, 1/3 of each Individual Settlement Allocation shall

1 be allocated as wages, and the remaining 2/3 shall be allocated as penalties, liquidated damages,  
2 interest and other non-wage recovery (which shall not be subject to withholdings or deductions and  
3 shall be reported as non-wage income).

4 (b) Other than the withholding and reporting requirements herein, the  
5 Participating Claimants shall be solely responsible for the reporting and payment of their share of  
6 any federal, state and/or local income or other taxes on payments received pursuant to this  
7 Agreement. The employee portion of all applicable income and payroll taxes will be the  
8 responsibility of the individual Participating Claimant, who agrees to indemnify Released Parties,  
9 Class Counsel, and Defense Counsel for any tax liability, including penalties and interest, arising out  
10 of or relating to the Participating Claimant's failure to pay taxes on any amounts paid pursuant to  
11 this Agreement.

12 (c) Participating Claimants will have one hundred eighty (180) days from the date  
13 the checks are issued to negotiate them. Sixty (60) days from the date of mailing of the checks, the  
14 Claims Administrator will provide Class Counsel with a report reflecting which Participating  
15 Claimants have not yet negotiated their checks. Class Counsel will be free to contact any such  
16 individual to encourage them to promptly negotiate their checks. Participating Claimants shall be  
17 bound by the terms of this Agreement even if they fail to timely negotiate their checks, and any such  
18 payments will escheat to the applicable state fund as unclaimed property (e.g., the California  
19 unclaimed wages fund).

20 4.7 Released Parties, Class Counsel, and Defense Counsel will not be liable for checks  
21 cashed by persons other than the Participating Claimants. Each Participating Claimant will be  
22 deemed to have released the Released Parties from all liability as set forth in this Agreement even if  
23 his or her check is cashed by a person other than to whom the check is written.

24 4.8 Payments made under this Agreement are not intended to and will not: (1) form the  
25 basis for additional contributions to, benefits under, or any other monetary entitlements under; (2)  
26 count as earnings or compensation with respect to; or (3) be considered to apply to, or be applied for  
27 purposes of, any bonus, pension, any 401(k) and/or other retirement plans or similar programs of any  
28 of the Released Parties.

1     **5.     RELEASES**

2             **5.1     Release of Claims**

3             The following release of claims shall be referred to collectively as “Released Claims”:

4                     **(a)**     By operation of this Agreement and except as to such rights or claims as may  
5     be created by this Agreement or those nonwaivable by law, the Named Plaintiffs (on behalf of  
6     themselves and all Opt-in Plaintiffs, FLSA Class Members who become Participating Claimants, and  
7     Covered California Rule 23 Class Members and all of their respective heirs, executors,  
8     administrators, personal representatives, successors and assigns) hereby irrevocably and  
9     unconditionally forever and fully release (and covenant not to sue or otherwise pursue claims),  
10    whether known or unknown, against Released Parties, all of the following claims arising at any time  
11    through and until September 15, 2015: (a) all FLSA and California Labor Code claims pled in the  
12    Complaint; (b) all federal, state and local law claims, whether known or unknown, that were or could  
13    have been asserted in this matter based on the facts alleged in the operative Complaint; and (c) all  
14    claims for penalties, liquidated damages, interest, attorneys’ fees, or litigation expenses based on the  
15    claims listed in (a)-(b) above. For Named Plaintiffs and all Opt-in Plaintiffs, released claims shall  
16    also include any and all claims for retaliation related to their participation in the Civil Action. The  
17    settlement payment checks to the Participating Claimants will include a statement confirming the  
18    recipient’s consent to participate in the action for the purpose of releasing claims as set forth herein  
19    and receiving the settlement payment.

20                    **(b)**     By operation of this Agreement and except as to such rights or claims as may  
21    be created by this Agreement or those nonwaivable by law, all Covered California Rule 23 Class  
22    Members who do not timely exclude themselves from the class in accordance with this Agreement,  
23    shall by operation of the Final Approval Order, on behalf of themselves and their respective heirs,  
24    executors, administrators, personal representatives, successors and assigns, irrevocably and  
25    unconditionally forever and fully release all Released Parties from any and all claims that were  
26    asserted in the operative Complaint in the Civil Action or that could have been asserted in the Civil  
27    Action based upon the facts alleged in the operative Complaint (including but not limited to claims  
28    arising under the California Labor Code), including but not limited to all claims, demands, and



1 causes of action for unpaid regular and/or overtime wages, penalties, liquidated damages, costs,  
2 attorney's fees, and any other relief under California law, arising at any time up until September 15,  
3 2015. The settlement payment checks to the Participating Claimants will include a statement  
4 confirming the recipient's consent to participate in the action for the purpose of release claims as set  
5 forth herein and receiving the settlement payment.

6 (c) Named Plaintiffs (on behalf of themselves and all Opt-in Plaintiffs)  
7 acknowledge that they each may have claims related to the Released Claims that are presently  
8 unknown and that the release contained in this Agreement is intended to, and will fully, finally and  
9 forever, discharge even such claims, whether now asserted or unasserted, known or unknown, to the  
10 extent they fall within the description of the Released Claims. Accordingly, Named Plaintiffs (on  
11 behalf of themselves and all Opt-in Plaintiffs) understand and agree to waive the provisions of, and  
12 relinquish all rights and benefits afforded by, California Civil Code Section 1542 or any statute or  
13 rule of similar effect. Civil Code Section 1542 provides in full as follows:

14 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE**  
15 **CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**  
16 **FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF**  
**KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS**  
**OR HER SETTLEMENT WITH THE DEBTOR.**

17 In giving this waiver, Named Plaintiffs (on behalf of themselves and all Opt-in Plaintiffs)  
18 acknowledge that they have been advised of California Civil Code Section 1542, they may hereafter  
19 discover facts in addition to or different from those that they now believe to be true with respect to  
20 the subject matter released herein, but agree that they have taken that possibility into account in  
21 reaching this Agreement and that, notwithstanding the discovery or existence of any such additional  
22 or different facts, as to which they expressly assume the risk, they freely and voluntarily give the  
23 release set forth above. Upon entry of the Final Approval Order, every Participating Claimant shall  
24 be deemed to have given this release.

25 **5.2** Named Plaintiffs (on behalf of themselves and all Opt-in Plaintiffs) represent and  
26 warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or  
27  
28



1 entity, any of the Released Claims or any portion thereof or interest therein, including but not limited  
2 to, any interest in the Civil Action, or any related action.

3 **6. PARTIES' AUTHORITY**

4 **6.1** All Parties have been represented by counsel throughout all negotiations which  
5 preceded the execution of this Agreement and this Agreement is made with the consent and advice  
6 of counsel. Class Counsel believe that the terms and conditions of this settlement are fair,  
7 reasonable, adequate, and beneficial to and in the best interest of Named Plaintiffs, the Opt-in  
8 Plaintiffs, the FLSA Class Members and the Covered California Rule 23 Class Members. Named  
9 Plaintiffs and Class Counsel represent that they are fully authorized to enter into this Agreement and  
10 to bind the Opt-in Plaintiffs, the FLSA Class Members who become Participating Claimants, and the  
11 Covered California Rule 23 Class Members (who do not timely request exclusion) to the terms and  
12 conditions thereof.

13 **6.2** All of the Parties acknowledge that they have been represented by competent,  
14 experienced counsel throughout all negotiations which preceded the execution of this Agreement,  
15 and this Agreement is made with the consent and advice of counsel who have jointly prepared this  
16 Agreement.

17 **6.3** It is agreed that because the Opt-in Plaintiffs, FLSA Class Members and Covered  
18 California Rule 23 Class Members are so numerous, it is impossible or impractical to have each  
19 member execute this Agreement. To that end, Named Plaintiffs will execute this Agreement and  
20 bind the Opt-in Plaintiffs, the FLSA Class Members (who become Participating Claimants), and the  
21 Covered California Rule 23 Class Members (who do not timely request exclusion) to the terms and  
22 conditions thereof. The notices to the FLSA Class Members and Covered California Rule 23 Class  
23 Members will advise them of the nature of the release as described in this Agreement, as well as the  
24 other material terms of the Agreement.

25 **6.4** The Agreement will be binding upon and inure to the benefit of the Parties and their  
26 respective heirs, trustees, executors, administrators, successors, and assigns.

1     **7. CONFIDENTIALITY**

2             **7.1**     Prior to the filing of the motion for preliminary approval of this Agreement, Named  
3     Plaintiffs and Class Counsel agree that they will not reveal the terms of this Agreement to anyone  
4     except their spouse or domestic partner and/or personal tax advisors, provided that they obtain from  
5     such person(s) (who shall be deemed to be their agents for purposes of this provision) an agreement  
6     to keep such information confidential.

7             **7.2**     The Parties, Class Counsel and Defense Counsel shall all refrain from issuing or  
8     maintaining any press release, or press outreach communicating any information about the Civil  
9     Action or this Agreement. If contacted by media representatives with respect to the Civil Action or  
10    this Agreement, the Parties, Class Counsel and Defense Counsel will say only that the Parties  
11    amicably resolved the dispute, without providing additional information or commentary.

12            **7.3**     The Parties shall comply with the Stipulated Confidentiality and Protective Order  
13    (Docket No. 24).

14            **7.4**     For one year from the date of this Agreement, Named Plaintiffs agree not to  
15    encourage or solicit any other individuals who were or are currently employed by Defendant to  
16    commence or to participate in the commencement of any action against Defendant or Released  
17    Parties with regard to potential claims that they might have against Defendant or Released Parties,  
18    where such claims arose prior to the date of this Agreement and involve wage and hour matters  
19    and/or claims analogous to the Released Claims.

20            **7.5**     As a material condition of this Settlement Agreement, for one year from the date of  
21    this Agreement, Class Counsel agree not to solicit any other individuals who were or are currently  
22    employed by Defendant with regard to potential claims that they might have against Defendant or  
23    any Released Parties, where such claims arose prior to the date of this Agreement and involve wage  
24    and hour matters and/or claims analogous to the Released Claims. So long as Class Counsel  
25    complies with the foregoing provisions, nothing in this paragraph precludes Class Counsel from  
26    representing anyone who chooses to be represented by them in matters adverse to Defendant or any  
27    Released Parties.

28

1           **7.6**     Named Plaintiffs and Class Counsel agree that Defendant's reputation, standing in the  
 2 community, credibility, and future business opportunities may be diminished and they may suffer  
 3 other losses in the event of a material breach of Section 7 of this Settlement Agreement. Thus,  
 4 Named Plaintiffs and Class Counsel agree that in the event of a material breach of Section 7 by any  
 5 of them: (1) the party in breach of Section 7 (and any other party who encouraged and/or facilitated  
 6 the breach) shall return to Defendant any funds paid by Defendant to that party and shall be entitled  
 7 to no further recovery under this Agreement; and (2) Defendant shall have the right to obtain specific  
 8 performance of Section 7 by the party(ies), damages, and/or any other necessary and proper relief, in  
 9 any court of competent jurisdiction.

10       **8.     ADDITIONAL PROVISIONS**

11           **8.1**     The Parties agree to use their best efforts and to fully cooperate with each other to  
 12 accomplish the terms of this Agreement in a reasonable, practicable, and expeditious manner,  
 13 including but not limited to, execution of such documents and to take such other action as may  
 14 reasonably be necessary to implement and effectuate the terms of this Agreement.

15           **8.2**     Unless otherwise specifically provided herein, all notice, demands or other  
 16 communications given hereunder shall be in writing and shall be deemed to have been duly given as  
 17 of the third business day after mailing by United States registered or certified mail, return receipt  
 18 requested, addressed as follows:

19           **To the Plaintiffs/Settlement Class:**

Laura L. Ho	Bruce Fox
Byron Goldstein	Andrew Horowitz
William C. Jhaveri-Weeks	Obermayer Rebmann Maxwell and Hippel LLP
Goldstein, Borgen, Dardarian & Ho	500 Grant Street
300 Lakeside Drive	BNY Mellon Center
Suite 1000	Suite 5240
Oakland, CA 94612	Pittsburgh, PA 15219

24           **To Defendants:**

Robert W. Pritchard	Karin Cogbill
Christopher Michalski	Sophia Behnia
Littler Mendelson, P.C.	Littler Mendelson, P.C.
625 Liberty Avenue, 26th Floor	50 West San Fernando St., 15th Floor
Pittsburgh, PA 15222	San Jose, CA 95113

1  
2           **8.3** To be effective, any amendment to the Agreement must be made in writing and  
3 signed by counsel for the Parties, and approved by the Court.

4           **8.4** This Agreement and its attachments constitute the entire agreement between the  
5 Parties concerning the subject matter hereof. No extrinsic oral or written representations or terms  
6 shall modify, vary, or contradict the terms of this Agreement. In the event of any conflict between  
7 the Agreement and any other document, the Parties intend that this Agreement shall be controlling.

8           **8.5** This Agreement shall be subject to, governed by, construed, enforced, and  
9 administered in accordance with the laws of the State of California, both in its procedural and  
10 substantive aspects, and shall be subject to the continuing exclusive jurisdiction of the Court. This  
11 Agreement shall be construed as a whole according to its fair meaning and intent, and not strictly for  
12 or against any party, regardless of who drafted or who was principally responsible for drafting this  
13 Agreement or any specific term or condition thereof.

14           **8.6** This Agreement may be executed in counterparts, and when each party has signed  
15 and delivered at least one such counterpart, each counterpart shall be deemed an original and, when  
16 taken together with other signed counterparts, shall constitute one Agreement, which shall be  
17 binding upon and effective as to all Parties.

18           **8.7** The Named Plaintiffs, Class Counsel, and Defense Counsel agree not to encourage,  
19 assist, or solicit persons to exclude themselves from the settlement class or object to the settlement.

20           **8.8** If the Court declines to enter, in the form submitted by Plaintiffs as contemplated  
21 under this Agreement (or any amended version agreed upon by the Parties), the Preliminary  
22 Approval Order or the Final Approval Order applicable to this Agreement, or if the settlement as  
23 agreed does not become final for any other reason, then there shall be no prejudice due to lapse of  
24 time to either side and the Parties may proceed with litigation as it existed on the date of the  
25 execution of this Agreement. If this Agreement is not approved, the case will proceed as if no  
26 settlement had been attempted, and Defendants retain the right to contest whether this case should be  
27 maintained as a collective and/or class action and to contest the merits of any claims being asserted  
28 in the Civil Action.

1           **8.9** In the event that the Parties discover, after the notice process and distribution of  
 2 settlement payments, that individuals were erroneously not included on **Exhibits A-1, A-2, or B**, the  
 3 parties will meet and confer about whether to allow such individuals to participate in the settlement  
 4 on terms comparable to those who were included, and if so on what terms.

5           **IN WITNESS WHEREOF**, and intending to be legally bound, the Parties hereby execute  
 6 this Agreement on the dates indicated below:

7 Dated: 3/07/2016

HG  
 8 Named Plaintiff Hector Garcia  
 Class Representative (FLSA and California)

9 Dated: \_\_\_\_\_

10 Named Plaintiff Robert Cahigal  
 Class Representative (FLSA and California)

11 Dated: \_\_\_\_\_

12 Named Plaintiff Brian Holliday  
 Class Representative (FLSA)

13 Dated: \_\_\_\_\_

14 Named Plaintiff Tina Diemer  
 Class Representative (FLSA and California)

15 Dated: \_\_\_\_\_

16 Goldstein, Borgen, Dardarian & Ho  
 Class Counsel

17 Dated: \_\_\_\_\_

18 Obermayer Rebmann Maxwell and Hippel LLP  
 Class Counsel

19 Dated: \_\_\_\_\_

20 PPG Industries, Inc.

21 Dated: \_\_\_\_\_

22 Littler Mendelson, P.C.  
 Defense Counsel

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 2 settlement payments, that individuals were erroneously not included on **Exhibits A-1, A-2, or B**, the  
 3 parties will meet and confer about whether to allow such individuals to participate in the settlement  
 4 on terms comparable to those who were included, and if so on what terms.

5           **IN WITNESS WHEREOF**, and intending to be legally bound, the Parties hereby execute  
 6 this Agreement on the dates indicated below:

7 Dated: \_\_\_\_\_

Named Plaintiff Hector Garcia  
 Class Representative (FLSA and California)

8  
 9 Dated: 3/4/2016

Robert Cahigal  
 10 Named Plaintiff Robert Cahigal  
 Class Representative (FLSA and California)

11 Dated: \_\_\_\_\_

Named Plaintiff Brian Holliday  
 Class Representative (FLSA)

12 Dated: \_\_\_\_\_

Named Plaintiff Tina Diemer  
 Class Representative (FLSA and California)

13 Dated: \_\_\_\_\_

Goldstein, Borgen, Dardarian & Ho  
 Class Counsel

14 Dated: \_\_\_\_\_

Obermayer Rebmann Maxwell and Hippel LLP  
 Class Counsel

15 Dated: \_\_\_\_\_

PPG Industries, Inc.

16 Dated: \_\_\_\_\_

Littler Mendelson, P.C.  
 Defense Counsel



1           **8.9** In the event that the Parties discover, after the notice process and distribution of  
 2 settlement payments, that individuals were erroneously not included on **Exhibits A-1, A-2, or B**, the  
 3 parties will meet and confer about whether to allow such individuals to participate in the settlement  
 4 on terms comparable to those who were included, and if so on what terms.

5           **IN WITNESS WHEREOF**, and intending to be legally bound, the Parties hereby execute  
 6 this Agreement on the dates indicated below:

7 Dated: \_\_\_\_\_  
 8 Named Plaintiff Hector Garcia  
 Class Representative (FLSA and California)

9 Dated: \_\_\_\_\_  
 10 Named Plaintiff Robert Cahigal  
 Class Representative (FLSA and California)

11 Dated: 3/2/16 Brian Holliday  
 12 Named Plaintiff Brian Holliday  
 13 Class Representative (FLSA)

14 Dated: \_\_\_\_\_  
 15 Named Plaintiff Tina Diemer  
 Class Representative (FLSA and California)

16 Dated: \_\_\_\_\_  
 17 Goldstein, Borgen, Dardarian & Ho  
 Class Counsel

18 Dated: \_\_\_\_\_  
 19 Obermayer Rebmann Maxwell and Hippel LLP  
 Class Counsel

20 Dated: \_\_\_\_\_  
 21 PPG Industries, Inc.

22 Dated: \_\_\_\_\_  
 23 Littler Mendelson, P.C.  
 Defense Counsel

1       **8.9** In the event that the Parties discover, after the notice process and distribution of  
 2 settlement payments, that individuals were erroneously not included on **Exhibits A-1, A-2, or B**, the  
 3 parties will meet and confer about whether to allow such individuals to participate in the settlement  
 4 on terms comparable to those who were included, and if so on what terms.

5       **IN WITNESS WHEREOF**, and intending to be legally bound, the Parties hereby execute  
 6 this Agreement on the dates indicated below:

7 Dated: \_\_\_\_\_  
 8 \_\_\_\_\_  
 9 Named Plaintiff Hector Garcia  
 10 Class Representative (FLSA and California)

11 Dated: \_\_\_\_\_  
 12 \_\_\_\_\_  
 13 Named Plaintiff Robert Cahigal  
 14 Class Representative (FLSA and California)

15 Dated: \_\_\_\_\_  
 16 \_\_\_\_\_  
 17 Named Plaintiff Brian Holliday  
 18 Class Representative (FLSA)

19 Dated: 3/1/16 \_\_\_\_\_  
 20 \_\_\_\_\_  
 21 Named Plaintiff Tina Diemer  
 22 Class Representative (FLSA and California)

23 Dated: \_\_\_\_\_  
 24 \_\_\_\_\_  
 25 Goldstein, Borgen, Dardarian & Ho  
 26 Class Counsel

27 Dated: \_\_\_\_\_  
 28 \_\_\_\_\_  
 Obermayer Rebmann Maxwell and Hippel LLP  
 Class Counsel

\_\_\_\_\_

PPG Industries, Inc.

\_\_\_\_\_

Littler Mendelson, P.C.  
 Defense Counsel



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 2 settlement payments, that individuals were erroneously not included on **Exhibits A-1, A-2, or B**, the  
 3 parties will meet and confer about whether to allow such individuals to participate in the settlement  
 4 on terms comparable to those who were included, and if so on what terms.

5           **IN WITNESS WHEREOF**, and intending to be legally bound, the Parties hereby execute  
 6 this Agreement on the dates indicated below:

7 Dated: \_\_\_\_\_

Named Plaintiff Hector Garcia  
 Class Representative (FLSA and California)

9 Dated: \_\_\_\_\_

Named Plaintiff Robert Cahigal  
 Class Representative (FLSA and California)

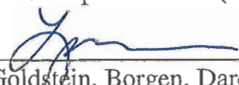

12 Dated: \_\_\_\_\_

Named Plaintiff Brian Holliday  
 Class Representative (FLSA)

14 Dated: \_\_\_\_\_

Named Plaintiff Tina Diemer  
 Class Representative (FLSA and California)

16 Dated: 3/1/16

   
 Goldstein, Borgen, Dardaria & Ho  
 Class Counsel

18 Dated: 3/4/16

  
 Obermayer Rebmann Maxwell and Hippel LLP  
 Class Counsel

21 Dated: \_\_\_\_\_

PPG Industries, Inc.

22 Dated: \_\_\_\_\_

Littler Mendelson, P.C.  
 Defense Counsel

1       **8.9** In the event that the Parties discover, after the notice process and distribution of  
 2 settlement payments, that individuals were erroneously not included on **Exhibits A-1, A-2, or B**, the  
 3 parties will meet and confer about whether to allow such individuals to participate in the settlement  
 4 on terms comparable to those who were included, and if so on what terms.

5       **IN WITNESS WHEREOF**, and intending to be legally bound, the Parties hereby execute  
 6 this Agreement on the dates indicated below:

7 Dated: \_\_\_\_\_  
 8 \_\_\_\_\_  
 9 Named Plaintiff Hector Garcia  
 10 Class Representative (FLSA and California)

11 Dated: \_\_\_\_\_  
 12 \_\_\_\_\_  
 13 Named Plaintiff Robert Cahigal  
 14 Class Representative (FLSA and California)

15 Dated: \_\_\_\_\_  
 16 \_\_\_\_\_  
 17 Named Plaintiff Brian Holliday  
 18 Class Representative (FLSA)

19 Dated: \_\_\_\_\_  
 20 \_\_\_\_\_  
 21 Named Plaintiff Tina Diemer  
 22 Class Representative (FLSA and California)

23 Dated: \_\_\_\_\_  
 24 \_\_\_\_\_  
 25 Goldstein, Borgen, Dardarian & Ho  
 26 Class Counsel

27 Dated: \_\_\_\_\_  
 28 \_\_\_\_\_  
 29 Obermayer Rebmann Maxwell and Hippel LLP  
 30 Class Counsel

31 Dated: 3/10/16 \_\_\_\_\_  
 32 \_\_\_\_\_  
 33 PPG Industries, Inc.

34 Dated: \_\_\_\_\_  
 35 \_\_\_\_\_  
 36 Littler Mendelson, P.C.  
 37 Defense Counsel

1           **8.9** In the event that the Parties discover, after the notice process and distribution of  
 2 settlement payments, that individuals were erroneously not included on **Exhibits A-1, A-2, or B**, the  
 3 parties will meet and confer about whether to allow such individuals to participate in the settlement  
 4 on terms comparable to those who were included, and if so on what terms.

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 6 this Agreement on the dates indicated below:

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 Class Representative (FLSA and California)

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\_\_\_\_\_  
 10 Named Plaintiff Robert Cahigal  
 Class Representative (FLSA and California)

11 Dated: \_\_\_\_\_

\_\_\_\_\_  
 12 Named Plaintiff Brian Holliday  
 Class Representative (FLSA)

13 Dated: \_\_\_\_\_

\_\_\_\_\_  
 14 Named Plaintiff Tina Diemer  
 Class Representative (FLSA and California)

15 Dated: \_\_\_\_\_

\_\_\_\_\_  
 16 Goldstein, Borgen, Dardarian & Ho  
 Class Counsel

17 Dated: \_\_\_\_\_

\_\_\_\_\_  
 18 Obermayer Rebmann Maxwell and Hippel LLP  
 Class Counsel

19 Dated: \_\_\_\_\_

\_\_\_\_\_  
 20 PPG Industries, Inc.

21 Dated: 3/10/16

  
 22 \_\_\_\_\_  
 23 Littler Mendelson, P.C.  
 24 Defense Counsel

# **EXHIBIT A-1**

<b>FULL NAME</b>	<b>PPG EMPLOYEE NUMBER</b>	<b>AKZO EMPLOYEE NUMBER</b>	<b>Individual Settlement Allocation</b>
Andres Jr, Frederick A	263898		\$ -
Bott, James W	264078		\$ -
Cahigal, Robert L	264169		\$ 1,440.83
Diemer, Kristina		802085365	\$ 53.05
Garcia, Hector	264247		\$ 1,510.52
Gates, Rebekah J	264091		\$ -
Gause, Melvin B	264311		\$ 74.44
Holliday, Brian W	264277		\$ -
Kanner, Jeffrey A	264271		\$ 1,402.71
Lieser, Erich			
Meece, Brad E	263941		\$ 76.17
Rivera, Raul Giovanni	264031		\$ 264.51
Salinas, Alfredo Jr.	264202		\$ 89.67
Schneider, Michael K	264415		\$ -
<b>TOTAL</b>			<b>\$ 4,911.90</b>

# **EXHIBIT A-2**

<b>FULL NAME</b>	<b>PPG EMPLOYEE NUMBER</b>	<b>Individual Settlement Allocation</b>
Adams, Terri A	263977	\$ 10.00
Akande, Nicole S	230969	\$ 64.36
Aldana, Ely	272216	\$ 219.30
Anderson, Russell H	263982	\$ 32.71
Ashworth, John G	264779	\$ 42.81
Avans, Denis	264154	\$ 1,283.47
Ayitey-Adjin, Albert	263942	\$ 65.46
Bates, Raymond J	263922	\$ 1,339.23
Beck, Richard M	235388	\$ 550.52
Bell, Daniel E	263889	\$ 683.96
Benge, Stephanie M	197261	\$ 699.85
Bennett, Adam T	226845	\$ 10.00
Biffinger, Jarrad	264085	\$ 137.65
Bird, Robert E	263908	\$ 44.49
Blevins, Jerry L Jr	264125	\$ 74.44
Brannan, Mark	264161	\$ 141.44
Burket, George Alan II	263839	\$ 74.44
Cantrall, Chad	271434	\$ 1,006.55
Casanova, Alycia N	268457	\$ 15.34
Cloonan, Richard J	264153	\$ 123.91
Coates, Michael	271060	\$ 11.34
Cohen, Brent M	264043	\$ 120.06
Collinson, Christopher	271038	\$ 284.21
Cordell, Natalie R	270055	\$ 1,057.17
Couch, Stanley R	264269	\$ 105.64
Cuomo, Peter B	263959	\$ 64.50
Dabbs, Jed David	263960	\$ 74.44
Dahlinghaus, Chris Lee	264072	\$ 75.05
Davis, David J	257677	\$ 1,553.59
Davis, Tai D	267293	\$ 67.85
de la Rosa, Rebecca	272708	\$ 1,015.12
Delia, Matthew Stephen	264159	\$ 190.47
DeMoya, Peter	264195	\$ 74.44
Dufault, Jeremy P	268220	\$ 291.42
Edwards, Rickie D	263875	\$ 10.00
Elertson, Bryan	264039	\$ 1,601.73
Fennimore, Emanuel F	264539	\$ 110.06
Finstuen, Andrew T	182602	\$ 761.35
Fish, Blaine T	263895	\$ 74.92
Froelich, Bruce A	234993	\$ 667.67
Gibson, Michael James	262753	\$ 41.72
Gotzmann, Kerry L	263843	\$ 105.92
Guevin, Jason	263865	\$ 74.44

Haggerty, Nichole A	263890	\$ 304.78
Halasy, Robert J	263952	\$ 129.90
Harrell, David	276413	\$ 10.00
Hensley, William	273673	\$ 1,185.33
Hernandez, Ernesto	264040	\$ 39.70
Hiscox, Aaron	264181	\$ 763.48
Hjalte, Eric Christopher	264032	\$ 27.91
Hoff, Katy E	266829	\$ 10.20
Howard, James	263979	\$ 74.44
Huff, Douglas	272078	\$ 316.37
Ingraham, AJ	270016	\$ 40.59
Johnson, Alan W	264118	\$ 94.27
Johnson, Leslie D	258540	\$ 732.53
Jones, Stephen T	263953	\$ 74.44
Kanaar, Debra	271272	\$ 69.10
Kapust, Thomas	270323	\$ 39.68
Keating, Steven	274294	\$ 973.55
Kling, Joseph J	268811	\$ 21.48
Knox, Sharon	263931	\$ 74.30
Kowalski, Roy R	264129	\$ 111.45
LaFrance, Raymond L	263980	\$ 50.70
Lane, Donald W	269306	\$ 35.46
Lansinger, Thomas Charles	263932	\$ 63.55
Ledet, Joshua C	264322	\$ 104.03
Legnon, Michael J	264217	\$ 74.44
LiMandri, Frank J	263978	\$ 72.47
Lopez, Marco A	200121	\$ 75.27
Lutton, John T	271400	\$ 1,969.01
MacLean, David E	271031	\$ 716.27
Makin, Timothy J	263877	\$ 32.97
Martin, Michael J.	264606	\$ 155.86
Matalone, Charles P	270435	\$ 53.80
Mateuszczyk, Scott E	263930	\$ 95.02
Mathias, Austin	270537	\$ 69.33
Mayer-Helmer, Jeffrey L	252124	\$ 39.01
Mcclung, James	262781	\$ 10.00
Mitchell, Ian	272744	\$ 421.93
Molden, James S	263947	\$ 74.70
Morrison, William E	264068	\$ 76.17
Morrow, Timothy S	264098	\$ 10.00
Mosley, Michael	276159	\$ 10.00
Myers, Mark W	264182	\$ 79.40
Nebelsick, Roger A	255722	\$ 48.18
Newman, David W	264012	\$ 1,922.19
Nimmo, Michelle	273450	\$ 501.35
Nowicki, Frank J	263933	\$ 72.99
Oliveira, Rachel	264020	\$ 76.51



