

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Davis Allen (“Plaintiff”), individually and on behalf of all members of the Settlement Class, defined below, and Defendant Creative Stone Mfg., Inc. (“Defendant”) (Plaintiff and Defendant are referred to herein collectively as the “Parties”). Plaintiff and the Settlement Class are represented by Paul K. Haines, Sean M. Blakely, and Alexandra R. McIntosh of Haines Law Group, APC and James R. Hawkins and Christina Lucio of James Hawkins APLC (“Class Counsel”). Defendant is represented by Mary E. Lynch of the Law Offices of Mary E. Lynch.

This settlement resolves a lawsuit that was filed by Plaintiff against Defendant on June 29, 2021, in Riverside County Superior Court, Case No. CVRI2103180, and which was subsequently transferred to the San Bernardino County Superior Court and assigned case number CIVSB2201498 (the “Action”). As part of the settlement, the Parties stipulate to the filing of a Second Amended Class and Representative Action Complaint (“SAC”) in this Action, which will add a cause of action for unlawful deductions from earned wages. The SAC alleges that Defendant: (a) failed to pay all overtime wages; (b) failed to pay all minimum wages; (c) failed to provide proper meal periods, or premium pay for non-compliant meal periods; (d) failed to authorize and permit all rest periods, or premium pay for non-compliant rest periods; (e) made unlawful deductions from earned wages; (f) failed to issue accurate and complete itemized wage statements; (g) failed to maintain accurate payroll records; (h) failed to timely pay all final wages at the time of separation of employment; (i) is liable for Labor Code Private Attorneys General Act of 2004, California Labor section 2698 *et seq.* (“PAGA”) civil penalties based on the foregoing Labor Code Violations; and (i) is liable for unfair business practices that could have been premised on the facts, claims, causes of action, or legal theories described above.

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to certification of the following Settlement Class:

All current and former non-exempt employees of Defendant Creative Stone Mfg., Inc. employed in the State of California between April 6, 2016, through June 22, 2021 (the “Class Period”).

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure or an admission of liability regarding the allegations and/or claims included in the FAC. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **Releases by Settlement Class.** As of the date that (i) the Effective Date (as defined below) occurs and (ii) the settlement is fully funded, every member of the Settlement Class

(except those who opt out) will fully release and discharge Defendant and all of its past and present parent companies, affiliates, controlling persons, subsidiaries, directors, officers, shareholders and investors, agents, attorneys, employees, and benefit plans sponsored by any such entities (collectively the “Released Parties”), as follows:

- A. Settlement Class members will release all claims and causes of action, alleged or which could have reasonably been alleged based on the allegations in the SAC during the Class Period, including claims for: (a) failure to pay overtime wages; (b) failure to pay minimum wages; (c) failure to provide all meal periods, or premium pay in lieu thereof; (d) failure to authorize and permit all rest periods, or premium pay in lieu thereof; (e) unlawful deductions from earned wages; (f) failure to provide complete and accurate wage statements; (g) all claims for waiting time penalties; (h) all claims for unfair business practices that could have been premised on the claims, causes of action or legal theories pled in the operative SAC; (i) all claims under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”) that could have been premised on the claims, causes of action, or legal theories pled in the SAC; and (j) all damages, penalties, interest, costs (including attorneys’ fees) and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged in the SAC (collectively, “Class Member Released Claims”). In addition, all Settlement Class members (regardless whether they opt out) who worked for Defendant at any time from August 20, 2019 through the end of the Class Period (the “PAGA Period”) shall release Defendant from all claims for civil penalties under PAGA based on the above-mentioned violations, arising from their employment with Defendant during the PAGA Period (the “PAGA Released Claims”). The released claims include all claims for legal or equitable relief, compensatory and statutory damages, all penalties, including statutory and civil penalties, restitution, injunctive relief, pre and post-judgment interest, attorneys’ fees, and costs of the lawsuit based on the claims and causes of action alleged or which could have reasonably been alleged based on the allegations in the SAC during the Class Period. The Parties, including Plaintiff and the Settlement Class members, acknowledge that the wages Defendant is paying as part of this settlement are genuinely disputed. The Parties, including Plaintiff and the Settlement Class members, further acknowledge that as a result of this bona fide dispute, Labor Code, § 206.5(a) is not applicable to the settlement set forth in this Settlement Agreement.

3. **Release by Named Plaintiff:** As of the date that (i) the Effective Date (as defined below) occurs and (ii) the settlement is fully funded, Plaintiff and his agents, attorneys, representative, heirs, successors, assigns, and each and all of them, hereby release, acquit, and forever discharge Defendant, its parents, subsidiaries and affiliates, and each of them, and their respective agents, general agents, insurers, reinsurers, payroll companies, attorneys, representatives, owners, stockholders, policyholders, principals, partners, employees, officers, directors, trustees, heirs,

successors, predecessors, assigns, parent corporations, subsidiaries, affiliated companies , and each and all of them, of and from any and all obligations, debts, claims, liabilities, demands, and causes of action of every kind, nature and description whatsoever, whether or not now known, suspected or claimed, which they ever had, now have, or may hereafter acquire by reason of employment with Defendant, accruing from the beginning of time until the date that the final approval of the Settlement is granted, including all claims, known or unknown. The foregoing release shall be effective as a bar to any and all claims of any character, nature or kind, known or unknown, suspected or unsuspected specified herein. Plaintiff expressly waives any and all rights and benefits conferred upon them by the provisions of Section 1542 of the California Civil Code or similar provisions of applicable law which are as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

Specifically excluded from Plaintiff’s Released Claims are any claims for workers’ compensation benefits, which cannot be released as a matter of law.

4. **Maximum Settlement Amount.** As consideration, Defendant agrees to pay a non-reversionary maximum amount (“Maximum Settlement Amount”) of Two Million Eight Hundred Fifty Thousand Dollars and Zero Cents (\$2,850,000.00) in full and complete settlement of this matter, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrators as the “Settlement Administrator” to administer this Settlement.
- B. The Maximum Settlement Amount shall be deposited with the Settlement Administrator into an interest-bearing Qualified Settlement Fund (“QSF”) for the benefit of the Settlement Class members .by the earlier of: (i) five (5) business days of the Effective Date; or (ii) by December 31, 2022. The term “Effective Date” shall be defined as the date on which the Court enters an Order granting Final Approval, or, solely in the event that there are any objections to the settlement (the filing of an objection being a prerequisite to the filing of an appeal), the later of: (1) the last date on which any appeal might be filed or (2) the successful resolution of any appeal(s) – including expiration of any time to seek reconsideration or further review. In the event that the Settlement Agreement is not granted Final Approval, or does not become final, any funds deposited into the QSF by Defendant shall be returned within fifteen (15) days of a Court Order or other decision denying final approval of the Settlement Agreement.
- C. This is a non-reversionary settlement. The Maximum Settlement Amount includes:
 - (1) All payments (including interest) to the Settlement Class;

- (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Forty Thousand Dollars and Zero Cents (\$40,000.00);
- (3) Up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for Plaintiff's Class Representative Service Award in recognition of Plaintiff's contributions to the Action and his services to the Settlement Class. In the event that the Court reduces or does not approve the requested Class Representative Service Award, Plaintiff shall not have the right to revoke this settlement, and it will remain binding;
- (4) Up to one-third of the Maximum Settlement Amount in attorneys' fees, plus actual costs and expenses related to the Action as supported by declaration, which are not to exceed Thirty Thousand Dollars and Zero Cents (\$30,000.00). In the event that the Court reduces or does not approve the requested Class Counsel Award and costs, Plaintiff's counsel shall not have the right to revoke this settlement, and it will remain binding; and
- (5) One Hundred Thousand Dollars and Zero Cents (\$100,000.00) of the Maximum Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), will be payable to certain Settlement Class members as the "PAGA Amount," as described below.

D. Defendant's share of employer payroll taxes shall be paid by Defendant separately from, and in addition to, the Maximum Settlement Amount.

5. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Individual Settlement Payment") from the Settlement. Individual Settlement Payments will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Maximum Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, Plaintiff's Class Representative Service Award, the Settlement Administrator's fees and expenses for administration, and the amount designated as PAGA civil penalties. The remaining amount shall be known as the "Net Settlement Fund" ("NSF").
- B. From the Net Settlement Fund, the Settlement Administrator will calculate each Settlement Class member's Individual Settlement Payment based on the following formula:

- i. Payments to all participating Settlement Class members: Seventy-Five percent (75%) of the NSF will be distributed to all participating Settlement Class members based on each participating Settlement Class member's proportionate workweeks worked during the Class Period, by multiplying 75% of the NSF by a fraction, the numerator of which is the participating Settlement Class member's number of workweeks worked during the Class Period, and the denominator of which is the total workweeks worked by all participating Settlement Class members during the Class Period.
- ii. Waiting Time Amount: Fifteen percent (15%) of the NSF shall be designated as the "Waiting Time Amount." Each participating Settlement Class member whose employment with Defendant ended at any time from April 6, 2017, through the end of the Class Period (the "Waiting Time Period") shall receive an equal share of the Waiting Time Amount. In other words, the Waiting Time Amount will be divided equally among all participating Settlement Class members whose employment with Defendant ended during the Waiting Time Period.
- iii. Wage Statement Amount: Ten percent (10%) of the NSF shall be designated as the "Wage Statement Amount." Each participating Settlement Class member who was employed by Defendant at any time from April 6, 2019, through the end of the Class Period ("Wage Statement Period"), shall receive a portion of the Wage Statement Amount proportionate to the number of workweeks worked by that participating Settlement Class member during the Wage Statement Period, and which will be calculated by multiplying 10% of the NSF by a fraction, the numerator of which is the participating Settlement Class member's number of workweeks worked during the Wage Statement Period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class members during the Wage Statement Period.
- iv. PAGA Amount: In addition to the NSF, Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), of the Maximum Settlement Amount has been designated as the "PAGA Amount" as described above. Each Settlement Class member who was employed by Defendant at any time from August 20, 2019 through the end of the Class Period ("PAGA Period") (including those who submit a valid and timely Request for Exclusion from the class action settlement) shall receive a portion of the PAGA Amount proportionate to the number of workweeks worked during the PAGA Period, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the Settlement Class member's gross number of workweeks worked during the PAGA Period, and the denominator of which is the total number of workweeks worked by all Settlement Class members during the PAGA Period (including those who submit a valid and timely Request for Exclusion from the class action settlement).

- C. Within ten (10) calendar days following the deposit of the Maximum Settlement Amount with the Settlement Administrator by Defendant, the Settlement Administrator will calculate Individual Settlement Payment amounts, as well as the amount of the employer's share of payroll taxes due on the wage portion of the Individual Settlement Payments, and provide the same to counsel for review and approval. Within seven (7) calendar days of approval by counsel, the Settlement Administrator will prepare and mail Individual Settlement Payments, less applicable taxes and withholdings, to participating Settlement Class members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant's counsel.
- D. For purposes of calculating applicable taxes and withholdings for the Settlement Class members, each Individual Settlement Payment made from the Net Settlement Fund shall be allocated as follows: fifteen percent (15%) as wages and eighty-five percent (85%) as penalties and interest. Any payment made from the PAGA Amount shall be treated 100% penalties. The wages allocation will be minus legally mandated payroll withholdings. The Settlement Administrator will be responsible for issuing to participating Settlement Class members an IRS Form W-2 for amounts deemed "wages" and an IRS Form 1099 for the portions allocated as penalties and interest. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay, or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- E. Each member of the Settlement Class who receives an Individual Settlement Payment must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing shall be distributed to Legal Aid Society of San Bernardino, as a *cy pres* beneficiary.
- F. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

6. **Attorneys' Fees and Costs.** Defendant will not object to a request for a total award of attorneys' fees of one-third of the Maximum Settlement Amount, which is currently estimated to be Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00), plus actual costs and expenses as supported by declaration, in an amount not to exceed Thirty Thousand Dollars and Zero Cents (\$30,000.00). These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued

an IRS Form 1099 by the Settlement Administrator when it pays the fee award allowed by the Court.

7. **Class Representative Service Award.** Defendant will not object to a request for a Class Representative Service Award of up to Seven Thousand Five Hundred Dollars and Zero Cents to Plaintiff (\$7,500.00) for his time and risks in prosecuting this case and for his service to the Settlement Class. This award will be in addition to Plaintiff's Individual Settlement Payment as a Settlement Class member and shall be reported on an IRS Form 1099 by the Settlement Administrator. In exchange for the Representative Service Award, Class Representative will sign a General Release, including a Civil Code Section 1542 waiver, releasing all the Released Parties.

8. **Settlement Administrator.** Defendant will not object to the appointment of Phoenix Settlement Administrators as Settlement Administrator nor to Class Counsel seeking permission to pay up to Forty Thousand Dollars and Zero Cents (\$40,000.00) for its services from the Maximum Settlement Amount. The Settlement Administrator shall be responsible for sending notices and for calculating Individual Settlement Payments and preparing all checks and mailings. The Settlement Administrator shall be authorized to pay itself from the Maximum Settlement Amount by Class Counsel only after checks have been mailed to all participating Settlement Class members.

9. **Preliminary Approval.** Upon execution of this Settlement Agreement, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Paul K. Haines, Sean M. Blakely, and Alexandra R. McIntosh of Haines Law Group, APC and James R. Hawkins and Christina Lucio of James Hawkins APLC, as Class Counsel;
- C. Appointing Davis Allen as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice and the Notice of Estimated Settlement Award, attached hereto as **Exhibits 1 and 2**, respectively), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

10. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within ten (10) business days after entry of an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, and social security numbers (in electronic format) of the members of the Settlement Class, including the dates of employment and the workweeks worked by each Settlement Class member while employed in a position covered by the Settlement Class definition during the Class Period.
- B. Within ten (10) business days from receipt of this information, the Settlement Administrator shall: (i) run the names of all Settlement Class members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class members; (ii) update the addresses of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Individual Settlement Payment for each Settlement Class member; (iv) provide its calculations to Counsel for approval; and (v) mail the Notice Packet (in English and Spanish) to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt out of the settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within forty-five (45) calendar days of the date of the initial mailing of the Notice Packets (the "Response Deadline").
 - i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion: (1) must contain the name, address, telephone number, and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) must be signed by the Settlement Class member; and (4) must be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from this settlement, except a Request for Exclusion not containing a Settlement Class member's telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement (except for any amount due to him or her from the PAGA Amount, if applicable) and will not be bound by the terms of the Settlement (except for the PAGA release, if applicable) or have any right to object, appeal or comment thereon.
 - ii. Should more than five (5) percent of the Settlement Class Members opt out of the settlement, the Parties agree that Defendant, in its sole and complete discretion, has the option to void this Settlement Agreement. Should the

settlement become void, it will remain protected by California Evidence Code Section 1152. However, should Defendant elect to void this Settlement Agreement, Defendant will be solely responsible for any costs and fees incurred by the Settlement Administrator.

- iii. The Parties agree not to encourage or discourage any Settlement Class Member from excluding herself/himself from this settlement.
- D. Escalator Clause. Defendant represents there are approximately 75,000 workweeks worked by Settlement Class members during the Class Period. If the number of workweeks at Preliminary Approval has increased by 5% or more (i.e., if there are 78,751 or more workweeks at issue), then Defendant agrees to increase the Maximum Settlement Amount on a proportional basis (e.g., if the number of workweeks at issue is 20% greater than 78,751 workweeks, Defendant agrees to increase the Maximum Settlement Amount by 20%).
- E. Objections. Members of the Settlement Class who do not request exclusion may object to this Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel, who shall then promptly file all such objections with the Court). Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless an objection is filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days to respond. To be valid, any objection should: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than the Response Deadline. Members of the Settlement Class who do not request exclusion may also object to the Settlement by appearing at the Final Approval Hearing. The Parties agree not to encourage or discourage any Settlement Class Member from objecting to this settlement.
- F. Notification Reports Regarding Requests for Exclusion and Objections. The Settlement Administrator shall provide Defendant's Counsel and Class Counsel a weekly report showing at a minimum: (i) the number of Settlement Class Members who have submitted timely, valid Requests for Exclusion and/or Objections; (ii) whether any Settlement Class Member has submitted a challenge to the employment dates identified in their Notice, or any other information contained in the Notice; and (iii) statistics showing which disputes that have been resolved and which have not been resolved. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports as needed or requested.

- G. Notice of Settlement Award/Disputes. Each Notice Packet mailed to a Settlement Class member shall contain a Notice of Estimated Settlement Award, in which shall be disclosed the amount of the Settlement Class member's estimated Individual Settlement Payment as well as all of the information that was used from Defendant's records in order to calculate the Individual Settlement Payment, including the Settlement Class member's workweeks worked during the Class Period, whether the Settlement Class member separated employment during the Waiting Time Period, and the number of workweeks worked by the Settlement Class member during the Wage Statement Period and PAGA Period. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in their Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment shall be based on authentic documentation and shall be binding upon the Settlement Class member and the Parties.
- H. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall re-send the Notice Packet to the Settlement Class member immediately, and in any event within three (3) business days of obtaining the updated address. Settlement Class members to whom Notice Packets are re-sent after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to mail a Request for Exclusion or Objection or dispute. Notice Packets that are re-sent shall inform the recipient of this adjusted deadline. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet shall not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement.

11. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;

- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees, costs, Class Representative Service Award, and Settlement Administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769. Said judgment shall be posted on the Settlement Administrator's website.

12. **Non-Admission of Liability.** Nothing in this Agreement shall operate or be construed as an admission of any liability by the Released Parties or that class certification is appropriate in any context other than this settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

13. **Nondisclosure and Nonpublication.** Plaintiff and Class Counsel agree not to disclose or publicize the Settlement Agreement among the parties contemplated herein, the fact of the Settlement Agreement, its terms or contents, and the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this action and the venue/case number of this action for such purposes.

14. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

15. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Mary E. Lynch, Law Offices of Mary E. Lynch, 5 Corporate Park, Suite 260, Irvine, California 92606, mary@marylynch.com.

if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, California 90245, phaines@haineslawgroup.com.

James Hawkins, James Hawkins, APLC, 9880 Research Dr., Suite 200, Irvine, California 92618, james@jameshawkinsaplc.com.

16. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

17. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

18. **Enforcement and Continuing Jurisdiction of the Court.** To the extent consistent with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties and Settlement Class members, to the fullest extent to enforce and effectuate the terms and intent of this Settlement Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. The Court may award reasonable attorneys' fees and costs to the prevailing party in any motion or action taken based on an alleged violation of any material term of this Settlement Agreement.

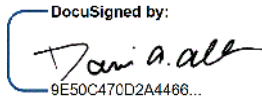
DATED: Defendant CREATIVE STONE MFG., INC.

By: _____

Its: _____

DATED: 8/10/2022

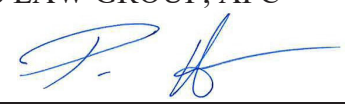
Plaintiff DAVIS ALLEN

By:  _____
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Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

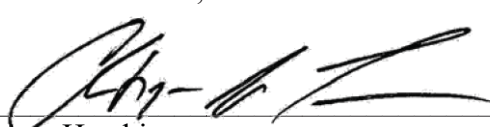
DATED: August 10, 2022

HAINES LAW GROUP, APC

By:  _____
Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

DATED: August 10, 2022

JAMES HAWKINS, APLC

By:  _____
James Hawkins
Christina Lucio
Attorneys for Plaintiff

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DATED:

Defendant CREATIVE STONE MFG., INC.

By:



Its:

 President

DATED:

Plaintiff DAVIS ALLEN

By:

Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED:

HAINES LAW GROUP, APC

By:

Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff

DATED:

JAMES HAWKINS, APLC

By:

James Hawkins
Christina Lucio
Attorneys for Plaintiff

EXHIBIT 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

DAVIS ALLEN, individually and on behalf of all
others similarly situated,

Plaintiff,

vs.

CREATIVE STONE MFG. INC., dba CORONADO
STONE PRODUCTS, INC., a California Corporation;
and DOES 1-10, inclusive,

Defendants.

Case No. CIVSB2201498

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED SETTLEMENT**

To: All current and former non-exempt employees of Defendant Creative Stone Mfg., Inc. employed in the State of California between April 6, 2016, through June 22, 2021. Collectively, these employees will be referred to as "Settlement Class members."

