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

JOSE AGUILAR, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

KNE, LLC, a California limited liability
company, dba H2O LOGISTICS; and DOES 1
through 100,

Defendants.

Case No. 20STCV05676

*[Assigned for All Purposes to Hon. Kenneth R.
Freeman, SSC-14]*

**SUPPLEMENTAL DECLARATION OF
SCOTT M. LIDMAN IN SUPPORT OF
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: May 6, 2021
Time: 10:00 a.m.
Dept.: SSC-14

Action Filed: February 13, 2020
Trial Date: None Set

1 I, SCOTT M. LIDMAN, declare as follows:

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

7 2. On January 28, 2021, the Court issued a Tentative Ruling and Checklist via
8 CaseAnywhere, identifying various issues to be addressed by the Parties in supplemental briefing and
9 declarations.

10 3. The Parties have revised the Stipulation of Settlement and Notice of Pendency of Class
11 Action and Proposed Settlement and the following documents are being submitted concurrently
12 herewith as Exhibits hereto:

- 13 ➤ Attached as **Exhibit A** is a true and correct copy of the redlined version of the
14 Amended Stipulation of Settlement (without exhibits).
- 15 ➤ Attached as **Exhibit B** is a true and correct copy of the final version of the
16 Amended Stipulation of Settlement with the changes accepted and all exhibits,
17 and signed by all Parties.
- 18 ➤ Attached as **Exhibit C** is a true and correct copy of the redlined version of the
19 revised Notice of Pendency of Class Action and Proposed Settlement.
- 20 ➤ Attached as **Exhibit D** is a true and correct copy of the final version of the revised
21 Notice of Pendency of Class Action and Proposed Settlement with the changes
22 accepted.
- 23 ➤ Attached as **Exhibit E** is a true and correct copy of the letter submitted to the
24 LWDA and KNE, LLC dba H2O Logistics on February 28, 2020.

25 4. Plaintiff will provide the LWDA with a copy of the supplemental briefing and Amended
26 Settlement Agreement after it is filed and will file a supplemental proof of service prior to the hearing.

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is
2 true and correct. Executed on March 29, 2021 at El Segundo, California.

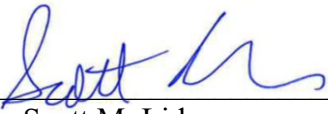
3
4 
5 Scott M. Lidman

EXHIBIT A

EXHIBIT A

AMENDED STIPULATION OF SETTLEMENT

This Amended Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Jose Aguilar (“Plaintiff”), individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant KNE, LLC dba H2O Logistics (“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 of Haines Law Group, APC and Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC (collectively, “Class Counsel”). Defendant is represented by Larry W. Lee of Diversity Law Group and Edward W. Choi of Law Offices of Choi & Associates.

On February 13, 2020, Plaintiff filed a Complaint against Defendant in Los Angeles County Superior Court, in the matter entitled *Jose Aguilar v. KNE, LLC dba H2O Logistics*, Case No. 20STCV05676 (the “Action”). On May 4, 2020, Plaintiff filed a First Amended Complaint, (the current operative pleadings), alleging the following claims against Defendant: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods, or premium pay for non-complaint rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to pay all wages upon termination; and (g) unlawful deductions from wages. As a result of the foregoing alleged violations, Plaintiff contends that Defendant is further liable to Plaintiff and the Settlement Class (defined below) because it engaged in unlawful business practices pursuant to Business and Professions Code section 17200 and for penalties under California Labor Code Private Attorneys General Act of 2004 that could have been premised on the facts, claims, causes of action or legal theories described above. Defendant denies Plaintiff’s claims.

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

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

All current and former non-exempt, hourly employees of Defendant KNE, LLC dba H2O Logistics who worked in California at least one (1) day at any time from February 13, 2016 through date of preliminary approval of the Settlement.

For purposes of this Settlement Agreement, the “Class Period” shall mean the time period of February 13, 2016 through the date of preliminary approval of this Settlement Agreement.

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

2. PAGA Employees. For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the following definition of PAGA Employees:

All current and former non-exempt, hourly employees of Defendant KNE, LLC dba H2O Logistics who worked in California at least one (1) day at any time from February 13, 2019 through date of preliminary approval of the Settlement.

For purposes of this Settlement Agreement, the “PAGA Period” and release under the PAGA shall mean the time period between February 13, 2019 through the date of preliminary approval.

2.3. Release by Settlement Class Members and Plaintiff. Plaintiff and every member of the Settlement Class (except those who timely and properly submit a Request for Exclusion as set forth below) will fully and forever completely release and discharge Defendant, and all of its past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys, (collectively the “Released Parties”), as follows:

A. Settlement Class Members’ Release: Settlement Class members and Plaintiff will release all claims, demands, rights, liabilities and causes of action that were pled in ~~any of the~~ the operative Complaints in the Action, or which could have been pled in ~~any of the~~ the operative Complaints in the Action based on the factual allegations therein, that arose during the Class Period including but not limited to the following claims: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods or leaving the facility for rest breaks, or premium pay for non-complaint rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to timely pay wages upon separation of employment; (g) unlawful deductions from wages; and (h) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above; ~~and (i) a claim under California Labor Code Private Attorneys General Act of 2004 that were or could have been premised on the facts, claims, causes of action or legal theories described above and in the operative Complaint~~ (collectively, the “Released Claims”).

B. The time period for the release of the Released Claims shall be the same time period as the Class Period.

C. PAGA Release: PAGA Employees, including Plaintiff, will release and forever discharge all claims, demands, rights, liabilities and causes of action for penalties under California Labor Code Private Attorneys General Act of 2004 against the Released Parties based on (as alleged in the letter to the Labor & Workforce Development Agency (“LWDA”) February 28, 2020 and the operative Complaint for: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods or leaving the facility

for rest breaks, or premium pay for non-complaint rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to timely pay wages upon separation of employment; (g) unlawful deductions from wages (collectively, “PAGA Released Claims”). The PAGA Period and the time period of the PAGA Released Claims is defined as the time period of February 13, 2019 through date of preliminary approval of the Settlement (“PAGA Period”).

C.D. In light of the Class Representative Service Award, Plaintiff agrees to release, in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. Notwithstanding the foregoing, Plaintiff understands that this release includes unknown claims, which includes waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims which 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.

D.E. Notwithstanding the above, nor anything else in this Settlement, the waiver and release in this Settlement does not apply to (i) those rights that as a matter of law cannot be waived, including, but not limited to, workers’ compensation claims, pending or otherwise and/or benefits to be received by Plaintiff in workers’ compensation pursuant to the jurisdiction of workers’ compensation; and (ii) rights or claims arising out of this Settlement.

E.F. The releases identified herein will be effective on the date that Defendant fully funds the Gross Settlement Amount.

3.4. **Gross Settlement Amount.** As consideration, Defendant agrees to pay a “Gross Settlement Amount” of One Hundred Thousand Dollars and Zero Cents (\$100,000.00) (unless such Gross Settlement Amount is increased pursuant to Paragraph 3.E. below) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrators (or other mutually agreeable alternative Settlement Administrator) as the “Settlement Administrator” to administer this Settlement. All administrative costs shall be paid from the Gross Settlement Amount.
- B. With the exception of the Settlement Administrator’s fees, if required by the Settlement Administrator, the Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund set up by the Settlement Administrator for the benefit of participating Settlement Class members. Defendant agrees to deposit the Gross Settlement Amount with the Settlement Administrator within thirty (30) calendar days after the “Effective Date” which is defined as the latter of:

(a) the Court's final approval of the settlement if no objections by or on behalf of Settlement Class members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been filed.

C. This is a non-reversionary settlement. The Gross Settlement Amount includes:

- (1) All payments (including interest) to the Settlement Class members;
- (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Three Thousand Five Hundred Dollars and Zero Cents (\$3,500.00);
- (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff's Class Representative Service Award, in recognition of his contributions to the Action, and his service to the Settlement Class. Even in the event that the Court reduces or does not approve the requested Class Representative Service Award, Plaintiff shall not have the right to revoke this Settlement Agreement, and this Settlement shall remain binding;
- (4) Up to one-third of the Gross Settlement Amount in Class Counsel's attorneys' fees [estimated to be Thirty-Three Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$33,333.33), unless the Gross Settlement Amount is increased pursuant to Paragraph 3.E. below], plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than Fifteen Thousand Dollars and Zero Cents (\$15,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees and/or costs, Class Counsel shall not have the right to revoke this Settlement Agreement, and it will remain binding; and
- (5) Ten Thousand Dollars and Zero Cents (\$10,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00), will be payable to certain Settlement Class members as the "PAGA Amount," as described below.

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

E. **Unexpected Workweeks/Escalator Clause.** Defendant represents that there are an estimated 1,783 pay periods worked by Class Members during the Class Period. If the number of pay periods during the Class Period is more than 10% greater than this figure (*i.e.*, if there are 1,961 or more pay periods worked by the settlement class members during the Class Period), Defendant agrees to increase

the Gross Settlement Amount on a proportional basis to the extent the number of pay periods exceed the total (i.e., if there was 15% increase in the number pay periods during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 5%).

4.5. Payments to the Settlement Class. Settlement Class members are not required to submit a claim form to receive a payment (“Settlement Award”) from the Settlement. 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 fees and expenses for administration, and the amount designated as PAGA civil penalties payable to the LWDA. The remaining amount shall be known as the “Net Settlement Amount.”
- B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member’s Settlement Award based on the following formula:
 - i. The Net Settlement Amount shall be allocated to Settlement Class members who worked during the Class Period, as follows: each participating Settlement Class member shall receive a proportionate settlement share based upon the number of pay periods worked as a non-exempt employee during the Class Period, the numerator of which is the Settlement Class member’s total pay periods worked as a non-exempt employee during the Class Period, and the denominator of which is the total pay periods worked as non-exempt employees by all Settlement Class members (who do not opt out) who worked during the Class Period.
- C. PAGA Amount: Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) of the Gross Settlement Amount has been designated as the “PAGA Amount” as described above. Each ~~Settlement Class member~~PAGA Employee who was employed by Defendant at any time from February 13, 2019 to the date of preliminary approval (the “PAGA Period”) of this Settlement shall receive a portion of the PAGA Amount proportionate to the number of pay periods that he or she worked ~~as a non-exempt employee during this time period~~during this PAGA Period. ~~Each Settlement Class member who worked during this time period shall receive a portion of the PAGA Amount, and~~ which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the ~~Settlement Class members’~~PAGA Employees’ number of pay periods worked as a non-exempt employee during this time period, and the denominator of which is the total number of pay periods worked by all ~~Settlement Class members as non-exempt employees during this time period~~PAGA Employees.
- D. Within ten (10) calendar days following Defendant’s deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to

counsel for the Parties for review and approval. Within seven (7) calendar days of approval by counsel for the Parties, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant's counsel.

