

1 ANTHONY J. ORSHANSKY (SBN 199364)
anthony@counselonegroup.com
2 JENNIFER L. CONNOR (SBN 241480)
jennifer@counselonegroup.com
3 JUSTIN KACHADOORIAN (SBN 260356)
justin@counselonegroup.com
4 **COUNSELONE, PC**
9301 Wilshire Boulevard, Suite 650
5 Beverly Hills, California 90210
Telephone: (310) 277-9945
6 Facsimile: (424) 277-3727

7 Attorneys for Plaintiff Berenice de la Torre, on behalf of
herself and others similarly situated
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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**
12

13 BERENICE DE LA TORRE, on behalf of
14 herself and others similarly situated,

15 Plaintiff,

16 v.

17 AMERICAN INTERNATIONAL
18 INDUSTRIES, a business entity of unknown
19 form; and DOES 1 through 100, inclusive,

20 Defendants.
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Case No.: 20STCV29551

Assigned for all purposes to:
Hon. David S. Cunningham
Dept. 11

**SECOND AMENDED ~~PROPOSED~~
ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT**

Continued Preliminary Approval Hearing

Date: March 18, 2022

Time: 10:00 a.m.

Courtroom: 11

Complaint Filed: August 4, 2020

First Amended Complaint Filed: November 24,
2020

Trial Date: None set

FILED
Superior Court of California
County of Los Angeles
03/29/2022
Sherri R. Carter, Executive Officer / Clerk of Court
By: T. Lewis Deputy

1 This matter has come before the Honorable David S. Cunningham in Department 11 of the
2 Superior Court of the State of California, for the County of Los Angeles, on March 18, 2022 at 10:00
3 a.m. for Plaintiff's Motion for Preliminary Approval of Class and Representative Action Settlement.
4 CounselOne, PC appeared as counsel for Plaintiff Berenice de la Torre ("Plaintiff"), individually
5 and on behalf of all others similarly situated, and Bent Caryl & Kroll, LLP appeared as counsel for
6 Defendant American International Industries ("Defendant").

7 The Court, having carefully considered the papers, argument of counsel, and all matters
8 presented to the Court, and good cause appearing, hereby GRANTS Plaintiff's Motion for
9 Preliminary Approval of Class and Representative Action Settlement.

10 **IT IS HEREBY ORDERED THAT:**

11 1. The Court preliminarily approves the Amended Stipulation of Class and
12 Representative Action Settlement ("Amended Settlement Agreement"), attached as **EXHIBIT B** to
13 the Declaration of Anthony J. Orshansky in Support of Plaintiff's Motion for Preliminary Approval
14 of Class and Representative Action Settlement. This is based on the Court's determination that the
15 settlement falls within the range of possible approval as fair, adequate, and reasonable.

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

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

26 4. The Court preliminarily finds that the settlement, including the allocations for the
27 Attorneys' Fees and Costs, Enhancement Payment, PAGA Payment, Administration Costs, and
28 payments to the Settlement Class Members and PAGA Group Members provided thereby appear to

1 be within the range of reasonableness of a settlement that could ultimately be given final approval
2 by this Court. Indeed, the Court has reviewed the monetary recovery that is being granted as part of
3 the settlement and preliminarily finds that the monetary settlement awards made available to the
4 Class Members and PAGA Group Members are fair, adequate, and reasonable when balanced
5 against the probable outcome of further litigation relating to certification, liability, and damages
6 issues.

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

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

19 All current and former hourly-paid or non-exempt employees who worked for
20 Defendant, and/or its predecessor or merged entities, in the State of California from
February 1, 2017 through October 15, 2021.

21 7. The Court provisionally appoints CounselOne, PC as counsel for the Class ("Class
22 Counsel").

23 8. The Court provisionally appoints Plaintiff Berenice de la Torre as the representative
24 of the Class ("Class Representative").

25 9. The Court provisionally appoints CPT Group Inc. ("CPT") to handle the
26 administration of the settlement ("Settlement Administrator").

