

LIDMAN LAW, APC
Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Elizabeth Nguyen (SBN 238571)
enguyen@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Romina Tamiry (SBN 328420)
rtamiry@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
BERNARDO SANTOS

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
BERNARDO SANTOS

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

BERNARDO SANTOS, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

TORRES FARM LABOR CONTRACTOR,
INC., a California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No. BCV-19-102470-DRL

*[Assigned for All Purposes to the Hon. David R.
Lampe, Dept. 11]*

**COMPENDIUM OF DECLARATIONS
FILED CONCURRENTLY WITH
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: June 24, 2021
Time: 8:30 a.m.
Dept.: 18

Complaint Filed: August 30, 2019
Trial Date: None Set

1 With respect to the declarations and supporting exhibits cited in Plaintiff Bernardo Santos'
2 Motion for Preliminary Approval of Class Action Settlement ("PA Motion"), the following are hereby
3 concurrently filed with the tribunal:

4 Exhibit 1: Declaration of Elizabeth Nguyen filed in support of Plaintiff's PA
5 Motion.

6 Exhibit 1 to Nguyen Decl.: Stipulation of Settlement

7 Exhibit 2 to Nguyen Decl.: March 9, 2021 LWDA letter

8 Exhibit 2: Declaration of Scott M. Lidman filed in support of Plaintiff's PA Motion.

9 Exhibit 3: Declaration of Milan Moore filed in support of Plaintiff's PA Motion.

10 Exhibit 4: Declaration of Romina Tamiry filed in support of Plaintiff's PA Motion.

11 Exhibit 5: Declaration of Paul K. Haines filed in support of Plaintiff's PA Motion.

12 Exhibit 6: Declaration of Plaintiff Bernardo Santos filed in support of Plaintiff's PA Motion.

13 Exhibit 7: Declaration of Jodey Lawrence of Phoenix Class Action Administration Solutions
14 filed in support of Plaintiff's PA Motion.

15 Dated: April 26, 2021

16 Respectfully submitted,
LIDMAN LAW, APC

17 By:

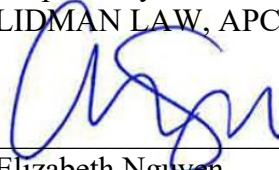
18 
19 Elizabeth Nguyen
20 Attorney for Plaintiff
21
22
23
24
25
26
27
28

EXHIBIT 1

EXHIBIT 1

LIDMAN LAW, APC

Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Elizabeth Nguyen (SBN 238571)
enguyen@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Romina Tamiry (SBN 328420)
rtamiry@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
BERNARDO SANTOS

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
BERNARDO SANTOS

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

BERNARDO SANTOS, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

TORRES FARM LABOR CONTRACTOR,
INC., a California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No. BCV-19-102470-DRL

*[Assigned for All Purposes to the Hon. David R.
Lampe, Dept. 11]*

**DECLARATION OF ELIZABETH NGUYEN IN
SUPPORT OF MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: June 24, 2021
Time: 8:30 a.m.
Dept.: 18

Complaint Filed: August 30, 2019
Trial Date: None Set

1 I, ELIZABETH NGUYEN, declare as follows:

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

7 2. I am a 2005 graduate of Loyola Law School. During law school, I worked as an extern for
8 the Honorable Erithe A. Smith, U.S. Bankruptcy Court for the Central District of California. During law
9 school, I also worked as a law clerk in the Enforcement Unit of the Office of the Chief Trial Counsel for
10 the State Bar of California.

11 3. Since graduating from law school, my practice has focused almost exclusively on
12 employment litigation. In October 2007, I began working as an associate attorney at the international law
13 firm of Littler Mendelson P.C., at its Los Angeles office, which according to its website is the “largest
14 law firm in the world exclusively devoted to representing management in employment, employee benefits
15 and labor law matters.”

16 4. In June 2012, I left Littler Mendelson to work at the Los Angeles office of Reed Smith
17 LLP. During my employment at Reed Smith, I worked exclusively in the labor and employment practice
18 group. In June 2013, I returned to Littler Mendelson as an associate attorney, was promoted to Shareholder
19 in 2015, and was elevated to participating Shareholder in 2017. Since October 2007, my practice has been
20 and continues to be exclusively labor and employment law, with a strong emphasis on wage and hour
21 class actions venued in both state and federal courts. During this time period and my legal career in
22 general, I also worked on a number of single and multi-plaintiff wage and hour matters as well. During
23 my employment at Littler Mendelson, I was a member of its Class Action Practice Group.

24 5. During my employment at Littler Mendelson, I played a significant role in the class actions
25 that I was staffed on, and was primarily responsible for managing the litigation both in my role as a Senior
26 Associate and as a Shareholder. In particular, I received a wide-array of wage and hour class action
27 experience performing the following types of tasks: drafting demurrers, motions to strike and/or dismiss;
28 removing actions from state court to federal court; drafting and responding to written discovery; drafting

1 and opposing discovery related motions; arguing discovery related motions; drafting motions to
2 consolidate related matters; interviewing putative class members and obtaining declarations in connection
3 with class certification; drafting oppositions to motions for class certification; conducting exposure
4 analyses to assess the strengths and weaknesses of asserted claims, the likelihood of prevailing at class
5 certification and potential damages resulting from such claims; drafting mediation briefs; serving as the
6 primary contact to in-house counsel; deposing named plaintiffs and putative class members; deposing
7 retained expert witnesses; and defending the depositions of corporate witnesses. I also was involved in
8 the negotiations and settlements of many large wage and hour class actions. In short, I played an integral
9 role in all aspects of litigation from the inception of a matter through and beyond class certification. I also
10 supervised the work of several associate attorneys who were staffed on the same wage and hour class
11 actions.

12 6. Although not exhaustive, below is a list of many of the wage and hour class and PAGA
13 actions that I performed substantial work on while I was an Associate and/or Shareholder at Littler
14 Mendelson:

- 15 ► *Branch v. PM Realty Group, Inc.* Case No. BC575759, Los Angeles Superior
16 Court, County of Los Angeles, Honorable Ann Jones, presiding.
- 17 ► *Herrera v. Pharmavite, LLC*, Case No. BC599201, Los Angeles Superior Court,
18 County of Los Angeles, Honorable Judge Carolyn Kuhl, presiding.
- 19 ► *Dugan v. Stoneledge Furniture, LLC*, Case No. 16-cv-01125-PA-FFMx, United
20 States District Court, Central District of California, Honorable Judge Percy
21 Anderson, presiding.
- 22 ► *Klune v. Stoneledge Furniture, LLC*, Case No. 14-cv-03986-PA-FFMx, United
23 States District Court, Central District of California, Honorable Judge Percy
24 Anderson, presiding.
- 25 ► *Diaz v. ABM Industries, Inc.; Ampco Parking*, Case No. BC362932, California
26 Superior Court, County of Los Angeles, Honorable Judge Jane Johnson, presiding.¹

27
28 ¹ This matter was consolidated and litigated collectively with Case Nos. BC380923, BC 381523 and BC 406663.

- 1 ▶ *Adams v. Luxottica Retail North America, Inc.*, Case No. 07CC01346, California
2 Superior Court, County of Orange, Honorable Judge Thierry Patrick Colaw,
3 presiding.
- 4 ▶ *Page v. Luxottica Retail North America, Inc.*, Case No. FCS041512, California
5 Superior Court, County of Solano, Honorable Judge Paul Berman, presiding.
- 6 ▶ *Parker v. FedEx National LTL, Inc.*, Case No. 11-CV-006380-DSF-FFM, United
7 States District Court, Central District of California, Honorable Judge Dale Fischer,
8 presiding.
- 9 ▶ *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United
10 States District Court, Central District of California, Honorable Judge Margaret
11 Morrow, presiding.
- 12 ▶ *Bernal v. Comerica Bank, et al.*, Case No. 11-cv-01298-JAH-BGS, United States
13 District Court, Central District of California, Honorable Judge Margaret Morrow,
14 presiding.
- 15 ▶ *Granata v. Comerica Bank, et al.*, Case No. 37-2011-00086316-CU-OE-CTL,
16 California Superior Court, County of San Diego, Honorable Judge Jeffrey B.
17 Barton, presiding.
- 18 ▶ *Mathews v. Comerica Bank, et al.*, Case No. 111CV194781, California Superior
19 Court, County of Santa Clara.
- 20 ▶ *Gallegos v. Comerica Bank, et al.*, Case No. BC455515, California Superior Court,
21 County of Los Angeles, Honorable Judge Terry Green, presiding.
- 22 ▶ *Rumohr v. Comerica Bank, et al.*, Case No. CGC-11-508433, California Superior
23 Court, County of San Francisco.
- 24 ▶ *Robertson v. FedEx National LTL, Inc.*, Case No. 09-CV-05016-DSF-FFM, United
25 States District Court, Central District of California, Honorable Judge Dale Fischer,
26 presiding.
- 27
28

1 ► *Wittman v. FedEx National LTL, Inc.*, Case No. 09-CV-03663-DSF-FFM, United
2 States District Court, Central District of California, Honorable Judge Dale Fischer,
3 presiding.

4 7. In January 2018, I voluntarily resigned from Littler Mendelson in order to start a law firm
5 with another former Littler Mendelson Shareholder, Scott M. Lidman, to represent employees with work-
6 related claims, including primarily wage and hour claims and almost exclusively on a class-action basis.
7 I am currently a Shareholder of Lidman Law, APC. Currently, over ninety percent (90%) of my practice
8 is dedicated exclusively to the prosecution of wage and hour class actions, and I am currently responsible
9 for prosecuting over sixty-five (65) wage and hour class actions filed in State courts throughout
10 California, with several of them having been removed to Federal courts. I believe that my professional
11 experience renders me more than qualified to serve as class counsel in this lawsuit involving claims of
12 underpaid overtime and minimum wages, meal and rest period violations, and derivative penalty claims.
13 Not only have I litigated dozens of wage and hour cases throughout my career involving similar claims,
14 including the wage and hour class actions identified above, I have litigated similar claims from both
15 plaintiff and defense perspectives. As a result, I am able to realistically assess and evaluate the facts and
16 legal arguments that can be made in pursuit and defense of similar wage and hour claims, as well as those
17 facts and arguments in support and in opposition to class certification. Consequently, I am able to
18 appreciate the significant risks, uncertainties, and delay involved in wage and hour class action litigation.

19 8. I have been appointed Class Counsel in: *Guardado v. Wesley Allen, Inc.*, Case No.
20 BC683027, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl
21 presiding; *Rodriguez v. Satco, Inc.*, Case No. BC682137, California Superior Court, County of Los
22 Angeles, Honorable Judge Ann I. Jones presiding; *Ong v. Howard's Appliances, Inc.*, Case No. 30-2017-
23 00964213-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge William Cluster
24 presiding; *Hanke v. C&W Facility Services, Inc.*, Case No. CIVDS1814412, California Superior Court,
25 County of San Bernardino, Honorable Judge David Cohn presiding; *Molina v. Mader News, Inc.*, Case
26 No. BC685960, California Superior Court, County of Los Angeles, Honorable Judge Yvette M.
27 Palazuelos presiding; *Alvarez v. Salamander Fire Protection, Inc.*, Case No. BC688326, California
28 Superior Court, County of Los Angeles, Honorable Judge William F. Highberger presiding; *Rodriguez*

1 v. *H.F. Cox, Inc.*, Case No. BC653164, California Superior Court, County of Los Angeles, Honorable
2 Judge Carolyn B. Kuhl presiding; *Fregoso v. Amerigas Propane, Inc.*, Case No. BC697973, California
3 Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Teran v. Western*
4 *Plastics, Inc.*, Case No. RIC1722619, California Superior Court, County of Riverside, Honorable Judge
5 Sunshine Sykes presiding; *Villegas de Torres v. El Monte Superstore Inc.*, Case No. BC688477,
6 California Superior Court, County of Los Angeles, Honorable Judge Daniel J. Buckley presiding; *Huynh*
7 *v. Polypeptide Laboratories, Inc.*, Case No. BC680872, California Superior Court, County of Los
8 Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Guzman v. Century Blinds*, Case No.
9 RIC1723654, California Superior Court, County of Riverside, Honorable Judge Sunshine S. Sykes
10 presiding; *George v. Convergence Marketing*, Case No. CIVDS1901039, California Superior Court,
11 County of San Bernardino, Honorable Judge David S. Cohn presiding; *Coffee, et al. v. Flyers*
12 *Transportation Energy, LLC*, Case No. 34-2017-00222084, California Superior Court, County of
13 Sacramento, Honorable Judge Alan G. Perkins presiding *Romero v. Fillmore Hospitality, LLC*, Case No.
14 BC705667, California Superior Court, County of Los Angeles, Honorable Judge Maren E. Nelson
15 presiding; *Wennerstrom, et al. v. Giant Inland Empire R.V. Center*, Case No. CIVDS1617291, California
16 Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Contreras, et al.*
17 *v. Letter Ride, LLC*, Case No. 37-2018-00020841-CU-OE-CTL, California Superior Court, County of
18 San Diego, Honorable Judge Eddie C. Sturgeon presiding; *Davis v. WeDriveU*, Case No. 18CV322578,
19 California Superior Court, County of Santa Clara, Honorable Judge Brian C. Walsh presiding; *Acuna v.*
20 *Canton Food Co., Inc.*, Case No. BC685001, California Superior Court, County of Los Angeles,
21 Honorable Judge David S. Cunningham presiding; and *Contreras v. Worldwide Flight Services, Inc.*,
22 Case No. 2:18-cv-06036-PSG-SS, United States District Court for the Central District of California, the
23 Honorable Judge Philip S. Gutierrez presiding.

24 9. As co-lead counsel for Plaintiff Bernardo Santos and the proposed Settlement Class, I have
25 been intimately involved in every aspect of this case from its inception through the present, and I believe
26 that the proposed Settlement is a favorable result for the Settlement Class Members under the
27 circumstances presented.

28 10. According to its website, Defendant Torres Farm Labor Contractor, Inc. (hereinafter

referred to as “Torres Farm” or “Defendant”) is a farm labor contractor that provides farming and staffing needs to its clients. On August 30, 2019, Plaintiff filed a putative class action complaint against Defendant in Kern County Superior Court. Plaintiff is submitting concurrently herewith, a joint stipulation, pursuant to the terms of the Settlement Agreement, subject to Court approval, to allow Plaintiff to file a First Amended Complaint Class and Representative Action Complaint (“FAC”) adding a cause of action for civil penalties under the Labor Code Private Attorneys General Act (“PAGA”). On March 9, 2021, Plaintiff sent a letter to the California Labor Workforce Development Agency (“LWDA”) regarding Defendant’s alleged Labor Code violations and Plaintiff’s intent to bring a claim for civil penalties under the PAGA. Thus, in order to effectuate the terms of the Settlement Agreement, Plaintiff also seeks leave from the Court to file the FAC after exhausting his administrative remedies, which is attached as Exhibit A to the Joint Stipulation to File First Amended Class and Representative Action Complaint submitted concurrently herewith.² Therefore, Plaintiff’s primary allegations are that Defendant: (1) failed to pay all minimum wages owed; (2) failed to pay all overtime wages owed; (3) failed to provide all legally required meal periods; (4) failed to authorize and permit all legally required rest periods; (5) failed to provide accurate, itemized wage statements; (6) failed to timely pay all wages upon separation of employment; (7) engaged in unlawful business practices; and (8) is liable for civil penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

11. After agreeing to participate in early mediation, Defendant informally produced time records and payroll data for the 20% of the putative class randomly selected by Plaintiff, as well as its wage and hour policies and other relevant documents and information relevant to the claims alleged in advance of mediation. Plaintiff retained an expert to conduct an analysis of the payroll data and time records produced by Defendant. After the detailed review of the payroll and time records and other documents and policies produced by Defendant, Class Counsel drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff’s case. The discovery allowed the Parties to discuss the strengths and weaknesses of Plaintiff’s contemplated claim for civil penalties under the PAGA, and various theories of liability on his claim. This discovery allowed the Parties to assess the merits and value of Plaintiff’s claims and Defendant’s defenses thereto for mediation.

12. On October 30, 2020 after extensive research and analysis, including a detailed analysis of

² The sixty-five day exhaustion period will expire on May 14, 2021.

Defendant's potential exposure by Plaintiff's retained expert who holds a Ph.D. in economics, a full-day mediation was held with Steven G. Mehta, Esq., a well-respected wage and hour class action mediator. During mediation, the parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiff's claims, as well as the legal basis for the claims and defenses. As part of the negotiations and settlement discussions, the Parties agreed that Plaintiff would file a FAC which adds a claim for civil penalties under the PAGA. After a full day mediation, the Parties reached agreement on a class-wide resolution. Thereafter, the Parties signed the Stipulation of Settlement ("Settlement"). A true and correct copy of the Settlement is attached as **Exhibit 1**. The proposed Notice of Pendency of Class Action and Proposed Settlement and Notice of Individual Settlement Award are attached as Exhibit A to the Settlement.

13. If the Court approves this Settlement, Defendant will pay a Gross Settlement Amount ("GSA") of \$1,350,000.00. The Settlement is non-reversionary. Each Settlement Class member will automatically receive a Settlement Award unless he or she affirmatively opts out of the Settlement. *See* Settlement, ¶ 5.D. The monetary terms of the Settlement are summarized below:

Gross Settlement Amount ("GSA"): ³	\$1,350,000.00
Minus Court-approved attorneys' fees (1/3 of GSA):	\$450,000.00
Minus Court-approved, verified costs (up to):	\$25,000.00
Minus Court-approved Class Representative Enhancement:	\$5,000.00
Minus Settlement Administration Costs:	\$35,500.00
Minus PAGA payment to the LWDA:	\$30,000.00 ⁴
Net Settlement Amount ("NSA"):	\$804,500.00

³ Defendant represents that there are an estimated 163,000 workweeks worked by the Settlement Class Members during the Class Period as of February 26, 2021. If the number of workweeks during the Class Period is more than 20% greater than this figure (i.e., if there are 195,600 or more workweeks worked by the Settlement Class Members during the Class Period), Defendant has the option to either: (1) agree to increase the Gross Settlement Amount on a proportional basis (i.e., if there was 21% increase in the number workweeks during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 1%); or (2) in the alternative, in the event that this escalator provision is triggered, then Defendant has the option to elect to end the Class Period so as to have an earlier end date at the Defendant's discretion in order to limit the covered workweeks to 195,600 in lieu of paying an increase to the Gross Settlement Amount. *See* Settlement ¶ 12.

⁴ The total amount allocated to PAGA is \$40,000 which will be split 75% to the LWDA and 25% to the PAGA Employees. This means \$30,000 of the \$40,000 will be paid to the LWDA and \$10,000 of the \$40,000 will be distributed to the PAGA Employees.

1 Defendant will have the option to pay the Gross Settlement Amount in two (2) payments up to 90
2 days apart to the Administrator with the first payment commencing 30 days of the Effective Date of the
3 Settlement and the second payment due no later than 120 days of the Effective Date. Defendant agrees to
4 deposit the full amount of the Gross Settlement Amount with the Settlement Administrator by no later
5 than 120 days of the Effective Date. The “Effective Date” is defined as: no sooner than the date when all
6 of the following events have occurred: (a) the Settlement Agreement and related documents are approved
7 and executed by all Parties and by Class Counsel and Defense Counsel; (b) the Court has given preliminary
8 approval to the Settlement; (c) notice has been given to the Settlement Class Members providing them
9 with an opportunity to Opt-Out of the Class Settlement; (d) the Court has held a Final Approval and
10 Fairness Hearing and entered a final order and judgment certifying the Class and approving this
11 Stipulation; (e) notice of final judgment has been given to the Settlement Class Members pursuant to
12 California Rules of Court, rule 3.771(b); and (f) the later of the following events: (1) the expiration of the
13 period for filing any appeal, writ, or other appellate proceeding opposing the Class Settlement has elapsed
14 without any appeal, writ or other appellate proceeding having been filed; (2) or the dismissal of any appeal,
15 writ, or other appellate proceeding opposing the Class Settlement with no right to pursue further remedies
16 or relief; or (3) any appeal, writ, or the issuance of such other final appellate order upholding the Court’s
17 final order with no right to pursue further remedies or relief or (4) July 30, 2021. In the event there is a
18 timely filed motion to set aside judgment or to intervene, the expiration of the period for filing any appeal,
19 writ, or other appellate proceeding opposing the Class Settlement will be based on the later of the court’s
20 ruling or order on any such motion or entry of final order and judgment certifying the Class and approving
21 this Stipulation but in no event will any payment be required sooner than July 30, 2021. *See* Settlement,
22 ¶ 5.B. After deducting amounts for the Court-approved attorneys’ fees and verified costs, Service Award
23 to Plaintiff, Settlement Administrator costs, and the PAGA payment to the LWDA, the Settlement requires
24 Defendant to pay a Net Settlement Amount (“NSA”) of at least **\$804,500.00** to all Settlement Class
25 members who do not timely opt out. Pursuant to the terms of the Settlement, Defendant will have the
26 option of rescinding the Settlement if more than 5% of the Settlement Class opts out of the Settlement and
27 all actions taken in furtherance of it will thereby be null and void. *See* Settlement ¶ 13. This amount
28 includes the \$10,000.00 PAGA Amount to be paid to the PAGA Employees defined in the Settlement as
“All current and former non-exempt, hourly, employees of Defendant Torres Farm Labor Contractor, Inc.

1 in California who worked at Grimmway Enterprises, Inc. and related entities' facilities (including, but not
2 limited to, Grimmway Enterprises, Inc. aka Grimmway Farms and Cal-Organic Farms) at any time
3 between August 29, 2018 and the date of preliminary approval or May 1, 2021 whichever comes first."
4 Settlement, ¶ 2.

5 14. According to Defendant, there are approximately 5,472 total Settlement Class Members
6 defined as:

7 All current and former non-exempt, hourly, employees of Defendant Torres Farm Labor
8 Contractor, Inc. who worked at Grimmway Enterprises, Inc. and related entities' facilities
9 (including, but not limited to, Grimmway Enterprises, Inc. aka Grimmway Farms and Cal-
Organic Farms) in California at any time between August 29, 2015 and May 1, 2021.

10 Thus, the average Settlement Award is projected to be approximately \$147.02, a fair recovery per person.

11 15. Settlement Class members' claims arise from Defendant's common, uniform policies and
12 practices that applied to Settlement Class members during the class period. Specifically, Plaintiff alleged
13 that Defendant's common and uniform policies and practices resulted in the following violations: (1)
14 failure to pay all minimum wages owed; (2) failure to pay all overtime wages owed; (3) failure to provide
15 all legally required meal periods; (4) failure to authorize and permit all legally required rest periods; (5)
16 failure to provide accurate, itemized wage statements; (6) failure to timely pay all wages upon separation;
17 (7) unlawful business practices; and (8) liability for civil penalties under the PAGA.

18 16. As described in the accompanying Motion for Preliminary Approval, Plaintiff alleges that
19 he and Settlement Class Members were not fully paid for time worked. Specifically, Plaintiff alleges that
20 Defendant would keep track of Plaintiff's time worked and would unlawfully round/shave Plaintiff's
21 work time such that Plaintiff would not be fully paid for all time worked. Further, Plaintiff was required
22 to work and clock in 5 minutes before the start of his scheduled shift but was not compensated until his
23 scheduled start time. In addition, upon information and belief, Defendant had a policy and practice of
24 automatically-deducting 15 minutes from an employee's work time if he or she clocked in after the
25 scheduled start time regardless of the actual number of minutes the employee clocked in late. This time-
26 shaving and/or rounding practice utilized by Defendant was not even-handed over time and would almost
27 exclusively round and shave in Defendant's favor such that Plaintiff was routinely underpaid for all his
28 time worked. Plaintiff also alleges that he and other Settlement Class Members often worked in excess

of ten hours per workday, but Defendant failed to provide overtime compensation equal to one and one-half times their regular rate of pay for all such overtime hours. In the complaint, Plaintiff alleged, upon information and belief during at least a portion of the class period, Defendant paid Plaintiff and other Settlement Class Members weekly “Units” pay and/or bonuses. These “Units” pay, bonuses, and/or other forms of pay were not excludable as a matter of law when calculating an employee’s regular rate (hereinafter the aforementioned forms of pay are collectively referred to as “Incentive Pay”). Plaintiff alleged, upon information and belief, that despite Defendant’s payment of Incentive Pay to Plaintiff and other Settlement Class Members, Defendant failed to include all forms of Incentive Pay when calculating employee’s regular rate of pay, thereby causing Plaintiff and other Settlement Class Members to be underpaid all of their overtime wages owed. Based a review of the time punch data and payroll records, Plaintiff’s retained expert, who holds a Ph.D. in economics, calculated Defendant’s maximum exposure at approximately \$128,568.27.

17. Defendant contends that it compensated non-exempt employees for all of their time worked and that the time punch data would necessarily include minutes that were not compensable work time because the employee would not start performing any work prior to the start of the shift and/or would not perform any work after the scheduled stop time. Defendant also contends that its rounding practices were lawful and any unpaid time was *de minimis* and therefore non-compensable. Defendant further asserts that Plaintiff would be unable to certify a rounding or off-the-clock claim given the individualized inquiries that would be required, given that Defendant’s rounding mechanism, according to Defendant, allegedly favored the employees. Defendant further contends that Settlement Class Members received all overtime wages to which they were entitled. Defendant contends that Settlement Class Members received all overtime wages to which they were entitled and that it maintained pay codes for shift differentials, shift differential based on regular hours, shift differential based on overtime hours, shift differential based on double overtime hours and properly paid overtime wages and the correct regular rate of pay. Defendant contends that the use of “Units” on the wage statements were not for payment of any bonuses and were labels for the different shift differentials paid. Based on these risks, Plaintiff discounted the maximum exposure 40% for the risk of non-certification, and an additional 30%

1 to account for Defendant's defenses on the merits to arrive at an estimated exposure of approximately
2 \$53,998.67.