- E. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: Sixty-Seven percent (67%) as penalties and interest; and Thirty-Three percent (33%) as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Each Settlement Class member who receives a Settlement Award will be responsible for correctly characterizing the payment for tax purposes and for payment of any taxes owing on said amount. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- F. Each member of the Settlement Class who receives a Settlement Award must cash the check(s) within 180 days from the date the Settlement Administrator mails it/them. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing will escheat to the California Secretary of State- Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class member.

5.6. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Gross Settlement Amount, which is currently estimated to be Thirty-Three Thousand, Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$33,333.33) (unless the Gross Settlement Amount is increased pursuant to Paragraph 3.E. above, in which case the attorneys' fees shall increase accordingly). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00) from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court.

6.7. **Class Representative Service Award.** Defendant will not object to a request for a Class Representative Service Award of up to Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff for his time and risk in prosecuting this case, 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 issued by the Settlement Administrator. Even in the event that

the Court reduces or does not approve the requested Service Award, Plaintiff shall not have the right to revoke this Settlement, and it will remain binding.

7.8. **Settlement Administrator.** Defendant will not object the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiff's seeking permission to pay up to Three Thousand Five Hundred Dollars and Zero Cents (\$3,500.00) for its services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices and for calculating Settlement Awards and preparing all checks and mailings, calculating Defendant's share of taxes payable on the wages, which shall be paid by Defendant separate and apart from the Gross Settlement Amount, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Settlement Awards have been mailed to all participating Settlement Class members.

8.9. **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 of Haines Law Group, APC and Scott M. Lidman, Milan Moore and Elizabeth Nguyen of Lidman Law, APC as Class Counsel;
- C. Appointing Jose Aguilar as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Notice of Pendency of Class Action and Settlement and Notice of Settlement Award, drafts of which are attached collectively hereto as **Exhibit A**), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

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

- A. Within fifteen (15) calendar days after entry of an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, positions held, the number of pay periods worked as a non-exempt employee by each Settlement Class member while employed during the Class Period and PAGA Period (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 this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class members; (ii) update the address 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 (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within forty-five (45) calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).
- i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) 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 the Settlement, except a Request for Exclusion not containing a Class Member’s telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon.
- ii. The Parties agree there is no statutory or other right for any ~~Settlement Class member~~PAGA Employee to opt out or otherwise exclude himself or herself from the PAGA portion of the Settlement. A Settlement Class member who submits a valid and timely Request for Exclusion shall remain a PAGA Employee, if applicable, and still receive his or her proportionate share of the PAGA Amount.
- D. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by mailing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant’s counsel). Class Counsel shall file any objections with the Court. Defendant’s counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final

Approval. To be valid, any written objection must: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence, if any; and (4) be postmarked no later than the Response Deadline. Members of the Settlement Class who do not request exclusion may also object to the Settlement by appearing at the Final Approval Hearing in person or virtually irrespective of whether they submitted any written objections.

- E. Notice of Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Settlement Award as well the Settlement Class member's number of pay periods worked as a non-exempt employee during the Class Period. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Settlement Agreement. If a resolution cannot be reached by and among the Parties and the Settlement Administrator, the Court will render all final decisions on disputes.
- 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 before the Response Deadline, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within three (3) 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. ~~It will be presumed that, if an envelope so mailed has not been returned within twenty (20) days of the mailing, the Settlement Class member received the Notice Packet.~~ 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 has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once before the Response Deadline, the Settlement Administrator shall continue to make reasonable efforts to obtain an updated

mailing address. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement.

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

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative Service Award, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769 and posting notice of the judgment on a static website created and maintained by the Settlement Administrator.

11.12. Revocation Option for Defendant. If fifteen percent (15%) or more of the Class Members opt out of the Settlement, Defendant may, at its sole election, rescind the Settlement and all actions taken in furtherance of it will thereby be null and void. Defendant must exercise this right of rescission, in writing, to Class Counsel within seven (7) calendar days after the Settlement Administrator notifies the Parties of a greater than fifteen percent (15%) opt-out rate. If the option to rescind is exercised, then Defendant shall be solely responsible for all costs of the settlement administration accrued to that point.

12.13. Non-Admission of Liability. 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. In particular, but without limiting the generality of the foregoing, nothing about this Settlement Agreement shall be offered or construed as an admission of liability, wrongdoing, impropriety, responsibility, or fault whatsoever on the part of Defendant and/or the Released Parties, and it shall not be construed as or deemed to be evidence of, or an admission or concession that the any Settling Class member has suffered any damage. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

13.14. Non-disclosure and Non-publication. Prior to the filing of the Motion for Preliminary Approval, Plaintiff and Class Counsel agree not to disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel. Class Counsel

may also include a general description of the Settlement on their respective websites but may not include the name(s) of any of the Parties, or the case name or case number of the Action.

14.15. Legal Developments. The Parties agree that Plaintiff will submit to the Court a motion for preliminary approval of this Settlement containing all of the terms and conditions contained herein notwithstanding any new legal developments regarding the Released Claims.

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

16.17. Attorneys' Fees: In the event of any dispute arising out of the interpretation, performance, or breach of any provision of this Settlement Agreement, the prevailing party in such dispute(s) shall be entitled to recover her and/or its reasonable attorneys' fees and costs incurred arising from such dispute.

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

if to Defendant: Larry W. Lee of Diversity Law Group, 515 S. Figueroa St., Suite 1250, Los Angeles, CA 90071; lwlee@diversitylaw.com

Edward W. Choi of Law Offices of Choi & Associates, 515 S. Figueroa St., Suite 1250, Los Angeles, CA 90071; edward.choi@choiandassociates.com

if to Plaintiff: Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC, 2155 Campus Drive, Suite 150 El Segundo, California 90245; slidman@lidmanlaw.com and enguyen@lidmanlaw.com

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

18.19. Cooperation. The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed.

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

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

DATED: DEFENDANT KNE, LLC DBA H2O LOGISTICS

By: _____

Its: _____

DATED: PLAINTIFF JOSE AGUILAR

By: _____

Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: DIVERSITY LAW GROUP

By: _____

Larry W. Lee

Attorneys for Defendant KNE, LLC dba H2O
Logistics

DATED: LAW OFFICES OF CHOI & ASSOCIATES

By: _____
Edward W. Choi
Attorneys for Defendant KNE, LLC dba H2O
Logistics

DATED: HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Attorneys for Plaintiff Jose Aguilar

DATED: LIDMAN LAW, APC

By: _____
Scott M. Lidman
Attorneys for Plaintiff Jose Aguilar

EXHIBIT B

EXHIBIT B

AMENDED STIPULATION OF SETTLEMENT

This Amended Stipulation of Settlement ("Settlement Agreement") is reached by and between Plaintiff Jose Aguilar ("Plaintiff"), individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant KNE, LLC dba H2O Logistics ("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 of Haines Law Group, APC and Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC (collectively, "Class Counsel"). Defendant is represented by Larry W. Lee of Diversity Law Group and Edward W. Choi of Law Offices of Choi & Associates.

On February 13, 2020, Plaintiff filed a Complaint against Defendant in Los Angeles County Superior Court, in the matter entitled *Jose Aguilar v. KNE, LLC dba H2O Logistics*, Case No. 20STCV05676 (the "Action"). On May 4, 2020, Plaintiff filed a First Amended Complaint, (the current operative pleadings), alleging the following claims against Defendant: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods, or premium pay for non-complaint rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to pay all wages upon termination; and (g) unlawful deductions from wages. As a result of the foregoing alleged violations, Plaintiff contends that Defendant is further liable to Plaintiff and the Settlement Class (defined below) because it engaged in unlawful business practices pursuant to Business and Professions Code section 17200 and for penalties under California Labor Code Private Attorneys General Act of 2004 that could have been premised on the facts, claims, causes of action or legal theories described above. Defendant denies Plaintiff's claims.

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

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

All current and former non-exempt, hourly employees of Defendant KNE, LLC dba H2O Logistics who worked in California at least one (1) day at any time from February 13, 2016 through date of preliminary approval of the Settlement.

For purposes of this Settlement Agreement, the "Class Period" shall mean the time period of February 13, 2016 through the date of preliminary approval of this Settlement Agreement.

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

2. PAGA Employees. For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the following definition of PAGA Employees:

All current and former non-exempt, hourly employees of Defendant KNE, LLC dba H2O Logistics who worked in California at least one (1) day at any time from February 13, 2019 through date of preliminary approval of the Settlement.

For purposes of this Settlement Agreement, the "PAGA Period" and release under the PAGA shall mean the time period between February 13, 2019 through the date of preliminary approval.

