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

GILBERTO RODRIGUEZ, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

CARDINAL PAINT AND POWDER, INC., a
Nevada corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. 20STCV14711

*[Assigned for all purposes to the Hon. Yvette M.
Palazuelos, Dept. SSC-9]*

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

Date: August 12, 2021
Time: 10:00 a.m.
Dept.: SSC-9

Complaint Filed: April 15, 2020
Trial Date: None

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 Gilberto Rodriguez (“Plaintiff”) and the proposed 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 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.

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 Gilberto Rodriguez and the proposed Class, I have been
25 intimately involved in every aspect of this case from its inception through the present, and I believe that
26 the proposed Settlement is a favorable result for the Class Members under the circumstances presented.

27 10. According to their website, Defendants Cardinal Paint and Powder, Inc., and Cardinal
28 Industrial Finishes (hereinafter collectively referred to as “Cardinal” or “Defendants”) are a manufacturing

1 company that manufactures and sells liquid and powder coating systems. On April 15, 2020, Plaintiff
2 filed a class action complaint against Defendant Cardinal Paint and Powder, Inc. in Los Angeles County
3 Superior Court. Pursuant to the terms of the Settlement, subject to Court approval, the Parties stipulated
4 to allow Plaintiff to file a First Amended Complaint Class and Representative Action Complaint (“FAC”)
5 adding affiliate company Cardinal Industrial Finishes, one of the legal entities that employed the Class
6 Members in California, as a named Defendant, and the following causes of action against both Defendants
7 for: (1) waiting time penalties; (2) wage statement violations; and (3) civil penalties under the PAGA.
8 Defendants have advised that Cardinal Paint and Powder, Inc. manufactures the powder coating, while
9 Cardinal Industrial Finishes is the liquid paint portion of the business operations. On May 6, 2021,
10 Plaintiff submitted a letter to the California Labor Workforce Development Agency (“LWDA”) regarding
11 Defendants’ alleged Labor Code violations and Plaintiff’s intent to bring a claim for civil penalties under
12 the PAGA.² Therefore, in order to effectuate the terms of the Settlement, Plaintiff also seeks leave from
13 the Court to file FAC after exhausting his administrative remedies, which is attached as Exhibit A to the
14 Joint Stipulation to File the FAC submitted concurrently herewith. Therefore, Plaintiff’s primary
15 allegations are that Defendants: (1) failed to pay all minimum wages owed; (2) failed to pay all overtime
16 wages owed; (3) failed to provide all legally required meal periods; (4) failed to authorize and permit all
17 legally required rest periods; (5) failed to timely pay all wages upon separation of employment; (6) failed
18 to provide accurate, itemized wage statements; (7) engaged in unlawful business practices; and (8) is liable
19 for civil penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

20 11. After agreeing to participate in early mediation, Defendants informally produced time
21 records and payroll data for the putative class for both Cardinal Paint and Powder, Inc. and Cardinal
22 Industrial Finishes, as well as its wage and hour policies and other relevant documents and information
23 relevant to the claims alleged in advance of mediation. Plaintiff conducted an analysis of the payroll data
24 and time records produced by Defendants. After the detailed review of the payroll and time records and
25 other documents and policies produced by Defendants, Class Counsel drew on their extensive experience
26 in similar cases to assess the strengths and weaknesses of Plaintiff’s case. This discovery also allowed
27 the Parties to discuss the strengths and weaknesses of Plaintiff’s contemplated claims for waiting time
28 penalties, inaccurate wage statements, and civil penalties under the PAGA as well as Plaintiff’s various

² The sixty-five day exhaustion period will expire on July 12, 2021.

theories of liability on his claims. This discovery further allowed the parties to assess the merits and value of Plaintiff's claims and Defendants' defenses thereto, if a settlement could not be reached.

12. On March 25, 2021, after extensive research and analysis, including a detailed analysis of Defendants' potential exposure by Plaintiff, a full-day mediation was held with Jeffrey Krivis, 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 adding causes of action against Defendants for: (1) waiting time penalties; (2) inaccurate wage statements; and (3) civil penalties under the PAGA. After a full day mediation, the Parties reached agreement and executed a Memorandum of Understanding ("MOU"). Thereafter, the Parties signed the Stipulation of Settlement ("Settlement"). A true and correct copy of the Settlement is attached hereto as **Exhibit 1**. The proposed Notice of Class Action Settlement is attached as Exhibit A to the Settlement. The proposed Order Granting Preliminary Approval of Class Action settlement is attached as Exhibit B to the Settlement.

13. If the Court approves this Settlement, Defendants will pay a Total Settlement Amount ("TSA") of \$765,000.00. The Settlement is non-reversionary. Each Class Member will automatically receive a Settlement Award unless he or she affirmatively opts out of the Settlement. *See Settlement, ¶ 4.1*. The monetary terms of the Settlement are summarized below:

Total Settlement Amount ("TSA"):	\$765,000.00
Minus Court-approved attorneys' fees (1/3 of GSA):	\$255,000.00
Minus Court-approved, verified costs (up to):	\$30,000.00
Minus Court-approved Service Award payable to Plaintiff:	\$5,000.00
Minus Settlement Administration Costs:	\$9,750.00
Minus PAGA Payment:	\$30,000.00
Net Distribution Fund ("NDF"):	\$435,250.00

Defendants shall pay the Total Settlement Amount within ten (10) calendar days of the Effective Date. The "Effective Date" is defined as the date by which the Settlement is finally approved as provided herein and the Court's Final Approval Order becomes binding. For purposes of the Settlement Agreement, the Final Approval Order becomes binding upon the later of: (1) the day after the last day by which a

notice of appeal of the Final Approval Order and/or of an order rejecting any motion to intervene may be timely filed, and none is filed; (2) if such an appeal is filed, and the Final Approval Order is affirmed, the day after the last date for filing a request for further review of the decision passes and no further review is requested; (3) if an appeal is filed and further review of the decision affirming the Final Approval Order is requested, the day after the request for review is denied with prejudice and/or no further review of the decision can be requested, or (4) if review is accepted, the day after the United States or California Supreme Court affirms the Settlement. *See* Settlement ¶ 2.11. After deducting amounts for the Court-approved attorneys' fees and verified costs, Service Award to Plaintiff, Settlement Administrator costs, and the PAGA Payment, the Settlement requires Defendants to pay a Net Distribution Fund ("NDF") of at least **\$435,250.00** to all Class Members who do not timely opt out. Pursuant to the terms of the Settlement, Defendants will have the option of rescinding the Settlement if more than 10% of the Class opts out of the Settlement and all actions taken in furtherance of it will thereby be null and void. *See* Settlement ¶ 7.3. This amount does not include the \$7,500.00 of the PAGA Payment to be paid to the PAGA Employees defined in the settlement as "All Class Members who worked for Defendants any time during April 15, 2019 through the date of Preliminary Approval, or the date on which the Workweeks are equal to or do not exceed 51,750, whichever comes first." *See* Settlement, ¶¶ 2.21-2.22.

14. According to Defendants, there are approximately 414 total Class Members defined as:

All current and former hourly-paid or non-exempt employees who worked for Cardinal Paint and Powder, Inc. and/or Cardinal Industrial Finishes in the state of California at any time during the time period of April 16, 2016 through the date of preliminary approval or the date on which the Workweeks are equal to or do not exceed 51,750, whichever comes first.

Thus, the average Individual Settlement Payment is projected to be approximately **\$1,069.54**, a fair recovery per person.

15. Class Members' claims arise from Defendants' common, uniform policies and practices that applied to Class Members during the class period. Specifically, Plaintiff alleged that Defendant's common and uniform policies and practices resulted in the following violations: (1) failure to pay all minimum wages owed; (2) failure to pay all overtime wages owed; (3) failure to provide all legally required meal periods; (4) failure to authorize and permit all legally required rest periods; (5) failure to timely pay all wages upon separation; (6) failure to provide accurate, itemized wage statements; (7)

1 unlawful business practices; and (8) liability for civil penalties under the Labor Code Private Attorneys
2 General Act of 2004 (“PAGA”).

3 16. As described in the accompanying Motion for Preliminary Approval, Plaintiff alleges that
4 he and Class Members were not fully paid for time worked. Specifically, Plaintiff alleges that Defendants
5 would keep track of Plaintiff’s time worked and would unlawfully round/shave Plaintiff’s work time such
6 that Plaintiff would not be fully paid for all time worked. This time-shaving and/or rounding practice
7 utilized by Defendants was not even-handed over time and would almost exclusively round and shave in
8 Defendants’ favor such that Plaintiff was routinely underpaid for all his time worked. In addition,
9 Defendants’ timekeeping policies and/or practices required Plaintiff and other non-exempt employees to
10 stand in a line in order to clock in. This timekeeping policy and/or practice resulted in Plaintiff and other
11 non-exempt employees routinely having to wait approximately five to six minutes before being able to
12 clock in for which they did not receive pay. Based a review of the time punch data and payroll records,
13 Plaintiff calculated Defendants’ maximum exposure at approximately \$150,736 (45,914 workweeks x
14 .14 [hours per workweek underpaid] x \$23.45 [average overtime rate]).

15 17. Defendants contend that they compensated non-exempt employees for all of their time
16 worked and that the time punch data would necessarily include minutes that were not compensable work
17 time because the employee would not start performing any work prior to the start of the shift and/or
18 would not perform any work after the scheduled stop time. Defendants also contend that they only
19 rounded during a portion of the relevant time period and their rounding practices were lawful, Defendants
20 further contend any unpaid time was *de minimis* and therefore non-compensable. Defendants further
21 assert that Plaintiff would be unable to certify a rounding or off-the-clock claim given the individualized
22 inquiries that would be required, given that Defendants rounding mechanism was, according to
23 Defendants, allegedly favored the employees. Based on these risks, Plaintiff discounted the maximum
24 exposure by 20% for the risk of non-certification, and an additional 20% to account for Defendants’
25 defenses on the merits to arrive at an estimated exposure of \$96,471.

26 18. Plaintiff alleges that throughout times during his employment, he and other non-exempt
27 employees would receive non-discretionary bonuses from Defendants based on the earnings of the
28 company, as well as other forms of non-discretionary pay (hereinafter the aforementioned forms of pay

are collectively referred to as “Incentive Pay”). Plaintiff alleges Defendants failed to include the Incentive Pay when calculating the regular rate of pay for purposes of paying Plaintiff and the other non-exempt employees’ overtime wages, thereby causing them to be underpaid all of their required overtime wages. Based a review of the payroll records, Plaintiff calculated Defendants’ maximum exposure at approximately \$87,129.

19. Defendants contend that Class Members received all overtime wages to which they were entitled. Defendants further counter that any bonuses paid to Class Members during the relevant time period were discretionary and did not to be included in the regular rate of pay for overtime purposes. *See* 29 C.F.R. §§778.208, 778.211 (excluding “discretionary” bonuses from the regular rate); *see also* DLSE Manual § 49.1.2.4(3) (bonuses are discretionary, and therefore excludable, if “both the fact that payment is to be made and the amount of the payment” are discretionary). Based on these risks, Plaintiff discounted the maximum exposure by 10% for the risk of non-certification, and an additional 10% to account for Defendants’ defenses on the merits to arrive at an estimated exposure of approximately \$70,575.

20. Plaintiff alleges that he and Class Members were not provided with all legally-required off-duty meal periods beginning before the end of the fifth hour of work. Specifically, Plaintiff contends that Defendants’ meal period policies/practices fail to require employees to record the start and stop time for meal periods. Additionally, on the occasions when Plaintiff worked in excess of 10.0 hours, he was not provided with a second 30-minute meal period due to Defendants’ meal period policies/practices that fail to provide for a second meal period for shifts over 10.0 hours. These practices resulted in systematically unlawful meal periods. Despite Defendants’ failure to keep any records of Plaintiff’s meal periods, Plaintiff is informed and believes that Defendants unlawfully automatically deducted thirty minutes from Plaintiff’s work time each shift for his meal break regardless of if a meal period was taken or not. Therefore, Plaintiff calculated Defendants’ maximum exposure for the alleged first meal period violations at approximately \$2,712,663 (206,613 shifts over 6.0 hours x 84% [violation rate] x \$15.63 [average hourly rate]).

21. Defendants counter that they have always provided non-exempt employees with an opportunity to take legally compliant meal periods, and any non-compliant meal periods reflected in employee timekeeping records were solely the result of employee choice, rather than any policy or practice of Defendants. Furthermore, Defendants counter that the time records reflect compliant meal periods.

Defendants also point out that under *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, they are only required to “provide” the opportunity to take meal periods, not “ensure” meal periods are taken, and that they have always done so. Finally, Defendants contend Plaintiff’s meal period claim is not suited for class certification, since individual inquiries would be 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 40% for the risk of non-certification, and an additional 40% to account for Defendants’ defenses on the merits to arrive at an estimated exposure of \$976,559.

22. Plaintiff alleges that he and other Class Members were not authorized and permitted to take all required rest periods due to Defendants’ rest period policies/practices which fail to authorize and permit all rest periods for every four hours worked, or *major fraction thereof*. Specifically, Plaintiff regularly worked shifts of over 10.0 hours, but Defendants did not authorize and permit Plaintiff to take a third 10-minute rest period. Accordingly, Plaintiff calculated Defendants’ maximum exposure at \$430,575 (27,548 shifts over 10.0 hours x \$15.63 [average hourly rate]).

23. Defendants contend they have always maintained and enforced lawful rest period policies and practices, and that Class Members were authorized and permitted to take all off-duty rest periods in compliance with California law. Defendants argue this claim is inherently unsuited for class treatment as it requires an individualized inquiry into whether each Class Member was in fact authorized and permitted to take a compliant rest period, which would devolve into an unmanageable series of mini-trials. Accordingly, Plaintiff discounted the maximum exposure by 60% for the risk of non-certification, and an additional 40% to account for Defendants’ defenses on the merits to arrive at an estimated exposure of \$103,338.

24. Plaintiff further alleges that Defendants 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 Class Members did not include all hours worked and the rate at which they were being paid. Therefore, Plaintiff calculated Defendants’ maximum exposure for wage statement violations at approximately \$1,143,400 (($\50.00×168 current employees) + ($\$100.00 \times 11,350$

subsequent wage statements)).