3 18. Plaintiff alleges that he and Settlement Class Members were not provided with all legally-
4 required off-duty meal periods in compliance with California law due to Defendant's unlawful meal period
5 policies and practices. Specifically, Plaintiff alleges that Defendant had a policy and practice of staggering
6 the meal periods for non-exempt employees, resulting Defendant providing non-exempt employees with
7 a meal period after the start of their fifth hour of work. As a result, Plaintiff's and other non-exempt
8 employees' meal periods were often late or otherwise unlawful. Additionally, for at least a portion of the
9 class period, Defendant would automatically-deduct 30 minutes from Plaintiff's and other non-exempt
10 employee's work time and regardless of whether they actually took a meal period, and regardless of how
11 long a meal period was if in fact taken. Further, when Plaintiff worked shifts of over 10.0 hours, he was
12 not always provided a second 30-minute meal period due to Defendant's meal period policies/practices
13 that failed to provide for a second meal period for shifts of over 10.0 hours. Therefore, Plaintiff calculated
14 Defendant's maximum exposure for the alleged first meal period violations at approximately \$1,670,600
15 (686,473 shifts over 6.0 hours x \$15.21 [average hourly rate]). This estimated exposure is based on
16 Defendant's practice of automatically-deducting 30 minutes for a purported meal period for 91% of all
17 meal enabling shifts, or shifts over 6.0 hours.

18 19. Defendant counters that it has always provided non-exempt employees with an opportunity
19 to take legally compliant meal periods, the supervisors stagger breaks, and that it maintains and track
20 compliance meal breaks utilizing detailed handwritten records. In addition, Defendant contends that it
21 maintains forms that non-exempt employees can complete if they were not provided with a meal period
22 in order to be paid a meal period premium. Further, any purported non-compliant meal periods reflected
23 in employee timekeeping records were solely the result of employee choice, rather than any policy or
24 practice of Defendant. Defendant also points out that under *Brinker Restaurant Corp. v. Superior Court*
25 (2012) 53 Cal. 4th 1004, it are only required to "provide" the opportunity to take meal periods, not
26 "ensure" meal periods are taken, and that they have always done so. Finally, Defendant contends
27 Plaintiff's meal period claim is not suited for class certification, since individual inquiries would be
28 required to assess which employees took non-compliant meal periods, how many meal periods were non-
compliant or missed, and the reasons why a particular employee took a non-compliant meal period or

missed a meal period during a particular shift. Accordingly, Plaintiff discounted the maximum exposure by 60% for the risk of non-certification, and an additional 65% to account for Defendant's defenses on the merits to arrive at an estimated exposure of approximately \$1,461,776.

20. Plaintiff alleges that he and other Settlement Class Members were not authorized and permitted to take all required rest periods due to Defendant's rest period policies/practices which fail to authorize and permit a third 10-minute rest period on all shifts worked in excess of 10.0 hours. Accordingly, Plaintiff calculated Defendant's maximum exposure at approximately \$1,599,666 (105,172 shifts over 10.0 hours x \$15.21).

21. Defendant contends it has always maintained and enforced lawful rest period policies and practices, and that Settlement Class Members were authorized and permitted to take all off-duty rest periods in compliance with California law. Defendant argues that Plaintiff's rest period claims are inherently unsuited for class treatment as it requires an individualized inquiry into whether each Settlement Class member was in fact authorized and permitted to take a compliant rest period, which would devolve into an unmanageable series of mini-trials. Therefore, Plaintiff discounted the maximum exposure by 70% for the risk of non-certification, and an additional 70% to account for Defendant's defenses on the merits to arrive at an estimated exposure of approximately \$143,970.

22. Plaintiff further alleges that Defendant issued inaccurate wage statements in violation of Labor Code § 226 as a result of the alleged unpaid wages and meal and rest period premium wages described above. Specifically, Plaintiff contends that this conduct violated Labor Code § 226(a) because the wage statements issued to Settlement Class Members did not include all hours worked and the rate at which they were being paid. Specifically, Plaintiff alleges that Defendant issued inaccurate wage statements with respect the payment of wages for "units", which is vague and ambiguous and requires Plaintiff to speculate to its meaning. Therefore, Plaintiff calculated Defendant's maximum exposure for wage statement violations at approximately \$6,458,950 (($\50.00×725 current employees) + ($\$100.00 \times 64,227$ subsequent wage statements)).

23. Defendant argues that meal and rest period claims cannot support a claim for wage statement penalties after *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. App. 5th 444 and *Kirby v. Immoos Fire Protection, Inc.* (2012) 53 Cal.4th 1244. Defendant further argues that its alleged wage statement violations could not be shown to be "knowing and intentional," and that Plaintiff cannot

1 show that he or any other employee “suffer[ed] injury” as a result of the alleged wage statement violations,
2 as required by Lab. Code § 226(e) for imposition of penalties. As such, Plaintiff discounted the calculated
3 exposure by 60% for a risk of non-certification and an additional 40% for a risk of being unsuccessful on
4 the merits to arrive at an estimated total of approximately \$1,550,148.

5 24. Plaintiff alleges that Defendant is also liable for waiting time penalties under Labor Code
6 section 203 as a result of its failure to pay all wages upon separation of employment. Based on the data
7 provided by Defendant, there were approximately 4,295 Settlement Class Members who have separated
8 their employment with Defendant during the relevant time period who could be entitled to waiting time
9 penalties. Therefore, Plaintiff calculated Defendant’s maximum exposure for waiting time penalties at
10 approximately \$15,678,468 (4,295 former employees x \$15.21 [average regular rate] x 30 days x 8
11 hours/day).

12 25. Defendant asserts it has strong defenses to the waiting time claim because there exist
13 good-faith disputes as to Plaintiff’s underlying claims, precluding imposition of penalties. Accordingly,
14 Plaintiff discounted the maximum exposure by 70% for the risk of non-certification, and an additional
15 70% to account for Defendant’s defenses on the merits to arrive at an estimated exposure of approximately
16 \$1,411,062.

17 26. Plaintiff also seeks civil penalties under the PAGA as a result of the foregoing alleged
18 Labor Code violations. Plaintiff calculated Defendant’s maximum exposure at 6,495,200 (64,952 pay
19 periods x \$100 initial violation rate).

20 27. Defendant argues that Plaintiff’s PAGA claim will fail for the same reasons that his
21 underlying claims will fail. Therefore, Plaintiff discounted the maximum exposure figure by 70% for a
22 risk of being unsuccessful on the merits, and an additional 60% to account for the possibility of this Court
23 reducing penalties, to arrive at an estimated exposure of approximately \$779,424.00.

24 28. Using these estimated figures for each of the claims described above, Plaintiff predicted the
25 realistic total recovery for the Settlement Class would be approximately \$5,400,378. The proposed
26 settlement of \$1,350,000.00 therefore represents approximately 24.99% of the reasonably forecasted
27 recovery for the Settlement Class. Preliminary approval is appropriate as the settlement will provide
28 tangible monetary relief to Settlement Class members, and will still provide an average recovery to
Settlement Class members of over \$140.

29. Here, Class Counsel will also apply for an attorneys' fees award of one-third of the GSA, which is currently estimated to be \$450,000.00, and up to \$25,000.00 in verified costs reimbursement. Plaintiff submits the requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee basis. Further, Plaintiff has provided written approval of the split of attorneys' fees in this action. Class Counsel has incurred substantial attorney fees conducting pre-filing investigation, analyzing Plaintiff's claims, conducting legal research, reviewing Defendant's documents and policies, analyzing Settlement Class members' timekeeping data and payroll records, preparing for and attending mediation, negotiating and revising the long-form Settlement, preparing this Motion, and otherwise litigating the case. Class Counsel expect to expend additional attorney time in attending the hearings on this Motion and the Final Approval Motion, overseeing the notice process and fielding questions from Settlement Class Members, and preparing the final approval papers.

30. Plaintiff has provided written approval of the split of attorneys' fees in this action: 46.5% to Haines Law Group, APC, 31% to Lidman Law, APC, and 22.5% to the Michael Burgis & Associates, PC. Michael Burgis & Associates, PC is the referring attorney.

31. Plaintiff will seek a service award of \$5,000.00 at the time of seeking final approval and I believe this is reasonable given Plaintiff's efforts in this case and the risks he undertook on behalf of the Settlement Class members, including the risk that he could be liable for Defendant's costs if this case was unsuccessful, and because this amount is consideration for Plaintiff's general release and 1542 waiver against Defendant. Plaintiff was integral in the prosecution of this action, by, among other things, providing substantial factual information and documents to Class Counsel, attending multiple meetings and conferences with Class Counsel to discuss the claims and theories at issue in the litigation, and otherwise actively participating in the prosecution of their claims.

32. Although the Parties engaged in informal discovery throughout this action, the Parties still had significant discovery to complete in formal litigation had the matter not settled. Moreover, Plaintiff still had to file for class certification, and faced the prospect of appeals in the wake of a disputed class certification ruling for Plaintiff and/or an adverse summary judgment ruling. Even if the classes sought to be certified by Plaintiff were in fact certified, the Parties would incur considerably more attorneys'

1 fees and costs through a possible decertification motion, trial, and possible appeal. This Settlement
2 avoids those risks and the accompanying expense.

3 33. A true and correct copy of Plaintiff's March 9, 2021 letter to the LWDA is attached hereto
4 as **Exhibit 2**. I have directed my office to submit a copy of the instant Motion for Preliminary Approval
5 and all supporting documents via the LWDA's website on the same date concurrently herewith and will
6 have a supplemental proof of service filed after the Motion for Preliminary Approval and all supporting
7 documents are submitted to the LWDA.

8 34. The Settlement provides Settlement Class Members with 120 days from the date the
9 Settlement Administrator mails the checks and any funds remaining after 120 days shall be distributed in
10 accordance with California Civil Code section 384 to an organization to be selected by Defendant and
11 approved by the Court, such as the Valley Children's Hospital, Juvenile Diabetes Research Foundation
12 (JDRF), American Cancer Society or other non-profit organization, or, in the alternative if Defendant
13 cannot get court approval on any organization acceptable to the Defendant, any funds remaining after
14 120 days will escheat to the California Secretary of State-Unclaimed Property Fund under the unclaimed
15 property laws in the name of the Settlement Class member. Settlement ¶ 6.E. At this time, the Parties
16 have agreed to seek the Court's approval of designating Juvenile Diabetes Research Foundation as the
17 non-profit recipient of any uncashed funds. I have confirmed that my firm, my co-counsel's firm, Haines
18 Law Group, APC, and Plaintiff do not have a connection to or a relationship JDRF that could create the
19 appearance of impropriety as between the organization and the interests of the class.

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

22 Executed on April 26, 2021 at El Segundo, California.

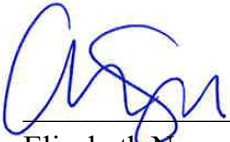
23
24 
25 Elizabeth Nguyen

EXHIBIT 1

to Nguyen Decl.

EXHIBIT 1

to Nguyen Decl.

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Bernardo Santos aka Bernardo Santos Romero, Bernardo Romero, and Julio Garay (“Plaintiff”), individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Torres Farm Labor Contractor, Inc. (“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, Milan Moore, and Romina Tamiry of Lidman Law, APC (collectively, “Class Counsel”). Defendant is represented by Thomas P. Feher of Lebeau Thelen LLP.

On August 30, 2019, Plaintiff filed a Complaint against Defendant in Los Angeles County Superior Court, in the matter entitled *Bernardo Santos v. Torres Farm Labor Contractor, Inc.*, Kern County Superior Court Case No. BCV-19-102470, (the “Action”). In the operative Complaint, Plaintiff alleged that Defendant: (1) failed to pay all minimum wages owed; (2) failed to pay overtime wages owed; (3) failed to provide meal periods, or premium pay for non-compliant meal periods; (4) failed to authorize and permit rest periods, or premium pay for non-compliant rest periods; (5) failed to issue accurate, itemized wage statements; and (6) failed to pay all wages due upon separation of employment. As a result of the foregoing alleged violations, Plaintiff contends that Defendant are further liable to Plaintiff and the Settlement Class (defined below) because it engaged in unlawful business practices and for civil penalties under the Labor Code Private Attorneys General Act of 2004. Defendant denies Plaintiff’s claims.

Class Counsel has conducted significant informal discovery during the prosecution of the Action. This discovery, investigation, and prosecution has included, among other things, (a) telephonic conferences with Plaintiff; (b) inspection and analysis of voluminous documents and data and other information produced by Plaintiff and Defendant; (c) analysis of sample employment data for 20% of all Class Members; (d) an analysis of the legal positions taken by Defendant; (e) investigation into the viability of class treatment of the claims asserted in the Action; (f) analysis of potential class-wide damages, including information sufficient to understand Defendant’s potential defenses to Plaintiff’s claims; (g) research of the applicable law with respect to the claims asserted in the Complaint and the potential defenses thereto; and (h) assembling and analyzing of data for calculating damages.

Plaintiff’s counsel and the Class Representative have vigorously prosecuted this case, and Defendant has vigorously contested it. The Parties have engaged in sufficient investigation and discovery to assess the relative merits of the claims of the Class Representative and of Defendant’s defenses to them. On October 30, 2020, the Parties attended a full-day mediation with experienced employment law mediator Steve Mehta, which culminated in a settlement in principle, the terms of which are elaborated in this Settlement Agreement. Given the uncertainty of litigation, and to avoid costs of further litigation, Plaintiff and Defendant agreed to settle both individually and on behalf of the Settlement Class. This Settlement represents a compromise of materially disputed claims. 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 Torres Farm Labor Contractor, Inc. who worked at Grimmway Enterprises, Inc. and related entities' facilities (including, but not limited to, Grimmway Enterprises, Inc. aka Grimmway Farms and Cal-Organic Farms) in California at any time between August 29, 2015 and the date of preliminary approval or May 1, 2021 whichever comes first.

For purposes of this Settlement Agreement, the "Class Period" shall mean the time period of August 29, 2015 through the date of preliminary approval or May 1, 2021, whichever comes first.

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, the Settlement Class, if conditionally certified for settlement purposes only will be decertified and 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.

Defendant has agreed to the foregoing Settlement Class definition solely for the purposes of compromising and settling the Action.

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

All current and former non-exempt, hourly, employees of Defendant Torres Farm Labor Contractor, Inc. in California who worked at Grimmway Enterprises, Inc. and related entities' facilities (including, but not limited to, Grimmway Enterprises, Inc. aka Grimmway Farms and Cal-Organic Farms) at any time between August 29, 2018 and the date of preliminary approval or May 1, 2021 whichever comes first.

For purposes of this Settlement Agreement, the "PAGA Period" and release under the PAGA shall mean the time period between August 29, 2018 through the date of preliminary approval or May 1, 2021, whichever comes first.

3. **Amendment to Complaint.** In connection with the mediation, Defendant provided Plaintiff with time punch and pay data and other information relating to the members of the Settlement Class. In light of the Settlement and as a condition thereof, the Parties stipulate for purposes of effectuating the terms of the Settlement only, as part of this Settlement and subject to Court approval, the filing by Plaintiff of a First Amended Complaint which adds a cause of action under the Private Attorneys' General Act of 2004 ("PAGA") based on these facts, and such claim will be resolved as part of and in conjunction with this Settlement. The Proposed First Amended Complaint has been submitted to the Court pursuant to a stipulation and proposed order.

4. **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) ("Settlement Class Member" or "Class Members") will fully and forever completely

release and forever discharge Defendant Torres Farm Labor Contractor, Inc., a California Corporation, and all the entities for whom Torres Farm Labor Contractor, Inc. provided labor (“Released Affiliates”) in the Class Period (including, but not limited to, Grimmway Enterprises, Inc. aka Grimmway Farms and Cal-Organic Farms) and all of Defendant’s and Released Affiliates present and former parent companies, subsidiaries, divisions, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be liable for any of the Released Claims as defined below, (collectively the “Released Parties”), as follows:

- A. Settlement Class Members’ Release: Settlement Class Members and Plaintiff will release and forever discharge all claims, demands, rights, liabilities and causes of action whether under state or federal law, that were pled in any of the Complaints in the Action, including the Proposed First Amended Complaint pursuant to the terms of this Agreement, or which could have been pled in any of the Complaints in the Action based on the factual allegations therein, that arose during the Class Period with respect to the following claims: arising out of or related to allegations set forth in the operative Complaint or any PAGA Notice to the Labor and Workforce Development Agency (LWDA) related to this matter, including but not limited to: claims for minimum wage violations; failure to pay overtime wages; failure to pay wages timely; penalties; rest period violations; meal period violations; failure to keep proper records; itemized wage statement violations; waiting time penalties; unfair competition; declaratory relief; (claims under Labor Code sections 201, 202, 203, 204, 210, 226, 226.2, 226.3, 226.7, 510, 512, 1102.5, sections 11 and 12 of the applicable IWC Wage Order(s) and the California Business and Professions Code § 17200 et seq. based on the foregoing Labor Code violations); and claims for civil penalties pursuant to the California Private Attorneys General Act; including, but not limited to, injunctive relief; liquidated damages, penalties of any nature; interest; fees; costs; and all other claims and allegations made or which could have been made in the Action and/or in the form of a PAGA claim from August 29, 2015 through the date of preliminary approval of the Settlement (collectively, “Released Claims”). Except for the release under the PAGA, the release period shall be the same time period as the Class Period.
- B. PAGA Release: PAGA Employees, including Plaintiff, will release and forever discharge all claims, demands, rights, liabilities and causes of action under the California Labor Code Private Attorneys General Act of 2004 against the Released Parties based on (as alleged in the letters to the Labor & Workforce Development Agency (“LWDA”) March 9, 2021): the (a) failure to pay all overtime wages owed; (b) failure to pay 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-compliant rest periods; (e) failure to issue accurate, itemized wage statements; and (f) failure to pay all wages due upon separation of employment that occurred during the PAGA Period (collectively, “PAGA Released Claim”). The release period of the PAGA Released Claims is the same time period as the PAGA Period.

- C. Upon the Effective Date, all Class Members shall be deemed to have, and by operation of Judgment (defined below) shall have, released, waived and relinquished the Released Claims. The Settlement Class Members (who do not submit a timely Request for Exclusion) shall be enjoined from filing any actions, claims, complaints or proceedings against the Released Parties regarding the Released Claims.
- 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 through the date Plaintiff signs this Agreement. 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.

Plaintiff, being aware of Section 1542, hereby expressly waives and relinquishes all rights and benefits he may have under Section 1542 as well as any other statutes or common law principles of a similar effect. Plaintiff may hereafter discover facts in addition to or different from those which he now knows or believes to be true with respect to the subject matter of all the claims referenced herein, but stipulates and agrees that, upon the Effective Date, Plaintiff shall and hereby does fully, finally and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, contingent or non-contingent, that were asserted or could have been asserted upon any theory of law or equity without regard to the subsequent discovery of existence of such different or additional facts.

Plaintiff's Initials: BS

- E. Notwithstanding the above, nor anything else in this Settlement, Plaintiff's 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; (ii) rights or claims arising after this Agreement is executed by Plaintiff; and (iii) rights or claims arising out of this Settlement. This Agreement in no way affects Plaintiff's entitlement and/or benefits to be received by Plaintiff in workers' compensation pursuant to the jurisdiction of workers' compensation. An IRS Form 1099 shall issue for the enhancement award.
- F. The releases identified herein shall be null and void if the Gross Settlement Amount is not fully funded.

5. **Gross Settlement Amount.** As consideration, Defendant agrees to pay a “Gross Settlement Amount” of One Million Three Hundred Fifty Thousand Dollars and Zero Cents (\$1,350,000) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrators as the “Settlement Administrator” to administer this Settlement. All administrative costs shall be paid from the Gross Settlement Amount.
- B. 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 will have the option to pay the Gross Settlement Amount in two (2) payments up to 90 days apart to the Administrator with the first payment commencing 30 days after the Effective Date of the Settlement and the second payment due no later than 120 days of the Effective Date. Defendant agrees to deposit the full amount of the Gross Settlement Amount with the Settlement Administrator by no later than 120 days after the Effective Date. “Effective Date” for performance and payment by Defendant shall be no sooner than the date when all of the following events have occurred: (a) the Settlement Agreement and related documents are approved and executed by all Parties and by Class Counsel and Defense Counsel; (b) the Court has given preliminary approval to the Settlement; (c) notice has been given to the Settlement Class Members providing them with an opportunity to Opt-Out of the Class Settlement; (d) the Court has held a Final Approval and Fairness Hearing and entered a final order and judgment certifying the Class and approving this Stipulation; (e) notice of final judgment has been given to the Settlement Class Members pursuant to California Rules of Court, rule 3.771(b); and (f) the later of the following events: (1) the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Class Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; (2) or the dismissal of any appeal, writ, or other appellate proceeding opposing the Class Settlement with no right to pursue further remedies or relief; or (3) any appeal, writ, or the issuance of such other final appellate order upholding the Court’s final order with no right to pursue further remedies or relief or (4) July 30, 2021. In the event there is a timely filed motion to set aside judgment or to intervene, the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Class Settlement will be based on the later of the court’s ruling or order on any such motion or entry of final order and judgment certifying the Class and approving this Stipulation but in no event will any payment be required sooner than July 30, 2021.
- C. With the sole exception of paying the employer’s share of payroll taxes or any increase to the Gross Settlement Amount (as set forth in this Settlement Agreement), Defendant shall fully discharge its obligations to Plaintiff and Class Members through the remittance of the Gross Settlement Amount, in full, to the Settlement Administrator as set forth in paragraph 5(B), regardless of whether checks representing individual Settlement Awards are actually received and/or negotiated by Class Members.

D. 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 Thirty-Five Thousand Five Hundred Dollars and Zero Cents (\$35,500.00);
- (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 (including up to one-third of any increase in the Gross Settlement Amount pursuant to Paragraph 12), 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 Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees or costs, Class Counsel shall not have the right to revoke this Settlement Agreement, and it will remain binding; and
- (5) Forty Thousand Dollars and Zero Cents (\$40,000.00) 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 Thirty Thousand Dollars and Zero Cents (\$30,000.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or Ten Thousand Dollars and Zero Cents (\$10,000.00), will be payable to certain Settlement Class Members as the "PAGA Amount," as described below.

E. Defendant's share of payroll taxes shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount. Unless otherwise provided for in this Agreement, this is the sole exception of a required payment by either Defendant in addition to the Gross Settlement Amount.

6. **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, not including the PAGA Amount payable to Settlement Class Members as described above, 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 workweeks worked during the Class Period, the numerator of which is the Settlement Class Member’s total workweeks worked during the Class Period, and the denominator of which is the total workweeks worked by all Settlement Class Members who worked during the Class Period.
 - ii. PAGA Amount: In addition, Ten Thousand Dollars and Zero Cents (\$10,000.00) 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 workweeks that he or she worked during the PAGA Period, which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Employee’s number of workweeks worked during this time period, and the denominator of which is the total number of workweeks worked by all PAGA Employees.
- C. Within ten (10) business days following Defendant’s deposit of the full amount 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) business 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.
- D. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: eighty percent (80%) as penalties and interest; and twenty percent (20%) 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. No tax advice has been given to any Settlement Class Member. No tax result is guaranteed as related to any payment under this Settlement. Defendant makes no representation as to the tax treatment or legal effect of the payments called for under this Settlement Agreement. 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.

- E. Each member of the Settlement Class who receives a Settlement Award must cash the check(s) within 120 days from the date the settlement checks are issued. Any check that is not negotiated within one hundred twenty (120) days of mailing to a Class Member will be distributed consistent with Code of Civil Procedure Section 384 (a *cypres* to be selected by Defendant and approved by the Court, such as the Valley Children's Hospital, Juvenile Diabetes Research Foundation (JD RF) or American Cancer Society or other non-profit organization), or, in the alternative if Defendant cannot get court approval on any organization acceptable to the Defendant, any check that is not negotiated within the 120 days of mailing to a Class Member will transferred to the California's Secretary of State Controller's Office – Unclaimed Property Fund under the unclaimed property laws in the name of the Class Member.
- F. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

7. **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 (including one-third of any increase of the Gross Settlement Amount pursuant to Paragraph 12), and which is currently estimated to be Four Hundred Fifty Thousand Dollars and Zero Cents (\$450,000.00). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) 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. Class Counsel is responsible for any and all taxes associated with any payments to Class Counsel under this Settlement Agreement.

8. **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. Plaintiff is responsible for any and all taxes associated with this Service Award.

9. **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 Thirty-Five Thousand Five Hundred Dollars and Zero Cents (\$35,500.00) 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. The Settlement Administrator shall keep counsel for Defendant and Class Counsel apprised of the status of its distribution of Settlement Awards. Upon completion of administration of the Settlement, the Settlement Administrator shall provide a detailed, written certification of such completion to the Court and counsel for the Parties.

10. **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, Elizabeth Nguyen, and Romina Tamiry of Lidman Law, APC as Class Counsel;
- C. Appointing Bernardo Santos aka Julio Garay 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 Individual Settlement Award, drafts of which are attached collectively hereto as Exhibit A), and directing the mailing of same;
- G. Staying all other proceedings in the Action until Final Approval; and
- H. Scheduling a Final Approval hearing.

Class Counsel will draft the preliminary approval papers and final approval papers. Defendant agrees not to file an opposition to the Motion for Preliminary Approval or Motion for Final Approval.

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

- A. Within twenty (20) business 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, the dates of employment and the number of workweeks worked by each Settlement Class Member while employed during the Class Period (the “Class Data”). The Class Data shall be marked “Confidential –Settlement Administrator’s Eyes Only.” Class Counsel shall not receive a copy of this list. The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.
- B. Within twenty (20) 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 in English and Spanish to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Notice Packets shall be mailed to all Settlement Class Members in the form of Exhibit A that is approved by the Court within twenty (20) business days from receipt of the Class Data. Plaintiff and Class Counsel will not distribute any other documents or notices (whether by mail, on-line, or otherwise) regarding this Action or Settlement.
- D. Requests for Exclusion. Any Settlement Class Member other than Plaintiff who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”). PAGA Employees are not permitted to request exclusion to the PAGA Settlement. By signing this Settlement Agreement, Plaintiff agrees to be bound by its terms, and further agrees not to request exclusion or object to any terms of the Settlement.
 - 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 and should state something to the effect of: “I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE SANTOS V. TORRES FARM LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM

THE CLASS SETTLEMENT OF THIS LAWSUIT.”; (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 Settlement Administrator shall provide Class Counsel and Defendant’s counsel with weekly reports as to any Requests for Exclusion.

- E. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by sending the written objection to the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant’s counsel). PAGA Employees are not permitted to request exclusion to the PAGA Settlement. 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 should: (1) contain the objecting Settlement Class Member’s full name and current address, as well as contact information for any attorney representing the objecting Settlement Class Member for purposes of the objection; (2) reasons for all objections; (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. If an objector also wishes to appear at the Final Approval and Fairness Hearing, in person or through an attorney, he or she *must also* file a notice of intention to appear at the same time as the objection is filed. The Settlement Administrator will promptly serve copies of any objection or notice of intention to appear on Class Counsel and Defense Counsel. Unless otherwise ordered by the Court, Settlement Class Members shall not be entitled to appear and/or object at the Final Approval Hearing unless they have submitted a timely written objection and notice of intention to appear pursuant to this Section. Settlement Class Members who have properly and timely submitted objections may appear at the Final Approval Hearing, either remotely, in person or through a lawyer retained at their own expense. Members of the Settlement Class who do not submit an objection or appear at the Final Approval Hearing and voice an objection shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement. The Settlement Administrator shall provide Class Counsel and Defendant’s counsel with weekly reports as to any written objections.

- F. Notice of Individual 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 as all of the information that was used from Defendant's records in order to calculate the Settlement Award, including the Settlement Class Member's number of workweeks worked during the Class Period, and the number of workweeks worked during the PAGA Period. Settlement Class Members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Individual 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. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Settlement Class Member and the Parties. In addition, the Notice Packets will include the url address to the website maintained by the Settlement Administrator in order to provide notice to the Settlement Class of the date, time, location of the Final Approval Hearing, opt-out deadline, or any changes thereto. The Settlement Administrator shall provide and maintain a website that will provide sufficient information to notify Settlement Class Members of the name of the case, case number, Final Approval Hearing date, time, location and opt-out deadline, and any changes thereto.
- G. 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) calendar 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. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement.

12. **Escalator Clause.** Defendant represents that there are an estimated 163,000 workweeks worked by the Settlement Class Members during the Class Period as of February 26, 2021. If the number of workweeks during the Class Period is more than 20% greater than this figure (i.e., if there are 195,600 or more workweeks worked by the Settlement Class Members during the Class Period), Defendant has the option to either: (1) agree to increase the Gross Settlement Amount on a proportional basis (i.e., if there was 21% increase in the number workweeks during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 1%); or (2) in the alternative, in the event that this escalator provision is triggered, then Defendant has the option to elect to end the Class Period and PAGA Period so as to have an earlier end date at the Defendant's discretion in order to limit the covered workweeks to 195,600 in lieu of paying an increase to the Gross Settlement Amount.

13. **Revocation Option for Defendant.** If more than five percent (5%) of the Class Members opt out of the Settlement, Defendant may, at its 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 ten (10) business days after the Settlement Administrator notifies the Parties of a greater than five (5%) opt-out rate. If the option to rescind is exercised, then Defendant shall be solely responsible for all costs of the Settlement Administration actually accrued to that point not to exceed, \$35,500. Any dispute may be address by motion to the court for determination of reasonableness of the costs.

14. **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. Notice of the Judgment to Class Members will be provided by posting it on the website to be maintained by the Settlement Administrator or as otherwise ordered by the court.

15. **Non-Admission of Liability.** Defendant contends that all of their employment practices have complied with applicable law, that Class Members were and are properly compensated for all wages, including (without limitation) overtime, and were and are provided all meal and rest breaks, in compliance with applicable law; and that their conduct was not willful or otherwise unlawful with respect to the payment of wages to Class Members. Defendant has denied and continue to deny each of the claims and contentions alleged by Plaintiff in the Action. Defendant denies any wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Action and believes they have valid defenses to Plaintiff's claims. This Agreement reflects the compromise and settlement of disputed claims between the Parties, and its provisions and any and all drafts, communications or discussions relating thereto do not constitute, are not intended to constitute, and will not under any circumstances be deemed to constitute an admission by either Party as to the merits, validity or accuracy of any of the allegations or claims in the Action, nor a

waiver of any defense. 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.

16. **Non-disclosure and Non-publication.** 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.

17. **Different Facts.** The Parties hereto, and each of them, acknowledge that, except for matters expressly represented herein, the facts in relation to the dispute and all claims released by the terms of this Stipulation may turn out to be other than or different from the facts now known by each party and/or its counsel, or believed by such Party or counsel to be true, and each Party therefore expressly assumes the risk of the existence of different or presently unknown facts, and agrees that this Stipulation shall be in all respects effective and binding despite such difference.

18. **No Prior Assignments.** The Parties represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right herein released and discharged except as set forth herein.

19. **Non-Admission.** Nothing in this Stipulation shall be construed as or deemed to be an admission by any Party of any liability, culpability, negligence, or wrongdoing toward any other Party, or any other person, and the Parties specifically disclaim any liability, culpability, negligence, or wrongdoing toward each other or any other person. Each of the Parties has entered into this Stipulation with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and contingencies. Nothing herein shall constitute any admission by Defendant of wrongdoing or liability, or of the truth of any factual allegations in the Action. Nothing herein shall constitute any admission by either Defendant regarding the merits of the Claims in this Action, including but not limited to claims for unpaid wages or violations under California and/or federal law. Nothing herein shall constitute an admission by either Defendant

that the Action was properly brought as a class or representative action other than for settlement purposes. To the contrary, Defendant has denied and continue to deny each and every material factual allegation and all Claims. To this end, the Class Settlement of the Action, the negotiation and execution of this Stipulation, and all acts performed or documents executed pursuant to or in furtherance of this Stipulation or the Class Settlement are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of Defendant or of the truth of any of the factual allegations in the Complaint in the Action; and are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omission on the part of Defendant in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal.

20. **Non-Evidentiary Use.** Neither this Agreement nor any of its terms, nor any statements or conduct in the negotiation or drafting of it, shall be offered or used as evidence by Plaintiff, any Class Member (including any individual who requested to be excluded from the Class), in the Action, except as is reasonably necessary to effectuate the Agreement's purpose and terms. This Agreement may be used by Defendant and the Released Parties to prove or defend against any claim released herein by any Class Member in any judicial, quasi-judicial, administrative, or governmental proceeding.

21. **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.

22. **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.

23. **No Construction Against Drafter.** This Settlement Agreement shall be deemed to have been drafted jointly by the Parties, and any rule that a document shall be interpreted against the drafter shall not apply to this Agreement. The Parties agree that any earlier drafts of this Agreement and/or related documents cannot be used as alleged evidence of intent of any Party.

24. **Governing Law.** This Stipulation is intended to and shall be governed by the laws of the State of California, without regard to conflict of law principles, in all respects, including execution, interpretation, performance, and enforcement and any dispute arising out of this shall be venued in Kern County.

25. **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.

26. **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: Thomas P. Feher, Esq., Lebeau Thelen LLP, 5001 E Commercenter Dr 300, Bakersfield, CA 93309; tfeher@lebeauthelen.com

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

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

27. **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.

28. **Entire Agreement.** This Settlement Agreement including the Exhibits, which are incorporated into and made a part of 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, including (without limitation) the Parties' Memorandum of Understanding memorializing the Settlement terms. This Settlement Agreement is executed without reliance upon any promise, representation or warranty by any Party or any representative of a Party, other than those expressly set forth in this Agreement.

29. **Agreement Binding on Successors in Interest.** This Settlement Agreement shall be binding and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the Parties.

30. **Jurisdiction of the Court.** Any dispute regarding the interpretation or validity of or otherwise arising out of this Settlement Agreement, or relating to the Action or the Released Claims, shall be subject to the exclusive jurisdiction of the Court, and Plaintiff, Class Members and Defendant agree to submit to the personal and exclusive jurisdiction of the Court for the purpose of resolving any such dispute. Following the Effective Date, the Court shall retain jurisdiction solely with respect to the interpretation, implementation and enforcement of the terms of this Settlement Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the Settlement embodied in this Settlement Agreement and all orders and judgments entered in connection therewith.

31. **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. Signatures by facsimile or in Portable Document Format (PDF) shall have the same force and effect as original signatures.

DATED: 4-24-21

DEFENDANT TORRES FARM LABOR
CONTRACTORS, INC.

By: Humberto Torres

Its: Manager

DATED:

PLAINTIFF BERNARDO SANTOS

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED:

LEBEAU THELEN LLP

By: _____
Thomas P. Feher, Esq.
Attorneys for Defendant Torres Farm Labor
Contractor, Inc.

DATED:

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Attorneys for Plaintiff Bernardo Santos

DATED:

LIDMAN LAW, APC

By: _____
Scott M. Lidman
Attorneys for Plaintiff Bernardo Santos

DATED:

DEFENDANT TORRES FARM LABOR
CONTRACTORS, INC.

By: _____

Its: _____

DATED: Apr 23, 2021

PLAINTIFF BERNARDO SANTOS

By: Bernardo Santos
Bernardo Santos (Apr 23, 2021 15:25 PDT)
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED:

LEBEAU THELEN LLP

By: _____
Thomas P. Feher, Esq.
Attorneys for Defendant Torres Farm Labor
Contractor, Inc.

DATED: April 23, 2021

HAINES LAW GROUP, APC

By: 
Paul K. Haines
Attorneys for Plaintiff Bernardo Santos

DATED: April 23, 2021

LIDMAN LAW, APC

By: 
Scott M. Lidman
Attorneys for Plaintiff Bernardo Santos

DATED:

DEFENDANT TORRES FARM LABOR
CONTRACTORS, INC.

By: _____

Its: _____

DATED:

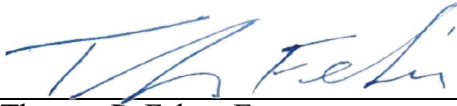
PLAINTIFF BERNARDO SANTOS

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: 4/24/21

LEBEAU THELEN LLP

By:  _____
Thomas P. Feher, Esq.
Attorneys for Defendant Torres Farm Labor
Contractor, Inc.

DATED:

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Attorneys for Plaintiff Bernardo Santos

DATED:

LIDMAN LAW, APC

By: _____
Scott M. Lidman
Attorneys for Plaintiff Bernardo Santos

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF KERN

BERNARDO SANTOS,

Plaintiff,

vs.

TORRES FARM LABOR CONTRACTOR, INC., a
California corporation; and Does 1 through 100,

Defendants.

Case No. BCV-19-102470

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

To: All current and former non-exempt, hourly, employees of Defendant Torres Farm Labor Contractor, Inc. who worked at Grimmway Enterprises, Inc. and related entities' facilities (including, but not limited to, Grimmway Enterprises, Inc. aka Grimmway Farms and Cal-Organic Farms) in California at any time between August 29, 2015 and [the date of preliminary approval or May 1, 2021 whichever comes first]. 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 entitled *Bernardo Santos v. Torres Farm Labor Contractor, Inc.*, Kern County Superior Court Case No. *BCV-19-102470* (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 Defendant as an hourly, non-exempt employee in California between from August 29, 2015 through [the date of preliminary approval or May 1, 2021 whichever comes first] (the "Class Period"). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the 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 Bernardo Santos ("Plaintiff") brought this Lawsuit against Defendant, seeking to assert claims on behalf of a class of current and former hourly, non-exempt employees who worked for Defendant, in California at any time on or after August 29, 2015. Plaintiff Bernardo Santos 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 all minimum and overtime wages owed, failed to provide to Settlement Class Members all required meal and rest periods, and failed to provide Settlement Class Members with itemized wage statements in compliance with California law. The Lawsuit also alleges that Defendant failed to timely pay all wages owed to Settlement Class Members upon their separation of

employment from Defendant. As a result of the foregoing alleged violations, Plaintiff also alleges that Defendant engaged in unfair business practices and is liable for civil penalties under the Labor Code Private Attorney General Act.

Defendant denies that it has done anything wrong. Defendant further denies that it owes Settlement Class Members any wages, restitution, penalties, or other damages. No Court has made any determination as to the factual allegations in the Lawsuit. Rather, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, and it expressly denies all liability.

The Court has not ruled that Defendant violated any laws or whether Plaintiff or any other person is entitled to damages or other relief. However, to avoid additional expense, inconvenience, and interference with their business operations, Defendant has concluded that it is in its best interest 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 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 Romina Tamiry rtamiry@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 155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com	Attorneys for Defendant Torres Farm Labor Contractor, Inc. LEBEAU THELEN LLP Thomas P. Feher tfeher@lebeauthelen.com 5001 E. Commercenter Dr. 300 Bakersfield, CA 93309 Tel: (661) 325-8962
--	--

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 employees who worked for Defendant at any time in California from August 29, 2015 through [the date of preliminary approval or May 1, 2021 whichever comes first]. 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 \$1,350,000.00 (the “Gross Settlement Amount”) to fully resolve all claims in the Lawsuit, which includes 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 an amount not to exceed \$35,500.00 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 \$450,000.00, 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 in an amount not to exceed \$25,000.00 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 not to exceed \$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 \$40,000.00 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 Thirty Thousand Dollars and Zero Cents (\$30,000.00) will be payable to the LWDA, and the remaining twenty-five percent (25%), or Ten Thousand Dollars and Zero Cents (\$10,000.00), 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 \$<< >>, to be shared among an up to << >> estimated Settlement Class Members.

The Net Settlement Fund 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 workweeks worked during the Class Period, the numerator of which is the Settlement Class Member’s total workweeks worked during the Class Period, and the denominator of which is the total workweeks worked by all Settlement Class Members who worked during the Class Period.

In addition, Ten Thousand Dollars and Zero Cents (\$10,000.00) of the Gross Settlement Amount has been designated as the “PAGA Amount” as described above. All PAGA Employees shall receive a portion of the PAGA. “PAGA Employees” include all current and former non-exempt, hourly, employees of Defendant who worked in California (including those who submit a Request for Exclusion) at any time between from August 29, 2018 and [the end of the Class Period] (“PAGA Period”). A PAGA Employee shall receive a portion of the PAGA Amount proportionate to the number of Workweeks that he or she worked during the period the PAGA Period and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Employee’s number of Workweeks worked during the PAGA Period, and the denominator of which is the total number of Workweeks worked by all PAGA Employees during the PAGA 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.

If you submit a Request for Exclusion, you will still receive a proportionate share of the PAGA Payment regardless of whether you exclude yourself from the Settlement if you are a PAGA Employee.

Each member of the Settlement Class who receives a Settlement Award must cash the check within 120 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class Members who checks were not cashed within 120 days after mailing will be submitted to designated the non-profit organization approved by the Court.

Payment by Defendant of Gross Settlement Amount. The Gross Settlement Amount shall be paid by Defendant with the Settlement Administrator in two equal payments. The first payment in the amount of \$675,000 is due within 30 days of the Effective Date. The second payment in the amount of \$675,000 is due within 120 days of the Effective Date.

“Effective Date” for performance and payment by Defendant shall be no sooner than the date when all of the following events have occurred: (a) the Settlement Agreement and related documents are approved and executed by all Parties and by Class Counsel and Defense Counsel; (b) the Court has given preliminary approval to the Settlement; (c) notice has been given to the Settlement Class Members providing them with an opportunity to Opt-Out of the Class Settlement; (d) the Court has held a Final Approval and Fairness Hearing and entered a final order and judgment certifying the Class and approving this Stipulation; (e) notice of final judgment has been given to the Settlement Class Members pursuant to California Rules of Court, rule 3.771(b); and (f) the later of the following events: (1) the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Class Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; (2) or the dismissal of any appeal, writ, or other appellate proceeding opposing the Class Settlement with no right to pursue further remedies or relief; or (3) any appeal, writ, or the issuance of such other final appellate order upholding the Court’s final order with no right to pursue further remedies or relief or (4) July 30, 2021. In the event there is a timely filed motion to set aside judgment or to intervene, the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Class Settlement will be based on the later of the court’s ruling or order on any such motion or entry of final order and judgment certifying the Class and approving this Stipulation but in no event will any payment be required sooner than July 30, 2021.

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

If the Court grants final approval of the Settlement, the Settlement Awards are expected to be mailed in 2022.

Allocation and Taxes. For tax purposes, each Settlement Award shall be allocated as follows: eighty percent (80%) as penalties and interest; and twenty percent (20%) 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 release Defendant Torres Farm Labor Contractor, Inc. and all the entities for whom Torres Farm Labor Contractor, Inc. provided labor (“Released Affiliates”) in the Class Period (including, but not limited to, Grimmway Enterprises, Inc. aka Grimmway Farms and Cal-Organic Farms) and all of Defendant’s and Released Affiliates present and former parent companies, subsidiaries, divisions, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be liable for any of the Released Claims as defined below (hereinafter “Released Parties”) will release the Released Parties from those claims alleged in the operative Complaint or that could have been raised in the complaint (“Complaint”) based on the factual allegations therein, that arose during the Class Period, including, but not limited to, all claims under state, federal or local law, whether statutory, common law or administrative law, arising out of or related to allegations set forth in the operative Complaint or any PAGA Notice to the Labor and Workforce Development Agency (LWDA) related to this matter, including but not limited to: claims for minimum wage violations; failure to pay overtime wages; failure to pay wages timely; penalties; rest period violations; meal period violations; failure to keep proper records; itemized wage statement violations; waiting time penalties; unfair competition; declaratory relief; (claims under Labor Code sections 201, 202, 203, 204, 210, 226, 226.2, 226.3, 226.7, 510, 512, 1102.5, sections 11 and 12 of the applicable IWC Wage Order(s) and the California Business and Professions Code § 17200 *et seq.* based on the foregoing Labor Code violations); and claims for civil penalties pursuant to the California Private Attorneys General Act; including, but not limited to, injunctive relief; liquidated damages, penalties of any nature; interest; fees; costs; and all other claims and allegations made or which could have been made in the Action and/or in the form of a PAGA claim from August 29, 2015 through the date of preliminary approval of the Settlement (collectively, “Released Claims”).

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

PAGA Release and PAGA Employees. If the Court approves the Settlement, all PAGA Employees will release the Released Parties, from all claims, demands, rights, liabilities and causes of action under the California Labor Code Private Attorneys General Act of 2004 based on (as alleged in the letter to the LWDA dated March 9, 2021) the (a) failure to pay all overtime wages owed; (b) failure to pay 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-compliant rest periods; (e) failure to issue accurate, itemized wage statements; and (f) failure to pay all wages due upon separation of employment (collectively, “PAGA Released Claim”).

The time period of the PAGA Released Claim is August 29, 2018 through [the end of the Class Period] (“PAGA Period”).

The Parties acknowledge that under the release, the right of the LWDA to investigate the PAGA Released claim is not released, but the PAGA Released Claim does include any claims for penalties by a PAGA Employee as a result of any such LWDA investigation, and PAGA Employees are barred from their right to act as a private attorney general as to the PAGA Released Claims.

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

The releases are null and void if Defendant fails to fully fund the Gross Settlement Amount.

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 workweeks you worked during the Class Period (as explained above), and as stated in the accompanying Notice of Individual 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 Individual Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period, whether you have worked during the PAGA Period, and whether your employment was separated during the Class Period. 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 Individual Settlement Award. If you disagree with the information in your Notice of Individual Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Individual 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 SANTOS V. TORRES FARM LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE CLASS ACTION 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 August 29, 2018 and **[CLOSE DATE OF THE CLASS PERIOD]**.

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 may 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.

If you also wish to appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department of the Kern County Superior Court, located at 1415 Truxtun Avenue, Bakersfield, California 93301, either remotely, in person or through an attorney, you must also file a notice of intention to appear with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. 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 *Bernardo Santos v. Torres Farm Labor Contractor, Inc.*, Kern County Superior Court Case No. BCV-19-102470.

Any 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 other orders related to COVID-19. All such rules and orders can be located at the Court's website [kern.courts.ca.gov](https://www.kern.courts.ca.gov).

For more information on how to appear remotely, please visit the Court's website at https://www.kern.courts.ca.gov/online_services/remote_court_hearings.

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 of the Kern County Superior Court, located at 1415 Truxtun Avenue, Bakersfield, California 93301. 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 be posted on the Settlement Administrator's website (<http://.com>).

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 by requesting judicial records online at https://www.kern.courts.ca.gov/online_services/judicial_records_requests/disclaimer or at the Office of the Clerk of the Kern County Superior Court, located at , during regular court hours. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANT 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 INDIVIDUAL SETTLEMENT AWARD

Bernardo Santos v. Torres Farm Labor Contractor, Inc.

Kern County Superior Court Case No. BCV-19-102470

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

(I) Please type or print your name:

(First, Middle, Last)

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

Former Names (if any)

New Street Address

City

State

Zip Code

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

According to Torres Farm Labor Contractor, Inc.'s records ("Defendants"):

(a) You were employed by Defendant and worked a total of [] workweeks during the time period August 29, 2015 through [<<date of preliminary approval or May 1, 2021 whichever comes first>>].

(b) You were employed by Defendant and worked a total of [] workweeks during the time period August 29, 2018 through [<<End of Class Period>>].

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

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

If you dispute the above information from Defendant's records, Defendant's records will control unless you are able to provide documentation that establishes that Defendant's records are mistaken. If there is a dispute about whether Defendant'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 2

to Nguyen Decl.

EXHIBIT 2
to Nguyen Decl.

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

March 9, 2021

VIA LWDA WEBSITE

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

VIA U.S. CERTIFIED MAIL

Thomas P. Feher, Esq.
LEBEAU THELEN, LLP
5001 E. Commercenter Drive, Ste. 300
P.O. Box 12092
Bakersfield, CA 93389-2092
Tel.: (661) 325-8962
Fax: (661) 325-1127

Attorneys for Defendant
TORRES FARM LABOR CONTRACTOR,
INC.

Re: *Bernardo Santos v. Torres Farm Labor Contractor, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Bernardo Santos in claims arising from his employment with Torres Farm Labor Contractor, Inc., a California corporation ("Defendant"). Mr. Santos 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.

Mr. Santos, a former non-exempt employee, was employed by Defendant from approximately March 2016 through approximately November 2018. During his employment with Defendant, Defendant assigned him to work at Grimmway Farms and his duties included without limitation, driving a forklift.

During his employment with Defendant, Mr. Santos was generally scheduled to work 10- or 11-hour shifts, Monday through Saturday. Defendant did, and upon information and belief, still utilizes a timekeeping system which resulted in Mr. Santos not being compensated for hours actually worked whether by time-shaving or otherwise. Specifically, Defendant would keep track of Mr. Santos' time worked and would unlawfully shave Mr. Santos' work time and/or round Mr. Santos' work time such that Mr. Santos would not be fully paid all wages he was rightfully owed. Mr. Santos was required to work and clock in 5 minutes before the start of his scheduled shift but was not compensated until his scheduled start time. Further, upon information and belief, Defendant had a policy and practice of automatically deducting 15 minutes from an employee's work time if he or she clocked in after the scheduled start time regardless of the actual number of minutes the employee clocked in late. This time

shaving/rounding practice utilized by Defendant was not-even handed over time and would round and/or shave in Defendant's favor such that Mr. Santos was routinely underpaid for his time worked and deprived him of all minimum wages owed.

Additionally, Mr. Santos and other non-exempt employees often worked over ten hours in a day, and Defendant's policy and practice of failing to compensate them for all hours worked also deprived them of all overtime wages owed.

While working for Defendant, Mr. Santos often worked in excess of ten hours per workday, but did not receive overtime compensation equal to one and one-half times his regular rate of pay for all such overtime hours. Specifically, upon information and belief during at least a portion of the class period, Defendant paid Mr. Santos weekly "Units" pay and/or bonuses. These "Units" pay, bonuses, and/or other forms of pay were not excludable as a matter of law when calculating an employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay"). Despite Defendant's payment of Incentive Pay to Mr. Santos, Defendant failed to include all forms of Incentive Pay when calculating Mr. Santos' regular rate of pay, thereby causing Mr. Santos to be underpaid all of his required and legally owed overtime wages.

Throughout Mr. Santos' employment with Defendant, Mr. Santos was not provided all legally required meal periods due to Defendant's meal period policies and practices, which fail to provide 30-minute first meal periods before the end of the fifth hour of work, and fail to provide second meal periods for shifts of over 10.0 hours. Defendant had a policy and practice of staggering the meal periods for non-exempt employees, resulting Defendant providing non-exempt employees with a meal period after the start of their fifth hour of work. As a result, Mr. Santos' and other non-exempt employees' meal periods were often late or otherwise unlawful. Additionally, for at least a portion of the class period, Defendant would auto-deduct 30 minutes of time from the work time of Mr. Santos and other non-exempt employees regardless of whether they actually took a meal period, and regardless of how long a meal period was if in fact taken. Further, when Mr. Santos worked shifts of over 10.0 hours, he was not always provided a second 30-minute meal period due to Defendant's meal period policies/practices that failed to provide for a second meal period for shifts of over 10.0 hours.

Although Mr. Santos was not provided with all legally-compliant meal periods to which he was entitled, Defendant failed to compensate Mr. Santos 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 class period, 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 their non-exempt employees.

Mr. Santos was also not authorized and permitted to take all required rest periods due to Defendant's rest period policies/practices. Defendant's policy and/or practice fails to authorize and permit all rest periods for every four hours worked, or major fraction thereof. Specifically, Mr. Santos was not provided a third 10-minute rest period on all shifts worked in excess of 10.0 hours due to Defendant's rest period policies/practices that failed to authorize and permit a third rest period for shifts of over 10.0 hours during at least a portion of Mr. Santos' employment.

On those occasions when Mr. Santos was not authorized and permitted to take all legally-compliant rest periods to which he was entitled, Defendant failed to compensate Mr. Santos 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 class period, Defendant maintained no payroll code or other mechanism for paying rest period premiums when Defendant failed to provide a legally compliant rest period.

As a result of Defendant's failure to pay all minimum and overtime wages, as well as meal and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Santos. In addition, Defendant issued inaccurate wage statements with respect to the payment of wages for "units", which is vague and ambiguous and requires Mr. Santos to speculate to its meaning.