3. **Release by Settlement Class Members and Plaintiff.** Plaintiff and every member of the Settlement Class (except those who timely and properly submit a Request for Exclusion as set forth below) will fully and forever completely release and discharge Defendant, and all of its past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys, (collectively the "Released Parties"), as follows:

- A. Settlement Class Members' Release: Settlement Class members and Plaintiff will release all claims, demands, rights, liabilities and causes of action that were pled in the operative Complaint in the Action, or which could have been pled in the operative Complaint in the Action based on the factual allegations therein, that arose during the Class Period including but not limited to the following claims: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods or leaving the facility for rest breaks, or premium pay for non-complaint rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to timely pay wages upon separation of employment; (g) unlawful deductions from wages; and (h) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above; (collectively, the "Released Claims").
- B. The time period for the release of the Released Claims shall be the same time period as the Class Period.
- C. PAGA Release: PAGA Employees, including Plaintiff, will release and forever discharge all claims, demands, rights, liabilities and causes of action for penalties under California Labor Code Private Attorneys General Act of 2004 against the Released Parties based on (as alleged in the letter to the Labor & Workforce Development Agency ("LWDA") February 28, 2020 and the operative Complaint for: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods or leaving the facility for rest breaks, or premium pay for non-complaint rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to timely pay wages upon separation of employment; (g) unlawful deductions from wages (collectively,

“PAGA Released Claims”). The PAGA Period and the time period of the PAGA Released Claims is defined as the time period of February 13, 2019 through date of preliminary approval of the Settlement (“PAGA Period”).

- D. In light of the Class Representative Service Award, Plaintiff agrees to release, in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. Notwithstanding the foregoing, Plaintiff understands that this release includes unknown claims, which includes waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims which 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.

- E. Notwithstanding the above, nor anything else in this Settlement, the waiver and release in this Settlement does not apply to (i) those rights that as a matter of law cannot be waived, including, but not limited to, workers’ compensation claims, pending or otherwise and/or benefits to be received by Plaintiff in workers’ compensation pursuant to the jurisdiction of workers’ compensation; and (ii) rights or claims arising out of this Settlement.
- F. The releases identified herein will be effective on the date that Defendant fully funds the Gross Settlement Amount.

4. **Gross Settlement Amount.** As consideration, Defendant agrees to pay a “Gross Settlement Amount” of One Hundred Thousand Dollars and Zero Cents (\$100,000.00) (unless such Gross Settlement Amount is increased pursuant to Paragraph 3.E. below) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrators (or other mutually agreeable alternative Settlement Administrator) as the “Settlement Administrator” to administer this Settlement. All administrative costs shall be paid from the Gross Settlement Amount.
- B. With the exception of the Settlement Administrator’s fees, if required by the Settlement Administrator, the Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund set up by the Settlement Administrator for the benefit of participating Settlement Class members. Defendant agrees to deposit the Gross Settlement Amount with the Settlement Administrator within thirty (30) calendar days after the “Effective Date” which is defined as the latter of: (a) the Court’s final approval of the settlement if no objections by or on behalf of Settlement Class members have been filed; (b) the time for appeal has expired if an

objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been filed.

C. This is a non-reversionary settlement. The Gross Settlement Amount includes:

- (1) All payments (including interest) to the Settlement Class members;
- (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Three Thousand Five Hundred Dollars and Zero Cents (\$3,500.00);
- (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff's Class Representative Service Award, in recognition of his contributions to the Action, and his service to the Settlement Class. Even in the event that the Court reduces or does not approve the requested Class Representative Service Award, Plaintiff shall not have the right to revoke this Settlement Agreement, and this Settlement shall remain binding;
- (4) Up to one-third of the Gross Settlement Amount in Class Counsel's attorneys' fees [estimated to be Thirty-Three Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$33,333.33), unless the Gross Settlement Amount is increased pursuant to Paragraph 3.E. below], plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than Fifteen Thousand Dollars and Zero Cents (\$15,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees and/or costs, Class Counsel shall not have the right to revoke this Settlement Agreement, and it will remain binding; and
- (5) Ten Thousand Dollars and Zero Cents (\$10,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00), will be payable to certain Settlement Class members as the "PAGA Amount," as described below.

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

E. **Unexpected Workweeks/Escalator Clause.** Defendant represents that there are an estimated 1,783 pay periods worked by Class Members during the Class Period. If the number of pay periods during the Class Period is more than 10% greater than this figure (*i.e.*, if there are 1,961 or more pay periods worked by the settlement class members during the Class Period), Defendant agrees to increase the Gross Settlement Amount on a proportional basis to the extent the number of pay periods exceed the total (*i.e.*, if there was 15% increase in the number pay

periods during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 5%).

5. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Settlement Award") from the Settlement. 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 fees and expenses for administration, and the amount designated as PAGA civil penalties payable to the LWDA. The remaining amount shall be known as the "Net Settlement Amount."
- B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member's Settlement Award based on the following formula:
 - i. The Net Settlement Amount shall be allocated to Settlement Class members who worked during the Class Period, as follows: each participating Settlement Class member shall receive a proportionate settlement share based upon the number of pay periods worked as a non-exempt employee during the Class Period, the numerator of which is the Settlement Class member's total pay periods worked as a non-exempt employee during the Class Period, and the denominator of which is the total pay periods worked as non-exempt employees by all Settlement Class members (who do not opt out) who worked during the Class Period.
- C. PAGA Amount: Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) of the Gross Settlement Amount has been designated as the "PAGA Amount" as described above. Each PAGA Employee shall receive a portion of the PAGA Amount proportionate to the number of pay periods that he or she worked during this PAGA Period which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Employees' number of pay periods worked as a non-exempt employee during this time period, and the denominator of which is the total number of pay periods worked by all PAGA Employees.
- D. Within ten (10) calendar days following Defendant's deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for the Parties for review and approval. Within seven (7) calendar days of approval by counsel for the Parties, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant's counsel.

- E. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: Sixty-Seven percent (67%) as penalties and interest; and Thirty-Three percent (33%) as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed “wages” and IRS Forms 1099 for the amounts allocated as penalties and interest. Each Settlement Class member who receives a Settlement Award will be responsible for correctly characterizing the payment for tax purposes and for payment of any taxes owing on said amount. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- F. Each member of the Settlement Class who receives a Settlement Award must cash the check(s) within 180 days from the date the Settlement Administrator mails it/them. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing will escheat to the California Secretary of State- Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class member.

6. **Attorneys’ Fees and Costs.** Defendant will not object to Class Counsel’s request for a total award of attorneys’ fees of one-third of the Gross Settlement Amount, which is currently estimated to be Thirty-Three Thousand, Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$33,333.33) (unless the Gross Settlement Amount is increased pursuant to Paragraph 3.E. above, in which case the attorneys’ fees shall increase accordingly). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00) from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court’s approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court.

7. **Class Representative Service Award.** Defendant will not object to a request for a Class Representative Service Award of up to Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff for his time and risk in prosecuting this case, 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 issued by the Settlement Administrator. Even in the event that the Court reduces or does not approve the requested Service Award, Plaintiff shall not have the right to revoke this Settlement, and it will remain binding.

8. **Settlement Administrator.** Defendant will not object the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiff’s seeking permission to pay up to Three Thousand Five Hundred Dollars and Zero Cents (\$3,500.00) for its services from the Gross Settlement Amount. The Settlement Administrator shall be

responsible for sending notices and for calculating Settlement Awards and preparing all checks and mailings, calculating Defendant's share of taxes payable on the wages, which shall be paid by Defendant separate and apart from the Gross Settlement Amount, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Settlement Awards have been mailed to all participating Settlement Class members.

9. **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 of Haines Law Group, APC and Scott M. Lidman, Milan Moore and Elizabeth Nguyen of Lidman Law, APC as Class Counsel;
- C. Appointing Jose Aguilar as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Notice of Pendency of Class Action and Settlement and Notice of Settlement Award, drafts of which are attached collectively hereto as **Exhibit A**), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

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

- A. Within fifteen (15) calendar days after entry of an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, positions held, the number of pay periods worked as a non-exempt employee by each Settlement Class member while employed during the Class Period and PAGA Period (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 this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class members; (ii) update the address 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 (iv) mail a Notice Packet to each Settlement Class member at his or her last

known address or at the updated address found through the NCOA search, and retain proof of mailing.

C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within forty-five (45) calendar days of the date of the initial mailing of the Notice Packets (the "Response Deadline").

- i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) 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 the Settlement, except a Request for Exclusion not containing a Class Member's telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon.
- ii. The Parties agree there is no statutory or other right for any PAGA Employee to opt out or otherwise exclude himself or herself from the PAGA portion of the Settlement. A Settlement Class member who submits a valid and timely Request for Exclusion shall remain a PAGA Employee, if applicable, and still receive his or her proportionate share of the PAGA Amount.

D. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by mailing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel). Class Counsel shall file any objections with the Court. Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval. To be valid, any written objection must: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence, if any; and (4) be postmarked no later than the Response Deadline. Members of the Settlement Class who do not request exclusion

may also object to the Settlement by appearing at the Final Approval Hearing in person or virtually irrespective of whether they submitted any written objections.

- E. Notice of Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Settlement Award as well the Settlement Class member's number of pay periods worked as a non-exempt employee during the Class Period. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Settlement Agreement. If a resolution cannot be reached by and among the Parties and the Settlement Administrator, the Court will render all final decisions on disputes.
- 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 before the Response Deadline, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within three (3) 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 has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once before the Response Deadline, the Settlement Administrator shall continue to make reasonable efforts to obtain an updated mailing address. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement.

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

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

- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative Service Award, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769 and posting notice of the judgment on a static website created and maintained by the Settlement Administrator.

12. **Revocation Option for Defendant.** If fifteen percent (15%) or more of the Class Members opt out of the Settlement, Defendant may, at its sole election, rescind the Settlement and all actions taken in furtherance of it will thereby be null and void. Defendant must exercise this right of rescission, in writing, to Class Counsel within seven (7) calendar days after the Settlement Administrator notifies the Parties of a greater than fifteen percent (15%) opt-out rate. If the option to rescind is exercised, then Defendant shall be solely responsible for all costs of the settlement administration accrued to that point.

13. **Non-Admission of Liability.** 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. In particular, but without limiting the generality of the foregoing, nothing about this Settlement Agreement shall be offered or construed as an admission of liability, wrongdoing, impropriety, responsibility, or fault whatsoever on the part of Defendant and/or the Released Parties, and it shall not be construed as or deemed to be evidence of, or an admission or concession that the any Settling Class member has suffered any damage. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

14. **Non-disclosure and Non-publication.** Prior to the filing of the Motion for Preliminary Approval, Plaintiff and Class Counsel agree not to disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel. Class Counsel may also include a general description of the Settlement on their respective websites but may not include the name(s) of any of the Parties, or the case name or case number of the Action.