25. Defendants argue 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. Defendants further argue that their alleged wage statement violations could not be shown to be “knowing and intentional,” and that Plaintiff cannot show that he or any other employee “suffer[ed] injury” as a result of the alleged wage statement violations, as required by Lab. Code § 226(e) for imposition of penalties. As such, Plaintiff discounted the calculated exposure by 40% for a risk of non-certification and an additional 40% for a risk of being unsuccessful on the merits to arrive at an estimated total of \$411,624.

26. Plaintiff alleges that Defendants are also liable for waiting time penalties under Labor Code section 203 as a result of its failure to pay all wages. Based on the data provided by Defendants, there were approximately 160 Class Members who have separated their employment with Defendants during the relevant time period who could be entitled to waiting time penalties. Therefore, Plaintiff calculated Defendants’ maximum exposure for waiting time penalties at approximately \$600,192 (160 former employees x \$15.63 [average regular rate] x 30 days x 8 hours/day).

27. Defendants assert they have strong defenses to the waiting time claim because there exist good-faith disputes as to Plaintiff’s underlying claims, precluding imposition of penalties. Accordingly, Plaintiff discounted the maximum exposure by 30% for the risk of non-certification, and an additional 30% to account for Defendants’ defenses on the merits to arrive at an estimated exposure of approximately \$294,094.

28. Plaintiff also seeks civil penalties under the PAGA as a result of the foregoing alleged Labor Code violations. Plaintiff calculated Defendants’ exposure at \$1,151,800 (11,518 pay periods x \$100 initial violation rate).

29. Defendants argue that Plaintiff’s PAGA claim will fail for the same reasons that his underlying claims will fail. Therefore, Plaintiff discounted the maximum exposure figure by 40% for a risk of being unsuccessful on the merits, and an additional 40% to account for the possibility of this Court reducing penalties, to arrive at an estimated exposure of \$414,648.

30. Using these estimated figures for each of the claims described above, Plaintiff predicted the realistic total recovery for the Class would be approximately \$2,376,309. The proposed settlement of

1 \$765,000.00 therefore represents approximately 32% of the reasonably forecasted recovery for the Class.
2 Preliminary approval is appropriate as the settlement will provide tangible monetary relief to Class
3 Members, and will still provide an average recovery to Class Members of over \$1,050.

4 31. Here, Class Counsel will also apply for an attorneys' fees award of one-third of the GSA,
5 which is currently estimated to be \$255,000.00, and up to \$30,000.00 in verified costs reimbursement.
6 Plaintiff submits the requested fee is fair compensation for undertaking complex, risky, expensive, and
7 time-consuming litigation on a purely contingent fee basis. Further, Plaintiff has provided written
8 approval of the split of attorneys' fees in this action. Class Counsel has incurred substantial attorney fees
9 conducting pre-filing investigation, analyzing Plaintiff's claims, conducting legal research, reviewing
10 Defendants' documents and policies, analyzing Class Members' timekeeping data and payroll records,
11 preparing for and attending mediation, negotiating and revising the long-form Settlement, preparing this
12 Motion, and otherwise litigating the case. Class Counsel expect to expend additional attorney time in
13 attending the hearing on this Motion, overseeing the Notice process and fielding questions from Class
14 Members, preparing the final approval papers and attending the Final Approval hearing.

15 32. Plaintiff has provided written approval of the split of attorneys' fees in this action: 48%
16 to Haines Law Group, APC, 32% to Lidman Law, APC, and 20% to Mitchell Law Corporation, APC.
17 Mitchell Law Corporation, APC is the referring attorney.

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

26 34. Although the parties engaged in informal discovery throughout this action, the parties still
27 had significant discovery to complete in formal litigation had the matter not settled. Moreover, Plaintiff
28 still had to file for class certification, and faced the prospect of appeals in the wake of a disputed class

1 certification ruling for Plaintiff and/or an adverse summary judgment ruling. Even if the classes sought
2 to be certified by Plaintiff were in fact certified, the parties would incur considerably more attorneys'
3 fees and costs through a possible decertification motion, trial, and possible appeal. This Settlement
4 avoids those risks and the accompanying expense.

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

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

12 Executed on June 22, 2021 at El Segundo, California.

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Elizabeth Nguyen

EXHIBIT 1

EXHIBIT 1

1 TRAVIS K. JANG-BUSBY (SBN: 283256)
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10 Attorneys for Defendant
11 CARDINAL PAINT AND POWDER, INC.

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 SUPERIOR COURT OF LOS ANGELES COUNTY

14 GILBERTO RODRIGUEZ, as an individual and)
15 on behalf of all others similarly situated,)

16 Plaintiff,)

17 v.)

18 CARDINAL PAINT AND POWDER, INC., a)
19 Nevada corporation; and DOES 1 through 100,)
20 inclusive,)

21 Defendants.)

CASE NO. 20STCV14711

STIPULATION OF SETTLEMENT

Complaint Filed: 04/15/2020

Judge: Hon. Yvette M. Palazuelos
Dept.: 09

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Attorneys for Plaintiff
GILBERTO RODRIGUEZ

This Stipulation of Settlement, including Exhibits A and B hereto (“Settlement,” “Settlement Agreement” or “Agreement”), is made and entered into by, between, and among Plaintiff GILBERTO RODRIGUEZ (“Plaintiff”) on behalf himself, the Settlement Class Members, on the one hand, and Defendants CARDINAL PAINT AND POWDER, INC. and CARDINAL INDUSTRIAL FINISHES (collectively “Defendants” or “CARDINAL”) on the other hand. Plaintiff and Defendants (collectively, the “Parties”) enter into this Agreement to effect a full and final settlement and preclusive judgment resolving all claims brought or that could have been brought against CARDINAL based on the factual allegations alleged in the cases entitled *Rodriguez v. Cardinal Paint and Powder, Inc.*, Case No. 20STCV14711 (referred to as the “Action”). This Agreement is intended to fully and finally compromise, resolve, discharge, and settle the Released Claims, as defined and on the terms set forth below, and to the full extent reflected herein, subject to the approval of the Court.

1. RECITALS

This Agreement is made in consideration of the following facts:

1.1 WHEREAS, on April 15, 2020, Plaintiff commenced the Action by filing a Class Action Complaint for Damages asserting causes of action for: (1) Failure To Pay All Minimum Wages Owed (Labor Code §§1194, 1194.2, 1197); (2) Failure To Pay All Overtime Wages Owed (Labor Code §§ 204, 510, 558, 1194, 1198); (3) Failure To Provide Meal Periods (Labor Code §§ 226.7, 512, 558); (4) Failure To Authorize And Permit All Paid Rest Periods (Labor Code §§ 226.7, 516, 558); and (5) Unfair Competition (Bus & Prof. Code § 17200 et seq.).

1.2 WHEREAS, on May 6, 2021, Plaintiff submitted notice to the Labor and Workforce Development Agency (“LWDA”) seeking authority to pursue penalties under the Private Attorneys General Act (“PAGA”) for violations of California law.

1.3 WHEREAS, after PAGA has been exhausted, but in no event before July 12, 2021, Plaintiff will file a First Amended Complaint adding defendant Cardinal Industrial Finishes and asserting causes of action for: (1) Failure To Pay All Minimum Wages Owed (Labor Code §§1194, 1194.2, 1197); (2) Failure To Pay All Overtime Wages Owed (Labor Code §§ 204, 510, 558, 1194, 1198); (3) Failure To Provide Meal Periods (Labor Code §§ 226.7, 512, 558); (4)

1 Failure To Authorize And Permit All Paid Rest Periods (Labor Code §§ 226.7, 516, 558); and
2 (5) Failure to Timely Pay All Wages During Employment and Due Upon Separation of
3 Employment (Labor Code §§ 201-204); (6) Failure to Provide Accurate, Itemized Wage
4 Statements (Labor Code § 226); (7) Unfair Competition (Bus & Prof. Code § 17200 *et seq.*);
5 and (8) Civil Penalties under the PAGA (Labor Code § 2698 *et seq.*).

6 1.4 WHEREAS, the Parties engaged in extensive informal discovery, exchanging
7 information, documents and reviewing and analyzing extensive data made available by
8 CARDINAL which enabled the Parties to thoroughly evaluate Plaintiff's claims, the PAGA
9 claim, the claims of the putative Class, CARDINAL's defenses, and the likely outcomes, risks
10 and expense of pursuing litigation;

11 1.5 WHEREAS, the Parties attended a mediation session with private mediator
12 Jeffrey Krivis, Esq. and reached the terms of this arm's-length Settlement;

13 1.6 WHEREAS, a *bona fide* dispute exists as to whether any amount of wages or
14 penalties are due from CARDINAL to any putative Class Member (as defined below), to the
15 LWDA and/or to any allegedly aggrieved employees;

16 1.7 WHEREAS, the Parties desire to compromise and settle all issues and claims that
17 have been or could have been brought against CARDINAL based on the factual allegations
18 alleged in the Action, including all claims brought on a putative class and representative basis
19 in the Action;

20 1.8 WHEREAS, the Parties further agree that this Agreement, the fact of this
21 Settlement, any of the terms of this Agreement, and any documents filed in connection with the
22 Settlement shall not constitute, or be offered, received, claimed, construed, or deemed as an
23 admission, finding, or evidence of: (i) any wrongdoing by any Released Parties, (ii) any violation
24 of any statute or law by Released Parties, (iii) any liability on the claims or allegations in the
25 Action on the part of any Released Parties, (iv) any waiver of CARDINAL's right to arbitration
26 or the enforceability of any arbitration agreement, or (v) the propriety of certifying a class or
27 pursuing representative relief under the PAGA in the Action or any other civil or administrative
28 proceeding; and this Agreement shall not be used by any person for any purpose whatsoever in

any administrative or legal proceeding, including but not limited to arbitrations, other than a proceeding to enforce the terms of the Agreement;

1.9 NOW, THEREFORE, IT IS HEREBY STIPULATED, CONSENTED TO, AND AGREED, by Plaintiff for himself and on behalf of the Settlement Class Members and the PAGA Employees, and by CARDINAL, that, subject to the approval of the Court, the Action shall be settled and compromised, and the Released Claims shall be finally and fully compromised and settled as to the Released Parties, in the manner and upon the terms and conditions hereafter set forth in this Agreement.

2. DEFINITIONS

Unless otherwise defined herein, capitalized terms used in this Agreement shall have the meanings set forth below:

2.1 “Action” means the operative First Amended Complaint filed in Los Angeles County Superior Court Case No. 20STCV1471.

2.2 “Class Members” means all current and former hourly-paid or non-exempt employees who worked for Cardinal Paint and Powder, Inc. and/or Cardinal Industrial Finishes in the state of California at any time during the Class Period.

2.3 “Settlement Class Members” means all Class Members who do not opt out of this Settlement.

2.4 “Class Period” means April 15, 2016 through the date of Preliminary Approval, or the date on which the Workweeks are equal to or do not exceed 51,750, whichever comes first.

2.5 “Class Counsel” means Paul K. Haines of Haines Law Group, APC and Scott M. Lidman, Elizabeth Nguyen, Milan Moore, and Romina Tamiry of Lidman Law, APC.

2.6 “Class Counsel Award” means the attorneys’ fees and reimbursement of litigation costs and expenses awarded by the Court to Class Counsel to fully satisfy all claims for attorneys’ fees and costs incurred by Plaintiff to litigate and settle this Action. The attorneys’ fees may not exceed 1/3 of the Total Settlement Amount, or \$255,000. In addition, Class

Counsel shall be entitled to recover from the Total Settlement Amount all litigation costs and expenses incurred subject to proof in an amount not to exceed \$30,000.

2.7 “Class Information” means information regarding the Class Members that CARDINAL will in good faith compile from its records and provide to the Settlement Administrator. Class Information shall be provided in a Microsoft Excel spreadsheet and shall include, if possible, each Class Member’s full name, last known address, Social Security number, number of workweeks during the Class Period and PAGA Period, and employment dates as a non-exempt employee during the Class Period. Because Class Members’ private information is included in the Class Information, the Settlement Administrator shall maintain the Class Information in confidence, shall limit access to the information to only those employees of the Settlement Administrator with a need to use the Class Information as part of the administration of the Settlement, and shall use and disclose Class Information only for purposes of this Settlement and for no other purpose.

2.8 “Class Notice” means the Notice of Class Action Settlement to be provided to Class Members, substantially in the form attached hereto as “**Exhibit A.**”

2.9 “Plaintiff’s Complete and General Release” means an irrevocable and unconditional release given only by Plaintiff releasing the Released Parties from any and all claims under any state law, federal law, common law, equity or other theory in any way related to his employment with Defendants against the Released Parties including all claims arising from or related in any way to the claims and allegations asserted in the Action against Defendants, including all claims that could have been stated based upon the claims or allegations asserted in the Action, under federal, state, or local laws, and/or ordinances, or tort or contract theories, whether known or unknown, and whether anticipated or unanticipated, including without limitation statutory, constitutional, contractual or common law claims for wages, damages, unpaid costs, penalties, liquidated damages, interest, attorneys’ fees, litigation costs, restitution, equitable relief or other relief under Business & Professions Code section 17200, *et seq.*, including, without limitation, the following categories: (a) any and all claims involving any alleged failure to pay minimum wage; (b) any and all claims involving any alleged failure to

pay employees for all hours worked, including but not limited to any claim for minimum, straight time, or overtime wages; (c) any and all claims involving any alleged failure to pay overtime wages; (d) any and all claims arising under state law involving any alleged failure to properly provide meal periods and/or authorize and permit rest periods, to pay premiums for missed, late, short or interrupted meal and/or rest periods, or to pay such premiums as required by Labor Code section 226.7; (e) any and all claims involving any alleged failure to keep accurate records or to issue proper wage statements to employees; (f) any and all claims involving any alleged failure to timely pay wages, including but not limited to any claim that Defendants violated Labor Code sections 201, 202, or 204, and any claim for waiting time penalties under Labor Code section 203; (g) any and all claims for unfair business practices in violation of Business and Professions Code sections 17200, et seq.; and (h) any and all penalties pursuant to the Private Attorneys General Act ("PAGA") of 2004 arising out of any or all of the aforementioned claims. Plaintiff's Complete General Release includes all such claims arising under the California Labor Code (including, but not limited to, sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 225.5, 226, 226.3, 226.7, 227.3, 246, 256, 450, 510, 511, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.2, 1198, 1199, 2800, 2802, and 2698 *et seq.*); the Wage Orders of the California Industrial Welfare Commission; California Business and Professions Code section 17200 *et seq.*; California Civil Code section 3336; the California common law of contract. Plaintiff shall have fully, finally, and forever released, relinquished, and discharged each and all of the Released Parties from any and all FLSA claims. This release excludes the release of claims not permitted by law. This release 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. This release specifically does not resolve Plaintiff's ongoing California workers' compensation claim, including but not limited to, ADJ ADJ12791726 and ADJ14411381. Plaintiff hereby expressly waives and relinquishes any and all claims, rights or benefits that either or both may have under California Civil Code § 1542, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing

1 **the release and that, if known by him or her, would have materially affected**
2 **his or her settlement with the debtor or released party.**

3 Plaintiff may hereafter discover claims or facts in addition to, or different from, those which he
4 now knows or believes to exist, but he expressly agrees to fully, finally, and forever settle and
5 release any and all claims against the Released Parties, known or unknown, suspected or
6 unsuspected, which exist or may exist, at the time of execution of this Agreement, including,
7 but not limited to, any and all claims relating to or arising from Plaintiff's employment with
8 Defendants, excluding claims that, by law, may not be privately released, including but not
9 limited to recovery under State workers' compensation laws. The Parties further acknowledge,
10 understand, and agree that this representation and commitment is essential to the Agreement and
11 that this Agreement would not have been entered into were it not for this representation and
12 commitment.

13 2.10 "Court" means the Los Angeles County Superior Court.

14 2.11 "Effective Date" means the date by which this Settlement is finally approved as
15 provided herein and the Court's Final Approval Order becomes binding. For purposes of this
16 Settlement Agreement, the Final Approval Order becomes binding upon the later of: (1) the day
17 after the last day by which a notice of appeal of the Final Approval Order and/or of an order
18 rejecting any motion to intervene may be timely filed, and none is filed; (2) if such an appeal is
19 filed, and the Final Approval Order is affirmed, the day after the last date for filing a request for
20 further review of the decision passes and no further review is requested; (3) if an appeal is filed
21 and further review of the decision affirming the Final Approval Order is requested, the day after
22 the request for review is denied with prejudice and/or no further review of the decision can be
23 requested, or (4) if review is accepted, the day after the United States or California Supreme
24 Court affirms the Settlement. The Effective Date cannot occur, and CARDINAL will not be
25 obligated to fund this Settlement, until and unless there is no timely possibility of an appeal or
26 further appeal that could potentially prevent this Settlement Agreement from becoming final
27 and binding. Absent intervention, the Parties further agree there is no right or opportunity for
28 any PAGA Employee to appeal the approval of the Settlement by the Court.

2.12 “Final Approval Date” means the date of the Court’s order finally approving this Settlement.

2.13 “Final Approval Order” means the Court’s order finally approving this Settlement.

2.14 “Final Approval Hearing” means the hearing at or after which the Court will make a final decision as to whether the Settlement is fair, reasonable, and adequate, and therefore, is finally approved by the Court.

2.15 “Individual Settlement Share” means the *pro rata* share by Workweeks of the Net Distribution Fund to each Settlement Class Member.

2.16 “Judgment” means the judgment to be entered in the Action upon final approval of the Settlement.

2.17 “Mailed Notice Date” means the date of the initial mailing of the Class Notice to Class Members.

2.18 “Net Distribution Fund” means the Total Settlement Amount, less the amount that the Court awards for: the Service Award; the Class Counsel Award; the Settlement Administrator Expenses; and the PAGA Payment.

2.19 “PAGA Release” means PAGA Employees will release and discharge the Released Parties from civil penalties under California Labor Code Private Attorneys General Act of 2004, Labor Code section 2698 *et seq.*, as asserted in the operative complaint that arose during the PAGA Period premised on the facts, claims, causes of action or legal theories that were asserted in the operative complaint and disclosed in the LWDA letter including: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7 and 512(a) (Failure to Provide Meal Periods and Unpaid Meal Period Premiums); (3) Violation of California Labor Code § 226.7 (Failure to Provide Rest Periods and Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California Labor Code § 226(a) (Non-

Compliant Wage Statements); and (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records).

2.20 “PAGA Payment” means a total payment of \$30,000 as consideration for the PAGA Release. From this amount, 75% (or \$22,500) will be paid to the LWDA and 25% (or \$7,500) will be distributed to PAGA Employees. The PAGA Payment shall be payable from the Total Settlement Amount.

2.21 “PAGA Period” means April 15, 2019 through the date of Preliminary Approval, or the date on which the Workweeks are equal to or do not exceed 51,750, whichever comes first.

2.22 “PAGA Employees” means all Class Members who worked for CARDINAL any time during the PAGA Period.

2.23 “Plaintiff” means Gilberto Rodriguez.

2.24 “Preliminary Approval” means entry of the Preliminary Approval Order.

2.25 “Preliminary Approval Order” means the order granting preliminary approval of this Settlement Agreement.

2.26 “Released Class Claims” means all claims actually alleged or that could have been alleged in the Action by Plaintiff, on behalf of himself and the Settlement Class Members, based on the facts alleged in the Action including but not limited to: (1) Violation of California Labor Code §§ 510, 1194 and 1198, and IWC Wage Order 4-2001, § 3 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7, 510, 512, 1194, 1197, and IWC Wage Order 4-2001, § 11 (Failure to Provide Meal Periods and Unpaid Meal Period Premiums); (3) Violation of California Labor Code §§ 226.7, 512 and IWC Wage Order 4-2001, § 12 (Failure to Provide Rest Periods and Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1, and IWC Wage Order 4-2001, § 4 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201, 202, and 203 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California Labor Code § 226(a) and IWC Wage Order 4-2001, § 7 (Non-Compliant Wage Statements); (8) Violation of California Business & Professions Code §§ 17200, *et seq.*;

(9) failure to pay all minimum and overtime wages due under the Fair Labor Standards Act (29 U.S.C. §201, *et seq.*); and (10) attorneys' fees and costs of litigation associated with this Action.

2.27 "Released Parties" means (i) Cardinal Paint and Powder, Inc. and Cardinal Industrial Finishes, and their past, present, and future parents, subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, and any other legal entities, whether foreign or domestic, and (ii) the past, present, and future shareholders, officers, directors, members, investors, agents, employees, consultants, representatives, fiduciaries, insurers, attorneys, legal representatives, predecessors, successors, and assigns of the entities listed in (i).

2.28 "Response Deadline" means the date by which a Class Member may (i) request to be excluded from the Settlement, (ii) object to the Settlement, and/or (iii) dispute the number of Workweeks credited to him or her. The Response Deadline shall be forty-five (45) calendar days after the Mailed Notice Date, and shall be specifically identified and set forth in the Preliminary Approval Order and the Class Notice. The Response Deadline may be extended in the event the Class Notice is re-mailed to any Class Members as set forth in Paragraph 6.7 *infra*. In the event the Class Notice is re-mailed the Settlement Administrator shall advise the Class Member of the Extended Response Deadline.

2.29 "Service Award" means the amounts approved by the Court to be paid to Plaintiff, in addition to Plaintiff's respective Individual Settlement Payment. The Service Award payable to Plaintiff shall not exceed \$5,000 and shall be payable from the Total Settlement Amount.

2.30 "Settlement," "Settlement Agreement" and "Agreement" mean the settlement of this Action between and among Plaintiff and CARDINAL, as set forth in this document.

2.31 "Settlement Administrator" means Phoenix Settlement Administrators.

2.32 "Settlement Administrator Expenses" means the maximum amount to be paid to the Settlement Administrator, which shall not exceed \$9,750. All Settlement Administrator Expenses are to be paid exclusively from the Total Settlement Amount.

2.33 "Total Settlement Amount" means Seven Hundred Sixty Five Thousand Dollars (\$765,000), which is the maximum amount that CARDINAL is obligated to pay under this Settlement Agreement, except for the employer's share of payroll taxes with respect to the wage

portion of Individual Settlement Shares, in order to resolve and settle this Action, subject to Court approval. The \$765,000 plus the employer's share of payroll taxes is the maximum amount CARDINAL is obligated to pay under this Settlement Agreement. The Total Settlement Amount includes the Class Counsel Award, the Service Award, the Settlement Administrator Expenses, the PAGA Payment (which includes Individual PAGA Payments to PAGA Employees and payment to the LWDA), the Individual Settlement Shares, all related interest, and all employee-side payroll and employment taxes on the wage portion of Individual Settlement Shares. The Total Settlement Amount does not include the employer-side payroll and employment taxes on the wage portion of Individual Settlement Shares, which CARDINAL agrees to pay separately.

2.34 "Void Date" means the date by which any checks issued to Settlement Class Members shall become void, i.e. on the 181st day after mailing.

2.35 "Workweeks" means the number of weeks during which a Class Member worked for CARDINAL in the State of California during the Class Period.

3. CERTIFICATION FOR SETTLEMENT PURPOSES ONLY

3.1 Certification Of Class: Solely for the purposes of this Settlement, the Parties stipulate and agree that the Court may certify the Class.

3.2 Appointment Of Class Representative. Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiff Gilberto Rodriguez shall be appointed as representative of the Class.

3.3 Appointment Of Class Counsel. Solely for the purposes of this Settlement, the Parties stipulate and agree that Class Counsel shall be approved as counsel for Settlement Class Members.

3.4 Appointment Of Settlement Administrator. Solely for the purposes of this Settlement, the Parties stipulate and agree that Phoenix Settlement Administrators shall be appointed to serve as Settlement Administrator. The Settlement Administrator shall be responsible for establishing: a case specific hosted website, a toll-free telephone number through which Class Members may make inquiries about the Settlement; a Post Office Box for receipt

of Class Members' communications; preparing, printing and mailing the Class Notice; receiving and reviewing requests for exclusion, objections and/or disputes, if any, submitted by Class Members; calculating Individual Settlement Shares, and Individual PAGA Payments; calculating and paying any and all payroll tax or other required withholdings from the wage portion of the Individual Settlement Shares as required under this Settlement Agreement and applicable law; providing weekly status reports to CARDINAL's Counsel and Class Counsel; providing a due diligence declaration for the Court prior to the Final Approval Hearing; mailing Individual Settlement Payments, the Service Award, the Class Counsel Award and 75% of the PAGA Payment to the LWDA; printing and providing Plaintiff, Class Counsel, and Settlement Class Members with IRS Forms W-2 and/or 1099 as required under this Settlement Agreement and applicable law; providing a due diligence declaration for submission to the Court upon the completion of the Settlement; and for such other tasks as the Parties mutually agree. The Parties agree to cooperate in the settlement administration process and to make all reasonable efforts to control and minimize Settlement Administrator Expenses.

3.5 Conditional Nature Of Stipulation For Certification. Solely for the purposes of this Settlement, the Parties stipulate and agree to the certification of the Class. Should for whatever reason the Settlement not become effective, the fact that the Parties were willing to stipulate to certification as part of the Settlement shall have no bearing on, and shall not be admissible in connection with, the issue of whether the Class should be certified in a non-Settlement context in this Action or in any other lawsuit. CARDINAL expressly reserves its right to oppose any claim or class certification in this or any other action should this Settlement not become effective.

3.6 The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval Hearing.

3.7 The Settlement is not intended to and may not be deemed to affect the enforceability of any arbitration agreement between CARDINAL and Plaintiff and/or between CARDINAL and any Class Member.

4. NON-REVERSIONARY SETTLEMENT CONSIDERATION

1 4.1 CARDINAL's total monetary obligation under this Settlement is the Total
2 Settlement Amount (\$765,000) and is non-reversionary. This is an "all in" number that includes,
3 without limitation, all monetary benefits and payments for Settlement Class Members, Service
4 Award, Class Counsel Award, the Settlement Administrator Expenses, and the PAGA Payment,
5 and all other claims for interest, fees, and costs. Under no circumstances shall CARDINAL be
6 required to pay anything more than the Total Settlement Amount, except that CARDINAL will
7 separately pay the employer payroll and employment taxes due for the wages portion of
8 Individual Settlement Shares made under this Agreement. In no event shall CARDINAL be
9 liable for making any payments under this Settlement, or for providing any relief to the
10 Settlement Class Members before the Effective Date of this Agreement. Within ten (10) calendar
11 days of the Effective Date, CARDINAL will transfer the amounts called for herein to the
12 Settlement Administrator provided the Settlement Administrator provides valid transmission
13 instructions, which shall include the amount of additional employer-side payroll taxes to be paid
14 by CARDINAL as calculated by the Settlement Administrator.

15 4.2 Non-Monetary Relief: Defendants shall implement written wage-and-hour
16 policies, to the extent they have not done so yet, to comply with California law.

17
18 4.3 Plaintiff and all Settlement Class Members who receive a payment of any kind
19 from the Total Settlement Amount (including, in the case of the Plaintiff, the Service Award)
20 expressly agree to hold Plaintiff, Class Counsel, Defendants, Defense Counsel and the
21 Settlement Administrator harmless from any claim or liability for taxes, penalties, or interest
22 arising as a result of the payments under this Settlement, with the exception of the payroll
23 withholdings required to be made and remitted by Defendants under the terms of this Settlement.

24 4.4 CARDINAL agrees not to oppose Plaintiff's application for a Service Award in
25 the amount of up to \$5,000 to Plaintiff. Any Service Award awarded by the Court shall be paid
26 from the Total Settlement Amount. If the Court awards less than the full Service Award, then
27 the unawarded funds shall become part of the Net Distribution Fund.
28

1 4.5 Plaintiff shall seek a Class Counsel Award from the Court, consisting of attorneys’
2 fees in the amount of up to 1/3 of the Total Settlement Amount, or \$255,000, and all litigation
3 costs and expenses incurred subject to proof in an amount not to exceed \$30,000. CARDINAL
4 agrees not to oppose a request for these amounts. Any Class Counsel Award awarded by the
5 Court shall be paid from the Total Settlement Amount. Any portion of the Class Counsel Award
6 that is not approved by the Court and awarded to Class Counsel shall become part of the Net
7 Distribution Fund.

8 4.6 The Parties agree to allocate Thirty Thousand Dollars (\$30,000) for the PAGA
9 Payment, of which 75%, or \$22,500 shall be paid to the LWDA and the remaining 25%, or
10 \$7,500 shall be paid to PAGA Employees on a *pro rata* basis, based on workweeks in the PAGA
11 Period, if any, and irrespective of whether or not they request exclusion from the Settlement.
12 The PAGA Payment shall be paid from the Total Settlement Amount. Any portion of the PAGA
13 Payment that is not approved by the Court shall become part of the Net Distribution Fund.

14 4.7 The Settlement Administrator Expenses are estimated not to exceed \$9,750. The
15 Settlement Administrator Expenses shall be paid from the Total Settlement Amount. Any
16 portion of the Settlement Administrator Expenses not actually incurred by the Settlement
17 Administrator shall become part of the Net Distribution Fund.

18 4.8 The Settlement Administrator shall calculate the Individual Settlement Shares
19 based on the Class Information provided to the Settlement Administrator by CARDINAL.
20 Payment of Individual Settlement Shares to Settlement Class Members will be made from the
21 Net Distribution Fund on a *pro-rata* basis, based on Workweeks during the Class Period.
22 Specifically, the Net Distribution Fund shall be divided by the total of all Workweeks of
23 Settlement Class Members during the Class Period in order to establish the value of each
24 Workweek. The Individual Settlement Share to each Settlement Class Member shall be
25 calculated by multiplying the value of a Workweek by the number of Workweeks worked by
26 the Settlement Class Member during the Class Period.

27 4.9 PAGA Employees will receive a *pro-rata* share of 25% of the PAGA Payment
28 (“Individual PAGA Payment”) based on workweeks during the PAGA Period. Specifically,

25% of the PAGA Payment shall be divided by the total of all workweeks worked by PAGA Employees during the PAGA Period in order to establish the value of each workweek. The Individual PAGA Payment to be made to each PAGA Employee shall be calculated by multiplying the value of a workweek by the number of workweeks worked by the PAGA Employee during the PAGA Period.

4.10 Settlement Class Members may dispute the number of Workweeks with which they have been credited, as reflected in their respective Class Notices. In order to dispute Workweeks, Settlement Class Members must submit a written letter to the Settlement Administrator that: (a) contains the case name and number of the Action, (b) is signed by the Settlement Class Member, (c) contains the full name, address, telephone number, and the last four digits of the Social Security Number of the disputing Settlement Class Member, (d) clearly states that the Settlement Class Member disputes the number of Workweeks credited to him or her and what he or she contends is the correct number to be credited to him or her, (e) includes information and/or attaches documentation demonstrating that the number of Workweeks that he or she contends should be credited to him or her are correct, and (f) is returned to the Settlement Administrator by mail at the specified address, postmarked on or before the Response Deadline. The date of the postmark on the submission will be the exclusive means to determine whether a dispute has been timely submitted. Absent evidence rebutting the accuracy of CARDINAL's records and data as they pertain to the number of Workweeks to be credited to a disputing Settlement Class Member, CARDINAL's records will be presumed correct and determinative of the dispute. However, if a Class Member produces information and/or documents to the contrary, the Settlement Administrator will evaluate the materials submitted by the Class Member and the Settlement Administrator will resolve and determine the number of eligible Workweeks that the disputing Settlement Class Member should be credited with under the Settlement. The Settlement Administrator's decision on such disputes will be final and non-appealable.

4.11 The Settlement Administrator shall allocate Thirty-Three percent (33%) of each Individual Settlement Share to wages (to be reported on IRS Form W-2), and Sixty-Seven

1 percent (67%) of each Individual Settlement Share to interest, penalties, and other non-wage
2 damages (to be reported on IRS Form 1099, if applicable). Individual PAGA Payments will be
3 allocated as one hundred percent (100%) penalties (to be reported on IRS Form 1099). The
4 gross payment of each Settlement Class Member's Individual Settlement Share and Individual
5 PAGA Payment (if applicable) is referred to as "Individual Settlement Payment." Settlement
6 Class Members (except Plaintiff with respect to his Service Award) are not eligible to receive
7 any compensation other than the Individual Settlement Payments discussed above.

8 4.12 Amounts paid to Plaintiff and Settlement Class Members pursuant to this
9 Settlement Agreement do not count as earnings or compensation for purposes of any benefits
10 (*e.g.*, 401(k) plans or retirement plans) sponsored by CARDINAL or the Released Parties.

11 4.13 In exchange for the consideration provided by CARDINAL, Plaintiff, individually
12 and on behalf of Plaintiff's heirs, estates, trustees, executors, administrators, representatives,
13 agents, successors, and assigns, and anyone claiming through them or acting or purporting to
14 act on their behalf, agree to provide Plaintiff's Complete and General Release.

15 4.14 In exchange for the consideration provided by CARDINAL, Settlement Class
16 Members, individually and on behalf of their heirs, estates, trustees, executors, administrators,
17 representatives, agents, successors, and assigns, and anyone claiming through them or acting or
18 purporting to act on their behalf, agree to forever release, discharge, and hold harmless each and
19 all of the Released Parties for the Released Class Claims during the Class Period.

20 4.15 In exchange for the consideration provided by CARDINAL, PAGA Employees,
21 individually and on behalf of their heirs, estates, trustees, executors, administrators,
22 representatives, agents, successors, and assigns, and anyone claiming through them or acting or
23 purporting to act on their behalf, agree to forever release, discharge, and hold harmless each and
24 all of the Released Parties for the PAGA Release during the PAGA Period.

25 4.16 Only those Settlement Class Members who cash, deposit, or negotiate an
26 Individual Settlement Payment check will be deemed to have opted in to the Settlement and
27 release of the Released Class Claims that arise under the Fair Labor Standards Act ("FLSA").
28 The Class Notice and Individual Settlement Payment checks will apprise Class Members of this.

4.17 All releases identified herein shall be null and void if Defendants fail to fully fund the Total Settlement Amount. The releases identified herein shall become effective on the date on which Defendants fully fund the Total Settlement Amount “Effective Date of the Release”).

5. PROCEDURE FOR REQUESTING PRELIMINARY APPROVAL OF THE SETTLEMENT

5.1 After execution of this Settlement Agreement, Plaintiff shall promptly submit a motion for preliminary approval of the Settlement to the Court, along with the Settlement Agreement. Plaintiff will provide the proposed motion to CARDINAL’s counsel of record no less than five (5) calendar days before the motion is filed for review and comment. Plaintiff’s motion for preliminary approval shall request that the Court enter a Preliminary Approval Order in form and substance similar to that set forth in **Exhibit B**.

5.2 The Preliminary Approval Order shall:

- Conditionally certify the Settlement Class for settlement purposes;
- Preliminarily appoint Plaintiff as representative of the proposed Settlement Class;
- Preliminarily approve Class Counsel to represent the Settlement Class;
- Appoint Phoenix Settlement Administrators as the Settlement Administrator, and order the Settlement Administrator to provide notice of the Settlement as outlined below; and
- Stay all litigation of the Action pending the Final Approval Hearing, except as necessary to implement and effectuate the Settlement; and
- Order that the preliminary approval of the Settlement, conditional certification of the Settlement Class, and all actions associated with them, are undertaken on the condition that they shall be vacated if the Settlement Agreement is disapproved in whole or in part by the Court, or any appellate court and/or other court of review in which event the Settlement Agreement and the fact that it was entered into shall not be offered, received, or construed as an admission or as evidence for any purpose, including but not limited to an admission by any Party of liability

or non-liability or of the certifiability of a litigation class or the appropriateness of maintaining a representative action.

5.3 The motion for preliminary approval shall request: that the Final Approval Hearing and any determination on the request for a Class Counsel Award and Service Award be set no earlier than forty-five (45) calendar days after the Response Deadline; and that Plaintiff be permitted to file Plaintiff's motion for final approval of the Settlement no later than sixteen (16) court days before the Final Approval Hearing.

5.4 At the same time that Plaintiff files the motion for preliminary approval, Class Counsel will submit the Settlement Agreement to the LWDA.

6. PROCEDURE FOR PROVIDING NOTICE OF SETTLEMENT

6.1 No more than fifteen (15) calendar days after Preliminary Approval, CARDINAL shall provide the Settlement Administrator with the Class Information for purposes of sending the Class Notice to Class Members.

6.2 No more than thirty (30) calendar days after Preliminary Approval (i.e., the Mailed Notice Date), the Settlement Administrator shall send the Class Notice to Class Members in English and Spanish via first class U.S. Mail.

6.3 The Class Notice will inform Class Members that, unless they submit a request to be excluded from the Settlement, they will become Settlement Class Members; they will receive Individual Settlement Payments under the Agreement and, if they cash deposit or otherwise negotiate their Individual Settlement Payment checks, they will thereby opt into the settlement and release of Released Claims arising under the FLSA.

6.4 The Class Notice will inform Class Members of their right to request exclusion from the Settlement, or to object to the Settlement, dispute the number of Workweeks credited to each of them, and of the procedure for doing so. The Class Notice will also inform Class Members that if they request exclusion from the Class they may not also object to the Settlement or dispute the number of Workweeks credited to them, and will inform PAGA Employees that all claims to PAGA penalties are settled by operation of law and that they are not able to exclude

1 themselves from the PAGA Release and will receive an Individual PAGA Payment whether or
2 not they request exclusion from the Action and the Settlement.

3 6.5 The Class Notice shall include a statement as to the number of Workweeks
4 attributable to each Class Member, where applicable, as well as an explanation for how the
5 Workweeks will be used to calculate the Individual Settlement Shares and Individual PAGA
6 Payments (if applicable).

7 6.6 Upon receipt of the Class Information, the Settlement Administrator shall make a
8 good-faith attempt to obtain the most-current names and postal mail addresses for those
9 individuals, including cross-checking the names and/or postal mail addresses it received from
10 CARDINAL with other appropriate databases (e.g., the National Change of Address Database).
11 If any Class Notice mailed to any Class Member is returned, Settlement Administrator shall
12 make a good-faith attempt to obtain an updated mailing address within three (3) business days
13 of receiving the returned Class Notice and perform further reasonable searches (e.g., through
14 LexisNexis and/or utilizing a “skip trace”) for more-current names and/or postal mail addresses
15 for those individuals. All Class Members’ names and postal mail addresses obtained through
16 these sources shall be protected as confidential and not used for purposes other than the notice
17 and administration of this Settlement. The address determined by the Settlement Administrator
18 as the current mailing address shall be presumed to be the best mailing address for each Class
19 Members. The Settlement Administrator shall promptly re-mail the Class Notice to any Class
20 Member whose original notice was returned because of a wrong address within three business
21 days of obtaining an updated address and advise the Class Members of the Extended Response
22 Deadline.

23 6.7 If any Class Notice to a Class Member is returned to the Settlement Administrator
24 with a forwarding address, the Settlement Administrator shall forward the postal mailing to that
25 address within three (3) business days. Class Members whose Class Notices are re-mailed shall
26 have an additional ten (10) calendar days from the original Response Deadline to submit a
27 response (“Extended Response Deadline”). The Settlement Administrator will advise Class
28 Members of the Extended Response Deadline where applicable.

6.8 The Settlement Administrator shall continue to obtain updated mailing addresses for any undeliverable Class Notices until the Response Deadlines. The Settlement Administrator shall maintain a log detailing the instances Class Notices are returned as undeliverable, re-mailed, and when applicable, returned again.

6.9 The Parties agree that the procedures set forth in this Section comply with all due process requirements, constitute reasonable and the best practicable notice under the circumstances, and constitute an appropriate and sufficient effort to locate current addresses for Class Members such that no additional efforts to do so shall be required.

6.10 No more than fifteen (15) calendar days after the Response Deadline or Extended Response Deadline in the event the Class Notice is re-mailed, the Settlement Administrator shall provide a declaration of due diligence confirming: its dissemination of the Class Notice in accordance with the notice procedures of this Agreement; all attempts by the Settlement Administrator to locate Class Members; the number of delivered and undeliverable Class Notices; the number of objections received (and copies of same); the number of requests for exclusion received (but not copies of same); and the number of Workweek disputes received. Class Counsel shall be responsible for filing the due diligence declaration with the Court.

7. PROCEDURE FOR REQUESTING EXCLUSION

7.1 Class Members who wish to exclude themselves from (or “opt out” of) the Settlement must submit timely, written requests for exclusion from the Settlement to the Settlement Administrator. To be effective, the request for exclusion from the Settlement must include: the Class Member’s name, address, telephone number, and last four digits of his or her Social Security number; the name and case number of the Action; a clear and unequivocal statement that the individual wishes to be excluded from the Settlement; and the Class Member’s signature.

7.2 The request for exclusion must be mailed to the Settlement Administrator at the address provided in the Class Notice and must be postmarked no later than the Response Deadline. The date of the postmark on the envelope containing the request for exclusion shall be the exclusive means used to determine whether a request for exclusion has been timely

submitted. The Settlement Administrator shall provide the identities of those Class Member who have opted out of the Settlement, if CARDINAL consents to such disclosure or disclosure is required by the Court.

7.3 The Settlement Administrator shall immediately notify Class Counsel and counsel for CARDINAL by email and phone if and when the number of timely-submitted requests for exclusion reaches ten percent (10%) of all Class Members. If more than ten percent (10%) of Class Members opt out of the Settlement, CARDINAL at its sole and absolute discretion may elect to rescind and revoke the entire Settlement Agreement by sending written notice to Class Counsel that it revokes the Settlement within twenty (20) calendar days after the Response Deadline or Extended Response Deadline, if applicable.

7.4 All Class Members who do not opt out of the Settlement shall be bound by the Final Approval Order and Judgment even if they never received the Class Notice or other actual notice of this Settlement so long as the Class Members' information was part of the Class Information that Defendants provide to the Settlement Administrator as required under the terms of this Agreement.

7.5 Plaintiff agrees not to request exclusion from the Settlement.

7.6 The Parties agree there is no statutory or other right for any PAGA Employee to opt out or otherwise exclude himself or herself from the settlement and release of the PAGA Claims.

8. PROCEDURE FOR WRITTEN OBJECTION

8.1 Any Class Member who has not opted out of the Settlement (i.e., Settlement Class Member) and who wishes to submit a written objection to the fairness, reasonableness, or adequacy of this Agreement must provide the written objection to the Settlement Administrator (who shall immediately forward it to Class Counsel and counsel for CARDINAL) by the Response Deadline or Extended Response Deadline.

8.2 All written objections and supporting papers must be filed or postmarked no later than the Response Deadline or Extended Response Deadline, if applicable. The date of the

1 postmark on the envelope containing the objection shall be the exclusive means used to
2 determine whether the written objection has been timely submitted.

3 8.3 The objection must contain at least the following: (i) the objector's full name,
4 address, telephone number, last four digits of his or her Social Security number, and signature;
5 (ii) the name and case number of the Action; (iii) a statement of the specific legal and factual
6 basis for each objection argument; and (iv) a statement whether the objector intends to appear
7 at the Final Approval Hearing, either remotely, in person or through counsel and, if through
8 counsel, a statement identifying that counsel by name, bar number, address, and telephone
9 number.

10 8.4 Class Members may also appear either remotely, in person or through counsel and,
11 if through counsel, a statement identifying that counsel by name, bar number, address, and
12 telephone number, at the Final Approval Hearing to object.

13 8.5 Class Members who object to the Settlement shall remain Settlement Class
14 Members and shall be deemed to have voluntarily waived their right to pursue an independent
15 remedy against CARDINAL and the Released Parties for the Released Claims if the Court grants
16 final approval of the Settlement. To the extent any Settlement Class Member objects to the
17 Settlement, and such objection is overruled in whole or in part, those Settlement Class Members
18 will be forever bound by the Final Approval Order and Judgment if the Court grants final
19 approval of the Settlement.

20 8.6 The Parties agree there is no statutory or other right for any PAGA Employee to
21 object to PAGA Release portion of the Settlement.

22 **9. PROCEDURE FOR REQUESTING FINAL APPROVAL OF THE**
23 **SETTLEMENT**

24 9.1 Promptly after the Response Deadline, Plaintiff shall file a motion requesting final
25 approval of the Settlement, along with a proposed Final Approval Order. Drafts of the motion
26 for final approval of the Settlement and proposed Final Approval Order shall be provided to
27 CARDINAL's counsel at least five (5) court days before the documents are filed and approved
28 of in writing before it is filed.

9.2 The Final Approval Order shall adjudge that, among other things:

- The Settlement Administrator has fulfilled its initial notice and reporting duties under the Settlement and that the Class Notice (i) constituted the best practicable notice; (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action, and their right to exclude themselves from or object to the proposed Settlement and to appear at the Final Approval Hearing; (iii) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) met all applicable requirements of due process, and any other applicable rules or law;
- The Settlement is fair, reasonable, and adequate;
- Plaintiff and Class Counsel may adequately represent the Settlement Class for the purpose of entering into and implementing the Agreement;
- The Settlement Administrator is to execute the distribution of proceeds pursuant to the terms of this Agreement;
- The Final Approval Order and Judgment shall be final and entered forthwith;
- Without affecting the finality of the Final Approval Order and Judgment, the Court retains continuing jurisdiction over Plaintiff, CARDINAL, and Settlement Class Members, as to all matters concerning the administration, consummation, and enforcement of this Settlement Agreement;
- As of the Effective Date of the Release, Plaintiff and Settlement Class Members compromised, settled, discharged, and provided the release of the Released Class Claims and release of Released Claims arising under FLSA (in the case of Settlement Class Members who negotiate their settlement checks), during the applicable time period, against CARDINAL and the Released Parties, and are bound by the provisions of this Settlement Agreement;

- Notwithstanding the submission of a timely request for exclusion, PAGA Employees are still bound by PAGA Release portion for the Settlement and the State's claims for civil penalties pursuant to PAGA are also extinguished.
- This Settlement Agreement and the Final Approval Order and Judgment to be binding on, and have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings that encompass Plaintiff's and Settlement Class Members' claims released herein, and that are maintained by or on behalf of Plaintiff and Settlement Class Members;
- The Settlement provided for herein, and any proceedings undertaken pursuant thereto, are not, and should not in any event be offered, received, or construed as evidence of, a presumption, concession, or an admission by any Party of liability or non-liability or of the certifiability or non-certifiability of a litigation class or collective, or that PAGA representative claims may validly be pursued;

9.3 At the Final Approval Hearing, Class Counsel shall request entry of an Order approving the Class Counsel Award and the Service Award to Plaintiff. Any such Class Counsel Award or Service Award shall be paid exclusively from the Total Settlement Amount. The disposition of Class Counsel's application for a Class Counsel Award, and for Service Award, is within the sound discretion of the Court and is not a material term of this Settlement Agreement, and it is not a condition of this Settlement Agreement that such application be granted. Any disapproval or modification of such application by the Court shall not (i) affect the enforceability of the Settlement Agreement, (ii) provide any of the Parties with the right to terminate the Settlement Agreement, or (iii) increase the consideration any Released Party pays in connection with the Settlement. Released Parties shall have no liability to Plaintiff or Class Counsel arising from any claim regarding the division of any attorneys' fee/litigation cost award between and among Class Counsel.

10. PROCEDURE FOR EXECUTING THE SETTLEMENT IF/WHEN IT BECOMES EFFECTIVE

1 10.1 CARDINAL shall provide payment to the Settlement Administrator as provided
2 in Section 4.1

3 10.2 Within fifteen (15) calendar days of receipt of the Total Settlement Amount, the
4 Settlement Administrator shall distribute the following payments: (a) full payment to Plaintiff
5 for Plaintiff's Court-approved Service Award; (b) full payment to the LWDA for its 75% portion
6 of the PAGA Payment; (c) full payment of the Court-approved Settlement Administrator
7 Expenses; (d) full payment of the Court-approved litigation costs and expenses; (e) full payment
8 of the Individual Settlement Payments to Settlement Class Members; (f) full payment to the
9 PAGA Employees of their 25% portion of the PAGA Payment; and (g) the Court-approved
10 Class Counsel Award to Class Counsel.

11 10.3 The Settlement Administrator shall prepare all tax forms related to any and all
12 employer taxes incurred by CARDINAL as a result of this Settlement, shall inform CARDINAL
13 and its Counsel of the amounts owed, shall collect the necessary funds from CARDINAL and
14 remit them to the requisite taxing authorities.

15 10.4 If any Individual Settlement Payments are not cashed, deposited, or negotiated on
16 or before the Void Date, then within thirty (30) calendar days of the Void Date, the Settlement
17 Administrator shall void the uncashed checks and shall transmit such funds to the California
18 State Controller's Office's Unclaimed Property Fund division in the name of the Settlement
19 Class Member who did not negotiate his or her check.

20 10.5 Upon completion of administration of the Settlement, the Settlement
21 Administrator will provide a written declaration under oath to certify such completion to the
22 Court and counsel for all Parties. Class Counsel shall file the declaration with the Court to
23 confirm full satisfaction of the Settlement.

24 10.6 The Individual Settlement Payments cashed shall be reported by the Settlement
25 Administrator to the applicable governmental authorities on IRS Forms W-2 and/or 1099s (if
26 required). The portions allocated to Service Award shall likewise be reported on IRS Form
27 1099s by the Settlement Administrator. The Settlement Administrator shall be responsible for
28 issuing copies of all IRS Forms for the Plaintiff and Settlement Class Members.

10.7 The Parties make no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff and the Settlement Class Members are not relying on any statement, representation, or calculation by any of the Parties, their counsel, or by the Settlement Administrator in this regard. Plaintiff and Settlement Class Members understand and agree that they will be solely responsible for payment of any taxes and penalties assessed on the payments described herein and will hold Plaintiff, Class Counsel, CARDINAL, CARDINAL's counsel and the Released Parties free and harmless from and against any claims resulting from the tax treatment of payments under this Agreement, with the sole exception of the employer's portion of the payroll withholdings described in paragraph 10.3, above. Plaintiff and the Settlement Class Members acknowledge and agree that no provision of this Settlement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor will any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).

10.8 Payments and tax reporting by the Settlement Administrator in the manner described above shall be deemed conclusive of compliance with this Settlement Agreement as to all Settlement Class Members. No Settlement Class Members shall have any claim against the Plaintiff, Class Counsel, CARDINAL, CARDINAL's counsel or the Settlement Administrator for distributions made substantially in accordance with this Settlement Agreement and/or orders of the Court.

11. EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION OF SETTLEMENT AGREEMENT

11.1 If the Court does not approve the Settlement as set forth in this Settlement Agreement, or if the Court enters the Judgment and appellate review is sought, and on such review, the entry of Judgment is vacated, modified in any way, or reversed, or if the Final Approval Order does not otherwise become Final, then this Settlement Agreement shall be cancelled and terminated, unless all Parties, in their sole discretion within thirty (30) days from the date such ruling becomes final, provide written notice to all other Parties hereto of their

1 intent to proceed with the Settlement under the terms of the Judgment as it may be modified by
2 the Court or any appellate court.

3 11.2 In the event that: (i) the Settlement is not approved, is overturned, or is materially
4 modified by the Court or on appeal, (ii) the Judgment does not become Final, or (iii) this
5 Settlement Agreement is terminated, cancelled, or fails to become effective pursuant to this
6 Agreement, then: (a) the Parties stipulate and agree that the Settlement, the Class Information,
7 and all documents exchanged and filed in connection with the Settlement shall be treated as
8 inadmissible mediation communications under Cal. Evid. Code §§ 1115 *et seq.*, (b) the
9 Settlement shall be without force and effect upon the rights of the Parties hereto, and none of its
10 terms shall be effective or enforceable, with the exception of this Paragraph, which shall remain
11 effective and enforceable; (c) the Parties shall be deemed to have reverted to their respective
12 status prior to execution of this Agreement; (d) all Orders entered in connection with the
13 Settlement, including the certification of the Class, shall be vacated without prejudice to any
14 Party's position on the issue of class certification, the issue of amending the complaint, or any
15 other issue, in this Action or any other action, and the Parties shall be restored to their litigation
16 positions existing on the date of execution of this Agreement; and (e) the Parties shall proceed
17 in all respects as if the Settlement Agreement and related documentation and orders had not been
18 executed, and without prejudice in any way from the negotiation or fact of the Settlement or the
19 terms of the Settlement Agreement. The Settlement, all documents, orders, and evidence
20 relating to the Settlement, the fact of their existence, any of their terms, any statement or report
21 concerning the Settlement Agreement, its existence, or their terms, any negotiations,
22 proceedings, acts performed, or documents executed pursuant to or in furtherance of the
23 Settlement Agreement shall not be admissible in any proceeding, and shall not be offered,
24 received, or construed as evidence of a presumption, concession, or an admission of liability, of
25 unenforceability of any arbitration agreement, of the certifiability of a litigation class, or
26 otherwise used by any Person for any purpose whatsoever, in any trial of this Action or any
27 other action or proceedings.

28 **12. ADDITIONAL PROVISIONS**

12.1 The Class Notice is the approved method for communicating with Class Members about the Settlement. Plaintiff and Class Counsel will not issue any news media releases, initiate any contact with the news media, respond to any news media inquiry, post any information on a website (including social media), or have any other public communication about the Action or the fact, amount or terms of the Settlement. Nothing in this Agreement prohibits Plaintiff or Class Counsel from discussing the terms of the Settlement with Class Members after the Motion for Preliminary Approval has been filed. 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.

12.2 All of the Exhibits to this Agreement are an integral part of the Settlement and are incorporated by reference as though fully set forth herein.

12.3 Unless otherwise noted, all references to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

12.4 The Parties to the Settlement Agreement agree that the terms of the Settlement were negotiated at arm’s length and in good faith by the Parties, resulted from an arm’s-length mediation session, and reflect a settlement that was reached voluntarily based upon adequate information and sufficient discovery and after consultation with experienced legal counsel.

12.5 Plaintiff, Class Counsel, CARDINAL, and counsel for CARDINAL have concluded that the Settlement set forth herein constitutes a fair, reasonable, and adequate resolution of the claims that Plaintiff asserted against CARDINAL, including the claims on behalf of the Class Members, and that it promotes the best interests of the Class Members.

12.6 To the extent permitted by law and unless otherwise necessary to seek Court approval of this Settlement Agreement, all agreements made and orders entered during the course of the Action relating to the confidentiality of information shall survive this Settlement Agreement.

12.7 The waiver by one Party of any breach of this Settlement Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement.

12.8 The Parties may not amend or modify any provision of this Settlement Agreement except by written agreement signed by counsel for the Parties and subject to any necessary Court approval.

12.9 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 Defendants: Travis K. Jang-Busy, Gordon Rees Scully Mansukhani,
LLP 633 West Fifth Street, 52nd floor, Los Angeles, CA
90071; 213-270-7868; tjang-busby@grsm.com

if to Plaintiff: Scott M. Lidman, Elizabeth Nguyen, Milan Moore, Romina
Tamiry of Lidman Law, APC, 2155 Campus Drive, Suite 150, El
Segundo, California 90245; 424-322-4772;
slidman@lidmanlaw.com, enguyen@lidmanlaw.com

Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive,
Suite 180, El Segundo, California 90245; 424-292-2350;
phaines@haineslawgroup.com

12.10 This Settlement Agreement, including its Exhibits, constitutes the entire agreement among the Parties, and no representations, warranties, or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits, other than the

1 representations, warranties, and covenants contained and memorialized in this Settlement
2 Agreement and its Exhibits.

3 12.11 This Settlement Agreement may be executed in one or more counterparts. All
4 executed counterparts and each of them, including facsimile, electronic, and scanned copies of
5 the signature page, shall be deemed to be one and the same instrument.

6 12.12 The Parties hereto and their respective counsel agree that they will use their best
7 efforts to obtain all necessary approvals of the Court required by this Settlement Agreement.
8 The Parties agree that Plaintiff will submit to the Court a Motion for Preliminary Approval of
9 this Settlement containing all of the terms and conditions contained herein notwithstanding any
10 new legal developments regarding the Released Class Claims or PAGA Release.

11 12.13 This Settlement Agreement shall be binding upon and shall inure to the benefit of
12 the successors and assigns of the Parties hereto, including any and all Released Parties and any
13 corporation, partnership, or other entity into or with which any Party hereto may merge,
14 consolidate, or reorganize.

15 12.14 In the event of any dispute arising out of the performance or breach of any
16 provision of this Settlement Agreement, the prevailing party in such dispute(s) shall be entitled
17 to recover his and/or its reasonable attorneys' fees and costs incurred arising from such dispute

18 12.15 This Settlement Agreement shall not be construed more strictly against one Party
19 than another merely because of the fact that it may have been prepared by counsel for one of the
20 Parties, it being recognized that because of the arm's-length negotiations resulting in the
21 Settlement Agreement, all Parties hereto have contributed substantially and materially to the
22 preparation of the Settlement Agreement.

23 12.16 Except where this Settlement Agreement itself provides otherwise, all terms,
24 conditions, and Exhibits are material and necessary to this Settlement Agreement and have been
25 relied upon by the Parties in entering into this Settlement Agreement.

26 12.17 This Settlement Agreement shall be governed by California law. Any action based
27 on this Settlement Agreement, or to enforce any of its terms, shall be venued in the Los Angeles
28 County Superior Court, which shall retain jurisdiction over all such disputes. All Parties to this

Settlement Agreement shall be subject to the jurisdiction of said Court for all purposes related to this Settlement Agreement.

12.18 The Court shall retain continuing and exclusive jurisdiction over the Parties to this Settlement Agreement for the purpose of the administration and enforcement of this Settlement Agreement.

12.19 The headings used in this Settlement Agreement are for the convenience of the reader only, and shall not affect the meaning or interpretation of this Settlement Agreement.

12.20 In construing this Settlement Agreement, the use of the singular includes the plural (and vice-versa) and the use of the masculine includes the feminine (and vice-versa).

SO STIPULATED.

Date: Jun 22, 2021

GILBERTO RODRIGUEZ



Gilberto Rodriguez (Jun 22, 2021 09:57 PDT)

Plaintiff

Date: _____, 2021

CARDINAL PAINT AND POWDER,
INC.

By: _____

Its: _____

Date: _____, 2021

CARDINAL INDUSTRIAL FINISHES

By: _____

Its: _____

1 Settlement Agreement shall be subject to the jurisdiction of said Court for all purposes related
2 to this Settlement Agreement.

3 12.18 The Court shall retain continuing and exclusive jurisdiction over the Parties to this
4 Settlement Agreement for the purpose of the administration and enforcement of this Settlement
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7 reader only, and shall not affect the meaning or interpretation of this Settlement Agreement.

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9 (and vice-versa) and the use of the masculine includes the feminine (and vice-versa).

10
11 **SO STIPULATED.**

12 Date: _____, 2021

GILBERTO RODRIGUEZ

14
15 _____
16 Plaintiff

17 Date: June 17, 2021

CARDINAL PAINT AND POWDER,
INC.

18 Lawrence C. Felix

19 By: Lawrence C. Felix

20 Its: President

21 Date: June 17, 2021

CARDINAL INDUSTRIAL FINISHES

22 Lawrence C. Felix

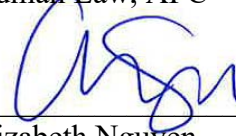
23 By: Lawrence C. Felix

24 Its: President

APPROVED AS TO FORM

Date: June 22, 2021

Lidman Law, APC



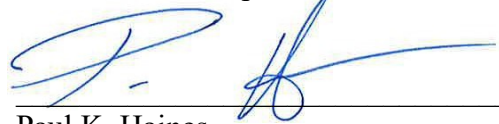
Elizabeth Nguyen

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Attorneys for Plaintiff Gilberto Rodriguez
and the putative class acting on behalf of
the State of California as Private Attorneys
General

Date: June 22, 2021

Haines Law Group, APC



Paul K. Haines

Attorneys for Plaintiff Gilberto Rodriguez
and the putative class acting on behalf of
the State of California as Private Attorneys
General

Date: _____, 2021

Gordon Rees Scully Mansukhani, LLP

Travis K. Jang-Busby

Leslie A. Horwitz

Attorneys for Defendants

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Attorneys for Plaintiff Gilberto Rodriguez
and the putative class acting on behalf of
the State of California as Private Attorneys
General

Date: _____, 2021

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General

Date: June 21 _____, 2021

Gordon Rees Scully Mansukhani, LLP



Travis K. Jang-Busby
Leslie A. Horwitz
Attorneys for Defendants

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

Gilberto Rodriguez v. Cardinal Paint and Powder, Inc.
Los Angeles County Superior Court, Case No. 20STCV14711

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendants' records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced matter.

You do not need to take any action to receive a settlement payment and, unless you request to be excluded from the settlement, your legal rights may be affected.

This Notice is designed to advise you of your rights and options with respect to the settlement.

By order of the Superior Court of California for the County of Los Angeles (the "Court" or "Los Angeles County Superior Court"), you are notified that: preliminary approval of a proposed class action settlement (the "Settlement") of the lawsuit filed by a former employee Plaintiff Gilberto Rodriguez ("Plaintiff") against Defendants Cardinal Paint and Powder, Inc. and Cardinal Industrial Finishes (collectively, "Defendants"), was granted by the Court on [Preliminary Approval Date], in the case entitled *Gilberto Rodriguez v. Cardinal Paint and Powder, Inc. et al.*, Los Angeles County Superior Court, Case No. 20STCV14711 (the "Action"), which may affect your legal rights.

The purpose of this Notice is to provide you with a brief description of the Action, 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.

If you are a Class Member, you do not need to take any action to receive a settlement payment, but you have the opportunity to request exclusion from the Settlement (in which case you will not receive payment under the Settlement), object to the Settlement, and/or dispute the number of Workweeks credited to you, if you so choose, as explained more fully in Section III below.

I. IMPORTANT DEFINITIONS

"Class" means all current and former hourly-paid or non-exempt employees who worked for Defendants Cardinal Paint and Powder, Inc. and/or Cardinal Industrial Finishes in the state of California from April 15, 2016 through [the date of Preliminary Approval, or the date on which the Workweeks are equal to or do not exceed 51,750, whichever comes first].

"Class Member" means a member of the Class.

"Class Period" means the period from April 15, 2016 through [the date of Preliminary Approval, or the date on which the Workweeks are equal to or do not exceed 51,750, whichever comes first].

"PAGA Employees" means all Class Members who worked for Defendants any time during the PAGA Period. PAGA Employees cannot request to be excluded from the PAGA portion of the settlement and will receive an Individual PAGA Payment even if they submit a request to be excluded.

"PAGA Period" means April 15, 2019 through [the date of Preliminary Approval, or the date on which the Workweeks are equal to or do not exceed 51,750, whichever comes first].

"Settlement Class Members" means Class Members who do not exercise their right to request exclusion from the Action. Class Members who request exclusion (explained below) retain their right to sue Defendants, if they choose, but will not receive any payment under the proposed class settlement.

II. BACKGROUND OF THE ACTION

Plaintiff brought this Action on behalf of himself and the Class Members against Defendants, alleging that Defendants failed to pay all minimum and overtime wages owed, failed to provide all required meal and rest periods, failed to provide itemized

wage statements in compliance with California law, failed to timely pay wages upon separation and during employment, and thereby engaged in unfair business practices and are liable for civil penalties under the Private Attorneys General Act, California Labor Code section 2698, *et seq.* (“PAGA”). Defendants deny all of the allegations in the Action or that they violated any law, and contend that at all times Defendants have fully complied with all applicable federal, state, and local laws.

The Court has not ruled that Defendants violated any laws or whether Plaintiff or any other person is entitled to damages or other relief.

After Defendants provided relevant information to Class Counsel, the Parties participated in a full-day mediation session with a respected class action mediator, and as a result, the Parties reached the Settlement. The Court has appointed [Name of Admin] as the administrator of the Settlement (“Settlement Administrator”), Plaintiff, as representative of the Class (“Class Representative”), and the following law firms as counsel for the Class (“Class Counsel”):

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
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The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendants that the claims in the Action have merit or that Defendants have any liability to Plaintiff or to Class Members. Plaintiff and Defendants, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable and adequate, and that the Settlement is in the best interests of the Class Members.

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

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The Total Settlement Amount is Seven Hundred Sixty-Five Thousand Dollars (\$765,000) (the “Total Settlement Amount”). The portion of the Total Settlement Amount that is available for payment to Class Members who do not opt out of this Settlement (“Settlement Class Members”) is referred to as the “Net Distribution Fund.” The Net Distribution Fund will be the Total Settlement Amount less the following payments which are subject to approval by the Court: (1) attorneys’ fees in an amount of up to 1/3 of the Total Settlement Amount (i.e., up to \$255,000) and reimbursement of litigation costs and expenses in an amount of up to Thirty Thousand Dollars (\$30,000) to Class Counsel (collectively, “Class Counsel Award”); (2) a service award in an amount not to exceed Five Thousand Dollars (\$5,000) to Plaintiff for Plaintiff’s services (“Service Award”); (3) settlement administration costs in an amount not to exceed Nine Thousand Seven Hundred Fifty Dollars

(\$9,750.00) to the Settlement Administrator (“Settlement Administrator Expenses”); and (4) the allocation of Thirty Thousand Dollars (\$30,000) to settle all claims under the California Private Attorneys General Act (“PAGA”) (“PAGA Payment”), of which 75%, or \$22,500, will be paid to the California Labor and Workforce Development Agency (“LWDA”) and the remaining 25%, or \$7,500 will be paid to the PAGA Employees on a *pro rata* basis.

Individual Settlement Share: Class Members are eligible to receive a *pro rata* share of the Net Distribution Fund based on the number of Workweeks during which they worked for Defendants in the State of California during the Class Period. Specifically, the Net Distribution Fund will be divided by the total of all Workweeks of Settlement Class Members during the Class Period in order to establish the value of each Workweek. The Individual Settlement Share of each Settlement Class Member will be calculated by multiplying the value of a Workweek by the number of Workweeks worked by the Settlement Class Member during the Class Period (“Individual Settlement Share”).

Each Individual Settlement Share will be subject to reduction for the employee’s share of taxes and withholdings with respect to the wage portion of the Individual Settlement Share.

Each Individual Settlement Share will be allocated as **Thirty-Three** percent (33%) to wages (which will be reported on an IRS Form W2), and Sixty-Seven percent (67%) to interest, penalties, and other non-wage damages (which will be reported on an IRS Form 1099, if applicable).

Individual PAGA Payment: PAGA Employees will receive a *pro rata* share of \$7,500 (which is 25% of the PAGA Payment) based on their number of Workweeks during the PAGA Period. Specifically, the \$7,500 will be divided by the total of all Workweeks worked by all PAGA Employees during the PAGA Period in order to establish the value of each Workweek worked. The Individual PAGA Payment of each PAGA Employee will be calculated by multiplying the value of a Workweek by the number of Workweeks worked by the PAGA Employee during the PAGA Period (“Individual PAGA Payment”).

Individual PAGA Payments will be allocated as one hundred percent (100%) penalties (which will be reported on IRS Form 1099).

Allocation and Taxes. The Settlement Administrator will be responsible for issuing to Settlement Class Members and PAGA Employees IRS Forms W-2 for amounts deemed “wages” and IRS Forms 1099 for the amounts allocated as penalties and interest. Settlement Class Members and PAGA Employees are responsible for the proper income tax treatment of the Individual Settlement Awards. The Settlement Administrator, Defendants and their counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class Members and PAGA Employees should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

The gross payment of each Settlement Class Member’s Individual Settlement Share (before reduction for the employee’s share of taxes on the wage portion) and Individual PAGA Payment (if applicable) is referred to as their “Individual Settlement Payment.”

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Settlement Class Members and PAGA Employees at the address that is on file with the Settlement Administrator by way of one (1) check. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure your receipt of payment that you may be entitled to.**

The Total Settlement Amount shall be paid by Defendants with the Settlement Administrator within 10 calendar days after the “Effective Date”. The “Effective Date” means the date by which the Settlement is finally approved as provided herein and the Court’s Final Approval Order becomes binding. For purposes of the Settlement Agreement, the Final Approval Order becomes binding upon the later of: (1) the day after the last day by which a notice of appeal of the Final Approval Order and/or of an order rejecting any motion to intervene may be timely filed, and none is filed; (2) if such an appeal is filed, and the Final Approval Order is affirmed, the day after the last date for filing a request for further review of the decision passes and no further review is requested; (3) if an appeal is filed and further review of the decision affirming the Final Approval Order is requested, the day after the request for review is denied with prejudice and/or no further review of the decision can be requested; or (4) if review is accepted, the day after the United States or California Supreme Court

affirms the Settlement.

Within 15 calendar days following Defendants' deposit of the Total Settlement Amount with the Settlement Administrator, the Settlement Administrator will prepare and mail Individual Settlement Payments, less applicable taxes and withholdings, to Settlement Class Members and PAGA Employees.

Check Cashing Deadline. If you receive an Individual Settlement Payment, you must cash the check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class Members or PAGA Employees whose checks are not cashed within 180 days after mailing will be transferred to the California Secretary of State- Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class Member or PAGA Employee.

B. Your Workweeks Based on Defendants' Records

According to Defendants' records:

During the Class Period, you worked for Defendants as an hourly-paid or non-exempt employee in California for [REDACTED] Workweeks.

During the PAGA Period, you worked for Defendants as an hourly-paid or non-exempt employee in California for [REDACTED] Workweeks.

If you wish to dispute the number of Workweeks credited to you, you must submit a written letter to the Settlement Administrator. The written dispute must: (a) contain the case name and number of the Action (*Gilberto Rodriguez v. Cardinal Paint and Powder, Inc.*, Los Angeles County Superior Court, Case No. 20STCV14711); (b) be signed by you; (c) contain your full name, address, telephone number, and the last four digits of your Social Security Number; (d) clearly state that you dispute the number of Workweeks credited to you and what you contend is the correct number to be credited to you; (e) include information and/or attach documentation demonstrating that the number of Workweeks that you contend should be credited to you is correct; and (f) be mailed to the Settlement Administrator at the address listed in Section IV.B below, postmarked **on or before [Response Deadline]**.

C. Your Estimated Individual Settlement Share and Individual PAGA Payment

As explained above, your estimated Individual Settlement Share and Individual PAGA Payment are based on the number of Workweeks credited to you.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$ [REDACTED] and your Individual PAGA Payment (if applicable) is estimated to be \$ [REDACTED]. The Individual Settlement Share is subject to reduction for the employee's share of taxes and withholding with respect to the wage portion of the Individual Settlement Share.

Individual Settlement Payments will only be distributed if the Court gives Final Approval of the Settlement and after the Settlement goes into effect.

The Settlement approval process may take multiple months. Your Individual Settlement Share and Individual PAGA Payment reflected in this Notice is only an estimate. Your actual Individual Settlement Share and Individual PAGA Payment may be higher or lower.

D. Released Class Claims

Unless you submit a request for exclusion, each of the Settlement Class Members (including the Class Representative) will, by operation of the Judgment, release the Released Parties from the Released Class Claims for the Class Period upon the Effective Date if the Court grants final approval of the settlement.

"Class Period" means April 15, 2016 through [the date of Preliminary Approval, or the date on which the Workweeks are equal to or do not exceed 51,750, whichever comes first].

"Released Class Claims" means all claims actually alleged or that could have been alleged in the Action by Plaintiff, on behalf of himself and the Settlement Class Members, based on the facts alleged in the Action including but not limited to: (1) Violation of California Labor Code §§ 510, 1194 and 1198, and IWC Wage Order 4-2001, § 3 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7, 510, 512, 1194, 1197, and IWC Wage Order 4-2001, § 11 (Failure to Provide

Meal Periods and Unpaid Meal Period Premiums); (3) Violation of California Labor Code §§ 226.7, 512 and IWC Wage Order 4-2001, § 12 (Failure to Provide Rest Periods and Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1, and IWC Wage Order 4-2001, § 4 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201, 202, and 203 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California Labor Code § 226(a) and IWC Wage Order 4-2001, § 7 (Non-Compliant Wage Statements); (8) Violation of California Business & Professions Code §§ 17200, *et seq.*; (9) failure to pay all minimum and overtime wages due under the Fair Labor Standards Act (29 U.S.C. §201, *et seq.*, if you negotiate your Individual Settlement Payment check); and (10) attorneys' fees and costs of litigation associated with this Action.

"Released Parties" means (i) Defendants Cardinal Paint and Powder, Inc., Cardinal Industrial Finishes, and their past, present, and future parents, subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, and any other legal entities, whether foreign or domestic, and (ii) the past, present, and future shareholders, officers, directors, members, investors, agents, employees, consultants, representatives, fiduciaries, insurers, attorneys, legal representatives, predecessors, successors, and assigns of the entities listed in (i).

This release is null and void if Defendants fail to fully fund the Settlement.

E. PAGA Release

If you are a PAGA Employee and if the Court approves the Settlement, then whether or not you exclude yourself from the Settlement Class, you will receive an Individual PAGA Payment and you will no longer be able to seek penalties pursuant to the California Labor Code Private Attorneys General Act based on the PAGA Release.

"PAGA Release" means PAGA Employees will release and discharge the Released Parties from civil penalties under California Labor Code Private Attorneys General Act of 2004 as asserted in the operative complaint that arose during the PAGA Period premised on the facts, claims, causes of action or legal theories that were asserted in the operative complaint and disclosed in the LWDA letter including: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7 and 512(a) (Failure to Provide Meal Periods and Unpaid Meal Period Premiums); (3) Violation of California Labor Code § 226.7 (Failure to Provide Rest Periods and Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements); and (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records)

"PAGA Period" means April 15, 2019 [through the date of Preliminary Approval, or the date on which the Workweeks are equal to or do not exceed 51,750, whichever comes first].

This release is null and void if Defendants fail to fully fund the Settlement.

F. Class Counsel Award to Class Counsel

Class Counsel will seek attorneys' fees in an amount of up to 1/3 of the Total Settlement Amount (i.e., up to \$255,000) and reimbursement of litigation costs and expenses in an amount of up to thirty thousand dollars (\$30,000), to be paid from the Total Settlement Amount, subject to approval by the Court. Class Counsel have been prosecuting the Action on behalf of Plaintiff and 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.

G. Service Award to Plaintiff

Plaintiff will seek the amount of Five Thousand Dollars (\$5,000) as a Service Award in recognition of his services in connection with the Action. The Service Award will be paid from the Total Settlement Amount subject to approval by the Court, and if awarded, it will be paid to Plaintiff in addition to Plaintiff's Individual Settlement Payments that he is entitled to under the Settlement.

H. Settlement Administrator Expenses to the Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Nine Thousand Seven Hundred Fifty Dollars (\$9,750.00) for the costs of the Notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, receiving and reviewing requests for exclusion, objections, and/or disputes, if any, submitted by Class Members, calculating Individual Settlement Shares and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and will be paid from the Total Settlement Amount subject to approval by the Court.

I. 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.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to receive money from the Settlement, you do not have to do anything. You will automatically be issued your Individual Settlement Payment unless you decide to exclude yourself from the Settlement. Unless you elect to exclude yourself from the Settlement, you will be bound by the terms of the Settlement and any judgment that may be entered by the Court based thereon, and you will be deemed to have released the Released Parties for the Released Class Claims, as described in Section III.D above. As a Settlement Class Member, you will not be separately responsible for the payment of attorney's fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney's fees and expenses.

B. Request Exclusion from the Settlement

If you do not wish to participate in the Settlement, you may seek exclusion from (or "opt out" of) the Settlement by submitting a timely, written request for exclusion from the Settlement to the Settlement Administrator at the following address:

[Settlement Administrator]

[Address]

The request for exclusion must: (a) include your name, address, telephone number, and last four digits of your Social Security number; (b) include the name and case number of the this Action (*Gilberto Rodriguez v. Cardinal Paint and Powder, Inc.*, Los Angeles County Superior Court, Case No. 20STCV14711); (c) include a clear and unequivocal statement that you wish to be excluded from the Settlement; (d) include your signature; and (e) be mailed to the Settlement Administrator at the address listed above, postmarked **no later than [Response Deadline]**.

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid request for exclusion from the Settlement will not be entitled to receive any payment from the Settlement, will not be bound by the Settlement (and the release of Released Class Claims stated in Section III.D above), and will not have any right to object to, appeal, or comment on the Settlement. Any Class Members who do not submit a timely and valid request for exclusion from the Settlement will be deemed Settlement Class Members and will be bound by all terms of the Settlement, including those pertaining to the release of Released Class Claims stated in Section III.D above, as well as any judgment that may be entered by the Court based thereon.

You have no right to opt out of the PAGA Release. If you are a PAGA Employee, you will receive an Individual PAGA Payment, whether or not you choose to request exclusion from the remainder of the settlement.

C. Object to the Settlement

You can object to the terms of the Settlement as long as you have not submitted a request for exclusion from the Settlement.

To object to the Settlement in writing, you must provide to the Settlement Administrator a written objection that includes

the following: (a) your full name, address, telephone number, last four digits of your Social Security number, and signature; (b) the name and case number of this Action (*Gilberto Rodriguez v. Cardinal Paint and Powder, Inc.*, Los Angeles County Superior Court, Case No. 20STCV14711); (c) a statement of the specific legal and factual basis for each objection argument; (d) statement whether you intend to appear at the Final Approval Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number; and (e) be filed or postmarked **no later than [Response Deadline]**.

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for **<<FINAL APPROVAL HEARING DATE/TIME>>** in Department **[]** of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012. You have the right to appear either remotely, in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before **<<RESPONSE DEADLINE>>**. All objections or other correspondence must state the name and number of the case, which *Gilberto Rodriguez v. Cardinal Paint and Powder, Inc.*, Los Angeles County Superior Court, Case No. 20STCV14711.

You have no right to object to settlement of the PAGA Claims.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 09 of the Los Angeles County Superior Court, located at 312 North Spring St, Los Angeles, CA 90012, on **[Final Approval Hearing Date]**, at **[Time]**, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate and whether the attorneys' fees and costs to Class Counsel, Service Award to Plaintiff, and Settlement Administrator Expenses to the Settlement Administrator should be awarded.

The hearing may be continued without further notice to the Class Members. Any changes to date, time, or location of the Final Approval Hearing will be posted on the Settlement Administrator's website (<http://.com>). It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

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

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

If the Court grants final approval of the Settlement, the Notice of the Court's final judgment will be posted on the Settlement Administrator's website (<http://.com>).

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the Action for a fee by visiting the civil clerk's office, located at 111 North Hill Street, Los Angeles, California 90012, during business hours, or by online by visiting the following website: <https://www.lacourt.org/documentimages/civilimages/publicmain.aspx>. Due to COVID-19, appointments are required for in person clerk's office services. Please visit the Court's website at http://www.lacourt.org/newsmedia/uploads/142020529162327NR_Clerks_Office_05_29_20-FINAL.pdf and <https://www.lacourt.org/> for information on how to make an appointment in the Clerk's Office. The Settlement Agreement will also be available on the Settlement Administrator's website specific to the case the address for which is [www. **[]**].

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

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.

THE DEADLINE FOR SUBMITTING ANY DISPUTES, REQUESTS FOR EXCLUSION, OR OBJECTIONS IS <<RESPONSE DEADLINE>>. THESE DEADLINES WILL BE STRICTLY ENFORCED.

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

EXHIBIT B

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

GILBERTO RODRIGUEZ, as an individual and
on behalf of all others similarly situated,

Plaintiff,

v.

CARDINAL PAINT AND POWDER, INC., a
Nevada corporation; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO. 20STCV14711

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Complaint Filed: 04/15/2020

Judge: Hon. Yvette M. Palazuelos
Dept.: 09

1 This matter has come before the Honorable Yvette M. Palazuelos in Department 09 of the
2 Superior Court of the State of California, for the County of Los Angeles, on _____ at _____
3 a.m. for Plaintiff’s Motion for Preliminary Approval of Class Action Settlement. Lidman Law, APC
4 appear as counsel for Plaintiff Gilberto Rodriguez (“Plaintiff”), individually and on behalf of all
5 others similarly situated and other aggrieved employees, and Gordon Rees Scully Mansukhani, LLP
6 appears as counsel for Defendants Cardinal Paint and Powder, Inc. and Cardinal Industrial Finishes
7 (“Defendants”).

8 The Court, having carefully considered the papers, argument of counsel, and all matters
9 presented to the Court, and good cause appearing, hereby GRANTS Plaintiff’s Motion for
10 Preliminary Approval of Class Action Settlement.

11 **IT IS HEREBY ORDERED THAT:**

12 1. The Court preliminarily approves the Stipulation of Settlement (“Settlement,”
13 “Agreement,” or “Settlement Agreement”), attached as “EXHIBIT 1” to the Declaration of
14 _____ in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.
15 This is based on the Court’s determination that the Settlement falls within the range of possible
16 approval as fair, adequate, and reasonable.

17 2. This Order incorporates by reference the definitions in the Settlement Agreement,
18 and all capitalized terms defined therein shall have the same meaning in this Order as set forth in the
19 Settlement Agreement.

20 3. It appears to the Court on a preliminary basis that the Settlement is fair, adequate
21 and reasonable.

22 4. The Court preliminarily finds that the Settlement, including the allocations for the
23 Class Counsel Award, Service Award, PAGA Payment, Settlement Administrator Expenses, and
24 payments to the Settlement Class Members provided thereby, appear to be within the range of
25 reasonableness of a settlement that could ultimately be given final approval by this Court. Indeed,
26 the Court has reviewed the monetary recovery that is being granted as part of the Settlement and
27 preliminarily finds that the monetary settlement awards made available to the Class Members are
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1 fair, adequate, and reasonable when balanced against the probable outcome of further litigation
2 relating to certification, liability, and damages issues.

3 5. The Court concludes that, for settlement purposes only, the proposed Class meets
4 the requirements for certification under section 382 of the California Code of Civil Procedure in
5 that: (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
6 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
7 community of interest amongst the members of the Class with respect to the subject matter of the
8 litigation; (c) Plaintiff's claims are typical of the claims of the members of the Class; (d) Plaintiff
9 will fairly and adequately protect the interests of the members of the Class; (e) a class action is
10 superior to other available methods for the efficient adjudication of the controversy; and (f) Class
11 Counsel are qualified to act as counsel for Plaintiff in Plaintiff's individual capacity and as the
12 representative of the Class.

13 6. The Court conditionally certifies, for settlement purposes only, the Class, defined as
14 follows:

15 All current and former hourly-paid or non-exempt employees who worked for
16 Defendants in the state of California from April 15, 2016 through the date of
17 Preliminary Approval, or the date on which the Workweeks are equal to or do not
18 exceed 51,750, whichever comes first.

19 7. The Court provisionally appoints Paul K. Haines of Haines Law Group, APC and
20 Scott M. Lidman, Elizabeth Nguyen, Milan Moore, and Romina Tamiry of Lidman Law, APC as
21 counsel for the Class ("Class Counsel").

22 8. The Court provisionally appoints Plaintiff Gilberto Rodriguez as the representative
23 of the Class ("Class Representative").

24 9. The Court provisionally appoints Phoenix Settlement Administrators to handle the
25 administration of the Settlement ("Settlement Administrator").

26 10. Within fifteen (15) calendar days of the date of this Order, Defendants shall provide
27 the Settlement Administrator with the following information about each Class Member: full name,
28 last known address, Social Security number, number of Workweeks during the Class Period and
PAGA Period, and employment dates as a non-exempt employee during the Class Period ("Class

Information”) in conformity with the Settlement Agreement.

11. The Court approves, both as to form and content, the Notice of Class Action Settlement (“Class Notice”) attached hereto as “**EXHIBIT 1.**” The Class Notice shall be provided to Class Members in the manner set forth in the Settlement Agreement. The Court finds that the Class Notice appears to fully and accurately inform the Class Members of all material elements of the Settlement, of Class Members’ right to be excluded from the Settlement by submitting an opt out request to the Settlement Administrator, of Class Members’ right to dispute the Workweeks credited to each of them, and of each Settlement Class Member’s right and opportunity to object to the Settlement. The Court further finds that distribution of the Class Notice substantially in the manner and form set forth in the Settlement Agreement and this Order, and that all other dates set forth in the Settlement Agreement and this Order, meet the requirements of due process and shall constitute the best notice practicable under the circumstances and sufficient notice to all persons entitled thereto. The Court further orders the Settlement Administrator to mail the Class Notice by first class U.S. Mail to all Class Members within thirty (30) calendar days of this Order, pursuant to the terms set forth in the Settlement Agreement. The Class Notice shall provide at least 45 calendar days’ notice for Class Members to opt out of, or object to, the Settlement.

12. The Court hereby preliminarily approves the proposed procedure, set forth in the Settlement Agreement, for seeking exclusion from the Settlement. Any Class Member may choose to be excluded from the Settlement by submitting a timely written request for exclusion to the Settlement in conformity with the requirements set forth in the Class Notice.

13. A Final Approval Hearing shall be held before this Court on _____ at _____ a.m./p.m. in Department 09 of the Los Angeles County Superior Court, located at 312 North Spring St, Los Angeles, CA 90012, to determine all necessary matters concerning the Settlement, including: whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement is fair, adequate, and reasonable and should be finally approved by the Court; whether a judgment, as provided in the Settlement, should be entered herein; whether the plan of allocation contained in the Settlement should be approved as fair, adequate, and reasonable to the Class

1 Members; and determine whether to finally approve the requests for the Class Counsel Award,
2 Service Award, Settlement Administrator Expenses, and payment to the Labor and Workforce
3 Development Agency (“LWDA”) for penalties under the Labor Code Private Attorneys General Act
4 (“PAGA”) should be granted.

5 14. Class Counsel shall file a motion for final approval of the Settlement and for Class
6 Counsel Award, Service Award, and Settlement Administrator Expenses, along with the appropriate
7 declarations and supporting evidence, including the Settlement Administrator’s declaration sixteen
8 (16) court days prior to the Final Approval Hearing.

9 15. Except as required to implement the Settlement, all proceedings and all litigation of
10 the Action are stayed pending the Final Approval Hearing.

11 16. The Settlement is not a concession or admission and shall not be used against
12 Defendants as an admission or indication with respect to any claim of any fault or omission by
13 Defendants. Whether or not the Settlement is finally approved, neither the Settlement, nor any
14 document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts
15 thereof, shall in any event be construed as, offered or admitted into evidence as, received as or
16 deemed to be in evidence for any purpose adverse to the Defendants, including, but not limited to,
17 evidence of a presumption, concession, indication or admission by Defendants of any liability, fault,
18 wrongdoing, omission, concession, or damage, except for legal proceedings concerning the
19 implementation, interpretation, or enforcement of the Settlement.

20 17. In the event the Settlement does not become effective in accordance with the terms
21 of the Settlement Agreement, or the Settlement is not finally approved, or is terminated, cancelled
22 or fails to become effective for any reason, this Order shall be rendered null and void, shall be
23 vacated, and the Parties shall revert back to their respective positions as of before entering into the
24 Settlement Agreement.

25 18. The Court reserves the right to adjourn or continue the date of the Final Approval
26 Hearing and any dates provided for in the Settlement Agreement without further notice to the Class
27 Members, and retains jurisdiction to consider all further applications arising out of or connected with
28 the Settlement.

19. An implementation schedule is below:

Event	Date	Actual Date
Defendants to provide Class Information to Settlement Administrator	15 calendar days after issuance of the preliminary approval order	
Settlement Administrator to mail Class Notice to Class Members	30 calendar days after issuance of the preliminary approval order	
Deadline for Class Members to request exclusion from, submit disputes, or object to, the Settlement	45 calendar days after mailing of the Notice by the Settlement Administrator	
Deadline for Plaintiff to file Motion for Final Approval of Class Action Settlement:	16 Court days prior to Final Approval Hearing	
Final Approval Hearing:		

IT IS SO ORDERED.

Dated: _____

By:

The Honorable Yvette M. Palazuelos
Judge of the Superior Court

EXHIBIT 2

EXHIBIT 2

LIDMAN LAW

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

OFFICE: (424) 322-4772

FAX: (424) 322-4775

May 6, 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 – RETURN
RECEIPT REQUESTED**

Cardinal Paint and Powder, Inc., a Nevada
corporation
c/o Travis K. Jang-Busby
tjangbusby@grsm.com
**GORDON REES SCULLY
MANSUKHANI, LLP**
101 W. Broadway, Suite 2000
San Diego, CA 92101
Tel: (619) 696-6700
Fax: (619) 696-7124
Attorneys for Defendant
Cardinal Paint and Powder., Inc.

**VIA U.S. CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

Cardinal Industrial Finishes, a California
corporation
c/o Travis K. Jang-Busby
tjangbusby@grsm.com
**GORDON REES SCULLY
MANSUKHANI, LLP**
101 W. Broadway, Suite 2000
San Diego, CA 92101
Tel: (619) 696-6700
Fax: (619) 696-7124
Attorneys for Defendant
Cardinal Industrial Finishes

Re: *Gilberto Rodriguez v. Cardinal Paint and Powder, Inc.,*

To Whom It May Concern:

Please be advised that this law firm represents Gilberto Rodriguez in claims arising from his employment with Cardinal Paint and Powder, Inc., a Nevada corporation; and Cardinal Industrial Finishes, a California corporation (“Defendants”). Mr. Rodriguez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendants’ 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, if the LWDA decides not to investigate, Mr. Rodriguez intends to pursue a lawsuit on behalf of other “aggrieved employees”, which should be considered to include all current and former hourly employees in California who worked, at least in part, for the time period April 15, 2019 through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Mr. Rodriguez commenced his employment with Defendants as an hourly, non-exempt employee in approximately 2011. Mr. Rodriguez worked at Defendants’ manufacturing facility in City of Industry, California as a Machine Operator.

During Mr. Rodriguez's employment with Defendants, Defendants' policies and/or practices would be to keep track of Mr. Rodriguez's time worked by having him clock in and out by entering his employee identification number into a key pad and Defendants' policies and/or practices would be to unlawfully shave Mr. Rodriguez's work time and/or round Mr. Rodriguez's work time such that Mr. Rodriguez would not be fully paid for all time worked. This time-shaving and/or rounding practice utilized by Defendants was not even handed over time and would almost exclusively round and shave in Defendants' favor such that Mr. Rodriguez was routinely unpaid for his time worked. In addition, Defendants' timekeeping policies and/or practices required Mr. Rodriguez and other non-exempt employees to stand in a line in order to clock in. This timekeeping policy and/or practice resulted in Mr. Rodriguez and other non-exempt employees routinely having to wait approximately five to six minutes before being able to clock in for which they did not receive pay. As a result of the foregoing policies and/or practices, Defendants failed to pay Mr. Rodriguez all required minimum and overtime wages.

Throughout Mr. Rodriguez's employment with Defendants, Mr. Rodriguez was not provided with all required meal periods due to Defendants' unlawful meal period policies/practices. Specifically, Defendants' meal period policies/practices fail to require employees to record the start and stop time for meal periods. Additionally, on the occasions when Mr. Rodriguez worked in excess of 10.0 hours, he was not provided with a second 30-minute meal period due to Defendants' meal period policies/practices that fail to provide for a second meal period for shifts over 10.0 hours. These practices resulted in systematically unlawful meal periods. Despite Defendants' failure to keep any records of Mr. Rodriguez's meal periods, Mr. Rodriguez is informed and believes that Defendants unlawfully automatically deducted thirty minutes from Mr. Rodriguez's work time each shift for his meal break regardless of if a meal period was taken or not.

Although Mr. Rodriguez was not provided with all legally-compliant meal periods to which he was entitled, Defendants failed to compensate Mr. Rodriguez 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, Defendants maintained no payroll code or other mechanism for the payment of meal period premium payments under Labor Code § 226.7 in the event that a legally compliant meal period was not provided to Mr. Rodriguez and their non-exempt employees.

Mr. Rodriguez was also not authorized and permitted to take all legally required paid rest periods due to Defendants' unlawful rest period policies and practices. Specifically, Mr. Rodriguez regularly worked shifts of over 10.0 hours, but he was not authorized and permitted to take a third 10-minute rest period due to Defendants' rest period policies/practices that failed to authorize and permit a 10-minute rest break for every four hours worked, or major fraction thereof. As a result, Mr. Rodriguez was never authorized and permitted to take a third duty-free rest period when he worked shifts of over 10.0 hours in violation of California Law.

Although Mr. Rodriguez was not provided with all legally-compliant rest periods to which he was entitled, Defendants failed to compensate Mr. Rodriguez with the required rest period premium for each workday in which he experienced a rest period violation as mandated by Labor Code § 226.7. Upon information and belief during at least a portion of the class period, Defendants maintained no payroll code or other mechanism for the payment of rest period premium payments under Labor Code § 226.7 in the event that a legally compliant rest period was not provided to Mr. Rodriguez and their non-exempt employees.

Throughout Mr. Rodriguez's employment with Defendants, Mr. Rodriguez and other non-exempt employees would receive non-discretionary bonuses from Defendants based on the earnings of the company, as well as other forms of non-discretionary pay (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay") and/or shift differentials. Defendants failed, however, to include the Incentive Pay and/or shift differentials when calculating the regular rate of pay for purposes of paying Mr. Rodriguez and the other non-exempt employees' overtime wages. Accordingly, Defendants did not properly calculate the regular rate of pay for Mr. Rodriguez and the other non-exempt employees, thereby causing them to be underpaid all of their required overtime wages.

Defendants failed to timely pay Mr. Rodriguez all of his final wages at the time of separation, which include, among other things, meal and rest period premium wages.

As a result of Defendants' failure to pay all minimum wages, overtime wages, as well as meal and rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Rodriguez.

As described above, Defendants committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 1 ("Wage Order 1"):

Minimum Wage Violations

Defendants were required to pay Mr. Rodriguez 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 1, § 4. Mr. Rodriguez and other aggrieved employees were not paid for all hours worked due to Defendants' timekeeping and compensation practices. As alleged above, Defendants caused Mr. Rodriguez and other aggrieved employees to work hours in a workweek but did not properly compensate Mr. Rodriguez and other aggrieved employees at least minimum wages for all such hours, due to Defendants' unlawful timekeeping practices of rounding and/or shaving Mr. Rodriguez's time worked. This practice by Defendants resulted in Defendants not paying Mr. Rodriguez for all wages owed for the work he performed, including failing to pay him all required minimum wages.

Overtime Violations

Defendants were required to pay Mr. Rodriguez 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 1, § 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, Defendants had a policy/practice of shaving Mr. Rodriguez's work time and/or rounding Mr. Rodriguez's work time such that he was not fully paid for all time worked. As detailed above, for at least a portion of the time period relevant to his claims, Mr. Rodriguez received non-discretionary year-end bonuses, and/or other forms of pay 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 Defendants' payment of Incentive Pay

to Mr. Rodriguez, Defendants failed to include all forms of Incentive Pay when calculating Mr. Rodriguez's regular rate of pay, thereby causing Mr. Rodriguez to be underpaid all of his required overtime wages. Rather, Mr. Rodriguez was only paid one and a half times (or two times in the case of double-time hours) his base hourly rate, which was not equal to his regular rate, as Defendants failed to include the various forms of Incentive Pay earned during corresponding time periods that were required to be included in the regular rate. As a result of these policies/practices, Mr. Rodriguez 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, Defendants failed to provide Mr. Rodriguez and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. As described above, Defendants' meal period policies/practices fail to require employees to record the start and stop time for meal periods. Additionally, on the occasions when Mr. Rodriguez worked in excess of 10.0 hours, he was not provided with a second 30-minute meal period due to Defendants' meal period policies/practices that fail to provide for a second meal period for shifts over 10.0 hours. These practices resulted in systematically unlawful meal periods. Despite Defendants' failure to keep any records of Mr. Rodriguez's meal periods, Mr. Rodriguez is informed and believes that Defendants unlawfully automatically deducted thirty minutes from Mr. Rodriguez's work time each shift for his meal break regardless of if a meal period was taken or not. As a result, Mr. Rodriguez 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. Rodriguez was not provided with all legally-compliant meal periods to which he was entitled, Defendants failed to compensate Mr. Rodriguez 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

Defendants also failed to authorize and permit Mr. Rodriguez and other aggrieved employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 1, § 12. Specifically, Mr. Rodriguez worked shifts in excess of 3.5 hours, but was never provided with a paid rest period for every 4-hour period worked, or major fraction thereof. As a result, Mr. Rodriguez 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.")

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendants failed to timely pay Mr. Rodriguez and other aggrieved employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal and rest period premium wages. Pursuant to Labor Code § 203, Defendants' failure to pay all final wages due to Mr. Rodriguez and other aggrieved employees was willful and, consequently, entitles Mr. Rodriguez and other aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendants failed to pay their final wages after their separation, up to a maximum of thirty days.

Wage Statement Violations

Defendants knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Rodriguez 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.* Defendants' failure to furnish Mr. Rodriguez and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendants' reported data.

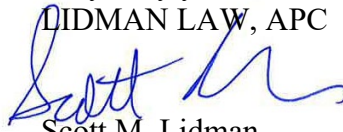
As an "aggrieved employee," Mr. Rodriguez will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Rodriguez's own investigation, and on information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

- a) Defendants violated Labor Code §§ 204, 510, 511, 558, 1194, and 1198 by failing to pay Mr. Rodriguez and other aggrieved employees all overtime compensation earned;
- b) Defendants violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Rodriguez and other aggrieved employees the statutory minimum wage for all hours worked;
- c) Defendants 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. Rodriguez and other aggrieved employees;
- d) Defendants 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. Rodriguez and other aggrieved employees;
- e) Defendants violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Mr. Rodriguez and other aggrieved employees;

- f) Defendants violated Labor Code § 226 by failing to furnish Mr. Rodriguez and other aggrieved employees with accurate and compliant itemized wage statements;
- g) Defendants violated Labor Code § 204 by failing to pay Mr. Rodriguez and other aggrieved employees all earned wages at least twice during each calendar month; and
- h) Defendants violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Rodriguez and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendants 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