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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF LOS ANGELES**

SAMUEL HERNANDEZ, as an individual  
and on behalf of all others similarly situated,

Plaintiff,

vs.

SPECTRA COMPANY, a California  
corporation; and DOES 1 through 100,

Defendants

Case No. 20STCV39910

*[Assigned for all purposes to the Hon. Daniel  
J. Buckley, Dept. SSC-1]*

**DECLARATION OF PAUL K. HAINES  
IN SUPPORT OF PLAINTIFF'S  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

Date: April 28, 2022  
Time: 10:30 a.m.  
Dept.: SSC-1

Action filed: October 16, 2020  
Trial date: None set

1 I, PAUL K. HAINES, declare as follows:

2 1. I am a shareholder and principal of Haines Law Group, APC, and counsel for the  
3 named Plaintiff Samuel Hernandez (“Plaintiff”) and the proposed Settlement Class in the above-  
4 captioned matter. I am a member in good standing of the bar of the State of California and am  
5 admitted to practice in this Court. I have personal knowledge of the facts stated in this declaration  
6 and could testify competently to them if called upon to do so.

7 2. I am a 2006 graduate of Pepperdine University School of Law, where I graduated  
8 cum laude. During law school, I worked as a law clerk for the appellate firm of Horvitz & Levy,  
9 located in Encino, California. I also spent a semester in law school working as an extern for the  
10 Honorable Edward Rafeedie, District Judge for the United States District Court for the Central  
11 District of California.

12 3. Since graduating from law school, my practice has focused almost exclusively on  
13 employment litigation. In September 2007, I began working as an associate attorney at the  
14 international law firm of Littler Mendelson P.C., at its Los Angeles office, which according to its  
15 website is the “largest U.S.-based law firm exclusively devoted to representing management in  
16 every aspect of labor and employment law.” While at Littler Mendelson, I was primarily staffed  
17 on wage and hour class actions venued in both state and federal courts, and I also worked on a  
18 number of single and multi-plaintiff wage and hour matters as well.

19 4. During my employment at Littler Mendelson, I played a significant role in the  
20 class actions that I was staffed on, as I was often the only associate staffed on such cases. In  
21 particular, I received a wide-array of wage and hour class action experience performing the  
22 following types of tasks: drafting demurrers, motions to strike and/or dismiss; removing actions  
23 from state court to federal court; drafting and responding to written discovery; drafting and  
24 opposing discovery related motions; arguing discovery related motions; drafting motions to  
25 consolidate related matters; interviewing putative class members and obtaining declarations in  
26 connection with class certification; drafting oppositions to motions for class certification; drafting  
27 motions for decertification following class certification; conducting exposure analyses to assess  
28 the strengths and weaknesses of asserted claims, the likelihood of prevailing at class certification

1 and potential damages resulting from such claims; drafting mediation briefs; serving as the  
2 primary contact to in-house counsel; deposing named plaintiffs and putative class members;  
3 deposing retained expert witnesses; and defending the depositions of corporate witnesses. In  
4 short, I played an integral role in all aspects of litigation from the inception of a matter through  
5 and beyond class certification. I also supervised the work of several junior attorneys who were  
6 staffed on the same wage and hour class actions.

7         5.       In June 2011, I voluntarily resigned from Littler Mendelson in order to accept an  
8 associate attorney position with the international law firm of Morgan, Lewis & Bockius LLP, at  
9 its Los Angeles office, where I began working in July 2011. During my employment at Morgan,  
10 Lewis & Bockius LLP, I worked exclusively on the defense of wage and hour class and collective  
11 actions. For the vast majority of these cases, I was the only associate staffed on the matter, and I  
12 performed the same job duties as described in the immediately preceding paragraph. In addition  
13 to working on wage and hour class actions, I also worked on a number of “hybrid” actions  
14 asserting nationwide wage and hour claims under the Fair Labor Standards Act (“FLSA”), as well  
15 as California-specific claims under Rule 23 of the Rules of Civil Procedure.

16         6.       In July 2012, I transitioned into litigating wage and hour class actions from the  
17 Plaintiff’s side, first as a Partner with the law firm of Boren, Osher & Luftman, LLP, and since  
18 February 2016, as a Shareholder of the Haines Law Group, APC. Currently, over ninety percent  
19 (90%) of my practice is dedicated exclusively to the prosecution of wage and hour class actions,  
20 and I am currently responsible for prosecuting over fifty (50) wage and hour class actions filed in  
21 both State and Federal courts throughout California. I have been appointed as Class Counsel in  
22 over one hundred (100) wage and hour class action settlements in state and federal courts within  
23 California. A few examples of the matters in which I have been appointed as Class Counsel, all  
24 of which have been granted final approval, include the following: *Sanchez v. Res-Care, Inc.*, Case  
25 No. BC526175, California Superior Court, County of Los Angeles, Hon. John Shepard Wiley,  
26 Jr., presiding; *Prado v. Warehouse Demo Services, Inc.*, Case No. CV14-3170 JFW (Ex), United  
27 States District Court, Central District of California, Hon. John F. Walter presiding; *Tesla Motors*  
28 *Wage and Hour Litigation*, JCCP 4792, California Superior Court, Santa Clara County, Hon.

Peter H. Kirwan presiding; *Bower v. Cycle Gear, Inc.*, Case No. CV14-2712 HSG, United States District Court, Northern District of California, Hon. Haywood S. Gilliam, Jr. presiding; *Longstreth v. PAQ, Inc., dba Food 4 Less*, Case No. 15CV-0206, California Superior Court, County of San Luis Obispo, Hon. Charles S. Crandall presiding; *Nunez v. CompuCom Systems, Inc.*, Case No. BC618385, California Superior Court, County of Los Angeles, Hon. John Shepard Wiley, Jr. presiding; *Mansilla v. Haeco Americas Line Services, LLC, et al*, Case No. BC615310, Superior Court of California, County of Los Angeles, Hon. Elihu M. Berle presiding; *Leverage, et al v. Traeger Pellet Grills, LLC, et al*, Case No. 4:16-cv-00784-KAW, United States District Court, Northern District of California, Hon. Kandis A. Westmore presiding.

7. I have also moved to certify and have received an order certifying a class action and/or conditionally certifying a collective action, in the following cases:

- *Medeiros v. Vortex Financial Management Inc.*, Case No. 30-2013-00644741-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge Gail A. Andler, presiding (certifying a class of employees who were misclassified as independent contractors);
- *Javine v. San Luis Ambulance Service, Inc.*, Case No. CV13-07480 BRO (SSx), United States District Court, Central District of California, Honorable Judge Beverly Reid O’Connell, presiding (conditionally certifying an unpaid FLSA overtime wage class);
- *Prado v. Warehouse Demo Services, Inc.*, Case No. CV14-3170 JFW (Ex), United States District Court, Central District of California, Honorable Judge John F. Walter, presiding (certifying a rest period violation class and conditionally certifying an FLSA unpaid overtime wage class);
- *Bower v. Cycle Gear, Inc.*, Case No. CV14-2712 HSG, United States District Court, Northern District of California, Honorable Judge Haywood S. Gilliam, Jr., presiding (conditionally certifying an unpaid FLSA overtime wage class);
- *Vega v. Weatherford U.S., Limited Partnership*, Case No. CV14-1790-JLT, United States District Court, Eastern District of California, Honorable Jennifer L. Thurston, presiding (conditionally certifying an unpaid FLSA overtime wage class);

- 1 • *Galvan v. AMVAC Chemical Corporation*, Case No. 30-2014-00716103-CU-OE-CXC,  
2 California Superior Court, County of Orange, Honorable Judge William Claster, presiding  
3 (certifying unpaid overtime wage class and waiting time penalty class);
- 4 • *Camacho v. Residential Fire Systems, Inc.*, Case No. 30-2015-775372-CU-OE-CXC,  
5 California Superior Court, County of Orange, Honorable Glenda Sanders, presiding  
6 (certifying piece rate pay plan classes, expense reimbursement class, wage statement  
7 class, and waiting time penalties class);
- 8 • *Ontiveros v. Safelite Fulfillment, Inc., et al*, Case No. CV 15-7118-DMG (RAOx), United  
9 States District Court, Central District of California, Honorable Dolly M. Gee presiding  
10 (certifying six classes of employees for rest period violations, wage statement violations,  
11 meal period violations, and overtime and double-time violations);
- 12 • *Vazquez, et al v. Kraft Heinz Foods Company*, Case No. 16-cv-2749-WQH-BLM, United  
13 States District Court, Southern District of California, Honorable William Q. Hayes  
14 presiding (certifying six classes of employees for unpaid wages, meal period violations,  
15 wage statement violations, and waiting time penalties);
- 16 • *Caudle, et al. v. Sprint/United Management Company, et al.* Case No. C 17-06874-WHA,  
17 United States District Court, Northern District of California, Honorable William H. Alsup  
18 presiding (certifying three classes of employees for unlawful wage deduction violations,  
19 wage statement violations, and waiting time violations);
- 20 • *Staublein v. Wells Fargo Bank*, No. CIVDS1712267, San Bernardino County Superior  
21 Court, Honorable David S. Cohn presiding (certifying wage statement class);
- 22 • *Perez v. Sunbelt Rentals, Inc.* Case No. 37-2018-00026405-CU-OE-CTL, California  
23 Superior Court, County of San Diego, Honorable Eddie C. Sturgeon presiding (certifying  
24 class of employees for wage statement violations);
- 25 • *Bowlin-Burdick, et al v. Life Care Centers of America, Inc.*, Case No. BC657139, Los  
26 Angeles County Superior Court, Honorable Maren E. Nelson presiding (certifying four  
27 classes for meal period violations, rest period violations, wage statement violations, and  
28 waiting time penalties).

1           8.       In 2015, 2016, and 2017, Thomson Reuters recognized me as a Top Young  
2 Attorney in Southern California in the annual Rising Stars Edition of Super Lawyer. This is an  
3 honor awarded to no more than two-and-a-half percent of attorneys under the age of forty in  
4 Southern California each year. In 2018, 2019, 2020, and 2021, Thomson Reuters recognized me  
5 as a “Super Lawyer” in the annual Super Lawyer magazine, an honor awarded to no more than  
6 five percent of all attorneys in Southern California each year.

7           9.       As counsel for Plaintiff and the proposed Settlement Class, I have been intimately  
8 involved in every aspect of this case from its inception through the present, and I believe that the  
9 proposed Settlement is a favorable result for the Settlement Class.

10          10.      The proposed Settlement Agreement (“Settlement”) is attached hereto as **Exhibit**  
11 **1**. The proposed Class Notice and Notice of Estimated Settlement Award are attached to the  
12 Settlement as Exhibits A and B, respectively.

13          11.      Defendant Spectra Company (“Spectra”) is a construction company  
14 headquartered in Pomona, California that provides historic restoration, materials restoration, and  
15 preservation consulting services. Plaintiff and Settlement Class members worked as non-exempt  
16 employees for Spectra in California during the proposed Class Period.

17          12.      On October 16, 2020, Plaintiff, through my office, filed the instant action against  
18 Spectra, alleging claims for failure to pay overtime wages, minimum wage violations, rest period  
19 violations, meal period violations, wage statement penalties, waiting time penalties, and unfair  
20 competition. On December 28, 2020, Plaintiff, through my office, filed the operative First  
21 Amended Class and Representative Action Complaint, adding a claim for civil penalties under  
22 the Private Attorneys General Act (“PAGA”), Labor Code § 2698 *et seq.* The Parties subsequently  
23 agreed to attend private mediation with respected wage and hour class action mediator Francis  
24 “Tripper” Ortman, Esq.

25          13.      In preparation for mediation, the parties engaged in extensive informal discovery,  
26 including Spectra’s production of a class list containing the hire dates, termination dates, and rates  
27 of pay for each putative class member, which enabled my office to calculate the number of  
28 workweeks and pay periods worked and average rates of pay for the Settlement Class. Spectra

also provided both timesheets and electronic badge-swipe records for Settlement Class members for nearly the entire Class Period, as well as its written wage and hour policies. This discovery allowed the Parties to assess the merits of Plaintiff’s claims and Spectra’s defenses.

14. On October 13, 2021, the Parties attended a full-day mediation with Mr. Ortman. The Parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiff’s claims, and the legal bases for the claims and defenses. The Parties also discussed Spectra’s financial condition and its ability to pay a classwide settlement and on what terms. Spectra produced financial records, including independently reviewed financial statements, to support its representations. Ultimately, the Parties agreed in principle to a mediator’s proposal, subject to Spectra’s production of additional financial documents and Plaintiff’s review of the same with Plaintiff’s retained forensic accountant.

15. Spectra provided the requested records, including additional years of independently reviewed financial statements, letters from banks regarding loans owed by Spectra, and other information. Some of this information is also attested to in the declaration of Ray Adamyk, Spectra’s owner and President, filed concurrently herewith. My office retained a forensic accountant who reviewed the documents produced by Spectra and requested additional information, which Spectra provided. After conducting his full review of Spectra’s records, our retained forensic accountant confirmed Spectra’s representations regarding its financial condition and concluded the proposed settlement was warranted in light of Spectra’s financial condition. Thereafter, the Parties negotiated the settlement’s finer terms, ultimately resulting in the Settlement.

16. The monetary terms of the Settlement are summarized below:

|                                                           |                     |
|-----------------------------------------------------------|---------------------|
| • Gross Settlement Amount (“GSA”):                        | \$500,000.00        |
| • Minus Court-approved attorney fees (one-third):         | \$166,666.67        |
| • Minus Court-approved verified costs (up to):            | \$25,000.00         |
| • Minus Court-approved Representative Payment:            | \$7,500.00          |
| • Minus Amount Set Aside as PAGA penalties:               | \$40,000.00         |
| • <u>Minus estimated settlement administration costs:</u> | <u>\$12,000.00</u>  |
| Net Settlement Amount (“NSA”):                            | \$248,833.33        |
| PLUS 25% “PAGA Amount” to Settlement Class:               | \$10,000.00         |
| <b>Total Amount Paid to Settlement Class:</b>             | <b>\$258,833.33</b> |

1           17.     Spectra represents there are approximately 346 Settlement Class members. Thus,  
2 Settlement Class members will receive projected average payments of \$748.07 as a direct result  
3 of this litigation.

4           18.     Plaintiff alleges that he and other employees were required to perform work off-  
5 the-clock, in that they were required to log on to Spectra's website each evening after 5:30 p.m.  
6 to check their work schedules for the following day. Because their workdays often ended prior to  
7 5:30 p.m., Plaintiff alleges that this required employees to perform work off-the-clock. Plaintiff  
8 estimated that it would take approximately 2-3 minutes to log on and check one's schedule each  
9 evening. Based on data provided by Spectra, Plaintiff calculated there were approximately 28,320  
10 workweeks during the Class Period, and that Settlement Class members generally worked 5 days  
11 per week, for a total of approximately 141,600 workdays. Accordingly, Plaintiff estimated  
12 approximately 5,900 hours of unpaid time (141,600 \* 2.5 minutes, or .0416 hours, per day).  
13 Plaintiff further calculated that the average minimum wage during the Class Period was  
14 approximately \$12.50. Using these figures, Plaintiff estimated Spectra's potential liability as  
15 \$147,500 for unpaid minimum wages for off-the-clock work (5,900 hrs \* \$12.50 \* 2 (liquidated  
16 damages under Labor Code § 1194.2)). However, Spectra contends that any time spent checking  
17 work schedules is not "hours worked," as employees are not subject to Spectra's control during  
18 such time. Spectra further maintains that, even if such time were otherwise compensable, it is *de*  
19 *minimis* as it only takes a few seconds to log on and check one's schedule, and is therefore not  
20 compensable. Spectra further maintains this claim is not suited for class treatment, since  
21 individual inquiries would be needed to assess which Settlement Class members ended their shifts  
22 after 5:30 p.m., and how much time a particular Settlement Class member spent each day to check  
23 their schedule, leading to hundreds of individualized mini-trials. In light of these defenses,  
24 Plaintiff discounted the maximum exposure by 45% for risk of non-certification, and an additional  
25 65% for risk of losing on the merits or failing to recover the full amount sought, to arrive at an  
26 estimated exposure of \$28,394.

27           19.     Plaintiff alleges that Spectra failed to pay for all hours worked, in that it generally  
28 had employees fill out time sheets reflecting their scheduled hours, and Spectra paid employees

1 based on those timesheets rather than electronic badge-swipe records. Based on a review and  
2 analysis of timekeeping records produced by Spectra, Plaintiff estimated that employees were  
3 underpaid on approximately 53,000 shifts, by an average of about 8 minutes (or 0.133 hours) per  
4 shift, when comparing electronic badge swipes to their timesheets, for a total of approximately  
5 7,067 unpaid hours. Because employees frequently worked 8 hours or more per shift, Plaintiff  
6 calculated this unpaid time as overtime wages, and based on data provided by Spectra, Settlement  
7 Class members' average overtime rate during the Class Period was approximately \$38.45 (based  
8 on \$25.63 average rate of pay). Plaintiff therefore estimated Spectra's potential exposure on this  
9 claim as \$271,726 (7,067 hrs \* \$38.45). Spectra counters that in general, employees consistently  
10 work their scheduled hours, and that Plaintiff's analysis is severely inflated because it doesn't  
11 take into account those shifts when employees were *over*-paid; indeed, Spectra asserts that  
12 employees were often over-paid since they often were credited with their full scheduled hours  
13 even when they did not work their full scheduled shift. Moreover, Spectra argues, the electronic  
14 badge-swipes do not indicate the time an employee actually begins working for the day, since  
15 employees frequently swipe their badges a few minutes early (to confirm that they have arrived  
16 on the job site) and then engage in personal activities such as chatting with co-workers or using  
17 their phones until the actual start of the shift. Spectra also argues this claim is not suitable for  
18 class treatment, since it would require testimony from each and every employee, for each and  
19 every workday, to determine whether each employee was over-paid or under-paid on each  
20 individual shift and, even if they were under-paid, whether they were actually working when they  
21 swiped their badge at the beginning of the day. This, Spectra argues, would require hundreds of  
22 mini-trials as to liability and damages, precluding a workable trial plan. Based on these defenses,  
23 Plaintiff discounted the maximum exposure by 60% to account for risk of non-certification, and  
24 by an additional 65% for risk of losing on the merits or failing to recover the full amount sought,  
25 to arrive at a realistic estimated exposure of \$38,042.

26         20. Plaintiff alleges that Spectra failed to reimburse employees for the use of their  
27 personal cell phones and/or computers that they were required to use to check their schedules  
28 each evening. Based on a review of records produced by Spectra, Plaintiff estimates that

1 Settlement Class members worked approximately 7,080 months during the Class Period. Using  
2 an estimate of \$20 per month in expenses incurred in using personal cell phones and/or computers  
3 to check work schedules, Plaintiff estimated Spectra's exposure on this claim at \$141,600 (\$20 \*  
4 7,080 months). Spectra argues that, just as it need not pay employees for time spent checking their  
5 schedules (as discussed above), it need not reimburse employees for expenses incurred in doing  
6 so. Indeed, Spectra asserts, before the advent of personal computers and cell phones, employees  
7 frequently called in to their employer to check their schedule for the upcoming day or week, and  
8 employers generally did not reimburse for such expenses. Moreover, as with the related unpaid  
9 wage claim, Spectra argues this claim is not suitable for class treatment, as it would require  
10 individualized inquiries into which employees had to check their work schedules off-the-clock,  
11 how much time they spent doing so, and in addition, how much expense (if any) they actually  
12 incurred in checking their work schedules. In light of these defenses, Plaintiff discounted the  
13 maximum exposure by 50% for the risk of non-certification, and an additional 60% for risk of  
14 losing on the merits or failing to recover the full amount sought, resulting in an estimated exposure  
15 of \$28,320.

16         21. Plaintiff alleges that Spectra failed to authorize and permit all required rest periods  
17 as a result of its policy requiring employees to combine their meal and rest periods into a one-  
18 hour break at approximately the four-hour mark of each shift. Plaintiff contends this practice runs  
19 afoul of *Rodriguez v. E.M.E., Inc.*, 246 Cal.App.4th 1027, 1040 (2016), which held that departure  
20 from the "preferred" rest period schedule of one 10-minute rest break before the meal period and  
21 another 10-minute break after the meal period is permissible only when "the departure (1) will  
22 not unduly affect employee welfare and (2) is tailored to alleviate a material burden...on the  
23 employer." Based on data produced by Spectra, Settlement Class members worked approximately  
24 130,000 workdays of over 6 hours (where two rest breaks would be required) during the Class  
25 Period. Additionally, the data produced by Spectra reflected that Settlement Class members'  
26 average hourly rate of pay during the Class Period was approximately \$25.63. Thus, and assuming  
27 this alleged practice affected every eligible shift, Plaintiff estimated Spectra's potential liability  
28 as:  $130,000 * \$25.63 = \$3,331,900$ . Spectra, however, asserts it does not require employees to

combine rest periods and that, in fact, it expressly advises employees in its employee handbook that they are entitled to a rest period for each 4-hour work period or major fraction thereof. While some employees do combine their breaks, Spectra contends this is done voluntarily because employees prefer to take one, longer break in the middle of the workday rather than two shorter breaks. Further, Spectra contends combining rest periods in this manner is permissible under unique rest period language in Wage Order 16 that provides greater flexibility to construction industry employers regarding rest period scheduling. Finally, Spectra maintains this claim is not suited for class treatment, as individual inquiries would be needed as to which employees actually took combined rest periods and on which shifts, and which employees agreed to and preferred the combined meal-rest period schedule. These individual issues of proof are especially present with respect to rest periods, Spectra argues, since rest periods are not – and need not be – recorded. Based on these defenses, Plaintiff discounted the maximum amount by 70% for risk of non-certification and an additional 75% for risk of losing on the merits or failing to recover the full amount sought, to arrive at an estimated exposure of \$249,893.

22. Plaintiff alleges that Spectra did not provide compliant meal periods, as meal periods were often provided late (i.e., after the fifth hour of work), when combined with their two rest periods as described above. For example, Plaintiff alleges that he often began work at about 6:00 a.m. but was often not provided a meal period until after 11:00 a.m. Based on Plaintiff’s review of employee timekeeping records produced by Spectra, there were approximately 84,000 instances of potential late meal periods reflected in the data. Thus, Plaintiff estimated a maximum potential exposure on this claim as:  $84,000 * \$25.63 = \$2,152,920$ . Spectra counters that it has always provided employees the opportunity to take legally compliant meal periods, and that its written meal period policy is compliant with California law, but that employees often preferred to take them later in the day, so that they coincided with lunch time and so that employees could perform more work earlier in the shift, before the heat of the day. Spectra also asserts that under *Brinker* it is only required to “provide” the opportunity to take meal periods, not “ensure” meal periods are taken, and that, as described above, it has always done so. Finally, Spectra maintains Plaintiff’s meal period claim is not suited for class certification, as individual inquiries would be

needed to assess which employees took non-compliant meal periods, how many meal periods were non-compliant, and why a particular employee did not take a compliant meal period on a particular shift. Given these defenses, Plaintiff discounted this maximum amount by 65% for risk of non-certification, and an additional 70% for risk of not prevailing on the merits or failure to recover the full amount sought, for an estimated realistic exposure of \$226,057.

23. Plaintiff alleges that Spectra is liable for wage statement penalties for its failure to pay all minimum and overtime wages owed and failure to pay meal and rest period premiums. Based on data provided by Spectra, Plaintiff estimates there have been about 15,000 pay periods worked by Settlement Class members in the one-year liability window under Labor Code § 226. Plaintiff assumed he could obtain the “initial” wage statement penalty of \$50 per violation, for a maximum of approximately \$750,000 in wage statement penalties. However, given Spectra’s affirmative defenses to Plaintiff’s underlying claims, its argument that any violations could not be shown to be “knowing and intentional,” and its argument that wage statement penalties cannot be predicated on meal and rest period premiums (which issue is set to be decided by the California Supreme Court), Plaintiff discounted this maximum exposure by 65% for risk of non-certification, and by an additional 70% for risk of being unsuccessful on the merits or failure to recover the full amount, to arrive at an estimated exposure of \$78,750.

24. Plaintiff further alleges that Settlement Class members whose employment ended on or after October 16, 2017 are entitled to a derivative “waiting time” penalty under Labor Code § 203. That penalty is calculated as the employee’s daily wages for each day the final wages are not paid, up to a max of 30 days. Based on data provided by Spectra, there were approximately 179 employees who separated their employment with Spectra since October 16, 2017, and those employees had an estimated average maximum waiting time penalty of \$6,151 (\$25.63 avg. hourly rate \* 8 \* 30), for maximum exposure of \$1,101,029. But there was significant risk of non-recovery on this claim given Spectra’s good-faith defenses (both as to class certification and the merits) to Plaintiff’s underlying claims, as well as Spectra’s contention that waiting time penalties are not available for meal or rest period claims under the relevant case law. Thus, Plaintiff discounted this maximum by 65% for risk of non-certification and by an additional 75% for risk

1 of being unsuccessful on the merits or failure to recover the full amount sought, to arrive at an  
2 estimated exposure of \$96,340.

3 25. Finally, Plaintiff alleges Spectra is liable for PAGA civil penalties as a result of  
4 these alleged Labor Code violations. Plaintiff estimated a total maximum PAGA exposure of  
5 approximately \$1,500,000 (calculated from 10,447 “initial” violations at \$100 each under Labor  
6 Code § 2699(f)). However, these penalties derived largely from the underlying violations  
7 discussed herein, each of which Spectra vigorously disputes. Moreover, the PAGA grants courts  
8 discretion to reduce penalties (Lab. Code § 2699(e)(2)), and Spectra argues the Court would  
9 significantly reduce PAGA penalties in light of its many good-faith defenses, as well as its  
10 financial condition. Based on these risks, Plaintiffs discounted that maximal figure by 75% for a  
11 risk of losing on the merits and by an additional 80% for the risk of this Court reducing penalties,  
12 to arrive at an estimated total of \$75,000.

13 26. Using these estimated figures, Plaintiff predicted the total realistic recovery for the  
14 Settlement Class on his claims would be approximately \$820,796. The proposed settlement of  
15 \$500,000 therefore represents approximately 61% of Plaintiff’s reasonably forecasted recovery.

16 27. At final approval, Plaintiff’s counsel will apply for an attorneys’ fee award of  
17 \$166,666.67, which amounts to one-third of the GSA, as well as up to \$25,000 in verified costs.  
18 My office has incurred substantial attorneys’ fees in, among other things, conducting pre-filing  
19 investigation, analyzing Plaintiff’s claims, conducting legal research, reviewing documents  
20 produced by Spectra, analyzing employee timekeeping and other data, preparing for and attending  
21 mediation, reviewing Spectra’s financial records, negotiating the Settlement, preparing this  
22 Motion, and otherwise prosecuting this action.

23 28. Plaintiff will also request a service award of \$7,500 at final approval. As will be  
24 fully briefed at final approval, Plaintiff’s requested incentive payment is in recognition of the time  
25 and effort he expended on behalf of the Settlement Class, including providing factual information  
26 and documents to my office, identifying potential witnesses, communicating with my office to  
27 discuss the claims and theories at issue in the litigation, and otherwise actively participating in  
28 the prosecution of this litigation.

1           29.     Although the parties engaged in significant informal discovery before reaching  
2 settlement, the parties had not yet completed formal written and deposition discovery, which  
3 would have required the expenditure of substantial time and resources by all parties. Moreover,  
4 Plaintiff still had to file for class certification, and faced the prospect of appeals in the wake of a  
5 disputed class certification ruling and/or an adverse summary judgment ruling. Even if the classes  
6 sought to be certified by Plaintiff were in fact certified, the parties would incur considerably more  
7 attorneys' fees and costs through a possible decertification motion, trial, and possible appeal. This  
8 Settlement avoids those risks and the accompanying expense.

9           30.     I am not aware of any conflict between myself or any member of my firm, Haines  
10 Law Group, APC, and any member of the Settlement Class. Nor am I aware of any conflict  
11 between Plaintiff and any member of the Settlement Class.

12           31.     I have confirmed that no attorney at my firm, Haines Law Group, APC, has any  
13 pecuniary interest or involvement in the governance of Bet Tzedek, the designated *cy pres*  
14 recipient in this case for any uncashed settlement funds.

15           I declare under penalty of perjury under the laws of the State of California that the  
16 foregoing is true and correct. Executed on April 6, 2022, at El Segundo, California.

17 

18 \_\_\_\_\_  
Paul K. Haines

# **EXHIBIT 1**

## SETTLEMENT AGREEMENT

This Settlement Agreement (or “Settlement”) is reached by and between Plaintiff Samuel Hernandez (“Plaintiff”), individually and on behalf of all members of the Settlement Class (defined below), on the one hand, and Defendant Spectra Company (“Spectra” or “Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, Tuvia Korobkin, and Neil M. Larsen of Haines Law Group, APC (“Class Counsel”). Spectra is represented by Diana M. Estrada of Wilson Elser Moskowitz Edelman & Dicker LLP (“Defense Counsel”).

Plaintiff filed a class action complaint against Spectra in Los Angeles County Superior Court (the “Court”), titled *Samuel Hernandez v. Spectra Company, et al.*, Case No. 20STCV39910, on October 16, 2020 (the “Action”). The original complaint in the Action alleged class and representative claims against Spectra for: (i) failure to pay all overtime wages; (ii) minimum wage violations; (iii) rest period violations; (iv) meal period violations; (v) wage statement penalties; (vi) waiting time penalties; (vii) failure to reimburse for necessary business expenditures; and (viii) unfair competition. On December 28, 2020, Plaintiff filed a First Amended Class and Representative Action Complaint (“Complaint”) that added a cause of action for civil penalties under the Labor Code Private Attorneys General Act (“PAGA”), Labor Code § 2698 *et seq.*

Given the uncertainty of litigation, the Parties wish to settle Plaintiff’s claims on a classwide basis. Accordingly, Plaintiff and Spectra agree as follows:

1. **Settlement Class.** For purposes of this Settlement Agreement only, Plaintiff and Spectra stipulate to the certification of a Settlement Class, which shall be defined as:

All current and former non-exempt employees of Spectra who worked for Spectra in California at any time from October 16, 2016 through the date of preliminary approval of the Settlement (the “Class Period”).

Spectra represents there are approximately 346 Settlement Class members.

The Parties agree that certification for purpose of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure in a non-settlement context. If for any reason this Settlement is not approved or is terminated, 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.

2. **Releases.**

- A. **Release by Settlement Class.** Once this Settlement Agreement receives final approval and the Court enters judgment, and upon the Settlement being fully funded, Plaintiff and every participating Settlement Class member will release and discharge Spectra, and each of its past, present and/or future, officers, directors, owners, managers, employees, agents, representatives, attorneys, insurers, investors, shareholders, administrators, parent companies, subsidiaries, related or affiliated entities (“Released Parties”) from any and all causes of action, claims, rights, or statutory damages, penalties, liabilities, expenses, and losses under California law that were alleged in the operative Complaint in the Action or that

could have been alleged based on the facts alleged in the operative Complaint in the Action, arising from their employment with Spectra, including any alleged failure by Spectra (1) to pay minimum wages pursuant to Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1198; (2) to pay overtime wages pursuant to Labor Code §§ 204, 510, 558, 1194, 1198; (3) to provide meal periods pursuant to Labor Code §§ 226.7, 512, 558; (4) to authorize and permit rest periods pursuant to Labor Code §§ 226.7, 516, 558; (5) to indemnify or reimburse employees for work-related expenses pursuant to Labor Code §§ 2802, 2804; (6) to issue compliant wage statements pursuant to Labor Code § 226; (7) to timely pay wages at the end of employment pursuant to Labor Code §§ 201-203; and (8) any right or claim for unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*, based on the alleged failures set forth in (1) through (7) above (“Class Released Claims”). The release of the Class Released Claims shall run for the duration of the Class Period. In addition, all “Aggrieved Employees,” who are defined as all Settlement Class members (whether or not they opt out) who worked for Spectra in California at any point from October 19, 2019 through the end of the Class Period the (“PAGA Period”), shall release Spectra from any right or claim for civil penalties pursuant to the PAGA, based on the claims for PAGA penalties as disclosed in Plaintiff’s notice to the LWDA (“PAGA Released Claims”). The release of the PAGA Released Claims shall run for the duration of the PAGA Period.

- B. **Release by Plaintiff.** In light of Plaintiff’s Class Representative Service Award (discussed below), Plaintiff has agreed to release, in addition to the Class Released Claims and PAGA Released Claims described above, all claims, whether known or unknown, under federal or state law, against the Released Parties, to the extent permitted by law, through the date this Settlement is signed by Plaintiff (“Plaintiff’s Released Claims”). Plaintiff understands that this release includes unknown claims and that he is, with respect to Plaintiff’s Released Claims, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

**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 and all claims that cannot be released as a matter of law, including, but not limited to, claim(s) under the Workers’ Compensation Laws of the State of California or California Unemployment benefits (EDD). No Workers’ Compensation claims/actions are being settled, resolved or released under this Settlement Agreement.

3. **Gross Settlement Amount.** As consideration, Spectra agrees to pay a “Gross Settlement Amount” or “GSA” of Five Hundred Thousand Dollars (\$500,000.00) in full and complete settlement of this matter, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrators (“Phoenix”) as the “Settlement Administrator” to administer this Settlement.

- B. The Gross Settlement Amount shall be deposited into an escrow account to be established by the Settlement Administrator in nineteen (19) monthly installments, as follows:

First Installment: The first installment shall total One Hundred Thousand Dollars (\$100,000.00) and shall be deposited no later than one hundred eighty (180) days after the execution of this agreement by the Parties.

Second through Nineteenth Installments: The second through nineteenth installments shall be paid monthly in the amount of \$22,222.22 each (except for the nineteenth installment, which shall be in the amount of \$22,222.26), for a total of Four Hundred Thousand Dollars (\$400,000.00), with the second installment due 30 days after the date the First Installment was due, and each subsequent monthly installment due every 30 days thereafter.

With respect to payments to Settlement Class members and Class Counsel's attorneys' fees, the amounts shall be paid by the Settlement Administrator in two distributions, as follows. Fifty percent (50%) of these amounts shall be paid to Settlement Class members and Class Counsel within thirty (30) calendar days after: (i) Spectra's deposit of the tenth installment with the Settlement Administrator; and (ii) final approval has been granted by the Court. The remaining fifty percent (50%) of the amounts shall be paid to Settlement Class members and Class Counsel within thirty (30) calendar days after: (i) the Gross Settlement Amount is fully funded (i.e. Spectra has made the nineteenth and final installment payment); and (ii) final approval has been granted by the Court. The amounts approved by the Court for Class Counsel's litigation costs, settlement administration costs, Plaintiff's enhancement payment, and payment to the LWDA shall be paid within thirty (30) calendar days after the nineteenth and final installment is paid and the Court has granted final approval.

- C. This is a non-reversionary settlement. The Gross 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 \$12,000.00;
- (3) Up to \$7,500.00 for Plaintiff's Class Representative Service Award, in recognition of his contributions to the Action and his service to the Settlement Class;
- (4) Class Counsel attorney fees of one-third of the GSA (currently estimated to be \$166,666.67), plus litigation costs and expenses incurred by Class Counsel in relation to the Action as supported by declaration, which are currently estimated to be no greater than \$25,000.00;
- (5) The Parties have set aside \$40,000.00 of the Gross Settlement Amount as PAGA civil penalties. Per Labor Code § 2699(i), 75% of such penalties, or \$30,000.00, will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining 25%, or \$10,000.00, will be

payable to Aggrieved Employees as the “PAGA Amount,” as discussed below.

- D. Spectra’s share of payroll taxes on any wage portion of the payments to the Settlement Class shall be paid by Spectra separately from, and in addition to, the Gross Settlement Amount.
- E. **Escalator Clause.** Spectra represents that Settlement Class members worked approximately 28,320 workweeks for Spectra in California during the Class Period (“Workweeks”). The Parties agree that this is a material term of the Settlement. If the number of Workweeks is actually more than 5% above 28,320 (i.e., if there are 29,737 or more Workweeks), then the GSA shall increase proportionally with the increase in Workweeks. For example, if the number of Workweeks during the Class Period is 7% higher than 28,320, the GSA will increase by 7%.

4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment from the Settlement (“Settlement Award”).

Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross 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 administration costs, and PAGA civil penalties. The remaining amount shall be known as the “Net Settlement Amount” or “NSA.” Settlement Awards will be the total of each Settlement Class member’s (i) payment from NSA and (ii) payment, if any, from the PAGA Amount, as described below.
- B. Payments from the Net Settlement Amount: The Settlement Administrator will calculate each Settlement Class member’s payment from the NSA as follows:
  - i. Payments to all Settlement Class members: Eighty-five percent (85%) of the NSA will be distributed to all participating Settlement Class members based on each participating Settlement Class member’s proportionate number of Workweeks worked during the Class Period, and which shall be calculated by multiplying 85% of the NSA 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: Ten percent (10%) of the NSA shall be designated as the “Waiting Time Amount.” Each participating Settlement Class member whose employment with Spectra ended at any time from October 16, 2017 through the end of the Class Period (the “Waiting Time Period”) shall receive an equal share of the Waiting Time Amount.
  - iii. Wage Statement Amount: Five percent (5%) of the NSA shall be designated the “Wage Statement Amount.” Each participating Settlement Class

member who worked for Spectra in California at any time from October 16, 2019 through the end of the Class Period (the “Wage Statement Period”) shall receive a portion of the Wage Statement Amount proportionate to the number of pay periods worked during the Wage Statement Period, and which shall be calculated by multiplying 5% of the NSA by a fraction, the numerator of which is the participating Settlement Class member’s number of pay periods worked during the Wage Statement Period, and the denominator of which is the total workweeks worked by all participating Settlement Class members during the Wage Statement Period.

- C. *Payments from the PAGA Amount:* In addition to the NSA, 25% of the amount set aside as PAGA civil penalties (i.e., \$10,000.00) has been set aside as the “PAGA Amount,” as mentioned above. The PAGA Amount shall be paid to all Aggrieved Employees (regardless whether they opt out), based on their proportional number of pay periods worked for Spectra in California during the PAGA Period. Specifically, each Aggrieved Employee’s payment from the PAGA Amount will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the Aggrieved Employee’s number of pay periods worked during the PAGA Period, and the denominator of which is the total pay periods worked by all Aggrieved Employees during the PAGA Period.
- D. Within seven (7) business days following the Court’s granting final approval, the Settlement Administrator will calculate Settlement Awards for each Settlement Class member, as well as calculate the employer’s share of payroll taxes, and provide the same to Class Counsel and Defense Counsel for review and approval.
- E. For purposes of calculating applicable taxes and withholdings for payments to Settlement Class members, each Settlement Award shall be allocated as follows: for amounts paid from the PAGA Amount, 100% penalties; for amounts paid from the Net Settlement Amount, one-third (1/3) as wages, one-third (1/3) as penalties, and one-third (1/3) as interest. The Settlement Administrator will be responsible for issuing to 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. As stated above, Spectra is responsible for its share of the payroll taxes on the wages portion of the Settlement Awards, and those taxes will not be deducted from the Gross Settlement Amount. Spectra shall deposit the employer share of payroll taxes with the Settlement Administrator as follows: Spectra shall deposit 50% of the employer-side payroll taxes no later than the date that its tenth installment payment is due, and the remaining 50% of employer-side taxes no later than the date its nineteenth installment payment is due, so that the Settlement Administrator will be able to make all necessary payments to the relevant taxing authorities at the same time it disburses each 50% of Settlement Class members’ Settlement Awards. Notwithstanding the treatment of the payments to each participating Settlement Class member above, none of the payments called for by this Settlement Agreement are to be treated as earnings, wages, pay, or compensation for any purpose of any applicable bonus, benefit, or retirement plan, unless required by such plans.
- F. Each Settlement Class member who is mailed a Settlement Award must cash his/her Settlement Award check within 180 days from the date the Settlement

Administrator mails it. Any funds payable to participating Settlement Class members whose checks were not cashed within 180 days after mailing will be sent to Bet Tzedek Employment Rights Project as a *cy pres* recipient.

- G. Neither Plaintiff nor Spectra, nor their respective counsel, 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.

5. **Attorneys' Fees and Costs.** Class Counsel will request a total award of attorneys' fees of one-third of the Gross Settlement Amount (currently estimated at \$166,666.67), plus actual costs and expenses as supported by declaration in an amount not to exceed \$25,000.00. 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. The Settlement Administrator will mail Class Counsel the attorneys' fees and cost award when it mails the Settlement Awards to Settlement Class members. The Settlement Administrator will issue Class Counsel IRS Forms 1099 when the Settlement Administrator pays the fee and cost award allowed by the Court.

6. **Class Representative Service Award.** Plaintiff will request a Class Representative Service Award of up to \$7,500.00 from the Gross Settlement Amount for Plaintiff's release of claims, his time and risks in prosecuting the Action, and his service to the Settlement Class. This award will be in addition to Plaintiff's Settlement Award as a Settlement Class member and shall be reported on an IRS Form 1099 by the Settlement Administrator. The Settlement Administrator will mail Plaintiff the Class Representative Service Award and issue Plaintiff an IRS Form 1099 when it mails the Settlement Awards to participating Settlement Class members.

7. **Settlement Administrator.** The parties will request the appointment of Phoenix as Settlement Administrator. Spectra will not object to Plaintiff's seeking permission to pay up to \$12,000.00 from the Gross Settlement Amount for the Settlement Administrator's services. The Settlement Administrator shall be responsible for sending notices in English and Spanish, calculating Settlement Awards and preparing all checks and mailings, posting the Judgment to its website, and other duties as described in this Settlement Agreement.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, 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, Tuvia Korobkin, and Neil M. Larsen of Haines Law Group, APC as Class Counsel;
- C. Appointing Plaintiff as Class Representative for the Settlement Class;
- D. Approving Phoenix 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 A and B, respectively), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

9. **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, Spectra will provide the Settlement Administrator with the name, last known address, last known phone number, social security number, and dates of employment as a non-exempt employee in California (including any leaves of absence or other periods of inactive status), for each Settlement Class member (the “Class Data”). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.
- B. Within ten (10) business days from receipt of the Class Data, 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; (ii) update the addresses of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member, and provide Class Counsel and Defense Counsel with its calculations for their approval; (iv) provide Class Counsel and Defense Counsel with formatted versions of the Notice Packets (in English and Spanish) to be sent to Settlement Class members; and (v) after receiving approval from all counsel, mail a 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 on or before sixty (60) calendar days after the date of the initial mailing of the Notice Packets (the “Response Deadline”). The Request for Exclusion is a document prepared by the Settlement Class member that must: (1) contain the Settlement Class member’s name, address, telephone number, and last four digits of his/her Social Security number; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) 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 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 excludes himself or herself from the Settlement Class will not be entitled to any recovery under this Settlement Agreement (except for any share from the PAGA Amount, if applicable), will not be bound by the terms of the Settlement

Agreement (except for release of the PAGA Released Claims, if applicable), and will not have any right to object, appeal, or comment thereon. The Settlement Administrator will provide the Parties with weekly updates regarding the number of Requests for Exclusion received. The Parties and their counsel agree not to take any action to encourage any Settlement Class member to opt out of the settlement. If fifteen percent (15%) or more of the total number of Settlement Class Members submit timely and valid Opt-Out Requests, then Spectra shall have the option to void the Settlement in its sole discretion. To exercise this option, Spectra must send written notification to Class Counsel within fourteen (14) days of receiving a report from the Settlement Administrator following the Opt-Out Period Deadline of the total number of timely and valid Opt-Out Requests. If Spectra chooses to exercise this option, the effect will be precisely the same as if Final Judgment did not occur, as discussed herein, and all Settlement Administration Costs incurred by the Settlement Administrator through that date will be paid by Defendant.

- D. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement by either (i) submitting a written objection to the Settlement Administrator as explained in the Class Notice, and/or (ii) appearing at the Final Approval Hearing to object orally. The Settlement Administrator shall, within two (2) business days of receipt, serve any written objection(s) as received on Class Counsel and Defense Counsel, and Class Counsel shall then file all such objections with the Court. Defense Counsel and Class Counsel shall file and serve any responses to objections no later than five (5) calendar days prior to the Final Approval hearing. To be valid, any written objection must: (1) contain the objecting Settlement Class member's full name, current address, and telephone number, 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 supporting the objection; and (4) be postmarked no later than the Response Deadline. A Settlement Class member who wishes to submit a written objection but who fails to comply with the procedures set forth herein and/or in the Class Notice shall be deemed not to have submitted a written objection. Any attorney who intends to represent an objecting Settlement Class member at the Final Approval hearing must submit a Notice of Appearance to the Court and serve it on all Parties on or before the Response Deadline. As noted above, Settlement Class members may appear at the Final Approval Hearing to orally object, even if they have not submitted a written objection. The Parties and their counsel agree not to take any action to encourage any Settlement Class member to object to the settlement.
- E. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to Settlement Class members shall contain a Notice of Estimated Settlement Award, in which shall be disclosed the amount of the Settlement Class member's estimated Settlement Award as well as all of the information that was gleaned from Spectra's records in order to calculate the Settlement Award, including their number of Workweeks worked during the Class Period; whether the employee's employment ended during the Waiting Time Period; and the number of pay periods (if any)

worked during the Wage Statement Period and/or during the PAGA Period. Settlement Class members will have the opportunity, should they disagree with Spectra'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 counsel for the Parties to determine whether an adjustment to the Settlement Class member's Settlement Award is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Award under the terms of this Settlement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Settlement Class member and the Parties.

- F. 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 three (3) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member within two (2) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed 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, whichever is later, to submit a Request for Exclusion, Objection, or dispute, as applicable. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline, if applicable. 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 need not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defense Counsel to provide notice of the settlement.

10. **Final Approval.** Following preliminary approval and the close of the period for submitting Exclusion Letters, Objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval of 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, PAGA civil penalties to the LWDA, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769.

If an appeal is filed and results in an order materially modifying, setting aside, or vacating any material portion of the Settlement, with the exception of any modification of the amount

of attorneys' fees or costs to be paid to Class Counsel, or the amount of the Class Representative Incentive Award to be paid to the Class Representative, any Party adversely impacted by the order shall have the right, at its sole discretion, to treat such order as an event permanently preventing the occurrence of Final Judgment. To exercise this right, the Party must inform the other Party and the Settlement Administrator, in writing, of the exercise of this right, within fourteen (14) days of receiving notice of any order modifying, setting aside, or vacating any portion of the Settlement. Before either Party elects to exercise its right to treat such order as an event permanently preventing the occurrence of Final Judgment, that Party must meet and confer in good faith with the other Party to determine if an agreement can be reached modifying this Settlement to the mutual satisfaction of the Parties. If a Party chooses to exercise this right, all Settlement Administration Costs incurred by the Settlement Administrator through that date will be paid by such Party.

11. **Non-Admission of Liability.** Spectra denies liability as to the matters alleged in the Complaint. Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this settlement. Spectra denies all claims as to liability, damages, penalties, interest, fees, restitution, injunctive relief and all other forms of relief as well as the class allegations asserted in the Action, as that term is defined herein. Spectra has agreed to resolve the Action via this Settlement, but to the extent this Settlement is deemed void or Final Approval does not occur, Spectra does not waive, but rather expressly reserves, all rights to challenge all such claims and allegations in the Action upon all procedural, merit, and factual grounds, including, without limitation, the ability to challenge class treatment on any grounds, as well as assert any and all other privileges and potential defenses. Plaintiff agrees not to argue or present any argument, and hereby waives any argument, that based on this Settlement, Spectra cannot contest class certification on any grounds whatsoever, or assert any and all other privileges or potential defenses if this Action were to proceed. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void; it shall be of no force or effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and the negotiation, terms and entry into the Settlement shall remain subject to the provisions of California Evidence Code sections 1119 and 1152, and any other analogous rules of evidence that are applicable.

12. **Confidentiality.** Plaintiff and Class Counsel agree that, prior to filing a Motion for Preliminary Approval, they will not disclose or publicize the Settlement contemplated herein, the fact of the Settlement, its terms or contents, or the negotiations underlying the Settlement, in any manner or form, to any person or entity, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement as set forth herein, and except to Plaintiff's spouse or to his attorneys or tax preparers as necessary for those professionals to provide their professional services to Plaintiff. Class Counsel shall not publicize the Settlement on its website or in advertising/marketing materials, other than filing documents with the Court. Plaintiff and Class Counsel agree that they will not issue any press releases or initiate any contact with the media about the fact, amount, or terms of the Settlement. If Plaintiff or Class Counsel receives an inquiry about the Settlement from the media, they may respond only after the motion for preliminary approval has been filed and only by confirming the accurate terms of the Settlement. Nothing in this provision shall prevent Defendant from making any required disclosure. Nothing shall prevent Class Counsel from including a general description of the Settlement on their website, without the mention of the names of the Parties or the case number. Nor shall anything in this

settlement prevent Class Counsel from referring to this case in a declaration establishing qualification as class counsel in future cases.

13. **Continuing Jurisdiction.** Except as otherwise specifically provided for herein, the Court shall retain jurisdiction to construe, interpret and enforce the Settlement, to supervise all notices, Settlement administration, and hear and adjudicate any dispute arising from or related to the Settlement. The Parties agree the Court has jurisdiction over the Settlement pursuant to California Code of Civil Procedure Section 664.6.

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 counsel for 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. **Enforcement Action.** In the event either Party brings an action to enforce the terms of this Settlement, the prevailing party in such action shall be entitled to recover his/its reasonable attorneys' fees and costs incurred.

16. **Representations as to Financial Condition.** The Parties agree the Gross Settlement Amount and payment plan set forth in Section 3.B., *supra*, were negotiated in part based on representations made by Spectra regarding its financial condition that were subsequently confirmed by Plaintiff. To the extent requested by the Court or otherwise necessary to effectuate approval of the Settlement, Spectra agrees to provide a sworn declaration from its Chief Financial Officer (or other knowledgeable officer) regarding its financial condition.

17. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement 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 Spectra: Diana M. Estrada, Wilson, Elser, Moskowitz, Edelman & Dicker  
LLP, 555 S. Flower Street, Suite 2900, Los Angeles, CA 90071;  
diana.estrada@wilsonelser.com

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

18. **Applicable Law.** All terms and conditions of this Settlement Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law or choice of law principles.

19. **Captions and Interpretations.** Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

20. **Entire Agreement.** This Settlement 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.

21. **Counterparts.** This Settlement 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.

22. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Settlement. This Settlement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

DATED: March 2nd, 2022

Spectra Company

By: 

Ray Adams

Its: CEO

DATED: \_\_\_\_\_, 2022

Samuel Hernandez

\_\_\_\_\_  
Plaintiff and Class Representative

**APPROVED AS TO FORM ONLY:**

DATED: March 7, 2022

WILSON ELSEER MOKOWITZ EDELMAN &  
DICKER LLP

By: 

Diana M. Estrada  
Attorneys for Defendant

DATED: \_\_\_\_\_, 2022

HAINES LAW GROUP, APC

By: \_\_\_\_\_

Paul K. Haines  
Attorneys for Plaintiff and the Settlement Class

21. **Counterparts.** This Settlement 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.

22. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Settlement. This Settlement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

DATED: \_\_\_\_\_, 2022

Spectra Company

By: \_\_\_\_\_

Its: \_\_\_\_\_

DATED: 03/07/, 2022

Samuel Hernandez

  
Samuel Hernandez (Mar 7, 2022 18:33 PST)

Plaintiff and Class Representative

**APPROVED AS TO FORM ONLY:**

DATED: \_\_\_\_\_, 2022

WILSON ELSEER MOKOWITZ EDELMAN &  
DICKER LLP

By: \_\_\_\_\_

Diana M. Estrada  
Attorneys for Defendant

DATED: March 9, 2022

HAINES LAW GROUP, APC

By:  \_\_\_\_\_

Paul K. Haines  
Attorneys for Plaintiff and the Settlement Class

# **EXHIBIT A**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

SAMUEL HERNANDEZ,  
  
Plaintiff,  
  
vs.  
  
SPECTRA COMPANY  
  
Defendant.

Case No. 20STCV39910

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

To: All current and former non-exempt employees of Spectra Company (“Defendant” or “Spectra”) who worked for Spectra in California at any time from October 16, 2016 through <<PRELIM APPROVAL DATE>> (“Class Period”).

**PLEASE READ THIS NOTICE CAREFULLY.  
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT.**

***Why should you read this Notice?***

The Los Angeles County Superior Court (“Court”) has granted preliminary approval of a proposed class action settlement (the “Settlement”) in the matter titled *Samuel Hernandez v. Spectra Company*, Case No. 20STCV39910 (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 the Settlement. Spectra’s records show that you were employed by Spectra in California as a non-exempt employee at some point between October 16, 2016 through <<PRELIM APPROVAL DATE>>, and are therefore part of the proposed “Settlement Class.” 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. Please refer to the enclosed “Notice of Estimated Settlement Award” for your estimated settlement payment.

The purpose of this Notice is to provide you with a brief description of the Action, to inform you of the terms of the proposed 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](http://www.phoenixclassaction.com).

| YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT: |                                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DO NOTHING</b>                                 | You do not have to do anything in response to this notice. <b>If you do nothing, you will automatically receive a settlement payment</b> if the Court grants final approval of the settlement, and you will be bound by the release provisions in the Settlement Agreement.                                                                                                             |
| <b>OPT OUT</b>                                    | You may opt out of the settlement by submitting a Request for Exclusion (described below). If you opt out, you may not object to the settlement, you shall not receive a payment from the class portion of the Settlement, and you will not be bound by the class release provisions in the Settlement Agreement. Any Request for Exclusion must be submitted by <<RESPONSE DEADLINE>>. |
| <b>OBJECT</b>                                     | You may object to the settlement by submitting a written objection and/or appearing at the Final Approval Hearing. Any written objections must be submitted by <<<RESPONSE DEADLINE>>>.                                                                                                                                                                                                 |
| <b>FINAL APPROVAL HEARING</b>                     | The Final Approval Hearing will be held on [DATE/TIME] in Department 1 of the Los Angeles Superior Court, located at 312 N. Spring Street, Los Angeles, CA 90012. The Final Approval Hearing may be postponed without further notice to the Settlement Class.                                                                                                                           |

***What is this case about?***

Plaintiff Samuel Hernandez (“Plaintiff”) has filed a lawsuit alleging that Spectra violated California law by: (i) failing to pay minimum wages; (ii) failing to pay overtime wages; (iii) failing to provide meal periods; (iv) failing to authorize and permit rest periods; (v) failing to reimburse business expenses; (vi) failing to pay all wages owing upon separation of employment; (vii) failing to issue accurate itemized wage statements; and, as a result of the above, (vii) engaging in unlawful business practices. Plaintiff further alleges that as a result of the above violations, Spectra is liable for civil penalties under the Labor

Code Private Attorneys General Act (“PAGA”), Labor Code § 2698 *et seq.* Plaintiff is known as the “Class Representative.” Plaintiff’s attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

Spectra has denied and continues to deny that it has done anything wrong, and believes it has acted in compliance with all applicable laws, and that Plaintiff’s claims have no merit. Spectra also denies that it owes any wages, restitution, penalties, or other damages. By agreeing to settle, Spectra is not admitting liability on any of the factual allegations or claims asserted in the Action or that the Action can or should proceed as a class action in a non-settlement context.

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

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

**If you are still employed by Spectra, your decision about whether to participate in the Settlement will not affect your employment. California law and Spectra’s company policies strictly prohibit unlawful retaliation.** Spectra 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 Plaintiff / the Settlement Class:<br><br><b>HAINES LAW GROUP, APC</b><br>Paul K. Haines<br>phaines@haineslawgroup.com<br>Tuvia Korobkin<br>tkorobkin@haineslawgroup.com<br>Neil M. Larsen<br>nlarsen@haineslawgroup.com<br>2155 Campus Drive, Suite 180<br>El Segundo, California 90245<br>Tel: (424) 292-2350<br>Fax: (424) 292-2355<br>www.haineslawgroup.com | Attorneys for Spectra:<br><br><b>WILSON ELSEER MOSKOWITZ EDELMAN &amp; DICKER LLP</b><br>Diana M. Estrada<br>diana.estrada@wilsonelser.com<br>555 S. Flower Street, Suite 2900<br>Los Angeles, California 90071<br>Tel.: (213) 443-5100<br>Fax: (213) 443-5101<br>www.wilsonelser.com |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

#### ***What are the terms of the Settlement?***

On <<PRELIM APPROVAL DATE>>, the Court granted preliminary approval of the Settlement. If the Court grants final approval of the Settlement, 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 Spectra, as specifically described below.

Spectra has agreed to pay \$500,000.00 (the “Gross Settlement Amount”) to fully resolve all claims in the Action, including claims by Settlement Class members, attorneys’ fees, costs, settlement administration costs, and the Class Representative’s enhancement award.

The following deductions from the Gross 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 \$12,000 from the Gross Settlement Amount to pay the Settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel will ask for fees of up to one-third of Gross Settlement Amount, currently estimated to be \$166,666.67, 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 \$25,000 for reimbursement of verified costs Class Counsel incurred in connection with the Action.

Class Representative Enhancement Award. Class Counsel will ask the Court to approve an enhancement award of \$7,500 to the Class Representative. This award is to compensate the Class Representative for his service and extra work provided on behalf of the Settlement Class members.

PAGA Civil Penalties. The parties have agreed to allocate \$40,000.00 of the Gross Settlement Amount as civil penalties for the settlement of Plaintiff's PAGA claim. Seventy-five percent (75%) of that amount, or \$30,000, will be paid to the California Labor & Workforce Development Agency ("LWDA"). The remaining \$10,000 has been designated as the "PAGA Amount" and will be paid to certain Settlement Class members, known as "Aggrieved Employees," as described below.

Calculation of Settlement Class Members' individual Settlement Awards. After deducting the Court-approved amounts for attorneys' fees and costs, settlement administration costs, Class Representative Enhancement Payment, and the amount set aside as PAGA civil penalties, the balance of the Gross Settlement Amount will form the Net Settlement Amount ("NSA"). The NSA will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion from the Settlement. The NSA is estimated to be approximately \$248,833.33. Together with the \$10,000.00 PAGA Amount, the total amount to be distributed to Settlement Class members is estimated to be \$258,833.33.

The NSA will be distributed to Settlement Class members as follows:

- (i) 85% of the NSA has been designated for all participating Settlement Class members, and will be allocated proportionately based on each participating Settlement Class member's total workweeks worked for Spectra in California during the Class Period.
- (ii) 10% of the NSA has been designated as the "Waiting Time Amount," and each participating Settlement Class member whose employment with Spectra ended at any time between October 16, 2017 and <<PRELIM APPROVAL DATE>> (the "Waiting Time Period") will receive an equal share of the Waiting Time Amount.
- (iii) 5% of the NSA has been designated as the "Wage Statement Amount," and will be allocated to each participating Settlement Class member who was employed by Spectra at any time between October 16, 2019 and <<PRELIM APPROVAL DATE>> ("Wage Statement Period"), based on each participating Settlement Class member's proportionate number of pay periods worked for Spectra during that time period.

In addition to the NSA, \$10,000.00 of the Gross Settlement Amount has been designated as the "PAGA Amount" as described above. The PAGA Amount will be distributed to all Settlement Class members, regardless whether they opt out, who worked for Spectra at any time from October 19, 2019 through <<PRELIM APPROVAL DATE>> (the "PAGA Period"). These Settlement Class members are known as "Aggrieved Employees." The \$10,000.00 PAGA Amount will be allocated to all Aggrieved Employees, in proportion to the number of pay periods that each Aggrieved Employee worked for Spectra during the PAGA Period.

Deposit of Gross Settlement Amount. The Gross Settlement Amount will be deposited by Spectra with the Settlement Administrator in 19 installments, with the first installment of \$100,000 due on <<FIRST INSTALLMENT DUE DATE>>, and the remaining 18 installments of approximately \$22,222.22, due every 30 days thereafter. It is estimated that the Gross Settlement Amount will be fully funded on or before <<FINAL INSTALLMENT DUE DATE>>.

Disbursement of Settlement Awards. Settlement Awards to Settlement Class members will be made in two disbursements: fifty percent (50%) of each Settlement Award will be disbursed to Settlement Class members within thirty (30) calendar days of (i) Spectra's deposit of the tenth installment; and (ii) final approval has been granted by the Court. The remaining fifty percent (50%) of each Settlement Award will be disbursed to Settlement Class members within thirty (30) calendar days after: (i) the Gross Settlement Amount is fully funded (i.e. Spectra has made the nineteenth and final installment payment); and (ii) final approval has been granted by the Court.

Allocation and Taxes. For tax purposes, all payments from the PAGA Amount will be treated as 100% penalties; and all payments from the NSA will be treated as one-third wages, one-third penalties, and one-third interest. The Settlement Administrator will issue IRS forms W-2 for all amounts designated as "wages," and will issue IRS forms 1099 for all amounts designated as penalties and interest. Settlement Class members are responsible for the proper income tax treatment of the Settlement Awards. The Settlement Administrator, Spectra 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 and the Settlement becomes final, and upon the Settlement being fully funded, the Class Representative, and every member of the Settlement Class (except those who opt out) will fully release and discharge Spectra, and each of its past, present and/or future, officers, directors, owners, managers, employees, agents, representatives, attorneys, insurers, investors, shareholders, administrators, parent companies, subsidiaries, related or affiliated entities (“Released Parties”) from any and all causes of action, claims, rights, or statutory damages, penalties, liabilities, expenses, and losses under California law that were alleged in the operative Complaint in the Action or that could have been alleged based on the facts alleged in the operative Complaint in the Action, arising from their employment with Spectra, including any alleged failure by Spectra (1) to pay minimum wages pursuant to Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1198; (2) to pay overtime wages pursuant to Labor Code §§ 204, 510, 558, 1194, 1198; (3) to provide meal periods pursuant to Labor Code §§ 226.7, 512, 558; (4) to authorize and permit rest periods pursuant to Labor Code §§ 226.7, 516, 558; (5) to indemnify or reimburse employees for work-related expenses pursuant to Labor Code §§ 2802, 2804; (6) to issue compliant wage statements pursuant to Labor Code § 226; (7) to timely pay wages at the end of employment pursuant to Labor Code §§ 201-203; and (8) any right or claim for unfair business practices in violation of California Business & Professions Code sections 17200, et seq., based on the alleged failures set forth in (1) through (7) above (“Class Released Claims”). The release of the Class Released Claims shall run for the duration of the Class Period.

In addition, all Aggrieved Employees, whether or not they opt out, shall release Spectra from any right or claim for civil penalties pursuant to the PAGA, based on the claims for PAGA penalties as disclosed in Plaintiff’s notice to the LWDA (“PAGA Released Claims”). The release of the PAGA Released Claims shall run for the duration of the PAGA Period.

Conditions of Settlement. By granting preliminary approval of the Settlement, the Court has determined that the Settlement falls within the range of possible approval as fair, reasonable, and adequate. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement.

#### ***How can I claim money from the Settlement?***

Do Nothing. You do not need to do anything if you want to receive payment from and participate in the Settlement. If you do nothing, you will be entitled to your Settlement Award based on the number of workweeks you worked for Spectra in California during the Class Period, the number of pay periods (if any) you worked for Spectra in California during the Wage Statement Period, whether your employment with Spectra ended at any time during the Waiting Time Period, and the number of pay periods (if any) you worked for Spectra in California during the PAGA Period. Your estimated individual Settlement Award is included in the enclosed Notice of Estimated Settlement Award. You also will be bound by the Settlement, including the release of claims stated herein.

Check Cashing Deadline and Uncashed Checks. You must cash or deposit your Settlement Award check within 180 days from the date that the Settlement Administrator mails the check to you. If you do not cash or deposit your check within 180 days, your check will be voided and the funds from the check will be distributed to Bet Tzedek Employment Rights Project in accordance with Section 384 of the California Code of Civil Procedure.

#### ***What other options do I have?***

Disputing Information in Notice of Estimated Settlement Award. Your estimated Settlement Award has been calculated and is included in the enclosed Notice of Estimated Settlement Award. As stated above, your estimated Settlement Award is based on the number of workweeks you worked for Spectra in California during the Class Period, the number of pay periods (if any) you worked for Spectra in California during the Wage Statement Period, whether your employment with Spectra ended at any time during the Waiting Time Period, and the number of pay periods (if any) you worked for Spectra in California during the PAGA Period. The information contained in Spectra’s records regarding each of these factors 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 class portion of the Settlement, you may exclude yourself by sending to the Settlement Administrator a written “Request for Exclusion” letter or postcard, postmarked no later than **<<RESPONSE DEADLINE>>**, with your full name (as well as any former names you used while you were employed by Spectra), your current address, telephone number, last 4 digits of your social security number, and your signature. The Request for Exclusion must also state that you wish to exclude yourself from the Hernandez v. Spectra Company class action settlement.

As noted above, this Settlement resolves class claims as well as PAGA claims. By submitting a Request for Exclusion, you are excluding yourself from the class portion of the Settlement but not the PAGA portion of the Settlement, from which you may not opt out.

Send any Request for Exclusion directly to the Settlement Administrator at <<ADMINISTRATOR CONTACT INFO>>. Any person who submits a valid and timely Request for Exclusion shall, upon receipt, no longer be a Settlement Class member, shall be barred from participating in the class portion of the Settlement, and shall receive no benefits from the Settlement (except for any payment from the PAGA Amount, if applicable). Any person who submits a valid and timely Request for Exclusion will also lack standing to object to the Settlement.

**Objecting to the Settlement.** If you do not submit a Request for Exclusion, you have the right to object to the terms of the class 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, in writing, you must mail a written Objection to the Settlement Administrator. Your written Objection must include your full name (as well as any former names used while employed by Spectra), current address and phone number, last 4 digits of your social security number, the name and contact information of any attorney representing you, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection, including any supporting papers, briefs, written evidence, declarations, and/or other evidence. All written objections or other correspondence must state the name and number of the case, which is *Samuel Hernandez v. Spectra Company*, Los Angeles County Superior Court Case No. 20STCV39910. Any written Objections must be postmarked on or before <<RESPONSE DEADLINE>>.

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing. You do not need to submit a written objection in order to appear and/or object at the Final Approval Hearing. You have the right to appear either in person or through your own attorney at this hearing. If you wish to appear at the Final Approval Hearing and/or retain an attorney to represent you at the hearing, you must do so at your own expense. 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 *Samuel Hernandez v. Spectra Company*, Los Angeles County Superior Court Case No. 20STCV39910.

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 1 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. At the Final Approval Hearing, the Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of expenses, the incentive award to the Class Representative, and the Settlement administration costs. 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 at their own expense.**

If you plan on attending the hearing or otherwise visiting the Court, please consult the Court's "Access LA Court Your Way" webpage, <http://www.lacourt.org/newsmedia/ui/AccessLACourtYourWay.aspx>, for information regarding court operations during COVID-19 as well as any face covering and social distancing requirements. You may also arrange to appear at the Final Approval Hearing by audio or video by visiting the above website and clicking on "Appear for Your Hearing Remotely" and then following the instructions to schedule a remote appearance.

#### ***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 Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012, during regular court hours. You may also contact the Settlement Administrator or Class Counsel using the contact information listed above for more information.

**PLEASE DO NOT CALL OR WRITE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT.**

#### ***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.

# **EXHIBIT B**

## **NOTICE OF ESTIMATED SETTLEMENT AWARD**

***SAMUEL HERNANDEZ V. SPECTRA COMPANY***  
**LOS ANGELES COUNTY SUPERIOR COURT CASE NO. 20STCV39910**

Please complete, sign, 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

\_\_\_\_\_  
Phone number (if you wish to be contacted by phone)

**(III) Information Used to Calculate Your Estimated Settlement Award:**

According to Spectra Company's ("Spectra") records:

- (a) you worked [ ] workweeks for Spectra in California as a non-exempt employee between October 16, 2016 and <<PRELIM APPROVAL DATE>>;
- (b) you worked [ ] pay periods for Spectra in California as a non-exempt employee between October 16, 2019 and <<PRELIM APPROVAL DATE>>;
- (c) your employment with Spectra <<did/did not>> end at any time between October 16, 2017 and <<PRELIM APPROVAL DATE>>; and
- (d) you worked [ ] pay periods for Spectra in California as a non-exempt employee between October 19, 2019 and <<PRELIM APPROVAL DATE>>.

Based on the above, your total Settlement Award is estimated at \$ [ ] .

**(IV) If you disagree with the information listed in items (a) through (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 Spectra's records, Spectra's records will control unless you are able to provide documentation that establishes that Spectra's records are mistaken. If there is a dispute about whether Spectra's information or yours is accurate, the dispute will be resolved by the Parties and the Settlement Administrator as described in the "Notice of Class Action Settlement" that accompanies this Form. The Settlement Administrator's determination will be final.

**Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**ANY DISPUTES (INCLUDING SUPPORTING DOCUMENTS) MUST BE POSTMARKED NO LATER THAN <<RESPONSE DEADLINE>>.**