27 10. Within fifteen (15) calendar days (*i.e.*, April 2, 2022) of the Preliminary Approval
28 Hearing, Defendant shall provide the Settlement Administrator with the following information about

1 each Class Member: full name, last-known mailing address, last-known telephone number, Social
2 Security number, number of workweeks during the Class Period, number of pay periods during the
3 PAGA Period, and employment dates as an hourly-paid or non-exempt (“Class List”) in conformity
4 with the Amended Settlement Agreement.

5 11. The Court approves, both as to form and content, the Amended Notice of Pendency
6 of Class and Representative Action Settlement (“Amended Class Notice”) attached hereto as
7 **EXHIBIT A**. The Amended Class Notice shall be provided to Class Members in the manner set
8 forth in the Amended Settlement Agreement. The Court finds that the Amended Class Notice
9 appears to fully and accurately inform the Class Members of all material elements of the Amended
10 Settlement Agreement, of Class Members’ right to be excluded from the class settlement by
11 submitting an opt out request to the Settlement Administrator, of Settlement Class Members’ right
12 to dispute the workweeks credited to each of them, and of each Settlement Class Member’s right
13 and opportunity to object to the class settlement. The Court further finds that distribution of the
14 Amended Class Notice substantially in the manner and form set forth in the Amended Settlement
15 Agreement and this Order, and that all other dates set forth in the Amended Settlement Agreement
16 and this Order, meet the requirements of due process and shall constitute due and sufficient notice
17 to all persons entitled thereto. The Court further orders the Settlement Administrator to mail the
18 Amended Class Notice by first class U.S. Mail to all Class Members and PAGA Group Members
19 within twenty (20) calendar days (*i.e.*, April 7, 2022) of the Preliminary Approval Hearing, pursuant
20 to the terms set forth in the Amended Settlement Agreement.

21 12. The Court hereby preliminarily approves the proposed procedure, set forth in the
22 Amended Settlement Agreement, for seeking exclusion from the class settlement. Any Class
23 Member may choose to be excluded from the class settlement by submitting a timely written request
24 for exclusion to the Settlement Administrator, postmarked no later than the Response Deadline. The
25 Response Deadline shall be sixty (60) days after the Settlement Administrator initially mails the
26 Amended Class Notice to Class Members (*i.e.*, June 6, 2022), or the extended deadline for Class
27 Members to whom the Amended Class Notice was remailed, as set forth in the Amended Settlement
28 Agreement. No specific language is required in the request for exclusion provided it is sufficiently

1 clear that the Class Member desires to be excluded from the class settlement. Any such person who
2 chooses to opt out of, and be excluded from, the class settlement will not be entitled to recovery
3 under the class settlement and will not have any right to object, appeal, or comment on the settlement.
4 Class Members who have not submitted a timely and valid request to be excluded from the settlement
5 (*i.e.*, Settlement Class Members) shall be bound by the Amended Settlement Agreement and any
6 final judgment based thereon. Class Members employed by Defendant during the PAGA Period,
7 whether or not they submit a request for exclusion, (“PAGA Group Members”) will receive a PAGA
8 payment and will no longer be able to seek penalties under the PAGA (codified in California Labor
9 Code §§ 2698, *et seq.*), during the PAGA Period, for claims asserted or that could have been asserted
10 based on the facts alleged in Plaintiff’s letter to the LWDA.

11 13. To object to the class settlement, a Settlement Class Member should send his or her
12 objection to the Settlement Administrator, postmarked on or before the Response Deadline (*i.e.*, June
13 6, 2022), which is sixty (60) days after the Amended Class Notice is initially mailed to Class
14 Members, or by an extended deadline for Class Members to whom the Amended Class Notice was
15 remailed, as set forth in the Amended Settlement Agreement. However, the Court will hear from any
16 Settlement Class Member who attends the Final Approval Hearing and asks to speak regardless of
17 whether he or she submitted a written objection.