15. **Legal Developments.** The Parties agree that Plaintiff will submit to the Court a motion for preliminary approval of this Settlement containing all of the terms and conditions contained herein notwithstanding any new legal developments regarding the Released Claims.

16. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject

to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

17. **Attorneys' Fees:** In the event of any dispute arising out of the interpretation, performance, or breach of any provision of this Settlement Agreement, the prevailing party in such dispute(s) shall be entitled to recover her and/or its reasonable attorneys' fees and costs incurred arising from such dispute.

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

if to Defendant: Larry W. Lee of Diversity Law Group, 515 S. Figueroa St., Suite 1250, Los Angeles, CA 90071; lwlee@diversitylaw.com

Edward W. Choi of Law Offices of Choi & Associates, 515 S. Figueroa St., Suite 1250, Los Angeles, CA 90071; edward.choi@choiandassociates.com

if to Plaintiff: Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC, 2155 Campus Drive, Suite 150 El Segundo, California 90245; slidman@lidmanlaw.com and enguyen@lidmanlaw.com

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

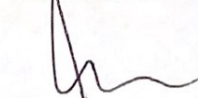
19. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed.

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

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

DATED:

DEFENDANT KNE, LLC DBA H2O LOGISTICS



By: KENNETH KANASTHIR

Its: PRESIDENT

DATED:

PLAINTIFF JOSE AGUILAR

APPROVED AS TO FORM:

DATED:

3/16/21

By: _____

Plaintiff and Settlement Class Representative

DIVERSITY LAW GROUP

By: _____

Larry W. Lee
Attorneys for Defendant KNE, LLC dba H2O
Logistics

DATED:

3/16/21

LAW OFFICES OF CHOI & ASSOCIATES

By: _____

Edward W. Choi
Attorneys for Defendant KNE, LLC dba H2O
Logistics

DATED:

HAINES LAW GROUP, APC

By: _____

Paul K. Haines
Attorneys for Plaintiff Jose Aguilar

DATED:

LIDMAN LAW, APC

By: _____

Scott M. Lidman
Attorneys for Plaintiff Jose Aguilar

DATED: 3-19-21

PLAINTIFF JOSE AGUILAR

By: 
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED:

DIVERSITY LAW GROUP

By: _____
Larry W. Lee
Attorneys for Defendant KNE, LLC dba H2O
Logistics

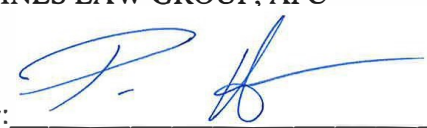
DATED:

LAW OFFICES OF CHOI & ASSOCIATES

By: _____
Edward W. Choi
Attorneys for Defendant KNE, LLC dba H2O
Logistics

DATED: March 25, 2021

HAINES LAW GROUP, APC

By: 
Paul K. Haines
Attorneys for Plaintiff Jose Aguilar

DATED: March 25, 2021

LIDMAN LAW, APC

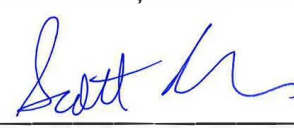
By: 
Scott M. Lidman
Attorneys for Plaintiff Jose Aguilar

EXHIBIT A

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

JOSE AGUILAR,

Plaintiff,

vs.

KNE, LLC DBA H2O LOGISTICS, a California
corporation; and Does 1 through 100,

Defendants.

Case No. 20STCV05676

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

To: All current and former non-exempt, hourly employees of Defendant KNE, LLC dba H2O Logistics who worked in California at least one (1) day at any time from February 13, 2016 through the **date of preliminary approval of the Settlement**. Collectively, these employees will be referred to as “Settlement Class members.”

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

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the “Settlement”) in *Jose Aguilar v. KNE, LLC dba H2O Logistics*, Case No. 20STCV05676 (the “Lawsuit”). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendant’s records show that you were employed by KNE, LLC dba H2O Logistics (“H2O” or “Defendant”) as a non-exempt employee in California for at least one (1) day at any time between February 13, 2016 and **the date of preliminary approval of the Settlement**. For purposes of this Settlement Agreement, the “Class Period” shall mean the time period of February 13, 2016 through **the date of preliminary approval of the Settlement**.

The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Jose Aguilar (“Plaintiff”) brought this Lawsuit against Defendant, seeking to assert claims on behalf of a class of current and former non-exempt employees who worked for Defendant in California at any time beginning February 13, 2016. Plaintiff is known as the “Class Representative,” and his attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

The Lawsuit alleges that Defendant failed to pay Settlement Class members all minimum wages, failed to pay Settlement Class Members all overtime wages, and unlawfully deducted from earned wages. Additionally, the Lawsuit alleges that Defendant failed to provide all meal periods and failed to authorize and permit all rest periods. As a result of the foregoing alleged violations, Plaintiff also alleges that Defendant failed to provide accurate, itemized wage statements, failed to pay all wages upon termination of employment, engaged in unfair business practices and is liable for civil penalties under the California Labor Code Private Attorney General Act (“PAGA”).

Defendant denies that it has done anything wrong. Defendant further denies that it owes Settlement Class members any wages, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, which expressly denies all liability.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Defendant has concluded that it is in its best interests and the interests of Settlement Class members to settle the Lawsuit on the terms summarized in this Notice. After Defendant 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 support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendant, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

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

Who are the Attorneys?

Attorneys for the Plaintiff/Settlement Class Members: LIDMAN LAW, APC Scott M. Lidman slidman@lidmanlaw.com Elizabeth Nguyen enguyen@lidmanlaw.com Milan Moore mmoore@lidmanlaw.com 2155 Campus Drive, Suite 150 El Segundo, California 90245 Tel: (424) 322-4772 Fax: (424) 322-4775 www.lidmanlaw.com HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com	Attorneys for Defendant KNE, LLC dba H2O Logistics.: LAW OFFICES OF CHOI & ASSOCIATES Edward W. Choi edward.choi@choiandassociates.com 515 S. Figueroa St., Suite 1250 Los Angeles, California 90071 Tel: (213) 381-1515 Fax: (213) 465-4885 www.choiandassociates.com DIVERSITY LAW GROUP Larry W. Lee lwlee@diversitylaw.com 515 S. Figueroa St., Suite 1250 Los Angeles, California 90071 Tel: (213) 488-6555 Fax: (213) 488-6554 www.diversitylaw.com
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What are the terms of the Settlement?

On [INSERT DATE OF PRELIMINARY APPROVAL], the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt, hourly employees of Defendant KNE, LLC dba H2O Logistics who worked in California at least one (1) day at any time from February 13, 2016 through the **date of preliminary 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 Defendant as described below.

Defendant has agreed to pay \$100,000.00 (the “Gross Settlement Amount”) to fully resolve all claims in the Lawsuit, including payments to Settlement Class members, attorneys’ fees and expenses, payment to the Labor Workforce Development Agency (“LWDA”), settlement administration costs, and the Class Representative’s Service Award. Defendant’s share of payroll taxes associated with any wage payments to Settlement Class members shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount.

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 \$3,500.00 from the Gross Settlement Amount to pay the Settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of the Settlement Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to one-third of the Gross Settlement Amount, which is estimated to be \$33,333.33, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$15,000.00 for verified costs Class Counsel incurred in connection with the Lawsuit.

Service Award to Class Representative. Class Counsel will ask the Court to award the Class Representative a service award in the amount of \$5,000.00, to compensate him for his service and extra work provided on behalf of the Settlement Class members.

LWDA Payment. Class Counsel will ask the Court to approve a payment in the total amount of \$10,000.00 as and for alleged civil penalties, payable pursuant to the California Labor Code Private Attorney General Act (“PAGA”). Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or \$7,500.00 will be payable to the LWDA, and the remaining twenty-five percent (25%), or \$2,500.00), will be payable to certain Settlement Class members as the “PAGA Amount,” as described below.

Calculation of Individual Settlement Class Members’ Settlement Award. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount (“NSA”), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated at approximately \$35,666.67, to be shared among an estimated 26 Settlement Class members. The NSA will be divided as follows:

- (i) The Net Settlement Amount shall be allocated to Settlement Class members who worked during the Class Period, as follows: each participating Settlement Class member shall receive a proportionate settlement share based upon the number of pay periods worked as a non-exempt employee during the Class Period, the numerator of which is the Settlement Class member’s total pay periods worked as a non-exempt employee during the Class Period, and the denominator of which is the total pay periods worked as non-exempt employees by all Settlement Class members (who do not opt out) who worked during the Class Period.
- (ii) Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) of the Gross Settlement Amount has been designated as the “PAGA Amount” as described above. Each Settlement Class member who was employed by Defendant at any time from February 13, 2019 to the

date of preliminary approval (the “PAGA Period”) of this Settlement shall receive a portion of the PAGA Amount proportionate to the number of pay periods that he or she worked as a non-exempt employee during this time period. Each Settlement Class member who worked during this time period shall receive a portion of the PAGA Amount, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the Settlement Class members’ number of pay periods worked as a non-exempt employee during this time period, and the denominator of which is the total number of pay periods worked by all Settlement Class members as non-exempt employees during this time period.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Settlement Awards will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion.

Payment by Defendant of Gross Settlement Amount. With the exception of the Settlement Administrator’s fees, if required by the Settlement Administrator, the Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund set up by the Settlement Administrator for the benefit of participating Settlement Class members. Defendant agrees to deposit the Gross Settlement Amount with the Settlement Administrator within thirty (30) calendar days after the “Effective Date” which is defined as the latter of: (a) the Court’s final approval of the settlement if no objections by or on behalf of Settlement Class members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been filed.

Within ten (10) calendar days following Defendant’s deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for the Parties for review and approval. Within seven (7) calendar days of approval by counsel for the Parties, the Settlement Administrator will prepare and mail Individual Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members.

Each member of the Settlement Class who receives a Settlement Award must cash the check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members who checks were not cashed within 180 days after mailing will escheat to the California Secretary of State-Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class member.

Allocation and Taxes. For tax purposes, each Settlement Award shall be allocated as follows: 67% as penalties and interest; and 33% as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed “wages” and IRS Forms 1099 for the amounts allocated as penalties and interest. Settlement Class members are responsible for the proper income tax treatment of the Individual Settlement Awards. The Settlement Administrator, Defendant and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, the Settlement Class, and each Settlement Class member who has not submitted a timely and valid Request for Exclusion, will fully and forever completely release and discharge Defendant, and all of its past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys, (collectively the “Released Parties”), from all claims, demands, rights, liabilities and causes of action that were pled in the operative Complaint in the Action, or which could have been pled in the operative Complaint in the Action based on the factual allegations therein, that arose during the Class Period including but not limited to the following claims: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods or leaving the facility for rest breaks, or premium pay for non-complaint rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to timely pay wages upon separation of employment; (g) unlawful deductions from wages; and (h) all claims for unfair business practices that could have been

premised on the facts, claims, causes of action or legal theories described above (collectively, the “Released Claims”). The period of the Release shall extend to the limits of the Class Period.

PAGA Release and PAGA Employees. If the Court approves the Settlement, all PAGA Employees will release the Release Parties from all claims, demands, rights, liabilities and causes of action for penalties under California Labor Code Private Attorneys General Act of 2004 against the Released Parties based on (as alleged in the letter to the Labor & Workforce Development Agency (“LWDA”) February 28, 2020 and the operative Complaint for: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods or leaving the facility for rest breaks, or premium pay for non-complaint rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to timely pay wages upon separation of employment; (g) unlawful deductions from wages (collectively, “PAGA Released Claims”).

The time period of the PAGA Released Claims is defined as the time period of February 13, 2019 through **the date of preliminary approval of the Settlement** (“PAGA Period”).

The Parties acknowledge that under the release, the right of the LWDA to investigate the released PAGA claims is not released, but Released Claims do include any claims for penalties by a Class Member as a result of any such LWDA investigation, and Class Members are waiving their right to act as a private attorney general as to the Released Claims. The period of the Release shall extend to the limits of the Class Period.

You cannot submit a Request for Exclusion from the PAGA Release.

The release identified herein shall be effective following Defendant’s payment of the Gross Settlement Amount in full.

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

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of individual workweeks you worked during the Class Period (as explained above), and as stated in the accompanying Notice of Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period, and also whether you have worked between February 13, 2019 and **the date of preliminary approval**. The information contained in Defendant’s records regarding all of these factors, along with your estimated Settlement Award, is listed on the accompanying Notice of Settlement Award. If you disagree with the information in your Notice of Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than **<<RESPONSE DEADLINE>>**. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

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

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written “Request for Exclusion from the Class Action Settlement” letter or card postmarked no later than **<<RESPONSE DEADLINE>>**, with your name, address,

telephone number, last four digits of your social security number, and your signature. The Request for Exclusion should state:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE AGUILAR V. KNE, LLC LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT.”

Send the Request for Exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who files a timely Request for Exclusion from the Settlement shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement.

If you submit a Request for Exclusion, you will only be excluded from the Released Claims. You cannot submit a Request for Exclusion from the PAGA Release. You will receive a proportionate share of the PAGA Payment regardless of whether you exclude yourself from the Settlement if you were employed between February 13, 2019 and [date of preliminary approval of the Settlement].

Do not submit both a Dispute and a Request for Exclusion. If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

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

Whether or not you submit a written objection, if you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department SSC-14 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. You have the right to appear either remotely, in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. All objections or other correspondence must state the name and number of the case, which is *Jose Aguilar v. KNE, LLC dba H2O Logistics*, Los Angeles County Superior Court Case No. 20STCV05676.

Any Settlement Class member who elects to appear personally at the Court for any reason related to this Lawsuit must comply with the Court’s social distancing and mandatory face covering requirements, as well as any other orders related to COVID-19. All such rules and orders can be located at the Court’s website: www.lacourt.org.

For more information on how to appear remotely, please visit the Court’s website at <http://www.lacourt.org/division/civil/CI0040.aspx> and <https://www.lacourt.org/lacc/>.

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.

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 SSC-14 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. The Court also will be asked to rule on Class Counsel’s request for attorneys’ fees and reimbursement of documented costs and expenses

and the Service Award to the Class Representative. The Final Approval Hearing may be postponed without further notice to Settlement Class members. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

Any changes to date, time, or location of the Final Approval Hearing will be posted on the Settlement Administrator's website (<http://.com>). Notice of the Court's final judgment will also be posted on the Settlement Administrator's website.

How can I get additional information?

This Notice is only a summary of the Lawsuit 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 111 N. Hill Street, Los Angeles, California 90012, during regular court hours. Due to COVID, appointments are required for clerk's office services. Please visit the Court's website at http://www.lacourt.org/newsmedia/uploads/142020529162327NR_Clerks_Office_05_29_20-FINAL.pdf and <https://www.lacourt.org/> for information on how to make an appointment in the Clerk's Office. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, H2O, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

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

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

NOTICE OF SETTLEMENT AWARD

JOSE AGUILAR V. KNE, LLC DBA H2O LOGISTICS
LOS ANGELES COUNTY SUPERIOR COURT CASE NO. 20STCV05676

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

(I) Please type or print your name:

(First, Middle, Last)

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

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Individual Settlement Payment:

According to KNE, LLC dba H2O Logistics's ("H2O") records:

- (a) You worked a total of [] workweeks for H2O during the period February 13, 2016 through the date of preliminary approval of the Settlement; and
- (b) You worked a total of [] pay periods for H2O during the period February 13, 2019 through the date of preliminary approval of the Settlement.

Based on the above, your Individual Settlement Payment is estimated to be \$ [].

(IV) If you disagree with any of the information contained in Section III (a)-(c) 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 H2O's records, H2O's records will control unless you are able to provide documentation that establishes that H2O's records are mistaken. If there is a dispute about whether H2O's information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Parties and the Settlement Administrator as described in the "Notice of Pendency of Class Action and Proposed Settlement" that accompanies this Form. Any unresolved disputes will be submitted to the Court for a final determination.

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

EXHIBIT C

EXHIBIT C

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

JOSE AGUILAR,

Plaintiff,

vs.

KNE, LLC DBA H2O LOGISTICS, a California
corporation; and Does 1 through 100,

Defendants.

Case No. 20STCV05676

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

To: All current and former non-exempt, hourly employees of Defendant KNE, LLC dba H2O Logistics who worked in California at least one (1) day at any time from February 13, 2016 through the **date of preliminary approval of the Settlement**. Collectively, these employees will be referred to as “Settlement Class members.”

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

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the “Settlement”) in *Jose Aguilar v. KNE, LLC dba H2O Logistics*, Case No. 20STCV05676 (the “Lawsuit”). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendant’s records show that you were employed by KNE, LLC dba H2O Logistics (“H2O” or “Defendant”) as a non-exempt employee in California for at least one (1) day at any time between February 13, 2016 and **the date of preliminary approval of the Settlement**. For purposes of this Settlement Agreement, the “Class Period” shall mean the time period of February 13, 2016 through **the date of preliminary approval of the Settlement**.

The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Jose Aguilar (“Plaintiff”) brought this Lawsuit against Defendant, seeking to assert claims on behalf of a class of current and former non-exempt employees who worked for Defendant in California at any time beginning February 13, 2016. Plaintiff is known as the “Class Representative,” and his attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

The Lawsuit alleges that Defendant failed to pay Settlement Class members all minimum wages, failed to pay Settlement Class Members all overtime wages, and unlawfully deducted from earned wages. Additionally, the Lawsuit alleges that Defendant failed to provide all meal periods and failed to authorize and permit all rest periods. As a result of the foregoing alleged violations, Plaintiff also alleges that Defendant failed to provide accurate, itemized wage statements, failed to pay all wages upon termination of employment, engaged in unfair business practices and is liable for civil penalties under the California Labor Code Private Attorney General Act (“PAGA”).

Defendant denies that it has done anything wrong. Defendant further denies that it owes Settlement Class members any wages, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, which expressly denies all liability.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Defendant has concluded that it is in its best interests and the interests of Settlement Class members to settle the Lawsuit on the terms summarized in this Notice. After Defendant 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 support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendant, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

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

Who are the Attorneys?

Attorneys for the Plaintiff/Settlement Class Members: LIDMAN LAW, APC Scott M. Lidman slidman@lidmanlaw.com Elizabeth Nguyen enguyen@lidmanlaw.com Milan Moore mmoore@lidmanlaw.com 2155 Campus Drive, Suite 150 El Segundo, California 90245 Tel: (424) 322-4772 Fax: (424) 322-4775 www.lidmanlaw.com HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com	Attorneys for Defendant KNE, LLC dba H2O Logistics.: LAW OFFICES OF CHOI & ASSOCIATES Edward W. Choi edward.choi@choiandassociates.com 515 S. Figueroa St., Suite 1250 Los Angeles, California 90071 Tel: (213) 381-1515 Fax: (213) 465-4885 www.choiandassociates.com DIVERSITY LAW GROUP Larry W. Lee lwlee@diversitylaw.com 515 S. Figueroa St., Suite 1250 Los Angeles, California 90071 Tel: (213) 488-6555 Fax: (213) 488-6554 www.diversitylaw.com
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What are the terms of the Settlement?

On [INSERT DATE OF PRELIMINARY APPROVAL], the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt, hourly employees of Defendant KNE, LLC dba H2O Logistics who worked in California at least one (1) day at any time from February 13, 2016 through the **date of preliminary 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 Defendant as described below.

Defendant has agreed to pay \$100,000.00 (the “Gross Settlement Amount”) to fully resolve all claims in the Lawsuit, including payments to Settlement Class members, attorneys’ fees and expenses, payment to the Labor Workforce Development Agency (“LWDA”), settlement administration costs, and the Class Representative’s Service Award. Defendant’s share of payroll taxes associated with any wage payments to Settlement Class members shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount.

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 \$3,500.00 from the Gross Settlement Amount to pay the Settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of the Settlement Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to one-third of the Gross Settlement Amount, which is estimated to be \$33,333.33, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$15,000.00 for verified costs Class Counsel incurred in connection with the Lawsuit.