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT
THIS NOTICE IS BEING SENT IN ENGLISH AND SPANISH**

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the "Settlement") in *Davis Allen v. Creative Stone Mfg., Inc.*, San Bernardino Superior Court Case No. CIVSB2201498 (the "Action"). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Creative Stone Mfg., Inc.'s ("Creative Stone") records show that you were employed at Creative Stone as a non-exempt employee in the State of California between April 6, 2016, and June 22, 2021 (the "Class Period"). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Action, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment. If final judgment is entered in this case, it will be posted to the Settlement Administrator's website, www.phoenixclassaction.com.

What is this case about?

Plaintiff Davis Allen ("Plaintiff") brought this Action against Creative Stone, seeking to assert claims on behalf of a class of current and former non-exempt employees who worked for Creative Stone in the State of California at any time between April 6, 2016 and June 22, 2021. Plaintiff is known as the "Class Representative," and his attorneys, who also represent the interests of all Settlement Class members, are known as "Class Counsel."

The Action alleges that Creative Stone failed to pay Settlement Class members for all earned minimum and overtime wages, and failed to provide all required meal and rest periods to Settlement Class members. The Action also alleges that Creative Stone failed to provide Settlement Class members with accurate and complete wage statements, failed to timely pay all final wages at the time of separation of employment,

unlawfully deducted earned wages from Settlement Class members, and as a result of the foregoing alleged violations, engaged in unfair business practices and is liable for civil penalties under the Labor Code Private Attorneys General Act (“PAGA”).

Creative Stone denies that it has done anything wrong and believes it properly complied with all applicable wage and hour laws. Creative Stone denies that it owes Settlement Class members any wages, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Creative Stone, which expressly denies all liability.

The Court has not ruled on the merits of Plaintiff’s claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Creative Stone has concluded that it is in its best interests and the interests of Settlement Class members to settle the Action on the terms summarized in this Notice. Creative Stone provided relevant information to Class Counsel and the Settlement was reached after mediation and arm’s-length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Creative Stone, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by Creative Stone, your decision about whether to participate in the Settlement will not affect your employment. California law and Creative Stone’s policy strictly prohibit unlawful retaliation. Creative Stone will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of the Settlement Class member’s decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for the Plaintiff/Settlement Class members: JAMES HAWKINS APLC James R. Hawkins James@jameshawkinsaplc.com Christina M. Lucio Christina@jameshawkinsaplc.com 9880 Research Drive, Suite 200 Irvine, California 92618 Telephone: (949) 387-7200 Facsimile: (949) 387-6676 HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Sean M. Blakely sblakely@haineslawgroup.com Alexandra R. McIntosh amcintosh@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	Attorneys for Defendant Creative Stone: LAW OFFICES OF MARY E. LYNCH Mary E. Lynch mary@marylynchlaw.com 2875 Michelle Dr., Suite 200 Irvine, California 92606 Tel: (949) 229-5529 marylynchlaw.com
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What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt employees who worked for Creative Stone in the State of California between April 6, 2016, and June 22, 2021. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Creative Stone as described below.

Creative Stone has agreed to pay \$2,850,000 (the “Maximum Settlement Amount”) to fully resolve all claims in the Action, including payments to Settlement Class members, attorneys’ fees and expenses, Settlement Administration costs, PAGA civil penalties, and the Class Representative’s Service Award.

The following deductions from the Maximum Settlement Amount will be requested by the parties:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$40,000 from the Maximum Settlement Amount to pay the Settlement Administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Action on behalf of the Settlement Class members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Maximum Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to one-third of the Maximum Settlement Amount, which is currently estimated to be \$950,000, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$30,000 for verified costs Class Counsel incurred in connection with the Action.

Service Award to Class Representative. Class Counsel will ask the Court to award the Class Representative a service award in the amount of \$7,500 to compensate him for his service and extra work provided on behalf of the Settlement Class members.

PAGA Civil Penalties. The parties have agreed to allocate \$100,000 of the Maximum Settlement Amount as alleged civil penalties for the settlement of Plaintiff’s PAGA claim. Pursuant to the requirements of the PAGA, 75% of that amount, or \$75,000, will be paid to the California Labor & Workforce Development Agency (“LWDA”). The remaining \$25,000 has been designated as the “PAGA Amount” and will be paid to certain Settlement Class members as described below.

Calculation of Settlement Class Members’ Individual Settlement Payments. After deducting the Court-approved amounts above, the balance of the Maximum Settlement Amount will form the Net Settlement Fund (“NSF”), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSF is estimated at approximately \$1,722,500 and will be divided as follows:

- (i) Payments to all participating Settlement Class members: Seventy-five percent (75%) of the NSF will be allocated to each participating Settlement Class member in proportion to the number of workweeks worked by him or her between April 6, 2016, and June 22, 2021.
- (ii) Wage Statement Amount: Ten percent (10%) of the NSF has been designated as the “Wage Statement Amount” and will be allocated to all participating Settlement Class members who were employed by Creative Stone at any time between April 6, 2019, and June 22, 2021, in proportion to the number of workweeks that he or she worked between April 6, 2019, and June 22, 2021.

- (iii) Waiting Time Amount: Fifteen percent (15%) of the NSF shall be designated as the “Waiting Time Amount,” and shall be distributed equally to each participating Settlement Class member who separated their employment with Creative Stone between April 6, 2017, through June 22, 2021.
- (iv) PAGA Amount: \$25,000 has been designated as the “PAGA Amount” and will be allocated to Settlement Class members who were employed by Creative Stone at any time from August 20, 2019, to June 22, 2021 (including those who submit a valid and timely Request for Exclusion from the class action settlement), in proportion to the number of workweeks that he or she worked between August 20, 2019, and June 22, 2021.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion. Settlement checks will be valid for 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing will be distributed to the Legal Aid Society of San Bernardino.

Allocation and Taxes. For tax purposes, each Individual Settlement Payment will be treated as follows: fifteen percent (15%) as “wages,” for which an IRS form W-2 will be issued, and Eighty-Five percent (85%) as penalties and interest, for which an IRS form 1099 will be issued. Any payment made from the PAGA Amount shall be treated 100% penalties. The wages allocation will be minus legally mandated payroll withholdings. Settlement Class members are responsible for the proper income tax treatment of the Individual Settlement Payments. The Settlement Administrator, Creative Stone and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, the Settlement Class, and each Settlement Class member who has not submitted a timely and valid Request for Exclusion, will release Creative Stone, and its past and present parent companies, affiliates, controlling persons, subsidiaries, directors, officers, shareholders and investors, agents, attorneys, employees, and benefit plans sponsored by any such entities (collectively the “Released Parties”) from all claims and causes of action, alleged or which could have reasonably been alleged based on the allegations in the Second Amended Class and Representative Action Complaint (“SAC”) during the Class Period, including claims for: (a) failure to pay overtime wages; (b) failure to pay minimum wages; (c) failure to provide all meal periods, or premium pay in lieu thereof; (d) failure to authorize and permit all rest periods, or premium pay in lieu thereof; (e) unlawful deductions from earned wages; (f) failure to provide complete and accurate wage statements; (g) all claims for waiting time penalties; (h) all claims for unfair business practices that could have been premised on the claims, causes of action or legal theories pled in the operative SAC; (i) all claims under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”) that could have been premised on the claims, causes of action, or legal theories pled in the SAC; and (j) all damages, penalties, interest, costs (including attorneys’ fees) and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged in the SAC (collectively, “Class Member Released Claims”). In addition, all Settlement Class members (regardless whether they opt out) who worked for Creative Stone at any time from August 20, 2019 through the end of the Class Period (the “PAGA Period”) shall release Creative Stone from all claims for civil penalties under PAGA based on the above-mentioned violations, arising from their employment with Creative Stone during the PAGA Period (the “PAGA Released Claims”). The released claims include all claims for legal or equitable relief, compensatory and statutory damages, all penalties, including statutory and civil penalties, restitution, injunctive relief, pre and post-judgment interest, attorneys’ fees, and costs of the lawsuit based on the claims and causes of action alleged or which could have reasonably been alleged based on the allegations in the SAC during the Class Period. The Parties, including Plaintiff and the Settlement Class members, acknowledge that the wages Defendant is paying as part of this settlement are genuinely disputed. The Parties, including Plaintiff and the Settlement Class members, further acknowledge that as a result of this bona fide dispute, Labor Code, §206.5(a) is not applicable to the settlement set forth in this Settlement Agreement.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class, and the entry of Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the number of workweeks you worked between April 6, 2016, and June 22, 2021, the proportionate number of workweeks you worked between April 6, 2019, through June 22, 2021, the proportionate number of workweeks you worked between August 20, 2019, through June 22, 2021, and whether you ended your employment from April 6, 2017, through June 22, 2021, as stated in the accompanying Notice of Estimated Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Settlement Award. Your award is based on the number of workweeks you worked between April 6, 2016, and June 22, 2021, the proportionate number of workweeks you worked between April 6, 2019, through June 22, 2021, the proportionate number of workweeks you worked between August 20, 2019, through June 22, 2021, and whether you ended your employment from April 6, 2017, through June 22, 2021. The information contained in Creative Stone's records regarding each of these factors, along with your estimated Individual Settlement Payment, is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator's decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written "Request for Exclusion" letter or card postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, the last four digits of your social security number, and your signature.

Send the Request for Exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely Request for Exclusion Form shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member and shall be barred from participating in the class action settlement. However, Settlement Class members who were employed by Creative Stone at any time from August 20, 2019 through June 22, 2021 shall still be entitled to their portion of the PAGA Amount described above. **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you should mail a written objection to the Settlement Administrator. Your written objection must include your name, address, as well as contact information for any attorney representing you regarding your objection, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection. Objections should be in writing and must be postmarked on or before <<RESPONSE DEADLINE>>.

You may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department S-26 of the San Bernardino County Superior Court, located at 247 W. Third Street, San Bernardino, CA. 92415. You have the right to appear either in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE

DEADLINE>>. All objections or other correspondence must state the name and number of the case, which is *Davis Allen v. Creative Stone Mfg., Inc.*, San Bernardino Superior Court Case No. CIVSB2201498.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object. In other words, by submitting an Objection, you are not excluding yourself from the Settlement.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on **<<FINAL APPROVAL HEARING DATE/TIME>>**, in Department S-26 of the San Bernardino County Superior Court, located at 247 W. Third Street, San Bernardino, California 92415. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Service Award to the Class Representative. The Final Approval Hearing may be postponed without further notice to the Settlement Class. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

If you plan on attending the hearing or otherwise visiting the Court, please consult the Court's website, www.sb-court.org, for information regarding court operations during COVID-19 as well as face covering and social distancing requirements.

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the San Bernardino County Superior Court, located at 247 W. Third Street, San Bernardino, CA. 92415, during regular court hours. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, CREATIVE STONE, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is **<<RESPONSE DEADLINE>>**. These deadlines will be strictly enforced.

BY ORDER OF THE COURT ENTERED ON **<<PRELIM APPROVAL DATE>>.**

EXHIBIT 2

NOTICE OF ESTIMATED SETTLEMENT AWARD

DAVIS ALLEN V. CREATIVE STONE MFG., INC.
SAN BERNARDINO COUNTY SUPERIOR COURT CASE NO. CIVSB2201498

Please complete, sign, date, and return this Form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Settlement Payment:

According to Creative Stone Mfg., Inc.'s ("Creative Stone") records:

- (a) you worked [REDACTED] workweeks between April 6, 2016, and June 22, 2021 for Creative Stone;
- (b) you worked [REDACTED] workweeks between April 6, 2019, and June 22, 2021 for Creative Stone;
- (c) you worked [REDACTED] workweeks between August 20, 2019, and June 22, 2021 for Creative Stone; and
- (d) your employment with Creative Stone <<DID/DID NOT>> end between April 6, 2017, and June 22, 2021.

Based on the above, your Settlement Payment is estimated at \$ [REDACTED].

(IV) If you disagree with items (a), (b), (c), and/or (d) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this Form:

If you dispute the above information from Creative Stone's records, Creative Stone's records will control unless you are able to provide credible documentation that establishes otherwise and that Creative Stone's records are mistaken. If there is a dispute about whether Creative Stone's information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Parties and the Settlement Administrator as described in the "Notice of Pendency of Class Action and Proposed Settlement" that accompanies this Form.

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED
NO LATER THAN <<RESPONSE DEADLINE>>.**