18 14. A Final Approval Hearing shall be held before this Court on July 12, 2022 at 10:00
19 a.m. in Department 11 of the Los Angeles County Superior Court, located at 312 N. Spring Street,
20 Los Angeles, California 90012, to determine all necessary matters concerning the settlement,
21 including: whether the proposed settlement of the action on the terms and conditions provided for in
22 the Amended Settlement Agreement is fair, adequate, and reasonable and should be finally approved
23 by the Court; whether a judgment, as provided in the Amended Settlement Agreement, should be
24 entered herein; whether the plan of allocation contained in the Amended Settlement Agreement
25 should be approved as fair, adequate, and reasonable to Settlement Class Members and PAGA Group
26 Members; and whether to finally approve the requests for Attorneys’ Fees and Costs, Enhancement
27 Payment, and Administration Costs.

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1 15. The deadline for Class Counsel to file a motion for final approval of the settlement
2 and for Attorneys' Fees and Costs, Enhancement Payment, and Administration Costs, along with
3 the appropriate declarations and supporting evidence, including the Settlement Administrator's
4 declaration, is 16 court days (*i.e.*, June 17, 2022) prior to the Final Approval Hearing. Class Counsel
5 shall also submit a Proposed Final Approval Order and Judgment, with a timeline to file a final report
6 summarizing all distributions made pursuant to the settlement, supported by declaration.
7 Additionally, the Final Approval Order and Judgment shall include two distinct procedures by which
8 the parties and the Court will comply with California Code of Civil Procedure section 384, as
9 amended, with regards to *cy pres* recipients. Thirty (30) days after the final report is filed with the
10 Court, the parties shall prepare and file a stipulation and proposed order and Proposed Amended
11 Judgment. The stipulation and proposed order shall include, *inter alia*, the amount of the distribution
12 of unpaid cash residue, and unclaimed or abandoned funds to the non-party, the accrued interest on
13 that sum and any other information required pursuant to section 68520 of the Government Code, as
14 incorporated into California Code of Civil Procedure section 384.5. The stipulation shall be signed
15 by Class Counsel, Defendant's counsel and counsel for (or an authorized representative of) the non-
16 party *cy pres* recipient. The stipulation shall include a statement to the effect that all interested
17 persons are in accord with the amended judgment and have no objection to the entry of an amended
18 judgment. If there are any objections by any party, Class Counsel shall immediately notify the Court
19 and the matter will be set for further hearing.

20 16. Except as required to implement the settlement, all proceedings and all litigation of
21 the action are stayed pending the Final Approval Hearing.

22 17. The settlement is not a concession or admission and shall not be used against
23 Defendant as an admission or indication with respect to any claim of any fault or omission by
24 Defendant. Whether or not the settlement is finally approved, neither the settlement, nor any
25 document, statement, proceeding or conduct related to the settlement, nor any reports or accounts
26 thereof, shall in any event be construed as, offered or admitted into evidence as, received as or
27 deemed to be in evidence for any purpose adverse to the Defendant, including, but not limited to,
28 evidence of a presumption, concession, indication or admission by Defendant of any liability, fault,

wrongdoing, omission, concession, or damage, except for legal proceedings concerning the implementation, interpretation, or enforcement of the Amended Settlement Agreement.

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

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

Dated: 03/29/2022



Hon. David S. Cunningham
Judge of the Superior Court

EXHIBIT A

NOTICE OF PENDENCY OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

De La Torre, et al. v. American International Industries
 Los Angeles County Superior Court, Case No. 20STCV29551

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendant's records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced matter.

You do not need to take any action to receive a settlement payment.

This Notice is designed to advise you of your rights and options with respect to the settlement.

By order of the Superior Court of California for the County of Los Angeles (the "Court" or "Los Angeles County Superior Court"), you are notified that: preliminary approval of a class and representative action settlement filed by a former employee ("Plaintiff") and defendant American International Industries ("Defendant"), was granted on [REDACTED], 2022, which may affect your legal rights.

If you are a Class Member (or member of the Class), you need not take any action to receive a settlement payment under the settlement, but you have the opportunity to request exclusion from the class settlement (in which case you will not receive payment under the class settlement), object to the class settlement, and/or dispute the number of workweeks credited to you, if you so choose, as explained more fully below.

I. IMPORTANT DEFINITIONS

"Class" means all current and former hourly-paid or non-exempt employees who worked for Defendant, and/or its predecessor or merged entities, within the State of California during the Class Period.

"Class Member" means a member of the Class.

"Class Period" means the period beginning on February 01, 2017 and ending on October 15, 2021.

"PAGA Group Member" means all Class Members who worked for Defendant at any time during the PAGA Period.

"PAGA Period" means the period beginning on July 24, 2019 and ending on October 15, 2021.

"Settlement Class Members" means Class Members who do not exercise their right to request exclusion from the class settlement. Class Members who request exclusion (explained below) retain their right to sue Defendant, if they choose, but will not receive payment under the proposed class settlement.

II. BACKGROUND OF THE ACTION

The settlement involves claims against Defendant alleging claims for: (a) failure to pay all unpaid minimum and overtime wages; (b) failure to provide timely and compliant duty-free meal periods and pay premiums owed thereon; (c) failure to provide timely and compliant duty-free rest breaks and pay premiums owed thereon; (d) failure to furnish accurate itemized wage statements; (e) failure to maintain and keep accurate records; (f) failure to reimburse all necessary business expenses incurred; (g) failure to pay all wages owed timely during employment and upon separation of employment; (h) engaging in unfair and unlawful business practices; and (i) violation of California's Private Attorneys General Act of 2004 ("PAGA").

Defendant denies all of the allegations in the action or that it violated any law, and contends that at all times it has fully complied with all applicable federal, state, and local laws.

After extensive investigation and analysis of the legal and factual issues and risks, the parties participated in a full-day mediation with a respected mediator, Jeffrey Krivis, Esquire of First Mediation Corporation, and as a result, the parties reached a settlement. The parties have since entered into the Stipulation of Class and Representative Action Settlement ("Settlement Agreement"), which was preliminarily approved by the Court on [REDACTED], 2022. The Court has appointed CPT Group, Inc. as the administrator of the settlement ("Settlement Administrator"), Plaintiff, as representative of the Class

(“Class Representative”), and the following law firm as counsel for the Class (“Class Counsel”):

Anthony J. Orshansky
Jennifer L. Connor
Justin Kachadoorian
CounselOne, PC
9301 Wilshire Blvd., Suite 650
Beverly Hills, California 90210
Telephone: (310) 277-9945
Facsimile: (424) 277-3727

The settlement represents a compromise and settlement of highly disputed claims. Nothing in the settlement is intended or will be construed as an admission by Defendant that the claims in the action have merit or that Defendant has any liability to Plaintiff, Class Members, or to PAGA Group Members. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the settlement is fair, reasonable and adequate, and that the settlement is in the best interests of Class Members and PAGA Group Members.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Terms

The total settlement amount is Two Million Four Hundred Thousand Dollars (\$2,400,000) (the “Gross Settlement Amount”). The portion of the Gross Settlement Amount that is available for payment to Class Members who do not opt out of the class settlement (“Settlement Class Members”) is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Gross Settlement Amount less the following payments which are subject to approval by the Court: (1) attorneys’ fees in an amount of up to 33-1/3 percent of the Gross Settlement Amount (i.e., up to \$800,000) and reimbursement of litigation costs and expenses in an amount of up to twenty five thousand dollars (\$25,000) to Class Counsel (together, “Attorneys’ Fees and Costs”); (2) enhancement payment to the Class Representative in an amount not to exceed seven thousand five hundred dollars (\$7,500) for her services and responsibilities in prosecuting the action (“Enhancement Payment”); (3) settlement administration costs in an amount not to exceed twenty thousand dollars (\$20,000) to the Settlement Administrator (“Administration Costs”); and (4) the allocation of two hundred thousand dollars (\$200,000) to settle all claims under the California Private Attorneys General Act (“PAGA”) (the “PAGA Payment” or “PAGA Settlement”), of which 75%, or \$150,000, will be paid to the California Labor and Workforce Development Agency (“LWDA”) and the remaining 25%, or \$50,000, will be paid to all PAGA Group Members on a *pro rata* basis.

B. Distribution Formulas

Each Settlement Class Member is eligible to receive a *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”) based on the number of workweeks he or she worked for Defendant in the State of California as an hourly-paid or non-exempt employee during the Class Period. Specifically, the Net Settlement Amount will be divided by the total of all workweeks of Settlement Class Members during the Class Period in order to establish the value of each workweek. The Individual Settlement Share of each Settlement Class Member will be calculated by multiplying the value of a workweek by the number of workweeks worked by the Settlement Class Member during the Class Period.

Each PAGA Group Member will receive a *pro rata* share of 25% of the PAGA Payment based on the number of pay periods he or she worked for Defendant in the State of California as an hourly-paid or non-exempt employee during the PAGA Period irrespective of whether he or she is a Settlement Class Member. Specifically, 25% of the PAGA Payment (or \$50,000) will be divided by the total of all pay periods worked by PAGA Group Members during the PAGA Period in order to establish the value of each pay period worked. The individual PAGA payment of each PAGA Group Member will be calculated by multiplying the value of a pay period by the number of pay periods worked by the PAGA Group Member during the PAGA Period.

Each Individual Settlement Share will be allocated twenty five percent (25%) to wages (which will be reported on an IRS Form W2), and seventy five percent (75%) to interest, penalties, and other non-wage damages (which will be reported on an IRS Form 1099, if applicable). Individual PAGA payments will be allocated as one hundred percent (100%) penalties (which will be reported on IRS Form 1099). Each Individual Settlement Share will be subject to reduction for the employee’s share of taxes and withholdings with respect to the wage portion of the Individual Settlement Share. The net payment of

each Settlement Class Member's Individual Settlement Share (after reduction for the employee's share of taxes on the wage portion) and individual PAGA payment (if applicable) is referred to as their "Individual Settlement Payment."

The Settlement Administrator will send Individual Settlement Payments to the address on file with the Settlement Administrator by way of one (1) check within 20 days of the Effective Date. The Effective Date will be the date of entry of the Final Approval Order and Judgment if no objections to the settlement are filed. If objections are filed and overruled or withdrawn, and no appeal is taken, then the Effective Date will be 65 calendar days after the entry of the Final Approval Order and Judgment. If an appeal is taken from the Court's overruling of objections to the settlement, then the Effective Date will be 20 calendar days after the appeal is dismissed or after an appellate decision affirming the Final Approval Order and Judgment becomes final. You may contact Class Counsel and/or the Settlement Administrator for updates.

Settlement checks will be valid for a period of 180 calendar days from the date of issuance, and after this time period, checks will be cancelled and the funds associated with such cancelled checks will be transmitted to Bet Tzedek in conformity with the requirements of California Code of Civil Procedure § 384.

If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure your receipt of payment that you may be entitled to.

C. Your Workweeks and Pay Periods Based on Defendant's Records

According to Defendant's records:

During the Class Period you worked for Defendant as an hourly-paid or non-exempt employee in California for <<Workweeks>> workweeks.

During the PAGA Period you worked for Defendant as an hourly-paid or non-exempt employee in California for <<PAGAPayPeriods>> pay periods.

If you wish to dispute the number of workweeks credited to you, you must submit a written letter to the Settlement Administrator. The written dispute must: (a) contain the case name and number; (b) be signed by you; (c) contain your full name, address, telephone number, and the last four digits of your Social Security number; (d) clearly state that you dispute the number of workweeks credited to you and what you contend is the correct number to be credited to you; (e) include information and/or attach documentation demonstrating that the number of workweeks that you contend should be credited to you is correct; and (f) be mailed to the Settlement Administrator at the address listed in Section IV.B below, postmarked **on or before [redacted], 2022 [60 Days After Mailing].**

D. Your Estimated Settlement Award

As explained above, your estimated settlement award is based on the number of workweeks and pay periods credited to you during the applicable periods.

Under the terms of the settlement, your Individual Settlement Share is estimated to be \$<<IndAmt>> and your individual PAGA payment (if applicable) is estimated to be \$<<PAGAAmt>>. The Individual Settlement Share is subject to reduction for the employee's share of taxes and withholding with respect to the wage portion of the Individual Settlement Share.

Individual Settlement Payments will only be distributed if the Court grants final approval to the settlement.

E. Released Claims

Upon the date Defendant fully funds the settlement, Plaintiff and all Class Members who did not opt-out of the settlement (the Settlement Class Members) release and forever discharge Defendant American International Industries, and each of its former and present parents, officers, directors, employees, partners, shareholders, owners, trustees, representatives, agents, attorneys, subsidiaries, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, affiliates, and insurers, and all of their respective successors, subsidiaries, assigns, or legal representatives (again, the "Released Parties"), from any and all wage-and-hour claims contained in the operative First Amended Complaint in the lawsuit, or that were or could have been asserted in the lawsuit based on the facts alleged by Plaintiff in the operative complaint during the Class Period ("Settlement Class Members' Released Claims"). The Settlement Class Members' Released Claims include all claims based on allegations for: (1) failure to pay minimum wages; (2) failure to pay overtime

wages; (3) non-compliant meal periods and/or failure to make premium payments thereon; (4) non-compliant rest breaks and/or failure to make premium payments thereon; (5) failure to provide accurate itemized wage statements; (6) failure to maintain and keep accurate records; (7) failure to reimburse for business expenses; (8) untimely wages during employment; (9) failure to pay all wages due upon separation of employment; (10) unfair business practices related to the Settlement Class Members' Released Claims; and (11) as well as any violation of the Industrial Welfare Commission Wage Orders ("Wage Orders") and California Labor Code as alleged or arising from claims that could have been pled based on the facts alleged in the operative pleadings, along with any potential penalties, interest, or attorneys' fees based on the alleged failure set forth in (1) through (10) above. This release excludes the release of claims not permitted by law.

Notwithstanding the foregoing, all Class Members, whether or not they submit a request for exclusion from the Settlement Class, employed by Defendant during the PAGA Period (the PAGA Group Members) will receive an individual PAGA payment and will no longer be able to seek penalties under the PAGA (codified in California Labor Code §§ 2698, *et seq.*), during the PAGA Period, for claims asserted or that could have been asserted based on the facts alleged in Plaintiff's letter to the LWDA ("PAGA Group Members' Released Claims").

IV. WHAT ARE YOUR RIGHTS AND OPTIONS?

A. Participate in the Settlement

If you want to receive money from the settlement, you do not have to do anything. You will automatically be issued your Individual Settlement Payment unless you decide to exclude yourself from the settlement. Unless you elect to exclude yourself from the settlement, you will be bound by the terms of the settlement and any judgment that may be entered by the Court based thereon, and you will be deemed to have released the Released Parties for the Released Claims, pursuant to Section III.D above.

You may not request exclusion from the PAGA Settlement. If you are a PAGA Group Member you will receive your individual PAGA payment, whether or not you choose to request exclusion from the class settlement, and you will be deemed to have released the Released Parties from the PAGA Group Members' Released Claims (defined above).

As a Settlement Class Member, you will not be separately responsible for the payment of attorney's fees or litigation costs and expenses unless you retain your own counsel, in which event you will be responsible for your own attorney's fees and expenses.

B. Request Exclusion from the Settlement

If you do not wish to participate in the class settlement, you may seek exclusion from (or "opt out" of) the class settlement by submitting a timely, written request for exclusion from the class settlement to the Settlement Administrator at the following address:

American International Industries Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park
Irvine, California 92606
Telephone: 1(xxx) xxx-xxxx

The request for exclusion should: (a) include your name, address, and telephone number; (b) include the case name and number; (c) include a clear and unequivocal statement that you wish to be excluded from the class settlement; (d) include your signature; and (e) be mailed to the Settlement Administrator at the address listed above, postmarked **no later than [redacted], 2022 [60 Days After Mailing]**. No specific language is required in the request for exclusion provided it is sufficiently clear that you desire to be excluded from the class settlement.

If the Court grants final approval of the settlement, any Class Member who submits a timely and valid request for exclusion from the class settlement will not be entitled to receive any payment from the class settlement, will not be bound by the class settlement, and will not have any right to object to, appeal, or comment on the settlement. Any Class Members who do not submit a timely and valid request for exclusion from the class settlement will be deemed Settlement Class Members and will be bound by all terms of the settlement, including those pertaining to the release of Released Claims stated in Section III.D above, as well as any judgment that may be entered by the Court based thereon.

You may not request exclusion from the PAGA Settlement. If you are a PAGA Group Member you will receive your individual PAGA payment, whether or not you choose to request exclusion from the class settlement, and you will be deemed to have released the Released Parties from the PAGA Group Members' Released Claims (defined above).

C. Object to the Settlement

You can object to the terms of the class settlement as long as you have not submitted a request for exclusion from the class settlement. To object to the class settlement, you should provide to the Settlement Administrator a timely written statement of the objection. The written objection should: (a) contain your full name, address, telephone number, and signature; (b) contain the case name and number; (c) contain a statement of the specific legal and factual basis for each objection argument; (d) contain a statement whether you intend to appear at the Final Approval Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel; and (e) be filed or postmarked **no later than [REDACTED], 2022 [60 Days After Mailing]**. Notwithstanding the foregoing, Settlement Class Members have the right to appear and have their objections heard or offer comments at the Final Approval Hearing. The Court will hear from any Settlement Class Member who attends the Final Approval Hearing and asks to speak regardless of whether they submitted a written objection. Settlement Class Members are not required to submit a notice of intent to appear at the Final Approval Hearing for the Court to consider any objection to the class settlement. You may not object to the PAGA Settlement.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 11 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012, [REDACTED], 2022, at [REDACTED] a.m./p.m., to determine whether the settlement should be finally approved as fair, reasonable, and adequate and whether the attorneys' fees and costs to Class Counsel, Enhancement Payment to Plaintiff, and Administration Costs to the Settlement Administrator should be awarded.

The hearing may be continued without further notice. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to at your expense.

At this time, Presiding Judge Eric C. Taylor has eliminated social distancing and restored in-person access without capacity limits in all Los Angeles County courthouses and courtrooms. Please note that a mandatory face mask order remains in effect. Face masks must be worn over the nose and mouth at all times in all public courthouse spaces. Current Covid-19 protocols are available on <https://www.lacourt.org/newsmedia/ui/AccessLACourtYourWay.aspx>. You may also appear at the hearing remotely, via audio and/or video. For directions, please see <https://my.lacourt.org/laccwelcome>.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should review the Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the action for a fee by visiting the civil clerk's office, located at 111 N. Hill Street, Los Angeles, California 90012, during business hours.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: 1(xxx) xxx-xxxx OR VISIT www.xxxxxxxxxxxx.com, OR YOU MAY ALSO CONTACT CLASS COUNSEL.

NOTICE OF THE FINAL APPROVAL ORDER AND JUDGMENT WILL BE POSTED ON SETTLEMENT ADMINISTRATOR'S WEBSITE AT www.xxxxxxxxxxxx.com.

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18
4 and not a party to the within action; my business address is 9301 Wilshire Boulevard, Suite 650,
Beverly Hills, CA 90210.

5 On March 21, 2022, I caused to be served the following document(s) to the address(es)
6 and by the method of service described below:

7 **SECOND AMENDED [PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL
OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT**

8 Jesse M. Caryl, Esq.
9 **BENT CARYL & KROLL, LLP**
6300 Wilshire Boulevard, Suite 1415
Los Angeles, CA 90048
10 Email: jcaryl@bcklegal.com

11 *Attorneys for Defendant,*
12 *American International Industries*

13 [X] (BY E-SERVICE) I delivered to ONELEGAL, LLC, an e-filing and e-service
14 provider with the Superior Court of California for the County of Los Angeles, the
above-described document(s), to be filed and electronically served through the
Superior Court's e-filing system on the above registered participants on this date.

15 I declare under penalty of perjury that the above is true and correct.

16 Executed on March 21, 2022 at Beverly Hills, California.

17
18 
19 Anthony J. Orshansky
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PROOF OF SERVICE