Service Award to Class Representative. Class Counsel will ask the Court to award the Class Representative a service award in the amount of \$5,000.00, to compensate him for his service and extra work provided on behalf of the Settlement Class members.

LWDA Payment. Class Counsel will ask the Court to approve a payment in the total amount of \$10,000.00 as and for alleged civil penalties, payable pursuant to the California Labor Code Private Attorney General Act (“PAGA”). Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or \$7,500.00 will be payable to the LWDA, and the remaining twenty-five percent (25%), or \$2,500.00, will be payable to certain Settlement Class members as the “PAGA Amount,” as described below.

Calculation of Individual Settlement Class Members’ Settlement Award. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount (“NSA”), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated at approximately \$35,666.67, to be shared among an estimated 26 Settlement Class members. The NSA will be divided as follows:

- (i) The Net Settlement Amount shall be allocated to Settlement Class members who worked during the Class Period, as follows: each participating Settlement Class member shall receive a proportionate settlement share based upon the number of pay periods worked as a non-exempt employee during the Class Period, the numerator of which is the Settlement Class member’s total pay periods worked as a non-exempt employee during the Class Period, and the denominator of which is the total pay periods worked as non-exempt employees by all Settlement Class members (who do not opt out) who worked during the Class Period.
- (ii) Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) of the Gross Settlement Amount has been designated as the “PAGA Amount” as described above. Each Settlement Class member who was employed by Defendant at any time from February 13, 2019 to the

date of preliminary approval (the “PAGA Period”) of this Settlement shall receive a portion of the PAGA Amount proportionate to the number of pay periods that he or she worked as a non-exempt employee during this time period. Each Settlement Class member who worked during this time period shall receive a portion of the PAGA Amount, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the Settlement Class members’ number of pay periods worked as a non-exempt employee during this time period, and the denominator of which is the total number of pay periods worked by all Settlement Class members as non-exempt employees during this time period.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Settlement Awards will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion.

Payment by Defendant of Gross Settlement Amount. With the exception of the Settlement Administrator’s fees, if required by the Settlement Administrator, the Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund set up by the Settlement Administrator for the benefit of participating Settlement Class members. Defendant agrees to deposit the Gross Settlement Amount with the Settlement Administrator within thirty (30) calendar days after the “Effective Date” which is defined as the latter of: (a) the Court’s final approval of the settlement if no objections by or on behalf of Settlement Class members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been filed.

Within ten (10) calendar days following Defendant’s deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for the Parties for review and approval. Within seven (7) calendar days of approval by counsel for the Parties, the Settlement Administrator will prepare and mail Individual Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members.

Each member of the Settlement Class who receives a Settlement Award must cash the check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members who checks were not cashed within 180 days after mailing will escheat to the California Secretary of State-Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class member.

Allocation and Taxes. For tax purposes, each Settlement Award shall be allocated as follows: 67% as penalties and interest; and 33% as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed “wages” and IRS Forms 1099 for the amounts allocated as penalties and interest. Settlement Class members are responsible for the proper income tax treatment of the Individual Settlement Awards. The Settlement Administrator, Defendant and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, the Settlement Class, and each Settlement Class member who has not submitted a timely and valid Request for Exclusion, will fully and forever completely release and discharge Defendant, and all of its past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys, (collectively the “Released Parties”), from all claims, demands, rights, liabilities and causes of action that were pled in ~~any of the operative~~ Complaints in the Action, or which could have been pled in ~~any of the operative~~ Complaints in the Action based on the factual allegations therein, that arose during the Class Period including but not limited to the following claims: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods or leaving the facility for rest breaks, or premium pay for non-complaint rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to timely pay wages upon separation of employment; (g) unlawful deductions from wages; and (h) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above ~~; and (i) a claim~~

~~under California Labor Code Private Attorneys General Act of 2004 that were or could have been premised on the facts, claims, causes of action or legal theories described above and in the operative Complaint (collectively, the “Released Claims”). The period of the Release shall extend to the limits of the Class Period.~~

PAGA Release and PAGA Employees. If the Court approves the Settlement, all PAGA Employees will release the Release Parties from all claims, demands, rights, liabilities and causes of action for penalties under California Labor Code Private Attorneys General Act of 2004 against the Released Parties based on (as alleged in the letter to the Labor & Workforce Development Agency (“LWDA”) February 28, 2020 and the operative Complaint for: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods or leaving the facility for rest breaks, or premium pay for non-complaint rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to timely pay wages upon separation of employment; (g) unlawful deductions from wages (collectively, “PAGA Released Claims”).

The time period of the PAGA Released Claims is defined as the time period of February 13, 2019 through the date of preliminary approval of the Settlement (“PAGA Period”).

The Parties acknowledge that under the release, the right of the LWDA to investigate the released PAGA claims is not released, but Released Claims do include any claims for penalties by a Class Member as a result of any such LWDA investigation, and Class Members are waiving their right to act as a private attorney general as to the Released Claims. The period of the Release shall extend to the limits of the Class Period.

You cannot submit a Request for Exclusion from the PAGA Release.

The release identified herein shall be effective following Defendant’s payment of the Gross Settlement Amount in full.

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

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of individual workweeks you worked during the Class Period (as explained above), and as stated in the accompanying Notice of Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period, and also whether you have worked between February 13, 2019 and **the date of preliminary approval**. The information contained in Defendant’s records regarding all of these factors, along with your estimated Settlement Award, is listed on the accompanying Notice of Settlement Award. If you disagree with the information in your Notice of Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than **<<RESPONSE DEADLINE>>**. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

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

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written “Request for Exclusion from the Class Action Settlement” letter or card postmarked no later than **<<RESPONSE DEADLINE>>**, with your name, address,

telephone number, last four digits of your social security number, and your signature. The Request for Exclusion should state:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE AGUILAR V. KNE, LLC LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT.”

Send the Request for Exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who files a timely Request for Exclusion from the Settlement shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement.

If you submit a Request for Exclusion, you will only be excluded from the Released Claims. You cannot submit a Request for Exclusion from the PAGA Release. You will receive a proportionate share of the PAGA Payment regardless of whether you exclude yourself from the Settlement if you were employed between February 13, 2019 and [date of preliminary approval of the Settlement].

Do not submit both a Dispute and a Request for Exclusion. If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

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

Whether or not you submit a written objection, if you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department SSC-14 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. You have the right to appear either remotely, in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. All objections or other correspondence must state the name and number of the case, which is *Jose Aguilar v. KNE, LLC dba H2O Logistics*, Los Angeles County Superior Court Case No. 20STCV05676.

Any Settlement Class member who elects to appear personally at the Court for any reason related to this Lawsuit must comply with the Court’s social distancing and mandatory face covering requirements, as well as any other orders related to COVID-19. All such rules and orders can be located at the Court’s website: www.lacourt.org.

For more information on how to appear remotely, please visit the Court’s website at <http://www.lacourt.org/division/civil/CI0040.aspx> and <https://www.lacourt.org/lacc/>.

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.

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 SSC-14 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. The Court also will be asked to rule on Class Counsel’s request for attorneys’ fees and reimbursement of documented costs and expenses

and the Service Award to the Class Representative. The Final Approval Hearing may be postponed without further notice to Settlement Class members. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

Any changes to date, time, or location of the Final Approval Hearing will be posted on the Settlement Administrator's website (<http://.com>). Notice of the Court's final judgment will also posted on the Settlement Administrator's website.

How can I get additional information?

This Notice is only a summary of the Lawsuit 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 111 N. Hill Street, Los Angeles, California 90012, during regular court hours. Due to COVID, appointments are required for clerk's office services. Please visit the Court's website at http://www.lacourt.org/newsmedia/uploads/142020529162327NR_Clerks_Office_05_29_20-FINAL.pdf and <https://www.lacourt.org/> for information on how to make an appointment in the Clerk's Office. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, H2O, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

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

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

EXHIBIT D

EXHIBIT D

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

JOSE AGUILAR,

Plaintiff,

vs.

KNE, LLC DBA H2O LOGISTICS, a California
corporation; and Does 1 through 100,

Defendants.

Case No. 20STCV05676

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

To: All current and former non-exempt, hourly employees of Defendant KNE, LLC dba H2O Logistics who worked in California at least one (1) day at any time from February 13, 2016 through the **date of preliminary approval of the Settlement**. Collectively, these employees will be referred to as “Settlement Class members.”

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

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the “Settlement”) in *Jose Aguilar v. KNE, LLC dba H2O Logistics*, Case No. 20STCV05676 (the “Lawsuit”). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendant’s records show that you were employed by KNE, LLC dba H2O Logistics (“H2O” or “Defendant”) as a non-exempt employee in California for at least one (1) day at any time between February 13, 2016 and **the date of preliminary approval of the Settlement**. For purposes of this Settlement Agreement, the “Class Period” shall mean the time period of February 13, 2016 through **the date of preliminary approval of the Settlement**.

The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Jose Aguilar (“Plaintiff”) brought this Lawsuit against Defendant, seeking to assert claims on behalf of a class of current and former non-exempt employees who worked for Defendant in California at any time beginning February 13, 2016. Plaintiff is known as the “Class Representative,” and his attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

The Lawsuit alleges that Defendant failed to pay Settlement Class members all minimum wages, failed to pay Settlement Class Members all overtime wages, and unlawfully deducted from earned wages. Additionally, the Lawsuit alleges that Defendant failed to provide all meal periods and failed to authorize and permit all rest periods. As a result of the foregoing alleged violations, Plaintiff also alleges that Defendant failed to provide accurate, itemized wage statements, failed to pay all wages upon termination of employment, engaged in unfair business practices and is liable for civil penalties under the California Labor Code Private Attorney General Act (“PAGA”).

Defendant denies that it has done anything wrong. Defendant further denies that it owes Settlement Class members any wages, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, which expressly denies all liability.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Defendant has concluded that it is in its best interests and the interests of Settlement Class members to settle the Lawsuit on the terms summarized in this Notice. After Defendant 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 support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendant, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

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

Who are the Attorneys?

Attorneys for the Plaintiff/Settlement Class Members: LIDMAN LAW, APC Scott M. Lidman slidman@lidmanlaw.com Elizabeth Nguyen enguyen@lidmanlaw.com Milan Moore mmoore@lidmanlaw.com 2155 Campus Drive, Suite 150 El Segundo, California 90245 Tel: (424) 322-4772 Fax: (424) 322-4775 www.lidmanlaw.com HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com	Attorneys for Defendant KNE, LLC dba H2O Logistics.: LAW OFFICES OF CHOI & ASSOCIATES Edward W. Choi edward.choi@choiandassociates.com 515 S. Figueroa St., Suite 1250 Los Angeles, California 90071 Tel: (213) 381-1515 Fax: (213) 465-4885 www.choiandassociates.com DIVERSITY LAW GROUP Larry W. Lee lwlee@diversitylaw.com 515 S. Figueroa St., Suite 1250 Los Angeles, California 90071 Tel: (213) 488-6555 Fax: (213) 488-6554 www.diversitylaw.com
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What are the terms of the Settlement?

On [INSERT DATE OF PRELIMINARY APPROVAL], the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt, hourly employees of Defendant KNE, LLC dba H2O Logistics who worked in California at least one (1) day at any time from February 13, 2016 through the **date of preliminary 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 Defendant as described below.

Defendant has agreed to pay \$100,000.00 (the “Gross Settlement Amount”) to fully resolve all claims in the Lawsuit, including payments to Settlement Class members, attorneys’ fees and expenses, payment to the Labor Workforce Development Agency (“LWDA”), settlement administration costs, and the Class Representative’s Service Award. Defendant’s share of payroll taxes associated with any wage payments to Settlement Class members shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount.

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 \$3,500.00 from the Gross Settlement Amount to pay the Settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of the Settlement Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to one-third of the Gross Settlement Amount, which is estimated to be \$33,333.33, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$15,000.00 for verified costs Class Counsel incurred in connection with the Lawsuit.

Service Award to Class Representative. Class Counsel will ask the Court to award the Class Representative a service award in the amount of \$5,000.00, to compensate him for his service and extra work provided on behalf of the Settlement Class members.

LWDA Payment. Class Counsel will ask the Court to approve a payment in the total amount of \$10,000.00 as and for alleged civil penalties, payable pursuant to the California Labor Code Private Attorney General Act (“PAGA”). Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or \$7,500.00 will be payable to the LWDA, and the remaining twenty-five percent (25%), or \$2,500.00, will be payable to certain Settlement Class members as the “PAGA Amount,” as described below.

Calculation of Individual Settlement Class Members’ Settlement Award. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount (“NSA”), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated at approximately \$35,666.67, to be shared among an estimated 26 Settlement Class members. The NSA will be divided as follows:

- (i) The Net Settlement Amount shall be allocated to Settlement Class members who worked during the Class Period, as follows: each participating Settlement Class member shall receive a proportionate settlement share based upon the number of pay periods worked as a non-exempt employee during the Class Period, the numerator of which is the Settlement Class member’s total pay periods worked as a non-exempt employee during the Class Period, and the denominator of which is the total pay periods worked as non-exempt employees by all Settlement Class members (who do not opt out) who worked during the Class Period.
- (ii) Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) of the Gross Settlement Amount has been designated as the “PAGA Amount” as described above. Each Settlement Class member who was employed by Defendant at any time from February 13, 2019 to the

date of preliminary approval (the “PAGA Period”) of this Settlement shall receive a portion of the PAGA Amount proportionate to the number of pay periods that he or she worked as a non-exempt employee during this time period. Each Settlement Class member who worked during this time period shall receive a portion of the PAGA Amount, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the Settlement Class members’ number of pay periods worked as a non-exempt employee during this time period, and the denominator of which is the total number of pay periods worked by all Settlement Class members as non-exempt employees during this time period.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Settlement Awards will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion.

Payment by Defendant of Gross Settlement Amount. With the exception of the Settlement Administrator’s fees, if required by the Settlement Administrator, the Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund set up by the Settlement Administrator for the benefit of participating Settlement Class members. Defendant agrees to deposit the Gross Settlement Amount with the Settlement Administrator within thirty (30) calendar days after the “Effective Date” which is defined as the latter of: (a) the Court’s final approval of the settlement if no objections by or on behalf of Settlement Class members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been filed.

Within ten (10) calendar days following Defendant’s deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for the Parties for review and approval. Within seven (7) calendar days of approval by counsel for the Parties, the Settlement Administrator will prepare and mail Individual Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members.

Each member of the Settlement Class who receives a Settlement Award must cash the check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members who checks were not cashed within 180 days after mailing will escheat to the California Secretary of State-Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class member.

Allocation and Taxes. For tax purposes, each Settlement Award shall be allocated as follows: 67% as penalties and interest; and 33% as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed “wages” and IRS Forms 1099 for the amounts allocated as penalties and interest. Settlement Class members are responsible for the proper income tax treatment of the Individual Settlement Awards. The Settlement Administrator, Defendant and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, the Settlement Class, and each Settlement Class member who has not submitted a timely and valid Request for Exclusion, will fully and forever completely release and discharge Defendant, and all of its past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys, (collectively the “Released Parties”), from all claims, demands, rights, liabilities and causes of action that were pled in the operative Complaint in the Action, or which could have been pled in the operative Complaint in the Action based on the factual allegations therein, that arose during the Class Period including but not limited to the following claims: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods or leaving the facility for rest breaks, or premium pay for non-complaint rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to timely pay wages upon separation of employment; (g) unlawful deductions from wages; and (h) all claims for unfair business practices that could have been

premised on the facts, claims, causes of action or legal theories described above (collectively, the “Released Claims”). The period of the Release shall extend to the limits of the Class Period.

PAGA Release and PAGA Employees. If the Court approves the Settlement, all PAGA Employees will release the Release Parties from all claims, demands, rights, liabilities and causes of action for penalties under California Labor Code Private Attorneys General Act of 2004 against the Released Parties based on (as alleged in the letter to the Labor & Workforce Development Agency (“LWDA”) February 28, 2020 and the operative Complaint for: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods or leaving the facility for rest breaks, or premium pay for non-complaint rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to timely pay wages upon separation of employment; (g) unlawful deductions from wages (collectively, “PAGA Released Claims”).

The time period of the PAGA Released Claims is defined as the time period of February 13, 2019 through **the date of preliminary approval of the Settlement** (“PAGA Period”).

The Parties acknowledge that under the release, the right of the LWDA to investigate the released PAGA claims is not released, but Released Claims do include any claims for penalties by a Class Member as a result of any such LWDA investigation, and Class Members are waiving their right to act as a private attorney general as to the Released Claims. The period of the Release shall extend to the limits of the Class Period.

You cannot submit a Request for Exclusion from the PAGA Release.

The release identified herein shall be effective following Defendant’s payment of the Gross Settlement Amount in full.

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

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of individual workweeks you worked during the Class Period (as explained above), and as stated in the accompanying Notice of Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period, and also whether you have worked between February 13, 2019 and **the date of preliminary approval**. The information contained in Defendant’s records regarding all of these factors, along with your estimated Settlement Award, is listed on the accompanying Notice of Settlement Award. If you disagree with the information in your Notice of Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than **<<RESPONSE DEADLINE>>**. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

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

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written “Request for Exclusion from the Class Action Settlement” letter or card postmarked no later than **<<RESPONSE DEADLINE>>**, with your name, address,

telephone number, last four digits of your social security number, and your signature. The Request for Exclusion should state:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE AGUILAR V. KNE, LLC LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT.”

Send the Request for Exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who files a timely Request for Exclusion from the Settlement shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement.

If you submit a Request for Exclusion, you will only be excluded from the Released Claims. You cannot submit a Request for Exclusion from the PAGA Release. You will receive a proportionate share of the PAGA Payment regardless of whether you exclude yourself from the Settlement if you were employed between February 13, 2019 and [date of preliminary approval of the Settlement].

Do not submit both a Dispute and a Request for Exclusion. If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

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

Whether or not you submit a written objection, if you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department SSC-14 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. You have the right to appear either remotely, in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. All objections or other correspondence must state the name and number of the case, which is *Jose Aguilar v. KNE, LLC dba H2O Logistics*, Los Angeles County Superior Court Case No. 20STCV05676.

Any Settlement Class member who elects to appear personally at the Court for any reason related to this Lawsuit must comply with the Court’s social distancing and mandatory face covering requirements, as well as any other orders related to COVID-19. All such rules and orders can be located at the Court’s website: www.lacourt.org.

For more information on how to appear remotely, please visit the Court’s website at <http://www.lacourt.org/division/civil/CI0040.aspx> and <https://www.lacourt.org/lacc/>.

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.

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 SSC-14 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. The Court also will be asked to rule on Class Counsel’s request for attorneys’ fees and reimbursement of documented costs and expenses

and the Service Award to the Class Representative. The Final Approval Hearing may be postponed without further notice to Settlement Class members. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

Any changes to date, time, or location of the Final Approval Hearing will be posted on the Settlement Administrator's website (<http://.com>). Notice of the Court's final judgment will also be posted on the Settlement Administrator's website.

How can I get additional information?

This Notice is only a summary of the Lawsuit 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 111 N. Hill Street, Los Angeles, California 90012, during regular court hours. Due to COVID, appointments are required for clerk's office services. Please visit the Court's website at http://www.lacourt.org/newsmedia/uploads/142020529162327NR_Clerks_Office_05_29_20-FINAL.pdf and <https://www.lacourt.org/> for information on how to make an appointment in the Clerk's Office. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, H2O, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

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

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

EXHIBIT E

EXHIBIT E

LIDMAN LAW

222 N. SEPULVEDA BOULEVARD, SUITE 1550, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

February 28, 2020

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

KNE, LLC a California limited liability company, dba H2O Logistics
c/o Kenneth Isao Kawashiri
22307 Avis Ct.
Torrance, CA 90505

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

KNE, LLC a California limited liability company, dba H2O Logistics
23601 S. Wilmington Ave.
Carson, CA 90745

Re: *Jose Aguilar v. KNE, LLC, a California limited liability company, dba H2O Logistics*

To Whom It May Concern:

Please be advised that this law firm represents Jose Aguilar in claims arising from his employment with KNE, LLC, a California limited liability company, dba H2O Logistics (“Defendant”). Mr. Aguilar is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, an “aggrieved employee” should be considered to include all current and former hourly-paid employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the present date.

Defendant maintains, and maintained throughout the time period relevant to this action, two facilities including one in Carson, California. Mr. Aguilar was employed by Defendant from approximately 2014 through approximately July 2019. During his employment, Mr. Aguilar worked as a Shipping Clerk at Defendant’s facility in Carson, California.

During his employment with Defendant, Defendant’s timekeeping policies and procedures required Mr. Aguilar to record time work by manually clocking in and clocking out using a hard copy paper time card. Throughout Mr. Aguilar’s employment with Defendant, Defendant would keep track of Mr. Aguilar’s time worked and would unlawfully shave Mr. Aguilar’s work time and/or round Mr. Aguilar’s work time such that Mr. Aguilar would not be fully paid for all time worked. Indeed, at times, Defendant would manually round the hours recorded on Mr. Aguilar’s paper time punch cards. This

time shaving/rounding practice utilized by Defendant was not-even handed over time and would round and shave in Defendant's favor such that Mr. Aguilar was routinely underpaid for his time worked. Further, during Mr. Aguilar's employment with Defendant, because he would on occasion work in excess of 8 hours per workday and/or 40 hours per work week, had Mr. Aguilar been properly paid for all of the time that he actually worked, he would have been paid additional overtime wages. This practice by Defendant resulted in Defendant not properly tracking the time worked by Mr. Aguilar, and also resulted in Defendant paying Mr. Aguilar less than he was owed for the work he performed, including failing to pay him all required minimum wages and overtime wages.

Throughout Mr. Aguilar's employment with Defendant, Mr. Aguilar was not provided all required meal periods due to Defendant's meal period policies/practices which fail to provide uninterrupted, duty-free and timely 30-minute meal periods when employees work in excess of 5.0 hours in a day. Specifically, due to his job duties and Defendant not allowing Mr. Aguilar to begin his meal period until after the truck was unloaded, Mr. Aguilar was often prevented from taking meal periods that commenced before the end of the 5th hour of work. This policy and practice of Defendant not providing lawful meal periods to Mr. Aguilar violates California law.

Although Mr. Aguilar was not provided with all legally-compliant meal periods to which he was entitled, Defendant failed to compensate Mr. Aguilar with the required meal period premium for each workday in which he experienced a meal period violation as mandated by Labor Code § 226.7. Upon information and belief during at least a portion of the relevant time period beginning on one year prior to today's date, Defendant maintained no payroll code or other mechanism for the payment of meal period premium payments under Labor Code § 226.7 in the event that a legally compliant meal period was not provided to Mr. Aguilar and other non-exempt employees.

Mr. Aguilar was also not authorized and permitted to take all required rest periods due to Defendant's rest period policies/practices. Defendant's rest period policies/practices fail to authorize and permit all rest periods for every four hours worked, or major fraction thereof. Specifically, due to the work demands imposed by Defendant, Mr. Aguilar was unable to take all legally required rest periods.

On those occasions when Mr. Aguilar was not authorized and permitted to take all legally required rest periods to which he was entitled, Defendant failed to compensate Mr. Aguilar with the required rest period premium for each workday in which he experienced a rest period violation as mandated by Labor Code § 226.7. Further, upon information and belief during at least a portion of the relevant time period, beginning on one year prior to today's date, Defendant maintained no payroll code or other mechanism for the payment of rest period premium payments under Labor Code § 226.7 in the event that a legally compliant rest period was not provided to their non-exempt employees.

During at least a portion of the relevant time period, Defendant had a policy and practice of making unlawful deductions from non-exempt employees' earned wages. Specifically, since approximately 2017, Defendant paid Mr. Aguilar his earned wages on an ATM Card, without his voluntary authorization. Defendant paid Mr. Aguilar his earned wages in a form that was not negotiable and payable in cash, on demand, without discount at an established business in the State of California in violation of Labor Code section 212. Mr. Aguilar was unable to access his earned wages without paying a fee.

As a result of Defendant's failure to pay all overtime and minimum wages owed, and failure to pay all meal and rest period premium wages, Defendant failed to provide Mr. Aguilar with accurate, itemized wage statements. Additionally, during a portion of the relevant time period, Defendant failed to provide Mr. Aguilar with itemized wage statements.

As a further result of Defendant's failure to pay all minimum and overtime wages, failure to pay meal and rest period premium wages, failure to pay all wages due in a form that is negotiable and payable in cash, on demand, without discount at an established business in the State of California, and for making unlawful deductions of earned wages, Defendant failed to pay all wages owed to Mr. Aguilar upon his separation of employment with Defendant. As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 9 ("Wage Order 9"):

Minimum Wage Violations

Defendant were required to pay Mr. Aguilar and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 9, § 4. Mr. Aguilar and other aggrieved employees were not paid for all hours worked due to Defendant's timekeeping and compensation practices. As alleged above, Defendant caused Mr. Aguilar and other aggrieved employees to work hours in a workweek but did not properly compensate Mr. Aguilar and other aggrieved employees at least minimum wages for all such hours, due to Defendant's unlawful time-shaving and/or rounding practice that would almost exclusively round and shave in Defendant's favor such that Mr. Aguilar and other aggrieved employees were routinely unpaid for their time worked.

Overtime Violations

Defendant was required to pay Mr. Aguilar and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 9, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked. As explained above, Mr. Aguilar worked overtime hours but was not properly compensated due to Defendant's unlawful timekeeping and pay practices. Defendant would unlawfully shave Mr. Aguilar's work time and/or round his work time such that he would not be fully paid for all time actually worked. This time-shaving and/or rounding practice utilized by Defendant was not even-handed over time and would almost exclusively round and shave in Defendant's favor such that Mr. Aguilar was routinely unpaid for his time worked. Mr. Aguilar often worked in excess of eight hours per workday and/or forty hours per work week, but did not receive proper overtime compensation equal to one and one-half times his regular rate of pay for all overtime hours worked. As a result of these policies/practices, Mr. Aguilar and other aggrieved employees were not compensated for all overtime wages on occasions when they worked over eight hours in a workday and/or 40 hours in a workweek.

Meal Period Violations

As alleged above, Defendant failed to provide Mr. Aguilar and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 9, § 11. As described above, at times Defendant did not provide Mr. Aguilar with a duty-free meal period when he worked shifts of 5.0 hours. Further, Defendant often provided Mr. Aguilar his meal period after the start of his fifth hour of work and/or a meal period of less than thirty minutes. As a result, Mr. Aguilar's meal periods were late, short, and/or otherwise unlawful. Specifically, due to his job duties and Defendant not allowing Mr. Aguilar to begin his meal period until after the truck was unloaded, Mr. Aguilar was often prevented from taking meal periods that commenced before the end of the 5th hour of work. As a result, Mr. Aguilar and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."). Although Mr. Aguilar was not provided with all legally-compliant meal periods to which he was entitled, Defendant failed to compensate Mr. Aguilar and other aggrieved employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant failed to authorize and permit Mr. Aguilar and other aggrieved employees to take all required and compliant rest periods due to Defendant's unlawful rest period policies and practices. Due to the work demands imposed by Defendant, Mr. Aguilar was unable to take all legally required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 9. As a result, Mr. Aguilar and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Aguilar and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, meal period premiums, and Defendant's address, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Mr. Aguilar and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

Waiting Time Violations

Defendant failed to timely pay Mr. Aguilar and other former employees all of their final wages at the time of termination, which include, among other things, underpaid minimum and overtime wages and meal and rest period premium wages. Further, Mr. Aguilar believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendant continues to fail to pay other current or former employees all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendant's failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendant's willful failure to timely pay Mr. Aguilar and other former employees their earned wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due.

Unlawful Deductions

As mentioned above, since approximately 2017, Defendant paid Mr. Aguilar his earned wages on an ATM Card, without his voluntary authorization. Defendant paid Mr. Aguilar his earned wages in a form that was not negotiable and payable in cash, on demand, without discount at an established business in the State of California in violation of Labor Code § 212. Labor Code § 212(a)(1) provides that "[n]o person, or agent or officer thereof, shall issue in payment of wages due, or to become due, or as an advance on wages to be earned: [a]ny order, check, draft, note, memorandum, or other acknowledgment of indebtedness, unless it is negotiable and payable in cash, on demand, without discount, at some established place of business in the state, the name and address of which must appear on the instrument, and at the time of its issuance and for a reasonable time thereafter, which must be at least 30 days, the maker or drawer has sufficient funds in, or credit, arrangement, or understanding with the drawee for its payment."

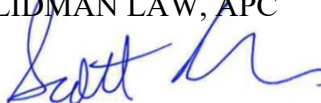
As an "aggrieved employee," Mr. Aguilar will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Aguilar own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Aguilar and other aggrieved employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Aguilar and other aggrieved employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Aguilar and other aggrieved employees;
- d) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required and paid rest periods and failing to pay rest period premiums to Mr. Aguilar and other aggrieved employees;
- e) Defendant violated Labor Code § 226 by failing to furnish Mr. Aguilar and other aggrieved employees with accurate and compliant itemized wage statements;

- f) Defendant violated Labor Code §§ 201-203, by failing to pay all final wages, including, but not limited to, unpaid minimum and overtime wages and meal period premium wages, to Mr. Aguilar and other current or former employees upon their separation of employment from Defendant;
- g) Defendant violated Labor Code §§ 210 and 212 by failing to pay Mr. Aguilar and other aggrieved employees their earned wages in a form that was negotiable and payable in cash, on demand, without discount at an established business in the State of California;
- h) Defendant violated Labor Code § 204 by failing to pay Mr. Aguilar and other aggrieved employees all earned wages at least twice during each calendar month; and
- i) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Aguilar and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman