

DEC 06 2021

BY Kaliska Monticue DEPUTY
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Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

RAKESH RAY, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

vs.

C&W FACILITY SERVICES, INC.,
Massachusetts corporation; and DOES-1
through 50, inclusive,

Defendants.

Case No.: CIVSB2101321

[Assigned for all purposes to the Hon. David Cohn,
Department S-26]

DECLARATION OF NICHOLAS
ROSENTHAL IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT

Date: December 29, 2021
Time: 10:00 A.M.
Dept.: S-26

Complaint Filed: January 28, 2021
FAC Filed: April 22, 2021
SAC Filed: October 1, 2021

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I, Nicholas Rosenthal, declare as follows:

1. I am an attorney at law, duly licensed to practice before all Courts in the State of California, and am with the law firm Diversity Law Group, P.C., counsel of record for Plaintiff Rakesh Ray (“Plaintiff”). I have personal knowledge of the facts set forth below and if called to testify I could and would do so competently.

CASE SUMMARY

2. On January 12, 2021, Plaintiff filed his written notice with the California Labor & Workforce Development Agency (“LWDA”), alleging that Defendant C&W Facility Services, Inc. (“Defendant”) failed to provide accurate itemized wage statements and pay all wages owed upon separation of employment, pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys General Act (“PAGA”).

3. On January 28, 2021, Plaintiff filed a class and representative action complaint against Defendant alleging (1) violation of California Labor Code § 226; (2) violation of Labor Code §§ 201-203; and (3) violation of Labor Code § 2698, *et seq.* Specifically, Plaintiff's complaint alleged that the wage statements issued by Defendant failed to identify the inclusive dates of the pay period and legal name and address of the employer. The complaint also alleged that Defendant failed to timely pay Plaintiff and other employees all wages owed upon separation of employment, and sought penalties pursuant to PAGA for the underlying violations of Labor Code §§ 201-203 and 226.

4. On or about February 14, 2021, Defendant filed a notice with the LWDA alleging that it cured the violation of Labor Code § 226.

5. On February 18, 2021, Plaintiff filed a response to Defendant's alleged cure notice.

6. On March 5, 2021, the LWDA issued a decision determining that Defendant had not cured the violation of Labor Code § 226. The LWDA also issued a notice informing the Parties that it commenced an investigation into alleged Labor Code violations set forth in Plaintiff's January 12, 2021 letter.

1 7. On April 22, 2021, Plaintiff filed a first amended complaint alleging claims for:
2 (1) violation of Labor Code § 226 on a class-wide basis; and (2) violation of Labor Code §§ 201-
3 203 on an individual basis, omitting the cause of action for violation of the PAGA.

4 8. On June 4, 2021, the LWDA issued a notice of case closure regarding the
5 allegations set forth Plaintiff's January 12, 2021 letter. The LWDA made no determination as to
6 the merits of the January 12, 2021 letter, and stated that Plaintiff may commence a civil action
7 pursuant to PAGA.

8 9. Following the filing of the complaint, Plaintiff's counsel was contacted by
9 Defendant's counsel regarding informal settlement discussions. In connection therewith,
10 Defendant produced documents related to its issuance of wage statements and data relating to the
11 number of wage statements issued to putative class members. This allowed Plaintiff to conduct a
12 full damage analysis.

13 10. After the exchange of further information and negotiations, on or about July 7,
14 2021, the Parties reached an agreement to settle this action in its entirety. Counsel for both
15 Parties zealously advocated on behalf of their respective clients, presenting their respective
16 factual contentions and legal theories and defenses. Defense counsel presented compelling
17 arguments in support of its analysis of the potential exposure in the case, including its opinion
18 that any alleged omission of information from its wage statements was not a "knowing and
19 intentional failure" by Defendant to comply with Labor Code § 226, and that penalties are
20 therefore unwarranted.

21 11. In resolution of Plaintiff's class, PAGA, and individual claims, the Parties entered
22 into the Joint Settlement of Class Action Settlement and Release.

23 12. In connection with the Settlement, the Parties agreed to allow the filing of a
24 second amended complaint to reassert the PAGA cause of action. On October 1, 2021, Plaintiff
25 filed the operative second amended complaint ("Complaint"). The second amended complaint
26 alleges causes of action for (1) violation of California Labor Code § 226 on a class-wide basis;
27 (2) violation of Labor Code §§ 201-203 on an individual basis; and (3) violation of Labor Code §
28 2698, *et seq.*

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14. The proposed class consists of “all current and former employees of Defendant in the State of California who received wages at any time between January 12, 2020, through February 14, 2021 and received paper copy wage statements.” *See* Settlement Agreement ¶ 3. Based upon Defendant’s records, there are approximately 414 individuals that comprise the Class. *Id.* Class Members do not need to do anything should they wish to receive their share of the settlement funds. *Id.* ¶ 61. If a Class Member does not wish to take part in this settlement and be bound by the release, he or she must submit an exclusion request. *Id.* ¶ 63.

16. As part of the Settlement Agreement, Defendant does not object to Plaintiff's Counsel's request for attorney's fees up to one-third of the Gross Settlement Amount—*i.e.*, the sum of Fifty Thousand Dollars (\$50,000.00), plus up to Five Thousand Dollars (\$5,000.00) for reimbursement of litigation costs. *See* Settlement Agreement ¶ 47. Also, as part of the Settlement Agreement Defendant does not object to Plaintiff's request for an enhancement payment of Fifteen Thousand Dollars (\$15,000.00). *Id.* ¶ 48.

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1 Dollars (\$10,000.00) to administer the settlement. *See* Settlement Agreement ¶¶ 30, 49.

2 18. After deducting the amounts listed above, it is estimated that the Net Settlement
3 Amount of \$62,500.00 will be distributed to the Class.

4 **POTENTIAL STATUTORY AND CIVIL PENALTIES**

5 19. I negotiated the settlement sum based on a clear understanding of the maximum
6 exposure in this case. Based on the number of Class Members (414) and wage statements at issue
7 (1,789), Plaintiff estimated that Defendant would face potential liability of up to approximately
8 \$137,500 for Plaintiff's class claims, pursuant to Labor Code § 226(e), which provides a \$50
9 penalty for the initial violation, followed by \$100 penalties for subsequent violations, with each
10 employee's cumulative penalties totaling no more than \$4,000. Plaintiff was able to estimate the
11 potential damages and penalties based on data provided by Defendant, including the number of
12 employees in the putative class and the number of wage statements at issue. Specifically, the
13 amount of Labor Code § 226(e) penalties are based on approximately 1,789 allegedly deficient
14 wage statements and approximately 414 class members.

15 20. With respect to potential liability of Plaintiff's PAGA claims, Plaintiff estimated
16 that Defendant could face civil penalties for violation of Labor Code § 226 of up to a maximum
17 \$447,250 if Plaintiff were successful at trial, which is premised on a \$250 penalty per wage
18 statement, pursuant to Labor Code § 226.3. I calculated the PAGA penalties using the civil
19 penalty set forth in Labor Code § 226.3. *See* Cal. Lab. Code § 226.3 (an employer who violates
20 Labor Code § 226(a) "shall be subject to a civil penalty in the amount of two hundred fifty
21 dollars (\$250) per employee per violation in an initial citation"). However, the trial court has the
22 discretion to reduce PAGA civil penalties "if, based on the facts and circumstances of the
23 particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive,
24 or confiscatory." *See* Cal. Labor Code § 2699(e)(2). Thus, based on the data provided by
25 Defendant, Plaintiff's counsel estimated total class and PAGA penalties to be approximately
26 \$584,750, if the court awarded full penalties on both Plaintiff's class and PAGA claims.
27 Therefore, Plaintiff's settlement of \$150,000.00 is approximately 25.7% of the total estimated
28 liability, which is an excellent result and consistent with other class settlements. Thus, the

1 \$584,750.00 figure does not factor in the likelihood that the Court would greatly reduce the
2 amount of penalties at trial.

3 21. Under the facts of this case, I appreciate the risk that Defendant could present a
4 persuasive argument to reduce the amount of PAGA penalties at trial. For example, in *Fleming v.*
5 *Covidien, Inc.*, 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. Aug. 12, 2011), while the plaintiff
6 ultimately prevailed in a PAGA trial predicated on a violation of Labor Code section 226(a), *i.e.*,
7 inaccurate wage statements, the Court assessed only 17% of the maximum penalties— and this
8 was after finding liability at trial. Similarly, Judge Carville of the Alameda Superior Court in the
9 matter of *Parr v. Golden State Overnight*, Alameda Superior Court Case No. RG12618103,
10 assessed PAGA penalties upon Defendant of approximately 7% of the total maximum
11 penalties—again, this was only after plaintiff had prevailed at trial. In one recent California
12 Court of Appeal case, a trial court’s reduction of PAGA penalties by 90% was upheld.
13 *Carrington v. Starbucks*, 30 Cal. App. 5th 504, 529 (2018). Thus, even if Plaintiff was to
14 successfully prove his claims at trial, there is a possibility that the Court may only award a small
15 percentage of PAGA penalties, as the Court has discretion to do so. The Gross Settlement
16 Amount was premised with this risk in mind, associated with the possibility of the Court
17 significantly reducing Plaintiff’s PAGA penalties, along with other attendant risks, even if
18 Plaintiff was to prevail at trial.

19 22. Here, the Gross Settlement Amount is fair and reasonable as it is approximately
20 25.7% of the potential recovery of Plaintiff’s class and PAGA claims if Plaintiff was to fully
21 succeed at trial.

22 23. Based on my own independent investigation and evaluation, I am of the opinion
23 that settlement for the consideration and on the terms set forth in the Joint Stipulation of Class
24 Action Settlement and Release is fair, reasonable, and adequate and is in the best interests of the
25 Class and Defendant in light of all known facts and circumstances, and the uncertainty and risks
26 to Plaintiff involved in not prevailing on one or more of the causes of action or theories alleged
27 in the operative Complaint, the possibility of non-certification, and the potential for appeals.

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1 **THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE**

2 24. From the inception of the case, Class Counsel has zealously represented the
3 interests of the Class. The settlement was obtained for the benefit of the Class, as opposed to the
4 individual Class Representative.

5 25. The Settlement Agreement calls for the Net Settlement Amount (calculated after
6 deduction of attorneys' fees, costs, Class Representative Enhancement Payment, LWDA
7 payment, and Settlement Administration Costs) to be paid to all Class Members. Based on an
8 estimated Net Settlement Amount of \$62,500, on a raw average, each Participating Class
9 Member may potentially recover approximately \$150.96.

10 26. The amount actually paid to each Participating Class Member may increase or
11 decrease depending on the actual number of paper copy wage statements he or she received
12 during the Class Period and/or the number of timely Requests for Exclusion received. This is
13 fair, as it directly allocates greater recovery to individual Class Members who have allegedly
14 suffered greater harm. The amount may also vary depending on the number of timely Requests
15 for Exclusion received by the Settlement Administrator.

16 27. Additionally, the scope of the release is appropriately limited. As a condition of
17 participating in this settlement, Class Members waive and release all claims, demands, rights,
18 liabilities, and causes of action that were pled or could have been pled based on the factual
19 allegations in the operative Complaint, during the applicable period from January 12, 2020,
20 through February 14, 2021. *See* Settlement Agreement ¶ 25. This release is appropriately
21 limited, as it only applies during the time period of January 12, 2020, through February 14, 2021.

22 28. I believe that Plaintiff and the Class could prevail at trial. However, I also believe
23 in the fairness of the settlement, which is based on factoring in the inherent risks in drawn-out
24 litigation and the specific risks that a class might not be certified and/or that Plaintiff could fail to
25 establish liability. Moreover, as Defendant denies that it should be liable for the full extent of the
26 penalties, there is a possibility that Plaintiff and the Class would be awarded fewer or no
27 penalties at trial.

28 29. Thus, after taking into account sharply disputed legal issues involved in this

1 litigation, the risks associated with further prosecution, delays caused by potential appeals, and
2 the substantial benefits to be received pursuant to the Settlement Agreement, I believe that the
3 proposed settlement is fair, reasonable, and adequate and is in the best interests of the Class.

4 **ATTORNEY EXPERIENCE**

5 30. Both Plaintiff's and Defendant's counsel have a great deal of experience in wage
6 and hour class action litigation. Plaintiff's counsel has been approved as class counsel in a
7 number of wage and hour class actions and have extensive litigation experience.

8 31. My qualifications are as follows: I received my JD from University of Southern
9 California Gould School of Law in 2009. Upon graduation, I practiced law as an associate at
10 Seyfarth Shaw LLP, representing corporate clients in both single-plaintiff and wage hour class
11 actions. In 2014, I began as an associate at Diversity Law Group.

12 32. I have handled a number of wage and hour matters including class actions and
13 multiple-plaintiff actions. I have been named as Class Counsel in a number of class actions that
14 have been granted certification or preliminary or final approval by the Superior Courts of Los
15 Angeles County, Orange County, Alameda County, and Monterey County, the United States
16 District Court for the Central District of California, and the United States District Court for the
17 Northern District of California. These cases include, but are not limited to: *Naranjo v. Bank of*
18 *America*, Northern District of California Case No. 5:14-cv-02748-LHK, *Chavez v. Converse,*
19 *Inc.*, Northern District of California Case No. 15-cv-03746-NC, *Rodriguez v. Nike Retail*
20 *Services, Inc.*, Northern District of California Case No. 5:14-cv-01508-BLF, *Figueroa v. Super*
21 *King Market*, Los Angeles Superior Court Case No. BC538372, *Dall v. Post Alarm Systems*, Los
22 Angeles Superior Court Case No. BC598528, *Diller v. Under Armour Retail, Inc.*, Santa Clara
23 County Superior Court Case No. 114-CV-265729, *Dall v. Post Alarm Systems*, Los Angeles
24 County Superior Court Case No. BC598528, *Lopez v. Imperial Body Shop, Inc.*, Orange County
25 Superior Court Case No. Case No. 30-2015-00816193-CU-OE-CXC, and *Hughes v. Lincare, Inc.,*
26 *et al.*, Monterey Superior Court Case No. M124764.

27 33. My co-counsel and I will adequately represent the Class Members in this action.
28 Plaintiff's counsel have and will zealously represent Plaintiff and the Class and pursue this

lawsuit to its conclusion.

34. I have no conflicts with the Class and will adequately represent the Class.

35. Attached hereto as **Exhibit B** is a true and correct copy of the proposed Notice of Class Action Settlement (“Notice Packet”) to be sent to Class Members.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 6th day of December, 2021, at Los Angeles, California.



Nicholas Rosenthal

EXHIBIT A

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Kristen M. Agnew (State Bar No. 247656)
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Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
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RAKESH RAY, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

vs.

C&W FACILITY SERVICES, INC.,
Massachusetts corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: CIVSB2101321

[Assigned for all purposes to the Hon. David Cohn,
Department S-26]

**JOINT STIPULATION OF CLASS ACTION
SETTLEMENT AND RELEASE**

Complaint Filed: January 28, 2021
FAC Filed: April 22, 2021

1 **JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE**

2 This Joint Stipulation of Class Action Settlement and Release is made and entered into by
3 and between Plaintiff Rakesh Ray (“Plaintiff”) and Defendant C&W Facility Services, Inc.
4 (“Defendant”) (collectively with Plaintiff, the “Parties”).

5 **DEFINITIONS**

6 The following definitions are applicable to this Agreement. Definitions contained
7 elsewhere in this Agreement shall also be effective:

8 1. “Action” means *Rakesh Ray v. C&W Facility Services, Inc.*, San Bernardino
9 County Superior Court Case No. CIVSB2101321 (filed on January 28, 2021).

10 2. “Agreement” or “Settlement Agreement” means this Joint Stipulation of Class
11 Action Settlement and Release.

12 3. “Class” or “Class Member(s)” means all current and former employees of
13 Defendant in the State of California who received wages at any time between January 12, 2020,
14 through February 14, 2021 and received paper copy wage statements. Defendant has represented
15 that there are approximately 414 individuals that comprise the Class. Further, Defendant has
16 represented that Class Members received approximately 1,789 paper copy wage statements
17 during the Class Period.

18 4. “Class Counsel” means Larry W. Lee, Kristen M. Agnew and Nicholas Rosenthal
19 of Diversity Law Group, P.C. and William L. Marder of Polaris Law Group.

20 5. “Class Counsel Award” means such award of fees and costs and expenses as the
21 Court may authorize to be paid to Class Counsel for the services they have rendered and will
22 render to Plaintiff and the Class in the Action. Defendant agrees not to oppose Class Counsel
23 Award of up to one-third (1/3) of the Gross Settlement Amount (\$150,000.00), i.e. the sum of
24 Fifty Thousand Dollars (\$50,000.00), and costs in the amount of up to Five Thousand Dollars
25 (\$5,000.00), subject to the Court finally approving this Settlement. Any portion of the Class
26 Counsel Award not awarded to Class Counsel shall be added to the Net Settlement Amount.

27 6. “Class List and Data” means information regarding all Class Members that
28 Defendant will diligently and in good faith compile from its records and provide to the

1 Settlement Administrator after Preliminary Approval of this Settlement. The Class List shall be
2 formatted as a Microsoft Excel spreadsheet or equivalent and shall include each Class Member's:
3 full name; employee number; most recent mailing address; Social Security Number; and number
4 of paper copy wage statements received during the period of January 12, 2020, through February
5 14, 2021.

6 7. "Class Period" means the period from January 12, 2020, through February 14,
7 2021.

8 8. "Class Representative" or "Plaintiff" means Rakesh Ray.

9 9. "Class Representative Enhancement Payment" means the amount that the Court
10 authorizes to be paid to Plaintiff, in addition to his Individual Settlement Payment, in recognition
11 of his efforts and risks in assisting with the prosecution of the Action and his Additional Release
12 and Waiver of Claims. Subject to the Court granting final approval, the Parties agree that
13 Plaintiff shall be paid up to Fifteen Thousand Dollars (\$15,000.00) from the Gross Settlement
14 Amount. This amount factors in the fact that Plaintiff pled an individual claim for violation of
15 Labor Code §§ 201-203. Any portion of the Class Representative Enhancement Payment not
16 awarded to the Class Representative shall be added to the Net Settlement Amount.

17 10. "Complaint" means the operative Second Amended Complaint filed by Plaintiff
18 Rakesh Ray in this Action.

19 11. "Counsel for Defendant" or "Defense Counsel" means John R. Giovannone and
20 Corey J. Cabral of the law firm CDF Labor Law LLP.

21 12. "Court" means the Superior Court for the State of California, County of San
22 Bernardino, or any other court taking jurisdiction of the Action.

23 13. "Defendant" means Defendant C&W Facility Services, Inc.

24 14. "Effective Date" means the latter of the following: (1) the date the Court grants
25 Final Approval if no valid objections have been filed; (2) if one or more valid objections have
26 been filed but no appellate proceedings have been initiated, thirty (30) days after the date the
27 Court enters an order granting final approval of the Settlement; or (3) if one or more valid
28 objections have been filed, and an appeal, writ, or other appellate proceeding has been initiated,

the date on which any appeal, writ, or other appellate proceedings has been finally and conclusively dismissed with no right to pursue further remedies or relief.

15. “Final Approval” means that the Final Approval Order has been entered by the Court.

16. “Gross Settlement Amount” means the maximum settlement amount of One Hundred Fifty Thousand Dollars (\$150,000.00) to be paid by Defendant as a result of this Stipulation. The Gross Settlement Amount includes all Individual Settlement Payments to Participating Class Members, the Class Representative Enhancement Payment to Plaintiff, Settlement Administration Costs to the Settlement Administrator, the PAGA Payment (including LWDA payment), interest, and Class Counsel Award.

17. “Individual Settlement Payment” means the amount payable from the Net Settlement Amount to each Participating Class Member.

18. “Net Settlement Amount” means the balance of the Gross Settlement Amount remaining after deduction of the approved Class Representative Enhancement Payment, Settlement Administration Costs, the LWDA portion of the PAGA Payment, and Class Counsel Award. The entire Net Settlement Amount is the maximum amount that will be available for distribution to Participating Class Members.

19. “Notice of Objection” means a Class Member’s written objection to the Settlement. A valid Notice of Objection should include: (a) the objector’s full name, signature, address, and telephone number; (b) a written statement of basis for the objection; and (c) any copies of papers, briefs, or documents upon which the objection is based. The Notice of Objection must be returned by mail to the Settlement Administrator at the specified address indicated in the Notice Packet, and should be postmarked on or before the Response Deadline.

20. “Notice Packet” means the Notice of Class Action Settlement, substantially in the form attached as **Exhibit A**.

21. “PAGA Payment” means the portion of the Gross Settlement Amount that the Parties have agreed will be allocated to resolve all claims, penalties, and remedies under the Private Attorneys General Act of 2004 (Cal. Lab. Code § 2698, *et seq.*, “PAGA”). The amount of

1 the PAGA Payment is subject to Court approval pursuant to California Labor Code Section
2 2699(l). The Parties have agreed that Ten Thousand Dollars (\$10,000.00) of the Gross
3 Settlement Amount shall be allocated to the resolution of any Class Members' claims arising
4 under PAGA. Pursuant to the PAGA, seventy-five percent (75%), *i.e.* the sum of Seven
5 Thousand Five Hundred Dollars (\$7,500.00), of the PAGA Payment shall be paid to the
6 California Labor and Workforce Development Agency ("LWDA"), and 25%, *i.e.* the sum of
7 Two Thousand Five Hundred Dollars (\$2,500.00), of the PAGA Payment shall be part of the Net
8 Settlement Amount to be distributed to Participating Class Members. This settlement will be
9 forwarded to the LWDA by the Settlement Administrator. Reallocation of settlement proceeds to
10 increase the PAGA Payment will not constitute grounds by either Party to void this Agreement,
11 so long as the Gross Settlement Amount remains the same.

12 22. "Parties" means Plaintiff, on behalf of herself and Participating Class Members,
13 and Defendant collectively.

14 23. "Participating Class Members" means all Class Members who do not submit a
15 valid and timely Request for Exclusion.

16 24. "Preliminary Approval" means the Court's order granting preliminary approval of
17 the Settlement.

18 25. "Released Claims" means the following: all claims, demands, rights, liabilities,
19 and causes of action that were pled or could have been pled based on the factual allegations in
20 the operative Complaint, during the applicable period from January 12, 2020, through February
21 14, 2021. These claims include: claims for itemized wage statement violations; claims for
22 violation of Labor Code § 2698, *et seq.*, premised on Labor Code § 226; interest; attorneys' fees;
23 costs; and all other claims made or which could have been made in the Action arising during the
24 Class Period. The Released Claims also include a claim for violation of Labor Code § 203
25 arising during the Class Period, to be released solely by Plaintiff in an individual capacity. The
26 release of Labor Code § 203 shall be inapplicable to all other Class Members.

27 26. "Released Parties" means Defendant, as well as its past or present companies,
28 subsidiaries, divisions, related or affiliated companies, and each of their shareholders, officers,

1 partners, joint ventures, consultants, advisors, directors, employees, agents, operators, attorneys,
2 insurers and the heirs, successor and assigns of any such person or entity, and any individual or
3 entity which could be jointly liable with Defendant.

4 27. "Request for Exclusion" means a valid, timely, written request by a Class
5 Member indicating a request to be excluded from the Settlement. The Request for Exclusion
6 must: (a) clearly state that the Class Member does not wish to be included in the Settlement; (b)
7 set forth the name, address, telephone number, and last four digits of the Social Security Number
8 of the Class Member requesting exclusion; (c) be signed by the Class Member; (d) be returned
9 by mail to the Settlement Administrator at the specified address indicated in the Notice Packet;
10 and (e) be postmarked on or before the Response Deadline.

11 28. "Response Deadline" means forty-five (45) days after the Settlement
12 Administrator initially mails the Notice Packet to Class Members, and the last date on which
13 Class Members may submit a Request for Exclusion.

14 29. "Settlement" means the agreement among the Parties to resolve the Action, as set
15 forth in this Stipulation.

16 30. "Settlement Administrator" means Phoenix Settlement Administrators..

17 31. "Settlement Administration Costs" means the fees and expenses reasonably
18 incurred by the Settlement Administrator as a result of the procedures and processes expressly
19 required by this Agreement, which are estimated at Ten Thousand Dollars (\$10,000.00). Any
20 portion of the Settlement Administration Costs not used or approved by the Court shall be added
21 to the Net Settlement Amount. However, the Parties hereby acknowledge that the Settlement
22 Administration Costs may increase above the current estimate of Ten Thousand Dollars
23 (\$10,000.00) and that any such additional Settlement Administration Costs that are approved by
24 counsel for the Parties shall be taken out of the Gross Settlement Amount.

25 32. "Settlement Payment Check" means the payment to Participating Class Members
26 pursuant to this Settlement who do not submit a valid Request for Exclusion from the Settlement,
27 which shall be mailed ten (10) calendar days after receipt of funds from Defendant as set forth in
28 Paragraph 68.

RECITALS

33. This Settlement is made and entered into by and between Plaintiff and Defendant, and is subject to the terms and conditions hereof, and to the Court's approval. The Parties expressly acknowledge that this Agreement is entered into solely for the purpose of compromising significantly disputed claims and that nothing herein is an admission of liability or wrongdoing by Defendant. Defendant denies that it is liable to Plaintiff or the Class Members and denies that it has violated any law.

34. On January 12, 2021, Plaintiff filed a notice with the Labor & Workforce Development Agency ("LWDA") alleging that Defendant violated Labor Code §§ 201-203 and 226, pursuant to Labor Code § 2698, *et seq.* ("PAGA").

35. On January 28, 2021, Plaintiff filed a class and representative action complaint. The complaint alleges (1) violation of Labor Code § 226 on a classwide basis; (2) violation of Labor Code §§ 201-203 on a classwide basis; and (3) violation of Labor Code § 2698, *et seq.*, predicated on the underlying violations of Labor Code §§ 201-203 and 226.

36. On or about February 14, 2021, Defendant filed a notice with the LWDA alleging that it cured the violation of Labor Code § 226.

37. On February 18, 2021, Plaintiff filed a response to Defendant's alleged cure notice.

38. On March 5, 2021, the LWDA issued a decision determining that Defendant had not cured the violation of Labor Code § 226. The LWDA also issued a notice informing the Parties that it commenced an investigation into alleged Labor Code violations set forth in Plaintiff's January 12, 2021 letter.

39. On April 22, 2021, Plaintiff filed a first amended complaint alleging class action and individual claims for: (1) violation of Labor Code § 226 on a classwide basis; and (2) violation of Labor Code §§ 201-203 on an individual basis, omitting the cause of action for violation of the PAGA.

40. On June 4, 2021, the LWDA issued a notice of case closure regarding the allegations set forth in Plaintiff's January 12, 2021 letter. The LWDA made no determination as to

1 the merits of the January 12, 2021 letter, and stated that Plaintiff may commence a civil action
2 pursuant to PAGA.

3 41. Upon stipulation of the Parties and Court approval, Plaintiff will file a operative
4 second amended complaint ("Complaint") after execution of the Stipulation of Settlement. The
5 second amended complaint reasserts Plaintiff's third cause of action for violation of the PAGA.
6 As alleged in the Complaint, Plaintiff seeks to represent the Class and other aggrieved employees
7 and seeks penalties, attorneys' fees, and costs.

8 42. After Plaintiff initiated the Action, the Parties agreed to attempt to resolve this
9 matter. In connection with these efforts, Defendant produced documentary evidence and data to
10 Plaintiff and the LWDA, including data pertaining to the number of Class Members and the
11 number of wage statements that were issued to Class Members during the Class Period, which
12 allowed Plaintiff to conduct a full damage analysis.

13 43. On July 7, 2021, after Plaintiff had an opportunity to review the relevant data
14 produced by Defendant, the Parties reached a settlement of the Action.

15 44. The Parties recognize the risk, expense, and delay in continuing the Action, and
16 therefore believe the Settlement to be fair, reasonable, and adequate. Accordingly, the Parties
17 desire to settle, compromise, and discharge all disputes and claims arising from or relating to the
18 Action.