Parker, Mike A	263900	\$ 735.83
Pascale, Anthony F	263848	\$ 90.83
Petersen, Eric J	264117	\$ 74.44
Petty-Clark, Shari A	263929	\$ 334.27
Phelps, Christopher	273306	\$ 511.06
Ploss, John T	264010	\$ 37.96
Roberts, Amy L	261885	\$ 18.58
Rogers, Kirk F	264104	\$ 72.69
Rubio, Raul	270085	\$ 81.79
Ruppenthal, Michael	262338	\$ 10.00
Russell, Thomas Y	132751	\$ 202.11
Rutledge, Peter J	264276	\$ 40.63
Rymer, William P	132763	\$ 355.02
Sharkey, Jeffrey	264158	\$ 784.36
Small, Emily	272564	\$ 1,699.90
Sofield, Christopher	264178	\$ 24.23
Solstad, Kenneth	270676	\$ 938.06
Spencer, Trent	263993	\$ 42.79
Steinberg, Jason	263901	\$ 59.09
Steinhauer, John	276046	\$ 10.00
Tardiff, Walter	276357	\$ 10.00
Tritschler, Megan	275443	\$ 10.00
Truitt, Rodgers Paul	264542	\$ 74.20
Valentine, Robert B	256969	\$ 480.42
Walsh, Timothy Francis Sr.	263925	\$ 109.24
Werchas, Robert	270981	\$ 72.01
White, Deanna	275819	\$ 10.00
Williams, David L.	262926	\$ 146.12
Wingate, Erice R	268752	\$ 44.91
Wood, Wendy	263995	\$ 76.17
Young, Todd W	264207	\$ 127.65
<b>TOTAL</b>		<b>\$ 34,341.51</b>

## **EXHIBIT B**

FULL NAME	PPG EMPLOYEE NUMBER	AKZO EMPLOYEE NUMBER	Individual Settlement Allocation
Aburto, Manuel	286153		\$ 10.00
Aceves, Elida	173219		\$ 10.00
Aceves, Milagros	291455		\$ 10.00
Acosta, Agustin	263950		\$ 1,582.74
Adame, Anthony J	123863		\$ 10.00
Aguiar, Ismael	173223		\$ 10.00
Aguilar, Miguel O	262678		\$ 874.41
Aguirre, Salvador J	259529		\$ 10.00
Alatorre, George	173227		\$ 10.00
Alba, Alex	198333		\$ 958.26
Alcala, Oscar M	229258		\$ 958.26
Alcocer, Francisco	276819		\$ 958.26
Aldana, Juan	173230		\$ 10.00
Ali, Mahmood	173232		\$ 10.00
Allen, Glenn	264442		\$ 379.47
Almaraz, Ramon	173233		\$ 10.00
Almeda, Maria A	173234		\$ 10.00
Alonso, Julia C	286076		\$ 10.00
Altamirano, Oscar	173235		\$ 10.00
Alvano, Joseph A	262964		\$ 958.26
Alvarenga, Ana	173237		\$ 10.00
Alvarenga, Nestor L	173238		\$ 10.00
Amado, Jose	289868		\$ 10.00
Amrhein, Wade Alan	107462		\$ 10.00
Andrade, Barbara	173241		\$ 10.00
Aneiros, Dennis Victor	235644		\$ 10.00
Arana, Jose	173243		\$ 10.00
Arellano, Ernesto	276820		\$ 958.26
Arevalo, Otoniel	235564		\$ 10.00
Argota, Maycielo M	234222		\$ 958.26
Argote, Araceli	173244		\$ 10.00
Arias, Jesus	173248		\$ 10.00
Armstrong, Paul Earl	264112		\$ 2,141.91
Arnold, Keith L	263215		\$ 958.26
Aroche, Victor M	262969		\$ 958.26
Arredondo, Ezekiel J	258477		\$ 10.00
Arriola, Perpetua G	173251		\$ 10.00
Arrizon, Rosalva E	173252		\$ 10.00
Arroyo, Joe	276863		\$ 10.00
Arroyo, Martin	173253		\$ 10.00
Ascencio, Andres	280055		\$ 10.00
Ascencio, Luis S	173257		\$ 10.00
Austin, James M	201791		\$ 10.00

Avila de Ruiz, Silvia	173703		\$ 10.00
Avila Diaz, Ignacia	176541		\$ 10.00
Avila, Israel	274949		\$ 922.32
Avila, Robert H	173258		\$ 10.00
Baba, John T	124195		\$ 10.00
Baca, Rick L	264203		\$ 958.26
Baez, Alfonso M	263740		\$ 958.26
Baez, Maria A	173265		\$ 10.00
Baker, Darryl G	286265		\$ 778.58
Baker, Robert L	263468		\$ 958.26
Bales, David A.	262535		\$ 958.26
Balladarez, Ray B Jr	273334		\$ 10.00
Banales, John	271679		\$ 658.80
Banks, Terry	124293		\$ 10.00
Barajas, George	180144		\$ 10.00
Barajas, Primo	176545		\$ 10.00
Barba, Robert J	173266		\$ 10.00
Barcelo-Lazoff, Verna	262965		\$ 958.26
Barcenas, Rosa R	124317		\$ 10.00
Barker, Tyler W	285936		\$ 83.85
Barnes, Tony E	263699		\$ 958.26
Barragan, Alfred	173267		\$ 10.00
Barragan, Daniel		802048730	\$ 10.00
Barrera, Carlos	173268		\$ 10.00
Basing, David	291490		\$ 203.63
Basler, Mark	124393		\$ 10.00
Bassard, Joceylyn		802072744	\$ 10.00
Basulto, Juan	192440		\$ 10.00
Bautista, Rafaela R	173270		\$ 10.00
Baxter, Edwin	173271		\$ 10.00
Belli, Richard	271435		\$ 1,250.26
Beltran, Hugo	173273		\$ 10.00
Beltran, Raul A	262914		\$ 958.26
Benkner, Steve W.	262723		\$ 958.26
Bernal, Jorge	264056		\$ 1,510.52
Bertell, Britney M	236637		\$ 10.00
Bishop, Randy R	136446		\$ 958.26
Bixman, James A	109161		\$ 10.00
Blanco, Jorge A.	263129		\$ 958.26
Bobadilla, Jesus M	173279		\$ 10.00
Bolton, Jose	173281		\$ 10.00
Borja, Anna M	264620		\$ 958.26
Bran, Baudilio	173283		\$ 10.00
Brewster, Susan	264512		\$ 1,598.76
Bridges, Connie Sue	264057		\$ 958.26
Brooks, David	173285		\$ 10.00
Brown, Cristian K	289364		\$ 10.00

Brown, Otis J	173286		\$ 10.00
Brown, Russell	173287		\$ 10.00
Bryant, Mark L	263195		\$ 958.26
Bryson, Christopher E	273769		\$ 10.00
Bueno, Araceli	173288		\$ 10.00
Burrell, Richard W	257062		\$ 10.00
Bustichi, Don	291113		\$ 131.76
Bustos, Christopher T	263331		\$ 958.26
Cabacungan, Carol	125322		\$ 958.26
Camorlinga, Maria Luisa	173291		\$ 10.00
Campisi, Michael A	267505		\$ 958.26
Campos, Rick	173292		\$ 10.00
Cardenas, Juan L	173294		\$ 10.00
Carrasco, Roberto C	173298		\$ 10.00
Carrillo, Griselda	173299		\$ 10.00
Carrillo, Noe	201789		\$ 10.00
Carrillo, Virginia	173300		\$ 10.00
Casillas, David	173301		\$ 10.00
Casillas, Toby S	173302		\$ 10.00
Castaneda, Sergio	235848		\$ 10.00
Castaneda, Terresa S	125533		\$ 958.26
Castellanos, Eric H	250966		\$ 958.26
Castellanos, Lesly	173304		\$ 10.00
Castillo, Francisco	261959		\$ 10.00
Castillo, Sandra	176747		\$ 10.00
Castro, Guillermo	173305		\$ 10.00
Castro, Jerry Jr	255649		\$ 10.00
Castro, Rogelio	236636		\$ 10.00
Caudillo, Edward D	125559		\$ 10.00
Cayax-Marroquin, Hugo Daniel	262972		\$ 958.26
Ceja Magana, Teresa	173307		\$ 10.00
Ceja, Juan	173306		\$ 10.00
Celaya, David M	125576		\$ 10.00
Cerda, Pedro N	173310		\$ 10.00
Cerda, Rodolfo N	173311		\$ 10.00
Cervantez, Robert J	234780		\$ 706.71
Cezon, Diane M	263418		\$ 958.26
Chairez, Brenda	291936		\$ 10.00
Chase, James	277388		\$ 755.28
Chase, Peter R	125633		\$ 802.54
Chavez Mena, Jose Luis	176548		\$ 10.00
Chavez, Cesar E	263110		\$ 958.26
Chavez, Noel Jr	291458		\$ 10.00
Chhoeuy, Dyna	276821		\$ 958.26
Chia, David	271088		\$ 958.26
Choe, Danny K	263406		\$ 958.26
Choto, Francisco E	109269		\$ 898.37

Clardy-Thomas, Cherilyn	235562		\$ 10.00
Clegg, Clifford W	203868		\$ 958.26
Clifford, Dean J	125755		\$ 10.00
Codoni, Steve D	264255		\$ 230.64
Coleman, Jonah L	232956		\$ 10.00
Colin, Joey M	273336		\$ 10.00
Collins, Mac C	173319		\$ 10.00
Collins, Tyrus W	278217		\$ 10.00
Contreras, Abelardo	173320		\$ 10.00
Contreras, Gerardo	173321		\$ 10.00
Contreras, Noe	278648		\$ 10.00
Contreras, Ruben	231768		\$ 10.00
Conway, Vashon S	263261		\$ 958.26
Cordova, Eduardo	286154		\$ 10.00
Cordova, Michael	273333		\$ 958.26
Corona, Mark R	173322		\$ 10.00
Corral, Ramiro P	292150		\$ 179.67
Cortes, Jesus O	173323		\$ 10.00
Cortes, Jose	178130		\$ 10.00
Cortez, Francisco	173324		\$ 10.00
Cortez, Jaime	286291		\$ 10.00
Cortez, Misael Z	173325		\$ 10.00
Cortez, Ricardo J	272469		\$ 958.26
Coto, Jaime	125986		\$ 10.00
Crane, Charles E	145967		\$ 10.00
Crawford, Ella R	106478		\$ 10.00
Cuellar, Christian O	276862		\$ 10.00
Daniel, Teresa	176551		\$ 10.00
Davalos, Rafael	262906		\$ 958.26
De Ausen, Jose	286137		\$ 10.00
De La Garza, Alfredo	177771		\$ 10.00
De La Torre, Jorge	173330		\$ 10.00
De La Torre, Maria	173331		\$ 10.00
De Leon, Fabian	173332		\$ 10.00
DeGrace, John J	263338		\$ 958.26
Del Rosario, Gary	285517		\$ 10.00
DeLaCruz, Salvador	261758		\$ 10.00
DeLeon, Carlos	184208		\$ 10.00
Delgadillo, Cecilia	176142		\$ 10.00
Delia, Mark	275390		\$ 1,088.24
DeNu, Jeremy	291815		\$ 107.80
DePaula, Mark		802076142	\$ 181.63
Desposorio, Vicenta	173336		\$ 10.00
Diaz Naranjo, Carlos	277298		\$ 968.76
Diaz, Antonio	264222		\$ 462.27
Diaz, Ivan	173338		\$ 10.00
Diaz, Moises	173339		\$ 10.00

Dickinson, Cory	263074		\$ 958.26
Dimacali, Alpha Iona A	176691		\$ 83.85
Dodge, Susan M	126500		\$ 958.26
Donohue, Robert	267951		\$ 958.26
Drayton, Richard D	263262		\$ 958.26
Duarte, Armando	173344		\$ 10.00
Duenas, Demetrio	173345		\$ 10.00
Duenas, Laura L	173346		\$ 10.00
Earl, Markese S	261759		\$ 10.00
Echazabal, Max	236080		\$ 10.00
Eckes, John J	264707		\$ 958.26
Eddings, Mark	109410		\$ 10.00
Elias, Rebeca	176553		\$ 10.00
Elisarraraz, John L	292136		\$ 179.67
Emerson, Jeffrey S	252386		\$ 10.00
Emery, Kenneth R	229055		\$ 10.00
Engineer, Keki B	173351		\$ 10.00
Enriquez, Jesus	173353		\$ 10.00
Enriquez, Max	262962		\$ 958.26
Escobar, Juan C	269305		\$ 10.00
Espinoza, Maria L	176748		\$ 10.00
Espinoza, Mario	173357		\$ 10.00
Etherton, Brian T	286243		\$ 778.58
Fambrough, Robert Wayne Sr.	262949		\$ 958.26
Fierros, Maria G	178134		\$ 10.00
Flores, Alvaro	173365		\$ 10.00
Flores, Enrique	173367		\$ 10.00
Flores, Frank	259726		\$ 10.00
Flores, Jake R	285634		\$ 874.41
Flores, Raul P	173372		\$ 10.00
Flores, William	288622		\$ 10.00
Flores-Rodriguez, Hipolito M	173368		\$ 10.00
Fornoth, Dennis M	172941		\$ 958.26
Foster, Anthony C.	263458		\$ 958.26
Fraire, Monica	173373		\$ 10.00
Franco, Jose L	173374		\$ 10.00
Franco, Louis	271220		\$ 10.00
Franco, Ricky G	110862		\$ 946.28
Franklin, Jordan	272915		\$ 958.26
Frausto, Gloria M	124466		\$ 10.00
Freitas, Carlos Alberto	263151		\$ 958.26
Fuentes, Abilio	176559		\$ 10.00
Fuentes, Scotty J	269304		\$ 10.00
Galdamez, Juan J	173377		\$ 10.00
Galdamez, Romilio A	235847		\$ 10.00
Galeana, Luis M	173378		\$ 10.00
Galeana, Margarita	176561		\$ 10.00

Galindo, Manuel	262820		\$ 59.89
Gallardo, Frank L	263108		\$ 958.26
Gallegos, Rudy H	272711		\$ 10.00
Gallison, Bradley	259720		\$ 958.26
Gambell, Randal	252077		\$ 10.00
Gambito, Sabas I	263414		\$ 958.26
Gamez, Walter N	173381		\$ 10.00
Garabedian, Remington	232957		\$ 10.00
Garcia, Anthony P	127333		\$ 10.00
Garcia, Blake	270650		\$ 754.63
Garcia, Daniel	273456		\$ 10.00
Garcia, David III	234458		\$ 958.26
Garcia, Dina S	177774		\$ 10.00
Garcia, Enrique G	279393		\$ 610.89
Garcia, Herminio	173385		\$ 10.00
Garcia, Irineo	285669		\$ 10.00
Garcia, Jose A	291874		\$ 227.59
Garcia, Jose Jr	250727		\$ 10.00
Garcia, Juan M	177772		\$ 10.00
Garcia, Kimberly	292249		\$ 10.00
Garcia, Manuel	173389		\$ 10.00
Garcia, Manuel Jr	178889		\$ 10.00
Garcia, Rafael	292238		\$ 10.00
Garcia, Richard AC Jr	182196		\$ 10.00
Garcia, Salvador	173390		\$ 10.00
Garcia, Sonia	173392		\$ 10.00
Garcia, Steven E	291873		\$ 227.59
Garza, Gilbert Jr	232319		\$ 10.00
Garza, Raul S	280362		\$ 958.26
Gaytan, Maria	173394		\$ 10.00
Getman, Patricia	273966		\$ 1,190.73
Ghent, Giovanni Martin	264027		\$ 1,535.45
Glendenning, Madisen	274818		\$ 1,173.41
Godinez, Araceli R	173397		\$ 10.00
Godinez, Oscar T	276170		\$ 958.26
Godoy, Roberto	173398		\$ 10.00
Gomez, Alfredo J	292116		\$ 10.00
Gomez, Carlos	287049		\$ 10.00
Gomez, John Anthony	235565		\$ 10.00
Gomez, Mario J	262891		\$ 958.26
Gomez, Ramiro G	230469		\$ 958.26
Gomez, Samuel A	173403		\$ 10.00
Gonzales, Edward	173406		\$ 10.00
Gonzales, Mark	273517		\$ 10.00
Gonzales, Patricia	173407		\$ 10.00
Gonzalez, Brian K	136403		\$ 10.00
Gonzalez, Jaime	264140		\$ 1,591.25



Gonzalez, Jose	173409		\$ 10.00
Gonzalez, Manuel	173411		\$ 10.00
Gonzalez, Mariana	173412		\$ 10.00
Gonzalez, Martin	289366		\$ 10.00
Goossen, Paul J	229851		\$ 10.00
Gosik, Rodi P	172951		\$ 958.26
Grier, Karlos S	278055		\$ 10.00
Grigsby, Dwight W	232124		\$ 10.00
Grosjean, Adalina	173417		\$ 10.00
Gudino, Margarito	173418		\$ 10.00
Guerrero, Efrain	173419		\$ 10.00
Guerrero, Phillip Jr.	127840		\$ 10.00
Guevara, Adriana	173420		\$ 10.00
Gutierrez, Elias M	273335		\$ 10.00
Gutierrez, Ernesto	173422		\$ 10.00
Gutierrez, Gilbert	127892		\$ 958.26
Gutierrez, Maria	173424		\$ 10.00
Gutierrez, Mariano R	259351		\$ 958.26
Gutierrez, Orlando	291160		\$ 10.00
Gutierrez, Rafael	173426		\$ 10.00
Guyton, Xavier C	291946		\$ 203.63
Guzman, Albert R	273768		\$ 10.00
Guzman, Joe JR	127906		\$ 958.26
Guzman, Norma	107781		\$ 10.00
Guzman, Robert M	173427		\$ 10.00
Hampton, Kevin A	128024		\$ 958.26
Hardisty, Kenneth E	263049		\$ 958.26
Harrington, Kyle E	262839		\$ 958.26
Harris, Wendie		802085366	\$ 10.00
Harrison, William C	264241		\$ 858.73
Hartoon Jr, Ronald D	263059		\$ 958.26
Hartsell, Marcus	278010		\$ 393.08
Hartzell, Warren J	262974		\$ 958.26
Hassinger, Rebecca M.	267670		\$ 958.26
Hatos, Michelle	172957		\$ 958.26
Hattin, Ronald D Jr	273767		\$ 10.00
Hawkins, Sean B	255962		\$ 10.00
Heinen, Robert	271218		\$ 10.00
Her, Zer	253648		\$ 10.00
Hernandez, Adrian	173434		\$ 10.00
Hernandez, Alexis	278470		\$ 581.78
Hernandez, Ana Maria	234552		\$ 10.00
Hernandez, Angeles	173435		\$ 10.00
Hernandez, Antonio P	255555		\$ 10.00
Hernandez, Buenaventura	173437		\$ 10.00
Hernandez, Heriberto	173440		\$ 10.00
Hernandez, Humberto	262913		\$ 958.26

Hernandez, Jose L	176753		\$ 10.00
Hernandez, Juventino	173443		\$ 10.00
Hernandez, Luis E	291934		\$ 10.00
Hernandez, Manuel P Jr	255960		\$ 10.00
Hernandez, Miguel	173445		\$ 10.00
Hernandez, Miguel S	173444		\$ 10.00
Hernandez, Raymond	173446		\$ 10.00
Hernandez, Reyna	173447		\$ 10.00
Hernandez-Fuller, Melida	176560		\$ 10.00
Herrera, Ismael	176566		\$ 10.00
Herrera, Martin	173449		\$ 10.00
Hicks, Lisa L	236461		\$ 10.00
Higginson, Sage T.	262563		\$ 958.26
Hines, Michael W	263087		\$ 958.26
Hoang, Hung D	128531		\$ 898.37
Hollenbeck, Douglas	271333		\$ 10.00
Hollenhorst, Michael A	230452		\$ 958.26
How, Wan P	107843		\$ 10.00
Hrock, Nancy L	263438		\$ 958.26
Huerta, Jaime	173454		\$ 10.00
Hunsaker, Jerry L Jr	263456		\$ 958.26
Husted, Michael A	291038		\$ 323.41
Ibarra, Ramon	173460		\$ 10.00
Inman, Donald	180116		\$ 958.26
Islas, Lorena	173465		\$ 10.00
Jacinto, Don	128897		\$ 10.00
Jacinto, Tony	275456		\$ 10.00
Jackson, Brian L	128901		\$ 107.80
Jackson, John Eric	263399		\$ 958.26
Jackson, Rudy S	276865		\$ 10.00
Jackson, Terry L	287235		\$ 10.00
Jaramillo, Eduardo	173471		\$ 10.00
Jaramillo, Elias	173472		\$ 10.00
Jarme, Francis Joseph	278661		\$ 958.26
Jeffrey, Raymond C	285670		\$ 10.00
Jensen, Brian A.	262647		\$ 275.50
Jeronimo, Carlos Mediros	264546		\$ 958.26
Jimenez, Chris	111139		\$ 10.00
Jimenez, David	291457		\$ 10.00
Jimenez, Ignacia	173478		\$ 10.00
Jimenez, Paul J	285671		\$ 10.00
Johnson, Darren	271219		\$ 10.00
Jones, Christopher E	231230		\$ 10.00
Jones, Gwen A	173481		\$ 10.00
Joyce, David W	262963		\$ 958.26
Juarez, Edgar	173482		\$ 10.00
Juarez, Francisco J	173483		\$ 10.00

Juarez, Miguel	176152		\$ 10.00
Jurado, Edward	263735		\$ 958.26
Keith, Mike J	173487		\$ 10.00
Kepler, Maynard M	292237		\$ 10.00
Kha, Duong	173490		\$ 10.00
Kha, Van J	173491		\$ 10.00
Kiley, Derek T	264099		\$ 1,528.67
Kim, Shawn		802041243	\$ 181.63
Kim, Soyun S	129419		\$ 10.00
King, Leone S	262915		\$ 958.26
King, Timothy John	263353		\$ 958.26
Kovacevic, Charlyn R	236249		\$ 10.00
Krayem, Alfredo C	235646		\$ 10.00
Ku, Jacqueline Jai-Chi	263442		\$ 850.45
Kuriyama, Clifford	264444		\$ 958.26
Lamb, Darren W	129690		\$ 898.37
Lanas, Gustavo	271217		\$ 10.00
Landaker, Gary	275369		\$ 898.37
Langlo, Troy A	263976		\$ 1,521.71
Lara, Antonio	173497		\$ 10.00
Lara, Sergio	173499		\$ 10.00
Lawson, Wallen	289990		\$ 179.67
Leavell, Stephon D	273459		\$ 10.00
Lee, John W	173501		\$ 10.00
Lemus, Saul	176569		\$ 10.00
Leon, David	173502		\$ 10.00
Leon, Maria	173503		\$ 10.00
Lerille, Bryan A	264229		\$ 958.26
Lewis, James Jr	275459		\$ 10.00
Limon, Raul B	173506		\$ 10.00
Llamas, Felipe G	263169		\$ 958.26
Llanes, Erlinda S	173507		\$ 10.00
Loera, Maria	173511		\$ 10.00
Lomeli, Ladislao	270624		\$ 1,370.11
Lomier, Joshua R	275024		\$ 10.00
Long, Ryan N	230076		\$ 10.00
Lopez, Avilio D	176998		\$ 10.00
Lopez, Daniel R	259273		\$ 10.00
Lopez, Delfino	176746		\$ 10.00
Lopez, Eddie A	173514		\$ 10.00
Lopez, Edwin	263163		\$ 2,321.92
Lopez, Edwin J	280163		\$ 10.00
Lopez, Henry	234897		\$ 10.00
Lopez, Jesse	228673		\$ 10.00
Lopez, Jorge A	262960		\$ 958.26
Lopez, Jose M	292229		\$ 10.00
Lopez, Rafael H	263467		\$ 958.26

Lopez, Rodolfo A	173516		\$ 10.00
Lopez, Vincent		802047682	\$ 10.00
Lorenzo, Justo	291159		\$ 10.00
Loza, Enrique	173517		\$ 10.00
Lozano, Coralia	173518		\$ 10.00
Luanzon, Valente B	236633		\$ 10.00
Lujan, Arthur	277002		\$ 10.00
Luna, Elias G	235929		\$ 10.00
Luna, Eric	279026		\$ 610.89
Luna, Isaac V	271196		\$ 958.26
Luna, Lester M	258358		\$ 10.00
Luna, Manuel	173519		\$ 10.00
Luna, Teresa	173521		\$ 10.00
Macaraeg, Chrisostomo	173524		\$ 10.00
Mace, Lee	173526		\$ 10.00
Machado, Edgar	173527		\$ 10.00
Macias, Manuel R	130264		\$ 958.26
Madrigal, William D	173529		\$ 10.00
Maldonado, Antonio	173534		\$ 10.00
Maldonado, Victor	177775		\$ 10.00
Malinowski, John	277194		\$ 958.26
Mancilla, David J	271804		\$ 10.00
Mancilla, Martha	173537		\$ 10.00
Manger, William D	201903		\$ 10.00
Manor, Ralph A	263104		\$ 203.63
Mansoor, Elnor Z	173538		\$ 10.00
Marines, Jason Lee	192439		\$ 10.00
Mariscal, Francisco	236076		\$ 10.00
Marquez, Eduardo G	259023		\$ 958.26
Marquez, Gerardo	173542		\$ 10.00
Marquez, Jose G	172980		\$ 958.26
Martin, Anthony Angelo	262537		\$ 958.26
Martin, Jay L	180247		\$ 83.85
Martindale, Joshua	272673		\$ 958.26
Martinez, Anthony M	261760		\$ 10.00
Martinez, Arnold	173545		\$ 10.00
Martinez, Carlos A	271195		\$ 958.26
Martinez, David A	274653		\$ 958.26
Martinez, Gary F	230075		\$ 10.00
Martinez, Hugo	173547		\$ 10.00
Martinez, Jacob	271533		\$ 958.26
Martinez, Juan F	263073		\$ 958.26
Martinez, Pablo	286077		\$ 10.00
Martinez, Rogelio Jr	234328		\$ 10.00
Martinez, Rosa M	173552		\$ 10.00
Martinez, Victor	259814		\$ 10.00
Martinez, Yoseli M	270213		\$ 10.00

Marz, Roger J	178521		\$ 10.00
Massie, Robert W	278056		\$ 10.00
Mateo, James	291111		\$ 299.46
McClain, Larry	273248		\$ 1,208.43
McGarry, John S	264139		\$ 958.26
McInnis, Edward W	235712		\$ 10.00
McKenzie, Shannon	130681		\$ 10.00
McKinney, David C	172986		\$ 958.26
McLean, Scott David	222890		\$ 958.26
McLeod, John		802079135	\$ 10.00
Medina Jr, Manuel	176571		\$ 10.00
Medina, Alfonso	173557		\$ 10.00
Medina, Josiah	292230		\$ 83.85
Medina, Martin	262907		\$ 958.26
Medina, Rosa	173558		\$ 10.00
Mejia, Juana	173561		\$ 10.00
Mejia, Santos	173562		\$ 10.00
Mendoza, Anthony	173565		\$ 10.00
Mendoza, Jimmy	263647		\$ 958.26
Mendoza, Jose G	234391		\$ 10.00
Mendoza, Mario R Jr	291498		\$ 10.00
Merino, David	290885		\$ 299.46
Metcalf, John A III	278848		\$ 443.19
Metzger, John	263471		\$ 443.19
Meza, Adolfo R	173566		\$ 10.00
Meza, Ernesto D	257242		\$ 10.00
Meza, Gustavo A	235647		\$ 10.00
Meza, Jesus	263739		\$ 958.26
Millender, Olbert J.	262333		\$ 131.76
Mintey, Darby	292137		\$ 179.67
Miranda, Juan M	173568		\$ 10.00
Miranda, Lucia L	261764		\$ 922.32
Miranda, Melinda B	231306		\$ 11.98
Mitchell, John E	263470		\$ 958.26
Mlecik, Rona	260020		\$ 958.26
Monreal, Maria	176572		\$ 10.00
Monroy, Marcos	173571		\$ 10.00
Montenegro, Patricia	173573		\$ 10.00
Montes, George	228172		\$ 958.26
Moon, Richard	173574		\$ 10.00
Moore, James E	263170		\$ 958.26
Mora, Alicia	173575		\$ 10.00
Mora, Jesus E	177760		\$ 10.00
Morales, Emmanuel J	255892		\$ 586.93
Morales, Francesca R	257889		\$ 10.00
Morales, Nico A	276864		\$ 10.00
Moran, Jess	271335		\$ 10.00

Morelos, Daniel C	278216		\$ 10.00
Moreno, Carol	111428		\$ 10.00
Moreno, Miguel A	264401		\$ 958.26
Moreno, Salvador	173579		\$ 10.00
Morimitsu, Hernando	173581		\$ 10.00
Mosquera, Ramil P	250728		\$ 10.00
Munguia, Christian	173583		\$ 10.00
Muniz, Mario JR	180552		\$ 958.26
Munoz, Gabriel	176144		\$ 10.00
Munoz, Samuel	235566		\$ 10.00
Munsterman, Kelly H	136435		\$ 958.26
Murphy, Kenneth B	264813		\$ 958.26
Mutuc, Ronald	289661		\$ 10.00
Nabarrete, Gabriel T	278647		\$ 10.00
Najar, Bernardino III	250916		\$ 10.00
Najarro, Abel	173586		\$ 10.00
Nerden, Robert L	173590		\$ 10.00
Nguyen, Bao T	173593		\$ 10.00
Nguyen, Huy Q	173594		\$ 10.00
Nguyen, Thinh	173595		\$ 10.00
Noboa, Lidia	173596		\$ 10.00
Norberte, Robert	275457		\$ 10.00
Norman, Caleb C	259528		\$ 10.00
Nunez, Gary J	173597		\$ 10.00
Nunez, Juan	273519		\$ 10.00
Nunez-Torres, Victor	173599		\$ 10.00
Olson, Daniel	264556		\$ 958.26
Olson, Mike	173601		\$ 10.00
Omana, Joseph Segui	260031		\$ 958.26
O'Neal, Timothy G.	262332		\$ 634.85
Oropallo, Michael Christopher	263397		\$ 958.26
Orozco, Eddie	263636		\$ 958.26
Orozco, Henry	263575		\$ 958.26
Orozco, Pedro	176573		\$ 10.00
Orozco, Salvador J	173603		\$ 10.00
Orozco, Saul	176999		\$ 10.00
Ortega, Jose M	263453		\$ 958.26
Ortega, Maria T	173608		\$ 10.00
Ortega, Vicente M	173610		\$ 10.00
Ortiz, Teresa	173612		\$ 10.00
Osborn, Scott B	286190		\$ 10.00
Osorio, Nelson E	173613		\$ 10.00
Osti, Robert L	253115		\$ 10.00
Ott, Jennifer	277087		\$ 971.37
Pacheco, Luis	289317		\$ 515.06
Padilla, Edgar	273068		\$ 958.26
Padilla, Joseph A	229351		\$ 10.00

