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Attorneys for Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF ORANGE**

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

Plaintiffs,

vs.

CONTROL AIR ENTERPRISES LLC, a
 Delaware limited liability company; CONTROL
 AIR CONDITIONING CORP., a California
 corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 30-2020-01155488-CU-OE-CXC

[Hon. Lon F. Hurwitz, Department CX103]

~~AMENDED [PROPOSED]~~ ORDER
 GRANTING MOTION FOR PRELIMINARY
 APPROVAL OF CLASS ACTION
 SETTLEMENT

Date: April 28, 2023
 Time: 1:30 p.m.
 Department: CX103

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF ORANGE
 CENTRAL JUSTICE CENTER

MAY 03 2023

DAVID H. YAMASAKI, Clerk of the Court
 BY: D. MIRANDA, DEPUTY

1 Plaintiff's motion for an Order Granting Preliminary Approval of Class Action Settlement was
2 filed with the Court on or about June 13, 2022, and a hearing was held before this Court on April 28,
3 2023. Simon L. Yang of Diversity Law Group, P.C. appeared on behalf of Plaintiff, Tara Joy, and Sarkis
4 A. Atoyan of Atkinson, Andelson, Loya, Ruud & Romo appeared for Defendants Control Air
5 Enterprises LLC and Control Air Conditioning Corp.

6 **I. RECITALS**

7 1. On August 17, 2020, Plaintiff initiated this class and action to remedy Defendants' wage
8 statement violations since April 6, 2019. The Complaint also seeks penalties as a proxy for the State of
9 California pursuant to the Labor Code Private Attorneys General Act of 2004 ("PAGA"). During the
10 litigation, the Parties met and conferred about the transfer of employees previously employed by Control
11 Air Conditioning Corporation to Control Air Enterprises LLC on June 1, 2019. The operative complaint
12 also alleges pursues claims based on Control Air Conditioning Corporation's failure to pay all wages
13 and accrued PTO upon termination of employment on May 31, 2019.

14 2. After 10 months of litigation, the Parties commenced settlement negotiations through a
15 well-respected mediator, the Hon. Steven R. Denton (Ret.). Following the mediation, the Parties were
16 ultimately able to agree to the current settlement described in the Joint Stipulation of Class Action and
17 PAGA Settlement ("Agreement"), which is Exhibit 1 to the Declaration of Simon L. Yang on file as
18 ROA 68.

19 **II. FINDINGS**

20 3. The Court conditionally certifies the following Classes: (i) The "Wage Statement Class"
21 of all non-union employees who were issued wage statements from May 29, 2019, through August 9,
22 2020; and (ii) The "Vacation Class" of all employees whose employment with Control Air Conditioning
23 Corporation ended on May 31, 2019. The Wage Statement Class is comprised of approximately 332
24 individuals. The Vacation Class is comprised of approximately 180 individuals. "Class Members"
25 include all members of the Wage Statement Class and Vacation Class.

26 4. The Court hereby approves the terms and conditions provided for in the Agreement. The
27 Court finds that on a preliminary basis the Agreement falls within the range of reasonableness of a
28 settlement and appears to be presumptively valid, subject to any objections that may be raised at the

1 final fairness hearing and subject to final approval by the Court. It appears to the Court on a preliminary
2 basis that the settlement is fair, adequate, and reasonable as to all potential Class Members when
3 balanced against the uncertain outcome of further litigation relating to liability and damages issues. It
4 also appears that investigation, research, and proceedings have been conducted so that counsel for the
5 Parties are able to reasonably evaluate their respective positions. It appears to the Court that settlement
6 at this time will avoid substantial additional costs by all Parties, as well as avoid the delay and risks that
7 would be presented by the further prosecution of the action. It also appears that settlement has been
8 reached as a result of intensive, serious, and non-collusive arms-length negotiations.

9 **III. ORDERS**

10 After considering the papers and evidence, arguments of counsel, and all other matters presented
11 to the Court, and having taken the matter under submission, **IT IS HEREBY ORDERED** as follows:

12 5. The Court grants preliminary approval of the Agreement submitted by the Parties. The
13 Agreement appears to be fair, adequate, and reasonable to the Class.

14 6. The Court appoints and designates: (a) Plaintiff, Joseph Guevara, as Class
15 Representative, and (b) Larry W. Lee and Simon L. Yang of Diversity Law Group, P.C., Roger R.
16 Carter of The Carter Law Firm, and Marc H. Phelps of The Phelps Law Group as Class Counsel for the
17 Class. Class Counsel is authorized to act on behalf of the Class with respect to all acts or consents
18 required by, or which may be given, pursuant to the Agreement, and such other acts reasonably
19 necessary to finalize the Agreement and its terms. Any Class Member may enter an appearance through
20 his or her own counsel at such Class Member's own expense. Any Class Member who does not enter an
21 appearance or appear on his or her own behalf will be represented by Class Counsel.

22 7. A final fairness hearing on the question of whether the proposed Agreement, the
23 allocation of payments to Class Members, attorneys' fees and costs to Class Counsel, the payment to the
24 Labor & Workforce Development Agency, and the Class Representative Enhancement Payment should
25 be finally approved as fair, reasonable, and adequate as to the members of the Class is set for August 25,
26 2023, at 1:30 p.m. in this Court.

27 8. The Court hereby approves, as to form and content, the Notice of Class Action and
28 PAGA Settlement ("Class Notice"), which is attached as Exhibit A to the Agreement on file as ROA 68,

1 as well as Exhibit A to this Order. The Court finds that distribution of the Class Notice to Class
2 Members substantially in the manner and form set forth in the Agreement and this Order meets the
3 requirements of due process and shall constitute due and sufficient notice to all parties entitled thereto.

4 9. The Court appoints and designates Phoenix Settlement Administrators as the
5 Administrator. The Court hereby directs the Administrator to provide the approved Class Notice to Class
6 Members using the procedures set forth in the Agreement. Specifically, within five (5) calendar days
7 after receiving the Class List from Defendants, the Administrator will mail the Notice to all Class
8 Members via regular First-Class U.S. Mail. Prior to mailing, the Administrator will perform a search
9 based on the National Change of Address Database for information to update and correct for any known
10 or identifiable address changes. Any Notice returned to the Administrator as non-deliverable on or
11 before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding
12 address. If no forwarding address is provided, the Administrator will promptly attempt to determine the
13 correct address using a single skip-trace and will then perform a single re-mailing.

14 10. Any Class Member may choose to opt out of and be excluded from the settlement as
15 provided in the Agreement and Class Notice and by following the instructions for requesting exclusion.
16 Any person who timely and properly opts out of the settlement will not be bound by the Agreement or
17 have any right to object, appeal, or comment thereon. Any request for exclusion must be in writing and
18 signed by each such Class Member opting out and must otherwise comply with the requirements
19 delineated in the Class Notice. Class Members who have not requested exclusion by submitting a valid
20 and timely request for exclusion shall be bound by all determinations of the Court, the Agreement, and
21 Judgment.

22 11. Any Class Member may object to the Agreement or express his or her views regarding
23 the Agreement. Any Class Member may present evidence and file briefs or other papers relevant to the
24 issues to be heard and determined by the Court as provided in the Class Notice.

25 12. A Motion for Final Approval shall be filed by the Class Representatives no later than
26 sixteen (16) court days before the final fairness hearing.

1 13. The Court reserves the right to adjourn or continue the date of the final fairness hearing
2 and all dates provided for in the Agreement without further notice to the Class. The Court retains
3 jurisdiction to consider all further applications arising out of or connected with the Agreement.

4 14. Should for whatever reason final approval is not granted, the fact that the Parties were
5 willing to stipulate to certification of a class as part of the settlement shall have no bearing on the issue
6 of whether a class should be certified in a non-settlement context.

7 **IT IS SO ORDERED.**

8 DATED: MAY 03 2023 , 2023



THE HONORABLE LONI F. HURWITZ

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EXHIBIT A

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

NOTICE OF CLASS ACTION SETTLEMENT

Tara Joy v. Control Air Enterprises LLC et al.,
Superior Court of the State of California for the County of Orange Case No. 30-2020-01155488-CU-
OE-CXC

If you (i) ended employment with Control Air Conditioning Corporation on May 31, 2019 in California, or (ii) were a non-union employee of Control Air Enterprises LLC in California and issued a wage statement between May 29, 2019, through August 9, 2020, you could receive a payment from a class action settlement.

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 Orange (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, Tara Joy, against Defendants Control Air Enterprises LLC and Control Air Conditioning Corporation, and designated Orange County Superior Court Case No. 20-CIV-03660 (the "Action").

- The Action pursues class action claims as well as representative action claims under the Labor Code Private Attorneys General Act of 2004 ("PAGA"). On behalf of a "Wage Statement Class," the Action alleges Defendants failed to provide lawful wage statements that showed the name and address of the legal entity that was the employer. On behalf of a "Vacation Class," the Action alleges Defendants failed to timely pay all wages, including accrued vacation, upon the end of employment with Control Air Conditioning Corporation on or about May 31, 2019.
- Defendants deny Plaintiff's allegations and maintain they have fully complied with the law and have entered into the settlement solely for purposes of resolving this dispute. By agreeing to a settlement, Defendants in no way admit any violation of law or any liability whatsoever to Plaintiff or others and expressly denies all such liability. Both Plaintiff and Defendants have agreed to a settlement in light of all known facts and circumstances—including the uncertainty associated with litigation.
- If the proposed settlement is granted final approval by the Court, it would provide cash payments to Settlement Class Members. Payments to the Wage Statement Class will be allocated based on the number of workweeks each Settlement Class Member worked from May 29, 2019, through August 9, 2020. Payments to the Vacation Class will be allocated in equal amounts to Vacation Class Settlement Class Members.
- Based on Defendants' records, [you were a Vacation Class Member and] [you worked XXX workweeks relevant to the Wage Statement Class], 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.
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YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

OPT OUT	You may opt out of the class action 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. You will still receive any PAGA penalties allocated to you.
OBJECT	You may object to the class action settlement by submitting a written objection or appearing at the approval hearing. If the Court grants final approval 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.

THE COURT DOES NOT EXPRESS ANY OPINION AS TO THE MERITS OF THE CLAIMS.

1. Why Did I Receive This Notice?

You are receiving this Notice of Class Action Settlement (the "Notice") because Defendants' records show that you are a "Class Member" or "Aggrieved Employee" because you (i) ended employment with Control Air Conditioning Corporation on May 31, 2019 in California, or (ii) were a non-union employee of Control Air Enterprises LLC in California and issued a wage statement between May 29, 2019, through August 9, 2020. 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 preliminarily approved Larry W. Lee and Simon L. Yang of Diversity Law Group, P.C., Roger R. Carter of The Carter Law Firm, and Marc H. Phelps of The Phelps 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 Settlement Administrators, a neutral third-party appointed by the Court to administer the settlement (the "Administrator").

2. What Is the Action About?

On August 17, 2020, Plaintiff, on behalf of herself 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 Orange. On February [xxx], 2022, Plaintiff filed a first amended complaint. The operative complaint alleges violations of Labor Code sections 201-203, 226(a), and 227.3 for failure to provide lawful wage statements and failure to timely pay all wages, including accrued vacation, upon the end of employment.

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

3. What Are the Payments Under the Settlement?

6 Defendants agree to pay a Gross Settlement Amount of \$750,000. If there are more than 180 Vacation
7 Class Members, 50% of the Gross Settlement Amount shall be proportionally increased. If more than
8 14,326 wage statements issued to the Wage Statement Class between May 29, 2019 through August 9,
9 2020, 50% of the Gross Settlement Amount shall be proportionally increased.

10 The Gross Settlement Amount is inclusive of any Administration Expenses, Class Counsel Fees and
11 Costs, Class Representative Enhancement, and LWDA Payment awarded by the Court. The Court may
12 approve payment of (i) Administration Expenses to the Administrator for administering the settlement
13 (e.g., printing, distributing, or tracking Notices, processing any required tax payments, distributing
14 payments, etc.); (ii) Class Counsel Fees and Costs to Class Counsel for litigation and resolution of the
15 Action; (iii) a Class Representative Enhancement to Plaintiff both for her efforts in prosecuting the
16 Action for Class Members and in consideration of Plaintiff's additional general release of claims
17 inapplicable to Settlement Class Members; and (iv) an LWDA Payment to the Labor Workforce
18 Development Agency ("LWDA") for its share of PAGA penalties set by the Labor Code. Class
19 Members will be entitled to equal shares of PAGA penalties distributable to aggrieved employees.

20 The remainder, or the Net Settlement Amount, will be allocated entirely to Individual Settlement
21 Payments.

22 **Individual Settlement Payments:** 50% of the Net Settlement Amount shall be allocated to the Wage
23 Statement Class, and 50% of the Net Settlement Amount shall be allocated to the Vacation Class.
24 Individual Settlement Payments shall be distributed to Settlement Class Members, without the need to
25 submit a claim form.

26 Payments to the Wage Statement Class will be allocated based on the number of workweeks each
27 Settlement Class Member worked from May 29, 2019, through August 9, 2020. Payments to the
28 Vacation Class will be allocated in equal amounts to Vacation Class Settlement Class Members. In
addition, PAGA penalties distributable to Class Members shall be allocated to Class Members in equal
amounts.

10% of payments to the Vacation Class shall be classified as wages and reported on an IRS Form W-2.
All other settlement payments shall be classified as interest and non-wage statutory damages. 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 180 days after the postmarked date of their
initial mailing. After 180 days, the Administrator will send the amounts represented by the uncashed or
undeliverable checks to the California State Controller Unclaimed Property, with the identity of the
Class Member to whom the funds belong, to be held for the Class Member per California Unclaimed
Property Law.

1 **Class Counsel Fees and Costs:** You do not need to individually pay any portion of Class Counsel's
2 attorneys' fees and costs. Any payments for those attorneys' fees and costs will be determined by the
3 Court. Class Counsel intends to request that the Court approve Class Counsel Fees and Costs in the
amount of (a) 33⅓% of the Gross Settlement Amount (or \$250,000) and (b) litigation costs.

4 **Class Representative Enhancement:** Any Class Representative Enhancement is to be determined by
5 the Court and would be supplemental to Plaintiff's Individual Settlement Payment. Class Counsel
6 intends to request that the Court approve a Class Representative Enhancement 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.

7 **Administration Expenses:** Class Counsel intends to request that the Court approve Administration
8 Expenses of up to \$9,500, payable to the Administrator for administering the settlement, including, but
9 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.

10 **All Payments Subject to Court Approval:** Any payments 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.

11 4. What Do I Release Under the Settlement?

12

13 If the Court grants final approval of the settlement and concludes it is reasonable, fair, and adequate for
14 Class Members, Settlement Class Members would release Defendants and all of its current and former
15 owners, officers, directors, managers, members, employees, agents, representatives, subsidiaries,
16 parents, affiliates, predecessors, successors, joint venturers, co-owners, co-employers, joint employers,
17 payroll providers, attorneys, insurers, and reinsurers ("Released Parties") as follows: The Wage
Statement Class shall release claims for violations of Labor Code section 226 for the period of May 29,
2019 through August 9, 2020. The Vacation Class shall release claims for violations of California Labor
Code sections 201-203 and 227.3, as well as derivative violations of Business & Professions Code
section 17200 predicated on the change in employer name.

18 Upon approval, all Class Members shall release claims for PAGA penalties based on the above
19 violations of Labor Code section 201-203, 226, 226.3, and 227.3.

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

21

22 If you want to participate in the class action settlement, you do not have to do anything and do not have to
23 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.

24 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:

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

(4) The written statement must be postmarked by [45 calendar days after the initial mailing of Class Notice].

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 Exclusion," include your name, current address, current telephone number, last four digits of your social security number, and clearly state that you do not wish to be included in the settlement. Any such Request for Exclusion must be postmarked by [45 calendar days after the initial mailing of Class Notice].

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 at (xxx) xxx-xxxx, or Class Counsel:

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**PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THE
SETTLEMENT**