19 **TERMS OF AGREEMENT**

20 45. Settlement Consideration. Defendant shall pay the sum of the Gross Settlement
21 Amount of One Hundred Fifty Thousand Dollars (\$150,000.00) as specified in this Agreement in
22 full satisfaction of all claims arising from the Action, which shall be used to pay: (1) Individual
23 Settlement Payments; (2) Class Counsel Award; (3) Class Representative Enhancement
24 Payment; (4) Settlement Administration Costs to the Settlement Administrator; and (5) the
25 PAGA Payment (including LWDA payment). The Parties agree that this is a non-reversionary
26 Settlement and that no portion of the Gross Settlement Amount shall revert to Defendant, except
27 in the event of rescission pursuant to Paragraph 66 of this Agreement.

28 46. Funding of the Gross Settlement Amount. Within twenty (20) business days after

1 the Effective Date, Defendant shall make a one-time deposit of the Gross Settlement Amount
2 into a Qualified Settlement Fund (“QSF”) to be established by the Settlement Administrator. The
3 QSF shall be an interest-bearing account at a federally-insured bank that is mutually acceptable
4 to the Parties and the Settlement Administrator. The funds in the QSF shall be invested either in
5 short-term U.S. Treasury securities with maturity dates of less than 90 days at the time of
6 deposit, or in an SEC-registered money market fund investing exclusively in U.S. Treasury
7 securities with average maturities of less than 90 days and rated AAA by Standard & Poor’s. The
8 Parties agree that the QSF is intended to be a “Qualified Settlement Fund” under Section 468B of
9 the Internal Revenue Code and Treas. Reg. § 1.468B-1, 26 C.F.R. § 1.468B-1, *et seq.*, and will
10 be administered by the Settlement Administrator as such. With respect to the QSF, the
11 Settlement Administrator shall: (1) open and administer the Settlement Account in such a
12 manner as to qualify and maintain the qualification of the QSF as a “Qualified Settlement Fund”
13 under Section 468B of the Internal Revenue Code and Treas. Reg. § 1.468B-1; (2) satisfy all
14 federal, state and local and income and other tax reporting, return, and filing requirements with
15 respect to the QSF and any interest or other income earned by the QSF, and (3) satisfy out of the
16 QSF all (i) taxes (including any estimated taxes, interest, or penalties) with respect to the interest
17 or other interest earned by the QSF, and (ii) fees, expenses and costs incurred in connection with
18 the opening and administration of the QSF and the performance of its duties and functions as
19 described in this Agreement. The aforementioned taxes, fees, costs and expenses shall be treated
20 as and included in the costs of administering the QSF and as Claims Administration Expenses.
21 The Parties and the Settlement Administrator shall treat the QSF as coming into existence as a
22 Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-
23 1(j)(2)(i), and such election statement shall be attached to the appropriate returns as required by
24 26 C.F.R. § 1.468B-1(j)(e)(ii). The Parties agree to cooperate with the Settlement Administrator
25 and one another to the extent reasonably necessary to carry out the provisions of this Section.

26 47. Class Counsel Award. Defendant agrees not to oppose or impede any application
27 or motion by Class Counsel for attorneys’ fees of up to one-third (1/3) of the Gross Settlement
28 Amount, i.e., the sum of Fifty Thousand Dollars (\$50,000.00), and costs in the amount of up to

Five Thousand Dollars (\$5,000.00), which shall be paid from the Gross Settlement Amount. The Settlement Administrator shall issue an IRS Form 1099 to Class Counsel reflecting the awarded attorneys' fees, costs, and expenses. Any portion of the Class Counsel Award not awarded to Class Counsel shall be added to the Net Settlement Amount and shall be distributed to Class Members as provided in this Agreement.

48. Class Representative Enhancement Payment. Defendant agrees not to oppose or impede any application or motion by Plaintiff for a Class Representative Enhancement Payment of up to Fifteen Thousand Dollars (\$15,000.00) to Plaintiff. The Class Representative Enhancement Payment shall be paid from the Gross Settlement Amount and shall be paid in addition to Plaintiff's Individual Settlement Payment as a Participating Class Member. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiff reflecting the Class Representative Enhancement Payment. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on his Class Representative Enhancement Payment and shall hold harmless Defendant from any claim or liability for taxes, penalties, or interest arising as a result of the Class Representative Enhancement Payment. Any portion of the Class Representative Enhancement Payment not awarded to Plaintiff shall be added to the Net Settlement Amount and shall be distributed to Class Members as provided in this Agreement.

49. Settlement Administration Costs. The Settlement Administrator shall be paid for the reasonable costs of administration of the Settlement from the Gross Settlement Amount, currently estimated at Ten Thousand Dollars (\$10,000.00). These costs, which shall be paid from the Gross Settlement Amount, shall include, *inter alia*, the required tax reporting on the Individual Settlement Payments, the issuing of 1099 IRS Forms, establishing a Qualified Settlement Fund, administering and distributing the Gross Settlement Amount and Class Counsel Award, and providing necessary reports and declarations. Any portion of the Settlement Administration Costs not allowed shall be added to the Net Settlement Amount and shall be distributed to Class Members as provided in this Agreement.

50. PAGA Payment. Subject to Court approval, the Parties agree that the amount of Ten Thousand Dollars (\$10,000.00) of the Gross Settlement Amount shall be designated for

1 satisfaction of claims for civil penalties under the PAGA. The Settlement Administration shall
2 pay seventy-five percent (75%) of the PAGA payment, i.e. the sum of Seven Thousand Five
3 Hundred Dollars (\$7,500.00), to the LWDA. The remaining twenty-five percent (25%), i.e., the
4 sum of Two Thousand Five Hundred Dollars (\$2,500.00), shall be part of the Net Settlement
5 Amount to be distributed to Participating Class Members as per this Agreement.

6 51. Calculation of Individual Settlement Payments. The Net Settlement Amount shall
7 be used to satisfy Individual Settlement Payments to Participating Class Members from the
8 Settlement Class in accordance with the terms of this Agreement. The Settlement Administrator
9 will allocate the Individual Settlement Payments by distributing the Net Settlement Amount to
10 the Class on a pro-rata basis. The Net Settlement Amount will be divided by the total number of
11 paper copy wage statements that were issued during the Class Period, which will result in the
12 “Qualifying Wage Statement Value.” The Qualifying Wage Statement Value will be multiplied
13 by the number of paper copy wage statements each Class Member received during the Class
14 Period.

15 Participating Class Members are entitled to 100% of the Net Settlement Amount.
16 Defendant maintains no reversionary right to any portion of the Net Settlement Amount. If there
17 are any timely submitted Requests for Exclusion, the Settlement Administrator shall
18 proportionately increase the Individual Settlement Payments for each Participating Class
19 Member so that the amount actually distributed to Participating Class Members equals 100% of
20 the Net Settlement Amount.

21 52. Tax Treatment. One hundred percent (100%) of each Individual Settlement
22 Payment shall be allocated as payment for alleged unpaid civil and statutory penalties. The
23 portions allocated to interest and penalties shall be reported on an IRS Form-1099. The
24 Enhancement Payment shall be reported on an IRS Form-1099.

25 Defendant makes no representation as to the tax treatment or legal effect of the payments
26 called for in this Agreement, and Plaintiff and Participating Class Members are not relying on
27 any statement, representation, or calculation by Defendant. Plaintiff and Participating Class
28 Members understand and agree that they will be solely responsible for the payment of any taxes

1 and penalties assessed on the payments described herein. Plaintiff, Class Counsel, and
2 Participating Class Members shall be solely and legally responsible for correctly characterizing
3 the payments they receive pursuant to this Agreement for tax purposes and for paying any taxes
4 on the amounts received.

5 53. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
6 PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY
7 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER
8 PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
9 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR
10 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
11 INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE
12 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN
13 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230
14 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
15 RELIED EXCLUSIVELY UPON HIS OR ITS OWN, INDEPENDENT LEGAL AND TAX
16 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
17 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
18 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
19 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
20 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
21 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
22 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
23 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
24 OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF
25 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
26 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
27 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
28 AGREEMENT.

1 54. Issuance of Tax Forms. The Settlement Administrator shall be responsible for
2 issuing to Plaintiff, Participating Class Members, and Class Counsel any 1099 or other tax forms
3 as may be required by law for all amounts paid pursuant to this Agreement. All expenses and
4 costs incurred by, or at the direction of, the Settlement Administrator in connection with the
5 operation and implementation of this Settlement Agreement (including, without limitation,
6 expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses
7 relating to filing or failing to file the informational and other tax returns described in this
8 Agreement) shall be treated as, and considered to be, costs of administration of this Settlement
9 and thus part of the Administration Costs.

10 55. Calculation of Gross Settlement Amount. The Gross Settlement Amount was
11 calculated with, and is premised on, approximately 414 Class Members eligible to participate in
12 the Settlement and 1,789 paper copy wage statements that were issued during the Class Period. If
13 the actual number of paper copy wage statements issued to the Class Members during the Class
14 Period increases to an amount greater than 1,789, the Gross Settlement Amount shall be
15 proportionally increased at the amount of \$83.84 per additional wage statement.