Paez, Carmen	173616		\$ 10.00
Palacio, John M	173618		\$ 10.00
Palacios Lopez, Oscar	173515		\$ 10.00
Palacios, Armando A	173619		\$ 10.00
Palacios, Veronica	173620		\$ 10.00
Palafox, Max A	251918		\$ 10.00
Palma, Julio R	291076		\$ 275.50
Palmer, Dawana	272472		\$ 371.32
Pannell, Bridgette L	275023		\$ 10.00
Pantoja, Juan A	287243		\$ 131.76
Pappas, Thomas Gregory	236462		\$ 10.00
Parmelee, Justin R	257888		\$ 10.00
Pearson, Robert G	173003		\$ 958.26
Peart, N. James	263500		\$ 958.26
Pelayo, Leticia	173625		\$ 10.00
Pelayo-Osorio, Victor	236632		\$ 10.00
Pen, Vanno	292117		\$ 10.00
Pena, Jose	173627		\$ 10.00
Perez, Armando	173631		\$ 10.00
Perez, Daniel Rocky	180873		\$ 10.00
Perez, Gabriel	173632		\$ 10.00
Perez, Jesus	292236		\$ 10.00
Perez, Jose A	275458		\$ 10.00
Perez, Jose E	173633		\$ 10.00
Perez, Maria	292234		\$ 10.00
Perez, Miguel Marsial	173634		\$ 10.00
Perez, Roy Jr	288153		\$ 10.00
Perez-Rosales, Jose G	279624		\$ 958.26
Perry, Xavier W	289365		\$ 10.00
Pham, Henry H	197919		\$ 203.63
Phung, Steven	173635		\$ 10.00
Pickens, John E	263251		\$ 958.26
Pimentel, Gilbert R	236634		\$ 10.00
Pineda, Carlos	173636		\$ 10.00
Pittman, Forrest	273458		\$ 10.00
Placencia, Pete	273127		\$ 958.26
Porter, Joshua A	270220		\$ 10.00
Prater, Adam		802046939	\$ 10.00
Preciado, Michael A	173641		\$ 10.00
Puig Aste, Jaime	292235		\$ 10.00
Quezada, Joaquin	262970		\$ 467.15
Quezada, Juan R	263196		\$ 958.26
Quezada-Mendoza, Guadalupe	173484		\$ 10.00
Quijas, Luis	268499		\$ 958.26
Quiroz, Artemio	260045		\$ 958.26
Quiroz, Gregorio	236460		\$ 10.00
Ramirez, Alfonso	173647		\$ 10.00

Ramirez, Fidel	263342		\$ 850.45
Ramirez, Gerardo	173648		\$ 10.00
Ramirez, Jerry	279604		\$ 10.00
Ramirez, Jesse	173649		\$ 10.00
Ramirez, Jose L	132181		\$ 958.26
Ramirez, Lawrence F	263113		\$ 958.26
Ramirez, Natalia R	277664		\$ 11.98
Ramirez, Pedro N	290957		\$ 323.41
Ramirez, Philip Gene	132188		\$ 10.00
Ramos Valladares, Carlos A	173651		\$ 10.00
Ramos, Greg Jr	235215		\$ 10.00
Rayo, Edgar	291935		\$ 10.00
Reddy, Damendran	173653		\$ 10.00
Renderos Beltran, Alexander B	173655		\$ 10.00
Renteria, Julian	270214		\$ 10.00
Reyes, David Jr	292276		\$ 10.00
Reyes, Dennis	263069		\$ 958.26
Reyes, Jesus S	173657		\$ 10.00
Reyes, Jose	173658		\$ 10.00
Reyes, Miguel	173659		\$ 10.00
Reyna Cazares, Ramon	173661		\$ 10.00
Reynolds, James P	252418		\$ 10.00
Reynoso, Carlos A	263972		\$ 1,328.49
Reza, Bobby C	263252		\$ 958.26
Rios De Perez, Gabriela	178131		\$ 10.00
Rios, Carlos	263267		\$ 958.26
Rios, Gonzalo	173664		\$ 10.00
Rios, Jesse	173665		\$ 10.00
Rivas, Carlos A	272082		\$ 802.54
Rivas, Leonardo Garcia	263109		\$ 958.26
Rivera, Eugenio	108131		\$ 10.00
Rivera, Ismael	173667		\$ 10.00
Rivera, Jose Luis	262705		\$ 958.26
Rivera, Marlo	273338		\$ 10.00
Rivera, Silvia	173670		\$ 10.00
Robinson, Derrick	228971		\$ 10.00
Robles, Rene	173672		\$ 10.00
Rodriguez, Anna R	173678		\$ 10.00
Rodriguez, Danny L	251915		\$ 10.00
Rodriguez, Ernesto	173681		\$ 10.00
Rodriguez, Hector	177777		\$ 10.00
Rodriguez, Jose L	177759		\$ 10.00
Rodriguez, Norma P	132573		\$ 10.00
Rodriguez, Raymond	173687		\$ 10.00
Rodriguez, Rene	173688		\$ 10.00
Rodriguez, Salvador	250915		\$ 10.00
Rodriguez, Susana	173690		\$ 10.00



Rodriguez-Iniguez, Abraham	173691		\$ 10.00
Rodriquez, Sally C	107158		\$ 10.00
Roldan, Victor J	263179		\$ 958.26
Romero, Sergio	173693		\$ 10.00
Romero, Victor Alejandro	262971		\$ 958.26
Rosales, Victor	173695		\$ 10.00
Rosas, Angel	173696		\$ 10.00
Rosas, Richard	226871		\$ 958.26
Rose, Maricella	271336		\$ 10.00
Roy, Monica L	169384		\$ 958.26
Rubio Alencaster, Loreto	173701		\$ 10.00
Rubio, Yolanda	176745		\$ 10.00
Ruiz, Joel Fidel	262668		\$ 958.26
Ruvalcaba, David	173705		\$ 10.00
Saelaw, Chieng	263469		\$ 958.26
Saladino, Warlita F	173708		\$ 10.00
Salazar, Edwin O	263106		\$ 958.26
Salazar, Fernando	229549		\$ 10.00
Salazar, Gerardo	111666		\$ 419.24
Salazar, Romeo A	263473		\$ 958.26
Salinas Martinez, Rafael	173715		\$ 10.00
Salmeron, Fidel Jr	233824		\$ 10.00
Sanchez, Arthur M	271805		\$ 10.00
Sanchez, Enrique	173717		\$ 10.00
Sanchez, Laura M	144192		\$ 958.26
Sanchez, Ruben Esteban	262710		\$ 958.26
Sanchez, Ruben J	173720		\$ 10.00
Sanchez, Sammy V	256558		\$ 10.00
Sandoval, Marcia	173723		\$ 10.00
Sandoval, Miriam	173724		\$ 10.00
Sandoval, Narciso	173725		\$ 10.00
Sandoval, Oscar	290172		\$ 371.32
Santillan, Victor H	262961		\$ 850.45
Santizo, Priscilla	173728		\$ 10.00
Santos, Michael J	278054		\$ 10.00
Saucedo, Clara	173731		\$ 10.00
Sayles, Taidje H	251914		\$ 10.00
Schenck, Andrew G	255843		\$ 1,002.43
Schlink, Steve A	228972		\$ 10.00
Schmall, Gary D	108173		\$ 10.00
Schultz, Elizabeth I	235930		\$ 10.00
Sehdev, Arun	287066		\$ 107.80
Serrano, Dina D	173735		\$ 10.00
Serrano, Luciano	173736		\$ 10.00
Serrano, Miguel	173737		\$ 10.00
Serrato, Jesus	173738		\$ 10.00
Shaffer, Rashaun L	266798		\$ 10.00

Shelton, Brandie	234130		\$ 10.00
Shiu, Kwok Fai	286257		\$ 754.63
Sibillo, Francesco P	263475		\$ 958.26
Sievers, Jacob Jay	107234		\$ 10.00
Silva, Ana	173744		\$ 10.00
Simpson, Doug W	267559		\$ 958.26
Sims, Paul C	263150		\$ 958.26
Sinawski, Mark D	110194		\$ 10.00
Singh, Mohinder	235567		\$ 10.00
Smith, Daniel Joseph	286138		\$ 10.00
Smith, Derek Lee	263981		\$ 291.41
Smith, Everett Jr	275025		\$ 10.00
Smith, Jason J	286400		\$ 730.67
Solis, Sergio G	262862		\$ 958.26
Soriano, Oscar	173747		\$ 10.00
Sosa, Arcadio	263264		\$ 958.26
Sotelo, Sonia	173749		\$ 10.00
Soto, Guadalupe	173750		\$ 10.00
Soto, Raquel	176581		\$ 10.00
Spindler, Kyle P	236071		\$ 10.00
St Louis, Edward J	133619		\$ 10.00
Stewart, Daniel B	264254		\$ 1,499.20
Stocker, Brandy M	289367		\$ 10.00
Stralo, William	263447		\$ 958.26
Sullilvan, Kevin P.		802081325	\$ 10.00
Sykes, Marcandis	292660		\$ 10.00
Tafoya, Anthony Joesph	262348		\$ 958.26
Takagi, Dewey	264107		\$ 1,535.94
Takeda, Austin T	269582		\$ 10.00
Talamantes, Lucieann	267506		\$ 1,510.52
Talarino, Matt	133929		\$ 10.00
Tamayo, Sergio	133936		\$ 155.72
Teague, Hillary	278474		\$ 826.50
Tejeda, Rosa	173760		\$ 10.00
Texin, David B	178263		\$ 946.28
Thao, Bernard	286075		\$ 10.00
Thomas, Stephon I	286191		\$ 10.00
Tieu, Peter P	256015		\$ 323.41
Titus, Samuel D	134174		\$ 10.00
Tiumalu, John V	262892		\$ 958.26
Torres, Alberto	173764		\$ 10.00
Torres, David	289318		\$ 515.06
Torres, Derek C.		802046694	\$ 10.00
Torres, Jessie A	250726		\$ 10.00
Tran, Tam T	173769		\$ 10.00
Trujillo, Miguel Jr.	262536		\$ 958.26
Valdez, Carlos M	263400		\$ 958.26

Valdez, Mario A	263395		\$ 958.26
Valdivia, Andy M	173778		\$ 10.00
Valencia, Luis	173779		\$ 10.00
Valencia, Steve	262966		\$ 958.26
Valenzuela, Angel	173780		\$ 10.00
Valenzuela, Angel M	279603		\$ 10.00
Valenzuela, Emiliano	173781		\$ 10.00
Valeriano, Jorge	110328		\$ 11.98
Valle, Jorge	173784		\$ 10.00
Van Alstine, Donald G Jr	263067		\$ 958.26
Van Hemert, Lisa Ree	267537		\$ 1,517.03
Vandersall, David L	173031		\$ 958.26
Vang, Dao	229458		\$ 10.00
Vargas, Maria	173785		\$ 10.00
Vasquez, Daniel J	251753		\$ 10.00
Vasquez, Marcos	173789		\$ 10.00
Vasquez, Roberto	279319		\$ 958.26
Velasquez, Edgar	173795		\$ 10.00
Velasquez, Julio	173796		\$ 10.00
Vera, Thelma M	173798		\$ 10.00
Vidal, Rudy T	173799		\$ 10.00
Vigil, Fernando	291454		\$ 10.00
Vihtelic, Mark L	264318		\$ 958.26
Villalpando, Jose	173800		\$ 10.00
Villanueva-Gonzalez, Oscar	173801		\$ 10.00
Villarreal, Steve P	273337		\$ 10.00
Villegas, Luis E	180950		\$ 946.28
Voss, Debra	173803		\$ 10.00
Vuu, Larry	276823		\$ 958.26
Wady, Michael M	173805		\$ 10.00
Webster, Steven H	263474		\$ 958.26
Wendal, Kasey A	261311		\$ 958.26
Whitbey, Robert D	291114		\$ 299.46
White, Anthony T	263920		\$ 958.26
Whiteman, Shawn M	262632		\$ 958.26
Williams, Chris	108356		\$ 10.00
Williams, Donald R	228568		\$ 10.00
Williams, Robert R	269301		\$ 10.00
Williamson, Dean A	111969		\$ 83.85
Wilson, Brian K	263061		\$ 958.26
Wilson, Gordon		47638	\$ 10.00
Wolfe, Robert L	252613		\$ 10.00
Worthington, Warde	263638		\$ 958.26
Wright, Samuel H	173812		\$ 10.00
Wu, Jose A	263433		\$ 958.26
Xiong, Leng	263214		\$ 958.26
Yakel, Austin E	236070		\$ 10.00

Yewell, Steve	276485		\$ 10.00
Yocum, Joe E	265093		\$ 958.26
Yzaguirre, Jose L	135388		\$ 10.00
Zack, Daniel	288154		\$ 10.00
Zambrana, Lee M	263083		\$ 958.26
Zambrano, Jose L	173815		\$ 10.00
Zamora, Raquel	292274		\$ 10.00
Zamora, Rogelio Jr	273339		\$ 10.00
Zaragoza, Efrain	173817		\$ 10.00
Zaragoza, Ysidro	173818		\$ 10.00
Zavala, Fabiola	259794		\$ 10.00
Zavala, Petra	263459		\$ 958.26
Zepeda, Guillermo Jr	236651		\$ 958.26
Zuniga, Erlinda	173823		\$ 10.00
<b>TOTAL</b>			<b>\$ 240,330.62</b>

\$ 279,584.03

# EXHIBIT B

**[EXHIBIT A]****OFFICIAL COURT NOTICE OF CLASS, COLLECTIVE, AND REPRESENTATIVE ACTION  
SETTLEMENT****[NAME]****[ADDRESS]****[CITY, STATE ZIP]**

**If you worked for Cushman & Wakefield Western, Inc. in California as an Appraiser, Junior Appraiser, and/or Senior Appraiser, you may be entitled to a payment from a class action lawsuit settlement.**

*A court authorized this notice. This is not a solicitation from a lawyer.*

- You have received this Notice because Cushman & Wakefield Western, Inc.'s ("Cushman") records indicate that you were employed in the State of California as a covered Junior Appraiser between August 14, 2014 and September 9, 2019 and/or as covered Appraiser, and/or Senior Appraiser between August 14, 2014 and May 31, 2021.
- Former Cushman employees filed a lawsuit against Cushman alleging that Cushman failed to pay proper overtime wages and violated other state law provisions. Cushman denies these allegations and the Court has not made any ruling on the merits of the claims. The parties have entered into a settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expense. This is a global settlement which resolves three different cases: *Dixon v. Cushman & Wakefield Western, Inc.*, Case No. 3:18-cv-05813-JSC (N.D. Cal.); *Dixon v. Cushman & Wakefield, Inc.*, Case No. 3:20-cv-07001-JSC (N.D. Cal.); and *Seltz v. Cushman & Wakefield, Inc., et al.*, Case No. 1:18-cv-02092-BAH (D. D.C.). The parties consolidated the actions and are seeking approval in the *Dixon v. Cushman & Wakefield Western, Inc.*, Case No. 3:18-cv-05813-JSC (N.D. Cal.) action.
- Under the allocation formula created by the settlement, your potential settlement payment is estimated to be a minimum of approximately \$**[AMOUNT]**, subject to deductions for applicable taxes, and may increase if the amount for settlement administration, attorneys' fees, costs, or service awards is less than set forth in the settlement.

**Your legal rights may be affected by this settlement, and you have a choice to make:**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>DO NOTHING NOW, CASH A SETTLEMENT CHECK</b>	If you do nothing, you will remain a part of this case, release the Released California Claims discussed in Section 10 and the PAGA Claims discussed in Section 19 below, and be sent a settlement check. If you endorse and deposit the settlement check, you will further release the Released Collective Claims discussed in Section 10 below. If you do not cash or otherwise negotiate your settlement check, you will release the Released Class Claims, but not the Released Collective Claims.
<b>EXCLUDE YOURSELF</b>	If you do not want to participate in the settlement and want to retain your right to sue Cushman for unpaid wages and related wage and hour claims, you must submit a written Opt-out Letter to the Settlement Administrator, as discussed in Section 11 below. If you submit an Opt-out Letter, you will not be eligible to receive a settlement payment or object to the settlement, except for the PAGA payment discussed in Section 19 below, if applicable.

**OBJECT**

If you do not submit an Opt-out Statement, you may write to the Court about why you object to the settlement. More information about objecting is set forth in Section 15 below.

- These rights and options – **and the deadlines to exercise them** – are explained in greater detail in this Notice.
- The Court still has to decide whether to approve the settlement. Settlement payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

**BASIC INFORMATION****1. Why did I get this notice?**

The Court ordered that you be sent this Notice because you have a right to know about a proposed class and collective action settlement, and about all of your options, before the Court decides whether to approve the settlement. This Notice explains the lawsuit, your legal rights, and what benefits are available.

The Honorable Jacqueline Scott Corley, United States Magistrate Judge in the Northern District of California, is overseeing the litigation. The litigation is known as *Dixon v. Cushman & Wakefield Western, Inc.*, Case No. 3:18-cv-05813-JSC.

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the settlement agreement available at [www.\\_\\_\\_\\_\\_.com](http://www._____.com), by contacting class counsel using the contact information in Section 21 below, by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Ave, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

**2. Am I covered by this settlement?**

Cushman's records state that you were employed in the state of California by Cushman as (1) an exempt-classified Appraiser and/or Senior Appraiser between August 14, 2014 and May 31, 2021 and were compensated through a recoverable draw, on a commission-only basis, or were otherwise not paid a guaranteed wage that was "free and clear"; and/or as (2) an exempt-classified Junior Appraiser between August 14, 2014 and September 9, 2019 (collectively, "appraisers").

**3. What is the litigation about?**

The litigation is about whether Cushman failed to pay proper overtime wages to appraisers, and other related claims. Cushman denies any liability and wrongdoing of any kind associated with these allegations and further denies that any claims are appropriate for class treatment. Cushman maintains that its appraisers received all wages and payments to which they were entitled. The Court has not made any ruling on the merits of the claims, and no party has prevailed in this action.

**4. Why is this a class/collective action?**

In a class action, one or more people called "class representatives" bring claims on behalf of other people who



have similar claims. The people are called “class members” and together are the “class.” Similarly, in a collective action, one or more people can seek to represent a “collective” of similarly situated people. The individuals who initiated this class/collective action are called the “Plaintiffs.” In a class/collective action, the Plaintiffs ask the court to resolve the issues for every member of the class.

### **5. Why is there a settlement?**

The Court did not decide in favor of Plaintiffs or Cushman. Both sides believe they will prevail in the litigation, but there was no decision in favor of either party. Instead, the parties have agreed to resolve this matter solely in order to avoid the burden, expense and risks associated with continued litigation. Plaintiffs and Class Counsel think the settlement is in the best interests of all Class Members.

## **THE SETTLEMENT BENEFITS – WHAT YOU GET**

### **6. What does the settlement provide?**

Cushman has agreed to pay a total of up to \$4,900,000.00 (the “Total Settlement Fund”), plus the employer share of payroll taxes on amounts allocated as wages. The Total Settlement Fund will be used to pay: (1) Participating Claimants and Aggrieved Employees; (2) attorneys’ fees of up to \$1,633,333.33 (one-third of the Total Settlement Fund), plus reimbursement of actual litigation expenses and costs of up to \$60,000.00; (3) Service Awards of \$10,000.00 each to the two Plaintiffs and \$2,000.00 each to the six Declarants; (4) \$20,000.00 to the California Labor and Workforce Development Agency; and (5) the Settlement Administrator’s fees and costs of up to \$20,000.00. As part of the Settlement, Cushman has also agreed to release appraisers from any and all claims for reimbursement of draws paid by Cushman under any alleged contracts, such as Promissory Notes.

### **7. How was my settlement payment calculated?**

The formula that has been approved by the Court and used to calculate your settlement payment considers the number of weeks you worked, the relative value of the damages available under the applicable laws in the location(s) where you worked, and whether you have already submitted a consent to join form to opt into the federal claims in this case. The Settlement Agreement contains the exact allocation formula. You may obtain a copy of the Settlement Agreement at [www.XXXX.com](http://www.XXXX.com).

The Settlement Administrator used information from Cushman’s records to calculate your payment. Cushman’s records show that you worked as a **XX[Junior Appraiser/Appraiser]** in **XX[state]** from **XX [start date]** to **XX[end date]** **[repeat this line if worked in more than one covered position or location]**. If you have questions about your calculation, you may contact the Settlement Administrator using the contact information in Section 21 below. If you dispute Cushman’s records and/or the calculation of your settlement payment, you must notify the Settlement Administrator and may provide written documentation supporting your contention. You must submit this information by **[insert date 45 days from mailing]**. Cushman’s records are presumed to be correct unless proven otherwise by your information. The Settlement Administrator will evaluate the information you provide and will make the final decision as to any dispute.

One third of your settlement payment is subject to payroll deductions for applicable taxes and withholdings like any other paycheck, for which you will receive a Form W-2, and two thirds of your settlement payment is not subject to deductions and will be reported on a Form 1099. Neither Class Counsel nor Cushman’s counsel can advise you regarding the tax consequences of the settlement. You may wish to consult with your own personal tax advisor in connection with the settlement.

**Settlement checks that are not cashed within 180 days of issuance will be null and void.**

## HOW YOU GET A PAYMENT

### 8. How can I get my payment?

If you wish to participate in the Settlement, you do not need to take any current action. You will receive a payment. If your mailing address has changed, please contact the Settlement Administrator.

### 9. When will I get my settlement payment?

The Court is scheduled to hold a hearing on [REDACTED], at [REDACTED] to determine whether to give final approval to the settlement. This date may change without further notice to class members. Please check [settlement website] to confirm that the date has not changed. If the Court grants final approval, settlement checks are anticipated to be mailed approximately three months after the court issues the final approval order. Please be patient and update the Settlement Administrator if your mailing address changes.

You will have 180 days after issuance of the settlement check to cash the check before it becomes null and void. If you choose not to cash your settlement check, the check amount will revert to the California unclaimed property fund.

### 10. What am I giving up by releasing my claims?

If you do not exclude yourself from the settlement (as described in Section 11 below), you will release the Released California Claims. This means that you cannot sue, continue to sue, or be part of any other legal action against Cushman asserting the Released California Claims. Released California Claims means any and all Released Class Claims, as defined below in this paragraph, known or unknown, in law or in equity, whether or not concealed or hidden, asserted or which could have been asserted at any time based on the facts alleged in the Second Amended Complaint or arising out of the facts, matters, transactions or occurrences set forth in the Second Amended Complaint whether asserted or not that Cushman misclassified California Class Members as exempt from the California and federal overtime laws. Released Class Claims means any claim, demand, right, liability, and/or cause of action that arose during the California Class Period and based on any applicable federal, state and/or local laws, regulations, ordinances, or common law that relates to claims which were asserted or could have been asserted at any time based on the facts alleged in the Second Amended Complaint or arising out of the facts, matters, transactions or occurrences set forth in the Second Amended Complaint, whether asserted or not, that Cushman (1) improperly failed to pay California Class Members overtime, minimum wages or any other wages due for hours worked; (2) failed to provide California Class Members legally required meal and rest periods or pay premium pay due for such failure; (3) failed to timely pay California Class Members wages, pay all wages twice per month, or pay all wages due upon termination of employment; (4) failed to maintain adequate payroll records and/or time records for California Class Members; (5) failed to provide compliant wage statements for California Class Members; (6) failed to pay or reimburse California Class Members for business related expenses; (7) engaged in conduct subjecting them to statutory or civil penalties under any California statute, ordinance, or otherwise arising from any alleged violation of the California Labor Code, California Wage Orders or any federal or California statute regarding compensation and hours, including without limitation, California Labor Code Sections 201, 202, 203, 226, 226.3, 226.7, 256, 510, 512, 558, 1174, 1174.5, 1194, 1198.4 and 2802; and (8)

engaged in any unfair business practices expressly alleged in the action pursuant to California Business & Professions Code Section 17200 *et. seq.*; and is more fully set forth in Section 4 of the Settlement Agreement.

In addition, if you cash your settlement check, you will also opt in to the Fair Labor Standards Act claims in the case and release the Released Opt-in Claims. This means that you cannot sue, continue to sue, or be part of any other legal action against Cushman asserting the Released Opt-in Claims. Released Opt-in Claims means any and all Released Opt-in Claims, as defined below in this paragraph, whether known or unknown, in law or in equity, whether or not concealed or hidden, asserted or which could have been asserted at any time based on the facts alleged in the Second Amended Complaint by Plaintiffs or arising out of the facts, matters, transactions or occurrences set forth in the Second Amended Complaint, whether asserted or not, that Cushman misclassified Opt-in Plaintiffs and Non-California Opt-in Eligible Plaintiffs as exempt from the federal and any applicable state overtime laws. Released Opt-in Claims means any claim, demand, right, liability, and/or cause of action that arose during the relevant collective period based on any applicable federal, state and/or local laws, regulations, ordinances, or common law that relates to claims which were asserted or could have been asserted at any time based on the facts alleged in the Second Amended Complaint that Cushman (1) improperly failed to pay Opt-in Plaintiffs and Non-California Opt-in Eligible Plaintiffs overtime, minimum wages or any other wages due for hours worked; and (2) violated any federal or state laws, including without limitation, claims for violation of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, any analogous state or local law relating to the payment of wages and overtime compensation, or any alleged violation of any wage and hour, wage payment, wage deduction, recordkeeping, unfair business practice, or any similar wage-related laws, any administrative regulations relating to the same, and any additional claims for penalties, wages, interest, liquidated damages, or other monies predicated on same, and is more fully set forth in Section 4 of the Settlement Agreement..

## **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you do not wish to release the California Released Claims, then you must take steps to exclude yourself. This is sometimes referred to as “opting out” of the settlement.

### **11. How do I opt out of the settlement?**

If you wish to exclude yourself from the settlement, you must submit a written Opt-out Letter to the court, that: (i) states your name and address; (ii) includes a statement indicating your intent to exclude yourself from the settlement, such as “I opt out of the Cushman wage and hour settlement”; and (iii) includes your signature. The Opt-out Letter must be postmarked by or otherwise received on or before **[INSERT DATE 60 DAYS FROM NOTICE MAILING]**.

If you submit an Opt-out Letter, you will not be eligible to receive a settlement check. You will retain the right to bring your own legal action against Cushman. You should be aware that your claims are subject to a statute of limitations, which means that they will expire on a certain date. If you ask to be excluded, you cannot object to the settlement.

Please note that opting-out of the settlement will not result in Cushman saving any money. Cushman encourages all California Class Members to participate in the settlement and not opt-out.

### **12. If I exclude myself, can I get money from this settlement?**

No. If you exclude yourself, you will not be eligible to receive a settlement check.

## **THE LAWYERS REPRESENTING YOU**

### **13. Do I have a lawyer in this case?**

The Court has decided that the lawyers at the law firm of Goldstein, Borgen, Dardarian & Ho, Outten & Golden LLP, and Shavitz Law Group, PA are qualified to represent you and all class members. These lawyers are called “Class Counsel.” You will not be charged separately for these lawyers; their fees are being covered by the settlement fund. You do not need to retain your own attorney in order to participate as a Class Member. If you do not opt out of the class and want to be represented by your own lawyer, you may hire one at your own expense.

#### **14. How will the lawyers be paid?**

Class Counsel will ask the Court to approve payment of up to one-third of the Total Settlement Fund for their attorneys’ fees. These fees would compensate Class Counsel for investigating the facts, litigating the case, and negotiating the settlement. Class Counsel will also ask the Court to approve payment for up to \$60,000 for the out-of-pocket costs they incurred litigating the case.

You may view Class Counsel’s Motion for Attorneys’ Fees and Costs at [www.XXXX.com](http://www.XXXX.com). The Motion will be posted on the website by [INSERT DATE 25 DAYS FROM NOTICE MAILING, 35 DAYS BEFORE DEADLINE TO OBJECT].

## **OBJECTING TO THE SETTLEMENT**

You can tell the Court that you do not agree with the settlement or some part of it.

#### **15. How do I tell the Court that I disapprove of the settlement?**

If you have not submitted an Opt-out Letter, you can ask the Court to deny approval by filing an objection to any portion of the settlement, including the total amount, the request for attorneys’ fees and costs, or any other part of the settlement. You can’t ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed settlement must be in writing. All written objections and supporting papers must (a) clearly identify the case name and number (*Dixon v. Cushman & Wakefield Western, Inc.*, Case No. 3:18-cv-05813-JSC); (b) be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 450 Golden Gate Ave, San Francisco, CA 94102, or by filing them in person at any location of the United States District Court for the Northern District of California; and (c) be filed or postmarked on or before **[INSERT DATE 60 DAYS FROM NOTICE MAILING]**.

If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing (explained in Sections 17 and 18 below), either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

#### **16. What’s the difference between objecting and opting out?**

Objecting is telling the Court that you do not like something about the settlement and asking the Court not to approve the settlement as is. You can object only if you stay in the Class.

Opting out (also known as excluding yourself) is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you. If you submit both an objection and an Opt-out Letter, the Settlement Administrator will attempt to contact you to determine whether you intended to object or exclude yourself. If the Settlement Administrator cannot reach you, it will be presumed that you intended to exclude yourself, and your objection will not be considered.

## THE COURT'S FAIRNESS HEARING

### 17. When and where will the Court decide whether to approve the settlement?

The Court will hold the Fairness Hearing on [redacted] in [redacted]. This date may change without further notice to class members. Please check [redacted] to confirm that the date has not changed.

At the hearing, the Court will determine whether the settlement is fair, adequate, and reasonable and will consider any properly submitted objections. Please contact Class Counsel using the contact information provided in Section 21 below if you have any questions about the date and time of the Fairness Hearing.

### 18. Do I have to come to the fairness hearing?

No. Class Counsel will attend to answer questions the Court may have. But, you are welcome to attend at your own expense. If you send an objection, you do not have to attend. As long as you have not excluded yourself and have mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

### 19. Aggrieved Employee Additional Payment

The lawsuit also included a California Private Attorneys General Act ("PAGA") claim brought on behalf of the State of California that sought civil penalties from Cushman for the overtime and other violations that Plaintiffs alleged.

As part of the settlement of the PAGA claim, Cushman agreed to pay \$26,666.67, which will be distributed according to PAGA's requirement that 75% (or \$20,000.00) be distributed to the California Labor Workforce Development Agency and the remaining 25% (or \$6,666.67) be paid to Aggrieved Employees.

If you work for worked for Cushman as an appraiser in California from August 14, 2017 through May 31, 2021 ("PAGA Period"), you are an "Aggrieved Employee."

If you are an Aggrieved Employee, and if the Court approves the PAGA settlement, you will release the Released PAGA Claims and will be precluded from bringing any and all claims relating to penalties under PAGA that accrued during your employment as an appraiser during the relevant PAGA Period, and will receive a portion of the PAGA settlement amount. "Released PAGA Claims" means any and all claims relating to penalties under the California Private Attorneys General Act, California Labor Code section 2698 et seq., that accrued during the Aggrieved Employee's employment as an Appraiser and/or Junior Appraiser, relating back to August 14, 2017, and continuing through May 31, 2021.

Your individual PAGA settlement payment will be determined by your proportional share of the \$6,666.67 based on the number of workweeks you worked between August 14, 2017 through May 31, 2021 as an appraiser.

Even if you choose to opt out of the California settlement, you will still release the Released PAGA Claims and be sent a check for your portion of the PAGA settlement. If you choose not to cash your PAGA settlement check, the check amount will revert to the California unclaimed property fund.

## GETTING MORE INFORMATION

### 20. Are there more details about the settlement?

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at [www.XXX.com](http://www.XXX.com).

### 21. How do I get more information?

If you have other questions about the settlement or want more information, you can contact the Settlement Administrator, [phone number and email address](mailto:phone number and email address) or Class Counsel at:

Laura L. Ho  
Ginger Grimes  
Goldstein, Borgen, Dardarian & Ho, 155  
Grand Avenue, Suite 900  
Oakland, CA 94612  
(866) 762-8575  
[cushmanappraiser@gbdhlegal.com](mailto:cushmanappraiser@gbdhlegal.com)

DATED: \_\_\_\_\_, 21\_\_

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE  
TO INQUIRE ABOUT THIS SETTLEMENT.**

# EXHIBIT C



**[EXHIBIT B]**

**OFFICIAL COURT NOTICE OF COLLECTIVE ACTION SETTLEMENT AND OPPORTUNITY TO  
JOIN**

**[NAME]**

**[ADDRESS]**

**[CITY, STATE ZIP]**

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**If you worked for Cushman & Wakefield, Inc. or any subsidiary of Cushman as an Appraiser, Junior Appraiser, or Senior Appraiser, you may be entitled to a payment from a collective action lawsuit settlement.**

*A court authorized this notice. This is not a solicitation from a lawyer.*

- You have received this Notice because Cushman’s records indicate that you were employed in as a covered Junior Appraiser between October 12, 2016 and September 9, 2019 and or/ as a covered Appraiser and/or Senior Appraiser between October 7, 2017 and May 31, 2021.
- Former Cushman employees filed a lawsuit against Cushman alleging that Cushman failed to pay proper overtime wages and violated other state law provisions. Cushman denies these allegations and the Court has not made any ruling on the merits of the claims. The parties have entered into a settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expense. This is a global settlement which resolves three different cases: *Dixon v. Cushman & Wakefield Western, Inc.*, Case No. 3:18-cv-05813-JSC (N.D. Cal.); *Dixon v. Cushman & Wakefield, Inc.*, Case No. 3:20-cv-07001-JSC (N.D. Cal.); and *Seltz v. Cushman & Wakefield, Inc., et al.*, Case No. 1:18-cv-02092-BAH (D. D.C.). The parties consolidated the actions and are seeking approval in the *Dixon v. Cushman & Wakefield Western, Inc.*, Case No. 3:18-cv-05813-JSC (N.D. Cal.) action.
- Under the allocation formula created by the settlement, your potential settlement payment is estimated to be a minimum of approximately \$**[AMOUNT]**, subject to deductions for applicable taxes, and may increase if the amount for settlement administration, attorneys’ fees, costs, or service awards is less than set forth in the settlement.
- As described more fully below, to participate in the settlement, you must mail a properly completed Consent to Join Settlement, Release, and Claim Form (“Claim Form”) to the Settlement Administrator so that it is post-marked or received by **[60 DAYS FROM DATE OF MAILING]**. If you fail to timely return a Claim Form post-marked or otherwise received by **[60 DAYS FROM DATE OF MAILING]**, you will not receive any money from the settlement.

**Your legal rights may be affected by this settlement, and you have a choice to make:**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>SUBMIT A CLAIM FORM AND OBTAIN A PAYMENT</b>	By returning a properly completed claim form, you agree to participate in the settlement, be eligible to receive a settlement payment, and release your claims. The Claim Form must be postmarked by or otherwise received on or before <b>[INSERT DATE 60 DAYS FROM NOTICE MAILING]</b> .



	If you choose to participate in the settlement, you will release the Released Opt-in Claims discussed in Section 10 below.
<b>DO NOTHING</b>	If you do nothing, you will not be eligible to receive a settlement payment. You will retain your right to file your own legal action against Cushman, should you choose.

- These rights and options – **and the deadlines to exercise them** – are explained in greater detail in this Notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Settlement payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

## BASIC INFORMATION

### 1. Why did I get this notice?

The Court ordered that you be sent this Notice because you have a right to know about a proposed class and collective action settlement, and about all of your options, before the Court decides whether to approve the settlement. This Notice explains the lawsuit, your legal rights, and what benefits are available.

The Honorable Jacqueline Scott Corley, United States Magistrate Judge in the Northern District of California, is overseeing the litigation. The litigation is known as *Dixon v. Cushman & Wakefield Western, Inc.*, Case No. 3:18-cv-05813-JSC.

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the settlement agreement available at [www.\\_\\_\\_\\_\\_.com](http://www._____.com), by contacting Plaintiffs' Counsel using the contact information in Section 16 below, by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Ave, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

### 2. Am I covered by this settlement?

Cushman's records state that you were employed by Cushman as (1) an exempt-classified Appraiser and/or Senior Appraiser between October 7, 2017 and May 31, 2021 and were compensated through a recoverable draw, on a commission-only basis, or were otherwise not paid a guaranteed wage that was "free and clear"; and/or as (2) as exempt-classified Junior Appraiser between October 12, 2016 and September 9, 2019 (collectively, "appraisers").

### 3. What is the litigation about?

The litigation is about whether Cushman failed to pay proper overtime wages to appraisers. Cushman denies any liability and wrongdoing of any kind associated with these allegations. Cushman maintains that its appraisers

received all wages and payments to which they were entitled. The Court has not made any ruling on the merits of the claims, and no party has prevailed in this action.

#### **4. Why is this a collective action?**

In a “collective action,” one or more people called “Named Plaintiffs” sue on behalf of people who have similar claims. However, the other employees who have similar claims do not become part of the collective action until they “opt in” to the lawsuit. You may “opt in” to the lawsuit and participate in the settlement by returning the enclosed Claim Form. If you timely return the enclosed Claim Form, and the Court approves the settlement, you will receive a settlement check.

#### **5. Why is there a settlement?**

The Court did not decide in favor of Plaintiffs or Cushman. Both sides believe they will prevail in the litigation, but there was no decision in favor of either party. Instead, the parties have agreed to resolve this matter solely in order to avoid the burden, expense and risks associated with continued litigation.

### **THE SETTLEMENT BENEFITS – WHAT YOU GET**

#### **6. What does the settlement provide?**

Cushman has agreed to pay a total of up to \$4,900,000.00 (the “Total Settlement Fund”). The Total Settlement Fund will be used to pay: (1) Participating Claimants and Aggrieved Employees; (2) attorneys’ fees of up to \$1,633,333.33 (one-third of the Total Settlement Fund) plus reimbursement of actual litigation expenses and costs of up to \$60,000.00; (3) Service Awards of \$10,000.00 each to the two Plaintiffs and \$2,000.00 each to the six Declarants; (4) \$20,000.00 to the California Labor and Workforce Development Agency; and (5) the Settlement Administrator’s fees and costs of up to \$20,000.00. As part of the Settlement, Cushman has also agreed to release appraisers from any and all claims for reimbursement of draws paid by Cushman under any alleged contracts, such as Promissory Notes.

#### **7. How was my settlement payment calculated?**

The formula that has been approved by the Court and used to calculate your settlement payment considers the number of weeks you worked, the relative value of the damages available under the applicable laws in the location(s) where you worked, and whether you have already submitted a consent to join form to opt into the case. The Settlement Agreement contains the exact allocation formula. You may obtain a copy of the Settlement Agreement at [www.XXXX.com](http://www.XXXX.com).

The Settlement Administrator used information from Cushman’s records to calculate your payment. Cushman’s records show that you worked as a **XX[Junior Appraiser/Appraiser]** in **XX[state]** from **XX [start date]** to **XX[end date]** **[repeat this line if worked in more than one covered position or location]**. If you have questions about your calculation, you may contact the Settlement Administrator using the contact information in Section 16 below. If you dispute Cushman’s records and/or the calculation of your settlement payment, you must notify the Settlement Administrator and may provide written documentation supporting your contention. You must submit this information by **[insert date 45 days from mailing]**. Cushman’s records are presumed to be correct unless proven otherwise by your information. The Settlement Administrator will evaluate the information you provide and will make the final decision as to any dispute.

One half of your settlement payment is subject to payroll deductions for applicable taxes and withholdings like any other paycheck, for which you will receive a Form W-2, and one half of your settlement payment is not subject to deductions and will be reported on a Form 1099. Neither Plaintiffs’ Counsel nor Cushman’s counsel

can advise you regarding the tax consequences of the settlement. You may wish to consult with your own personal tax advisor in connection with the settlement.

**Settlement checks that are not cashed within 180 days of issuance will be null and void.**

## **HOW YOU GET A PAYMENT**

### **8. How can I get my payment?**

You must sign and return the enclosed Claim Form by the deadline to be eligible to receive a settlement payment. Your Claim Form must be postmarked by, or otherwise received on or before, **[INSERT DATE 60 DAYS FROM NOTICE MAILING]**.

The Settlement Administrator is **XX**. You may return the Claim Form in the pre-stamped return envelope or by mailing, emailing, or faxing it to:

**[INSERT SETTLEMENT ADMINISTRATOR CONTACT]**

To be effective, the Claim Form must be completed in full and signed.

If you do not submit a Claim Form or submit an incomplete or invalid Claim Form, you will not receive a settlement payment.

### **9. When will I get my settlement payment?**

The Court is scheduled to hold a hearing on **[REDACTED]**, at **[REDACTED]** to determine whether to give final approval to the settlement. If the Court grants final approval, settlement checks are anticipated to be mailed approximately three months after the court issues the final approval order. Please be patient and update the Settlement Administrator if your mailing address changes.

### **10. What am I giving up by releasing my claims?**

If you sign and return a Claim Form, you will release the Released Opt-in Claims. This means that you cannot sue, continue to sue, or be part of any other legal action against Cushman asserting the Released Opt-in Claims. Released Opt-in Claims means any and all Released Opt-in Claims, as defined below in this paragraph, whether known or unknown, in law or in equity, whether or not concealed or hidden, asserted or which could have been asserted at any time based on the facts alleged in the Second Amended Complaint by Plaintiffs or arising out of the facts, matters, transactions or occurrences set forth in the Second Amended Complaint, whether asserted or not, that Cushman misclassified Opt-in Plaintiffs and Non-California Opt-in Eligible Plaintiffs as exempt from the federal and any applicable state overtime laws. Released Opt-in Claims means any claim, demand, right, liability, and/or cause of action that arose during the relevant collective period based on any applicable federal, state and/or local laws, regulations, ordinances, or common law that relates to claims which were asserted or could have been asserted at any time based on the facts alleged in the Second Amended Complaint that Cushman (1) improperly failed to pay Opt-in Plaintiffs and Non-California Opt-in Eligible Plaintiffs overtime, minimum wages or any other wages due for hours worked; and (2) violated any federal or state laws, including without limitation, claims for violation of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, any analogous state or local law relating to the payment of wages and overtime compensation, or any alleged violation of any wage and hour, wage payment, wage deduction, recordkeeping, unfair business practice, or any similar wage-related laws, any administrative regulations relating to the same, and any additional claims for penalties, wages, interest,

liquidated damages, or other monies predicated on same, and is more fully set forth in Section 4 of the Settlement Agreement.

## THE LAWYERS REPRESENTING YOU

### 11. Do I have a lawyer in this case?

The law firms of Goldstein, Borgen, Dardarian & Ho, Outten & Golden LLP, and Shavitz Law Group, PA have been designated as legal counsel to represent you and other appraisers who participate in the settlement. You will not be charged separately for these lawyers; their fees are being covered by the settlement fund.

### 12. How will the lawyers be paid?

Plaintiffs' Counsel will ask the Court to approve payment of up to one-third of the Total Settlement Fund for their attorneys' fees. These fees would compensate Plaintiffs' Counsel for investigating the facts, litigating the case, and negotiating the settlement. Plaintiffs' Counsel will also ask the Court to approve payment for the out-of-pocket costs they incurred litigating the case.

## THE COURT'S FAIRNESS HEARING

### 13. When and where will the Court decide whether to approve the Settlement?

The Court will hold the Fairness Hearing on [redacted] in [redacted]. This date may change without further notice. Please check [redacted] to confirm that the date has not changed.

At the hearing, the Court will determine whether the settlement is fair, adequate, and reasonable. Please contact Plaintiffs' Counsel using the contact information provided in Section 16 below if you have any questions about the date and time of the Fairness Hearing.

### 14. Do I have to come to the fairness hearing?

No. Plaintiffs' Counsel will attend to answer questions the Court may have. But, you are welcome to come at your own expense.

## GETTING MORE INFORMATION

### 15. Are there more details about the settlement?

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at [www.XXXXX.com](http://www.XXXXX.com) or contact Plaintiffs' Counsel using the contact information in Section 16 below.

### 16. How do I get more information?

If you have other questions about the settlement or want more information, you can contact the Settlement Administrator, [redacted] or Plaintiffs' Counsel at:

Laura L. Ho and Ginger Grimes  
Goldstein, Borgen, Dardarian & Ho  
155 Grand Avenue, Suite 900  
Oakland, CA 94612  
(866) 762-8575  
[cushmanappraiser@gbdhlegal.com](mailto:cushmanappraiser@gbdhlegal.com)

Deirdre Aaron

OUTTEN & GOLDEN, LLP  
685 Third Avenue, 25<sup>th</sup> Floor  
New York, NY 10017

Molly J. Frandsen  
OUTTEN & GOLDEN, LLP  
One California Street, 12th Floor  
San Francisco, CA 94111

[CWAppraisersCase@outtengolden.com](mailto:CWAppraisersCase@outtengolden.com)  
212-245-1000

DATED: \_\_\_\_\_, 2021

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE  
TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**

**[EXHIBIT C]**Estimated Award (before taxes): **\$[AMOUNT]****[Collective Member Name]****[Mailing Address 1]****[Mailing Address 2]****[City, State ZIP]****CONSENT TO JOIN SETTLEMENT, RELEASE, AND CLAIM FORM**

**The form must be returned to the Settlement Administrator so that it is postmarked or received by facsimile or email by **[60 DAYS FROM DATE OF MAILING]**.**

I hereby consent to join and opt-in as a plaintiff for settlement purposes in the above-captioned lawsuit against Cushman & Wakefield, Inc., Cushman & Wakefield Western, Inc., and Cushman & Wakefield of Washington, DC, Inc. and to be bound by any adjudication of this action by the Court. I further agree to be bound by the collective action settlement. I hereby designate the law firms of Goldstein, Borgen, Dardarian & Ho, Outten & Golden LLP, and Shavitz Law Group to represent me in this action. I understand that if I return this Claim Form, I will fully and completely release Cushman & Wakefield, Inc. and its past and present parents, subsidiaries, related entities, and affiliates, and its and their respective present and former officers, directors, stockholders, agents, employees, insurers, co-insurers, reinsurers, attorneys, accountants, auditors, advisors, representatives, consultants, pension and welfare benefit plans, plan fiduciaries, administrators, trustees, partners, predecessors, successors and assigns from any and all Released Opt-in Claims, as defined below in this paragraph, whether known or unknown, in law or in equity, whether or not concealed or hidden, asserted or which could have been asserted at any time based on the facts alleged in the Second Amended Complaint by Plaintiffs or arising out of the facts, matters, transactions or occurrences set forth in the Second Amended Complaint, whether asserted or not, that Cushman misclassified Opt-in Plaintiffs and Non-California Opt-in Eligible Plaintiffs as exempt from the federal and any applicable state overtime laws. Released Opt-in Claims means any claim, demand, right, liability, and/or cause of action that arose during the relevant collective period based on any applicable federal, state and/or local laws, regulations, ordinances, or common law that relates to claims which were asserted or could have been asserted at any time based on the facts alleged in the Second Amended Complaint that Cushman (1) improperly failed to pay Opt-in Plaintiffs and Non-California Opt-in Eligible Plaintiffs overtime, minimum wages or any other wages due for hours worked; and (2) violated any federal or state laws, including without limitation, claims for violation of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, any analogous state or local law relating to the payment of wages and overtime compensation, or any alleged violation of any wage and hour, wage payment, wage deduction, recordkeeping, unfair business practice, or any similar wage-related laws, any administrative regulations relating to the same, and any additional claims for penalties, wages, interest, liquidated damages, or other monies predicated on same, and is more fully set forth in Section 4 of the Settlement Agreement.

\_\_\_\_\_  
Full Legal Name (print)\_\_\_\_\_  
Signature\_\_\_\_\_  
Maiden or other names worked under\_\_\_\_\_  
Street Address\*\_\_\_\_\_  
City, State and Zip Code\*\_\_\_\_\_  
Cell phone\*

Home Telephone Number\*

---

E-mail Address\*

\*This information will be will not be filed in the public record.

[EXHIBIT D]

**IMPORTANT REMINDER REGARDING  
CUSHMAN SETTLEMENT**

Recently you should have received a Court-authorized Notice advising that you are eligible to receive a settlement payment from a collective action lawsuit against Cushman & Wakefield, Inc., Cushman & Wakefield Western, Inc., and Cushman & Wakefield of Washington, DC, Inc. The litigation is known as *Dixon v. Cushman & Wakefield Western, Inc.*, Case No. 3:18-cv-05813-JSC.

**IMPORTANT: Our records indicate that you have not yet submitted a Claim Form. In order to receive a settlement payment, you must complete a Claim Form and submit it to:**

CUSHMAN SETTLEMENT ADMINISTRATOR

<ADDRESS>

<PHONE>

<FAX>

<E-MAIL>

<WEBSITE>

Your claim form must be postmarked or otherwise received by **[INSERT DATE 60 DAYS FROM MAILING]**.

If you have any questions, you may contact the Settlement Administrator or Plaintiffs' Counsel:

Laura L. Ho and Ginger Grimes  
Goldstein, Borgen, Dardarian & Ho  
155 Grand Avenue, Suite 900  
Oakland, CA 94612  
(866) 762-8575  
[cushmanappraiser@gbdhlegal.com](mailto:cushmanappraiser@gbdhlegal.com)

Deirdre Aaron

OUTTEN & GOLDEN, LLP  
685 Third Avenue, 25<sup>th</sup> Floor  
New York, NY 10017

Molly J. Frandsen  
OUTTEN & GOLDEN, LLP  
One California Street, 12th Floor  
San Francisco, CA 94111

[CWAppraisersCase@outtengolden.com](mailto:CWAppraisersCase@outtengolden.com)  
212-245-1000



# EXHIBIT D

**[EXHIBIT E]**

**OFFICIAL COURT NOTICE OF COLLECTIVE ACTION SETTLEMENT**

**[NAME]**

**[ADDRESS]**

**[CITY, STATE ZIP]**

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**Because you filed a Consent to Join a case against Cushman & Wakefield, Inc., you may be entitled to a payment from a proposed settlement.**

*A court authorized this notice. This is not a solicitation from a lawyer.*

- You have received this Notice because you submitted a consent to join form in the case *Dixon v. Cushman & Wakefield, Inc.*, Case No. 3:20-cv-07001-JSC (N.D. Cal.) or in the case *Seltz v. Cushman & Wakefield, Inc., et al.*, Case No. 1:18-cv-02092-BAH(D. D.C.).
- Former Cushman employees filed a lawsuit against Cushman alleging that Cushman failed to pay proper overtime wages and violated other state law provisions. Cushman denies these allegations and the Court has not made any ruling on the merits of the claims. The parties have entered into a settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expense. This is a global settlement which resolves three different cases: *Dixon v. Cushman & Wakefield Western, Inc.*, Case No. 3:18-cv-05813-JSC (N.D. Cal.); *Dixon v. Cushman & Wakefield, Inc.*, Case No. 3:20-cv-07001-JSC (N.D. Cal.); and *Seltz v. Cushman & Wakefield, Inc., et al.*, Case No. 1:18-cv-02092-BAH (D. D.C.). The parties consolidated the actions and are seeking approval in the *Dixon v. Cushman & Wakefield Western, Inc.*, Case No. 3:18-cv-05813-JSC (N.D. Cal.) action.
- Under the allocation formula created by the settlement, your potential settlement payment is estimated to be a minimum of approximately \$**[AMOUNT]**, subject to deductions for applicable taxes, and may increase if the amount for settlement administration, attorneys' fees, costs, or service awards is less than set forth in the settlement.
- The Court in charge of this case still has to decide whether to approve the settlement. Settlement payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

## BASIC INFORMATION

### 1. Why did I get this notice?

The Court ordered that you be sent this Notice because you have a right to know about a proposed collective action settlement. This Notice explains the lawsuit, your legal rights, and what benefits are available.

The Honorable Jacqueline Scott Corley, United States Magistrate Judge in the Northern District of California, is overseeing the litigation. The litigation is known as *Dixon v. Cushman & Wakefield Western, Inc.*, Case No. 3:18-cv-05813-JSC.

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the settlement agreement available at [www.\\_\\_\\_\\_\\_.com](http://www._____.com), by contacting Plaintiffs' Counsel using the contact information in Section 12 below, by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Ave, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

### 2. What is the litigation about?

The litigation is about whether Cushman failed to pay proper overtime wages to appraisers. Cushman denies any liability and wrongdoing of any kind associated with these allegations. Cushman maintains its appraisers received all wages and payments to which they were entitled. The Court has not made any ruling on the merits of the claims, and no party has prevailed in this action.

### 3. Why is this a collective action?

In a "collective action," one or more people called "Named Plaintiffs" sue on behalf of people who have similar claims. You are part of the collective action because you have "opted in" to the lawsuit.

### 4. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or Cushman. Both sides believe they will prevail in the litigation, but there was no decision in favor of either party. Instead, the parties have agreed to resolve this matter solely in order to avoid the burden, expense and risks associated with continued litigation.

## THE SETTLEMENT BENEFITS – WHAT YOU GET

### 5. What does the settlement provide?

Cushman has agreed to pay a total of up to \$4,900,000.00 (the "Total Settlement Fund"). The Total Settlement Fund will be used to pay: (1) Participating Claimants and Aggrieved Employees;

(2) attorneys' fees of up to \$1,633,333.33 (one-third of the Total Settlement Fund) plus reimbursement of actual litigation expenses and costs of up to \$60,000.00; (3) Service Awards of \$10,000.00 each to the two Plaintiffs and \$2,000.00 each to the six Declarants; (4) \$20,000.00 to the California Labor and Workforce Development Agency; and (5) the Settlement Administrator's fees and costs of up to \$20,000.00. As part of the Settlement, Cushman has also agreed to release appraisers from any and all claims for reimbursement of draws paid by Cushman under any alleged contracts, such as Promissory Notes.

#### **6. How will my settlement payment be calculated?**

The formula that has been approved by the Court and used to calculate your settlement payment considers the number of weeks you worked, the relative value of the damages available under the applicable laws in the location(s) where you worked, and whether you have already submitted a consent to join form to opt into one of the consolidated cases. The Settlement Agreement contains the exact allocation formula. You may obtain a copy of the Settlement Agreement at [www.XXXX.com](http://www.XXXX.com).

The Settlement Administrator used information from Cushman's records to calculate your payment. Cushman's records show that you worked as a **XX[Junior Appraiser/Appraiser]** in **XX[state]** from **XX [start date]** to **XX[end date]** **[repeat this line if worked in more than one covered position or location]**. If you have questions about your calculation, you may contact the Settlement Administrator using the contact information in Section 12 below. If you dispute Cushman's records and/or the calculation of your settlement payment, you must notify the Settlement Administrator and may provide written documentation supporting your contention. You must submit this information by **[insert date 45 days from mailing]**. Cushman's records are presumed to be correct unless proven otherwise by your information. The Settlement Administrator will evaluate the information you provide and will make the final decision as to any dispute.

One half of your settlement payment is subject to payroll deductions for applicable taxes and withholdings like any other paycheck, for which you will receive a Form W-2, and one half of your settlement payment is not subject to deductions and will be reported on a Form 1099. Neither Plaintiffs' Counsel nor Cushman's counsel can advise you regarding the tax consequences of the settlement. You may wish to consult with your own personal tax advisor in connection with the settlement.

#### **7. When will I get my settlement payment?**

The Court is scheduled to hold a hearing on **\_\_\_\_\_**, at **\_\_\_\_\_** to determine whether to give final approval to the settlement. If the Court grants final approval, settlement checks are anticipated to be mailed approximately three months after the court issues the final approval order. Please be patient and update the Settlement Administrator if your mailing address changes.

#### **8 What claims have I released?**

Because you signed a Consent to Join Form, you will release the Released Opt-in Claims. This means that you cannot sue, continue to sue, or be part of any other legal action against Cushman

asserting the Released Opt-in Claims. Released Opt-in Claims means any and all Released Opt-in Claims, as defined below in this paragraph, whether known or unknown, in law or in equity, whether or not concealed or hidden, asserted or which could have been asserted at any time based on the facts alleged in the Second Amended Complaint by Plaintiffs or arising out of the facts, matters, transactions or occurrences set forth in the Second Amended Complaint, whether asserted or not, that Cushman misclassified Opt-in Plaintiffs and Non-California Opt-in Eligible Plaintiffs as exempt from the federal and any applicable state overtime laws. Released Opt-in Claims means any claim, demand, right, liability, and/or cause of action that arose during the relevant collective period based on any applicable federal, state and/or local laws, regulations, ordinances, or common law that relates to claims which were asserted or could have been asserted at any time based on the facts alleged in the Second Amended Complaint that Cushman (1) improperly failed to pay Opt-in Plaintiffs and Non-California Opt-in Eligible Plaintiffs overtime, minimum wages or any other wages due for hours worked; and (2) violated any federal or state laws, including without limitation, claims for violation of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, any analogous state or local law relating to the payment of wages and overtime compensation, or any alleged violation of any wage and hour, wage payment, wage deduction, recordkeeping, unfair business practice, or any similar wage-related laws, any administrative regulations relating to the same, and any additional claims for penalties, wages, interest, liquidated damages, or other monies predicated on same, and is more fully set forth in Section 4 of the Settlement Agreement.

## THE COURT'S FAIRNESS HEARING

### 9. When and where will the Court decide whether to approve the Settlement?

The Court will hold the Fairness Hearing on \_\_\_\_\_ in \_\_\_\_\_. This date may change without further notice to class members. Please check [settlement website] to confirm that the date has not changed.

At the hearing, the Court will determine whether the settlement is fair, adequate, and reasonable. Please contact Plaintiffs' Counsel using the contact information provided in Section 12 below if you have any questions about the date and time of the Fairness Hearing.

### 10. Do I have to come to the fairness hearing?

No. Plaintiffs' Counsel will attend to answer questions the Court may have. But, you are welcome to come at your own expense.

## GETTING MORE INFORMATION

### 11. Are there more details about the settlement?

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at [www.XXXXXX.com](http://www.XXXXXX.com) or contact Plaintiffs' Counsel using the contact information in Section 12 below.

**12. How do I get more information?**

If you have other questions about the settlement or want more information, you can contact the Settlement Administrator, **phone number and email address** or Plaintiffs' Counsel at:

Laura L. Ho and Ginger Grimes  
Goldstein, Borgen, Dardarian & Ho  
155 Grand Avenue, Suite 900  
Oakland, CA 94612  
(866) 762-8575  
[cushmanappraiser@gbdhlegal.com](mailto:cushmanappraiser@gbdhlegal.com)

Deirdre Aaron

OUTTEN & GOLDEN, LLP  
685 Third Avenue, 25<sup>th</sup> Floor  
New York, NY 10017

Molly J. Frandsen  
OUTTEN & GOLDEN, LLP  
One California Street, 12th Floor  
San Francisco, CA 94111

[CWAppraisersCase@outtengolden.com](mailto:CWAppraisersCase@outtengolden.com)  
212-245-1000

DATED: \_\_\_\_\_, 20\_\_

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S  
OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.**

# EXHIBIT E

*Dixon and Seltz v. Cushman Wakefield*  
Summary of Damages Exposure an Proposed Distribution

Point Category	Claim	Maximum Exposure	Estimated Distribution from Net Settlement Fund	Estimated Distribution from Net Settlement Fund as a Percentage of Maximum Exposure
1. Non-CA Opt-in Eligible Plaintiffs *	Overtime (10 hours per week)	\$ 16,591,548		
	Liquidated Damages	\$ 16,591,548		
	<b>Total</b>	<b>\$ 33,183,096</b>	<b>\$ 1,343,825</b>	<b>4.05%</b>
2. Seltz & Dixon II FLSA Opt-in Plaintiffs	Overtime (10 hours per week)	\$ 637,888		
	Liquidated Damages	\$ 637,888		
	<b>Total</b>	<b>\$ 1,275,776</b>	<b>\$ 98,150</b>	<b>7.69%</b>
3. CA Class Members who have not yet filed FLSA opt-in	Overtime (10 hours per week)	\$ 8,227,561		
	Overtime Interest	\$ 2,900,439		
	Liquidated Damages	\$ (0)		
	Missed Meal Period (5 times per week)	\$ 4,355,736		
	Missed Meal Interest	\$ 1,467,105		
	Missed Rest Period (5 times per week)	\$ 4,355,736		
	Missed Rest Period interest	\$ 1,467,105		
	Expense Reimbursement (\$12.50 per week)	\$ 173,329		
	Expense Reimbursement Interest	\$ 61,838		
	Wage Statement	\$ 173,250		
	Waiting Time	\$ 262,865		
	PAGA	\$ 2,043,704		
	<b>Total</b>	<b>\$ 25,488,668</b>	<b>\$ 1,524,983</b>	<b>5.98%</b>
4. CA Class Members who filed FLSA opt-in before settlement	Overtime (10 hours per week)	\$ 443,133		
	Overtime Interest	\$ 157,044		
	Liquidated Damages	\$ 187,766		
	Missed Meal Period (5 times per week)	\$ 203,149		
	Missed Meal Interest	\$ 72,981		
	Missed Rest Period (5 times per week)	\$ 203,149		
	Missed Rest Period interest	\$ 72,981		
	Expense Reimbursement (\$12.50 per week)	\$ 13,832		
	Expense Reimbursement Interest	\$ 1,645		
	Wage Statement	\$ 12,150		
	Waiting Time	\$ 35,862		
	PAGA	\$ 61,900		
	<b>Total</b>	<b>\$ 1,465,591</b>	<b>\$ 167,709</b>	<b>11.44%</b>
<b>Combined Categories</b>	<b>Grand Total</b>	<b>\$ 61,413,131</b>	<b>\$ 3,134,667</b>	<b>5.10%</b>

\*Must opt in/submit claim to receive payment



# EXHIBIT F

1 DAVID P. MASTAGNI, ESQ. (SBN 57721)  
 2 DAVID E. MASTAGNI, ESQ. (SBN 204244)  
 3 JAMES B. CARR, ESQ. (SBN 53274)  
 4 ISAAC S. STEVENS, ESQ. (SBN 251245)  
 5 DAVID D. KING, ESQ. (SBN 252074)  
 6 **MASTAGNI, HOLSTEDT, AMICK,**  
 7 **MILLER & JOHNSEN**  
 8 *A Professional Corporation*  
 9 1912 "I" Street  
 10 Sacramento, California 95811-3151

11 Telephone: (916) 446-4692  
 12 Facsimile: (916) 447-4614

13 Attorneys for Plaintiffs

14 UNITED STATES DISTRICT COURT

15 EASTERN DISTRICT OF CALIFORNIA

16 SHASHI KHANNA, suing individually and as )  
 17 Successor in Interest of Amankumar Khanna, )  
 18 deceased, by and on behalf of Amankumar )  
 19 Khanna , all others similarly situated, and the )  
 20 general public, )

21 Plaintiffs )

22 v. )

23 INTER-CON SECURITY SYSTEMS, INC., a )  
 24 California Corporation D/B/A/ HEALTHCARE )  
 25 SECURITY SERVICES GROUP, a putative )  
 26 independent entity; ENRIQUE HERNANDEZ, )  
 27 JR., an individual; NEIL MARTAU, an )  
 28 individual; LANCE MUELLER, an individual; )  
 29 ROLAND A. HERNANDEZ, an individual; )  
 30 PAUL R. MILLER, an individual; MICHAEL )  
 31 P. MACHARG, an individual; JEANNE )  
 32 GERVIN, an individual; MICHAEL )  
 33 SUTKAYTIS, an individual; JANA FANNING, )  
 34 an individual; BRITTANY MOORE, an )  
 35 individual; CATHERINE ROSS, an individual; )  
 36 LINDA SAYAD, an individual; MARK )  
 37 CHAMBERLAIN, an individual; and JAMES )  
 38 LATHAM, an individual, )

39 Defendants. )

CASE NO.

[CLASS ACTION & COLLECTIVE ACTION]

**COMPLAINT FOR:**

1. **Violations of the Fair Labor Standards Act (29 U.S.C. § 201 *et seq.*);**
2. **Failure to Pay Overtime (Cal. Labor Code §§ 218.6, 510, 511, 558, 1194, 1198, 1199, Wage Order No. 4-2001);**
3. **Failure to Pay Full Wages When Due (Cal. Labor Code §§ 201, 202, 203, 204, 1194, 1199);**
4. **Failure to Adhere to California Record Keeping Requirements (Cal. Labor Code §§ 226, 226.3, 1174, 1174.5, Wage Order No. 4-2001)**
5. **Unfair Business Practices (Cal. Business & Professions Code §17200 *et seq.*)**
6. **Injunctive and Monetary Relief**
7. **Private Attorneys General Act Claim for Violation of Cal. Labor Code Provisions (Cal. Labor Code § 2698 *et seq.*)**

**Demand for Jury Trial**

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# INTRODUCTION

1. This is a class/collective action, seeking unpaid overtime wages, compensation and interest thereon, waiting time penalties, liquidated damages and other penalties, and reasonable attorneys' fees and costs, under, *inter alia*, the Fair Labor Standards Act §§ 6 and 7, 29 U.S.C. §§ 206, 207, 211, and 216, Title 8 of the California Code of Regulations, Wage Order No. 4-2001, Cal. Labor Code §§ 200-204, inclusive, 218, 218.5, 218.6, 226, 226.3, 510, 511, 558, 1194, 1198, and 1199, California Business and Professions Code §§ 17200 *et seq.*, California Code of Civil Procedure § 1021.5, and the Private Attorneys General Act, Cal. Labor Code § 2698 *et seq.* This action invokes the supplemental jurisdiction of this Court to consider claims arising under California law.
2. SHASHI KHANNA ("REPRESENTATIVE PLAINTIFF"), as Successor in Interest of AMANKUMAR KHANNA ("KHANNA"), deceased, and on behalf of KHANNA and all similarly situated employees of DEFENDANTS, seeks relief on behalf of the general public of the State of California and those persons and entities affected by the practice, pursuant to Business and Professions Code section 17204.
3. This action is brought as a class action under the provisions of Federal Rule of Civil Procedure, Rule 23, and as a collective action under 29 U.S.C. § 216 of the Fair Labor Standards Act ("FLSA").
4. REPRESENTATIVE PLAINTIFF, as successor in interest to KHANNA, brings this action against Defendants INTER-CON SECURITY SYSTEMS, INC. ("INTER-CON"), a California Corporation D/B/A/ HEALTHCARE SECURITY SERVICES GROUP, a putative independent entity, ENRIQUE HERNANDEZ, JR., NEIL MARTAU, LANCE MUELLER, ROLAND A. HERNANDEZ, PAUL R. MILLER, MICHAEL P. MACHARG, JEANNE GERVIN, MICHAEL SUTKAYTIS, JANA FANNING, BRITTANY MOORE, CATHERINE ROSS, LINDA SAYAD, MARK CHAMBERLAIN, and JAMES LATHAM (collectively, "DEFENDANTS").
5. REPRESENTATIVE PLAINTIFF brings this action on behalf of KHANNA and all other persons similarly situated (hereinafter referred to as the "Plaintiff Class Members" and/or



1 the "FLSA Class Members", and/or the "California Class Members", including subclass  
 2 "California Class Members Formerly Employed by Defendants") who are, or have been,  
 3 employed by DEFENDANTS as nonexempt security guards or officers and performed  
 4 security related activities for DEFENDANTS in California within the applicable statutory  
 5 periods.

6 6. The Fair Labor Standards Act ("FLSA") of 1938, as amended, §§ 201 *et seq.*, provides  
 7 for minimum standards for overtime compensation and details administrative procedures  
 8 by which covered overtime work time must be compensated. The FLSA provides the  
 9 Federal Courts with substantial authority to redress labor abuses such as those at issue in  
 10 this Complaint.

11 7. Cal. Labor Code and Industrial Welfare Commission Wage Orders provide protection to  
 12 hourly workers, including, but not necessarily limited to, timely and sufficient pay for all  
 13 hours worked and requirements for the maintenance of accurate employee records.

14 8. On information and belief, INTER-CON was and is doing business as INTER-CON and  
 15 as HEALTHCARE SECURITY SERVICES GROUP to provide security services to  
 16 DEFENDANTS' third party customers, including the State of California and Kaiser  
 17 Foundation Hospitals.

18 9. On information and belief, and at all times relevant to this action, KHANNA and Plaintiff  
 19 Class Members were employed by DEFENDANTS within the meaning of the FLSA and  
 20 Cal. Labor Code to provide security services at certain State of California buildings and  
 21 certain Kaiser Foundation Hospitals.

22 10. On information and belief, INTER-CON, D/B/A/ HEALTHCARE SECURITY  
 23 SERVICES GROUP have had a consistent policy of requiring KHANNA and the  
 24 Plaintiff Class Members to work in excess of eight (8) hours per day and/or forty (40)  
 25 hours per week without paying them full and proper overtime compensation; willfully  
 26 failing to pay compensation (including premium pay) in a prompt and timely manner to  
 27 KHANNA and the Plaintiff Class Members; and willfully failing to provide KHANNA  
 28 and the California Class Members with accurate semi-monthly itemized wage statements



- 1 of the total number of hours each of them worked and the applicable deductions.
- 2 11. On information and belief, DEFENDANTS routinely employed KHANNA and the  
3 Plaintiff Class Members to perform work in excess of 40 hours in a seven (7) day work  
4 week and in excess of daily overtime thresholds under California law by assigning  
5 KHANNA and the Plaintiff Class Members to work overtime hours at less than time and  
6 one half of the regular rate of pay under the false pretense of working for a different  
7 employer, e.g. HEALTHCARE SECURITY SERVICES GROUP.
- 8 12. On information and belief, INTER-CON engaged in a scheme to misrepresent itself as  
9 two separate and independent employers based on the customer for whom INTER-CON  
10 assigned its employees to provide security services. On information and belief,  
11 REPRESENTATIVE PLAINTIFF alleges that INTER-CON engaged in this scheme to  
12 avoid its obligation under the FLSA and California law to provide overtime  
13 compensation, and other statutory work place protections.
- 14 13. On information and belief, and at all times relevant to this action, DEFENDANTS have  
15 employed numerous other individuals under the same or similar sham of dual  
16 employment to avoid the requirements of the FLSA and California laws. Despite actual  
17 knowledge of these facts and legal requirements, DEFENDANTS have enjoyed an  
18 advantage over their competition and disadvantaged their workers by electing not to pay  
19 their non-exempt employees overtime compensation based upon their aggregate hours  
20 worked for DEFENDANTS.
- 21 14. On information and belief, officers of DEFENDANTS, who are also named as  
22 DEFENDANTS in this Action, knew of these facts and legal requirements, yet,  
23 nonetheless, repeatedly authorized and/or ratified the violation of the laws cited herein.
- 24 15. Class certification of the claims set forth in this action is appropriate under both Federal  
25 Rules of Civil Procedure 23 and California Code of Civil Procedure § 382. Class  
26 treatment of this action is appropriate because the class is so numerous that joinder of all  
27 members is impracticable, the issues of law and fact are common to the class,  
28 REPRESENTATIVE PLAINTIFF'S claims are typical of the claims of the class, and the



1 representative party will fairly and adequately protect the interests of the class.  
 2 REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and the FLSA Class  
 3 Members, request that the Court authorize facilitated notice to similarly situated  
 4 individuals pursuant to Section 216(b) of the FLSA and *Hoffman-LaRoche Inc. v.*  
 5 *Sperling*, 493 U.S. 165 (1989).

- 6 16. REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and all similarly situated  
 7 employees of DEFENDANTS seek compensation for all uncompensated work; all  
 8 penalties, liquidated damages, and other damages permitted by law; restitution and/or  
 9 disgorgement of all benefits obtained by DEFENDANTS from its unlawful business  
 10 practices; all other forms of equitable relief permitted by law; and reasonable attorneys'  
 11 fees and costs.

#### 12 JURISDICTION AND VENUE

- 13 17. Jurisdiction for this collective action is conferred on this Court by 28 U.S.C. § 1331 and §  
 14 216(b) of the FLSA. This Court has subject matter jurisdiction of this action pursuant to  
 15 29 U.S.C. § 216(b).  
 16 18. This Court has supplemental jurisdiction over all other claims under California law  
 17 alleged in this action under 28 U.S.C. § 1367, because they form part of the same case or  
 18 controversy as the aforementioned claims.  
 19 19. The Eastern District of California has personal jurisdiction over DEFENDANTS because  
 20 DEFENDANTS have applied with the California Secretary of State to do business and is  
 21 doing business in California and in this District, and because the acts giving rise to this  
 22 action occurred in this State and this District.  
 23 20. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)(2) & (c) because a  
 24 substantial part of the events giving rise to the claims described herein, including the  
 25 overtime work performed by KHANNA and Plaintiff Class Members, and the under-  
 26 payment of wages owed, occurred within the Eastern District of California. Further,  
 27 DEFENDANTS continue to perform substantial business operations within the Eastern  
 28 District of California. REPRESENTATIVE PLAINTIFF'S predecessor in interest was



1 employed and performed the work giving rise the claims set forth in the action within the  
 2 Eastern District of California. The unlawful acts alleged herein have a direct effect on  
 3 REPRESENTATIVE PLAINTIFF'S predecessor in interest and those similarly situated  
 4 within the State of California and within this judicial district. REPRESENTATIVE  
 5 PLAINTIFF also resides in the Eastern District of California. Each and every Defendant  
 6 named was, at all times relevant hereto, a person, corporation or other business entity  
 7 existing and operating within the confines of the State of California, and thus subject to  
 8 the jurisdiction of the California courts by reason of "minimum contacts" in California,  
 9 and/or by purposeful availment of the California market for labor of the kind provided by  
 10 REPRESENTATIVE PLAINTIFF'S predecessor in interest and the Plaintiff Class  
 11 Members, and did transact and conduct business in the State of California, and are thus  
 12 subject to the jurisdiction of all laws, regulations and court decisions rendered by the  
 13 State of California. DEFENDANTS maintain offices, operate businesses, employ  
 14 persons, were incorporated in, conduct business in, and pay employees by illegal payroll  
 15 practices and policies in the State of California.

#### 16 THE PARTIES

- 17 21. Predecessor in Interest AMANKUMAR KHANNA was a natural person employed by  
 18 DEFENDANTS as a security officer at government buildings, hospitals, and other  
 19 facilities since 1999. He was a resident of Sacramento, California until his death on  
 20 October 10, 2008. AMANKUMAR KHANNA is survived by three daughters and his  
 21 wife, SHASHI KHANNA. KHANNA's estate was not administered, and no proceeding  
 22 is pending for the administration of his estate.
- 23 22. REPRESENTATIVE PLAINTIFF, SHASHI KHANNA is KHANNA's successor in  
 24 interest, as defined by California Code of Civil Procedure § 377.11, and succeeded to  
 25 KHANNA's interest in this action. No other individual or entity holds a right superior to  
 26 that held by REPRESENTATIVE PLAINTIFF, to commence this action for KHANNA.
- 27 23. REPRESENTATIVE PLAINTIFF, on behalf of Predecessor in Interest AMANKUMAR  
 28 KHANNA, hereby consents to sue for violations of the FLSA, pursuant to 29 U.S.C. §§



1 216(b) and 256. Additional Plaintiffs will be signing Consent to Join as Individual  
 2 Plaintiff forms on this claim in the future.

3 24. REPRESENTATIVE PLAINTIFF, on behalf of Predecessor in Interest AMANKUMAR  
 4 KHANNA, is the named representative of the California Class Members, consisting of all  
 5 employees employed by INTER-CON as security officers at any time from four years  
 6 before the filing of the instant Complaint, or other applicable statute of limitations, to the  
 7 present, and whose total hours worked for INTER-CON and the purported entity known  
 8 as "HEALTHCARE SECURITY SERVICES GROUP" exceeded the statutory threshold  
 9 for overtime compensation, e.g., forty hours per work week, eight hours per day or ten  
 10 hours per day.

11 25. REPRESENTATIVE PLAINTIFF, on behalf of Predecessor in Interest AMANKUMAR  
 12 KHANNA, is the named representative of the FLSA Class Members, consisting of all  
 13 employees employed by INTER-CON as security officers at any time from three years  
 14 before the filing of the instant Complaint, or other applicable statute of limitations, to the  
 15 present, and whose total hours worked for INTER-CON and the purported entity known  
 16 as "HEALTHCARE SECURITY SERVICES GROUP" exceeded the FLSA statutory  
 17 threshold for overtime compensation, e.g., forty hours per work week.

18 26. On information and belief, INTER-CON is a California corporation providing security  
 19 services and personnel throughout California and the United States, with its corporate  
 20 headquarters located in Pasadena, California. INTER-CON employs several thousand  
 21 private security officers at work sites throughout the United States including, but not  
 22 limited to, healthcare, government and commercial facilities. At all relevant times,  
 23 INTER-CON is and was PLAINTIFFS' "employer" pursuant to 29 U.S.C. § 203 and  
 24 California law.

25 27. On information and belief, HEALTHCARE SECURITY SERVICES GROUP is a  
 26 D/B/A, alter ego and/or division of INTER-CON, or alternatively, a putative independent  
 27 entity and Joint Employer pursuant to 29 C.F.R. 791.2 California law. At all relevant  
 28 times, HEALTHCARE SECURITY SERVICES GROUP is and was PLAINTIFFS'



- 1 “employer” pursuant to 29 U.S.C. § 203 and California law.
- 2 28. On information and belief, Defendant ENRIQUE HERNANDEZ, JR, an individual, is
- 3 Chief Executive Officer of INTER-CON and therefore maintained and possessed an
- 4 identical or similar capacity with respect to HEALTHCARE SECURITY SERVICES
- 5 GROUP as a D/B/A, alter ego and/or division of INTER-CON, or alternatively, a putative
- 6 independent entity and Joint Employer pursuant to 29 C.F.R. 791.2 and California law.
- 7 ENRIQUE HERNANDEZ, JR was and is an “employer” of PLAINTIFFS within the
- 8 meaning of 29 U.S.C. § 203(d) as any person “acting directly or indirectly in the interest
- 9 of an employer in relation to an employee” and 8 CCR § 11040(2)(H) as any person who
- 10 “employs or exercises control over the wages, hours, or working conditions of any
- 11 person.”
- 12 29. On information and belief, Defendant NEIL MARTAU, JR, an individual, is Executive
- 13 Vice President of INTER-CON and therefore maintained and possessed an identical or
- 14 similar capacity with respect to HEALTHCARE SECURITY SERVICES GROUP as a
- 15 D/B/A, alter ego and/or division of INTER-CON, or alternatively, a putative independent
- 16 entity and Joint Employer pursuant to 29 C.F.R. 791.2 and California law. NEIL
- 17 MARTAU, JR was and is an “employer” of PLAINTIFFS within the meaning of 29
- 18 U.S.C. § 203(d) as any person “acting directly or indirectly in the interest of an employer
- 19 in relation to an employee” and 8 CCR § 11040(2)(H) as any person who “employs or
- 20 exercises control over the wages, hours, or working conditions of any person.”
- 21 30. On information and belief, Defendant LANCE MUELLER, an individual, is Chief
- 22 Operating Officer of INTER-CON and therefore maintained and possessed an identical or
- 23 similar capacity with respect to HEALTHCARE SECURITY SERVICES GROUP as a
- 24 D/B/A, alter ego and/or division of INTER-CON, or alternatively, a putative independent
- 25 entity and Joint Employer pursuant to 29 C.F.R. 791.2 and California law. LANCE
- 26 MUELLER was and is an “employer” of PLAINTIFFS within the meaning of 29 U.S.C. §
- 27 203(d) as any person “acting directly or indirectly in the interest of an employer in
- 28 relation to an employee” and 8 CCR § 11040(2)(H) as any person who “employs or



- 1 exercises control over the wages, hours, or working conditions of any person.”
- 2 31. On information and belief, Defendant ROLAND A. HERNANDEZ, an individual, is
- 3 Secretary of INTER-CON and therefore maintained and possessed an identical or similar
- 4 capacity with respect to HEALTHCARE SECURITY SERVICES GROUP as a D/B/A,
- 5 alter ego and/or division of INTER-CON, or alternatively, a putative independent entity
- 6 and Joint Employer pursuant to 29 C.F.R. 791.2 and California law. ROLAND A.
- 7 HERNANDEZ was and is an “employer” of PLAINTIFFS within the meaning of 29
- 8 U.S.C. § 203(d) as any person “acting directly or indirectly in the interest of an employer
- 9 in relation to an employee” and 8 CCR § 11040(2)(H) as any person who “employs or
- 10 exercises control over the wages, hours, or working conditions of any person.”
- 11 32. On information and belief, Defendant PAUL R. MILLER, an individual, is Chief
- 12 Financial Officer of INTER-CON and therefore maintained and possessed an identical or
- 13 similar capacity with respect to HEALTHCARE SECURITY SERVICES GROUP as a
- 14 D/B/A, alter ego and/or division of INTER-CON, or alternatively, a putative independent
- 15 entity and Joint Employer pursuant to 29 C.F.R. 791.2 and California law. PAUL R.
- 16 MILLER was and is an “employer” of PLAINTIFFS within the meaning of 29 U.S.C. §
- 17 203(d) as any person “acting directly or indirectly in the interest of an employer in
- 18 relation to an employee” and 8 CCR § 11040(2)(H) as any person who “employs or
- 19 exercises control over the wages, hours, or working conditions of any person.”
- 20 33. On information and belief, Defendant MICHAEL P. MACHARG, an individual, is the
- 21 agent authorized to receive service of process on behalf of INTER-CON and therefore
- 22 maintained and possessed an identical or similar capacity with respect to HEALTHCARE
- 23 SECURITY SERVICES GROUP as a D/B/A, alter ego and/or division of INTER-CON,
- 24 or alternatively, a putative independent entity and Joint Employer pursuant to 29 C.F.R.
- 25 791.2 and California law. MICHAEL P. MACHARG was and is an “employer” of
- 26 PLAINTIFFS within the meaning of 29 U.S.C. § 203(d) as any person “acting directly or
- 27 indirectly in the interest of an employer in relation to an employee” and 8 CCR §
- 28 11040(2)(H) as any person who “employs or exercises control over the wages, hours, or



1 working conditions of any person.”

2 34. On information and belief, Defendant JEANNE GERVIN, an individual, is Human  
3 Resources Manager of INTER-CON and therefore maintained and possessed an identical  
4 or similar capacity with respect to HEALTHCARE SECURITY SERVICES GROUP as a  
5 D/B/A, alter ego and/or division of INTER-CON, or alternatively, a putative independent  
6 entity and Joint Employer pursuant to 29 C.F.R. 791.2 and California law. JEANNE  
7 GERVIN was and is an “employer” of PLAINTIFFS within the meaning of 29 U.S.C. §  
8 203(d) as any person “acting directly or indirectly in the interest of an employer in  
9 relation to an employee” and 8 CCR § 11040(2)(H) as any person who “employs or  
10 exercises control over the wages, hours, or working conditions of any person.”

11 35. On information and belief, Defendant MICHAEL SUTKAYTIS, an individual, is Vice  
12 President of Business Development of INTER-CON and therefore maintained and  
13 possessed an identical or similar capacity with respect to HEALTHCARE SECURITY  
14 SERVICES GROUP as a D/B/A, alter ego and/or division of INTER-CON, or  
15 alternatively, a putative independent entity and Joint Employer pursuant to 29 C.F.R.  
16 791.2 and California law. MICHAEL SUTKAYTIS was and is an “employer” of  
17 PLAINTIFFS within the meaning of 29 U.S.C. § 203(d) as any person “acting directly or  
18 indirectly in the interest of an employer in relation to an employee” and 8 CCR §  
19 11040(2)(H) as any person who “employs or exercises control over the wages, hours, or  
20 working conditions of any person.”

21 36. On information and belief, Defendant JANA FANNING, an individual, is Operations  
22 Manager of INTER-CON and therefore maintained and possessed an identical or similar  
23 capacity with respect to HEALTHCARE SECURITY SERVICES GROUP as a D/B/A,  
24 alter ego and/or division of INTER-CON, or alternatively, a putative independent entity  
25 and Joint Employer pursuant to 29 C.F.R. 791.2 and California law. JANA FANNING  
26 was and is an “employer” of PLAINTIFFS within the meaning of 29 U.S.C. § 203(d) as  
27 any person “acting directly or indirectly in the interest of an employer in relation to an  
28 employee” and 8 CCR § 11040(2)(H) as any person who “employs or exercises control



1 over the wages, hours, or working conditions of any person.”

- 2 37. On information and belief, Defendant BRITTANY MOORE, an individual, is Office  
3 Manager of INTER-CON and therefore maintained and possessed an identical or similar  
4 capacity with respect to HEALTHCARE SECURITY SERVICES GROUP as a D/B/A,  
5 alter ego and/or division of INTER-CON, or alternatively, a putative independent entity  
6 and Joint Employer pursuant to 29 C.F.R. 791.2 and California law. BRITTANY  
7 MOORE was and is an “employer” of PLAINTIFFS within the meaning of 29 U.S.C. §  
8 203(d) as any person “acting directly or indirectly in the interest of an employer in  
9 relation to an employee” and 8 CCR § 11040(2)(H) as any person who “employs or  
10 exercises control over the wages, hours, or working conditions of any person.”
- 11 38. On information and belief, Defendant CATHERINE ROSS, an individual, is Vice  
12 President of Operations of INTER-CON and therefore maintained and possessed an  
13 identical or similar capacity with respect to HEALTHCARE SECURITY SERVICES  
14 GROUP as a D/B/A, alter ego and/or division of INTER-CON, or alternatively, a putative  
15 independent entity and Joint Employer pursuant to 29 C.F.R. 791.2 and California law.  
16 CATHERINE ROSS was and is an “employer” of PLAINTIFFS within the meaning of 29  
17 U.S.C. § 203(d) as any person “acting directly or indirectly in the interest of an employer  
18 in relation to an employee” and 8 CCR § 11040(2)(H) as any person who “employs or  
19 exercises control over the wages, hours, or working conditions of any person.”
- 20 39. On information and belief, Defendant LINDA SAYAD, an individual, is HR Generalist  
21 of INTER-CON and therefore maintained and possessed an identical or similar capacity  
22 with respect to HEALTHCARE SECURITY SERVICES GROUP as a D/B/A, alter ego  
23 and/or division of INTER-CON, or alternatively, a putative independent entity and Joint  
24 Employer pursuant to 29 C.F.R. 791.2 and California law. LINDA SAYAD was and is  
25 an “employer” of PLAINTIFFS within the meaning of 29 U.S.C. § 203(d) as any person  
26 “acting directly or indirectly in the interest of an employer in relation to an employee” and  
27 8 CCR § 11040(2)(H) as any person who “employs or exercises control over the wages,  
28 hours, or working conditions of any person.”



40. On information and belief, Defendant MARK CHAMBERLAIN, an individual, is Vice President of Finance and Corporate Controller of INTER-CON and therefore maintained and possessed an identical or similar capacity with respect to HEALTHCARE SECURITY SERVICES GROUP as a D/B/A, alter ego and/or division of INTER-CON, or alternatively, a putative independent entity and Joint Employer pursuant to 29 C.F.R. 791.2 and California law. MARK CHAMBERLAIN was and is an "employer" of PLAINTIFFS within the meaning of 29 U.S.C. § 203(d) as any person "acting directly or indirectly in the interest of an employer in relation to an employee" and 8 CCR § 11040(2)(H) as any person who "employs or exercises control over the wages, hours, or working conditions of any person."

41. On information and belief, Defendant JAMES LATHAM, an individual, was KHANNA's immediate supervisor, and holds, or held, a supervisory position at INTER-CON and therefore maintained and possessed an identical or similar capacity with respect to HEALTHCARE SECURITY SERVICES GROUP as a D/B/A, alter ego and/or division of INTER-CON, or alternatively, a putative independent entity and Joint Employer pursuant to 29 C.F.R. 791.2 and California law. JAMES LATHAM was and is an "employer" of PLAINTIFFS within the meaning of 29 U.S.C. § 203(d), as any person "acting directly or indirectly in the interest of an employer in relation to an employee", and 8 CCR § 11040(2)(H), as any person who "employs or exercises control over the wages, hours, or working conditions of any person."

#### **COMMON ALLEGATIONS**

42. REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and Plaintiff Class Members, repeats and re-alleges each and every allegation contained in Paragraph Nos. 1 through 41, inclusive, above as though set forth fully herein.

43. On information and belief, KHANNA and the FLSA Class Members were employed by DEFENDANTS within the three year period preceding the filing of this Action.

44. On information and belief, KHANNA and the California Class Members were employed by INTER-CON during the four year time period preceding the filing of PLAINTIFFS'



1 Complaint in the instant Action.

2 45. On information and belief, INTER-CON is organized according to division, department,  
3 branch or other organization ("division"), including, but not limited to, a division  
4 specializing in providing security services and personnel to healthcare facilities.

5 46. On information and belief, "HEALTHCARE SECURITY SERVICES GROUP" is a  
6 division of INTER-CON, and provides security services and personnel specifically for  
7 healthcare facilities throughout California and the United States. On information and  
8 belief, HEALTHCARE SECURITY SERVICES GROUP employs several thousand  
9 private security officers at healthcare facilities throughout the United States, including but  
10 not limited to, at hospitals operated by Kaiser Permanente and Kaiser Foundation  
11 Hospitals.

12 47. Alternatively, and on information and belief, HEALTHCARE SECURITY SERVICES  
13 GROUP is a putative independent entity and joint employer pursuant to 29 C.F.R. 791.2  
14 and *Vernon v. State*, 116 Cal.App.4th 114, 125 n. 7 (2004); *Ontiveros v. Zamora* 2009  
15 WL 425962 (E.D. Cal., 2009).

16 48. On information and belief, KHANNA and Plaintiff Class Member's payroll records  
17 reflect that KHANNA and Plaintiff Class Members were regularly assigned, scheduled  
18 and therefore were suffered or permitted by DEFENDANTS to work at more than one  
19 type of facility, including at healthcare facilities, during the same workday or workweek.  
20 On information and belief, KHANNA and Plaintiff Class Members were regularly  
21 assigned, scheduled and therefore were suffered or permitted by DEFENDANTS to work  
22 at more than one type of facility, including at healthcare facilities, during the same day or  
23 work week.

24 49. On information and belief, KHANNA and Plaintiff Class Members' payroll records  
25 reflect that KHANNA and Plaintiff Class Members who provided security services at  
26 more than one type of facility, including at healthcare facilities, during the same day or  
27 work week were issued separate paychecks by the purported entity known as  
28 HEALTHCARE SECURITY SERVICES GROUP and by INTER-CON, as



1 compensation for time spent working at healthcare facilities and at other types of  
2 facilities, respectively. KHANNA and Plaintiff Class Members who provided security  
3 services at more than one type of facility, including at healthcare facilities, during the  
4 same workday or workweek were issued separate paychecks by the purported entity  
5 known as HEALTHCARE SECURITY SERVICES GROUP and by INTER-CON, as  
6 compensation for time spent working at healthcare facilities and at other types of  
7 facilities, respectively.

8 50. KHANNA and Plaintiff Class Members' payroll records reflect that KHANNA and  
9 Plaintiff Class Members regularly worked more than forty (40) hours per work week, and  
10 more than eight (8) hours per work day providing security services to healthcare,  
11 governmental and commercial facilities in total.

12 51. On information and belief, KHANNA and Plaintiff Class Members regularly worked  
13 more than forty (40) hours per work week, and more than eight (8) hours per work day  
14 providing security services to healthcare, governmental and commercial facilities in total.

15 52. KHANNA and Plaintiff Class Members' payroll records reflect that KHANNA and  
16 Plaintiff Class Members were not paid overtime compensation at the applicable overtime  
17 rate of pay for all hours worked in excess of the minimum threshold of hours worked of  
18 forty hours per work week, eight hours per work day.

19 53. On information and belief, DEFENDANTS failed to provide KHANNA and Plaintiff  
20 Class Members the requisite overtime compensation for all hours worked in excess of the  
21 minimum threshold of hours worked of forty hours per work week, eight hours per work  
22 day under Federal and California law, respectively.

23 54. On information and belief, REPRESENTATIVE PLAINTIFF hereby alleges, on behalf of  
24 KHANNA and Plaintiff Class Members, that DEFENDANTS willingly and knowingly  
25 withheld overtime compensation due to KHANNA and Plaintiff Class Members for  
26 hours worked in excess of forty hours per work week, eight hours per work day, and/or  
27 other applicable thresholds for determining overtime compensation.

28 ///



55. Under FLSA and applicable state law, INTER-CON and HEALTHCARE SECURITY SERVICES GROUP constitute the same or joint employer under 29 U.S.C. § 203, or are joint employers under 29 C.F.R. 791.2 and California law.

56. On information and belief, DEFENDANTS willfully and/or recklessly engaged in a scheme to withhold paying KHANNA and Plaintiff Class Members overtime compensation by falsely representing that INTER-CON and HEALTHCARE SECURITY SERVICES GROUP were independent entities, and that KHANNA and Plaintiff Class Members' entitlement to overtime is determined separately based on the number of hours worked for each purported entity independent from the hours worked for the other purported entity. Accordingly, hours worked by KHANNA and Plaintiff Class Members while employed by INTER-CON and HEALTHCARE SECURITY SERVICES GROUP were not combined for purposes of determining PLAINTIFFS' entitlement to and the provision of overtime under California and Federal law.

57. On information and belief, DEFENDANTS engaged in unlawful, unfair or fraudulent business act or practices to avoid the legal requirement to pay overtime compensation, and therefore, such acts constitutes unfair business practices

#### **COLLECTIVE ACTION ALLEGATIONS**

58. REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and FLSA Class Members, repeats and re-alleges each allegation contained in Paragraph Nos. 1 through 57, inclusive, above as though set forth fully herein.

59. REPRESENTATIVE PLAINTIFF brings the First Cause of Action for violation of the Fair Labor Standards Act (hereinafter "FLSA") as a collective action pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b), on behalf of KHANNA and all other similarly situated individuals under the provisions of 29 U.S.C. § 216 for damages, liquidated damages under a three year statute of limitations, and relief incident and subordinate thereto, including costs and attorneys' fees.

60. The First Cause of Action for violations of the FLSA is brought and maintained as an "opt-in" collective action pursuant to 29 U.S.C. § 216(b) for all violations of the FLSA.



- 1 61. The individuals in this Class are collectively referred to as the "FLSA Class Members" or  
2 the "FLSA Class."
- 3 62. A collective action is a superior method for bringing this action in that there is a well  
4 defined community of interest in the questions of law and fact.
- 5 63. KHANNA and FLSA Class Members are similarly situated and are subject to INTER-  
6 CON's common practice, policy, or plan of failing to compensate KHANNA and FLSA  
7 Class Members for all hours worked and refusing to pay overtime in violation of the  
8 FLSA.
- 9 64. The FLSA Class consists of non-exempt security guards or security officers and  
10 performed an aggregate of more than 40 hour of security related work for Defendants  
11 INTER-CON SECURITY SYSTEMS, INC and HEALTHCARE SECURITY  
12 SERVICES GROUP, a putative independent entity, in any work week without receiving  
13 overtime compensation for all aggregate hours worked in excess of 40 during the three  
14 years preceding the filing of this complaint.
- 15 65. Common questions of law and fact in the action exist that relate to and affect the rights of  
16 each member of the class, namely, whether DEFENDANTS maintained a policy requiring  
17 KHANNA and FLSA Class Members to work in excess of forty (40) hours per week  
18 without paying them full and proper overtime compensation, and whether time worked  
19 while purportedly employed by INTER-CON, and time worked while purportedly being  
20 employed by HEALTHCARE SECURITY SERVICES GROUP must be combined for  
21 purposes of determining overtime entitlements.
- 22 66. The exact number of members of the class identified and described above is not known.  
23 The class is so numerous that joinder of individual members herein is impracticable.
- 24 67. The attorneys for REPRESENTATIVE PLAINTIFF, KHANNA and FLSA Class  
25 Members are experienced and capable in the field of the FLSA and labor/employment  
26 litigation and have successfully represented claimants in other litigation of this nature. Of  
27 the attorneys designated as counsel for PLAINTIFFS, David P. Mastagni, David E.  
28 Mastagni, James B. Carr, David D. King, and Isaac S. Stevens will actively conduct and



1 be responsible for PLAINTIFFS' case herein.

2 68. This action is properly maintained as a collective action because the prosecution of  
3 separate actions by individual members would create a risk of varying adjudications with  
4 respect to individual members of the class, which would establish incompatible standards  
5 of conduct for the DEFENDANTS and, as a practical matter, be dispositive of the  
6 interests of the other members not parties to the adjudications, or substantially impair or  
7 impede their ability to protect their interests.

8 69. The names and addresses of additional collective action plaintiffs are available from  
9 DEFENDANTS, and notice should be provided by first class mail to their last known  
10 address and by workplace posting as soon as possible.

11 **CLASS ACTION ALLEGATIONS**

12 70. REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and California Class  
13 Members, repeats and re-alleges each and every allegation contained in Paragraph Nos. 1  
14 through 69, inclusive, above as though set forth fully herein.

15 71. REPRESENTATIVE PLAINTIFF brings this action on behalf of KHANNA and all  
16 California Class Members as a Class Action pursuant to Rules 23(a), (b)(1), and (b)(3).  
17 REPRESENTATIVE PLAINTIFF seeks to represent a class defined as all non-exempt  
18 security guards or security officers who are currently employed or have been employed by  
19 DEFENDANTS, including INTER-CON and the putative independent entity known as  
20 HEALTHCARE SECURITY SERVICES GROUP, within the State of California who at  
21 any time four (4) years prior to the filing of this lawsuit and who in the aggregate worked  
22 more than 8 hours in a day or 40 hours in a week for these DEFENDANTS without being  
23 compensated at the proper premium or overtime rate.

24 72. The individuals in this Class are collectively referred to as the "California Class  
25 Members" or the "California Class."

26 73. REPRESENTATIVE PLAINTIFF also seeks to represent a subclass of the California  
27 Class Members defined as all non-exempt security guards or security officers who were  
28 formerly employed by DEFENDANTS, including INTER-CON and the putative



1 independent entity known as HEALTHCARE SECURITY SERVICES GROUP, within  
2 the State of California, who at any time four (4) years prior to the filing of this lawsuit  
3 and who in the aggregate worked more than 8 hours in a day or 40 hours in a week for  
4 DEFENDANTS without being compensated at the proper premium or overtime rate. The  
5 individuals in this subclass are collectively referred to as "California Class Members  
6 Formerly Employed by Defendants" or the "California Former Employees Class."

7 74. This action has been brought and may properly be maintained as a class action under Rule  
8 23, because there is a well-defined community of interest in the litigation, and the  
9 proposed class is easily ascertainable.

10 75. The number of plaintiffs is so high that joinder of all California Class Members is  
11 impracticable. REPRESENTATIVE PLAINTIFF is informed and believes, and on that  
12 basis alleges, that the California Class consists of hundreds of individuals who have been  
13 employed by DEFENDANTS during the four years immediately prior to the filing of the  
14 instant Complaint. Although the exact number and identities of class members are  
15 unknown at this time, this information is readily ascertainable from DEFENDANTS  
16 through discovery of its payroll and personnel records.

17 76. A class action is a superior method for bringing this action because there is a well defined  
18 community of interest in the questions of law and fact. Common questions of law and fact  
19 predominate over any questions affecting individual class members. Questions of law and  
20 fact common to the California Class Members include, but are not limited to, whether  
21 DEFENDANTS failed to pay class members their full wages when due as required by  
22 Cal. Labor Code §§ 201, 202, 203 and 204; whether DEFENDANTS failed to pay class  
23 members overtime compensation or premium pay in violation of Cal. Labor Code §§201,  
24 202, 203, 226, 510, 1174, 1174.5, and 1194, Cal. Wage Order No. 4 for hours worked in  
25 excess of eight (8) or twelve (12) hours in one day or forty (40) hours in one week;  
26 whether California Class Members are entitled to "waiting time" penalties/wages  
27 pursuant to Cal. Labor Code § 203; whether DEFENDANTS unlawfully failed to keep  
28 and furnish class members with records of hours worked, in violation of Cal. Labor Code



1 §§226 and 1174; whether DEFENDANTS' policies and practices of failing to pay its  
2 employees all wages due within the time required by law after their employment ended  
3 violates California law; and whether DEFENDANTS' conduct violated the California  
4 Unfair Competition Law, Cal. Bus. & Prof. Code §17200 *et seq.*, as alleged in this  
5 Complaint.

6 77. KHANNA and the California Class Members are similarly situated, have substantially  
7 similar job duties, have substantially similar pay provisions, and are all subject to  
8 Defendants' illegal labor violations in their refusal to pay proper overtime, their refusal to  
9 provide adequate pay stubs, and their refusal to timely pay employees all of their wages,  
10 including upon termination. DEFENDANTS have, and at all relevant times had, a  
11 policy and practice of refusing to pay members of PLAINTIFFS' CLASS overtime  
12 compensation for hours worked in excess of the minimum threshold set by California law  
13 and applicable Wage Orders.

14 78. The claims of REPRESENTATIVE PLAINTIFF are typical of the claims of the  
15 California Class. REPRESENTATIVE PLAINTIFF will fairly and adequately represent  
16 and protect the interests of the class. REPRESENTATIVE PLAINTIFF has retained  
17 counsel competent and experienced in complex class actions, the FLSA, and state labor  
18 and employment litigation. REPRESENTATIVE PLAINTIFF anticipates no management  
19 difficulties in this litigation. REPRESENTATIVE PLAINTIFF reserves the right to join  
20 or add additional class or subclass representatives if deemed appropriate by the Court.

21 79. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(1), because prosecuting  
22 separate actions by individual class members would create a risk of inconsistent or  
23 varying adjudications with respect to individual class members, or create a risk of  
24 adjudications with respect to individual class members that would be dispositive of the  
25 interests of the other members not parties to the individual adjudications.

26 80. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(2) because  
27 DEFENDANTS acted or refused to act on grounds generally applicable to California  
28 Class Members, so that any final injunctive relief or corresponding declaratory relief is



1 appropriate respecting the class as a whole.

2 81. Class certification is also appropriate under Fed. R. Civ. P. 23(b)(3), because questions of  
3 law and fact common to California Class Members predominate over any questions  
4 affecting only individual California Class Members, and because the class action device  
5 is superior to other available methods for the fair and efficient adjudication of this  
6 litigation.

7 82. Since the damages suffered by individual California Class Members, while not  
8 inconsequential, may be relatively small, the expense and burden of individual litigation  
9 by each member makes, or may make, Class Members' individual redress impractical for  
10 the wrongful conduct alleged herein. Should separate actions be brought, or be required to  
11 be brought, by each individual Class Member, the resulting multiplicity of lawsuits would  
12 cause undue hardship and expense for the Court and the litigants. The prosecution of  
13 separate actions would also create a risk of inconsistent rulings, which might be  
14 dispositive of the interests of other Class members who are not parties to the  
15 adjudications and/or may substantially impede their ability to adequately protect their  
16 interests. Moreover, REPRESENTATIVE PLAINTIFF is informed and believe, and  
17 based thereon allege, that DEFENDANTS, in refusing to pay wages to the FLSA Class  
18 Members and the California Class Members, have acted and refused to act on grounds  
19 generally applicable to all claims, thereby making appropriate injunctive and monetary  
20 relief for all members of each class. Consequently, Class certification is proper under  
21 FRCP 23(b)(2).

22 **PRIVATE ATTORNEY GENERAL ACT CLAIM ALLEGATIONS**

23 83. REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and California Class  
24 Members, repeats and re-alleges each and every allegation contained in Paragraph Nos. 1  
25 through 82, inclusive, above as though set forth fully herein.

26 84. Pursuant to Cal. Labor Code § 2698, *et seq.*, the Private Attorneys General Act ("PAGA")  
27 of 2004, KHANNA and California Class Members are entitled to recover civil penalties  
28 pursuant to Cal. Labor Code § 2699(f) provided the notice and other procedures



prescribed by the statute are followed.

85. KHANNA and California Class Members provided notice to the Labor and Workforce Development Agency and DEFENDANTS via Certified Mail dated July 8, 2009, alleging DEFENDANTS' violations of Cal. Labor Code §§ 201, 202, 204, 226, 510, 511, 1174, 1194, 1198, 1199, and 2699(f) and (g) with respect to KHANNA and the California Class Members' employment with DEFENDANTS at all times relevant herein, pursuant to the notice requirements of Cal. Labor Code § 2699.3(a).

86. In a notice dated July 31, 2009, the Labor and Workforce Development Agency notified KHANNA and California Class Members that the Labor and Workforce Development Agency would not investigate the claims made pursuant to Cal. Labor Code § 2699 *et seq.*

87. As the Labor and Workforce Development Agency has declined to investigate KHANNA and California Class Members' claims, REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and California Class Members, and each of them, is entitled to civil penalties and attorneys' fees and costs recovered through a civil action, pursuant to Cal. Labor Code §§ 2699(f), 2699(g) and 2699.3(a)(2)(C).

**FIRST CAUSE OF ACTION**  
**For Failure to Pay Overtime Compensation**  
**(Fair Labor Standards Act, 29 U.S.C. §201 *et seq.*)**

88. REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and FLSA Class Members, repeats and re-alleges each and every allegation contained in Paragraph Nos. 1 through 87, inclusive, above as though set forth fully herein.

89. On information and belief, and at all relevant times, DEFENDANTS, and each of them, has been, and continues to be, an "employer" engaged in interstate "commerce" and/or in the production of "goods" for "commerce", within the meaning of the FLSA, 29 U.S.C. § 203. On information and belief, and at all relevant times, DEFENDANTS, and each of them, employed and/or continues to employ "employee[s]," including KHANNA and each of the prospective FLSA Class Members, who were and/or continue to be engaged in interstate "commerce" and/or in the production of "goods" for "commerce," within the



1 meaning of the FLSA, 29 U.S.C. § 203. On information and belief, and at all relevant  
2 times, DEFENDANTS, and each of them, had gross operating revenues in excess of  
3 \$500,000.

4 90. KHANNA and FLSA Class Members are nonexempt employees entitled to overtime  
5 compensation for all hours worked in excess of forty (40) in a seven (7) day work week.  
6 KHANNA and FLSA Class Members are not subject to any applicable exemptions from  
7 the requirement to pay overtime under federal law.

8 91. At all relevant times, HEALTHCARE SECURITY SERVICES GROUP is a D/B/A of or  
9 division of INTER-CON, and does not exist as an independent "employer" pursuant to 29  
10 U.S.C. § 203(d). Alternatively, HEALTHCARE SECURITY SERVICES GROUP and  
11 INTER-CON are Joint Employers pursuant to 29 C.F.R. 791.2, and time spent working  
12 for HEALTHCARE SECURITY SERVICES GROUP and INTER-CON during a given  
13 work week is considered time spent working for one employer.

14 92. The FLSA requires DEFENDANTS, and each of them, as a covered employer, to  
15 compensate all non-exempt employees for all hours worked, and to compensate all  
16 non-exempt employees at a rate of not less than one and one-half times their regular rate  
17 of pay for work performed in excess of forty (40) hours in a work week.

18 93. DEFENDANTS violated and continue to violate the FLSA, 29 U.S.C. § 201 *et seq.*,  
19 including 29 U.S.C. §§207(a)(1) and 215(a), by failing to pay KHANNA and FLSA Class  
20 Members at one-and-a-half times their regular rates of pay for all hours actually worked  
21 in excess of forty (40) in a workweek for Defendants. On information and belief, and at  
22 all relevant times, KHANNA and FLSA Class Members regularly worked in excess of  
23 forty (40) hours per week in the aggregate for DEFENDANTS, including  
24 HEALTHCARE SECURITY SERVICES GROUP and INTER-CON, but were not paid  
25 for such overtime work.

26 94. On information and belief, and at all relevant times, DEFENDANTS, including  
27 HEALTHCARE SECURITY SERVICES GROUP and INTER-CON, required, and still  
28 requires, the FLSA Class Members, as part of their employment, to work in excess of



- 1        forty (40) hours per week without overtime compensation in violation of the FLSA. The  
2        precise number of hours will be proven at trial.
- 3    95.    REPRESENTATIVE PLAINTIFF is informed and believes that by failing to pay  
4        overtime compensation due to KHANNA and FLSA Class Members, DEFENDANTS  
5        willingly, knowingly, and/or recklessly violated the provisions of the FLSA that require  
6        the payment of overtime compensation to nonexempt employees.
- 7    96.    On information and belief, these violations of the FLSA were knowing and willful within  
8        the meaning of 29 U.S.C. §201 *et seq.*, and therefore DEFENDANTS' liability extends  
9        back three years from the commencement of the instant action, pursuant to 29 U.S.C. §  
10       255(a).
- 11   97.    REPRESENTATIVE PLAINTIFF is informed and believes that as a result of  
12        DEFENDANTS' policy and practice of withholding overtime compensation, KHANNA  
13        and FLSA Class Members have been damaged in that they have not received wages owed  
14        them under the FLSA.
- 15   98.    On information and belief, DEFENDANTS made it difficult to account for the unpaid  
16        overtime wages earned by KHANNA and FLSA Class Members at all times relevant to  
17        this litigation because they did not make, keep, and preserve the full and actual hours  
18        worked by KHANNA and FLSA Class Members, as required for nonexempt employees  
19        under 29 U.S.C. § 211(c).
- 20   99.    On information and belief, DEFENDANTS' failure to retain accurate records of hours  
21        actually worked by KHANNA and FLSA Class Members was willful and deliberate and  
22        designed to serve their policy of unlawfully denying overtime wages to their employees.
- 23   100.    On information and belief, REPRESENTATIVE PLAINTIFF alleges that as a result of  
24        the unlawful acts of the DEFENDANTS, KHANNA and FLSA Class Members were  
25        deprived of overtime compensation in amounts not yet fully ascertained, but to be  
26        determined at trial, and are entitled to recovery of such amounts, liquidated damages,  
27        and/or prejudgment interest, attorney fees and costs, and other compensation allowable  
28        under 29 U.S.C. § 216(b) of the FLSA.



101. REPRESENTATIVE PLAINTIFF proposes to undertake appropriate proceedings to have such FLSA Class Members, aggrieved by DEFENDANTS' unlawful conduct, notified of the pendency of this action and join this action as FLSA Class Members, pursuant to 29 U.S.C. § 216(b), by filing written consents to joinder with the Court.

102. As a result of the foregoing, REPRESENTATIVE PLAINTIFF seeks judgment against DEFENDANTS on behalf of KHANNA and the FLSA Class Members similarly situated who file written consents to joinder in this action, for all unpaid wages owed by DEFENDANTS to KHANNA and the FLSA Class Members, pursuant to 29 U.S.C. §§ 203 *et seq.*, together with an award of an additional equal amount as liquidated damages, and costs, interest, and reasonable attorneys' fees, as provided for under 29 U.S.C. § 216(b). DEFENDANTS, and each of them, as "employers" of KHANNA and the FLSA Class Members under 29 U.S.C. § 203(d), may be held jointly and severally liable for damages resulting from the failure to comply with the FLSA.

#### **SECOND CAUSE OF ACTION**

##### **For Failure to Pay Overtime or Premium Compensation in Violation of California Law (Cal. Wage Order No. 4-2001; Cal. Labor Code §§ 218.6, 510, 511, 558, 1194, 1198, 1199)**

103. REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and California Class Members, repeats and re-alleges each allegation contained in Paragraph Nos. 1 through 102, inclusive, above as though set forth fully herein.

104. On information and belief, KHANNA and California Class Members were and/or are employed by DEFENDANTS as non-exempt security guards or security officers, and that at all relevant times, DEFENDANTS, and each of them, has been, and continues to be, an "employer" who directly or indirectly, or through an agent or any other person exercises control over the wages, hours, or working conditions of any person, and engages, suffers or permits KHANNA and California Class Members to work pursuant to Wage Order No. 4-2001.

105. On information and belief, and at all relevant times, HEALTHCARE SECURITY SERVICES GROUP is a division of INTER-CON, and does not exist as an independent "employer" pursuant to Wage Order No. 4-2001, Cal. Labor Code § 18. Alternatively,



- 1 HEALTHCARE SECURITY SERVICES GROUP is and was a Joint Employer under  
 2 California law.
- 3 106. California law, including Wage Order No. 4-2001, and the Cal. Labor Code §§ 510, 511  
 4 and 1198 describe, *inter alia*, the daily and weekly minimum threshold number of hours  
 5 that non-exempt, covered employees may work before such employees must be paid  
 6 overtime compensation.
- 7 107. To the extent applicable, DEFENDANTS may adopt a regularly scheduled alternative  
 8 workweek schedule whereby PLAINTIFFS may work for no longer than 10 hours per day  
 9 within a 40-hour workweek without compensation at the overtime rate of pay pursuant to  
 10 Cal. Labor Code § 511.
- 11 108. Non-exempt California employees must be provided daily overtime compensation at a  
 12 rate of time and one half the regular rate of pay for all hours worked in excess of eight (8)  
 13 hours in given workday or ten (10) hours in a given workday where a valid Section 511  
 14 alternative work schedule has been enacted. Non-exempt California employees must be  
 15 provided daily double-time premium pay at a rate of twice the regular rate of pay for all  
 16 hours worked in excess of twelve (12) hours in given workday. Non-exempt California  
 17 employees must be provided overtime compensation at a rate of time and one half the  
 18 regular rate of pay for all hours worked in excess of the 40 hour work week.
- 19 109. On information and belief, KHANNA and California Class Members regularly worked  
 20 more than eight (8) hours per day and/or ten (10) hours per day and/or forty (40) hours  
 21 per week, but did not receive full and proper overtime wages for these hours of work.
- 22 110. On information and belief, KHANNA and California Class Members regularly worked  
 23 more than twelve (12) hours per day, but did not receive full and proper premium wages  
 24 for these hours of work.
- 25 111. Cal. Labor Code §§ 558, 1194 and 1199 directs that employers who violate Cal. Labor  
 26 Code provisions regulating hours and days of work are subject to payment of recovered  
 27 wages, fines or other penalties.
- 28 ///



1 112. Cal. Labor Code § 1194 states that any employee receiving less than the legal overtime  
2 compensation applicable to the employee is entitled to recover the unpaid balance of the  
3 full amount of this overtime compensation, including interest thereon, reasonable  
4 attorney's fees, and costs of suit.

5 113. On information and belief, DEFENDANTS engaged in a business practice of requiring  
6 and encouraging KHANNA and California Class Members to work in excess of eight (8),  
7 ten (10), or twelve (12) hours per day and/or forty (40) hours per week by erroneously and  
8 improperly characterizing its employment of KHANNA and California Class Members at  
9 work sites of different customers as employment with separate and independent  
10 employers. As a result of this business practice and policy, KHANNA and California  
11 Class Members were not properly compensated for all the hours that DEFENDANTS  
12 required them to work.

13 114. On information and belief, DEFENDANTS have failed and refused, and continue to fail  
14 and refuse, to pay KHANNA and California Class Members overtime and double-time  
15 compensation as required by California wage and hour laws.

16 115. DEFENDANTS' conduct described in this Complaint violates the provisions of Cal.  
17 Wage Order 4-2001 and Cal. Labor Code § 1194.

18 116. On information and belief, and at all times relevant, DEFENDANTS did not compensate  
19 KHANNA and California Class Members for time spent working in excess of the forty  
20 (40) hours per week, eight (8) hours per day, or applicable alternative workweek schedule  
21 in violation of California Wage Order No. 4-2001 and Cal. Labor Code §§ 510, 511 and  
22 1198.

23 117. On information and belief, DEFENDANTS made it difficult to account for the unpaid  
24 overtime wages earned by KHANNA and California Class Members at all times relevant  
25 to this litigation because they did not make, keep, and preserve the actual hours worked  
26 by KHANNA and California Class Members as required for nonexempt employees under  
27 Cal. Labor Code § 1174(d) and IWC Wage Order No. 4-2001.

28 ///



1 118. On information and belief, DEFENDANTS' failure to retain accurate and correct records  
 2 of hours actually worked by KHANNA and California Class Members was willful and  
 3 deliberate and designed to serve their policy of unlawfully denying overtime wages to  
 4 their employees.

5 119. As a direct and proximate result of the DEFENDANTS, KHANNA and California Class  
 6 Members were deprived overtime compensation in amounts not yet fully ascertained, but  
 7 to be determined at trial, and are entitled to recovery of such amounts, together with  
 8 interest, waiting time penalties, attorneys' fees, litigation costs, and other compensation  
 9 under state law.

10 120. REPRESENTATIVE PLAINTIFF and California Class Members, and each of them, are  
 11 entitled to receive unpaid wages, penalties and fines, and DEFENDANTS are subject to  
 12 pay unpaid wages, fines and penalties, pursuant to Cal. Labor Code §§ 558, 1194 and  
 13 1199, for DEFENDANT'S failure to pay KHANNA and California Class Members for  
 14 time spent working in excess of the forty (40) hours per week, eight (8) hours per day, or  
 15 applicable alternative workweek schedule in violation of California Wage Order No.  
 16 4-2001 and Cal. Labor Code §§ 510, 511 and 1198.

17 121. REPRESENTATIVE PLAINTIFF and California Class Members, and each of them, are  
 18 entitled to recover from DEFENDANTS all pre-judgment and post-judgment interest  
 19 thereon pursuant to Cal. Labor Code §218.6, and reasonable attorneys' fees and costs  
 20 incurred in prosecuting this action, pursuant to Cal. Labor Code §§218, 218.5, and 1194,  
 21 and Code of Civil Procedure § 1021.5.

22 **THIRD CAUSE OF ACTION**  
 23 **For Failure to Pay Full Wages When Due**  
**(Cal. Labor Code §§ 201, 202, 203, 204, 1194, 1199)**

24 122. REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and California Class  
 25 Members, repeats and re-alleges each and every allegation contained in Nos. 1 through  
 26 121, inclusive, above as though set forth fully herein.

27 123. Cal. Labor Code §201 requires an employer who discharges an employee to pay  
 28 compensation due and owing to said employee immediately upon the employee's



- 1 discharge. Cal. Labor Code §202 requires an employer to promptly pay compensation due  
 2 and owing to an employee within 72 hours of that employee's termination of employment  
 3 by resignation. Cal. Labor Code §203 provides that if an employer willfully fails to pay  
 4 compensation promptly upon discharge or resignation in a prompt and timely manner as  
 5 required pursuant to Cal. Labor Code §201 and §202 respectively, said employer is liable  
 6 to said employee for waiting time penalties as described therein.
- 7 124. Cal. Labor Code § 204 directs the timely payment of wages generally.
- 8 125. Cal. Labor Code §§ 1194 and 1199 direct the payment of unpaid wages and imposes  
 9 penalties for failing to pay wages due.
- 10 126. On information and belief, REPRESENTATIVE PLAINTIFF alleges that, by failing to  
 11 compensate KHANNA and Formerly Employed California Class Member who were  
 12 discharged from their employment with DEFENDANTS, the DEFENDANTS have  
 13 willfully failed to make timely payment of the full wages due to such employees, in  
 14 violation of Cal. Labor Code § 201.
- 15 127. On information and belief, REPRESENTATIVE PLAINTIFF alleges that by failing to  
 16 compensate Formerly Employed California Class Member who have quit their  
 17 employment with DEFENDANTS, the DEFENDANTS willfully failed to make timely  
 18 payment of the full wages due to such employees, in violation of Cal. Labor Code § 202.
- 19 128. On information and belief, REPRESENTATIVE PLAINTIFF alleges that by failing to  
 20 timely compensate Formerly Employed California Class Member who have quit or been  
 21 discharged from their employment with DEFENDANTS, PLAINTIFFS are entitled to  
 22 recover waiting time penalties pursuant to Cal. Labor Code § 203.
- 23 129. On information and belief, REPRESENTATIVE PLAINTIFF alleges that by failing to  
 24 timely compensate KHANNA and Formerly Employed California Class Member for time  
 25 worked, DEFENDANTS violated and continue to violate Cal. Labor Code § 204.
- 26 130. REPRESENTATIVE PLAINTIFF and Formerly Employed California Class Members,  
 27 and each of them, are entitled to recover from DEFENDANTS all unpaid wages to which  
 28 they are entitled, plus pre-judgment and post-judgment interest thereon, and reasonable



attorneys' fees and costs incurred in prosecuting this action, pursuant to Cal. Labor Code §§218, 218.5, and 1194, and Code of Civil Procedure § 1021.5.

131. Pursuant to Cal. Labor Code § 1199, REPRESENTATIVE PLAINTIFF and Formerly Employed California Class Members, and each of them, are entitled to recover from DEFENDANTS any penalties to which they are entitled for DEFENDANT'S failure to pay wages less than the minimum fixed by an order of the labor commissioner.

#### **FOURTH CAUSE OF ACTION**

##### **For Failure to Adhere to California Record-Keeping Provisions (Cal. Labor Code §§ 226, 226.3, 1174, 1174.5, Cal Wage Order No. 4-2001)**

132. REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and California Class Members, repeats and re-alleges each and every allegation contained in Paragraph Nos. 1 through 131, inclusive, above as though set forth fully herein.

133. Cal. Labor Code §§ 226 and 1174 requires employers to provide employees an accurate written itemized statement showing, among other things, gross wages earned, the total hours worked by the employee, all deductions, net wages earned, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Cal. Labor Code §§ 226(e), 226.3 and 1174.5 impose a penalty upon employers who fail to maintain such employee records.

134. On information and belief, REPRESENTATIVE PLAINTIFF alleges that DEFENDANTS knowingly and intentionally failed to provide timely, accurate, itemized wage statements including, *inter alia*, total hours worked and the name and address of the legal entity that is the employer as required by Cal. Labor Code § 226(a) and Cal. Wage Order No. 4-2001. Such failure caused injury to KHANNA and California Class Members, by, among other things, impeding them from knowing the amount of wages to which they are and were entitled. At all times relevant herein, DEFENDANTS failed to maintain records of hours worked by KHANNA and California Class Members as required under Cal. Labor Code § 1174.

135. On information and belief, REPRESENTATIVE PLAINTIFF alleges that DEFENDANTS failed to properly maintain adequate itemized statements of KHANNA



1 and California Class Members' work and labor as required by law. On information and  
2 belief, REPRESENTATIVE PLAINTIFF alleges that said failure was knowing and  
3 intentional by DEFENDANTS as DEFENDANTS sought to deprive KHANNA and  
4 California Class Members of their legitimate right to unpaid wages and/or commissions,  
5 and otherwise deprive KHANNA and California Class Members of overtime  
6 compensation.

7 136. On information and belief, REPRESENTATIVE PLAINTIFF alleges that as a result of  
8 DEFENDANTS' intentional and knowing failure to maintain adequate itemized  
9 statements, KHANNA and California Class Members could not ascertain the actual  
10 amount of compensation they earned and/or were entitled to, and thereby suffered  
11 damages in the form of accrued unpaid wages, commissions, overtime, and interest.

12 137. Pursuant to Cal. Labor Code § 226(e), an employee who suffers injury as a result of an  
13 employer's knowing and intentional failure to comply with subdivision (a), is entitled to  
14 recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in  
15 which a violation occurs and one hundred dollars (\$100) per employee for each violation  
16 in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars  
17 (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

18 138. Pursuant to Cal. Labor Code § 226(g), an employee may also bring an action for  
19 injunctive relief to ensure compliance with this section, and is entitled to an award of  
20 costs and reasonable attorney's fees. As such, KHANNA and California Class Members  
21 are entitled to penalties recoverable from DEFENDANTS as described herein, as well as  
22 reasonable costs and attorneys fees pursuant to Cal. Labor Code §§218, 218.5, and 1194,  
23 and California Code of Civil Procedure § 1021.5.

24 139. Pursuant to Cal. Labor Code § 226.3, failure to comply with Cal. Labor Code § 226(a)  
25 incurs a penalty against the employer in the amount of two hundred fifty dollars (\$250)  
26 per employee per violation in an initial citation and one thousand dollars (\$1,000) per  
27 employee for each violation in a subsequent citation.

28 ///



140. REPRESENTATIVE PLAINTIFF and California Class Members, and each of them, are entitled to seek injunctive relief requiring DEFENDANTS to comply with Cal. Labor Code §§ 226(a) and 1174, and further seek all actual and statutory damages available for these violations under Cal. Labor Code §§ 226(e), 226.3 and 1174.5.

**FIFTH CAUSE OF ACTION**  
**For Unfair Business Practices**  
**(Cal. Bus. & Prof. Code §17200 *et seq.*)**

141. REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and California Class Members, repeats and re-alleges each and every allegation contained in Paragraph Nos. 1 through 140, inclusive, above as though set forth fully herein.

142. REPRESENTATIVE PLAINTIFF brings this cause of action in a representative capacity on behalf of KHANNA, California Class Members, the general public and the persons affected by the unlawful and unfair conduct described herein.

143. DEFENDANTS' actions referenced above, including, but not limited to, the failure to pay KHANNA and California Class Members overtime compensation, constitute unfair business practices in violation of the California Unfair Competition Law ("UCL"), pursuant to California Business and Professions Code § 17200, *et seq.*

144. On information and belief, REPRESENTATIVE PLAINTIFF alleges that the unfair, unlawful and fraudulent business practices complained of herein are and were the regular business practice of DEFENDANTS, and that DEFENDANTS continue to conduct their unlawful and unfair practices described herein.

145. As a result of this conduct, DEFENDANTS have unlawfully and unfairly obtained monies due to KHANNA and California Class Members.

146. On information and belief, REPRESENTATIVE PLAINTIFF alleges that all impacted individuals, including KHANNA and California Class Members, can be identified by reference to records in DEFENDANTS' custody, control and possession.

147. On information and belief, REPRESENTATIVE PLAINTIFF alleges that through DEFENDANTS' failures to pay legally required wages, provide itemized statements of hours worked with payments of wages, to pay wages when due, and other conduct alleged



1       herein, DEFENDANTS violated numerous specific provisions of state and federal law  
2       and engaged in, and continue to engage in, unlawful, unfair and fraudulent business  
3       practices in violation of the UCL, depriving KHANNA and California Class Members of  
4       rights, benefits, and privileges guaranteed all employees under law, and caused  
5       KHANNA and California Class Members to suffer injury in fact and to lose money  
6       and/or property.

7   148. On information and belief, REPRESENTATIVE PLAINTIFF alleges that by engaging in  
8       the unfair and unlawful business practices complained of herein, DEFENDANTS were  
9       able to lower their labor costs and thereby to obtain a competitive advantage over  
10      law-abiding employers with whom DEFENDANTS compete.

11   149. On information and belief, REPRESENTATIVE PLAINTIFF alleges that the harm to  
12      KHANNA and California Class Members in being wrongfully denied lawfully earned  
13      wages outweighs the utility, if any, of DEFENDANTS' policies or practices and,  
14      therefore, DEFENDANTS' actions described herein constitute an unfair business practice  
15      or act within the meaning of the UCL.

16   150. Cal. Business and Professions Code § 17203 provides that the Court may restore to an  
17      aggrieved party any money or property acquired by means of unlawful and unfair business  
18      practices. Under the circumstances alleged herein, it would be inequitable and result in a  
19      miscarriage of justice for DEFENDANTS to continue to retain the property of KHANNA  
20      and California Class Members. KHANNA and California Class Members are therefore  
21      entitled to restitution of the unfair benefits obtained and disgorgement of  
22      DEFENDANTS' ill-gotten gains. REPRESENTATIVE PLAINTIFF, on behalf of  
23      KHANNA and California Class Members, and each of them, seek restitution of all unpaid  
24      wages owing to them as well as all other available equitable relief.

25   151. Injunctive relief pursuant to Cal. Business and Professions Code §17203 is necessary to  
26      prevent DEFENDANTS from continuing to engage in the unfair business practices  
27      alleged in this Complaint. REPRESENTATIVE PLAINTIFF is informed and believes,  
28      and therefore alleges, that DEFENDANTS and/or persons acting in concert with



1 DEFENDANTS has, is now, and will continue to do or cause to be done, the illegal acts  
 2 alleged in this Complaint unless restrained and enjoined by this Court. Unless the relief  
 3 prayed for below is granted, a multiplicity of actions will result. REPRESENTATIVE  
 4 PLAINTIFF, on behalf of KHANNA and California Class Members, have no plain,  
 5 speedy, or adequate remedy at law, for reasons which include but are not limited to the  
 6 following: (a) it is difficult to measure the amount of monetary damages that would  
 7 compensate KHANNA and California Class Members for DEFENDANTS' wrongful  
 8 acts; and (b) in any event, pecuniary compensation alone would not afford adequate and  
 9 complete relief. The continuing violation of law by DEFENDANTS will cause great and  
 10 irreparable damage to KHANNA, California Class Members and others similarly  
 11 situated, unless DEFENDANTS are immediately restrained from committing further  
 12 illegal acts.

13 152. REPRESENTATIVE PLAINTIFF and California Class Members, and each of them,  
 14 herein take upon themselves enforcement of these laws and lawful claims. There is a  
 15 financial burden incurred in pursuing this action. Therefore REPRESENTATIVE  
 16 PLAINTIFF, on behalf of KHANNA and California Class Members, and each of them,  
 17 seek recovery of attorneys' fees and costs of this action to be paid by DEFENDANTS , as  
 18 provided by the California UCL and Labor Code §§218, 218.5, 1194, and Cal. Code of  
 19 Civil Procedure § 1021.5.

20 153. REPRESENTATIVE PLAINTIFF and California Class Members, and each of them, are  
 21 entitled to restitution of all monies due to them, as well as disgorgement of the ill-gotten  
 22 gains obtained by the DEFENDANTS as a result of their unlawful and unfair conduct at  
 23 all times relevant to this action.

24 154. REPRESENTATIVE PLAINTIFF and California Class Members, and each of them, are  
 25 entitled to attorney's fees and costs for promoting the interest of the members of the  
 26 general public in causing the DEFENDANTS to cease their unfair business practices,  
 27 according to proof.

28 ///



**SIXTH CAUSE OF ACTION**  
**For Private Attorneys General Act Claims**  
**(Cal. Labor Code § 2698 *et seq.*)**

155. REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and California Class Members, repeats and re-alleges each and every allegation contained in Paragraph Nos. 1 through 154, inclusive, above as though set forth fully herein.
156. REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and California Class Members, have complied with the notice requirements of submitting a Private Attorneys General Act claim pursuant to Cal. Labor Code § 2699.3(a).
157. REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and California Class Members, alleged violations of Cal. Labor Code §§ 201, 202, 204, 226, 510, 511, 1174, 1194, 1198, 1199, and 2699(f) and (g) with respect to KHANNA and the California Class Members' employment with DEFENDANTS at all times relevant herein.
158. Cal. Labor Code § 2699(f) provides for the payment of civil penalties for violation of provisions of the Cal. Labor Code for which a civil penalty is not already provided.
159. Cal. Labor Code § 2699(g) provides for the award of attorney's fees and costs to an employee who prevails in an action brought under Cal. Labor Code § 2698 *et seq.*
160. Cal. Labor Code § 2699(i) provides that the civil penalties set forth in Cal. Labor Code § 2698 *et seq.* shall be divided between the aggrieved employees and the Labor and Workforce Development Agency.
161. Pursuant to Cal. Labor Code § 2699.3(a)(2)(C), REPRESENTATIVE PLAINTIFF and California Class Members, and each of them, are entitled to civil penalties, and attorneys' fees and costs as set forth in Cal. Labor Code §§ 2699(f) and 2699(g) for DEFENDANTS' violations of Cal. Labor Code §§ 201, 202, 203, 204, 226, 510, 511, 1174, 1194, 1198, 1199, and 2699(f) and (g) with respect to KHANNA and the California Class Members' employment with DEFENDANTS as alleged herein and in KHANNA and the California Class Members' Private Attorneys General Act claim.

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1 WHEREFORE, REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and all Plaintiff  
 2 Class Members, pray for relief as follows:

- 3 1. An order declaring that the FLSA Class's claims may be maintained as a collective action  
 4 and certifying the FLSA Class as alleged and prayed for herein;
- 5 2. An order declaring the California Class's claims may be maintained as a class action and  
 6 certifying the California Class as alleged and prayed for herein;
- 7 3. An award to the REPRESENTATIVE PLAINTIFF, KHANNA and all FLSA Class  
 8 Members for damages in the amount of unpaid overtime compensation and wages under  
 9 the FLSA, including liquidated damages and/or pre judgment interest subject to proof at  
 10 the time of trial;
- 11 4. An award to the REPRESENTATIVE PLAINTIFF, KHANNA and all members of the  
 12 California Class of damages in the amount of unpaid overtime compensation and wages  
 13 under California law, including liquidated damages and/or pre judgment interest subject  
 14 to proof at the time of trial;
- 15 5. For a determination that DEFENDANTS' conduct was reckless and/or an intentional,  
 16 knowing, and willful violation of the FLSA, and therefore KHANNA and all members of  
 17 the FLSA Class are entitled to recover damages for the three years prior to the filing of  
 18 PLAINTIFFS' individual Consent to be Included in the FLSA Collective Action;
- 19 6. For costs incurred as a result of this proceeding;
- 20 7. An award to REPRESENTATIVE PLAINTIFF, KHANNA and all Formerly Employer  
 21 California Class Members for waiting time penalties provided in Cal. Labor Code § 203;
- 22 8. An award to the REPRESENTATIVE PLAINTIFF, KHANNA and all members of the  
 23 Plaintiff Class of reasonable attorneys' fees and legal costs, including expert costs and  
 24 fees, under 29 U.S.C. § 216(b), Cal. Labor Code §§ 218.5, 226(e), 1194, Cal. Code of  
 25 Civil Proc. § 1021.5, and/or any other applicable law;
- 26 9. An award to the REPRESENTATIVE PLAINTIFF, KHANNA and all members of the  
 27 California Class of all civil and statutory penalties authorized under Cal. Labor Code §§  
 28 226, 226.3, 558, 1174.5, 1199 and/or other applicable law;



- 1 10. An award to the REPRESENTATIVE PLAINTIFF, KHANNA and all members of the
- 2 California Class of all civil penalties, and attorneys' fees and costs, authorized under Cal.
- 3 Labor Code §§ 2699(f) and 2699(g);
- 4 11. An award to the REPRESENTATIVE PLAINTIFF, KHANNA and all members of the
- 5 California Class of pre and post judgment interest;
- 6 12. An award of damages, statutory penalties, restitution and interest to be paid by
- 7 DEFENDANTS according to proof;
- 8 13. Appropriate equitable and injunctive relief to remedy DEFENDANTS' violations of the
- 9 laws of California, including but not necessarily limited to an order enjoining
- 10 DEFENDANTS from continuing its unlawful policies and practices; and
- 11 14. An award of such other and further relief as this Court may deem just and appropriate.

12 **JURY DEMAND**

13 The REPRESENTATIVE PLAINTIFF, on behalf of KHANNA and the Plaintiff Class  
 14 Members, hereby demand trial by jury on all issues triable of right by jury.

15  
 16  
 17 Dated: August 11, 2009

**MASTAGNI HOLSTEDT AMICK  
 MILLER & JOHNSEN**

18  
 19 By: /s/  
 20 DAVID E. MASTAGNI, ESQ.  
 21 Attorney for PLAINTIFFS  
 22  
 23  
 24  
 25  
 26  
 27  
 28

# EXHIBIT G

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

MARIA GRANADOS FLORES, IGNACIA  
GARCIA, GRISELDA MORA, PABLO  
RODRIGUEZ, DIVINA SAGUILAN, on behalf  
of themselves and all others similarly situated,

Plaintiffs,

v.

ALAMEDA COUNTY INDUSTRIES, INC.,  
and DOES 1- 10, inclusive,

Defendants.

Case No. 3:14-cv-03011-NC

**DEMAND FOR JURY TRIAL**  
**FLSA COLLECTIVE ACTION**  
**RULE 23 CLASS ACTION (Calif. Claims)**  
**COMPLAINT FOR:**

- (1) **FLSA OVERTIME AND  
RECORDKEEPING PROVISIONS  
VIOLATIONS (29 U.S.C. §§ 201, *et*  
*seq.*;**
- (2) **CITY OF SAN LEANDRO LIVING  
WAGE ORDINANCE VIOLATIONS  
(San Leandro Municipal Code § 1-6-  
600, *et seq.*);**
- (3) **OVERTIME COMPENSATION  
PROVISIONS VIOLATIONS (Calif.  
Labor Code §§ 510, 1194);**
- (4) **WAITING TIME PENALTIES (Calif.  
Labor Code §§ 201-203);**
- (5) **FAILURE TO PAY VESTED  
VACATION UPON TERMINATION  
(Calif. Labor Code § 227.3 and San  
Leandro Municipal Code § 1-6-625(b));**
- (6) **FAILURE TO PROVIDE  
ACCURATE ITEMIZED  
STATEMENTS (Calif. Labor Code §  
226);**
- (7) **SECRET PAYMENT OF  
UNLAWFUL WAGES (Labor Code §  
223);**
- (8) **BREACH OF CONTRACT;**
- (9) **VIOLATIONS OF CALIF. UCL (Calif.  
Bus. & Prof. Code §§ 17200-09)**
- (10) **CIVIL PENALTIES UNDER THE  
PRIVATE ATTORNEYS GENERAL  
ACT (Labor Code §§ 2698, *et seq.*)**

1           1.       Plaintiffs, Maria Granados Flores, Ignacia Garcia, Griselda Mora, Pablo Rodriguez,  
2       and Divina Saguilán (collectively “Plaintiffs”) allege as follows on behalf of themselves and all  
3       others similarly situated in the City of San Leandro:

4                               **I.       JURISDICTION**

5           2.       This Court has original jurisdiction pursuant to 28 U.S.C. § 1331 (1948) over the  
6       FLSA overtime claims alleged below, as they arise under the federal laws. This Court may  
7       exercise supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a) (1990) over the state and  
8       municipal claims for overtime and living wages alleged below, as they form part of the same case  
9       or controversy under Article III of the United States Constitution.

10                           **II.       VENUE AND INTRADISTRICT ASSIGNMENT**

11          3.       Venue is proper in the Northern District, pursuant to 28 U.S.C. 1391(b)(2) (1948)  
12       because the events giving rise to the claim occurred within this District. Venue is also proper  
13       pursuant to 28 U.S.C. § 1391(b)(1) because a substantial number of the members of the class  
14       alleged herein work or worked for Defendants in facilities and operations maintained by  
15       Defendants within this District and within the Division and Courthouse to which this action has  
16       been assigned.

17                           **III.       INTRODUCTION**

18          4.       Plaintiffs bring wage and hour claims on behalf of themselves and similarly situated  
19       individuals employed or formerly employed as Recycling Workers by Defendant Alameda County  
20       Industries, Inc. (“ACI”). Plaintiffs sort and process recycling waste pursuant to the Franchise  
21       Agreement (“Contract”) between ACI and the City of San Leandro, at ACI’s facility at 610  
22       Aladdin Avenue, San Leandro, California. Since before January 27, 2014, Defendants have  
23       employed Plaintiffs and approximately 300 other similarly situated Recycling Workers at this San  
24       Leandro facility. Defendants have failed and refused to provide these Recycling Workers with the  
25       minimum compensation and paid time off required by the San Leandro Living Wage Ordinance,  
26       San Leandro Municipal Code § 1-6-600, et seq. (2007), has failed to pay overtime premium  
27       compensation based upon the Living Wage rates as required by California state and federal law,  
28



1 and has failed to pay vested vacation pay at time of termination as required by California law.

2 These wage and hour violations have been willful.

3 5. For failing and refusing to pay Plaintiffs and similarly situated workers overtime  
4 wages based on the proper regular rate of pay, Plaintiffs bring collective action claims for payment  
5 of overtime wages, liquidated damages, attorneys' fees and costs under the federal Fair Labor  
6 Standards Act ("FLSA"), 29 U.S.C. §§ 207, 216(b), on behalf of all Recycling Workers who have  
7 been employed by Defendants to sort and process recyclables in the ACI processing facility at 610  
8 Aladdin Ave, San Leandro, California during the three years preceding January 27, 2014 (the  
9 "Collective Action Period"). Recycling Workers who file timely Consents to Join will be members  
10 of the FLSA Collective Action.

11 6. Plaintiffs also bring a Federal Rule of Civil Procedure Rule 23 class action on behalf  
12 of all current and former Recycling Workers employed by Defendants to sort and process recycling  
13 waste at its facility at 610 Aladdin Avenue, San Leandro, California during the period commencing  
14 four years prior to January 27, 2014 (the "Class Period"). Plaintiffs bring Rule 23 class action  
15 claims for unpaid wages, treble damages, interest, and attorneys' fees and costs under the San  
16 Leandro Living Wage Ordinance; for overtime wages, vested vacation, interest, waiting time  
17 penalties, and attorneys' fees and costs under California Labor Code §§ 201-203, 510, 227.3, and  
18 1194, and Code of Civil Procedure § 1021.5. As third-party beneficiaries of Defendants' contract  
19 for an exclusive franchise to collect and process waste, Plaintiffs further allege a breach of ACI's  
20 Franchise Agreement with the City of San Leandro. Plaintiffs also seek relief under California's  
21 Unfair Competition Law ("UCL"), California Business and Professions Code §§ 17200-17208,  
22 including injunctive relief, restitution, and disgorgement of all benefits Defendants have realized  
23 from failing and refusing to pay the minimum wages and paid time off to the Recycling Workers as  
24 required by the San Leandro Living Wage Ordinance and overtime.

25 7. Plaintiffs also seek civil penalties, attorneys' fees, and costs under the California  
26 Labor Code Private Attorneys General Act of 2004 ("PAGA"), California Labor Code §§2698, *et*  
27 *seq.*, on behalf of themselves and all similarly situated Recycling Workers formerly and currently  
28 employed by Defendant ACI.

10. On June 23, 2014, Plaintiffs' counsel gave written notice to all other parties that the Tolling Agreement is no longer effective.

#### IV. PARTIES

11. Plaintiff Maria Granados Flores (“Granados”) resides in Hayward, California. She has served as a Recycling Worker for Defendants at the San Leandro facility from approximately November 2012 to the present.

12. Plaintiff Ignacia Garcia (“Garcia”) resides in Oakland, California, and has served as a Recycling Worker for Defendants at the San Leandro facility from approximately 2005 through March 5, 2014.

13. Plaintiff Griselda Mora (“Mora”) resides in Hayward, California and served as a Recycling Worker for Defendants at the San Leandro facility from June 2008 through March 5, 2014.

14. Plaintiff Pablo Rodriguez (“Rodriguez”) resides in Oakland, California and served as a Recycling Worker for Defendants at the San Leandro facility from approximately May 2009 through September 2013.

17. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as DOES 1 through 10, inclusive, are currently unknown to Plaintiffs, who therefore sue defendants by such fictitious names. Plaintiffs are informed and believe, and based thereon allege, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known. Hereinafter Defendant ACI and the DOE defendants shall be referred to collectively as “Defendants.”

19. On July 30, 2007 the San Leandro City Council adopted the San Leandro Living Wage Ordinance to set minimum employee compensation rates for certain contracts entered into between the City of San Leandro and contractors employing six or more workers. At the time of its adoption, the San Leandro Living Wage Ordinance set out minimum pay of “no less than \$12.40 per hour,” subject to annual increases corresponding to increases in the Consumer Price Index. The Ordinance also requires covered contractors to provide “at least twenty-two (22) days off per year for sick leave, vacation, or personal necessity,” of which “at least twelve (12) of the required

1 days off shall be compensated” at the same rate as a normal working day. The same wage and  
 2 time-off requirements are applicable to subcontractors as well as the contracting entities.

3 20. During the relevant period here, the San Leandro Living Wage rates have been as  
 4 follows:

5 a. For the year beginning July 1, 2013, no less than \$14.17 per hour if the employee is  
 6 not covered by qualifying health benefits, and no less than \$12.67 per hour if the  
 7 employee is covered by qualifying health benefits.

8 b. For the year beginning July 1, 2012, no less than \$13.83 per hour if the employee is  
 9 not covered by qualifying health benefits, and no less than \$12.33 per hour if the  
 10 employee is covered by qualifying health benefits.

11 c. For the year beginning July 1, 2011, no less than \$13.54 per hour if the employee is  
 12 not covered by qualifying health benefits, and no less than \$12.04 per hour if the  
 13 employee is covered by qualifying health benefits.

14 d. For the year beginning July 1, 2010, no less than \$13.17 per hour if the employee is  
 15 not covered by qualifying health benefits, and no less than \$11.67 per hour if the  
 16 employee is covered by qualifying health benefits.

17 e. For the year beginning July 1, 2009, no less than \$12.95 per hour if the employee is  
 18 not covered by qualifying health benefits, and no less than \$11.38 per hour if the  
 19 employee is covered by qualifying health benefits.

20 21. Throughout at least the four years prior to January 27, 2014, Defendants have  
 21 employed approximately 300 Recycling Workers, including Plaintiffs named herein, at ACI’s  
 22 recycling facility in San Leandro. During that same period, the Recycling Workers have received,  
 23 sorted, and processed residential, multifamily, and commercial recycling waste at ACI’s facility in  
 24 San Leandro, and have also cleaned and maintained the facility and equipment used to perform this  
 25 work. Such work arose from and is directly related to ACI’s performance of its Contract with the  
 26 City of San Leandro.

27 22. Since at least January 27, 2010, Defendant has willfully and knowingly paid  
 28 Plaintiffs and other similarly situated Recycling Workers an hourly rate far below that prescribed



1 by the San Leandro Living Wage Ordinance. While the rates have varied slightly for each  
2 employee, Defendants have typically paid Recycling Workers an hourly rate that is less than nine  
3 dollars (\$9) per hour.

4 23. Defendants required and/or knowingly permitted Recycling Workers, including  
5 Plaintiffs named above, to work hours in excess of eight hours a day and/or 40 hours a week,  
6 without paying them an hourly rate that is equal to or greater than one and one-half times the  
7 minimum wage rates prescribed by the San Leandro Living Wage Ordinance.

8 24. For at least four years from January 27, 2014, Defendants willfully and knowingly  
9 denied Plaintiffs and other similarly situated Recycling Workers the full 22 days off per year for  
10 sick-leave, vacation, or personal necessity required by the San Leandro Living Wage Ordinance.  
11 During that same period, Defendants also willfully and knowingly denied Plaintiffs and other  
12 similarly situated Recycling Workers the full 12 days off per year for sick-leave, vacation, or  
13 personal necessity and paid at the regular rate of pay as required by the Living Wage Ordinance.

14 25. For at least four years from the filing of this action, Defendants willfully and  
15 knowingly failed to pay Recycling Workers at the time of termination of employment, all earned,  
16 unpaid wages, including accrued overtime and vested vacation.

17 **VI. RULE 23 CLASS ACTION ALLEGATIONS**

18 26. Plaintiffs bring all claims alleged herein under the San Leandro Living Wage  
19 Ordinance and California law as a statewide class action on behalf of all persons who worked for  
20 Defendants as Recycling Workers during the period commencing four years from January 27, 2014  
21 (“Rule 23 Class Period”). Plaintiffs seek to certify a class pursuant to the Federal Rules of Civil  
22 Procedure, Rule 23 comprised of Recycling Workers as specified below:

23 All persons who are or have worked for ACI as sorters, yard spotters, bailers,  
24 cleaners (including evening screen cleaners), dumpers, forklift operators, and  
25 operators of other equipment at the waste processing facility at 610 Aladdin  
26 Avenue in San Leandro, California during the period commencing on January  
27 27, 2010.  
28

1           27.     The class claims herein have been brought and may properly be maintained as a  
2 class action under Federal Rules of Civil Procedure, Rule 23 because:

3           a.     Ascertainability and Numerosity: The potential members of the class as  
4 defined herein are so numerous that joinder would be impracticable. Plaintiffs are informed and  
5 believe that Defendants have employed approximately 300 Recycling Workers in its Aladdin  
6 Avenue facility during the Class Period. The names and addresses of the Class Members are  
7 available from Defendants and/or staffing agencies it contracted to provide Recycling Workers.  
8 Notice can be provided to the Class Members via first class mail using techniques and a form of  
9 notice similar to those customarily used in class action lawsuits of this nature.

10           b.     Commonality and Predominance of Common Questions: There are  
11 questions of law and fact common to Plaintiffs and the Rule 23 Class Members that predominate  
12 over any questions affecting only individual members of the class. These common questions of  
13 law and fact include, without limitation:

14           i.     Whether because of ACI's Contract with San Leandro, Defendants  
15 were obligated to pay the Recycling Workers compensation that meets the minimum  
16 amounts required by the San Leandro Living Wage Ordinance;

17           ii.    Whether Defendants failed to pay Recycling Workers the minimum  
18 hourly rates prescribed by the San Leandro Living Wage Ordinance and whether  
19 such failure to pay the minimum was willful;

20           iii.   Whether Defendants failed to provide Recycling Workers at least  
21 twenty-two (22) days off per year for sick leave, vacation, or personal necessity,  
22 including at least 12 days off compensated at the same rate as a normal working  
23 day, and whether failure to provide such time off was willful;

24           iv.   Whether Defendants failed to pay Recycling Workers overtime  
25 wages equal to or greater than one and one-half times the minimum hourly rate  
26 prescribed by the San Leandro Living Wage Ordinance for time worked in excess of  
27 40 hours per week and/or eight hours per day;

28           v.     Whether Defendants violated the applicable I.W.C. Wage Order and

1 California Labor Code §§ 510 and 1194 by failing to pay Recycling Workers the  
2 proper overtime rates;

3 vi. Whether Defendants' failure to pay employees for the vested, unused  
4 paid time off/vacation upon termination violates Labor Code § 227.3;

5 vii. Whether Defendants failed to provide Recycling Workers with  
6 accurate itemized wage statements with the applicable rates in effect during the  
7 relevant pay periods;

8 viii. Whether Defendants' failure to pay minimum wages under the San  
9 Leandro Living Wage Ordinance, correctly pay overtime, and failure to provide the  
10 required days off to Recycling Workers constitutes an unlawful, unfair, and/or  
11 fraudulent business practice, under California Business & Professions Code § 17200  
12 et seq.;

13 ix. Whether Defendants' failure to compensate Recycling Workers as  
14 prescribed by the San Leandro Living Wage Ordinance constitutes a breach of the  
15 Contract between ACI and the City of San Leandro;

16 x. Whether Recycling Workers are third-party beneficiaries of ACT's  
17 Contract with the City of San Leandro;

18 xi. Whether Defendants violated California Labor Code §§ 201-203 by  
19 failing to pay Recycling Workers all earned, unpaid wages, including minimum  
20 wage amounts and paid time off under the San Leandro Living Wage Ordinance,  
21 and accrued overtime at the time of termination of employment;

22 xii. The proper formula for calculating restitution, damages, and  
23 penalties owed to Plaintiffs and the class alleged herein.

24 c. Typicality: Plaintiffs' claims are typical of the claims of the class.

25 Defendants' common course of unlawful conduct has caused Plaintiffs and similarly situated  
26 Recycling Workers to sustain the same or similar injuries and damages caused by the same  
27 practices of Defendants. Plaintiffs' claims are thereby representative of and co-extensive with the  
28 claims of the class.

1                   d.     Adequacy of Representation: Plaintiffs are members of the class, do not  
2 have any conflicts of interest with other class members, and will prosecute the case vigorously on  
3 behalf of the class. Counsel who represent Plaintiffs are competent and experienced in litigating  
4 large employment class actions, including large wage and hour class actions. Plaintiffs will fairly  
5 and adequately represent and protect the interests of the class members.

6                   **VII. COLLECTIVE ACTION ALLEGATIONS**

7                   28.     Plaintiffs bring a claim for relief for violations of the FLSA as a collective action  
8 pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b) (1938), on behalf of the FLSA  
9 Collective Action Members, who include all persons who have worked at ACI's facility at 610  
10 Aladdin Street, San Leandro as a Recycling Worker at any time within the applicable statutory time  
11 period prior to January 27, 2011 or after that date, and who timely file Consents to Join this action.  
12 As with the Rule 23 Claims, the FLSA Collective Action includes those Recycling Workers who  
13 have worked as sorters, yard spotters, bailers, cleaners (including evening screen cleaners),  
14 dumpers, forklift operators, and operators of other equipment at ACI's waste processing facility at  
15 610 Aladdin Avenue in San Leandro.

16                  29.     Plaintiffs and the FLSA Collective Action Members are similarly situated, have  
17 performed substantially similar duties for Defendants, and are subject to Defendants' common  
18 practice of unlawfully failing to compensate Recycling Workers at the required overtime rate based  
19 on the minimum rates required by the San Leandro Living Wage Ordinance as alleged herein.

20                  30.     The claims for relief for violations of the FLSA may be brought and maintained as  
21 an "opt-in" collective action pursuant to Section 16(b) of the FLSA because Plaintiffs' claims are  
22 similar to the claims of the FLSA Collective Action Members.

23                  31.     The names and addresses of the FLSA Collective Action Members are available  
24 from Defendants and/or the staffing agencies it has contracted to provide Recycling Workers.  
25 Accordingly, Plaintiffs pray herein for an Order requiring Defendants to provide the names and all  
26 available locating information for all members of the FLSA Collective Action, so notice can be  
27 provided to the class of the pendency of this action, and of their right to opt in to this action.



1 **VIII. DAMAGES**

2 32. As a direct, foreseeable, and proximate result of Defendants' conduct, Plaintiffs and  
 3 similarly situated Recycling Workers are owed back pay and overtime compensation plus interest  
 4 under the San Leandro Municipal Code, California and federal overtime laws, penalties under the  
 5 San Leandro Municipal Code § 1-6-655(a) equivalent to treble the amount of damages to be paid,  
 6 liquidated damages under 29 U.S.C. § 216(b), and penalties under California Labor Code §§ 203  
 7 and 226, the precise amount of which will be proved at trial. Plaintiffs and similarly situated  
 8 Recycling Workers are also owed civil penalties and attorneys' fees and costs under PAGA for  
 9 Defendant's violations of the California Labor Code.

10 **IX. CLAIMS FOR RELIEF**

11 **FIRST CLAIM FOR RELIEF**  
 12 **VIOLATION OF FLSA OVERTIME AND RECORDKEEPING PROVISIONS**  
 13 **29 U.S.C. § 201, et seq.**  
 14 **(ON BEHALF OF PLAINTIFFS**  
 15 **AND FLSA COLLECTIVE ACTION MEMBERS)**

16 33. The allegations of each of the preceding paragraphs are realleged and incorporated  
 17 herein by reference, and Plaintiffs allege as follows a claim for relief on behalf of themselves and  
 18 all FLSA Collective Action Members who file Consent to Join forms.

19 34. At all relevant times, Defendants have been, and continue to be, an "employer"  
 20 engaged in interstate "commerce" and/or in the production of "goods" for "commerce," within the  
 21 meaning of the FLSA, 29 U.S.C. § 203 (1938). At all relevant times, Defendants have employed,  
 22 and continue to employ, Recycling Workers including Plaintiffs and each of the FLSA Collective  
 23 Action Members. Plaintiffs allege on information and belief that Defendants have had, at all  
 24 relevant times, gross receipts in excess of \$500,000.

25 35. Plaintiffs consent to sue in this action pursuant to Section 16(b) of the FLSA, 29  
 26 U.S.C. § 216(b) (1938). Other individuals have already signed consent forms to join on this claim  
 27 and more will likely do so in the future.

28 36. The FLSA requires each covered employer, such as Defendants, to compensate all  
 non-exempt employees at a rate not less than one and one-half times the regular rate of pay at

1 which the employee is lawfully employed, for all work performed in excess of forty (40) hours in a  
2 week. United States Department of Labor overtime regulations at 29 C.F.R. 778.5 (1968) define  
3 such “regular rate of pay” as a rate no lower than the minimum rate set by applicable state and  
4 local legislation, even if such minimums are higher than the those set in the FLSA.

5 37. The FLSA Collective Action Members are entitled to be paid the statutorily required  
6 overtime compensation for all overtime hours worked.

7 38. At all relevant times, Defendants have had a policy and practice of failing and  
8 refusing to pay FLSA Collective Action Members an overtime rate calculated on the basis of the  
9 regular rate prescribed by the San Leandro Living Wage Ordinance, for their hours worked in  
10 excess of forty (40) hours per week.

11 39. By failing to compensate Plaintiffs and the FLSA Collective Action Members at a  
12 rate of not less than one and one-half times the lawful regular rate for work performed in excess of  
13 forty (40) hours in a workweek, Defendants have violated, and continues to violate, the FLSA, 29  
14 U.S.C. §§ 201, et seq. (1938), including Sections 207(a) and 215(a)(2).

15 40. Defendants’ violations of the FLSA’s overtime requirements were and are willful,  
16 thus extending the limitations period to three years, pursuant to 29 U.S.C. § 255(a) (1947).

17 41. By failing to record, report, and/or compensate Plaintiffs and the FLSA Collective  
18 Action Members, Defendants have failed to make, keep, and preserve records with respect to each  
19 of its employees sufficient to determine their wages, hours, and other conditions and practice of  
20 employment in violation of the FLSA, 29 U.S.C. §§ 201, et seq., including 29 U.S.C. § 211(c).

21 42. Plaintiffs, on behalf of themselves and the FLSA Collective Action Members, seek  
22 damages in the amount of their respective overtime compensation and liquidated damages, as  
23 provided by the FLSA, 29 U.S.C. §§ 216(b), 255 and such other legal and equitable relief as the  
24 Court deems just and proper.

25 43. Plaintiffs, on behalf of themselves and the FLSA Collective Action Members, seek  
26 recovery of attorneys’ fees and costs to be paid by Defendants, as provided by the FLSA, 29 U.S.C.  
27 § 216(b).

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**SECOND CLAIM FOR RELIEF**  
**VIOLATION OF THE SAN LEANDRO LIVING WAGE ORDINANCE**  
**San Leandro Municipal Code § 1-6-600, *et seq.***  
**(ON BEHALF OF RULE 23 CLASS MEMBERS)**

44. The allegations of each of the preceding paragraphs are realleged and incorporated herein by reference, and Plaintiffs allege as follows a claim of relief on behalf of themselves and all Rule 23 Class Members.

45. Defendants employ the Rule 23 Class Members to receive, sort and process recycling materials as part of the work ACI promised to perform under its Contract with the City of San Leandro, and to clean and maintain ACI's equipment and machinery at ACI's San Leandro facility as necessary to implement said Contract.

46. Rule 23 Class members are engaged in work that arises from and is directly related to performance of ACI's Contract with the City of San Leandro, and is thus subject to the San Leandro Living Wage Ordinance, San Leandro Municipal Code §§ 1-6-620(b) and (d) (2007).

47. At all relevant times, ACI has collected over \$350,000 in annual gross receipts, and has received a contract from the City of San Leandro in excess of \$25,000 per fiscal year.

48. By willfully failing to pay Recycling Workers at or above the hourly rates set by the San Leandro Living Wage Ordinance, Defendants have violated the Living Wage Ordinance.

49. By willfully failing to provide Recycling Workers with at least twenty-two (22) days off per year for sick leave, vacation, or personal necessity, including at least 12 compensated days off, as required by the San Leandro Living Wage Ordinance, Defendants have violated the Living Wage Ordinance.

50. Plaintiffs, on behalf of themselves and the Rule 23 Class Members, seek damages in the amount of their respective unpaid wages and interest thereon, treble damages, and attorneys' fees and costs as provided by the San Leandro Living Wage Ordinance.

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**THIRD CLAIM FOR RELIEF  
VIOLATION OF THE COMPENSATION  
PROVISIONS OF CALIFORNIA LABOR CODE  
Calif. Labor Code §§ 510, 1194; and the applicable Calif. I.W.C. Wage Order  
(ON BEHALF OF RULE 23 CLASS MEMBERS)**

51. The allegations of each of the preceding paragraphs are realleged and incorporated herein by reference, and Plaintiffs allege as follows a claim of relief on behalf of themselves and all Rule 23 Class Members.

52. By its failure to pay the proper overtime rate to Plaintiffs and similarly situated Recycling Workers as alleged above, Defendants violated California Labor Code § 510 and the provisions of the applicable I.W.C. Wage Order which require overtime compensation for hours worked in excess of eight (8) per day and forty (40) per week.

53. By its failure to pay Rule 23 Class Members the hourly rate prescribed by the San Leandro Living Wage Ordinance, and an overtime rate properly calculated thereon, Defendants have deprived Rule 23 Class members of overtime compensation in an amount to be determined at trial, and are entitled to recovery of such amounts, plus interest thereon, attorneys' fees, and costs, under California Labor Code §§ 1194 and 1194.3.

**FOURTH CLAIM FOR RELIEF  
WAITING TIME PENALTIES  
Calif. Labor Code §§ 201-203, 1194  
(ON BEHALF OF RULE 23 CLASS MEMBERS)**

54. The allegations of each of the preceding paragraphs are realleged and incorporated herein by reference, and Plaintiffs allege as follows a claim of relief on behalf of themselves and all Rule 23 Class Members.

55. California Labor Code § 201 requires an employer who discharges an employee to pay all compensation due and owing to that employee immediately upon discharge. California Labor Code § 202 requires an employer to pay compensation due and owing to said employee within seventy-two (72) hours of that employee's termination of employment by resignation. California Labor Code § 203 provides that if an employer willfully fails to pay compensation promptly upon separation from employment, as required by either §§ 201 or 202, the



1 employer is liable for waiting time penalties in the form of continued compensation for up to 30  
2 work days.

3 56. Many Rule 23 Class Members are no longer employed by Defendants, including  
4 Plaintiffs Garcia, Mora, Rodriguez, and Saguilán. By failing to pay Recycling Workers hourly  
5 rates required by the San Leandro Living Wage Ordinance during the Class Period, Defendants  
6 have willfully failed to make timely payments of all wages due upon termination and/or discharge,  
7 and are liable to terminated Recycling Workers for waiting time penalties, together with interest  
8 thereon and attorneys' fees and costs, under California Labor Code § 203. Rule 23 Class Members  
9 are also entitled to recover all unpaid wages, pre- and post-judgment interest, and reasonable  
10 attorney's fees and costs pursuant to Labor Code § 1194.

11 **FIFTH CLAIM FOR RELIEF**  
12 **FAILURE TO PAY VESTED VACATION PAY UPON TERMINATION**  
13 **Calif. Labor Code §227.3 and San Leandro Municipal Code § 1-6-625(b)**  
14 **(ON BEHALF OF RULE 23 CLASS MEMBERS)**

15 57. The allegations of each of the preceding paragraphs are realleged and incorporated  
16 herein by reference, and Plaintiffs allege as follows a claim of relief on behalf of themselves and all  
17 Rule 23 Class Members.

18 58. The San Leandro Living Wage Ordinance Requires Defendants to compensate  
19 Recycling Workers with at least 12 paid days off each year for vacation, sick leave, or personal  
20 necessity. At various times during the class period, Defendants provided paid vacation to the  
21 Recycling Workers, but at an accrual rate that has been less than the 12 days per year required  
22 under the San Leandro Living Wage Ordinance.

23 59. California Labor Code § 227.3 requires employers who provide paid vacations by  
24 policy or contract, to pay an employee all vested, unused vacation upon the employee's  
25 termination. Many Rule 23 Class Members are no longer employed by Defendants, including  
26 Plaintiffs Garcia, Mora, Rodriguez and Saguilán. Defendants failed to pay employees all of their  
27 vested unused vacation time upon termination, including, but not limited to, the paid time off owed  
28 to them under the San Leandro Living Wage Ordinance. By failing to pay Rule 23 Class members

1 the vested, unused vacation time at the time of their termination, Defendants have violated Labor  
2 Code § 227.3.

3 60. Plaintiffs, on behalf of themselves and the Rule 23 Class Members, seek damages in  
4 the amount of the respective unpaid vacation and paid time off wages and interest thereon, and  
5 attorneys' fees and costs as provided by the California Labor Code 218.5.

6 **SIXTH CLAIM FOR RELIEF**  
7 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**  
8 **Calif. Labor Code §226**  
9 **(ONE BEHALF OF RULE 23 CLASS MEMBERS)**

10 61. The allegations of each of the preceding paragraphs are realleged and incorporated  
11 herein by reference, and Plaintiffs allege as follows a claim of relief on behalf of themselves and all  
12 Rule 23 Class Members.

13 62. Labor Code § 226(a)(9) requires employers to furnish each employee with accurate  
14 itemized statements showing all the applicable hourly rates in effect, with each paycheck. Because  
15 Defendants knowingly and intentionally failed to compensate Recycling Workers the hourly rate  
16 required by the San Leandro Living Wage Ordinance, the itemized statements provided to the  
17 Recycling Workers failed to accurately state the applicable rates of pay in effect during the class  
18 period. Rule 23 Class Members are therefore entitled to recover actual and statutory damages, and  
19 reasonable attorney's fees and costs pursuant to Labor Code § 226(e).

20 **SEVENTH CLAIM FOR RELIEF**  
21 **SECRET PAYMENT OF UNLAWFUL WAGES**  
22 **Labor Code § 223**  
23 **(ON BEHALF OF RULE 23 CLASS MEMBERS)**

24 63. The allegations of each of the preceding paragraphs are realleged and incorporated  
25 herein by reference, and Plaintiffs allege as follows a claim of relief on behalf of themselves and all  
26 Rule 23 Class Members.

27 64. Where a statute or contract requires an employer to maintain a designated wage  
28 scale, Labor Code § 223 prohibits employers from secretly paying a lower wage while purporting  
to pay the designated wage. On information and belief, Defendants have affirmed that they are in  
compliance with the San Leandro Living Wage Ordinance. However, Defendants have secretly

1 paid its employees a wage lower than the Living Wage rates designated under the Ordinance.  
 2 Therefore, Defendants have violated Labor Code § 223.

3 **EIGHTH CLAIM FOR RELIEF**  
 4 **BREACH OF CONTRACT**  
 4 **(ONE BEHALF OF RULE 23 CLASS MEMBERS)**

5 65. The allegations of each of the preceding paragraphs are realleged and incorporated  
 6 herein by reference, and Plaintiffs allege as follows a claim of relief on behalf of themselves and all  
 7 Rule 23 Class Members.

8 66. ACI is party to a Contract with the City of San Leandro. As a condition of the  
 9 Contract, ACI promised to comply with applicable laws, which included the terms of the San  
 10 Leandro Living Wage Ordinance.

11 67. Employees who perform work pursuant to ACI's Contract with the City of San  
 12 Leandro Contract are intended beneficiaries of such contract. Because Recycling Workers perform  
 13 work pursuant to ACI's Contract, and because compliance with the San Leandro Living Wage  
 14 Ordinance is a condition of that Contract, Recycling Workers are the intended beneficiaries of the  
 15 Contract.

16 68. The City of San Leandro has performed all of its obligations under the contract.  
 17 Defendants, including ACI, have failed to compensate Rule 23 Class Members with the hourly rate  
 18 and paid and unpaid time off required by the San Leandro Living Wage Ordinance. As a result,  
 19 ACI has breached its contract with the City of San Leandro. Accordingly, Rule 23 Class members  
 20 are entitled to damages constituting the difference between the amount actually paid to Rule 23  
 21 Class Members and the amount required by the San Leandro Living Wage Ordinance.

22 **NINTH CLAIM FOR RELIEF**  
 23 **VIOLATIONS OF THE UCL**  
 23 **Calif. Business and Prof. Code §§ 17200-09**  
 24 **(ON BEHALF OF RULE 23 CLASS MEMBERS)**

25 69. The allegations of each of the preceding paragraphs are realleged and incorporated  
 26 herein by reference, and Plaintiffs allege as follows a claim of relief on behalf of themselves and all  
 27 Rule 23 Class Members and in a representative capacity under Business and Professions Code §  
 28 17204:

1           70. California Business & Professions Code § 17200 prohibits unfair competition in the  
2 form of any unlawful, unfair, or fraudulent business act or practice.

3           71. California Business & Professions Code § 17204 allows “any person acting for the  
4 interests of itself, its members or the general public” to prosecute a civil action for violation of the  
5 UCL.

6           72. Beginning at an exact date unknown to Plaintiffs, but at prior to January 27, 2010,  
7 Defendants committed unlawful, unfair, and/or fraudulent business acts and practices as defined by  
8 California Business & Professions Code § 17200, by engaging in the following:

9               a. Willfully failing to pay Recycling Workers the minimum hourly rates  
10 prescribed by the San Leandro Living Wage Ordinance;

11               b. Willfully failing to pay Recycling Workers an overtime rate equal to or  
12 greater than one and one-half times the hourly rate prescribed by the San Leandro Living  
13 Wage Ordinance, in violation of Labor Code § 510 and the FLSA;

14               c. Willfully failing to provide Recycling Workers at least twenty-two (22) days  
15 off per year for vacation, sick leave, or personal necessity, including at least 12 paid days  
16 off as required by the San Leandro Living Wage Ordinance;

17               d. Willfully failing to pay Recycling Workers all earned, unpaid wages,  
18 including accrued overtime and vested vacation, at the time of termination of employment,  
19 in violation of Labor Code §§ 201-203 and 227.3 as described above;

20           73. The violations of these laws serve as unlawful predicate acts and practices for  
21 purposes of Business and Professions Code § 17200.

22           74. As a direct and proximate result of Defendants’ unlawful, unfair, and/or fraudulent  
23 acts and practices described herein, Defendants have received and continues to hold ill-gotten gains  
24 belonging to Plaintiffs and class members. Defendants have profited from its unlawful, unfair,  
25 and/or fraudulent acts and practices in the amount of unpaid wages, overtime compensation, denied  
26 days off, and interest accrued.



1           75.     Plaintiffs and similarly situated Recycling Workers are entitled to restitution  
2 pursuant to California Business & Professions Code §§ 17203 and 17208 for all unpaid wages,  
3 overtime compensation, denied days off, and interest since January 27, 2010.

4           76.     Plaintiffs and similarly situated Recycling Workers are entitled to enforce all  
5 applicable penalty provisions of the California Labor Code, FLSA, and the San Leandro Municipal  
6 Code pursuant to California Business & Professions Code § 17202.

7           77.     Plaintiffs' success in this action will enforce important rights affecting the public  
8 interest. In this regard, Plaintiffs sue on behalf of the public as well as on behalf of themselves and  
9 others similarly situated. Plaintiffs seek and are entitled to the unpaid compensation, declaratory  
10 and injunctive relief, and any other appropriate remedy.

11           78.     Injunctive relief is necessary and appropriate to prevent Defendants from continuing  
12 and repeating their unlawful, unfair and fraudulent business acts and practices alleged above.

13           79.     In order to prevent Defendants from profiting and benefiting from their wrongful  
14 and illegal acts and continuing those acts, Plaintiffs request an order requiring Defendants to  
15 disgorge all the profits and gains its has reaped and restore such profits and gains to Recycling  
16 Workers, from whom they were unlawfully taken.

17           80.     Plaintiffs have assumed the responsibility of enforcement of the laws and lawful  
18 claims specified herein. There is a financial burden incurred in pursuing this action that is in the  
19 public interest. Therefore, attorneys' fees are appropriate pursuant to Code of Civil Procedure §  
20 1021.5.

21           81.     Plaintiffs, on behalf of themselves and the Rule 23 Class Members, request relief as  
22 described below.

23                                   **TENTH CLAIM FOR RELIEF**  
24                                   **LIABILITY FOR CIVIL PENALTIES UNDER PAGA**  
                                      **Calif. Labor Code §. 2698, et Seq.**  
25                                   **(ON BEHALF OF PLAINTIFFS AND SIMILARLY SITUATED RECYCLING**  
                                      **WORKERS)**

26           82.     The allegations of each of the preceding paragraphs are realleged and  
27 incorporated herein by reference, and Plaintiffs allege as follows a claim for relief on behalf of  
28

1 themselves and on behalf of all similarly situated Recycling Workers currently and formerly  
2 employed by Defendant ACI.

3 83. California Labor Code § 2699 gives any aggrieved employee the right to file  
4 an action for civil penalties on behalf of himself or herself and other current or former  
5 employees, for the employer's violations of the Labor Code.

6 84. It is in the public interest that civil penalties for violations of the Labor Code  
7 be assessed and collected by aggrieved employees acting as private attorneys general. Section  
8 1, Stats. 2003, c. 906 (S.B. 796).

9 85. By failing to pay Recycling Workers at or above the minimum hourly rates ,  
10 and minimum sick, vacation and personal leave time required by the San Leandro Living  
11 Wage Ordinance, Defendant, ACI has violated numerous provisions of the California Labor  
12 Code, as follows:

13 86. Defendant's failure to pay proper overtime compensation due to Recycline  
14 Workers for all hours worked in excess of eight (8) per day and forty (40) per week,  
15 constitutes a violation of Labor Code § 510 and the applicable IWC Wage Order.

16 87. Defendant's failure to pay all wages due upon termination, or within 72  
17 hours of resignation, constitutes a violation of Labor Code §§ 201 and 202.

18 88. Defendant's failure to pay employees all of their vested unused vacation  
19 time upon termination, including, but not limited to, the paid time off owed to them under the  
20 San Leandro Living Wage Ordinance constitutes a violation of Labor Code § 227.3

21 89. Defendant's failure to provide itemized wage and hour statements showing  
22 the accurate applicable rates of pay constitutes a violation of Labor Code § 226(a).

23 90. Defendant secretly paid a lower wage where a statute or contract required  
24 Defendant to maintain a designated wage, which constitutes a violation of Labor Code § 223.

25 91. On July 2, 2014, Plaintiffs issued written notice, via certified mail, of  
26 Plaintiffs' intent to seek PAGA penalties pursuant to the aforementioned Labor Code  
27 violations, to the Labor and Workforce Development Agency ("LWDA") and to Defendant  
28

1 ACI. The facts and legal theories supporting the claims giving rise to the PAGA claims are  
 2 the same as pled above and as pled in the original Complaint.

3 92. The LWDA declined to issue notice of its intention to pursue civil penalties.  
 4 Labor Code § 2699.3(a)(2)(C) authorizes Plaintiffs, as a matter of right, to amend the existing  
 5 complaint to add a claim arising under PAGA within 60 days of the specified time periods.  
 6 Accordingly, Plaintiffs commence this PAGA claim for civil remedies as provided for under  
 7 Labor Code § 2699.

8 93. Plaintiffs request relief as described herein below:

9 **X. REQUEST FOR JURY TRIAL**

10 94. Plaintiffs request a trial by jury on behalf of themselves and the above-described  
 11 Rule 23 Class Members and FLSA Collective Action Members.

12 **XI. PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs Granados, Garcia, Mora, Rodriguez, and Saguilán, on behalf of  
 14 themselves and the Rule 23 Class Members and FLSA Collective Action Members, request relief  
 15 as follows:

16 1. Certification of the above-described class as a class action, pursuant to Code of  
 17 Civil Procedure 382;

18 A. Class notice to all Recycling Workers who worked for Defendants at the  
 19 Aladdin Street facility during the Class Period described above;

20 B. A declaratory judgment that Defendants have knowingly and intentionally  
 21 violated the following provisions of law:

22 (1) The San Leandro Living Wage Ordinance;

23 (2) The overtime provisions of the California Labor Code § 510, the  
 24 applicable I.W.C. Wage Order;

25 (3) California Labor Code §§ 201-203, for willful failure to pay all  
 26 wages due at the time of termination;

27 (4) California Labor Code § 227.3 for willful failure to pay all vested,  
 28 unused vacation and paid time off at the time of termination;

1 (5) California Labor Code § 223 for secretly paying a wage lower than  
2 that designated by law or contract;

3 (6) California Labor Code § 226 for failing to provide accurate wage  
4 statements including the applicable hourly rates in effect for each pay period;

5 (7) Business and Professions Code §§ 17200-17208, for profiting by  
6 unlawfully, unfairly and fraudulently failing to pay Recycling Workers the  
7 compensation owed to them under the laws described herein;

8 C. A declaratory judgment that Defendants' violations as described above were  
9 willful;

10 D. For an equitable accounting to identify, locate, and restore to all current and  
11 former Recycling Workers the wages that are due;

12 E. An award to Rule 23 Class Members of damages in the amount of unpaid  
13 wages and treble damages under the San Leandro Living Wage Ordinance, overtime  
14 compensation, and days off, including interest thereon, subject to proof at trial;

15 F. As to those Rule 23 Class Members who have left Defendants' employ, an  
16 award of payments due to them as waiting time penalties, pursuant to California Labor  
17 Code § 203;

18 G. An order requiring Defendants to pay restitution of all amounts owed to Rule  
19 23 Class Members for Defendants' failures to pay legally required wages, overtime, days  
20 off, and interest thereon, in an amount according to proof, pursuant to California Business  
21 & Professions Code § 17203;

22 H. For an order imposing penalties under California Labor Code §§ 203, 226,  
23 and the San Leandro Living Wage Ordinance;

24 I. An award to Rule 23 Class Members of reasonable attorneys' fees and costs,  
25 pursuant to Code of Civil Procedure § 1021.5, California Labor Code §§ 218.5, 226, 1194,  
26 and/or other applicable law; and

27 J. An award to Rule 23 Class Members of such other and further relief as this  
28 Court deems just and proper.



1           2.       Plaintiffs Granados, Garcia, Mora, Rodriguez, and Saguilán, on behalf of  
2 themselves and all members of the FLSA Collective Action, pray for relief as follows:

3                   A.       Designation of this action as a collective action on behalf of the FLSA  
4 Collective Action Members (asserting FLSA claims) and prompt issuance of notice  
5 pursuant to 29 U.S.C. § 216(b) to all similarly situated members of the FLSA Collective  
6 Action, apprising them of the pendency of this action, and permitting them to assert timely  
7 FLSA claims in this action by filing individual Consent to Join forms pursuant to 29 U.S.C.  
8 § 216(b);

9                   B.       Designation of Plaintiffs Granados, Garcia, Mora, Rodriguez, and Saguilán  
10 as Representatives of the FLSA Collective Action;

11                  C.       A declaratory judgment that the practices complained of herein are unlawful  
12 under the FLSA;

13                  D.       An award of damages, according to proof, including liquidated damages, to  
14 be paid by Defendants;

15                  E.       Costs of action incurred herein, including expert fees;

16                  F.       Attorneys' fees, including fees pursuant to 29 U.S.C. § 216;

17                  G.       Pre-Judgment and Post-Judgment interest, as provided by law; and

18           3.       An award of civil penalties to Plaintiffs and similarly situated Recycling Workers  
19 currently and formerly employed by Defendant ACI, as provided by California Labor Code § 2699;

20           4.       An award to Plaintiffs of reasonable attorneys' fees and costs pursuant to Labor  
21 Code § 2699(g).

22           5.       Such other legal equitable relief as this Court deems necessary, just, and proper.  
23

24 Dated: August 12, 2014

Respectfully submitted,

25 LEONARD CARDER, LLP

26  
27                               /s/ Aaron D. Kaufmann  
AARON D. KAUFMANN  
28 Attorney for Plaintiffs