As a further result of Defendant's failure to pay all minimum and overtime wages and failure to pay meal and rest period premium wages, Defendant failed to pay all wages owed to Mr. Santos upon separation of his employment with Defendant.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 14 ("Wage Order 14"):

Minimum Wage Violations

Defendant was required to pay Mr. Santos 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 14, § 4. Mr. Santos 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. Santos and other aggrieved employees to work hours in a workweek but did not properly compensate Mr. Santos and other aggrieved employees at least minimum wages for all such hours, due to Defendant's unlawful timekeeping practices of rounding and/or shaving Mr. Santos's time worked. This practice by Defendant resulted in Defendant not paying Mr. Santos for all wages owed for the work he performed, including failing to pay him all required minimum wages.

Overtime Violations

Defendant was required to pay Mr. Santos 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 14, § 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, Defendant paid Mr. Santos weekly "Units" pay and/or bonuses. These "Units" pay, bonuses, and/or other forms of pay were not excludable as a matter of law when calculating an employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay"). Despite Defendant's payment of Incentive Pay to Mr. Santos, Defendant failed to include all forms of Incentive Pay when calculating Mr. Santos' regular rate of pay, thereby causing Mr. Santos to be underpaid all of his required and legally owed overtime wages. As a result of these policies/practices, Mr. Santos 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. Santos and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 14, § 11. As described above, Defendant had a policy and practice of staggering the meal periods for non-exempt employees, resulting in Defendant providing non-exempt employees with a meal period after the start of their fifth hour of work. As a result, Mr. Santos' and other non-exempt employees' meal periods were often late or otherwise unlawful. Additionally, for at least a portion of the class period, Defendant would auto-deduct 30 minutes of time from the work time of Mr. Santos and other non-exempt employees regardless of whether they actually took a meal period, and regardless of how long a meal period was if in fact taken. Further, when Mr. Santos worked shifts of over 10.0 hours, he was not always provided a second 30-minute meal period due to Defendant's meal period policies/practices that failed to provide for a second meal period for shifts of over 10.0 hours. As a result, Mr. Santos 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. Santos was not provided with all legally-compliant meal periods to which he was entitled, Defendant failed to compensate Mr. Santos 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 also failed to authorize and permit Mr. Santos and other aggrieved employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 14, § 12. Specifically, Mr. Santos was not provided a third 10-minute rest period on all shifts worked in excess of 10.0 hours due to Defendant's rest period policies/practices that failed to authorize and permit a third rest period for shifts of over 10.0 hours during at least a portion of Mr. Santos' employment. As a result, Mr. Santos 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. Santos and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total gross wages earned, total net wages earned, and meal and rest period premium wages in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Mr. Santos 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, and unpaid meal period and premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data. Further, Defendant failed to comply with Labor Code section 226 by furnishing wage statements with vague and ambiguous codes, including without limitation, "units".

Failure to Pay All Wages Upon Termination

Defendant failed to timely pay Mr. Santos all of his 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. Santos is informed and believes, that as a matter of uniform policy and practice, Defendant continues to fail to pay other aggrieved 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. Santos and other aggrieved 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.

As an "aggrieved employee," Mr. Santos 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. Santos 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. Santos and other aggrieved employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Santos 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. Santos and other aggrieved employees;
- d) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Santos and other aggrieved employees;
- e) Defendant violated Labor Code § 226 by failing to furnish Mr. Santos and other aggrieved employees with accurate and compliant itemized wage statements;
- f) Defendant violated Labor Code § 204 by failing to pay Mr. Santos and other aggrieved employees all earned wages at least twice during each calendar month;
- g) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Santos and other aggrieved employees; and

- h) Defendant violated Labor Code § 203 by failing to pay Mr. Santos and other aggrieved employees for all wages owed at the time of their termination of employment.

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

EXHIBIT 2

EXHIBIT 2

LIDMAN LAW, APC

Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Elizabeth Nguyen (SBN 238571)
enguyen@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Romina Tamiry (SBN 328420)
rtamiry@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
BERNARDO SANTOS

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
BERNARDO SANTOS

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

BERNARDO SANTOS, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

TORRES FARM LABOR CONTRACTOR,
INC., a California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No. BCV-19-102470-DRL

*[Assigned for All Purposes to the Hon. David R.
Lampe, Dept. 11]*

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

Date: June 24, 2021
Time: 8:30 a.m.
Dept.: 18

Complaint Filed: August 30, 2019
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 Bernardo Santos (“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. I am a 1998 graduate of Santa Clara University School of Law, where I graduated *summa*
8 *cum laude*. During law school, I worked as a summer associate for the international employment law firm
9 of Littler Mendelson, P.C., located in Los Angeles, California.

10 3. Since graduating from law school, my practice has focused exclusively on employment
11 litigation. In September 1998, I began working as an associate attorney at the international law firm of
12 Littler Mendelson P.C., at its Los Angeles office, which according to its website is the largest law firm in
13 the world exclusively devoted to representing management in employment, employee benefits and labor
14 law matters.

15 4. In 2000, I left Littler Mendelson to work at the Los Angeles office of Jones Day, which
16 was at the time one of the largest international firms in the world. During my employment at Jones Day,
17 I worked exclusively in the labor and employment department. In or around 2003, I went to work at the
18 law firm of Loeb & Loeb, again working exclusively in the Labor & Employment department. In 2008, I
19 returned to Littler Mendelson, was promoted to Shareholder in 2009, and from 2008 until the end of 2017,
20 I practiced exclusively labor and employment law, with a strong emphasis and most of my time working
21 on wage and hour class actions venued in both state and federal courts. During that time and my legal
22 career in general, I also worked on a number of single and multi-plaintiff wage and hour matters as well.

23 5. During my employment at Littler Mendelson, I played a significant role in the class actions
24 that I was staffed on, and ran many on my own both as an Of Counsel and as a Shareholder. In particular,
25 I received a wide-array of wage and hour class action experience performing the following types of tasks:
26 drafting demurrers, motions to strike and/or dismiss; removing actions from state court to federal court;
27 drafting and responding to written discovery; drafting and opposing discovery related motions; arguing
28 discovery related motions; drafting motions to consolidate related matters; interviewing putative class

1 members and obtaining declarations in connection with class certification; drafting oppositions to motions
2 for class certification; drafting motions for decertification following class certification; conducting
3 exposure analyses to assess the strengths and weaknesses of asserted claims, the likelihood of prevailing
4 at class certification and potential damages resulting from such claims; drafting mediation briefs; serving
5 as the primary contact to in-house counsel; deposing named plaintiffs and putative class members;
6 deposing retained expert witnesses; and defending the depositions of corporate witnesses. I also was
7 involved in the negotiations and settlements of many large wage and hour class actions. In short, I played
8 an integral role in all aspects of litigation from the inception of a matter through and beyond class
9 certification. I also supervised the work of several junior attorneys who were staffed on the same wage
10 and hour class actions.

11 6. Although not exhaustive, below is a list of many of the wage and hour class and PAGA
12 actions that I performed substantial work on while I was a shareholder at Littler Mendelson:

- 13 ► *Ortega v. J.B. Hunt Transport, Inc.*, Case No. 07-cv-8336-RGK-AFMx, United
14 States District Court, Central District of California, Honorable Gary Klausner,
15 presiding¹.
- 16 ► *Aceves v. J.B. Hunt Transport, Inc.*, Case No. CIVDS1306133, California Superior
17 Court, County of San Bernardino, Honorable Michael Sachs, presiding.
- 18 ► *Moreno v. J.B. Hunt Transport, Inc.*, Case No. BC388612, California Superior
19 Court, County of Los Angeles, Honorable Mel Red Recana, presiding.
- 20 ► *Newcomb v. J.B. Hunt Transport, Inc.*, Case No. RG16815734, California Superior
21 Court, County of Alameda, Honorable Winifred Smith, presiding.
- 22 ► *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. 12-cv-08590-PA-MAN,
23 United States District Court, Central District of California, Honorable Percy
24 Anderson, presiding.

25
26
27
28 ¹ My work on this matter including proceedings not only in District Court, but also work before the United States Court of Appeals for the Ninth Circuit as well as the United States Supreme Court.

- 1 ► *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. BC388612, California
2 Superior Court, County of Los Angeles, Honorable Elihu Berle, presiding.²
- 3 ► *Dugan v. Stoneledge Furniture, LLC*, Case No. 16-cv-01125-PA-FFMx, United
4 States District Court, Central District of California, Honorable Percy Anderson,
5 presiding.
- 6 ► *Klune v. Stoneledge Furniture, LLC*, Case No. 14-cv-03986-PA-FFMx, United
7 States District Court, Central District of California, Honorable Percy Anderson,
8 presiding.
- 9 ► *Diaz v. ABM Industries, Inc.; Ampco Parking*, Case No. BC362932, California
10 Superior Court, County of Los Angeles, Honorable Jane Johnson, presiding.³
- 11 ► *Adams v. Luxottica Retail North America, Inc.*, Case No. 07CC01346, California
12 Superior Court, County of Orange, Honorable Thierry Patrick Colaw, presiding.
- 13 ► *Sakkab v. Luxottica Retail North America, Inc.*, Case No. 12-cv-00436-GPC-KSC,
14 United States District Court, Southern District of California.⁴
- 15 ► *Page v. Oakley, Inc.*, Case No. FCS041512, California Superior Court, County of
16 Solano, Honorable Paul Berman, presiding.
- 17 ► *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00731617-CU-OE-CJC California
18 Superior Court, County of Orange, Honorable William Claster, presiding.
- 19 ► *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00723846-CU-DE-CXC, California
20 Superior Court, County of Orange, Honorable William Claster, presiding.
- 21 ► *Sierra v. Oakley, Inc.*, Case No. 13-cv-00319-AG-JPR, United States District
22 Court, Central District of California, Honorable Andrew Guilford, presiding.⁵
- 23 ► *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United
24 States District Court, Central District of California, Honorable Margaret Morrow,
25 presiding.

26
27 ² My work on this matter included proceedings not only in the trial court, but also before the California Courts of Appeal and the California Supreme Court.

28 ³ This matter was consolidated and litigated collectively with Case Nos. BC380923, BC 381523 and BC 406663.

⁴ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

⁵ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

- 1 ▶ *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United
2 States District Court, Central District of California, Honorable Margaret Morrow,
3 presiding.
- 4 ▶ *Khelghatian v. Comerica Bank, et al.*, Case No. 11-cv-7689-DSF-FFMx, United
5 States District Court, Southern District of California, Honorable John A. Houston,
6 presiding.
- 7 ▶ *Babasa v. Comerica Bank, et al.*, Case No. 11-cv-0595-JAH-BGS, United States
8 District Court, Central District of California, Honorable Margaret Morrow,
9 presiding.
- 10 ▶ *Bernal v. Comerica Bank, et al.*, Case No. 11-cv-01298-JAH-BGS, United States
11 District Court, Central District of California, Honorable Margaret Morrow,
12 presiding.
- 13 ▶ *Khalili v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United
14 States District Court, Northern District of California.
- 15 ▶ *Granata v. Comerica Bank, et al.*, Case No. 37-2011-00086316-CU-OE-CTL,
16 California Superior Court, County of San Diego, Honorable Jeffrey B. Barton,
17 presiding.
- 18 ▶ *Mathews v. Comerica Bank, et al.*, Case No. 111CV194781, California Superior
19 Court, County of Santa Clara.
- 20 ▶ *Gallegos v. Comerica Bank, et al.*, Case No. BC455515, California Superior Court,
21 County of Los Angeles, Honorable Terry Green, presiding.
- 22 ▶ *Rumohr v. Comerica Bank, et al.*, Case No. CGC-11-508433, California Superior
23 Court, County of San Francisco.
- 24 ▶ *Smith v. Werner Enterprises*, Case No. 15-cv-02978-RS, United States District
25 Court, Northern District of California, Honorable Richard Seeborg, presiding.

26 7. In January 2018, I voluntarily resigned from Littler Mendelson in order to open my own
27 law firm, Lidman Law, APC, to represent employees with work-related claims, including primarily wage
28 and hour claims and almost exclusively on a class-action basis. I am the President and Shareholder of

1 Lidman Law. Currently, over ninety percent (90%) of my practice is dedicated exclusively to the
2 prosecution of wage and hour class actions, and I am currently responsible for prosecuting over sixty-five
3 (65) wage and hour class actions filed in State courts throughout California, with several of them having
4 been removed to Federal courts. I believe that my professional experience renders me more than qualified
5 to serve as class counsel in this lawsuit involving claims of underpaid overtime and minimum wages, meal
6 and rest period violations, and derivative penalty claims. Not only have I litigated dozens of wage and
7 hour cases throughout my career involving similar claims, including the wage and hour class actions
8 identified above, I have litigated similar claims from both plaintiff and defense perspectives. As a result,
9 I am able to realistically assess and evaluate the facts and legal arguments that can be made in pursuit and
10 defense of similar wage and hour claims, as well as those facts and arguments in support and in opposition
11 to class certification. Consequently, I am able to appreciate the significant risks, uncertainties, and delay
12 involved in wage and hour class action litigation.

13 8. I have been appointed Class Counsel in: *Guardado v. Wesley Allen, Inc.*, Case No.
14 BC683027, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl
15 presiding; *Rodriguez v. Satco, Inc.*, Case No. BC682137, California Superior Court, County of Los
16 Angeles, Honorable Judge Ann I. Jones presiding; *Ong v. Howard's Appliances, Inc.*, Case No. 30-2017-
17 00964213-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge William Claster
18 presiding; *Hanke v. C&W Facility Services, Inc.*, Case No. CIVDS1814412, California Superior Court,
19 County of San Bernardino, Honorable Judge David Cohn presiding; *Molina v. Mader News, Inc.*, Case
20 No. BC685960, California Superior Court, County of Los Angeles, Honorable Judge Yvette M.
21 Palazuelos presiding; *Alvarez v. Salamander Fire Protection, Inc.*, Case No. BC688326, California
22 Superior Court, County of Los Angeles, Honorable Judge William F. Highberger presiding; *Rodriguez*
23 *v. H.F. Cox, Inc.*, Case No. BC653164, California Superior Court, County of Los Angeles, Honorable
24 Judge Carolyn B. Kuhl presiding; *Fregoso v. Amerigas Propane, Inc.*, Case No. BC697973, California
25 Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Teran v.*
26 *Western Plastics, Inc.*, Case No. RIC1722619, California Superior Court, County of Riverside,
27 Honorable Judge Sunshine Sykes presiding; *Villegas de Torres v. El Monte Superstore Inc.*, Case No.
28 BC688477, California Superior Court, County of Los Angeles, Honorable Judge Daniel J. Buckley

1 presiding; *Huynh v. Polypeptide Laboratories, Inc.*, Case No. BC680872, California Superior Court,
2 County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Guzman v. Century Blinds*, Case
3 No. RIC1723654, California Superior Court, County of Riverside, Honorable Judge Sunshine S. Sykes
4 presiding; *George v. Convergence Marketing*, Case No. CIVDS1901039, California Superior Court,
5 County of San Bernardino, Honorable Judge David S. Cohn presiding; *Coffee, et al. v. Flyers*
6 *Transportation Energy, LLC*, Case No. 34-2017-00222084, California Superior Court, County of
7 Sacramento, Honorable Judge Alan G. Perkins presiding; *Romero v. Fillmore Hospitality, LLC*, Case
8 No. BC705667, California Superior Court, County of Los Angeles, Honorable Judge Maren E. Nelson
9 presiding; *Wennerstrom, et al. v. Giant Inland Empire R.V. Center*, Case No. CIVDS1617291, California
10 Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Contreras, et al.*
11 *v. Letter Ride, LLC*, Case No. 37-2018-00020841-CU-OE-CTL, California Superior Court, County of
12 San Diego, Honorable Judge Eddie C. Sturgeon presiding; *Davis v. WeDriveU*, Case No. 18CV322578,
13 California Superior Court, County of Santa Clara, Honorable Judge Brian C. Walsh presiding; *Acuna v.*
14 *Canton Food Co., Inc.*, Case No. BC685001, California Superior Court, County of Los Angeles,
15 Honorable Judge David S. Cunningham presiding; and *Contreras v. Worldwide Flight Services, Inc.*,
16 Case No. 2:18-cv-06036-PSG-SS, United States District Court for the Central District of California, the
17 Honorable Judge Philip S. Gutierrez presiding.

18 9. As co-lead counsel for Plaintiff and the proposed Settlement Class, I have been intimately
19 involved in every aspect of this case from its inception through the present, and I believe that the proposed
20 Settlement is a favorable result for the Settlement Class Members under the circumstances presented.

21 10. The details of the work completed by my firm and/or my co-counsel are set forth in the
22 declaration of Elizabeth Nguyen filed concurrently herewith.

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

25 Executed on April 26, 2021 at El Segundo, California.

26
27 
28 Scott M. Lidman

EXHIBIT 3

EXHIBIT 3

LIDMAN LAW, APC

Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Elizabeth Nguyen (SBN 238571)
enguyen@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Romina Tamiry (SBN 328420)
rtamiry@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
BERNARDO SANTOS

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
BERNARDO SANTOS

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

BERNARDO SANTOS, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

TORRES FARM LABOR CONTRACTOR,
INC., a California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No. BCV-19-102470-DRL

*[Assigned for All Purposes to the Hon. David R.
Lampe, Dept. 11]*

**DECLARATION OF MILAN MOORE IN
SUPPORT OF MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: June 24, 2021
Time: 8:30 a.m.
Dept.: 18

Complaint Filed: August 30, 2019
Trial Date: None Set

1 I, MILAN MOORE, declare as follows:

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

7 2. I am a 2015 graduate of UConn School of Law. I was admitted to the California State Bar
8 in December 2015 after passing the bar exam on my first attempt. Since that time, I have practiced
9 exclusively in the area of employment litigation. Prior to joining Lidman Law, APC, I worked for an
10 employment litigation boutique, where I successfully represented employees in discrimination,
11 harassment, retaliation and wrongful termination cases in both state and federal court. While non-
12 exhaustive, the type of work I performed included: conducting client intakes, performing pre-filing
13 research and analysis, drafting complaints, attending court hearings, corresponding with opposing counsel,
14 drafting and responding to written discovery, preparing for and taking and defending depositions, drafting
15 and opposing motions for remand, demurrers and motions to strike, motions to compel, drafting mediation
16 briefs, and attending mediations.

17 3. Since June 11, 2018, I have worked as an associate at my current firm, Lidman Law, APC.
18 I am currently staffed on approximately seventy (70) active wage and hour class action lawsuits in both
19 state and federal court.

20 4. I have been appointed Class Counsel in *Hanke v. C&W Facility Services, Inc.*, Case No.
21 CIVDS1814412, California Superior Court, County of San Bernardino, Honorable Judge David Cohn
22 presiding; *Molina v. Mader News, Inc.*, Case No. BC685960, California Superior Court, County of Los
23 Angeles, Honorable Judge Yvette M. Palazuelos presiding; *Alvarez v. Salamander Fire Protection, Inc.*,
24 Case No. BC688326, California Superior Court, County of Los Angeles, Honorable Judge William F.
25 Highberger presiding; *Fregoso v. Amerigas Propane, Inc.*, Case No. BC697973, California Superior
26 Court, County of Los Angeles, Honorable Rafael A. Ongkeko presiding; *Teran v. Western Plastics, Inc.*,
27 Case No. RIC1722619, California Superior Court, County of Riverside, Honorable Judge Sunshine Sykes
28 presiding; *Villegas de Torres v. El Monte Superstore Inc.*, Case No. BC688477, California Superior Court,

County of Los Angeles, Honorable Judge Daniel J. Buckley presiding; *Guzman v. Century Blinds*, Case No. RIC1723654, California Superior Court, County of Riverside, Honorable Judge Sunshine S. Sykes presiding; *George v. Convergence Marketing*, Case No. CIVDS1901039, California Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Romero v. Fillmore Hospitality, LLC*, Case No. BC705667, California Superior Court, County of Los Angeles, Honorable Judge Maren E. Nelson presiding; *Davis v. WeDriveU*, Case No. 18CV322578, California Superior Court, County of Santa Clara, Honorable Judge Brian C. Walsh presiding; *Acuna v. Canton Food Co., Inc.*, Case No. BC685001, California Superior Court, County of Los Angeles, Honorable Judge David S. Cunningham presiding; and *Contreras v. Worldwide Flight Services, Inc.*, Case No. 2:18-cv-06036-PSG-SS, United States District Court for the Central District of California, the Honorable Judge Philip S. Gutierrez presiding.

5. The details of the work completed in this case by me and the other attorneys in my firm are set forth in the declaration of Elizabeth Nguyen filed concurrently herewith.

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

Executed on April 26, 2021 at El Segundo, California.


Milan Moore

EXHIBIT 4

EXHIBIT 4

LIDMAN LAW, APC

Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Elizabeth Nguyen (SBN 238571)
enguyen@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Romina Tamiry (SBN 328420)
rtamiry@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
BERNARDO SANTOS

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
BERNARDO SANTOS

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

BERNARDO SANTOS, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

TORRES FARM LABOR CONTRACTOR,
INC., a California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No. BCV-19-102470-DRL

*[Assigned for All Purposes to the Hon. David R.
Lampe, Dept. 11]*

**DECLARATION OF ROMINA TAMIRY IN
SUPPORT OF MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: June 24, 2021
Time: 8:30 a.m.
Dept.: 18

Complaint Filed: August 30, 2019
Trial Date: None Set

1 I, ROMINA TAMIRY, declare as follows:

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

7 2. I am a 2019 graduate of Pepperdine University School of Law. I was admitted to the
8 California State Bar in December 2019 after passing the bar examination on my first attempt. During law
9 school, I worked as a law clerk for general counsel of JAKKS Pacific, Inc., located in Los Angeles,
10 California.

11 3. Since January 6, 2020, I have worked as an associate at my current firm, Lidman Law,
12 APC. I am currently staffed on approximately fifty (50) active wage and hour class actions in both state
13 and federal court in which I play a significant role. The types of work I perform in my current position
14 include, but are not limited: drafting class and representative action complaints, corresponding with clients
15 and opposing counsel, attending court hearings, drafting and responding to written discovery, drafting
16 letters to the Labor & Workforce Development Agency, drafting mediation briefs and settlement
17 agreements, attending mediations, analyzing payroll and timekeeping records and employee handbooks,
18 conducting legal research, and drafting motions and other pleadings.

19 4. The details of the work completed in this case by me and the other attorneys in my firm are
20 set forth in the declaration of Elizabeth Nguyen filed concurrently herewith.

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

23 Executed on April 26, 2021 at El Segundo, California.

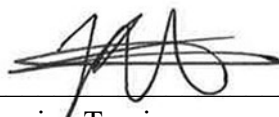
24
25 
26 Romina Tamiry

EXHIBIT 5

EXHIBIT 5

LIDMAN LAW, APC

Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Elizabeth Nguyen (SBN 238571)
enguyen@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Romina Tamiry (SBN 328420)
rtamiry@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
BERNARDO SANTOS

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
BERNARDO SANTOS

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

BERNARDO SANTOS, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

TORRES FARM LABOR CONTRACTOR,
INC., a California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No. BCV-19-102470-DRL

*[Assigned for All Purposes to Hon. David R. Lampe,
Dept. 11]*

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

Date: June 24, 2021

Time: 8:30 a.m.

Dept.: 18

Complaint Filed: August 30, 2019

Trial Date: None Set

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

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

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

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

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

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

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

16 6. In July 2012, I transitioned into litigating wage and hour class actions from the
17 Plaintiff’s side, first as a Partner with the law firm of Boren, Osher & Luftman, LLP, and since February
18 2016, as a Shareholder of the Haines Law Group, APC. Currently, over ninety percent (90%) of my
19 practice is dedicated exclusively to the prosecution of wage and hour class actions, and I am currently
20 responsible for prosecuting over thirty (30) wage and hour class actions filed in both State and Federal
21 courts throughout California. Below are some of the matters in which I have been appointed as Class
22 Counsel, all of which have been granted final approval: *Hilberger v. Eisenhower Medical Center*, Case
23 No. INC1204915, California Superior Court, County of Riverside, Honorable Judge John G. Evans,
24 presiding, (in which I was approved for an hourly rate of \$500 for work performed in 2012 and 2013);
25 *Lopez v. Cornucopia Tools and Plastics, Inc.*, Case No. CV138049, California Superior Court, County
26 of San Luis Obispo, Honorable Judge Martin J. Tangeman, presiding, (in which I was approved for an
27 hourly rate of \$425 for work performed in 2013 and 2014); *Tacker v. Compass Health, Inc.*, Case No.
28

CV13-02261 BRO (JCG), United States District Court, Central District of California, Honorable Judge Beverly Reid O’Connell, presiding, (in which I was approved for an hourly rate of \$500 for work performed in 2013 and 2014); *Noell v. American Professional Ambulance Corporation, Inc.*, Case No. BC499345, California Superior Court, County of Los Angeles, Honorable Judge Kenneth R. Freeman, presiding, (in which I was approved for an hourly rate of \$500 for work performed in 2013 and 2014); *Bautista v. Harvest Management Sub LLC*, Case No. CV12-10004 FMO (CWx), United States District Court, Central District of California, Honorable Judge Fernando M. Olguin, presiding (in which I was approved for an hourly rate of \$500 for work performed in 2012, 2013 and 2014); *Davila v. OCB Restaurant Co.*, Case No. CV13-5403 PA (JCG), United States District Court, Central District of California, Honorable Judge Percy Anderson, presiding (in which I was approved for an hourly rate of \$500 for work performed in 2013 and 2014); *Abad v. Waste Connections, Inc.*, Case No. CV12-06708 DDP (PJWx), United States District Court, Central District of California, Honorable Judge Dean D. Pregerson, presiding (in which I was approved for an hourly rate of \$500 for work performed in 2013 and 2014); *Plantillas v. Snap-On Incorporated*, Case No. CV13-05153 DDP (VBKx), United States District Court, Central District of California, Honorable Judge Dean D. Pregerson, presiding (in which I was approved for an hourly rate of \$500 for work performed in 2013 and 2014); *Theodore v. Keyes European, LLC*, Case No. BC521395, California Superior Court, County of Los Angeles, Honorable Judge Elihu Berle, presiding (in which I was approved for an hourly rate of \$500 for work performed in 2013 and 2014); *Morales v. Sunset Tower Hotel LLC*, Case No. BC511924, California Superior Court, County of Los Angeles, Honorable Judge John Shepard Wiley Jr., presiding (in which I was approved for an hourly rate of \$500 for work performed in 2013 and 2014); *Gonzalez v. Universal Alloy Corp.*, Case No. SACV13-00807 JVS (MRWx), United States District Court, Central District of California, Honorable Judge James V. Selna, presiding (in which I was approved for an hourly rate of \$500 for work performed in 2013 and 2014); *Morawski v. Milt Guggia Enterprises, Inc.*, Case No. CV13-2349 ABC (RZx), United States District Court, Central District of California, Honorable Judge Andre Birotte, Jr., presiding (in which I was approved for an hourly rate of \$500 for work performed in 2013 and 2014); *Thorp v. Alcal Industries, Inc., et al.*, Case No. CV13-02289 YGR, United States

1 District Court, Northern District of California, Honorable Judge Yvonne Gonzalez Rogers, presiding
2 (in which I was approved for an hourly rate of \$500 for work performed in 2013 and 2014); *Myles v.*
3 *College Hospital*, Case No. BC487206, California Superior Court, County of Los Angeles, Honorable
4 Judge John Shepard Wiley, Jr., presiding (in which I was approved for an hourly rate of \$500 for work
5 performed in 2013, 2014 and 2015); *Sarinana v. DS Waters of America, Inc.*, Case No. C13-0905
6 EMC, United States District Court, Northern District of California, Honorable Edward M. Chen,
7 presiding (in which I was approved for an hourly rate of \$550 for work performed in 2014 and 2015);
8 *Julio v. Anthony, Inc.*, Case No. CV14-03172 AB (SHx), United States District Court, Central District
9 of California, Honorable Judge Andre Birotte Jr., presiding (in which I was approved for an hourly rate
10 of \$550 for work performed in 2014 and 2015); *Litt v. Western Stone & Metal Corp.*, Case No. 3:14-
11 cv-02804-PJH, United States District Court, Northern District of California, Honorable Judge Phyllis
12 J. Hamilton, presiding (in which I was approved for an hourly rate of \$550 for work performed in 2014
13 and 2015); *Rubalcava v. United Towing and Transport Burbank, et al.*, Case No. BC518468, California
14 Superior Court, County of Los Angeles, Honorable Judge Kenneth Freeman, presiding (in which I was
15 approved for an hourly rate of \$550 for work performed in 2013, 2014 and 2015); *Sanchez v. Res-*
16 *Care, Inc.*, Case No. BC526175, California Superior Court, County of Los Angeles, Honorable John
17 S. Wiley, presiding (in which I was approved for an hourly rate of \$550for work performed in 2013,
18 2014 and 2015); *Prado v. Warehouse Demo Services, Inc.*, Case No. CV14-3170 JFW (Ex), United
19 States District Court, Central District of California, Honorable Judge John F. Walter, presiding (in
20 which I was approved for an hourly rate of \$550 for work performed in 2014 and 2015); *Rivera*
21 *Regalado v. Jaguar Farm Labor Contracting*, Case No. CV 130569, California Superior Court, County
22 of San Luis Obispo, Honorable Martin J. Tangeman, presiding (in which I was approved for an hourly
23 rate of \$550 for work performed in 2014 and 2015); *Rodas v. Gateways Hospital and Mental Health*
24 *Center*, Case No. BC503179, California Superior Court, County of Los Angeles, Honorable Judge
25 Amy D. Hogue, presiding (in which I was approved for an hourly rate of \$550 for work performed in
26 2014 and 2015); *Escobar v. Century West, LLC*, Case No BC564873, California Superior Court,
27 County of Los Angeles, Honorable Judge Jane L. Johnson, presiding (in which I was approved for an
28

hourly rate of \$550 for work performed in 2014 and 2015 and 2016); *Shaw v. Conant Auto Retail, San Diego*, Case No. 37-2014-00044052-CU-OE-CTL, California Superior Court, County of San Diego, Honorable Judge Joan M. Lewis, presiding (approving an hourly rate of \$575 for work performed in 2014, 2015, and 2016); *Tirado v. Ricon Corp.*, Case No. BC537042, California Superior Court, County of Los Angeles, Honorable John S. Wiley, presiding (approving an hourly rate of \$575 for work performed in 2014, 2015, and 2016); and *Horta v. Searles Valley Minerals, Inc.*, Case No. CIVDS 1507615, California Superior Court, County of San Bernardino, Honorable Donald Alvarez presiding (approving an hourly rate of \$575 for work performed in 2015 and 2016); *Cristobal v. Koos Manufacturing, Inc.*, Case No. BC591484, California Superior Court, County of Los Angeles, Hon. William F. Highberger presiding (approving an hourly rate of \$575 for work performed in 2015 and 2016); *Rodriguez v. Spartan, Inc.*, Case No. BCV-15-100007-DRL, California Superior Court, County of Kern, Honorable David R. Lampe presiding (approving hourly rate of \$575 for work performed in 2015, 2016, and 2017); *Kostyuk, et al. v. Golden State Overnight Delivery Service, Inc.*, Case No. RG14727191, California Superior Court, Alameda County, Honorable Winifred Y. Smith presiding (approving an hourly rate of \$575 for work performed in 2015, 2016, and 2017); *Nunez v. CompuCom Systems, Inc.*, Case No. BC618385, California Superior Court, County of Los Angeles, Honorable Judge John Shepard Wiley, Jr., presiding (approved at an hourly rate of \$600 for work performed in 2016 and 2017); *Mansilla v. Haeco Americas Line Services, LLC, et al*, Case No. BC615310, Superior Court of California, County of Los Angeles, Honorable Judge Elihu M. Berle presiding (approved at an hourly rate of \$600 for work performed in 2016 and 2017); *Morales v. Caremeridian, LLC, et al.*, Case No. BC593191, California Superior Court, County of Los Angeles, Judge William F. Highberger presiding (granting final approval of settlement on behalf of direct support professionals involving claims for unpaid wages, meal and rest period violations, wage statement violations, and other claims).

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

- 1 • *Medeiros v. Vortex Financial Management Inc.*, Case No. 30-2013-00644741-CU-OE-CXC,
2 California Superior Court, County of Orange, Honorable Judge Gail A. Andler, presiding
3 (certifying a class of employees who were misclassified as independent contractors);
- 4 • *Javine v. San Luis Ambulance Service, Inc.*, Case No. CV13-07480 BRO (SSx), United States
5 District Court, Central District of California, Honorable Judge Beverly Reid O'Connell,
6 presiding (conditionally certifying an unpaid FLSA overtime wage class);
- 7 • *Prado v. Warehouse Demo Services, Inc.*, Case No. CV14-3170 JFW (Ex), United States District
8 Court, Central District of California, Honorable Judge John F. Walter, presiding (certifying a
9 rest period violation class and conditionally certifying an FLSA unpaid overtime wage class);
- 10 • *Bower v. Cycle Gear, Inc.*, Case No. CV14-2712 HSG, United States District Court, Northern
11 District of California, Honorable Judge Haywood S. Gilliam, Jr., presiding (conditionally
12 certifying an unpaid FLSA overtime wage class);
- 13 • *Vega v. Weatherford U.S., Limited Partnership*, Case No. CV14-1790-JLT, United States
14 District Court, Eastern District of California, Honorable Jennifer L. Thurston, presiding
15 (conditionally certifying an unpaid FLSA overtime wage class);
- 16 • *Galvan v. AMVAC Chemical Corporation*, Case No. 30-2014-00716103-CU-OE-CXC,
17 California Superior Court, County of Orange, Honorable Judge William Claster, presiding
18 (certifying unpaid overtime wage class and waiting time penalty class); and
- 19 • *Ontiveros v. Safelite Fulfillment, Inc., et al*, Case No. CV 15-7118-DMG (RAOx), United States
20 District Court, Central District of California, Honorable Dolly M. Gee presiding (certifying six
21 classes of employees for rest period violations, wage statement violations, meal period
22 violations, and overtime and double-time violations);
- 23 • *Vazquez, et al v. Kraft Heinz Foods Company*, Case No. 16-cv-2749-WQH-BLM, United States
24 District Court, Southern District of California, Honorable William Q. Hayes presiding
25 (certifying six classes of employees for unpaid wages, meal period violations, wage statement
26 violations, and waiting time penalties); and

- *Caudle, et al. v. Sprint/United Management Company, et al.* Case No. C 17-06874-WHA, United States District Court, Northern District of California, Honorable William H. Alsup presiding (certifying three classes of employees for unlawful wage deduction violations, wage statement violations, and waiting time violations).

8. In 2015, 2016 and 2017, Thomson Reuters and Los Angeles Magazine recognized me as a Top Young Attorney in Southern California in the annual Rising Star Edition of Super Lawyer. This is an honor awarded to no more than two and a half percent of attorneys under the age of forty in Southern California each year. In 2018 and 2019 Thomson Reuters recognized me as a “Super Lawyer” in the annual Super Lawyer magazine, an honor awarded to no more than five percent of all attorneys in Southern California each year.

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

10. The Settlement provides Settlement Class Members with 120 days from the date the Settlement Administrator mails the checks and any funds remaining after 120 days shall be distributed in accordance with California Civil Code section 384 to an organization to be selected by Defendant and approved by the Court, such as the Valley Children’s Hospital, Juvenile Diabetes Research Foundation (JDRF), American Cancer Society or other non-profit organization, or, in the alternative if Defendant cannot get court approval on any organization acceptable to the Defendant, any funds remaining after 120 days will escheat to the California Secretary of State-Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class member. Settlement ¶ 6.E. I have confirmed that my firm does not have a connection to or a relationship with the Valley Children’s Hospital, JDRF, or the American Cancer Society that could create the appearance of impropriety as between the organization and the interests of the class.

11. The details of the work completed by my firm and/or my co-counsel are set forth in the declaration of Elizabeth Nguyen filed concurrently herewith.

I declare under penalty of perjury under the laws of the State of California and the United States

1 that the foregoing is true and correct.

2 Executed on April 26, 2021, at El Segundo, California.

3 
4 _____
5 Paul K. Haines
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 6

EXHIBIT 6

LIDMAN LAW, APC

Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Elizabeth Nguyen (SBN 238571)
enguyen@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Romina Tamiry (SBN 328420)
rtamiry@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
BERNARDO SANTOS

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
BERNARDO SANTOS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

BERNARDO SANTOS, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

TORRES FARM LABOR CONTRACTOR,
INC., a California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No. BCV-19-102470-DRL

*[Assigned for All Purposes to the Hon. David R.
Lampe, Dept. 11]*

**DECLARATION OF PLAINTIFF
BERNARDO SANTOS IN SUPPORT OF
MOTION FOR APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: June 24, 2021
Time: 8:30 a.m.
Dept.: 18

Action Filed: August 30, 2019
Trial Date: None

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

I, BERNARDO SANTOS, declare as follows:

1. I am an individual over the age of 18 and the named plaintiff in this matter. This declaration is submitted in support of approval of the proposed class action settlement (“Settlement”) reached in this case. I have personal knowledge of the facts stated in this declaration and could testify competently to them if called upon to do so.

2. I was employed by Defendant Torres Farm Labor Contractor, Inc. (hereinafter referred to as “Torres Farm” or “Defendant”) as an hourly, non-exempt employee from approximately March 2016 through approximately November 2018. During my employment with Torres Farm, I was assigned to work at Grimmway Farms and my duties included without limitation, driving a forklift. Also, during my employment with Torres Farm, I, along with the other hourly employees, were required to follow Torres Farm’s wage and hour policies and practices.

3. I am informed and believe, and on that basis state, that throughout my employment with Torres Farm, I was not paid for all my time worked. Specifically, Torres Farm would keep track of my time worked and would unlawfully round/shave my work time. Torres Farm's time-shaving and/or rounding practice was not even-handed over time and would almost always exclusively round and shave in Torres Farm's favor such that I would not be fully paid for all time worked. In addition, Torres Farm required me to work and clock in 5 minutes before the start of my scheduled shift, but I was not paid until my scheduled start time. Also, I believe Torres Farm automatically deducted 15 minutes from my work time if I clocked in after the scheduled start time regardless of the actual number of minutes I clocked in late. As such, I do not believe I was compensated for all required minimum and overtime wages owed.

4. I also do not believe I received all meal and rest breaks to which I was entitled to. Specifically, due to Torres Farm's policy and practice of staggering meal breaks, I often was not provided a meal break until after the end of my fifth hour of work. Additionally, at times during my employment with Torres Farm, I believe that Torres Farm automatically-deducted 30 minutes from my work time each shift for my meal breaks regardless whether I actually took a meal break. Also, when I worked shifts of over 10.0 hours, Torres Farm did not always provide me with a second 30-minute meal

1 break. Additionally, I believe I was not authorized and permitted to take all my legally required rest
2 breaks. Specifically, when I worked shifts of over 10.0 hours, Torres Farm's timekeeping policies did
3 not allow me to take a 3rd rest break. Despite all of this, I was not paid meal period or rest period
4 premiums.

5 5. Additionally, I was confused to see "Units" on my wage statements and I did not
6 understand what this meant. Because of all of the above issues at work, I do not believe I received
7 accurate, itemized wage statements. I also do not believe I was paid all my wages upon my separation
8 of employment with Torres Farm.

9 6. I have worked closely with my lawyers on this case. I answered all of their questions
10 about my employment and made myself available to speak and meet with my lawyers whenever I was
11 needed, including the entire day of the mediation on October 30, 2020 and throughout the continued
12 settlement discussions.

13 7. At the time of filing this lawsuit, I understood that this lawsuit had the chance to benefit
14 my former co-workers and current employees of Torres Farm by helping them recover money owed to
15 them. As the named Plaintiff, I knew that I would be taking on certain risks that the other employees
16 would not have to take on. I also knew that there was a risk that I could be liable for Torres Farm's
17 costs if we lost the case. I was also scared that it would be difficult for me to get a similar job in the
18 future because other companies might not want to hire me if they knew I had filed a lawsuit against my
19 former employer. Even though I understood that joining a lawsuit is a public record and could
20 stigmatize me and may affect my future employability, I accepted that burden for the benefit of other
21 employees of Torres Farm because I wanted Torres Farm to pay its current and former employees for
22 all unpaid wages according to the law and face consequences for not doing so.

23 8. I was also afraid that future employers would be hesitant to hire me because Torres Farm
24 is such a large contractor in the farming community. Since Torres Farm is such a well-known contractor
25 that works with many large farming companies, I am nervous that it will be very hard for me to find
26 employment. This has been very stressful and overwhelming for me during the time of COVID and I
27 still have not been able to find a job.
28

1 9. I have been actively involved in this case since joining this lawsuit. Without revealing
2 and/or waiving attorney-client privileged communications, I have communicated with my attorneys on
3 numerous occasions. I estimate that I have spent over 10-15 hours meeting with my lawyers concerning
4 the case and my responsibilities as a class representative, which included, among other things, gathering
5 various employment and non-employment related documents for use in the lawsuit, reviewing
6 documents with my lawyers and answering their questions, answering follow up questions and
7 providing guidance regarding Torres Farm's meal breaks, rest breaks, clocking in and clocking out, pay
8 stubs, and other policies and procedures that Torres Farm required me and the hourly employees to
9 follow, and helping develop a strategy as to what documents/information to obtain from Torres Farm.
10 Also, I routinely checked in with my attorneys and their staff to make sure I did not miss any important
11 updates in this case. In connection with the settlement in this case, I spent over 1.5 hours reviewing the
12 settlement agreement and discussing it with my attorneys. I made sure to ask my lawyers any questions
13 I had about the terms of the settlement agreement because I wanted to understand everything before I
14 signed it.

15 10. As part of the proposed Settlement, I have also agreed to a full general release of claims
16 related to my employment with Torres Farm that extends beyond the release of claims applicable to
17 members of the Settlement Class. I understand that this includes all claims, whether known or
18 unknown, under federal, state, or local law against Torres Farm.

19 11. I believe my claims are typical of the members of the Settlement Class because they
20 were required to follow the same policies and procedures I was required to follow when I worked at
21 Torres Farm. I believe Torres Farm's policies and procedures were the same for all hourly employees
22 in California. Since the same policies and procedures applies to myself and the other Settlement Class
23 members, I believe they were not paid for all wages earned, did not receive all meal and rest periods,
24 and did not receive all final wages due. As far as I am aware, I have no conflicts with any of the other
25 Settlement Class members. I understand that as the proposed class representative, I am responsible for
26 representing the interests of all members of the class in litigation to recover money damages for the
27 Settlement Class and I consider the interests of the Settlement Class and put the interests of the
28 Settlement Class before my own interests.

12. I understand that my attorneys will request that the Court award me Service Award of \$5,000.00 for my service and efforts on the case. This proposed \$5,000.00 Service Award is not contingent upon me supporting the proposed Settlement.

I have reviewed this written statement and fully understand all of its contents. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on April 23, 2021 at Bakersfield, California.

Bernardo Santos
Bernardo Santos (Apr 23, 2021 13:24 PDT)

BERNARDO SANTOS

EXHIBIT 7

EXHIBIT 7

LIDMAN LAW, APC

Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Elizabeth Nguyen (SBN 238571)
enguyen@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Romina Tamiry (SBN 328420)
rtamiry@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
BERNARDO SANTOS

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
BERNARDO SANTOS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

BERNARDO SANTOS, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

TORRES FARM LABOR CONTRACTOR,
INC., a California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No. BCV-19-102470

*[Assigned for all purposes to the Hon.
David R. Lampe, Dept. 11]*

**DECLARATION OF JODEY
LAWRENCE OF PHOENIX CLASS
ACTION ADMINISTRATION
SOLUTIONS IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL**

Date: June 24, 2021

Time: 8:30 a.m.

Dept.: 18

Complaint Filed: August 30, 2019

Trial Date: None Set

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

I, JODEY LAWRENCE, declare as follows:

1. I have personal knowledge of the facts set forth herein and if called upon to
I could and would do so competently under oath.

2. I am employed by Phoenix Settlement Administrators (“PSA”), as Vice President Business Development.

3. I personally have over eleven years of experience in claims management and administration of class and collective action matters.

4. PSA has never had any financial interests in nor affiliation with the parties or in the *Bernardo Santos v. Torres Farm Labor Contractor, Inc.*, matter.

5. PSA has extensive experience administering class action matters. PSA has mastered complex wage and hour, labor and employment, consumer/ product liability, FLSA, FACTA, ERISA and PAGA class action matters, thru final approval and litigation. PSA has developed a system of quality assurance measures, to ensure the highest service is provided in our cases and to class members.

6. PSA's Claims Management Group has extensive experiences in all aspects of Notification and Identification of Class Members, Claims Processing, Formulation and Distribution Methodologies, Award Distribution and Taxation, Accounting and Reconciliation.

7. PSA has extensive experience in and are experts at all aspects of complex class matters including; (i) preparing, printing, mailing and tracking privacy notices; (ii) on of a 24/7/365 multi-lingual call center; (iii) establishing settlement websites; (iv) management; (v) USPS processes and systems, third party tracing, including the use of telephone directory services; (v) database management, programming and security; (vi) calculating and issuing settlement payments; (viii) tax management, filings, and reconciliation; and (ix) final approval.

8. As part of Settlement Notice procedures, PSA will run the names of all Settlement members through the National Change of Address (“NCOA”) database to determine any old addresses for Settlement Class members. If a Class Notice from the initial notice mailing

1 is returned as undeliverable, the Settlement Administrator will attempt to obtain a current address
2 for the Settlement Class Member to whom the returned Class Notice had been mailed by
3 undertaking skip tracing. If the Settlement Administrator is successful in obtaining a new
4 address, it will promptly re-mail the Class Notice to the Settlement Class Member. Further, any
5 Class Notices that are returned to the Settlement Administrator with a forwarding address before
6 the Response Deadline shall be promptly re-mailed to the forwarding address affixed thereto.

7 9. PSA has been appointed as a Claims Administrator in both State and Federal
8 Courts.

9 10. A true and correct copy of PSA's Curriculum Vitae is attached hereto as **Exhibit**
10 **A**

11 11. Phoenix Settlement Administrators has adequate procedure in place to safeguard
12 the data and funds to be entrusted to it. PSA's Technology and Banking groups are directly
13 involved with Management on all issues of Information Security and Settlement Fund transfer,
14 as it pertains to the continuance of business processes, and all risk, vulnerability, security and
15 assessments as it pertains to information. The group, along with internal systems in place,
16 monitor and communicate with Management on a Preventative and comprehensive level, in
17 order to prevent potential Strategic or Compliance Risks. All processing of confidential and
18 personal information is handled and maintained within the organization and therefore all data
19 received is kept within a strict chain of custody internally. All informational assets are classified
20 and assigned based on initial case assessment, client and procedural requirements. The
21 Technology Group handles all higher-level ownership of information and physical peripherals,
22 as well as ownership of direct / indirect assets associated with technology and the continuance
23 of business, Specific Users, Groups or Entities are assigned Shared Ownership or Management
24 Capability based on procedural needs, and security level granted. PSA's Phoenix Settlement
25 Administrators Data Center Policies and Procedures is attached hereto as **Exhibit B** and
26 Phoenix Server, Facility and Maintenance Security Protocols and Review is attached hereto as
27 **Exhibit C**.

28 12. In addition to high levels of Data Center Policies/Procedures and

1 Facility/Maintenance Security Protocols, PSA's conducts semiannual training to maintain
2 additional safeguards such as:

- 3 a. Phoenix Settlement Administration Business Continuity Policy
- 4 b. Phoenix Settlement Administration Disaster Recovery Plan
- 5 c. Phoenix Settlement Administration Incident Response Plan
- 6 d. Phoenix Settlement Administration Personal Computer Security Policy
- 7 e. Phoenix Settlement Administration Phoenix Data Archiving and Retention
- 8 Policy
- 9 f. Phoenix Settlement Administration Phoenix Personnel Security Policy
- 10 g. Phoenix Settlement Administration Risk Assessment
- 11 h. Phoenix Settlement Administration Service Provider Risk Assessment
- 12 i. Phoenix Settlement Administrator Classification and Access Rights Policy
- 13 j. Phoenix Settlement Administrator Password Policy
- 14 k. Phoenix Settlement Administrators Certification of Destruction
- 15 l. Phoenix Settlement Administrators Security Awareness Training Program

17 A true a correct copy of the materials described above are attached hereto as **Exhibit D.**

18 13. PSA currently maintains an errors and omissions insurance policy, which
19 includes a data breach provision. A true a correct copy of PSA's current policy is attached hereto
20 as **Exhibit E.**

21 14. PSA costs are reasonable and competitive when compared to the industry.

22 15. PSA only employs a certified and/or qualified translator to translate Court-
23 approved Notices for postings on PSA's website for dissemination to the Class.

24 16. This Administration project has a cost not to exceed \$35,500.00. A detailed
25 breakdown of PSA's cost is attached hereto as **Exhibit F.**

1 I declare under penalty of perjury under the laws of the United States and state of
2 California that the foregoing is true and correct. Executed on April 22, 2021 at Orange,
3 California.

4 
5 _____
6 Jodey Lawrence

EXHIBIT A



CLASS ACTION SETTLEMENT SOLUTIONS

1411 N. Batavia, Suite 105 Orange, CA 92867

800-523-5773

www.phoenixclassaction.com

CURRICULUM VITAE

Phoenix Settlement Administrators. PSA Overview

Phoenix Settlement Administrators, PSA, is an emerging, National, Class Action Notification and Claims Administration firm, located in San Diego and Newport Beach California. PSA's core competencies ensure delivery of the highest quality and accuracy to its Clients and Class members. With a combined 28 years of expert experience, PSA's Managing Partners, Case Supervisors, Managers and Associates, Data Programming, and Certified Secure Strategic Partners, possess all the qualities that our Clients expect throughout the Noticing and Administration process, to Final Approval. It is our Value Pricing, Efficiency, Experience, Consultative Expertise and Delivery, that has perpetuated PSA, as an emerging leader in Class Action Settlement Administration. Expert PSA staff members are currently managing, Consumer and Product Liability, TCPA, Complex Labor & Employment, FLSA, ERISA and PAGA cases.

PSA has over 100 Attorney & Law Firm Clients, which have entrusted us with the management of their claim's administration, because of the "Boutique" attention every case receives. PSA is value driven on all size cases. large or small, cases receive expert management, secure data custody, neutral communication and a dedicated team. This seamless process maintains superior case continuity to ensure our clients receive timely final approval and conclusion to their actions. Phoenix Settlement Administrators implements its successful C.A.S.E. solutions on all our class action matters.

With 10's of Millions of dollars in award distributions currently under management since our inception, PSA has the ability and strengths to manage all levels of Complex Cases. PSA's Staff "Synergy" is our greatest attribute. It allows our people to work closely together and solve our client's case issues. PSA prides itself as a true "Third Party Administrator" and holds Neutrality as a mantra. Because of this approach, both Defense and Plaintiff Clients, experience fairness, trust and confidence in us, and allows for continued business from both parties. PSA has been appointed Third Party Administrator in State and Federal Courts.

We look forward to working with you on your next Class Action Noticing Campaign or Claims Administration. Let us design a C.A.S.E. solution, which will allow us to showcase the difference you'll experience. Superior Service, Class Savings Value Pricing and Timely Outcomes is why our clients come back to PSA.



PHOENIX
SETTLEMENT ADMINISTRATORS

CLASS ACTION SETTLEMENT SOLUTIONS

Expert Core Services

Initial Planning and Consultative Service on Class Action Cases and Noticing Plans.

State/Nationwide Noticing Expertise: Privacy, Media, Publication, Internet & Email Campaigns.

Attorney General(s) CAFA Notification

Claims Programming, Administration, Processing and Reporting.