16 56. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
17 Participating Class Members under this Agreement, the Enhancement Payment made to Plaintiff,
18 as well as any other payments made pursuant to this Agreement, shall not be utilized to calculate
19 any additional benefits under any benefit plans to which Plaintiff or any Class Members may be
20 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock
21 purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plans. Rather,
22 it is the Parties' intention that this Settlement will not affect any rights, contributions, or amounts
23 to which any Class Members may be entitled under any benefit plans. The Parties agree that any
24 Individual Settlement Payment or the Class Representative Enhancement Payment paid to
25 Participating Class Members or Plaintiff under the terms of this Agreement do not represent any
26 modification of Participating Class Members' or Plaintiff's previously credited hours of service
27 or other eligibility criteria under any employee pension benefit plan, employee welfare benefit
28 plan, or any other plan or program, sponsored by Defendant. Further, any Individual Settlement

1 Payments or the Class Representative Enhancement Payment paid hereunder shall not be
2 considered "compensation" in any year for purposes of determining eligibility for, or benefit
3 accrual within, an employee pension benefit plan, employee welfare benefit plan, or any other
4 plan or program sponsored by Defendant.

5 57. Settlement Administration Process. The Parties agree to cooperate in the
6 administration of the Settlement and to make all reasonable efforts to control and minimize the
7 costs and expenses incurred in the administration of the Settlement. The Settlement
8 Administrator shall provide the following services: (a) calculate each Class Member's potential
9 Individual Settlement Payment from the Net Settlement Amount; (b) prepare and mail the Notice
10 of Settlement; (c) take appropriate steps to trace, update, and locate any Class Member whose
11 address or contact information as provided to the Settlement Administrator is inaccurate or
12 outdated; (d) provide to Class Counsel and Defendant's counsel a weekly report of the progress
13 and completion of tasks identified in this Agreement; (e) establish and maintain prior to
14 disbursement all settlement funds in a qualified settlement fund; (f) issue and distribute all
15 payments provided for in this Agreement, including the Individual Settlement Payments; and (g)
16 report the payments made pursuant to this Agreement as required on a Form 1099 or other
17 applicable forms.

18 58. Delivery of the Class List and Data. Within fifteen (15) calendar days of
19 Preliminary Approval, Defendant shall provide the Class List and Data to the Settlement
20 Administrator.

21 59. Notice by First-Class U.S. Mail. Within ten (10) business days after receiving the
22 Class List and Data from Defendant, the Settlement Administrator shall mail a Notice Packet to
23 all Class Members via regular First-Class U.S. Mail, using the most current, known mailing
24 addresses identified in the Class List.

25 60. Confirmation of Contact Information in the Class List. Prior to mailing, the
26 Settlement Administrator shall perform a search based on the National Change of Address
27 Database for information to update and correct for any known or identifiable address changes.

28 61. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice

1 Packet will provide: (1) information regarding the nature of the Action; (2) a summary of the
2 Settlement's principal terms; (3) the Class definition; (4) each Class Member's estimated
3 Individual Settlement Payment if they do not request to be excluded; (5) the dates that comprise
4 the Class Period; (6) instructions on how to submit valid Requests for Exclusion or objections;
5 (7) the deadlines by which the Class Member must submit a Request for Exclusion or Notice of
6 Objection to the Settlement; (8) the date for the final approval hearing; and (9) the claims to be
7 released. The Notice Packet will also inform Class Members that, in order to receive the
8 Individual Settlement Payment, they do not need to do anything except keep the Settlement
9 Administrator apprised of their current mailing addresses.

10 62. Re-Mailing of Returned Notices. Any Notice Packets returned to the Settlement
11 Administrator as non-deliverable on or before the Response Deadline shall be re-sent promptly
12 via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement
13 Administrator shall indicate the date of such re-mailing on the Notice Packet. If no forwarding
14 address is provided, the Settlement Administrator shall promptly attempt to determine the correct
15 address using a skip-trace, or other search using the name, address and/or Social Security
16 Number of the Class Member involved, and shall then perform a re-mailing. Those Class
17 Members who receive a re-mailed Notice Packet shall have their Response Deadline extended by
18 up to fifteen (15) days from the original Response Deadline.

19 63. Request for Exclusion Procedures. Any Class Member may opt-out from the
20 Settlement by submitting a written Request for Exclusion to the Settlement Administrator
21 postmarked by the Response Deadline. A Request for Exclusion must: (1) contain the name,
22 address, telephone number, and the last four digits of the Social Security Number of the person
23 requesting exclusion; (2) clearly state that the Class Member does not wish to be included in the
24 Settlement; (3) be signed by the Class Member; (4) be returned by mail to the Settlement
25 Administrator at the specified address; and (5) be postmarked on or before the Response
26 Deadline. The date of the postmark shall be the exclusive means to determine whether a Request
27 for Exclusion is timely. By submitting such a Request for Exclusion, a Class Member shall be
28 deemed to have exercised his or her option to opt out of the Action and not be bound by this

1 Agreement. Accordingly, a Class Member that timely submits a valid Request for Exclusion will
2 not be entitled to any payments under this Settlement and will not be bound by the terms of the
3 Settlement. Any Class Member who fails to submit a valid and timely Request for Exclusion on
4 or before the Response Deadline shall be deemed a Participating Class Member, and will be
5 bound by all terms of the Settlement to the fullest possible extent, if the Settlement is granted
6 final approval by the Court. Upon request, the Settlement Administrator shall provide counsel for
7 Defendant with a complete list of all Class Members who have timely submitted an Exclusion
8 Form.

9 64. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class
10 Member who does not affirmatively opt-out of the Settlement by submitting a valid and timely
11 Request for Exclusion shall be bound by all terms of the Settlement to the fullest possible extent,
12 including those pertaining to the Released Claims, as well as any Judgment that may be entered
13 by the Court.

14 65. Objection Procedures. Any Class Member who does not opt-out of this
15 Settlement shall be entitled to object to the Settlement. To object to the Settlement, a Class
16 Member should return by mail a written statement of objection to the Settlement Administrator at
17 the specified address by the Response Deadline. The Notice of Objection should include: (a) the
18 objector's full name, signature, address, and telephone number; (b) a written statement of the
19 basis for the objection; and (c) any copies of papers, briefs, or documents upon which the
20 objection is based. Class Members who submit a timely Notice of Objection will have the right
21 to appear at the final approval hearing to have their objections heard by the Court, at their own
22 expense. However, any Class Member who does not submit a Notice of Objection in compliance
23 with this section may nevertheless appear at the final approval hearing and present an oral
24 objection to the Settlement. Any Class Member who does not submit a Notice of Objection in
25 compliance with this section, or who does not appear at the final approval hearing and present an
26 oral objection to the Settlement, shall be deemed to have waived any objection(s), shall be
27 conclusively deemed a Participating Class Member, and shall be precluded from making any
28 objection (including by appeal or otherwise) to the Settlement. At no time shall any of the Parties

1 or their counsel seek to solicit or otherwise encourage Class Members to submit written
2 objections to the Settlement or appeal from the Order and Judgment. Class Counsel shall not
3 represent any Class Members with respect to any such objections to this Settlement. Any Class
4 Member who submits a valid Request for Exclusion shall not be allowed to object to this
5 Settlement.

6 66. Defendant's Right to Rescind. If more than ten percent (10%) of the Class
7 Members opt out of the settlement by submitting valid and timely Requests for Exclusion,
8 Defendant has the unilateral right in its sole discretion to rescind the Settlement Agreement. The
9 Parties agree that they will not encourage any Class Member to object to the Settlement or to opt
10 out. If Defendant exercises its option to rescind, Defendant shall: (a) provide written notice to
11 Class Counsel at least ten (10) business days prior to the final approval hearing, provided
12 Defendant has been provided notice of all such opt outs, and (b) pay all Settlement
13 Administration Costs incurred by the Settlement Administrator up to the date of Defendant's
14 notice to rescind. In the event the Settlement is terminated, the Parties shall proceed in all
15 respects as if this Agreement had not been executed.

16 67. Settlement Administrator's Reports of Information. The Settlement Administrator
17 shall provide Defense Counsel and Class Counsel a weekly report which certifies the number of
18 Class Members who have submitted valid Requests for Exclusion. Additionally, the Settlement
19 Administrator will provide to counsel for both Parties any updated reports regarding the
20 administration of the Settlement as needed or requested. The Settlement Administrator shall also
21 forward to Parties' counsel and file with the Court any Notices of Objection received
22 immediately upon receipt. Further, if requested by Parties' counsel, the Settlement Administrator
23 shall forward any Request for Exclusion to the Parties' counsel so that they can determine
24 whether the Request for Exclusion is valid and timely. However, the Settlement Administrator
25 shall not disclose any information to Class Counsel that would disclose the identity, contact
26 information, or other protected information of any Class Member absent Defense Counsel's prior
27 written approval of such disclosure.

28 68. Distribution Timing of Individual Settlement Payments. Within ten (10) calendar

1 days of Defendant funding the Gross Settlement Amount, the Settlement Administrator shall
2 issue payments to (1) Participating Class Members; (2) the Labor and Workforce Development
3 Agency; (3) Plaintiff; and (4) Class Counsel. The Settlement Administrator shall also issue a
4 payment to itself for services performed in connection with the Settlement.

5 69. Uncashed Settlement Payment Checks. Any checks issued by the Settlement
6 Administrator to Class Members shall be negotiable for not less than one hundred and eighty
7 (180) days from the date of their issuance. This is a non-reversionary settlement. All Individual
8 Settlement Payments to Class Members that remain un-cashed within one hundred eighty (180)
9 days of the mailing of Settlement Payment Checks by the Settlement Administrator shall be paid
10 out pursuant to California Code of Civil Procedure Section 384 to the following *cy pres*
11 recipient: Legal Aid at Work.

12 70. Certification of Completion. Upon completion of administration of the
13 Settlement, the Settlement Administrator shall provide a written declaration under oath to certify
14 such completion to the Court and counsel for all Parties.

15 71. Administration Costs if Settlement Fails or is Delayed. If an objection to the
16 Settlement is filed with the Court, regardless of the ultimate outcome of any appeals taken, or if
17 the Settlement is voided or rescinded, any costs incurred by the Settlement Administrator shall
18 be borne equally by Defendant and Plaintiff, unless otherwise specified in this Agreement.

19 72. No Prior Assignments. The Parties and their counsel represent, covenant, and
20 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported
21 to assign, transfer, or encumber to any person or entity any portion of any liability, claim,
22 demand, action, cause of action or right herein released and discharged.

23 73. Release of Claims by Participating Class Members. Upon the Effective Date, for
24 and in consideration of the mutual promises, terms, and conditions by and between the
25 Participating Class Members and Defendant set forth herein, the sufficiency of which
26 consideration is expressly acknowledged, the Participating Class Members do hereby fully,
27 finally, and forever release and discharge the Released Parties from any and all Released Claims.
28 Nothing in this Agreement shall be construed to require Participating Class Members to waive or

1 release rights which may not be waived or released as a matter of applicable law. This release is
2 final and binding on all Participating Class Members.

3 74. Additional Release and Waiver of Claims by Plaintiff. In addition to the release
4 of Released Claims against the Released Parties made by all Participating Class Members, as set
5 forth above, Plaintiff, in his individual capacity, agrees to release the Released Parties from any
6 and all claims, known and unknown, under federal, state and/or local law, statute, ordinance,
7 regulation, common law, or other source of law, arising as of the date of execution of this
8 Agreement including but not limited to claims arising from or related to his employment with
9 Defendant ("Plaintiff's Released Claims"). Plaintiff's Released Claims include, but are not
10 limited to, all of the Released Claims and any other claims arising under the California Labor
11 Code; any claim arising out of the California common law of contract; the Fair Labor Standards
12 Act, 29 U.S.C. § 201, *et seq.*, and federal common law; all claims for lost wages and benefits,
13 emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under
14 federal, state, or local laws for discrimination, harassment, and wrongful termination, including
15 but not limited to, 42 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964, the Americans
16 with Disabilities Act, the Age Discrimination in Employment Act, the California Fair
17 Employment and Housing Act, the California Labor Code, and the law of contract and tort. This
18 release excludes the release of claims not permitted by law.

19 Plaintiff's Released Claims include all claims, whether known or unknown. Even if
20 Plaintiff discovers facts in addition to or different from those that she now knows or believes to
21 be true with respect to the subject matter of Plaintiff's Released Claims, those claims will remain
22 released and forever barred. To effect a full and complete general release as described above,
23 Plaintiff expressly waives and relinquishes all rights and benefits of Section 1542 of the Civil
24 Code of the State of California, and does so understanding and acknowledging the significance
25 and consequence of specifically waiving Section 1542. Section 1542 of the Civil Code of the
26 State of California states as follows:

27 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
28 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE

1 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
2 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
3 DEBTOR OR RELEASED PARTY.

4 Thus, notwithstanding the provisions of Section 1542, and to implement a full and
5 complete release and discharge of the Released Parties, Plaintiff expressly acknowledges this
6 Agreement is intended to include in its effect, without limitation, all claims Plaintiff does not
7 know or suspect to exist in Plaintiff's favor at the time of signing this Settlement Agreement, and
8 that this Settlement Agreement contemplates the extinguishment of any such claims. Plaintiff
9 warrants that Plaintiff has read this Settlement Agreement, including this waiver of California
10 Civil Code § 1542, and that Plaintiff has consulted with or had the opportunity to consult with
11 counsel of Plaintiff's choosing about this Settlement Agreement and specifically about the
12 waiver of Section 1542, and that Plaintiff understands this Settlement Agreement and the Section
13 1542 waiver, and so Plaintiff freely and knowingly enters into this Settlement Agreement.
14 Plaintiff further acknowledges that Plaintiff later may discover facts different from or in addition
15 to those Plaintiff now knows or believes to be true regarding the matters released or described in
16 this Settlement Agreement, and even so Plaintiff agrees that the releases and agreements
17 contained in this Settlement Agreement shall remain effective in all respects notwithstanding any
18 later discovery of any different or additional facts. Plaintiff expressly assumes any and all risks
19 of any mistake in connection with the true facts involved in the matters, disputes, or
20 controversies released or described in this Settlement Agreement or with regard to any facts now
21 unknown to Plaintiff relating thereto.

22 75. Nullification of Settlement. In the event that the Settlement does not become final
23 for any reason, then this Agreement, and any documents generated to bring it into effect, shall be
24 null and void. Any order or judgment entered by the Court in furtherance of this Agreement shall
25 likewise be treated as void from the beginning.

26 76. Disputes Regarding Individual Settlement Payments. In the event that Class
27 Members have a dispute as to the data provided by the Defendant, Class Members will have the
28 opportunity to provide documentation and/or an explanation. If there is a dispute, the Settlement

1 Administrator will consult with the Parties to determine whether an adjustment is warranted. The
2 Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual
3 Settlement Payments under the terms of this Agreement, and that determination shall be binding.

4 77. Disputes Regarding Administration of Settlement. Any disputes not resolved by
5 the Settlement Administrator concerning the administration of the Settlement will be resolved by
6 the Court under the laws of the State of California. Prior to any such involvement of the Court,
7 counsel for the Parties will confer in good faith to resolve the disputes without the necessity of
8 involving the Court.

9 78. Preliminary Approval Hearing. Plaintiff shall obtain a hearing before the Court to
10 request the Preliminary Approval of the Settlement, and the entry of a Preliminary Approval
11 Order: (i) approving of the proposed Settlement, and (ii) setting a date for a Final
12 Approval/Settlement Fairness Hearing. The Preliminary Approval Order shall provide for the
13 Notice Packet to be sent to all Class Members as specified herein. In conjunction with the
14 Preliminary Approval hearing, Plaintiff shall submit this Agreement, which sets forth the terms
15 of this Settlement, and will include the proposed Notice Packet, attached to this Agreement as
16 **Exhibit A**. If the Court declines to approve the Settlement or approves it conditionally on
17 modifications to the settlement terms, the Parties shall work in good faith to modify the
18 settlement terms to obtain approval, provided that the material terms of the Settlement are not
19 affected.

20 79. Final Settlement Approval Hearing. Upon expiration of the deadlines to submit
21 Requests for Exclusion or Notices of Objections to the Settlement, and with the Court's
22 permission, a Final Approval/Settlement Fairness Hearing shall be conducted to determine the
23 Final Approval of the Settlement along with the amounts properly payable for: (i) Individual
24 Settlement Payments; (ii) the PAGA (including LWDA) Payment; (ii) the Class Counsel Award;
25 (iii) the Class Representative Enhancement Payment; and (iv) Settlement Administration Costs.
26 Class Counsel will be responsible for drafting all documents necessary to obtain final approval.
27 Class Counsel will also be responsible for drafting the attorneys' fees and costs application to be
28 heard at the Final Approval Hearing.

1 80. Entry of Judgment and Continued Jurisdiction of the Court. Concurrent with the
2 Motion for Final Approval, the Parties shall also jointly seek the entry of Judgment consistent
3 with the terms of this Agreement. After entry of the Judgment, the Court shall have continuing
4 jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms
5 of the Settlement, (ii) Settlement administration matters, and (iii) such post-Judgment matters as
6 may be appropriate under court rules or as set forth in this Agreement.

7 81. Exhibits Incorporated by Reference. The terms of this Agreement include the
8 terms set forth in any attached Exhibits, which are incorporated by this reference as though fully
9 set forth herein. Any Exhibits to this Agreement are an integral part of the Settlement.

10 82. Entire Agreement. This Agreement and any attached Exhibits constitute the
11 entirety of the Parties' Settlement terms. No other prior or contemporaneous written or oral
12 negotiations or agreements may be deemed binding on the Parties.

13 83. Disputes Regarding Language of Final Settlement Agreement. If the Parties have
14 a dispute with regard to the language of the Agreement, the Parties agree to informally resolve
15 the dispute by engaging a mediator to mediate such dispute.

16 84. Amendment or Modification. This Agreement may be amended or modified only
17 by a written instrument signed by the Parties or their successors-in-interest.

18 85. Authorization to Enter Into Agreement. Counsel for all Parties warrant and
19 represent they are expressly authorized by the Parties whom they represent to negotiate this
20 Agreement and to take all appropriate actions required or permitted to be taken by the Parties
21 pursuant to this Agreement to effectuate its terms and to execute any other documents required to
22 effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each
23 other and use their best and good-faith efforts to effect the implementation of the Settlement. If
24 the Parties are unable to reach agreement on the form or content of any document needed to
25 implement the Settlement, or on any supplemental provisions that may become necessary to
26 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve
27 such disagreement.

28 86. Binding on Successors and Assigns. This Agreement shall be binding upon, and

1 inure to the benefit of, the successors, heirs, or assigns of the Parties hereto, as previously
2 defined.

3 87. California Law Governs. All terms of this Agreement and Exhibits hereto shall
4 be governed by and interpreted according to the laws of the State of California.

5 88. Execution and Counterparts. This Agreement is subject only to the execution of
6 all Parties. However, the Agreement may be executed in one or more counterparts. All executed
7 counterparts and each of them, including facsimile and scanned copies of the signature page,
8 shall be deemed to be one and the same instrument provided that counsel for the Parties shall
9 exchange among themselves original signed counterparts.

