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Attorneys for Plaintiff and Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

CHARLES WALTON, as an individual and on
behalf of all others similarly situated, and as a
private attorney general,

Plaintiff,

vs.

PRAXAIR DISTRIBUTION, INC., a Delaware
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 20-CIV-03660

[Assigned for all purposes to Department 4,
Hon. Nancy L. Fineman]

**DECLARATION OF JARROD SALINAS
ON BEHALF OF PHOENIX SETTLEMENT
ADMINISTRATORS**

Date: April 12, 2022
Time: 8:30 a.m.
Department: 4

Complaint Filed: August 28, 2020

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I, Jarrod Salinas, declare as follows:

1. I am the Senior Case Manager at Phoenix Settlement Administrators (PSA), the Court-appointed settlement administrator in *Walton v. Praxair Distribution, Inc.* I have personal knowledge of the facts set forth below, except as to those matters stated on information and belief and, as to those matters, I believe them to be true. If called as a witness, I could testify competently as to the matters stated in this declaration.

2. PSA was selected by the Parties to provide notice of the Settlement and class administration duties in this action. Pursuant to the Settlement Agreement for this matter, PSA was responsible for: (i) preparing, printing, and mailing the *Notice of Class Action Settlement* (herein referred to as the “Notice Packet”); (ii) responding to inquiries from Class Members; (iii) determining the validity of opt-outs; (iv) calculating the Net Settlement Amount and the Individual Settlement Payments; (v) issuing the Individual Settlement Payment checks and distributing them to Settlement Class Members; (vi) issuing the payment to Class Counsel for attorneys’ fees and costs and the Enhancement Payment to Plaintiff; and (vii) such other tasks as set forth in the Agreement or as the Parties mutually agree or as the Court orders.

3. On January 17, 2022, PSA received a data file from defense counsel that contained names, last known mailing addresses, Social Security numbers, and number of Pay Periods for each Class Member during the Class Period and PAGA Period. The final mailing list contained five hundred sixty-two (562) Class Members.

4. On January 19, 2022, PSA conducted a National Change of Address (NCOA) search in an attempt to update the class list of addresses as accurately as possible. A search of this database provides updated addresses for any individual who has moved in the previous four (4) years and notified the U.S. Postal Service of their change of address.

5. On January 20, 2022, PSA mailed the Notice Packet via U.S. first class mail, in English to all five hundred sixty-two (562) Class Members on the Class List. There are a total of 20,926 pay periods worked by the Class from August 26, 2019, through July 31, 2021. A true and correct copy of the mailed Notice Packet is attached hereto as **Exhibit A**.

1 6. As of the date of this declaration, two (2) Notice Packets have been returned to PSA. For
2 the two (2) Notice Packets returned from the Post Office without a forwarding address, PSA attempted
3 to locate a current mailing address using TransUnion TLOxp, one of the most comprehensive address
4 databases available for skip tracing. Of the two (2) Notice Packets that were skip traced, two (2) updated
5 addresses were obtained and the Notice Packets were promptly re-mailed to those Class Members via
6 first class mail.

7 7. As of the date of this declaration, all Notice Packets are considered deliverable.

8 8. PSA has received zero Requests for Exclusion (*i.e.* “Opt-Out’s”). The deadline for Class
9 Members to submit an “Opt-Out” request was March 7, 2022.

10 9. PSA has received zero Objections to the Settlement. The deadline for Class Members to
11 submit an “Objection” to the Settlement was March 7, 2022.

12 10. There are no outstanding disputes.

13 11. The Net Settlement Fund of \$338,028.19 available to pay Class Members and the LWDA
14 was determined by subtracting the Class Counsel’s requested fee award (\$183,333.33), Class Counsel’s
15 costs payment (\$9,888.48), and Class Representative Enhancement (\$10,000.00), and PSA’s costs
16 (\$8,750.00) from the Maximum Settlement Amount (\$550,000.00). Based upon the calculations
17 stipulated in the Settlement, 25% of the Net Settlement Fund is the PAGA Penalty Fund (\$84,507.05),
18 75% of which is to be paid to the LWDA (\$63,380.29) pursuant to the Agreement and statute. The
19 remaining Net Settlement Fund, including 25% of the PAGA Penalty Fund allocated to Class Members
20 (\$21,126.76), results in amounts payable to Class Members (\$274,647.90). The highest individual
21 settlement payment to be paid will be approximately \$1,338.72, and the lowest individual settlement
22 payment to be paid will be approximately \$13.12, with the average individual settlement payment to be
23 paid being approximately \$488.70.

24 12. PSA’s costs associated with the administration of this matter are \$8,750.00. This includes
25 all costs incurred to date, as well as estimated costs involved in completing the settlement distribution.

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1 I declare under penalty of perjury under the laws of the State of California that the foregoing is
2 true and correct. Executed on March 21, 2022, at Orange, California.

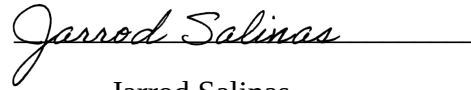
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5 Jarrod Salinas

EXHIBIT A

This notice is being sent pursuant to court order. This is not a solicitation from a lawyer.

NOTICE OF CLASS ACTION SETTLEMENT

Charles Walton v. Praxair Distribution, Inc.,
Superior Court of the State of California for the County of San Mateo Case No. 20-CIV-03660

If you were employed by Praxair Distribution, Inc. in California as a non-exempt employee and were paid overtime wages between August 26, 2019, and July 31, 2021, you could receive a payment from a class action settlement.*

*If you were a *Rita Garcia v. Praxair Distribution, Inc.* settlement class member and earned overtime only in periods settled in *Garcia*, you are not eligible.

Read this notice carefully, as your legal rights could be affected whether you act or not.

The Superior Court of the State of California for the County of San Mateo (the “Court”) has preliminarily approved a class action settlement that could affect your rights. The proposed settlement resolves a class and representative action lawsuit filed by Plaintiff, Charles Walton, against Defendant, Praxair Distribution, Inc. (now known as Linde Gas & Equipment Inc.) in the Superior Court of the State of California for the County of San Mateo as Case No. 20- CIV-03660 (the “Action”).

- The Action alleges Defendant fails to provide lawful wage statements to non-exempt employees who are paid overtime wages. Specifically, it alleges Defendant’s wage statements fail to accurately show the overtime rate of pay or the total hours worked. On that basis, the Action pursues class action claims as well as representative action claims under the Labor Code Private Attorneys General Act of 2004 (“PAGA”).
- Defendant denies Plaintiff’s allegations and maintains it has fully complied with the law. By agreeing to a settlement, Defendant in no way admits any violation of law or any liability whatsoever to Plaintiff or others and expressly denies all such liability. Both Plaintiff and Defendant have agreed to a settlement in light of all known facts and circumstances—including the uncertainty associated with litigation.
- If the settlement is granted final approval of the settlement, it would provide cash payments to Settlement Class Members, based on the number of relevant pay periods that they were paid overtime wages from August 26, 2019, through July 31, 2021 (the “Class Period” or “PAGA Period”).
- Based on Defendant’s records, you worked XXX relevant pay periods, and an *estimate* of the amount that could be allocated to you is \$XXX. Whether you receive a payment depends on whether the Court grants final approval, and the actual amount you would be allocated depends on the terms the Court finally approves.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
DO NOTHING	You do not have to do anything in response to this notice. If you do nothing, you will remain eligible to automatically receive an Individual Settlement Payment if the Court grants final approval of the settlement and will be bound by the release provisions of the settlement.
OPT OUT	You may opt out of the settlement by submitting a Request for Exclusion. If you opt out, you may not object to the settlement, will not be eligible to receive an Individual Settlement Payment, and will not be bound by the release provisions of the settlement.
OBJECT	You may object to the settlement by submitting a written objection. If the Court grants final approval of the settlement despite your objection, you will remain eligible to automatically receive an Individual Settlement Payment if the Court grants final approval of the settlement and will be bound by the release provisions of the settlement.

**THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION
FROM THE COURT AS TO THE MERITS OF THE CLAIMS.**

NOTICE OF CLASS ACTION SETTLEMENT
Questions? Please contact the Settlement Administrator at (800) 523-5773.
Page 1 of 4

1. Why Did I Receive This Notice?

You are receiving this Notice of Class Action Settlement (the “Notice”) because Defendant’s records show that you were employed by Defendant in California as a non-exempt employee and were paid overtime wages between August 26, 2019, and July 31, 2021 and did not release at least some of those claims in a prior class action settlement (“Class Member” or “Aggrieved Employee”). As a Class Member, you may be entitled to share in the funds to be made available for the class action settlement. As an Aggrieved Employee, you may be entitled to share in the funds to be made available for the PAGA settlement.

Because the settlement preliminarily approved by the Court would affect Class Members’ legal rights, the Court ordered that this Notice be sent to you. This Notice provides a brief description of the Action, informs you of the settlement terms preliminarily approved by the Court, and advises you of your legal rights with respect to the settlement. If finally approved by the Court, the settlement will fully resolve the Action and your legal rights may be affected by the settlement.

The Court has preliminary approved Larry W. Lee and Simon L. Yang of Diversity Law Group, P.C., and William L. Marder of Polaris Law Group as Class Counsel. Based on their investigation and evaluation, they are of the opinion that the terms of settlement are fair, reasonable, adequate, and in the best interests of Class Members. The terms of the settlement are set forth in detail in the Joint Stipulation of Class Action and PAGA Settlement (“Agreement”). You may obtain a copy of the Agreement from the Phoenix Administrators, a neutral third-party appointed by the Court to administer the settlement (the “Administrator”).

2. What Is the Action About?

On August 28, 2020, Plaintiff, on behalf of himself and all others similarly situated, and as a proxy for the State of California, filed a complaint in the Superior Court of the State of California for the County of San Mateo. The complaint alleges violation of Labor Code section 226 for failure to provide lawful wage statements to non-exempt employees who are paid overtime wages.

Defendant denied and continues to deny (i) all of the allegations made by Plaintiff, (ii) that it violated any applicable laws, or (iii) that it is liable or owes damages, penalties, or other compensation or remedies to anyone with respect to the alleged facts or claims asserted in the Action. Nonetheless, without admitting or conceding any liability or wrongdoing whatsoever, Defendant has agreed to settle the Action, to avoid the burden, expense, and uncertainty of continuing the Action.

3. What Are the Payments Under the Settlement?

Defendant agrees to pay a Gross Settlement Amount of \$550,000, which is inclusive of any Administration Costs, Attorneys’ Fees and Costs Award, and Class Representative Award awarded by the Court. The Court may approve payment of (i) Administration Costs to the Administrator for administering the settlement (e.g., printing, distributing, or tracking Notices, processing any required tax payments, distributing payments, etc.); (ii) an Attorneys’ Fees and Costs Award to Class Counsel for litigation and resolution of the Action; and (iii) a Class Representative Award to Plaintiff both for his efforts in prosecuting the Action for Class Members and in consideration of Plaintiff’s additional general release of claims inapplicable to Settlement Class Members.

25% of the Net Settlement Amount after deduction for any Court-approved payments will be allocated to a PAGA Penalty Fund. Pursuant to Labor Code requirements, 75% of the PAGA Penalty Fund will be allocated to the State of California Labor and Workforce Development Agency as an LWDA Payment. The remainder of the PAGA Penalty Fund and the other 75% of the Net Settlement Amount will be allocated entirely to Individual Settlement Payments to Class Members.

Individual Settlement Payments: Individual Settlement Payments shall be distributed to Class Members, without the need to submit a claim form. Allocations for amounts payable to Settlement Class Members and Aggrieved Employees will be based on the number of relevant wage statements they received as reflected in Defendant's records.

Funds from the PAGA Penalty Fund shall be distributed to Aggrieved Employees as Individual PAGA Payments and proportionally allocated among Aggrieved Employees based on the number of relevant wage statements during the PAGA Period for each Aggrieved Employee. The remainder of the Net Settlement Amount shall be distributed to Settlement Class Members as Individual Class Payments and proportionally allocated among Settlement Class Members based on the number of relevant wage statements during the Class Period for each Settlement Class Member.

All payments from the Net Settlement Amount shall be classified for tax reporting purposes as penalties. By participating in the settlement, each Class Member shall agree to be solely and legally responsible for paying all other applicable taxes on their respective Individual Settlement Payments and shall indemnify and hold harmless the Parties from any claim or liability for taxes, penalties, or interest arising as a result of the payments.

All uncashed or undeliverable settlement checks will expire six months after the postmarked date of their initial mailing. After six months, the sum value of all expired checks will be tallied by the Administrator. The Administrator shall direct the principal for any expired checks in accordance with the Final Approval Order. The Parties shall request that the Court order that the principal for any expired checks escheat to the State of California's Unclaimed Property Fund in the name of the Class Member.

Attorneys' Fees and Costs Award: You do not need to individually pay any portion of Class Counsel's attorneys' fees and costs. Any payments for those attorneys' fees and costs will be determined by the Court. Class Counsel intends to request that the Court approve an Attorneys' Fees and Costs Award in the amount of (a) 33⅓% of the Gross Settlement Amount (or \$183,333.33) and (b) litigation costs.

Class Representative Award: Any Class Representative Award is to be determined by the Court and would be supplemental to Plaintiff's Individual Settlement Payment. Class Counsel intends to request that the Court approve a Class Representative Award of \$10,000 for Plaintiff's efforts in prosecuting the Action for Class Members and in consideration of Plaintiff's additional general release of claims inapplicable to Settlement Class Members.

Administration Costs: Class Counsel intends to request that the Court approve Administration Costs of up to \$8,750, payable to the Administrator for administering the settlement, including, but not limited to, printing, distributing, or tracking Notices, providing any required tax forms, processing any required tax payments, or reporting, and calculating and distributing Individual Settlement Payments.

All Payments Subject to Court Approval

The payments listed above will be made if and only if the Court concludes the settlement is reasonable, fair, and adequate for the Class. The Court may adjust the amounts of certain payments.

4. What Do I Release Under the Settlement?

If the Court grants final approval of the settlement and concludes it is reasonable, fair, and adequate for Class Members, Settlement Class Members would release Defendant and any of its parents or subsidiaries and any of their officers, directors, managing agents, and successors and assigns (a "Released Party") from any and all claims for violations of Labor Code section 226(a) during the Class Period that were alleged in the Action or that reasonably could have been alleged based on the facts alleged in the Action.

Upon approval, all Aggrieved Employees and the LWDA fully release Defendant and each Released Party from any and all claims for civil penalties for violations of Labor Code section 226(a) during the PAGA Period that were alleged in the Action or that reasonably could have been alleged based on the facts alleged in the Action.

NOTICE OF CLASS ACTION SETTLEMENT

Questions? Please contact the Settlement Administrator at (800) 523-5773.

5. How Do I Object to the Class Action Settlement?

If you want to participate in the class action settlement, you do not have to do anything and do not have to appear at the final approval hearing before the Court. You will receive your Individual Settlement Payment automatically if the Court grants final approval of the settlement.

However, if you want to object to the class action settlement, you may appear at the final approval hearing to object to the settlement. Alternatively, you must take the steps below:

- (1) You must mail a written statement to the Administrator listed below.
- (2) The written statement must include: your name, address, last four digits of your Social Security number, and the basis for your objection.
- (3) If you object, you may but are not required to appear at the final approval hearing either in person or through counsel, paid for at your own expense.
- (4) The written statement must be postmarked by **March 7, 2022**.

If you object, you will remain bound by the class action settlement if finally approved. If you do not want to be bound by the class action settlement if finally approved, you must opt out of the class action settlement.

6. How Do I Opt Out of the Class Action Settlement?

If you do not want to participate in the class action settlement, you may opt out of the class action settlement. If you opt out of the class action settlement, you may not object to the class action settlement, shall not receive any Individual Class Payments, and shall not be bound by the class action release provisions of the settlement.

In order to opt out, you **MUST** express your desire to be excluded from the class action settlement by mailing to the Administrator a "Request for Exclusion," which must state "Request for Inclusion," include your name, current address, current telephone number, and last four digits of your social security number. Any such Request for Exclusion must be postmarked by **March 7, 2022**.

Any Request for Exclusion that does not include all required information or that is not submitted on a timely basis will be deemed null, void, and ineffective. A Request for Exclusion shall be deemed to be submitted as of the postmarked date. If you submit both a Request for Exclusion and an objection, your Request for Exclusion will be valid and be deemed to invalidate the objection.

7. Where Can I Get Additional Information?

This notice summarizes the Action, settlement, and related matters. For more information, you may contact the Administrator or Class Counsel:

Class Counsel:

DIVERSITY LAW GROUP, P.C.
Larry W. Lee
lwlee@diversitylaw.com
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Administrator:

PHOENIX SETTLEMENT
ADMINISTRATORS
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Orange, CA 92863
Telephone: (800) 523-5773
Facsimile: (949) 209-2503
notice@phoenixclassaction.com

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THE SETTLEMENT

NOTICE OF CLASS ACTION SETTLEMENT

Questions? Please contact the Settlement Administrator at (800) 523-5773.