24/7/365 Multi-Lingual Call Center Support and Claims Processing

Secure Data Management Environment, Individual Firewalls, Encrypted Data and Storage

Settlement Fund Calculations, Solutions, Award Distribution, Award Reconciliation

Tax Filings: State, Federal, EDD, ETT, FUTA, PAGA Payments

Partial PSA Client List, Defense and Plaintiff

Fisher & Phillips
Gordon & Rees
Paul Plevin Sullivan & Connaughton
Call & Jensen
Drinker Biddle
McKenna Long & Aldridge
Greenberg Traurig
Manning & Kass
Littler Mendelson
Kring & Chung
Orrick Herrington & Sutcliffe
Ogletree Deakins Nash Smoak & Stewart
Perkins Coie
Ross Wersching & Wolcott
Winston & Strawn
Sheppard Mullins
Lewis Brisbois Bisgaard & Smith
Morgan Lewis & Bockius
Paul Hastings
Park & Zheng
Sidley Austin
Higgs Fletcher & Mack
Jackson Lewis
Norton Rose Fulbright

Law Offices of Jonathan Ricasa
Dente Law Firm
Mahoney Law Group
Law Office of Thomas Rutledge
Law Office of Briana Kim
Dychter Law Firm
Garay Law Firm
Olsen Law Offices
Gould & Associates
Cohelan, Khoury & Singer
Ridout, Lyon & Ottoson
Carter Law Firm
Law Office of Justian Jusuf
The Phelps Law Group
The Emilio Law Group
Zeldes, Haeggquist & Eck
Markham Law Firm
Arias Ozzello & Gignac
David Yeremian & Associates
Aegis Law Firm
Rukin Hyland Doria & Tindall
Malk Law Firm
Spiro Law Corp
Levine Law Group, APC

Phoenix Settlement Administrators 411 N. Batavia, Suite 105 Orange, CA 92867

Phone: 800-784-2174 Fax: 619.338.0308

www.psaaction.com

EXHIBIT B



Phoenix Settlement Administrators Data Center Policies and Procedures

I. Overview:

Phoenix Settlement Administrators data center policies and procedures are put in place to protect all equipment located within the data center. These steps are put in place by senior Phoenix directors. Phoenix Settlement Administrators main intent and highest level of importance is to keep data safe and secure while behind our doors. Employees and customers working outside of the set policies and procedures are subject to termination, legal action, or sever reprimand.

II. Base Guidelines

The Data Center is a restricted area within the Phoenix Settlement Administrators building. The Data Center mandates a much greater level of security. Only those individuals who are expressly authorized to do so by Senior Management may enter this area. Access privileges will only be granted to individuals who have a legitimate business need to be in the data center. All Phoenix Settlement Administrators staff working in the Data Center are required to familiarize themselves thoroughly with this document. The only exception allowed to the Data Center Security Policies and Practices is temporary suspension of these rules if it becomes necessary to provide emergency access to medical, fire and/or police officials.

III. Levels of Access to the Data Center

There are three “Levels of Access” to the Data Center - Controlling Access, Escorted Access, and Unescorted Access.

a. Controlling Access is given to people who have free access authority into the Data Center. Controlling Access is granted to Phoenix Core staff whose job responsibilities require that they have access to the area. These individuals also have the authority to grant temporary access to the Data Center and to enable others to enter and leave the Data Center. People with Controlling Access are responsible for the security of the area, and for any individuals that they allow into the Data Center. If a person with Controlling Access allows Escorted Access to an individual, the person granting access is responsible for escorting the individual granted access and seeing to it they sign in and out. If needed, these duties can be handed-off to one of the Phoenix Operators on duty in the Data Center.



b. Escorted Access is closely monitored access given to people who have a legitimate business need for infrequent access to the Data Center. “Infrequent access” is generally defined as access required for less than 15 days per year. Individuals with Escorted Access will not be issued keys or be granted access via key code combination. A person given Escorted Access to the area must sign in and out under the direct supervision of a person with Controlling Access, must provide positive identification upon demand, and must leave the area when requested to do so. Individuals allowed Escorted Access will be placed on the Phoenix Operations Authorized Access List. A person with Escorted Access to the area must not allow any other person to enter or leave the area.

c. Unescorted Access is granted to a person who does not qualify for Controlling Access but has a legitimate business reason for unsupervised access to the Data Center. Individuals with Unescorted Access to the Data Center will be granted access to the area through a Phoenix core employee with controlling access. Unescorted Access personnel cannot authorize others to be granted unsupervised access to the Data Center. Customers who are given Unescorted Access may NOT escort anyone into the Data Center without approval from personnel with Controlling Access authority. ALL visitors must sign in when entering and sign out when leaving the Data Center.

d. Data Center Doors

All doors to the Data Center must remain locked at all times and may only be temporarily opened for periods not to exceed that minimally necessary in order to:

- Allow officially approved and logged entrance and exit of authorized individuals;
- Permit the transfer of supplies/equipment as directly supervised by a person with Controlling Access to the area;

e. Security System and Keys

It is the policy of Senior Management not to issue keys to the Data Center for routine access purposes. Requests for exceptions to this policy will be considered on a discretionary, case-by-case basis. If Senior Management issues a key to an individual, the individual may not share, loan or copy the key. All keys are marked “Do Not Duplicate” preventing a legal copy from being made. Only those granted Controlling Access can request and be issued keys. Under no circumstances may an individual attempt to bypass the Locking system to gain access for them or permit access to another individual.



f. Periodic Review and Termination/Revocation of Access

Periodic (at least annual) reviews will be performed of those with any level of access to the Data Center. Senior Management will perform these reviews. If an individual no longer requires Data Center access, it will be revoked. The Joint Management Team will also perform periodic (at least annual) reviews of those with keys to the Data Center. If an individual's needs no longer justify a key, it will be collected. Procedures for terminating or revoking Data Center access include:

- Changing Key
- Collecting Key

g. Access Control Log

The Data Center Access Control Log must be properly maintained at all times. The Log is maintained by Operations staff. All individuals with Controlling Access to the Data Center are responsible for maintaining this log. The following procedures must be followed:

- Each time an individual with Escorted Access to the Data Center is admitted to the area, he must properly log in on the Access Control Log at the time of entrance. The person admitting the visitor must countersign and fill out the appropriate section of the form.
- Each time an individual with Escorted Access leaves the area, he must properly log out on the Access Control Log at the time he leaves (even if only for a short time). The person with Controlling Access to the area who allows the visitor to leave must fill out the "Log Out" section of the Access Control Log.

h. Exception Reporting

All infractions of the Data Center Physical Security Policies and Procedures shall be reported to the Joint Management Team. If warranted (e.g.: emergency, imminent danger, etc.) the police will be notified immediately. If an unauthorized individual is found in the Data Center it is be reported immediately to Senior Management. They will determine if the police should be contacted. The unauthorized individual should be escorted from the Data Center and a full written report should be immediately submitted to Senior Management. Any attempt to forcibly or improperly enter of the Data Center should be immediately reported to the police, who should deal with the situation. The person present with controlling access will report the incident in writing to Senior Management. Individuals with Controlling Access to the area are to monitor the area and remove any individual who appears to be compromising either the security of the area or its activities, or who is disrupting operation.



i. Escalation

Senior Management has overall responsibility for the administration of these policies and procedures. Issues that Senior Management is unable to resolve will be escalated to the Phoenix Settlement Administrators executives.

IV. General Data Center Operations Policies

a. General Safety Policy

All individuals in the Data Center must conduct their work in observance with all applicable (ie: state, federal) policies related to safety.

b. General Cleanliness Policy

The Data Center must be kept extremely clean. All individuals in the Data Center are expected to maintain cleanliness. Tools must be replaced to their rightful place. Food and drink are not allowed in the Data Center.

c. Policies for Data Center Equipment Deliveries/Pick-Up

A log is maintained by Phoenix that identifies and verifies all equipment that is brought into or removed from the Data Center. The Phoenix Operations manager will be responsible for logging all equipment that is scheduled to arrive or be picked up from the Data Center. Any customer that is planning to have equipment delivered to or picked up from the Data Center should contact Phoenix Operations and provide details to Phoenix Operations in advance of delivery/pick-up. Please provide Operations with the following information for the equipment log:

For the delivery of equipment:

- Expected day of delivery;
- Vendor name and description of the equipment;
- Person to be contacted when the equipment arrives For the pick-up of equipment;
- Expected day the equipment will be picked up;
- Vendor name and the description and location of the equipment to be picked up;



V. Rules:

Those granted data center access must abide by the following rules:

- Access must not be used to allow any unauthorized person into the data center.
- Individual that has access **MUST** formally log in and out **ALL** visitors that are accompanying them into the data center.
- Individuals with access privilege must abide by all policies and procedures as described in the Phoenix Settlement Administrators Data Center Access Policies and Procedures document.
- Violating these rules may result in the revoking of access to the Data Center. The Operations Manager will facilitate the Data Center standards and procedures review process for all prospective data center tenants.

EXHIBIT C



PHOENIX
SETTLEMENT ADMINISTRATORS

CLASS ACTION SETTLEMENT SOLUTIONS

1411 N. Batavia Street, Suite 105, Orange, Ca. 92867 Telephone (800) 523-5773

Phoenix Server, Facility and Maintenance Security Protocols and Review

Phoenix, Settlement Administrators, Inc. Data Security and Server Annual Review

Overview:

As a matter of security enhancement and maintenance, Phoenix, Inc. performs a periodic audit of all data servers integral in maintaining security, systems efficiencies, safety, redundancy, and equipment capacity. The following document details all checks done to ensure proper attention in each area.

Server Room and Facility Security:

Trilogy Key Code Combination Locks (3 Locks in Facility “DC1 / DC2 / LBY1”)

- code changed, quarterly (Yes)
 - internal battery replaced, yearly (Yes)
 - manual override key secured in office safe (Yes)
- (Internal Maintenance, Operations Director Julie Keller)

Axis Security Camera Network (4 Cameras in Facility “Lobby / Outside Server Room / Inside Server Room / Rear & Front Door”)

- change password on main camera server, quarterly (Yes)
 - check each camera video display, daily (Yes)
 - check camera server for 45 day retention of video, quarterly (Yes)
 - check cameras for proper motion detection, weekly (Yes)
 - clean outdoor camera lenses, bi-yearly (Yes)
- (External Maintenance, Secure View, Robby Caldwell)

Securitron External Door Locking System (Lock System for Facility “Doors”)

- code changed, bi-yearly (Yes)
 - internal backup battery replaced, yearly (Yes)
 - locking door magnets checked for proper locking (Yes)
- (Internal Maintenance, Production Manager – David Voyer)

Server Room Alarm System

- individual combination for each authorized employee (Yes)
 - codes changes, bi-yearly (Yes)
 - door sensors check, monthly (Yes)
 - motion detector check, quarterly (Yes)
 - audible alarm check, bi-yearly (Yes)
 - backup battery replaced, yearly (Yes)
- (Internal Maintenance, Production Manager –David Voyer)

Data Center Log

- cross reference visitor log entry with video surveillance, monthly (Yes)
 - cross reference equipment removal forms with video surveillance, monthly (Yes)
- (Internal Maintenance, Operations Director – Julie Keller)

Questions? Please contact us at (800) 523-5773



PHOENIX
SETTLEMENT ADMINISTRATORS

CLASS ACTION SETTLEMENT SOLUTIONS

1411 N. Batavia Street, Suite 105, Orange, Ca. 92867 Telephone (800) 784-2174

Data Center Network Security:

Microtik Edge Router

- quarterly password change
- firmware upgrade performed as released
- (Internal Maintenance, Senior Engineer – Mill Systems)

Intrusion Detection System

- firmware upgrade performed as released
- (Internal Maintenance, Senior Engineer – Mill Systems)

Policies and Procedures

- staff review, bi-yearly
- educational review, bi-yearly
- Terminal and Log-In passwords changed, quarterly
- Updated Records of Required Password & Log-In required Changes, quarterly
- (Internal Maintenance, VP Operations – Melissa Meade & Michelle Reynolds, Esq)

Server Room Infrastructure Maintenance:

Powerware 80KVA UPS

- preventative maintenance PM check, annual (Yes)
- monthly battery test (Yes)
- visual inspection (Yes)
- (Contracted Maintenance)

Kohler 15REOZK 0-100KW Generator Set

- 30 minute operation/inspection every 30 days (Yes)
- emergency power transfer drill, annual (Yes)
- fluid check every 30 days (Yes)
- annual inspection and complete fluid change (Yes)
- (Contracted Maintenance, Tier 4 Generators, Tustin- Ron Aglio)

Building Fire Suppression System

- annual inspection (Yes)
- control panel visual inspection (Yes)
- (Contracted Maintenance, Jon Rash)

Handheld Halon Bottles in Data Center

- annual inspection and pressure test (Yes)
- (Contracted Maintenance, Hendricks Fire)

HVAC Building Cooling Systems

- inspection of all units, annual (Yes)
- filter replacement, quarterly (Yes)

EXHIBIT D

PHOENIX BUSINESS CONTINUITY POLICY

Table Of Contents

1	Purpose - Business Continuity Management.....	3
2	Policy Statement.....	3
2.1	BUSINESS IMPACT ANALYSIS	3
2.2	RISK MITIGATION	3
2.3	BUSINESS CONTINUITY STRATEGY	3
2.4	BUSINESS CONTINUITY PLAN.....	3
2.5	DISASTER RECOVERY PLAN.....	4
2.6	DR DOCUMENT.....	4
2.7	TESTING	5
2.8	UPDATING YOUR BCP AND DRP	5

1 Purpose - Business Continuity Management

In accordance with industry 'best practices' and to comply with numerous compliance regulations, Phoenix has implemented various Information Security policies and procedures in order to protect the confidentiality, integrity and availability (CIA) of their critical client data, their computing resources, and their business interests. This document provides describes the Business Continuity Management procedures to be performed by the IT staff at Phoenix.

2 Policy Statement

2.1 Business Impact Analysis

Before a Disaster Recovery Plan (DRP) or Business Continuity Plan (BCP) is created, a Business Impact Analysis (BIA) must be performed on each business unit's systems and processes. Guidelines for this can be found in the, "Phoenix's Risk Assessment Planning Guide for Information Technology Systems".

Things to consider:

- A determination the maximum time of not having the service(s) provided by the system that can be tolerated.

An identification of all of the threats to the system such as:

- Program or Data Failure.
- Hardware Failure.
- Electrical Power Failure.
- Fire.
- Natural disasters

2.2 Risk mitigation

Following the BIA, appropriate controls should be considered for implementation in order to decrease the risk to an acceptable level.

The business process owner should discuss all risk mitigation options with Management before the strategy is developed.

2.3 Business continuity strategy

Business process owner and Management should then develop a business continuity strategy consistent with business objectives. Emphasis should be on restoring services within the acceptable time.

- BCP recovery strategies should include input from all relevant business units. This ensures that there is ownership of the BCP strategy by the business units.
- Assess all the risks associated with the strategy you have adopted.
- Business owners must weigh their tolerance for downtime when selecting a recovery strategy.
- Once the strategy is determined, develop the BCP.

2.4 Business Continuity Plan

All COMPANY locations must create high-level BCP's (often non-IT system specific, business recovery). BCP's should include manual processes where possible and should be developed in conjunction with Business Process Owners, not IT personnel. Individuals must be assigned to execute each component of the plan.

2.5 Disaster Recovery Plan

DRP can be included with the BCP and will often involve IT specific recovery. Business Process owners and IT personnel must work together to create the DRP. All IT systems should be considered during the development of the plan. Individuals must be assigned to execute each component of the plan.

For example, the following areas should be included in the plan :

- Data backup – media/content must be sent offsite.
- Documentation backup – all hard copies and soft copies
- Archived data – may include removable and internal media
- Facilities backup – for example: backup generator, UPS.
- Business resumption team training – during disaster
- Critical applications
- Alternate processing procedures – for example manual procedures.

2.6 DR Document

Your DR Plan must include a DR document. This is what you will use during an actual disaster and auditors will require it.

This is how the document should be structured:

Mitigation

- *Identify Recovery Components (the scope of the plan)*
- *Perform an Operational Analysis – to ensure current operational flaws are not replicated in emergency mode so you must review the current strategy*
- *Perform a Disaster Risk Analysis*

Examples to look for are:

- *Electronic security*
- *Viruses*
- *Hardware failure*
- *Fire*
- *Power outages*
- *Physical security*

Preparation Mode

Focus on documenting existing systems, network configurations, hardware, applications and assigned personnel.

This answers the question of WHAT needs to be recovered, WHEN (prioritized), HOW and by WHOM.

- *Document Systems and Applications*
- *Perform a (Risk) Tolerance Analysis*
- *Prioritize Recovery*
- *Create Organizational Chart*
- *Create a Contact List (print and distribute)*
- *Put in place a DR Team*
- *Assign Roles and Responsibilities*
- *Review the Plan*
- *Make necessary policy changes to align with the plan*
- *Test the Plan*
- *Implement the Plan*
- *Perform routine Plan Maintenance*

Response Mode

- *Conduct the appropriate actions in the Event of an Emergency – evaluate the problem before engaging Recovery Mode.*

Recovery Mode

- *Execute the plan*

2.7 Testing

Must be tested at least annually where possible.

2.8 Updating your BCP and DRP

Must review annually and updated if.

Disaster Recovery Plan

Millennium Systems

Last reviewed & tested - 24/07/2018

[Introductions](#)

[Plan scope](#)

[Service RPO and RTO targets](#)

[Backup strategy](#)

[Testing schedule](#)

[Plan review](#)

[Revision history](#)

[Roles and responsibilities](#)

[Internal contacts](#)

[External contacts](#)

[Incident response](#)

[DR procedures](#)

Introduction

This document details the policies and procedures of Phoenix Settlement Administration in the event of a disruption to critical IT services or damage to IT equipment or data. These processes will ensure that those assets are recoverable to the right level and within the right timeframe to deliver a return to normal operations, with minimal impact on the business.

Plan scope

- Local facility
- Data center

Service RPO and RTO targets

IT service	Scenario	RPO	RTO	Priority
Shared Files	Server failure	24 hours	4 hours	High
Email	Server failure	24 hours	8 hours	High
RDS	Server failure	24 hours	8 hours	High
VPN	Router failure	24 hours	8 hours	High

Backup strategy

IT service	Backup location	Backup frequency
Offsite backup	Offsite	Daily
Local Backup	Data Center	Daily

Testing schedule

- The DR plan will be tested in its entirety once every 3 months
- Recovery process for IT service will be tested once every 3 months

Plan review

- The DR plan itself will be formally reviewed once every 3 months and in response to regular testing

Revision history

Version	Date	Revision details
1.0	1/17/2018	
1.1	7/24/2018	Added DR Procedures

Roles and responsibilities

The following individuals are to assume responsibility for restoring IT services when the DR plan is activated:

Internal contacts

Name	Job role	Contact details	DR process owned
Melissa Meade	VP of Operations	(949) 331-0865	None

External contacts

Name	Organisation	Contact details	DR process owned
Millennium Systems	Millennium Systems	(949) 252-8772	Disaster recovery

Incident response

The DR plan is to be activated when one or more of the following criteria are met:

- Loss of data, connectivity, and hardware failure.

The person discovering the incident must notify the following DR stakeholders, who collectively assume responsibility for deciding which - if any - aspects of the DR plan should be implemented, and for establishing communication with employees, management, partners and customers.

- Melissa Meade
- Millennium Systems

DR procedures

Depending on the incident, and on the number and nature of the IT services affected, one or more of the following DR procedures may be activated by the DR team:

DR plan for loss of data

Scenario	Lost data discovered on the server
Possible causes	Data corruption, hardware failure
IT services and data at risk	Shared files
Impact	Lost data

Plan of action	• Identify issue, coordinate initial response (Melissa Meade) • Evaluate damage (Melissa Meade) • Contact Millennium Systems (Melissa Meade) • Establish data recovery targets and timeframes (Millennium Systems) • Recover data from local or offsite backup (Millennium Systems) • Verify restored data (Melissa Meade)
Key contacts	• Melissa Meade (VP of Operation) • Millennium Systems

DR plan for scenario loss of connectivity

Scenario	Connectivity is lost to the servers
Possible causes	Internet connectivity issues or router issues
IT services and data at risk	Shared Files, RDS, Email, VPN
Impact	Lost productivity

Plan of action	• Identify issue, coordinate initial response (Melissa Meade) • Evaluate damage (Melissa Meade) • Contact Millennium Systems (Melissa Meade) • Contact Internet service provider for Internet connectivity issues. (Millennium Systems) • Replace or resolve router issues (Millennium Systems)
Key contacts	• Melissa Meade (VP of Operation) • Millennium Systems

DR plan for scenario hardware failure

Scenario	Hardware has failed
Possible causes	Hardware failure on the servers
IT services and data at risk	Shared Files, RDS, Email
Impact	Lost productivity

Plan of action	• Identify issue, coordinate initial response (Melissa Meade) • Evaluate damage (Melissa Meade) • Contact Millennium Systems (Melissa Meade) • Replace hardware and restore data (Millennium Systems)
Key contacts	• Melissa Meade (VP of Operation) • Millennium Systems

Incident Response Plan

Prepare

In preparing for security incidents several items need to be addressed.

- Incident handling team should include security officers, system analysts and human resources personnel
- End users and analysts should be trained at an appropriate level. Login banner and warning messages should be posted.
- Contact information is included as an appendix to this document and should be available in hard copy for:
 - personnel that might assist in handling an incident
 - key partners who may need to be notified
 - business owners to make key business decisions
 - outside support analysts with security expertise
- Backups should be taken and tested!
- Supplies to assist the team in the event of an incident (sometimes referred to a jump bag)
 - An empty notebook (Thorough documentation should be done throughout an incident to include hand written notes in a fresh notebook.)
 - Boot CDs to analyze hard drives and recover passwords

Identify

Awareness that a security incident has occurred can originate from different sources such as technical people, end users or even clients.

Best practices suggests to declare that an incident has occurred when security officers' sense that an adverse risk to the company exists and then assemble the team and implement the plan. It is also suggested to early on have multiple people involved, to save all key system files or records such as log files and start detailed documentation as soon as possible.

Ultimately business owners need to be involved in many security incidents to decide what are the goals in handling a particular incident, such as immediate business recovery or forensic examination.

Contain

Following basic procedures can contain many incidents. Specific procedures will frequently depend on the nature of the incident, as well as the direction of the business owner. Remember that a compromised machine might not present valid data! Basic steps to consider include:

- Obtain and analyze as much system information as possible including key files and possibly a backup of the compromised machine for later forensic analysis.
- Powering off a machine might lose data and evidence. Preferably disconnecting the LAN cable facilitates containment and forensic activity. (Putting the computer on a separate network with a network analyzer might help analyzing network activity)

- If one machine has been exploited others might be vulnerable. Actions that might need to be taken on a large scale might include:
 - Download security patches from vendors
 - Update antivirus signatures
 - Close firewall ports
 - Disable compromised accounts
 - Run vulnerability analyzers to see where other vulnerable hosts are
 - Change passwords as appropriate

Eradicate

To eradicate the problem specific procedures will frequently depend on the nature of the incident as well as the direction of the business owner. Key considerations include:

- Boot CDs should be used to access data on compromised machines. (Rootkits installed on compromised machines might affect basic system level utilities and discourage use of a compromised host)
- If machines OS has been compromised it needs to be rebuilt using hardened machines on appropriate platforms
- Test any backups prior to restore and monitor for a new incident.
- Document everything.

Recover

The recovery phase's goal is to return safely to production. Once again specific actions might depend on the nature of the incident as well as the direction of the business owner. Key considerations include:

- Retest the system preferably with a variety of end users.
- Consider timing of the return to production.
- Discuss customer notification and their concerns
- Continue to monitor for security incidents

Review

This phase is to allow Phoenix to better handle future security incidents. A final report should be written describing the incident and how it was handled using the Incident reporting form. Suggestions for handling future incidents and reworking this document should be included in this report.

Contact information

1. Personnel that might assist in handling an incident:
Melissa A. Meade
Vice President of Operations
Direct: 949.331.0865
Email: melissa@phoenixclassaction.com
2. Key partners who may need to be notified:
Michael E. Moore
President and Managing Partner
Direct: 949.331.0131
Email: mike@phoenixclassaction.com
3. Business owners to make key business decisions
Michael E. Moore
President and Managing Partner
Direct: 949.331.0131
Email: mike@phoenixclassaction.com
4. Outside support analysts with security expertise
Eric Dee: IT

Additional service provider contacts

PERSONAL COMPUTER SECURITY POLICY

Table of Contents

Purpose.....	1
Scope.....	1
Policy	1
Violations.....	1
Definitions.....	3
References.....	3
Related Documents	3
Approval and Ownership	3
Revision History	3

PURPOSE

This policy defines the information security instructions applicable to all workers who use Phoenix personal computers, including Macintoshes, workstations, portable computers, handheld computers, personal digital assistants, and similar computers dedicated to a single user’s activity.

SCOPE

This policy applies to all Phoenix computer systems and facilities, including those managed for Phoenix customers. This policy applies to all employees, partners and third-parties with access to Phoenix information assets.

POLICY

Business Use of Systems

Business Use Only - In general, Phoenix computer and communication systems are intended to be used for business purposes only. Incidental personal use is nonetheless permissible if the use does not consume more than a trivial amount of resources that could otherwise be used for business purposes, does not interfere with worker productivity, does not preempt any business activity, and does not cause distress, legal problems, or morale problems for other workers.

Offensive Content - Offensive material that might cast Phoenix in a bad light, including sexist, racist, violent, or other content, is strictly forbidden from all Phoenix personal computers.

Configuration Control

Approved Software Only - Phoenix has a standard list of permissible software packages that users can run on their personal computers [a link to an intranet-posted personal computer configuration standard could be provided here]. Workers must not install other software packages on personal computers without obtaining advance permission from the Information Systems department. Unapproved software may be removed without advance notice to the involved worker.

Prohibited Software Installation - Workers must not permit automatic software installation routines to be run on Phoenix personal computers unless these routines have been approved by the Information Systems Department.

Changes To Operating System Configurations - Workers must not change operating system configurations, upgrade existing operating systems, or install new operating systems on any Company X-supplied computer hardware.

Changes To Hardware - Computer equipment supplied by Phoenix must not be altered or added to in any way without the prior knowledge of and authorization from the Information Systems department.

Access Control

Access Control Package - All Phoenix personal computers must run an access control package approved by the Information Security department. Typically these packages require a fixed password at the time a personal computer is booted and again after a certain period of no activity.

Unattended Active Sessions - Users must not leave their personal computer, workstation, or terminal unattended without logging out or invoking a password-protected screen saver.

Session Timeout - Users must set the time frame for this period of no activity, at which point the contents of the screen are obscured, to 15 minutes or less. If sensitive information resides on a personal computer, the screen must immediately be protected with this access control package, or the machine turned off, whenever a worker leaves the location where the personal computer is in use.

Choice Of Passwords - The user-chosen passwords employed by access control software packages, and the keys employed by encryption packages, must be at least eight (8) characters in length and conform to the existing Phoenix password construction standards. (Example: These passwords and keys must be difficult to guess. Words in a dictionary, derivatives of user IDs, and common character sequences such as “123456” must not be employed. Personal details such as spouse’s name, license plate, social security number, and birthday must not be used unless accompanied by additional unrelated characters. User-chosen passwords and keys must not be any part of speech including, proper names, geographical locations, common acronyms, and slang.)

Storage Of Passwords - Workers must maintain exclusive control of their personal passwords. They must not share them with others at any time. Passwords must not be stored in readable form in batch files, automatic logon scripts, software macros, terminal function keys, in computers without access controls, or in any other locations where unauthorized persons might discover them.

Viruses

Virus Program Installed - All personal computers must continuously run the current version of virus detection package approved by the Information Security department. The current version of this virus package must be automatically downloaded to each personal computer when the machine is connected to the Phoenix internal network.

External Storage Checking - Externally-supplied CD-ROMs, and other removable storage media must not be used unless they have been checked for viruses.

Eradicating Viruses - Workers must not attempt to eradicate a virus without expert assistance. If workers suspect infection by a virus, they must immediately stop using the involved computer, physically disconnect from all networks, and call the Information Systems department Help Desk.

Information Backup

Archival Copies - All personal computer software that is not standard Phoenix software must be copied prior to its initial usage, and such copies must be stored in a safe and secure location. These master copies, perhaps the media issued by the vendor, must not be used for ordinary business activities, but must be reserved for recovery from virus infections, hard disk crashes, and other computer problems.

License Documentation - Documentation about the licenses for such software must be retained to get technical support, qualify for upgrade discounts, and verify the legal validity of the licenses.

Periodic Backup - All sensitive, valuable, or critical information resident on Phoenix computer systems must be periodically backed up. Such backup processes must be performed at least weekly. Department managers must verify that proper backups are being made on all personal computers used for production business activities.

Manual Backups - Unless automatic backup systems are known to be operational, all end users are responsible for making at least one current backup copy of sensitive, critical, or valuable files stored on local disk. These separate backup copies should be made each time that a significant number of changes are saved.

Backup Storage - User-generated backups must be periodically stored off-site in a physically secure location. Selected files from backups must be periodically restored to demonstrate the effectiveness of every backup process.

Copyright Protection - Making unauthorized copies of licensed and copyrighted software, even if for “evaluation” purposes, is forbidden. Phoenix permits reproduction of copyrighted materials only to the extent legally considered fair use or with the permission of the author or Owner. If workers have any questions about the relevance of copyright laws, they must contact corporate legal counsel. Unless they receive information to the contrary, workers must assume that software and other materials are copyrighted.

Networking and Connectivity

Modems - Modems inside or attached to Phoenix office desktop personal computers are not permitted.

Inbound Internet - Inbound Internet connections to Phoenix personal computers are forbidden unless these connections employ an approved virtual private network (VPN) software package approved by the Information Security department. These VPN systems must employ both user authentication features with at least fixed passwords and data interception prevention features, such as encryption.

Downloading Sensitive Information - Sensitive Phoenix information may be downloaded from a multi-user system to a personal computer only if a clear business need exists, adequate controls to protect the information are currently installed on the involved personal computer, and advance

permission from the information Owner has been obtained. This policy is not intended to cover electronic mail or memos, but does apply to databases, master files, and other information stored on mainframes, minicomputers, servers, and other multi-user machines.

Establishing Networks - Workers must not establish electronic bulletin boards, local area networks, modem connections to existing internal networks, Internet commerce systems, or other multi-user systems for communicating information without the specific approval of the Information Security department.

Automatic Device Synchronization - Systems that automatically exchange data between devices, such as a personal digital assistant and a personal computer, must not be enabled unless the systems have been evaluated and approved by the Information Security department.

Physical Security

Positioning Display Screens - The display screens for all personal computers used to handle sensitive or valuable data must be positioned such that the information cannot be readily viewed through a window, by persons walking in a hallway, or by persons waiting in reception and related areas. Care must also be taken to position keyboards so that unauthorized persons cannot readily see workers enter passwords, encryption keys, and other security-related parameters.

Locking Sensitive Information - When not being used by authorized workers, or when not clearly visible in an area where authorized persons are working, all hardcopy sensitive information must be locked in file cabinets, desks, safes, or other furniture. When not being used, or when not in a clearly visible and attended area, all computer storage media containing sensitive information must be locked in similar enclosures.

Preventing Equipment Theft - All office desktop personal computers except portables must be physically secured to desks with approved devices such as locking wires or plates that bolt the equipment to furniture.

Equipment Identification - All personal computer equipment must be marked with visible identification information that clearly indicates it is Phoenix property. Periodic physical inventories must be completed to track the movement of personal computers and related equipment.

Custodians For Equipment - The primary user of a personal computer is considered a Custodian for the equipment. If the equipment has been damaged, lost, stolen, borrowed, or is otherwise unavailable for normal business activities, a Custodian must promptly inform the involved department manager. With the exception of portable machines, personal computer equipment must not be moved or relocated without the knowledge and approval of the involved department manager.

Use Of Personal Equipment - Workers must not bring their own computers, computer peripherals, or computer software into Phoenix facilities without prior authorization from their department head. Workers must not use their own personal computers for production Phoenix business unless these systems have been evaluated and approved by the Information Security department.

Property Pass - Personal computers, portable computers and related information systems equipment must not leave Phoenix offices unless accompanied by a property pass signed by a department manager.

Environmental Considerations - All personal computers in Phoenix offices must use surge suppressors. Those personal computers running production applications must also have uninterruptible power systems approved by the Information Security department.

Management

Browsing - Workers must not browse through Phoenix computer systems or networks. Steps taken by workers to legitimately locate information needed to perform their job are not considered browsing. Use of the Phoenix intranet is not considered browsing.

Tools To Compromise Systems Security - Unless specifically authorized by the Information Security department, Phoenix workers must not acquire, possess, trade, or use hardware or software tools that could be employed to evaluate or compromise information systems security. Examples of such tools include those that defeat software copy protection, discover secret passwords, identify security vulnerabilities, or decrypt encrypted files.

Reporting Problems - Users must promptly report all information security alerts, warnings, and suspected vulnerabilities to the Information Systems Help Desk. Users must not use Phoenix systems to forward such information to other users, whether the other users are internal or external to Company X.

VIOLATIONS

Any violation of this policy may result in disciplinary action, up to and including termination of employment. Phoenix reserves the right to notify the appropriate law enforcement authorities of any unlawful activity and to cooperate in any investigation of such activity. Phoenix does not consider conduct in violation of this policy to be within an employee's or partner's course and scope of employment, or the direct consequence of the discharge of the employee's or partner's duties. Accordingly, to the extent permitted by law, Phoenix reserves the right not to defend or pay any damages awarded against employees or partners that result from violation of this policy.

Any employee or partner who is requested to undertake an activity which he or she believes is in violation of this policy, must provide a written or verbal complaint to his or her manager, any other manager or the Human Resources Department as soon as possible.

DEFINITIONS

Confidential Information (Sensitive Information) – Any Phoenix information that is not publicly known and includes tangible and intangible information in all forms, such as information that is observed or orally delivered, or is in electronic form, or is written or in other tangible form. Confidential Information may include, but is not limited to, source code, product designs and plans, beta and benchmarking results, patent applications, production methods, product roadmaps, customer lists and information, prospect lists and information, promotional plans, competitive information, names, salaries, skills, positions, pre-public financial results, product costs, and pricing, and employee information and lists including organizational charts. Confidential Information also includes any confidential information received by Phoenix from a third party under a non-disclosure agreement.

Electronic Messaging System – Any device or application that will provide the capability of exchanging digital communication between two or more parties. Examples are electronic messaging, instant messaging, and text messaging.

Information Asset – Any Phoenix data in any form, and the equipment used to manage, process, or store Phoenix data, that is used in the course of executing business. This includes, but is not limited to, corporate, customer, and partner data.

Objectionable Information or Material – Anything that is considered offensive, defamatory, obscene, or harassing, including, but not limited to, sexual images, jokes and comments, racial or gender-specific slurs, comments, images or jokes, or any other comments, jokes, or images that would be expected to offend someone based on their physical or mental disability, age, religion, marital status, sexual orientation, political beliefs, veteran status, national origin, or ancestry, or any other category protected by national or international, federal, regional, provincial, state, or local laws.

Partner – Any non-employee of Phoenix who is contractually bound to provide some form of service to Company X.

Password – An arbitrary string of characters chosen by a user that is used to authenticate the user when he attempts to log on, in order to prevent unauthorized access to his account.

User - Any Phoenix employee or partner who has been authorized to access any Phoenix electronic information resource.

PHOENIX DATA ARCHIVING AND RETENTION POLICY

Table Of Contents

1	Purpose	3
2	Policy Statement.....	3
2.1	GENERAL POLICY.....	3
2.2	PHOENIX MANAGEMENT’S RESPONSIBILITIES	3
2.3	PHOENIX IT’S RESPONSIBILITIES.....	4
2.4	DATA CLASSIFICATION	4
2.4.1	Administrative Correspondence	4
2.4.2	Fiscal Correspondence.....	4
2.4.3	General Correspondence.....	4
2.4.4	Ephemeral Correspondence.....	4
2.4.5	Customer Sensitive or Confidential Information.....	4
2.5	RECORD RETENTION SCHEDULE	5
2.6	POLICY SUSPENSION.....	5
2.7	POLICY NON-COMPLIANCE	5

1 Purpose

In accordance with industry ‘best practices’ and to comply with numerous compliance regulations, Phoenix has implemented various Information Security policies and procedures in order to protect the confidentiality, integrity and availability (CIA) of their critical client data, their computing resources, and their business interests. This document provides describes the data archiving and retention policies and procedures to be performed by the IT staff at Phoenix.

2 Policy Statement

2.1 General Policy

Any data deemed a “*business record*” shall be archived and retained for a specified period of time. A business record is any print or electronic document created and maintained in the ordinary course of business. However, not every data constitutes a business record that must be kept. Data and any of its attachments should be retained if it documents business activities that have evidentiary or reference value, or it is the sole copy of the information. This includes, for example, job offers, contract negotiations where final pricing is set, or a policy memo. It does not include, for example, in-progress drafts, discussions, or negotiations; received copies of policy memos where an original already exists; or non-business correspondence.

Any data that is required by law to be stored for legal reviews and/or audits will also be archived and retained for as long as the law demands. These messages will also be disposed of in accordance with any regulations governing Phoenix and the industry in which it resides.

2.2 Phoenix Management’s responsibilities

The procedures for archiving and retaining electronic data must be compliant with the local, federal, and industry laws, regulations, and directives governing the country, state or municipality where each Phoenix office is located.

Phoenix Management is responsible for being aware of, listing and describing the local, federal, and industry laws, regulations, and directives that may affect this E-mail Archiving and Retention Policy.

2.3 Phoenix IT's responsibilities

Phoenix IT Department is responsible for implementing and supporting an appropriate data archiving solution and supporting software.

Any and all archived data will be tagged with metadata in order to make data headers, content, attachments, and text fully searchable. In addition, Phoenix IT Department will deploy and maintain software applications that support the archiving and search ability of stored data.

2.4 Data classification

The following is a list of types and categories which should be used to classify data. Any data which would not fall under any of these categories must be assessed by Phoenix Management and Phoenix IT Department to determine its retention guidelines :

2.4.1 Administrative Correspondence

- Phoenix Administrative Correspondence includes clarification of established company policy, including holidays, time card information, dress code, work place behavior and any legal issues such as intellectual property violations. All email with information sent to or from the Phoenix Management Staff shall also be treated as Administrative Correspondence.

2.4.2 Fiscal Correspondence

- Phoenix Fiscal Correspondence is all information related to revenue and expense for Phoenix. It especially includes any financial reporting related correspondence.

2.4.3 General Correspondence

- Phoenix General Correspondence covers information that relates to customer interaction and the operational decisions of the business. The individual employee is responsible for data retention of General Correspondence.

2.4.4 Ephemeral Correspondence

- Phoenix Ephemeral Correspondence is by far the largest category and includes personal email, requests for recommendations or review, email related to product development, updates and status reports.

2.4.5 Customer Sensitive or Confidential Information

- See Data Classification Policy for description.
- Data should be destroyed upon completion of related projects as agreed to with customers.
- Data that changes in classification to public based on its age, should be destroyed according to need for computing, backup, and storage resources.

2.5 Record Retention Schedule

The Phoenix Management is responsible for creating and maintaining a list (called “***Record Retention Schedule***”) of all data categories and types created and maintained by Phoenix that qualify as business records or messages that must be archived under the law.

The Phoenix IT Department will assist Phoenix Management in maintaining this schedule.

For each data type, a mandatory retention schedule and method of disposal must be stipulated, in addition to storage locations.

2.6 Policy Suspension

In some instances, this E-Mail Archiving and Retention Policy may be temporarily suspended, specifically if an investigation, litigation, or audit is anticipated. In some instances, this policy’s disposal schedule may conflict with the need to produce data relevant to the aforementioned legal or regulatory procedures. If this is the case, then the need to comply fully with the law and/or regulation will override this policy, causing this policy to be temporarily suspended until the matter in question is satisfactorily resolved. Suspension of this policy will take the form of no data being disposed of whatsoever for a period of time, until lifted.

2.7 Policy Non-Compliance

It is in violation of this policy to dispose of any data types named in the Retention Schedule above.

PHOENIX PERSONNEL SECURITY POLICY

Table Of Contents

1	Purpose	3
2	Policy Statement.....	3
2.1	SECURITY IN JOB DEFINITIONS.....	3
2.1.1	Including Security In Job Responsibilities.....	3
2.1.2	Personnel Screening.....	3
2.1.3	Non Disclosure Agreements	3
2.1.4	Terms And Conditions Of Employment	3
2.2	USER TRAINING	4
2.2.1	Information Security Awareness And Training	4
2.3	RESPONDING TO SECURITY INCIDENTS AND MALFUNCTIONS.....	4
2.3.1	Reporting Security Incidents, Weaknesses and Malfunctions	4
2.3.2	Learning From Incidents.....	4

1 Purpose

In accordance with industry ‘best practices’ and to comply with numerous compliance regulations, Phoenix has prepared various Information Security policies and procedures which are intended to protect the confidentiality, integrity and availability (CIA) of their critical client data and their computing resources. This document describes personal security policy at Phoenix in defining and administering these policy and procedures.

2 Policy Statement

Personnel at all levels are required to contribute to maintaining a high level of information security. As stated in the Corporate Security Policy, *‘security is a business objective where staff members are to be active agents and is an integral part of everybody’s job profile and objectives.’*

This document lays out Phoenix’s Information Security Policies relating to Phoenix’s employees, and other users of Phoenix’s information systems. It includes security in job definitions, user training, and responding to security incidents and malfunctions.

2.1 Security In Job Definitions

2.1.1 Including Security In Job Responsibilities

- 2.1.1.1 All job roles and responsibilities must be documented and should include general as well as specific responsibilities for implementing or maintaining security within Phoenix.
- 2.1.1.2 All employees of Phoenix must understand their job roles and responsibilities.

2.1.2 Personnel Screening

- 2.1.2.1 Periodic background checks should be performed on all personnel who work in sensitive or critical job roles.
- 2.1.2.2 All supervisory roles are responsible for the performance and conduct of the staff personnel reporting to them. Managers/supervisors are required to monitor performance and conduct of each of their staff. Information owners and business process owners must assess the impact on the security of the information resources to which the staff has access.

2.1.3 Non Disclosure Agreements

- 2.1.3.1 All users of Phoenix’s information assets will be required to accept non-disclosure obligations. Users are required not to disclose company or customer information derived as a result of their access to Phoenix’s information systems to unauthorized parties.
- 2.1.3.2 All users will be required to periodically re-affirm their non-disclosure obligations by signing non-disclosure and/or confidentiality agreements.

2.1.4 Terms And Conditions Of Employment

- 2.1.4.1 Phoenix’s employment policies must contain reference to:
 - The employee’s legal and security related responsibilities,
 - The extent and duration of the responsibilities

- An indication of management action in case the terms of employment are violated.

2.1.4.2 All employees of Phoenix must sign a statement indicating they read and accept the terms of the Acceptable use policy.

2.2 User Training

2.2.1 Information Security Awareness and Training

2.2.1.1 Each employee, with access to sensitive information, must be educated with regards to information security and security awareness. Additionally, those who are involved with technical security responsibilities are required to learn additional security skills that correspond to their specific job role.

2.2.1.2 Details of training and certificates (if any) issued during the training must be documented and maintained in each personnel's profile.

2.3 Responding To Security Incidents And Malfunctions

2.3.1 Reporting Security Incidents, Weaknesses and Malfunctions

2.3.1.1 All Phoenix employees and business partners are responsible for reporting of any security breaches, security weaknesses, or software malfunctioning, to the Phoenix IT department, or the legal department, as quickly as possible using the Incident Report Form, or e-mail, or and direct contact.

2.3.2 Learning From Incidents

2.3.2.1 Phoenix requires that processes be developed to analyze security incidents and identify proactive measures to be undertaken to avoid similar incidents in future.

Phoenix Settlement Administration Office Risk Assessment

Management Unit:	Phoenix Settlement Administration	Location: (Site/ Building/ Room)
Assessment Date:		Review Date:
Assessors Name:		Job Title:
Task: Risk assessment for the activities associated with work in an office environment.		

What are the hazards? (See list of sample hazards)	Who might be harmed? (e.g. Staff, students, visitors)	What are the risks	Are the following control measures in place to eliminate or reduce the risks?	Yes/ No	Corrective actions required	Risk Evaluation			Risk Rating Low, Medium or High
						Consequence (1 – 3)	Likelihood (1 – 3)	Overall risk (C x L)	
Slips, trips and falls		Could suffer injury e.g. sprains and fractures if they trip and fall as a result of: - Obstructions, trailing cables, spillages, worn or raised floor coverings etc on walkways. - Poor office layout and storage arrangements resulting in insufficient circulation space.	1. Work areas should be kept clear of obstructions. 2. Any spillages should be cleaned up immediately. 3. All areas should be well lit, especially stairs. 4. Any hazards such as torn carpets, trailing cables, defects to floor coverings, faulty lighting etc. should be reported immediately to the line manager or local person responsible for safety.						
Manual Handling		Could suffer from back pain and work related upper body disorder (WRULD) due to: Using incorrect handling techniques when handling office items (deliveries, boxes, filing etc).	1. A risk assessment must be completed for lifting heavy and bulky loads that present a risk of injury e.g. stretching, stooping, twisting). 2. A trolley should be used to transport boxes of paper or other heavy items. 3. Using low shelves for storing heavy items and only using						

What are the hazards? (See list of sample hazards)	Who might be harmed? (e.g. Staff, students, visitors)	What are the risks	Are the following control measures in place to eliminate or reduce the risks?	Yes/ No	Corrective actions required	Risk Evaluation			Risk Rating Low, Medium or High
						Consequence (1 – 3)	Likelihood (1 – 3)	Overall risk (C x L)	
		- Poor workstation layout and insufficient working space resulting in poor posture. - Individuals with health conditions, previous back injuries etc affecting ability to safely handle items - New and expectant mothers may be more susceptible to injury.	high shelves for light items only. 4. Training in lifting techniques should be provided for anyone who undertakes lifting of heavy loads.						
Computer workstation use		WRULD could develop as a result of - Inappropriate layout or lack of awareness resulting in poor posture being adopted when using Display Screen Equipment (DSE) - Working for prolonged periods without change of posture or sufficient break.	1. Where desktops, laptops and notebooks are used as a significant part of day-to-day work, a Computer Equipment assessment must be carried out. 2. Work should be planned to include regular breaks from the computer. 3. HSE leaflet "Are you keying safely" may be issued to DSE users.						
Data loss		Removed data in a result of - Accidental deletion - Software and/or hardware failure	1. Proper access rights are set in place to prevent deletion of critical data. 2. Regular local and offsite backups are in place and monitored.						

What are the hazards? (See list of sample hazards)	Who might be harmed? (e.g. Staff, students, visitors)	What are the risks	Are the following control measures in place to eliminate or reduce the risks?	Yes/ No	Corrective actions required	Risk Evaluation			Risk Rating Low, Medium or High
						Consequence (1 – 3)	Likelihood (1 – 3)	Overall risk (C x L)	
			3. Proper training of the staffs on using computers and how data are handled.						
Electrical safety		Could suffer electrical shock or burns if using	1. All portable electrical equipment must be tested for electrical safety at correct intervals and labelled with the date of the test.						
		Damaged portable electrical appliances, their cables, plugs e.g. lamps, fans, photocopier, extension leads, PC etc.	2. Electrical cables and plugs should be regularly visually inspected by the user for damage.						
			3. Any defective equipment should be reported immediately to the responsible person e.g. line manager or local safety coordinator, then suitably labelled and taken out of use until the repair has been carried out.						
			4. Electrical equipment must always be operated in accordance with manufacturers' instructions.						
Fire		Could suffer from smoke inhalation or burns if trapped in office.	1. The storage of empty cardboard boxes should be kept to an absolute minimum.						
		Combustible materials coming into contact with or in close proximity to heat sources.	2. Equipment should be switched off when not in use for long periods.						
			3. All portable electrical equipment must be tested for						

What are the hazards? (See list of sample hazards)	Who might be harmed? (e.g. Staff, students, visitors)	What are the risks	Are the following control measures in place to eliminate or reduce the risks?	Yes/ No	Corrective actions required	Risk Evaluation			Risk Rating Low, Medium or High
						Consequence (1 – 3)	Likelihood (1 – 3)	Overall risk (C x L)	
		- Portable heaters in unsafe condition and/or inappropriately located. - Over accumulation of rubbish. - Over loading of electrical sockets. - Inappropriate action in the event of discovering a fire or hearing the fire alarm.	electrical safety at appropriate intervals. 4. The fire alarm system is installed, maintained and tested. 5. Fire risk assessments for each building should be carried out periodically. 6. Everyone must be acquainted with the Emergency evacuation procedure for their area. 7. Area Fire Officers and depute must be appointed to cover offices and general areas.						
Lone working and Out of Hours work (LOOH)		Staff unable to promptly summon emergency assistance in the event of serious injury, sudden illness or personal threat.	1. LOOH work should be minimised or avoided where feasible. 2. If unavoidable, conduct a generic LOOH Risk Assessment 3. Specific LOOH Risk Assessment may be required in circumstances where any potential risks are increased (e.g. expectant mothers, persons with mobility issues or medical conditions).						
Falling from height		- Falling when retrieving items stored at height - Dropping items onto others when stored at height	1. Chairs or desks must not be used for reaching heights; step stools should be used instead. 2. If a stepladder is used, staff/students should read an appropriate risk assessment						

What are the hazards? (See list of sample hazards)	Who might be harmed? (e.g. Staff, students, visitors)	What are the risks	Are the following control measures in place to eliminate or reduce the risks?	Yes/ No	Corrective actions required	Risk Evaluation			Risk Rating Low, Medium or High
						Consequence (1 – 3)	Likelihood (1 – 3)	Overall risk (C x L)	
			and be shown how to use it safely. 3. To prevent injuries heavy items must not be stored on upper shelves. They should be stored at waist height.						
Working environment		- May feel too hot/cold or suffer other general discomfort - Contact with furniture if insufficient space to move around. - May suffer eyestrain if lighting is insufficient or of the wrong type	1. Is the temperature of the office normally kept within a comfortable range? 2. Is the office adequately ventilated? 3. Is the space provided sufficient to enable free movement around the office, and for carrying out general tasks? 4. Are the lighting levels adequate for the tasks undertaken? 5. Are window blinds fitted where necessary to adjust lighting levels? 6. Are desk lamps provided if additional task lighting is required?						
Inadequate hygiene and welfare facilities		General discomfort or stress.	1. Are toilets supplied with hot/cold water, soap and towels, and deficiencies reported to the cleaning staff? 2. Is an area available for refreshment with drinking water available? 3. Is the 'No smoking' policy implemented?						

What are the hazards? (See list of sample hazards)	Who might be harmed? (e.g. Staff, students, visitors)	What are the risks	Are the following control measures in place to eliminate or reduce the risks?	Yes/ No	Corrective actions required	Risk Evaluation			Risk Rating Low, Medium or High
						Consequence (1 – 3)	Likelihood (1 – 3)	Overall risk (C x L)	
Chemical risks		Generally the risk will be very low within an office environment.	If any hazardous substances e.g. solvents or solvent-based glues are used within the office area then a COSHH risk assessment must be completed and a safe system of work issued to the users.						
Filing Cabinets		• Could topple over if loading is unbalanced. • Cabinet drawers that have been left open could be a trip hazard	1. Filing cabinets should be loaded from the bottom up to maintain stability. 2. Where filing cabinets are of the type that allows more than one drawer to be opened at a time, they must be labelled with a warning of a tipping risk. 3. Drawers should be closed immediately after use.						
Office equipment		Coming into contact with moving, cutting or other dangerous parts, clothing, long hair etc becoming entangled. e.g. shredders, guillotines	1. Equipment used in accordance with manufacturer's instructions 2. Those using the equipment have been made aware of how to use it safely e.g. verbal instruction, signage etc. 3. Equipment periodically checked for safe condition and taken out of use if any damage found.						

What are the hazards? (See list of sample hazards)	Who might be harmed? (e.g. Staff, students, visitors)	What are the risks	Are the following control measures in place to eliminate or reduce the risks?	Yes/ No	Corrective actions required	Risk Evaluation			Risk Rating Low, Medium or High
						Consequence (1 – 3)	Likelihood (1 – 3)	Overall risk (C x L)	
			4. Loose clothing (e.g. ties) and long hair kept away from any moving parts.						
Any other hazards identified?									

1. EXAMPLE HAZARDS THAT MAY BE APPLICABLE TO THE JOB or WORK ACTIVITY					
Working at Height	Noise	Hand tools	Vibration		
Falling objects	Extreme Heat / cold	Confined spaces	Repetitive hand/ arm movement		
Slippery/ uneven/ worn floors	Radiation	Poor housekeeping / cleaning	Machine operation		
Obstructions/ projections	Lighting	Vehicle movement	Electro Magnet		
Manual handling	Compressed air	Fire / explosion	Pressurised systems		
Mechanical Lifting	Substances / materials	Electricity	Other (<i>specify on assessment</i>)		
2. RISK MATRIX		Potential consequence of harm			
Likelihood of harm		1 – Minor Injury (e.g. hazard can cause illness, injury or equipment damage but the results would not be expected to be serious)	2 – Significant Injury (e.g. hazard can result in serious injury and/or illness, over 3 day absence)	3 – Major Injury (e.g. hazard capable of causing death or serious and life threatening injuries)	
	1 – Unlikely (injury rare, though possible)	1 – Low	2 – Low	3 – Medium	
	2 – Possible (injury could occur occasionally)	2 – Low	4 – Medium	6 – High	
	3 – Probable (injury likely to occur, can be expected)	3 – Medium	6 – High	9 – Extreme	

3. RISK EVALUATION

This is calculated by multiplying the likelihood against the consequence e.g. taking a likelihood of 1, which is classified as Unlikely and multiplying this against a Potential Consequence of 2, which is classified as Significant Injury, would give you and overall Risk Rating of 2, which would result in an overall evaluation as a low risk.

1 to 2 = Low risk

Low risks are largely acceptable, monitor periodically to determine situation changes which may affect the risk, or after significant changes

3 to 4 = Medium risk

Medium risks at the upper end of this band should only be tolerated for the short-term and then only whilst further control measures to mitigate the risk are being planned and introduced, within a defined time period. Risks on the lower end should be reduced if practicable.

6 = High risk

High risks activities should cease immediately until further control measures to mitigate the risk are introduced. The continued effectiveness of control measures must be monitored periodically.

9 = Extreme Risk

Work should not be started or continued until the risk has been mitigated. Immediate action is required to reduce exposure. A detailed mitigation plan must be developed, implemented and monitored by senior management to reduce the risk before work is allowed to commence.

PHOENIX'S SERVICE PROVIDER RISK ASSESSMENT

1. **Understand the depth of the relationships your firm has established.**

Understanding of who your outsourced providers are, what services/functions they provide and what level of access they have to your firm's data/systems.

Here is a quick list of possible third parties:

- IT infrastructure/cloud provider/managed security service
- Legal consultant(s)
- Auditing/tax firm/accounting
- Outsource Printing
- Outside contractors: Equipment Repair

2. **Calculate potential risks and vulnerabilities.**

Assessing provider access to data, systems, financials or other proprietary data.

Completing a provider risk assessment for each third-party engagement, provide insight into the level of access each provider has and hence, any potential vulnerabilities that may arise.

3. **Conduct thorough due diligence before the relationship commences.**

Conduct initial vetting, sending requests for proposals, assessment of documentation and gathering as much information as possible.

4. **Continue conducting proper due diligence throughout the course of the relationship.**

Continuously evaluated and monitored to ensure both parties are achieving their end goals and meeting expectations. General monitoring of service provider practices and performance. Engaging with compliance consultants and auditing firms to conduct independent service provider evaluations and assessments.

5. **Employ contingency plans for terminating vendor contracts.**

Review for any contractual loopholes and operational practices that may affect migration plans or your firm's security standing.

Information Classification and Access Control Policy

Domains: Asset Classification and Control
 Communications and Operations Management
 Physical and Environmental Security
 Information Security Incident Management

POLICY STATEMENT

1. Millennium Systems (MS) Responsibility—All MS employees who come into contact with sensitive *Phoenix Settlement Administration* internal information are expected to familiarize themselves with this data classification policy and to consistently use these same ideas in their daily *Phoenix Settlement Administration* business activities. Sensitive information is either Confidential or Restricted information, and both are defined later in this document. Although this policy provides overall guidance, to achieve consistent information protection, MS employees are expected to apply and extend these concepts to fit the needs of day-to-day operations. This document provides a conceptual model for MS for classifying information based on its sensitivity, and an overview of the required approaches to protect information based on these same sensitivity classifications.

2. Addresses Major Risks - The MS data classification system, as defined in this document, is based on the concept of need to know. This term means that information is not disclosed to any person who does not have a legitimate and demonstrable business need to receive the information. This concept, when combined with the policies defined in this document, will protect *Phoenix Settlement Administration* information from unauthorized disclosure, use, modification, and deletion.

3. Applicable Information - This data classification policy is applicable to all electronic information for which MS is the custodian.

PROCEDURES

1. Access Control

1.1 Need to Know—Each of the policy requirements set forth in this document are based on the concept of need to know. If an MS employee is unclear how the requirements set forth in this policy should be applied to any particular circumstance, he or she must conservatively apply the need to know concept. That is to say that information must be disclosed only to those people who have a legitimate business need for the information.

1.2 System Access Controls—The proper controls shall be in place to authenticate the identity of users and to validate each user's authorization before allowing the user to access information or services on the system. Data used for authentication shall be protected from unauthorized access. Controls shall be in place to ensure that only personnel with the proper authorization and a need to know are granted access to *Phoenix Settlement Administration* systems and their resources. Remote access shall be controlled through identification and authentication mechanisms.

1.3 Access Granting Decisions—Access to *Phoenix Settlement Administration* sensitive information must be provided only after the written authorization of the Data Owner has been obtained. Access requests will be presented to the data owner using the Access Request template. Custodians of the involved information must refer all requests for access to the relevant Owners or their delegates.

Information Classification and Access Control Policy

Special needs for other access privileges will be dealt with on a request-by-request basis. The list of individuals with access to Confidential or Restricted data must be reviewed for accuracy by the

relevant Data Owner in accordance with a system review schedule approved by the VP, Director of Information Services and the AVP, Director of Risk Management.

2. Information Classification

2.1 Owners and Production Information—All electronic information managed by MS must have a designated Owner. Production information is information routinely used to accomplish business objectives. Owners should be at the VP level or above. Owners are responsible for assigning appropriate sensitivity classifications as defined below. Owners do not legally own the information entrusted to their care. They are instead designated members of the *Phoenix Settlement Administration* management team who act as stewards, and who supervise the ways in which certain types of information are used and protected.

2.2 RESTRICTED—This classification applies to the most sensitive business information that is intended for use strictly within *Phoenix Settlement Administration*. Its unauthorized disclosure could seriously and adversely impact *Phoenix Settlement Administration*, its customers, its business partners, and its suppliers.

2.3 CONFIDENTIAL—This classification applies to less-sensitive business information that is intended for use within *Phoenix Settlement Administration*. Its unauthorized disclosure could adversely impact *Phoenix Settlement Administration* or its customers, suppliers, business partners, or employees.

2.4 PUBLIC—This classification applies to information that has been approved by *Phoenix Settlement Administration* management for release to the public. By definition, there is no such thing as unauthorized disclosure of this information and it may be disseminated without potential harm.

2.5 Owners and Access Decisions—Data Owners must make decisions about who will be permitted to gain access to information, and the uses to which this information will be put. MS must take steps to ensure that appropriate controls are utilized in the storage, handling, distribution, and regular usage of electronic information.

3. Object Reuse and Disposal

Storage media containing sensitive (i.e. restricted or confidential) information shall be completely empty before reassigning that medium to a different user or disposing of it when no longer used. Simply deleting the data from the media is not sufficient. A method must be used that completely erases all data. When disposing of media containing data that cannot be completely erased it must be destroyed in a manner approved by the Director of MS Security.

4. Physical Security

4.1 Data Center Access—Access to the data center must be physically restricted in a reasonable and appropriate manner.

Information Classification and Access Control Policy

4.2 Facility Access—All network equipment (routers, switches, etc.) and servers located in the corporate office and in all facilities must be secured when no *Phoenix Settlement Administration* personnel, or authorized contractors, are present. Physically secured is defined as locked in a location that denies access to unauthorized personnel.

5. Special Considerations for Restricted Information

If Restricted information is going to be stored on a personal computer, portable computer, personal digital assistant, or any other single-user system, the system must conform to data access control safeguards approved by MS and Corporate senior management. When these users are not currently accessing or otherwise actively using the restricted information on such a machine, they must not leave the machine without logging off, invoking a password protected screen saver, or otherwise restricting access to the restricted information.

5.1 Data Encryption Software—*Phoenix Settlement Administration* employees and vendors must not install encryption software to encrypt files or folders without the express written consent of MS Security.

6. Information Transfer

6.1 Transmission Over Networks—If *Phoenix Settlement Administration* Restricted data is to be transmitted over any external communication network, it must be sent only in encrypted form. Such networks include electronic mail systems, the Internet, etc. All such transmissions must use a virtual public network or similar software as approved by the Information Security Team.

6.2 Transfer To Another Computer—Before any Restricted information may be transferred from one computer to another, the person making the transfer must ensure that access controls on the destination computer are commensurate with access controls on the originating computer. If comparable security cannot be provided with the destination system's access controls, then the information must not be transferred.

7. Software Security

7.1 Secure Storage of object and source code—Object and source code for system software shall be securely stored when not in use by the developer. Developers must not have access to modify program files that actually run in production. Changes made by developers must be implemented into production by Technical Operations. Unless access is routed through an application interface, no developer shall have more than read access to production data. Further, any changes to production applications must follow the change management process.

7.2 Testing—Developers must at least perform unit testing. Final testing must be performed by the Quality Assurance team or the target user population.

7.3 Backups—Sensitive data shall be backed up regularly, and the backup media shall be stored in a secure environment.

8. Key Management

Information Classification and Access Control Policy

8.1 Protection of Keys—Public and private keys shall be protected against unauthorized modification and substitution.

8.2 Procedures—Procedures shall be in place to ensure proper generation, handling, and disposal of keys as well as the destruction of outdated keying material.

8.3 Safeguarding of Keys—Procedures shall be in place to safeguard all cryptographic material, including certificates. MS Security must be given copies of keys for safekeeping.

Phoenix Settlement Administrator

Password Policy

1.0 Overview

Passwords are an important aspect of computer security. They are the front line of protection for user accounts. A poorly chosen password may result in the compromise of Phoenix Settlement Administrator's (PSA) entire network. As such, all PSA employees are responsible for taking the appropriate steps, as outlined below, to select and secure their passwords.

2.0 Purpose

The purpose of this policy is to establish a standard for creation of strong passwords, the protection of those passwords, and the frequency of change.

3.0 Scope

The scope of this policy includes all personnel who have or are responsible for an account (or any form of access that supports or requires a password) on any system that resides at any PSA facility, has access to the PSA network, or stores any non-public PSA information.

4.0 Policy

4.1 General

- All system-level passwords must be changed every 90 days.
- All user-level passwords (e.g., email, web, desktop computer, etc.) must be changed every 90 days
- User accounts that have system-level privileges granted through group memberships must have a unique password from all other accounts held by that user.
- Passwords must not be inserted into email messages or other forms of electronic communication.
- All user-level and system-level passwords must conform to the guidelines described below.

4.2 Guidelines

A. General Password Construction Guidelines

Passwords are used for various purposes at PSA. Some of the more common uses include: user level accounts, web accounts, email accounts, screen saver protection, voicemail password, and local router logins. Everyone should be aware of how to select strong passwords.

Poor, weak passwords have the following characteristics:

- The password contains less than sixteen characters
- The password is a common usage word such as: Names of family, pets, friends, co-workers, fantasy characters, etc.

- Computer terms and names, commands, sites, companies, hardware, software.
- The words "PSA", "Class Action" or any derivation.
- Birthdays and other personal information such as addresses and phone numbers.
- Word or number patterns like aaabbb, qwerty, zyxxvuts, 123321, etc.
- Any of the above spelled backwards.
- Any of the above preceded or followed by a digit (e.g., secret1, 1secret)

Strong passwords have the following characteristics:

- Contain both upper and lower case characters (e.g., a-z, A-Z)
- Have digits and punctuation characters as well as letters e.g., 0-9
.,!@#\$\$%^&*()_+|- =\`{}[]:~';'<>?,./)
- Are at least sixteen alphanumeric characters long.
- Are not based on personal information, names of family, etc.

Passwords should never be written down or stored on-line. Try to create passwords that can be easily remembered. One way to do this is create a password based on a song title, affirmation, or other phrase.

B. Password Protection Standards

Do not use the same password for PSA accounts as for other non-PSA access (e.g., personal ISP account, option trading, benefits, etc.). Where possible, don't use the same password for various PSA access needs. Do not share PSA passwords with anyone, including administrative assistants or secretaries.

All passwords are to be treated as sensitive, confidential PSA information.

Here is a list of "don't's":

- Don't reveal a password over the phone to ANYONE
- Don't reveal a password in an email message
- Don't reveal a password to your supervisor
- Don't talk about a password in front of others
- Don't hint at the format of a password (e.g., "my family name")
- Don't reveal a password on questionnaires or security forms
- Don't share a password with family members
- Don't reveal a password to co-workers while on vacation

If someone demands a password, refer them to this document or have them call someone in the management.

Do not use the "Remember Password" feature of applications (e.g., Outlook, Internet Explorer, Instant Messenger).

Again, do not write passwords down and store them anywhere in your office. Do not store passwords in a file on ANY computer system without encryption.

Change passwords at least once every 90 days.

If an account or password is suspected to have been compromised, report the incident to the management and change all passwords.

C. Remote Access

Access to the PSA Networks via remote access is controlled using Virtual Private Networking (VPN). VPN can be setup by notifying the management and the Technology Group (Millennium Systems)

D. Passwords at Account Creation

When a request for a username is requested, the management will determine the type and privileges required. The password will be set to be pre-expired so the user will be required to change their password when they first successfully logon to the system. The lifetime of the password will be set according to the guidelines set in section 4.1 of this document.

E. Forgotten Passwords

Users will occasionally forget their password. A characteristic of password files is that passwords cannot be looked up. If a user forgets their password, the password can be changed by Millennium Systems.

5.0 Enforcement

Any employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

Certificate of Data Destruction

Phoenix Settlement Administration.

The requested data is destroyed using the one or more of the following method(s):

Data Destruction Procedure:

- ☐ 1-Pass partial wipe: The data was removed from the server and software was used to overwrite empty section of the storage and indexing locations with zeros (0x00) once and then verified
- ☐ 1-Pass full wipe: Software was used to overwrite all addressable storage hardware and indexing locations with zeros (0x00) once and then verified
- ☐ 3-Pass full wipe: Software was used to overwrite all addressable storage hardware and indexing locations on the drive three times with zeros (0x00), complement (0xFF) and random characters and then verified.
- ☐ Shred: Shredded according to the National Institute of Standards and Technology's (NIST) Special Publication 800-88 Guidelines for Media Sanitization.
- ☐ Crushed: Hard drives were placed inside a specialized machine and a conical punch inside the unit delivered 12,000 pounds of hydraulic force to the drive, causing catastrophic trauma to the hard drive's chassis, destroying its internal platter, and then shredded according to the National Institute of Standards and Technology's (NIST) Special Publication 800-88 Guidelines for Media Sanitization.

Company Name:

Date:

SECURITY AWARENESS TRAINING PROGRAM

Table of Contents

- 1. General**
 - A. Introduction to Computer Security**
 - B. Beware of Scams**
 - C. Protect Information when using the Internet and email**
 - D. Protect Passwords**
 - E. Mobile Devices and Wireless**

- 2. Working with Different Types of Data**
 - A. Categories of Data**
 - B. More About Restricted Data**
 - C. Protecting Restricted Data**
 - D. Report a Security Incident**

- 3. Other Essential Security Measures**
 - A. Install Operating System and Software Updates**
 - B. Don't Download Unknown or Unsolicited Programs or Files**
 - C. Lock your computer screen**
 - D. Physical Security**
 - E. Protect Your Passwords**
 - F. Travel Securely**
 - G. Back Up Important Files**

EXHIBIT E



PROFESSIONAL LIABILITY POLICY DECLARATIONS
(Claims-Made and Reported Form)

Landmark American Insurance Company

(A New Hampshire Stock Co.)
(hereinafter called "the Company")

EXECUTIVE OFFICES: 945 East Paces Ferry Road, Suite 1800, Atlanta, GA 30326-1160

Policy Number: [REDACTED]

RENEWAL OF: [REDACTED]

Named Insured and Mailing Address:

Producer Name:

PHOENIX SETTLEMENT ADMINISTRATORS INC
1411 N. BATAVIA ST., STE. 105
ORANGE, CA 92867

Policy Period: From: 1/19/2021 To: 1/19/2022 at 12:01 A.M. Standard Time at the Named Insured address as stated herein.

IN CONSIDERATION OF THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS HEREIN OR ATTACHED HERETO, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE COMPANY AGREES WITH THE NAMED INSURED AS FOLLOWS:

1. **NAMED INSURED'S PROFESSIONAL SERVICES:** ADMINISTRATIVE SUPPORT TO LAW FIRMS
2. **LIMITS OF LIABILITY:**
\$ 2,000,000 Each Claim
\$ 2,000,000 Aggregate Limit
3. **DEDUCTIBLE:** \$ 2,500 Each Claim
4. **RETROACTIVE DATE:** 1/19/2021
5. **PREMIUM:** \$ 5,950.00 Not Subject to Audit

Premium:	\$ 5,950.00
CA Stamping fee:	\$ 14.88
CA State tax:	\$ 178.50

6. **FORMS AND ENDORSEMENTS ATTACHED AT INCEPTION:**

See attached forms list.

THESE DECLARATIONS TOGETHER WITH A SIGNED COPY OF THE NAME INSURED'S APPLICATION FOR THIS POLICY, COVERAGE FORM(S), FORMS AND ENDORSEMENTS, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

NOTICE: THIS IS A CLAIMS-MADE AND REPORTED POLICY. PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE AFFORDED BY THE POLICY WITH YOUR INSURANCE AGENT OR BROKER.

January 21, 2021

Date

By: 

Authorized Representative

SubID#

225059

BinderID#

Created By: VC

EXHIBIT F



CASE ASSUMPTIONS

Class Members	5472
Opt Out Rate	1%
Opt Outs Received	55
Total Class Claimants	5417
Subtotal Admin Only	\$35,500.00

WILL NOT EXCEED \$35,500.00

For 5472 Class Members

Price good for scope of estimate

November 18, 2020

Case: : Bernardo Santos v. Torres Farm Opt-Out Administration

Phoenix Contact: Jodey Lawrence

Contact Number: 949.566.1455

Email: Jodey@phoenixclassaction.com

Requesting Attorney: Romina Tamiry, Esq.

Firm: Lidman Law

Contact Number: (424) 318-1949

Email: rtamiry@lidmanlaw.com

Assumptions and Estimate are based on information provided by counsel. If class size changes, PSA will need to adjust this Estimate accordingly. Estimate is based on 5472 Class Members. PSA assumes class data will be sent in Microsoft Excel or other usable format with no or reasonable additional formatting needed. A rate of \$150 per hour will be charged for any additional analysis or programming.

Case & Database Setup / Toll Free Setup & Call Center / NCOA (USPS)			
Administrative Tasks:	Rate	Hours/Units	Line Item Estimate
Programming Manager	\$100.00	3	\$300.00
Programming Database & Setup	\$100.00	3	\$300.00
Toll Free Setup*	\$157.97	1	\$157.97
Call Center & Long Distance	\$2.00	547	\$1,094.40
NCOA (USPS)	500.00	1	\$500.00
Total			\$2,352.37

* Up to 120 days after disbursement

Data Merger & Scrub / Notice Packet, Opt-Out Form & Postage / Spanish Translation / Website			
Project Action	Rate	Hours/Units	Line Item Estimate
Notice Packet Formatting	\$125.00	3	\$375.00
Data Merge & Duplication Scrub	\$0.15	5,472	\$820.80
Notice Packet & Opt-Out Form	\$1.00	5,472	\$5,472.00
Estimated Postage (up to 2 oz.)*	\$0.70	5,472	\$3,830.40
Language Translation (Per Word)	\$0.20	6,500	\$1,300.00
Total			\$11,798.20

* Prices good for 90 days. Subject to change with the USPS Rate or change in Notice pages or Translation, if any.



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Skip Tracing & Remailing Notice Packets / Tracking & Programming Undeliverables

Project Action:	Rate	Hours/Units	Line Item Estimate
Case Associate	\$50.00	3	\$150.00
Skip Tracing Undeliverables	\$1.00	1,094	\$1,094.40
Remail Notice Packets	\$1.00	1,094	\$1,094.40
Estimated Postage	\$0.70	1,094	\$766.08
Programming Undeliverables	\$50.00	2	\$100.00
Total			\$3,204.88

Database Programming / Processing Opt-Outs, Deficiencies or Disputes

Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Claims Database	\$100.00	3	\$300.00
Non Opt-Out Processing	\$100.00	3	\$300.00
Case Associate	\$55.00	2	\$110.00
Opt-Outs/Deficiency/Dispute Letters	\$5.00	137	\$684.00
Case Manager	\$85.00	3	\$255.00
Total			\$1,649.00

Calculation & Disbursement Programming/ Create & Manage QSF/ Mail Checks

Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Calculations	\$100.00	4	\$400.00
Disbursement Review	\$100.00	4	\$400.00
Programming Manager	\$95.00	2	\$190.00
QSF Bank Fees, Account & EIN	\$100.00	3	\$300.00
Check Run Setup & Printing	\$135.00	3	\$405.00
Mail Class Checks, W2 and 1099 *	\$1.25	5,417	\$6,771.60
Estimated Postage Checks, W2 and 1099	\$0.55	5,417	\$2,979.50
Total			\$11,446.10

* Checks are printed on 8.5 x 11 in. sheets with W2/1099 Tax Filing



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Tax Reporting & Reconciliation / Re-Issuance of Checks / Conclusion Reports and Declarations			
Project Action:	Rate	Hours/Units	Line Item Estimate
Case Supervisor	\$125.00	4	\$500.00
Remail Undeliverable Checks (Postage Included)	\$1.50	271	\$406.30
Case Associate	\$55.00	5	\$275.00
Reconcile Uncashed Checks	\$85.00	2	\$170.00
Conclusion Reports	\$125.00	2	\$250.00
Case Manager Conclusion	\$85.00	2	\$170.00
Final Reporting & Declarations	\$125.00	1	\$125.00
Uncashed Check Notice Postcard (Postage Included)	\$1.50	135	\$203.15
Uncashed Check QSF Tax Filing	\$150.00	3	\$450.00
IRS & QSF Annual Tax Reporting * (State Tax Reporting Included)	\$2,500.00	1	\$2,500.00
Total			\$5,049.44

* All applicable California State & Federal taxes, which include SUI, ETT, and SDI, and FUTA filings. Additional taxes are Defendant's responsibility.

Estimate Total: \$35,500.00



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

TERMS AND CONDITIONS

Provisions: The case estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make any provision for any services or class size not delineated in the request for proposal or stipulations. Proposal rates and amounts are subject to change upon further review, with Counsel/Client, of the Settlement Agreement. Only pre-approved changes will be charged when applicable. No modifications may be made to this estimate without the approval of PSA (Phoenix Settlement Administrators). All notifications are mailed in English language only unless otherwise specified. Additional costs will apply if translation into other language(s) is required. Rates to prepare and file taxes are for Federal and California State taxes only. Additional charges will apply if multiple state tax filing(s) is required. **Pricing is good for ninety (90) days.**

Data Conversion and Mailing: The proposal assumes that data provided will be in ready-to-use condition and that all data is provided in a single, comprehensive Excel spreadsheet. PSA cannot be liable for any errors or omissions arising due to additional work required for analyzing and processing the original database. A minimum of two (2) business days is required for processing prior to the anticipated mailing date with an additional two (2) business days for a National Change of Address (NCOA) update. Additional time may be required depending on the class size, necessary translation of the documents, or other factors. PSA will keep counsel apprised of the estimated mailing date.

Claims: PSA's general policy is to not accept claims via facsimile. However, in the event that facsimile filing of claims must be accepted, PSA will not be held responsible for any issues and/or errors arising out of said filing. Furthermore, PSA will require disclaimer language regarding facsimile transmissions. PSA will not be responsible for any acts or omissions caused by the USPS. PSA shall not make payments to any claimants without verified, valid Social Security Numbers. All responses and class member information are held in strict confidentiality. Additional class members are \$10.00 per opt-out.

Payment Terms: All postage charges and 50% of the final administration charges are due at the commencement of the case and will be billed immediately upon receipt of the data and/or notice documents. PSA bills are due upon receipt unless otherwise negotiated and agreed to with PSA by Counsel/Client. In the event the settlement terms provide that PSA is to be paid out of the settlement fund, PSA will request that Counsel/Client endeavor to make alternate payment arrangements for PSA charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the settlement account is funded by Defendant, or no later than the time of disbursement. Amounts not paid within thirty (30) days are subject to a service charge of 1.5% per month or the highest rate permitted by law.

Tax Reporting Requirements

PSA will file the necessary tax returns under the EIN of the QSF, including federal and state returns. Payroll tax returns will be filed if necessary. Under the California Employment Development Department, all taxes are to be reported under the EIN of the QSF with the exception of the following taxes: Unemployment Insurance (UI) and Employment Training Tax (ETT), employer-side taxes, and State Disability Insurance (SDI), an employee-side tax. These are reported under Defendant's EIN. Therefore, to comply with the EDD payroll tax filing requirements we will need the following information:

1. Defendant's California State ID and Federal EIN.
2. Defendant's current State Unemployment Insurance (UI) rate and Employment Training Tax (ETT) rate. This information can be found in the current year DE 2088, Notice of Contribution Rates, issued by the EDD.
3. Termination dates of the class members, or identification of current employee class members, so we can account for the periods that the wages relate to for each class member.
4. An executed Power of Attorney (Form DE 48) from Defendant. This form is needed so that we may report the UI, SDI, and ETT taxes under Defendant's EIN on their behalf. If this form is not provided we will work with the EDD auditors to transfer the tax payments to Defendant's EIN.
5. Defendant is responsible for reporting the SDI portion of the settlement payments on the class member's W-2. PSA will file these forms on Defendant's behalf for an additional fee and will issue an additional W-2 for each class member under Defendant's EIN, as SDI is reported under Defendant's EIN rather than the EIN of the QSF. The Power of Attorney (Form DE 48) will be needed in order for PSA to report SDI payments.