10 89. Acknowledgement that the Settlement is Fair and Reasonable. The Parties
11 believe this Agreement is a fair, adequate and reasonable settlement of the Action and have
12 arrived at this Settlement after arm's-length negotiations, mediation, and in the context of
13 adversarial litigation, taking into account all relevant factors, present and potential. The Parties
14 further acknowledge that they are each represented by competent counsel and that they have had
15 an opportunity to consult with their counsel regarding the fairness and reasonableness of this
16 Agreement.

17 90. Invalidity of Any Provision. Before declaring any provision of this Agreement
18 invalid, the Court shall first attempt to construe the provision as valid to the fullest extent
19 possible consistent with applicable precedents so as to define all provisions of this Agreement
20 valid and enforceable. Any invalid, illegal, or unenforceable provision determined by the Court
21 shall in no way affect any other provision if Defendant and Class Counsel, on behalf of the
22 Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal,
23 or unenforceable provision had never been included in this Agreement.

24 91. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however,
25 that Plaintiff or Class Counsel may appeal any reduction in the Class Counsel's Award below the
26 amount Class Counsel requests, and either Party may appeal any order that materially alters the
27 Agreement's terms.

28 92. Class Action Certification. The Parties are agreeing to class certification for

1 settlement purposes only. This Agreement shall not constitute, in this or any other proceeding, an
2 admission of any kind by Defendant, including without limitation, that certification of a class for
3 trial or any other purpose is appropriate or proper or that Plaintiff or any Class Member can
4 establish any of the requisite elements for class treatment of any of the claims in this Action. If,
5 for any reason, the Settlement is not finally approved, this Agreement will be void and the
6 Parties will be restored to their respective positions in the lawsuit as if they had not entered into
7 this Agreement. The Parties further agree that this Agreement, the final stipulation of Settlement,
8 or any documents or orders issued related to this Settlement will not be admissible, other than
9 according to the Settlement's terms, in this or any other proceeding as evidence that either: (i) a
10 class action should be certified, or (ii) Defendant is liable to Plaintiff or any Class Member.

11 93. Non-Admission of Liability. The Parties enter into this Agreement to resolve the
12 dispute that has arisen between them and to avoid the burden, expense, and risk of continued
13 litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, it
14 has violated any federal, state, or local law; violated any regulations or guidelines promulgated
15 pursuant to any statute or any other applicable laws, regulations, or legal requirements; breached
16 any contract; violated or breached any duty; engaged in any misrepresentation or deception; or
17 engaged in any other unlawful conduct with respect to its employees. Neither this Agreement,
18 nor any of its terms or provisions, nor any of the negotiations connected with it, shall be
19 construed as an admission or concession by Defendant of any such violations or failures to
20 comply with any applicable law, regulation, or legal requirement. Except as necessary in a
21 proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions
22 shall not be offered or received as evidence in any action or proceeding to establish any liability
23 or admission of any nature on the part of Defendant, or to establish the existence of any
24 condition constituting a violation of, or a non-compliance with, federal, state, local or other
25 applicable law.

26 94. Captions. The captions and section numbers in this Agreement are inserted for
27 the reader's convenience, and in no way define, limit, construe or describe the scope or intent of
28 the provisions of this Agreement.

1 95. Waiver. No waiver of any condition or covenant contained in this Agreement or
2 failure to exercise a right or remedy by any of the Parties hereto shall be considered to imply or
3 constitute a further waiver by such party of the same or any other condition, covenant, right, or
4 remedy.

5 96. Enforcement Actions. In the event that one or more of the Parties institutes any
6 legal action or other proceeding against any other Party or Parties to enforce the provisions of
7 this Settlement, or to declare rights and/or obligations under this Settlement, the prevailing Party
8 or Parties shall be entitled to recover from the non-prevailing Party or Parties reasonable
9 attorneys' fees and costs, including expert witness fees incurred in connection with any
10 enforcement actions.

11 97. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
12 and conditions of this Agreement. Accordingly, this Agreement shall not be construed more
13 strictly against one Party than another merely by virtue of the fact that it may have been prepared
14 by counsel for one of the Parties, it being recognized that, because of the arm's-length
15 negotiations between the Parties, all Parties have contributed to the preparation of this
16 Agreement.

17 98. Representation by Counsel. The Parties acknowledge that they have been
18 represented by counsel throughout all negotiations that preceded the execution of this
19 Agreement, and that this Agreement has been executed with the consent and advice of counsel.
20 Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the
21 Agreement.

22 99. Cooperation and Execution of Necessary Documents. All Parties shall cooperate
23 in good faith and execute all documents to the extent reasonably necessary to effectuate the
24 terms of this Agreement.

25 100. Binding Agreement. The Parties warrant that they understand and have full
26 authority to enter into this Agreement, and further intend that this Agreement shall be fully
27 enforceable and binding on all Parties, and agree that it shall be admissible and subject to
28 disclosure in any proceeding to enforce its terms.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action Settlement and Release between Plaintiff and Defendant as of the date(s) set forth below:

READ CAREFULLY BEFORE SIGNING

PLAINTIFF

Dated: 9/18/2021

DocuSigned by:

Rakesh Ray
Rakesh Ray

DEFENDANT C&W FACILITY SERVICES, INC.

Dated: _____

_____, on behalf of
C&W Facility Services, Inc.

APPROVED AS TO FORM

DIVERSITY LAW GROUP, P.C.

Dated: 09/20/2021

NA

Larry W. Lee
Kristen M. Agnew
Nicholas Rosenthal
Attorneys for Plaintiff Rakesh Ray and the Class

POLARIS LAW GROUP

DocuSigned by:

William Marder

Dated: 9/20/2021

0CED7A9289884D2...

William Marder
Attorneys for Plaintiff Rakesh Ray and the Class

CDF LABOR LAW LLP

Dated: _____

John R. Giovannone
Corey J. Cabral
Attorneys for Defendant C&W Facility Services, Inc.

1 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this
2 Joint Stipulation of Class Action Settlement and Release between Plaintiff and Defendant as of
3 the date(s) set forth below:

4 **READ CAREFULLY BEFORE SIGNING**

5 **PLAINTIFF**

6
7 Dated: _____

8 _____
Rakesh Ray

9 **DEFENDANT C&W FACILITY SERVICES, INC.**

10
11 Dated: 9/20/21

12 *Ryan Lawrence*
13 Ryan Lawrence, on behalf of
14 C&W Facility Services, Inc.

15 **APPROVED AS TO FORM**

16 **DIVERSITY LAW GROUP, P.C.**

17 Dated: _____

18 _____
19 Larry W. Lee
20 Kristen M. Agnew
21 Nicholas Rosenthal
22 Attorneys for Plaintiff Rakesh Ray and the Class

23 **POLARIS LAW GROUP**

24 Dated: _____

25 _____
26 William Marder
27 Attorneys for Plaintiff Rakesh Ray and the Class

28 **CDF LABOR LAW LLP**

Dated: September 21, 2021

John R. Giovannone
John R. Giovannone
Corey J. Cabral
Attorneys for Defendant C&W Facility Services, Inc.

EXHIBIT B

Rakesh Ray v. C&W Facility Services, Inc.
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO
(CASE NO. CIVSB2101321)

NOTICE OF CLASS ACTION SETTLEMENT (“NOTICE”)

IF YOU ARE A CURRENT OR FORMER CALIFORNIA EMPLOYEE OF C&W FACILITY SERVICES, INC. (“C&W”) AND YOU:

RECEIVED A PAPER COPY WAGE STATEMENT AT ANY TIME FROM JANUARY 12, 2020,
THROUGH FEBRUARY 14, 2021

YOU MAY BE ELIGIBLE TO RECEIVE MONEY AS PART OF A SETTLEMENT

*The San Bernardino County Superior Court (“Court”) authorized this Notice to be sent by _____
 (“Settlement Administrator”). This is not an advertisement. This is not a solicitation from a lawyer.*

«BarcodeString»
SIMID «SIMID»

ATTN: «FirstName» «LastName»
«Address1» «Address2»
«City» «Abbrev» «Zip»

**YOU ARE ESTIMATED TO RECEIVE
APPROXIMATELY
\$«MERGED_EstSettAmnt_CALC»
THROUGH THIS CLASS ACTION
SETTLEMENT**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

You Can DO NOTHING	You will receive a payment from the settlement. If you do nothing, you continue your participation in this lawsuit, and you will be impacted by the outcome of this case. You will receive a settlement payment; however, you will lose any rights to sue C&W separately for the same legal claims made in the lawsuit. The estimated amount of your settlement payment is shown above. To receive your settlement payment, all you need to do is keep the Settlement Administrator informed of your current mailing address. Once the Court grants final approval of the settlement, the Settlement Administrator will mail your check to the address on file for you.
You Can ASK TO BE EXCLUDED FROM THE SETTLEMENT (Deadline: _____, 2021)	If you ask to be excluded from the settlement, you will get no payment from the settlement, but you will keep any rights to sue C&W separately in your individual capacity for the same legal claims made in this lawsuit, with the exception of claims for civil penalties under PAGA. Important: You cannot ask to be excluded <u>and</u> still get a settlement payment.
You Can OBJECT TO THE SETTLEMENT (Deadline: _____, 2021)	If you do not like the settlement, you can send a written objection to the Settlement Administrator by the deadline or personally appear at the final approval hearing. If your objection is overruled by the Court, you will still be bound by the terms of the settlement and will receive a settlement payment. Important: If you object to the settlement, you cannot also ask to be excluded.

**THESE RIGHTS AND OPTIONS—AND THE DEADLINES TO EXERCISE THEM—ARE
EXPLAINED IN THIS NOTICE.**

The Court is in charge of this lawsuit and still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after appeals, if any, are resolved. **Please be patient.**

1. Why Should You Read This Notice?

You should read this Notice because you may be entitled to money from a class action settlement.

2. What is this Lawsuit About?

In the lawsuit, the Plaintiff alleges that C&W failed to provide accurate wage statements in violation of California Labor Code sections 226 and 2698 et seq. C&W denies the allegations in the lawsuit and denies it has engaged in any wrongdoing. C&W asserts that it complied with all legal requirements, but is resolving this action in order to avoid the risk and costs of further legal proceedings.

3. Why is this a Class Action?

This lawsuit is a class action. In a class action, one or more persons, called a class representative (in this case, Rakesh Ray), sue on behalf of people who allegedly have similar claims. All these people are a class or class members. One case resolves the issues for all class members, except for those who exclude themselves from the class. The San Bernardino County Superior Court is in charge of the case. The lawsuit is known as *Rakesh Ray v. C&W Facility Services, Inc.*, Case No. CIVSB2101321.

4. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or C&W. Plaintiff thinks he could have won at trial. C&W thinks that it would have won at trial. But there was no trial. Instead, both parties agreed to a settlement. That way, they avoid the risks and cost of litigation, and the individuals potentially affected will get compensation. The class representative and the attorneys think the settlement is best for class members.

5. How Do I Know If I Am Part of the Settlement?

The Court has decided that the following individuals are class members: all current and former employees of Defendant in the State of California who received wages at any time between January 12, 2020, through February 14, 2021 and received paper copy wage statements (the “Class”). If you received this Notice you are a member of the Class.

6. What Does the Settlement Provide?

The proposed settlement provides for a cash payment by C&W in the amount of \$150,000.00 to fully and finally resolve all claims in the lawsuit (referred to as the “Gross Settlement Amount”). The total amount to be distributed to class members who can be located, and who do not exclude themselves from the settlement, will be the Gross Settlement Amount minus the following (the “Net Settlement Amount”): (a) settlement administration costs not to exceed \$10,000; (b) class representative enhancement award to Plaintiff not to exceed \$15,000.00 for his work and efforts in prosecuting this cases, and for undertaking the risks of costs (in the event the outcome was not favorable); (c) Class Counsel’s attorneys’ fees not to exceed \$50,000.00; (d) Class Counsel’s actual litigation costs and expenses as supported by declaration not to exceed \$5,000.00; and (e) payment of \$7,500.00 to the

Labor and Workforce Development Agency. **Class Counsel's attorneys' fees and costs remain subject to Court approval.**

No portion of the Net Settlement Amount will be returned to C&W under any circumstances. Instead any unclaimed portions will be distributed to a charitable organization.

7. How Much Will My Payment Be?

Your estimated share of the settlement is shown on the first page of this notice. The amount you are to receive is based on the number of applicable paper copy wage statements you received. If you received any paper copy wage statements from C&W between January 12, 2020, and February 14, 2021, you will receive an amount based on the number of these Qualifying Wage Statements you received.

Based upon C&W's records, you are a member of the Class. [Based thereon, the number of Qualifying Wage Statements you received is determined to be **. If this information appears correct, you do not need to do anything further to receive your settlement payment. If you disagree with the number of wage statements, see below (Question 9).]

8. How Do I Receive a Payment?

To qualify for payment, you need not do anything. The Settlement Administrator will mail you a check within approximately forty-five days after the Court enters a judgment based on this settlement, but possibly later depending on whether there is any appeal of the judgment entered by the Court.

9. What If I Believe the Information is Inaccurate?

If you believe the number of Qualifying Wage Statements you received is inaccurate, you may dispute it by sending a letter to [Settlement Administrator] [ADMINISTRATOR'S ADDRESS] no later than _____, 2021. Be sure to include your name, address, telephone number, last four digits of your Social Security Number, and a statement as to what and why you are disputing. Also attach a copy of any documentation you want to include to support your dispute.

10. What Am I Giving Up to Receive a Settlement Payment?

Unless you request to be excluded from the settlement, you remain a part of the settlement class, and that means you cannot sue, continue to sue, or be part of any other lawsuit against C&W or the other Released Parties for any legal claims based on the subject matter of this settlement. Specifically, you will be giving up or "releasing" the claims summarized below, as fully defined within the Parties' Settlement Agreement:

- All claims, demands, rights, liabilities, and causes of action that were pled or could have been pled based on the factual allegations in the operative Complaint, during the applicable period from January 12, 2020, through February 14, 2021.

11. How Do I Exclude Myself from the Settlement?

To exclude yourself from the settlement (also referred to as "opt-out"), you must mail a letter to the Settlement Administrator saying that you want to be excluded from the *Rakesh Ray v. C&W Facility Services, Inc.* settlement.

Be sure to include your name, address, telephone number, last four digits of your Social Security Number, and

your signature. You must mail your exclusion letter postmarked no later than _____, 2021, to the Settlement Administrator at *****.

If you submit a timely and valid “opt-out” request, you will no longer be a member of the class and you will not receive any money from the settlement, or be able to object to the settlement, but you will not be legally bound by anything that happens in this lawsuit other than the release of claims for civil penalties under the PAGA. You will keep any rights to sue (or continue to sue) C&W in the future for the same legal claims for individualized relief made in this lawsuit, at your own expense.

12. How Do I Tell the Court That I Don’t Believe That the Settlement Is Fair?

As a class member, you can object to the settlement if you believe that the settlement is unfair or inadequate. You can give reasons why you think the Court should not approve the settlement. If you object and follow the procedures set out in this section, your objection will be considered.

If you decide to object to the proposed settlement, you may do so in writing to the Settlement Administrator. Upon the submission of your objection, you may then also appear at the final approval hearing for the settlement, either in person or through an attorney at your own expense. (See Question 14.) Regardless of whether you submitted a timely written objection to the Settlement Administrator, you may appear in person at the final approval hearing in order to object.

All written objections should be signed by you and should include: (1) your full name, address, and telephone number; (2) a written statement of the basis for your objection; and (3) any copies of papers, briefs, or documents upon which the objection is based. You must mail your objection postmarked no later than _____, 2021, to the Settlement Administrator at Settlement Administrator at *****.

13. What is the Difference between Objecting and Excluding?

Objecting is simply telling the Court that you don’t like something about the settlement. You can object only if you stay in the class. Excluding yourself, on the other hand, is telling the Court that you don’t want to be part of the class. If you exclude yourself, you have no basis to object because the case no longer affects you. However, if you file an objection, you will still receive settlement benefits under the settlement if it is approved by the Court.

14. Do I Have a Lawyer in this Case?

The Court decided that the law firms of Diversity Law Group and Polaris Law Group, both of which represent the Plaintiff, are also qualified to represent you and all class members. You will not be charged for these lawyers. These law firms are referred to as “Class Counsel.” If you want to be represented by your own lawyer, you may hire one at your own expense.

15. How Will the Attorneys for the Class And The Class Representative Be Paid?

The attorneys for the Plaintiff and the class will be paid from the Gross Settlement Amount. Class Counsel will ask for up to \$50,000.00 in attorneys’ fees and for actual litigation costs incurred up to a maximum of \$5,000.00, the actual amount of which will be determined by the Court at the final approval hearing (see Question 16 below for details as to when this hearing will take place). Class members (like you) do not have to pay the fees and costs of Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

If approved by the Court, a service payment for the Plaintiff of an amount up to \$15,000.00 will be paid from the Gross Settlement Amount for his work and efforts in prosecuting this case, and for undertaking the risks of costs (in the event the outcome of this lawsuit was not favorable).

16. Notice of Hearing on Final Approval and Objections to Class Action Settlement.

The Court has preliminarily approved the settlement and will hold a final approval hearing to decide whether to give final approval to the settlement. This hearing will be held before the Honorable David Cohn on _____, 2022, at ____ a.m., in Department S-26 of the Superior Court of California for the County of San Bernardino, located at 247 W. Third Street, San Bernardino, CA 92415, to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court. If there are objections, the Court will consider them. After the hearing, the Court will decide whether to approve the settlement. We do not know how long this decision will take. The final approval hearing may be continued without further notice. The Court may adjourn or continue the hearing from time to time, without further notification, as the Court may direct.

Once final approval is granted by the Court, the Court will enter a Stipulation of Class Action Settlement and Release, and all class members who have not requested exclusion will be deemed to have waived the Released Claims set forth above.

17. How Do I Receive More Information?

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by contacting Class Counsel.

18. What is the Contact Information for Class Counsel?

The addresses for Class Counsel are as follows:

DIVERSITY LAW GROUP, P.C.
Larry W. Lee
Kristen Agnew
Nicholas Rosenthal
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
Telephone: (213) 488-6555
Fax: (213) 488-6554

POLARIS LAW GROUP
William L. Marder
501 San Benito Street, Suite 200
Hollister, CA 95023
Telephone: (831) 531-4214
Fax: (831) 634-0333

WHAT IF I HAVE QUESTIONS?

If you have any questions about the settlement, you may contact the Settlement Administrator:

Rakesh Ray v. C&W Facility Services, Inc.

c/o _____

Address

City, CA, Zip

Toll-Free Phone Number: [insert]

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE COURT CLERK FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS.

PLEASE DO NOT CONTACT C&W, ITS MANAGERS, OR ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS.