

1 **JOINT STIPULATION AND AGREEMENT FOR CLASS AND REPRESENTATIVE**
2 **ACTION SETTLEMENT AND RELEASE**

3 This Joint Stipulation and Agreement for Class and Representative Action Settlement and Release
4 (“Stipulation”) is made and entered into by Plaintiffs Andrew Nugent-Gomez and Thomas Contreras,
5 individually and as representative of the Settlement Class, as defined below, and Shawcor Pipe
6 Protection LLC (“Defendant”) (collectively “the Parties”). This Stipulation is intended to settle and
7 release the following:

- 8 1. Plaintiffs Andrew Nugent-Gomez and Thomas Contreras, as individuals, from all of
9 their alleged claims, and all claims they could have alleged against Defendant, as
10 defined further herein; and
11 2. All putative Class Members and Aggrieved Employees covered by a Private Attorney
12 General Act (“PAGA”) claim from their claims against Defendant, as defined further
13 herein.

14 This Stipulation is subject to the approval of the Court and is made for the sole purpose of attempting
15 to consummate settlement and resolution of the Action and Released Claims (as defined below in
16 Sections 1.1 and 1.32), subject to the following terms and conditions. As detailed below, in the event
17 the Court does not enter an order granting final approval of the Settlement, as defined below, or the
18 conditions precedent are not met for any reason, this Stipulation is void and of no force or effect
19 whatsoever.

20 **I. DEFINITIONS**

21 As used in this Stipulation, the following terms shall have the meanings specified below. To
22 the extent terms or phrases used in this Stipulation are not specifically defined below, they are defined
23 elsewhere in this Stipulation.

24 1.1 “Action” or “Litigation” mean the lawsuit pending in the Court, entitled *Andrew*
25 *Nugent-Gomez v. Shawcor Pipeline Protection LLC, et. seq.*, filed on January 16, 2020, in the San
26 Bernardino County Superior Court, and assigned Case No. CIVDS2001526, with the First Amended
27 Complaint filed on March 16, 2020 in the United States District Court of Central District of California
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1 and assigned Case No. 5:20-cv-00356-CJC-KK (the case was later remanded back to the San
2 Bernardino County action upon stipulation of the Parties).

3 1.2 “Administration Expenses” shall include all costs and expenses associated with and
4 paid to the Settlement Administrator, which are anticipated not to exceed Four Thousand Dollars
5 (\$4,000).

6 1.3 “Plaintiffs” or “Class Representatives” mean Andrew Nugent-Gomez and Thomas
7 Contreras, the named plaintiffs in the Action, who will represent the Class subject to court approval.

8 1.4 “Class” or “Class Members” means all current and former hourly or non-exempt
9 employees of Defendant in California, at any time from January 16, 2016 up to and including the
10 Preliminary Approval Date. “Class Member” shall mean any individual current or former hourly or
11 non-exempt employee of Defendant that is part of the Class.

12 1.5 “Class Counsel” and “Plaintiff’s Counsel” mean:

13 PARRIS
14 Kitty K. Szeto, Esq.
15 Ryan A. Crist, Esq.
43364 10th Street West
Lancaster, California 93534

16 LAWYERS *for* JUSTICE, PC
17 Edwin Aiwarzian, Esq.
410 West Arden Avenue, Suite 203
18 Glendale, California 91203

19 1.6 “Class Notice” means the Notice of Proposed Class Action Settlement and Hearing
20 Date for Court Approval, as set forth in the form of **Exhibit 1** attached hereto, or as otherwise
21 approved by the Court, which is to be mailed to Class Members.

22 1.7 “Class Period” means the following: The Class Period is from January 16, 2016 up to
23 and including the Preliminary Approval Date.

24 1.8 “Settlement” shall mean the settlement embodied in this Stipulation, which is subject
25 to Court approval.

26 1.9 “Complaint” shall mean the Class Action Complaint for Damages filed in the Action on
27 January 16, 2020, the First Amended Complaint filed on March 16, 2020, and will include the Second
28 Amended Complaint which will be filed to add PAGA, as set forth below in this Agreement.

1 1.10 "Counsel for Defendant" or "Defense Counsel" means Beth A. Kahn and Lisa
2 Reimbold of Clark Hill LLP

3 1.11 "Court" means the Superior Court of the State of California, for the County of San
4 Bernardino.

5 1.12 "Effective Date" shall be the date when all of the following events have occurred: (a)
6 this Stipulation has been executed by all Parties and by Class Counsel and Defense Counsel; (b)
7 Plaintiff has filed a PAGA notice and amended his complaint filed in this Action to add PAGA claims;
8 (c) the Court has given preliminary approval to the Settlement; (d) notice has been given to the Class
9 Members providing them with an opportunity to Opt Out of the Settlement; (e) the Court has held a
10 Final Approval Hearing and entered the Final Approval order and Judgment; and (f) the later of the
11 following events: the expiration of the period for filing any appeal, writ, or other appellate proceeding
12 challenging the Final Approval Order and Judgment has elapsed without any appeal, writ or other
13 appellate proceeding having been filed; or the dismissal of any appeal, writ, or other appellate
14 proceeding opposing the Settlement with no right to pursue further remedies or relief; or any appeal,
15 writ, or the issuance of such other final appellate order upholding the Final Approval Order and
16 Judgment with no right to pursue further remedies or relief. In this regard, it is the intention of the
17 Parties that the Settlement shall not become effective until the Final Approval Order and Judgment is
18 completely final and there is no further recourse by an appellant or objector who seeks to contest the
19 Settlement.

20 1.13 "Shawcor Pipe Protection LLC" or "Defendant" mean the defendant in the Action and
21 employer of Plaintiffs and the Class Members.

22 1.14 "Hearing on Preliminary Approval" or "Preliminary Approval Hearing" mean the
23 hearing held on the motion for preliminary approval of the Settlement.

24 1.15 "Gross Settlement Amount" or "Maximum Settlement Amount" means the agreed upon
25 non-reversionary settlement amount totaling \$1,100,000 to be paid by Defendant in full settlement of
26 the Action and Released Claims, including the Net Settlement Amount (which is inclusive of 25% of
27 the PAGA Payment and Employee and Payroll Taxes, but exclusive of the Employer Payroll Taxes,
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defined below in Section 1.29), Administration Expenses, Attorneys' Fees and Expenses, Service Award, and LWDA Payment, as further described in Section 6.2.

1.16 "Individual Settlement Amount" means a Class Member's total gross share of the Net Settlement Amount, which shall be allocated and distributed to Class Members based on the number of Workweeks credited to the Class Member, as further described in Section 6.2.

1.17 "Individual Settlement Payment" shall mean the payment to Class Members as determined by the Individual Settlement Amount calculation described in Section 6.2.

1.18 "Judgment" or "Final Approval Order and Judgment" mean the order finally certifying the Class for settlement purposes and finally approving this Stipulation and Settlement and entering judgment, substantially in the form attached hereto as **Exhibit 3**, which shall constitute approval pursuant to California Rule of Court 3.769(a) and be a judgment for purposes of California Rule of Court 3.771(a).

1.19 "Last Known Address" means the most recently recorded mailing address for a Class Member that is contained in the employment, payroll, or personnel records maintained by Defendant.

1.20 "LWDA" means California's Labor and Workforce Development Agency, and necessarily includes the Division of Labor Standards and Enforcement (DLSE) within the Department of Industrial Relations (DIR).

1.21 "NCOA Check" means within five (5) calendar days from the date the Preliminary Approval Date, the Settlement Administrator will perform a National Change of Address ("NCOA") check for Class Members' most current address based on the information provided by Defendant, prior to mailing the Court-approved Class Notice to the Class Members.

1.22 "Net Settlement Amount" means the portion of the Gross Settlement Amount that is available for distribution to Class Members, as further described in Section 6.1.

1.23 "Notice of Proposed Class Action Settlement" or "Class Notice" mean a notice to be approved by the Court, substantially in the form attached hereto as **Exhibit 1**, which will constitute notice to the Class pursuant to California Rule of Court 3.769(f) and, once approved by the Court, shall be deemed compliant with California Rule of Court 3.766(d).

1 1.24 “Notice Mailing Deadline” means the deadline for the Settlement Administrator to mail
2 the Class Notice to Class Members, which shall be no later than ten (10) calendar days after the
3 Preliminary Approval Date.

4 1.25 “PAGA Payment” means, subject to the approval of the Court, to the amount of
5 Seventy-Five Thousand Dollars (\$75,000), from the Maximum Settlement Amount, for penalties
6 under the Private Attorneys General Act of 2004, as codified at California Labor Code § 2698, *et seq.*
7 (“PAGA”).

8 1.26 “PAGA Period” means the time period from January 16, 2019 up to and including the
9 Preliminary Approval Date.

10 1.27 “Participating Class Member” means a Class Member who does not submit a timely
11 and valid Request for Exclusion and is entitled to receive his or her Individual Settlement Payment
12 pursuant to the terms of the Settlement.

13 1.28 “Parties” or “Settling Parties” mean, collectively, Plaintiff and Defendant
14 (individually they are each referred to as “Party” or “Settling Party”).

15 1.29 “Employee and Payroll Taxes” shall mean the employee’s share of state and federal
16 employment and payroll taxes and withholdings, excluding employer’s share of payroll taxes (the
17 “Employer Payroll Taxes” defined in Section 1.30), with respect to the wage-portion of Individual
18 Settlement Amounts, which is included in the Gross Settlement Amount that Defendant will pay
19 (subject to the occurrence of the Effective Date).

20 1.30 “Employer Payroll Taxes” shall mean the employer’s share of state and federal
21 employment and payroll taxes and withholdings with respect to the wage-portion of Individual
22 Settlement Amounts. The Employer Payroll Taxes are not included in the Gross Settlement Amount.

23 1.31 “Preliminary Approval Date” shall mean the date on which the Court grants
24 preliminary approval of this Stipulation.

25 1.32 “Preliminary Approval Order” or “Order Granting Preliminary Approval of the
26 Settlement and Setting a Final Approval Hearing” shall mean an order to be executed and filed by the
27 Court, substantially in the form attached hereto as **Exhibit 2**, which will constitute an order certifying
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1 a provisional class for settlement purposes only pursuant to California Rule of Court 3.769(d) and an
2 order setting a final approval/fairness hearing pursuant to California Rule of Court 3.769(e).

3 1.33 “Qualifying Workweek(s)” means any week in which a Participating Class Member
4 actively worked at least one day of the week (i.e., was not on vacation or a leave of absence) during
5 the Class Period, according to Defendants’ records.

6 1.34 “Released Claims” means any and all federal and California state law wage-and-hour
7 claims, rights, demands, liabilities, and/or causes of action of every nature and description arising from
8 any and all claims that were alleged or could have been alleged in the Complaint based on the facts
9 contained therein, arising during the period from January 16, 2016 through the Preliminary Approval
10 Date, including, without limitation, statutory, constitutional, contractual, and/or common law claims
11 for wages, reimbursements, damages, unpaid costs, penalties (including penalties under the California
12 Labor Code’s Private Attorneys General Act of 2004, as amended (including claims under PAGA for
13 violations of California Labor Code sections 98.6, 201, 203, 204, 204b, 210, 226.3, 226, 226.7, 510,
14 512, 558, 1102.5, 1194, 2802, and IWC Wage Order No. 4-2001 Section 11-12), California Labor
15 Code section 2698, *et seq.*), liquidated damages, punitive damages, interest, attorneys’ fees, litigation
16 costs, restitution, or equitable relief, including without limitation, California Labor Code sections 201,
17 202, 203, 204, 218, 221, 223, 226, 226.7, 510, 512, 1174, 1174(d), 1174.5, 1194, 1194.2, 1197,
18 1197.1, 1198, 2800, and 2802, and any federal counterparts, California Business and Professions Code
19 section 17200, *et seq.*, any IWC Wage Orders, meal and rest period violations, including alleged meal
20 and rest break violations arising from or related to Defendant’s written meal or rest break policies;
21 meal and rest period violations; violations arising from unpaid minimum wages or overtime wages,
22 including violations arising from off-the-clock work; untimely pay during and at termination of
23 employment; unreimbursed business expenses; record-keeping violations; and inaccurate pay stubs.

24 1.35 “Released Parties” shall mean Defendant Shawcor Pipe Protection LLC, and all of its
25 respective current and former parents, subsidiaries, predecessors, successors, and each of their
26 respective owners, officers, directors, employees, partners, shareholders, agents, and any other
27 successors, heirs, assigns, or legal representatives, any attorneys, insurers, and claims representatives.
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1 1.36 “Request for Exclusion” means a request in writing to be excluded from the Settlement
2 which contains: the full name, address, telephone number, last four digits of social security number,
3 and signature of the Class Member; the case name and number of the Action; and a statement
4 indicating that he or she wishes to be excluded from the Settlement.

5 1.37 “Response Deadline” means the deadline for a Class Member to submit a Request for
6 Exclusion, Objection, and/or Workweeks Dispute, by mail to the Settlement Administrator, which is
7 no later than thirty (30) calendar days after the Class Notice is mailed to the Class.

8 1.38 “Service Award” means any additional monetary payment provided to the Class
9 Representatives for their efforts and risks on behalf of the Class Members in this Action, not to exceed
10 Ten Thousand Dollars (\$10,000) each, subject to Court approval.

11 1.39 “Settlement Hearing” or “Final Approval Hearing” or “Settlement Fairness Hearing”
12 mean a hearing set by the Court for the purpose of: (i) determining the fairness, adequacy, and
13 reasonableness of the Stipulation and associated settlement pursuant to class action procedures and
14 requirements; (ii) determining the good faith of the Stipulation and associated settlement; and (iii)
15 entering the Final Approval Order and Judgment. This hearing is intended to be the settlement hearing
16 or final approval hearing required under California Rule of Court 3.769(a).

17 1.40 “Settlement Administrator” means Simpluris, Inc., which the Parties have agreed will
18 be responsible for administration of the Settlement and related matters, subject to approval and
19 appointment by the Court.

20 1.41 “Settlement Class” or “Settlement Class Member(s)” or “Members of the Settlement
21 Class” means any, or collectively all Class Members who do not submit timely and valid Requests for
22 Exclusion to Opt Out of the settlement pursuant to Section 5.6 and, thus, become bound by the
23 Judgment.

24 1.42 “Settlement” shall mean the settlement embodied in this Stipulation, which is subject to
25 Court approval.

26 1.43 “Stipulation” means the Joint Stipulation and Agreement for Class and Representative
27 Action Settlement and Release and all of its attachments and exhibits, which the Settling Parties
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1 understand and agree sets forth all material terms and conditions of the Settlement between them, and
2 which is subject to Court approval.

3 1.44 “Updated Address” means a mailing address that was located by way of NCOA Check
4 or Experian Skip Tracing or an updated mailing address provided by the United States Postal Service
5 or a Class Member.

6 **II. FACTUAL & PROCEDURAL BACKGROUND OF ACTION**

7 2.1 Plaintiff’s Claims: On January 16, 2020, Plaintiff Andrew Nugent-Gomez, a former
8 employee of Defendant, filed this Action against Defendant alleging that Defendant has, with respect
9 to Plaintiff and the Class Members, allegedly violated multiple provisions of the California Labor
10 Code and wage and hour laws, by failing to properly pay for meal and rest period violations, including
11 alleged meal and rest break violations arising from or related to Defendant’s written meal or rest break
12 policies; meal and rest period violations; alleged violations arising from unpaid minimum wages or
13 overtime wages, including alleged violations arising from alleged off-the-clock work; alleged untimely
14 pay during and at termination of employment; alleged unreimbursed business expenses; alleged
15 record-keeping violations; and alleged inaccurate pay stubs.

16 2.2 Amended Complaint: To effectuate the settlement and resolution of claims
17 investigated, mediated, and resolved, the Settling Parties stipulated to Plaintiff’s filing of the Second
18 Amended Complaint to add causes of action for civil penalties under PAGA arising from or relating to
19 alleged violations of Labor Code sections 98.6, 201, 203, 204, 204b, 210, 226, 226.3, 226.7, 510, 512,
20 558, 1102.5, 1194, 2802, and IWC Wage Order No. 4-2001. The Second Amended Complaint adding
21 these claims will be filed in December 2021.

22 2.3 Discovery, Investigation, & Research: Class Counsel has conducted a thorough
23 investigation into the facts of the Action, including extensive informal discovery and exchange of a
24 volume of documents and information, which included and was not limited to, Defendant’s production
25 of a sampling of information/data for the putative class members to allow Plaintiff to perform an
26 analysis and valuation of all claims. Prior to mediation the Parties exchanged information and
27 documents to investigate the veracity, strength, and scope of the claims, and to allow analysis and
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1 evaluation of the claims and Defendant's defenses thereto. The Class Representatives have vigorously
2 prosecuted this case, and Defendant has vigorously contested it.

3 2.4 Mediation: On July 6, 2020 and again on April 13, 2021, the Settling Parties
4 participated in full-day mediations before experienced employment mediator Eve Wagner. At
5 mediations, the Parties exchanged information and documents, and engaged in intensive discussions
6 regarding their evaluations of the Litigation and various aspects of the Litigation, including the risks
7 and delays of further litigation, the risks to the Settling Parties of proceeding with class certification,
8 the law relating to the allegations, the evidence produced and analyzed, and the possibility of appeals,
9 among other things. With the assistance of the mediator's evaluation, the Parties reached a settlement
10 of the Action. Based on the information, data, and documents exchanged, and their own independent
11 investigation and evaluation, Class Counsel is of the opinion that the settlement with Defendant for the
12 consideration and on the terms set forth in this Stipulation is fair, reasonable, and adequate and is in
13 the best interest of the Class Members in light of all known facts and circumstances. Further, the Class
14 Representative has carefully evaluated the terms of the Settlement, and, based upon that review, has
15 determined that it is fair, reasonable, and adequate.

16 2.5 Allegations of the Class Representatives and Benefits of Settlement:

17 (a) Based on the exchange of information and documents, the mediation sessions,
18 and discussions between counsel, Class Representatives and Class Counsel have assessed the Parties'
19 positions and evaluated the value of the claims of the Class. The information and documents
20 exchanged by the Parties and settlement discussions are sufficient to reliably assess the merits of the
21 Parties' respective positions and to compromise the issues on a fair and equitable basis.

22 (b) Plaintiffs and Class Counsel believe that the claims, causes of action,
23 allegations and contentions asserted in the Action have merit. However, Plaintiffs and Class Counsel
24 recognize and acknowledge the expense and delay of continued lengthy proceedings necessary to
25 prosecute the Action against Defendant through trial and through appeals. Class Counsel has taken
26 into account the uncertain outcome of the litigation, the risk of continued litigation in complex actions
27 such as this, as well as the difficulties and delays inherent in such litigation, and the potential difficulty
28 of obtaining certification of the Action as well as trying the claims of the Class Members. Class

1 Counsel is mindful of the risks and possible defenses to the claims alleged in the Action. Class
2 Counsel has also taken into account Defendant's potential defenses to Plaintiffs' allegations. Class
3 Counsel believes that the Settlement set forth in this Stipulation confers substantial benefits upon
4 Plaintiffs and the Settlement Class Members and that an independent review of this Stipulation by the
5 Court in the approval process will confirm this conclusion. Based on their own independent
6 investigation and evaluation, Class Counsel has determined that the Settlement set forth in the
7 Stipulation is in the best interests of Plaintiffs and the Class Members.

8 2.6 No Admissions or Concessions Regarding Fault or Liability:

9 (a) Whether or not the Settlement is finally approved, this Stipulation and
10 compliance with this Stipulation shall not be construed as an admission, concession, or indication by
11 either Party with respect to fault or liability whatsoever for the claims asserted in the Action, or as an
12 admission by either party that the Action is either appropriate or inappropriate for class certification or
13 representative adjudication. Parties are agreeing that the Action is appropriate for class certification
14 and representative adjudication only for the purposes of settlement as described within this Stipulation.

15 (b) Pursuant to California Evidence Code §§ 1152, 1154, and any other analogous
16 rules of evidence that are applicable, neither the Stipulation, nor any act performed or document
17 executed pursuant to, or in furtherance of, the Stipulation: (a) is or may be deemed to be or may be
18 used as an admission or evidence of, the validity of any Released Claims, or of any wrongdoing or
19 liability of the Released Parties, or any of them; or (b) is or may be deemed to be or may be used as an
20 admission or evidence of any fault or omission of the Released Parties, or any of them, in any civil,
21 criminal or administrative proceeding in any court, administrative agency, or other tribunal. Plaintiff
22 and Class Counsel agree not to argue or present any argument, and hereby waive any argument, that
23 Defendant could not contest (or are estopped from contesting) collective or representative action
24 treatment pursuant to California Labor Code §§ 2698, *et seq.*, and/ or class action treatment pursuant
25 to California Code of Civil Procedure § 382, or any corresponding state law or rule, on any grounds if
26 the Court fails to enter Judgment. This Stipulation shall not be deemed an admission by Defendant that
27 collective or representative action pursuant to California Labor Code § 2698, *et seq.* and/or class
28 action treatment pursuant to California Code of Civil Procedure § 382, or any corresponding state law

1 or rule in the Action is proper or cannot be contested on any grounds, nor shall the Stipulation be
2 grounds for estoppel against Defendant's right to contest class, representative or collective action
3 treatment for any purpose other than this Stipulation.

4 2.7 Defendant's Denial of Wrongdoing or Liability:

5 (a) Defendant denies and continues to deny each and all of the allegations, claims,
6 and contentions alleged by Plaintiff in the Action. Defendant has expressly denied and continues to
7 deny all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts
8 or omissions alleged in the Action. Defendant contends that it complied in good faith with California
9 and federal wage and hour laws and have dealt legally and fairly with Plaintiff and Settlement Class
10 Members. Defendant contends that it appropriately paid its employees at all times, that it always
11 provided employees with the opportunity to take timely and compliant meal and rest breaks, that it
12 was compliant with all applicable wage-and-hour laws, and all other laws, at all times, and that, if this
13 matter were to be further litigated, it would have strong defenses on the merits and as to class
14 certification.

15 (b) Further, Defendant denies that, for any purpose other than settling this Action,
16 these claims are appropriate for class or representative treatment. Nonetheless, Defendant has
17 concluded that further proceedings in the Action would be protracted and expensive and agree to the
18 Action being fully and finally settled in the manner and upon the terms and conditions set forth in this
19 Stipulation in order to dispose of burdensome and protracted litigation, to permit the operation of
20 Defendant's business without further expensive litigation and the distraction and diversion of their
21 personnel with respect to matters at issue in the Action. In entering into this Stipulation, Defendant has
22 also taken into account the uncertainty and risks inherent in any litigation, especially in complex cases
23 such as the Action.

24 (c) Defendant does not waive, but rather expressly reserves, all rights to challenge
25 all such claims and allegations in the Action upon all procedural and factual grounds, including
26 without limitation the ability to challenge class treatment or representative adjudication on any
27 grounds or to assert any and all defenses or privileges if this Stipulation is deemed void or does not
28 take effect.

1 2.8 Intent of the Settlement: The Settlement set forth herein intends to achieve the
2 following: (1) entry of an order approving the Settlement; (2) entry of Judgment of the Action; (3)
3 discharge of Released Parties from liability for any and all of the Released Claims; and (4) release by
4 the Class Representative pursuant to Section 9.2.

5 **III. CONDITIONAL CLASS CERTIFICATION & APPOINTMENT OF CLASS COUNSEL**

6 3.1 The Settlement Class. For the purposes of this Stipulation and the Settlement of the
7 Action only, the Parties stipulate to conditional class certification of the Settlement Class.

8 3.2 Appointment of Class Counsel. For purposes of this Stipulation and subject to the
9 Court's approval, the Parties hereby stipulate to the appointment of Class Counsel as counsel for the
10 Class solely in order to effectuate the Settlement pursuant to this Stipulation.

11 **IV. CLASS SETTLEMENT CONSIDERATION**

12 4.1 The Class Representative Service Award. The Class Representatives may petition the
13 Court to approve a Service Award in an amount up to \$10,000 each for their efforts on behalf of the
14 Class in this Action, including assisting in the investigation and consulting with Class Counsel and
15 providing crucial documents and information to Class Counsel. Defendant shall not oppose any
16 request by Class Representatives for a Service Award in such an amount. Any Service Award
17 approved by the Court shall be paid to the Class Representatives from the Gross Settlement Amount
18 and shall be in addition to any distribution to which they may otherwise be entitled as a Settlement
19 Class Member. The Service Award shall not be considered wages, and the Settlement Administrator
20 shall issue the Class Representative an IRS Form 1099 reflecting such payment. The Class
21 Representatives shall be solely responsible for the payment of any and all taxes with respect to the
22 Service Award and shall hold Defendant harmless from any and all liability with regard thereto.

23 4.2 Payment to Settlement Class Members. Each Settlement Class Member shall be eligible
24 to receive payment of the Individual Settlement Amount, which is a share of the Net Settlement
25 Amount based on the pro rata number of Workweeks allocated to a Settlement Class Member as a
26 proportion of all Workweeks allocated to all Settlement Class Members. The Individual Settlement
27 Amount for each Settlement Class Member shall be calculated in accordance with Section 7.2. Each
28 Settlement Class Member, including Plaintiffs, shall be responsible for the payment of each of their

1 portion of applicable employee taxes, if any, and required withholding with respect to his or her
2 Individual Settlement Amount and shall hold Defendant harmless from any and all liability with
3 regard thereto.

4 4.3 Total Workweeks Increase and Gross Settlement Amount. In the event the total
5 Qualifying Workweeks increase by five percent (5%) or more above the currently estimated 12,000
6 Qualifying Workweeks, the Parties agree that the Gross Settlement Amount shall increase by \$91.67
7 per additional workweek.

8 4.4 No Effect on Employee Benefit Plans. Neither the Settlement nor any amounts paid
9 under the Settlement will modify any previously credited hours, days, or weeks of service under any
10 employee benefit plan, policy or program sponsored by Defendant. Such amounts will not form the
11 basis for additional contributions to, benefits under, or any other monetary entitlement under
12 Defendant's sponsored benefit plans, policies or programs. The payments made under the terms of this
13 Stipulation shall not be applied retroactively, currently, or on a going forward basis, as salary,
14 earnings, wages, or any other form of compensation for the purposes of any of Defendant's benefit
15 plan, policy or programs. Defendant retains the right to modify the language of its benefits plans,
16 policies and programs to effect this intent and to make clear that any amounts paid pursuant to this
17 Stipulation are not for "weeks worked," "weeks paid," "weeks of service," or any similar measuring
18 term as defined by applicable plans, policies and programs for purpose of eligibility, vesting, benefit
19 accrual, or any other purpose, and that additional contributions or benefits are not required by this
20 Stipulation. Defendant does not consider the payments provided for under this Settlement as payments
21 of "compensation" for purposes of determining eligibility for, or benefit accrual within, any benefit
22 plans, policies, or programs, or any other plan sponsored by Defendant.

23 4.5 Attorneys' Fees and Expenses to Class Counsel. As part of the motion for final
24 approval of the Settlement, Class Counsel may submit an application for an award of attorneys' in an
25 amount not to exceed 35% of the Gross Settlement Amount (i.e., \$385,000) and reimbursement of
26 litigation costs and expenses of up to Twenty-Five Thousand Dollars (\$25,000) (together, "Attorneys'
27 Fees and Expenses"). Defendant agrees not to object to any such fee, cost or expense application in
28 those amounts, or lesser amounts. As a condition of this Settlement, Class Counsel has agreed to

1 pursue fees only in the manner reflected by this Section. Any Attorneys' Fees and Expenses awarded
2 by the Court shall be paid from the Gross Settlement Amount in arriving at the Net Settlement
3 Amount and shall not constitute payment to any Settlement Class Members. If Class Counsel
4 voluntarily reduces the request for Attorneys' Fees and Expenses or the Court's award of Attorneys'
5 Fees and Expenses is less than set forth above, the Net Settlement Amount shall be recalculated to
6 reflect the actual Attorneys' Fees and Expenses awarded.

7 The Attorneys' Fees and Expenses approved by the Court shall encompass: (a) all work
8 performed and costs and expenses incurred by, or at the direction of, any attorney purporting to
9 represent the Settlement Class through the date of this Stipulation; (b) all work to be performed and
10 costs to be incurred in connection with approval by the Court of the Settlement; and (c) all work to be
11 performed and costs and expenses, if any, incurred in connection with administering the Class
12 Settlement through entry of Judgment.

13 4.6 Settlement Administrator's Costs and Expenses. All costs and expenses due the
14 Settlement Administrator in connection with its administration of the Class Settlement, including, but
15 not limited to, providing the Class Notice, locating Settlement Class Members, processing Requests
16 for Exclusion and Objections, and calculating, administering and distributing Individual Settlement
17 Payments to Settlement Class Members and related tax forms, shall be paid from the Gross Settlement
18 Amount, and shall not exceed \$4,000.

19 **V. NOTICE TO CLASS MEMBERS AND CLAIMS ADMINISTRATION PROCESS**

20 5.1 The Settlement Administrator. The Settlement Administrator will be responsible for
21 mailing the Class Notice (**Exhibit 1**) to Class Members, providing the necessary translations for the
22 Class Notice (Spanish), handling inquiries from Class Members concerning the Class Notice,
23 determination of Individual Settlement Amounts, maintaining the settlement funds in an appropriate
24 account, preparing, administering and distributing Individual Settlement Payments to Settlement
25 Class Members, issuing a final report and performing such other duties as the Parties may direct. On a
26 weekly basis, the Settlement Administrator will provide reports to Class Counsel and Defense Counsel
27 summary information updating them as to the number of valid and timely Requests for Exclusion and
28 complete and timely Objections received. The Settlement Administrator will serve on Class Counsel

1 and Defense Counsel via e-mail date-stamped copies of the original Requests for Exclusion and
2 Objections no later than five (5) calendar days after their receipt. The Settlement Administrator will
3 provide Class Counsel with proof of mailing of the Class Notice, without listing individual Class
4 Member names or contact information, which Class Counsel will file with the Court at the time Class
5 Counsel files its motion for final approval of the Settlement. No later than sixteen (16) court days prior
6 to the Final Approval Hearing, the Settlement Administrator will compile and deliver to Class Counsel
7 and Defense Counsel a report with summary information regarding (a) the total amount of final
8 Individual Settlement Amounts of each Settlement Class Member (b) the number of Settlement Class
9 Members to receive such payments, and (c) the final number of timely and valid Opt Outs and timely
10 and valid Objections, without listing Class Member contact information. Administration Expenses are
11 not anticipated to exceed \$4,000. Prior to the calculation and distribution of the Individual Settlement
12 Payments, the Settlement Administrator shall calculate the total Administration Expenses through the
13 conclusion of their services and such actual amount will be deducted from the Gross Settlement
14 Amount prior to the final calculation of the Individual Settlement Amounts. Under no circumstances
15 will Settlement Administrator disclose Class Member names and/or contact information to Class
16 Counsel or the Court without prior written authorization from Defendant or subject to legal process,
17 except that the names of Class Members who submit timely and valid Opt Outs and Objections shall
18 be disclosed to Class Counsel and the Court.

19 5.2 Notice to Class Members.

20 (a) If, by entering the Preliminary Approval Order, the Court provides authorization
21 to send the Class Notices, the Settlement Administrator will undertake the mailing of the Class Notice
22 to all Class Members, no later than ten (10) calendar days after the Preliminary Approval Date. The
23 Class Notices shall be mailed via first class mail through the United States Postal Service, postage pre-
24 paid. The envelope containing the Class Notice shall bear the following phrase in bold type, ¼ inch
25 below the return address or ¼ inch above the addressee's address: RETURN SERVICE
26 REQUESTED. The envelope shall also bear the following phrase in the bottom left-hand corner:
27 IMPORTANT – SHAWCOR PIPE PROTECTION LLC CLASS ACTION SETTLEMENT
28 INFORMATION. PLEASE OPEN IMMEDIATELY. The mailing enclosing the Class Notice will

1 not contain any other materials. The Class Notice and its envelope or covering shall be marked to
2 denote the return address of the Settlement Administrator.

3 (b) Defendant shall prepare a list, in an electronically usable format, for the
4 Settlement Administrator containing for each Class Member, to the extent Defendant has such
5 information, the following: the first, last, and middle name; Last Known Address; last known phone
6 numbers; social security numbers; Workweeks; and any other information required to effectuate the
7 Settlement ("Class List"). By approving this Settlement, the Court will be deemed to have authorized
8 Defendant to provide the Settlement Administrator with this information, including the social security
9 numbers of the Class Members. Defendant shall provide this list to the Settlement Administrator
10 within five (5) calendar days of the Preliminary Approval Date. The list, and any other data provided
11 by Defendant to the Settlement Administrator shall be treated as confidential and not subject to
12 disclosure by the Settlement Administrator, except as necessary to address disputes regarding
13 Workweeks, to respond to a specific inquiry from a Class Member, and/or as otherwise necessary for
14 the Settlement Administrator to perform their obligations described in this Stipulation. Further, the
15 Settlement Administrator shall use commercially reasonable efforts to secure the data provided by
16 Defendant at all times so as to avoid inadvertent or unauthorized disclosure or use of such data other
17 than as permitted by this Stipulation, and shall destroy the data (and all copies of it) in a complete and
18 secure manner when such data is no longer required for purposes of this Stipulation. At no time
19 during the settlement process will any Class Member's address, telephone number or social security
20 number be filed with the Court. The Settlement Administrator shall ensure that the notices and any
21 other communications to Class Members shall not include the Class Members' social security number,
22 except for the last four digits.

23 (c) Prior to mailing the Class Notice, the Settlement Administrator shall undertake
24 a NCOA check to ascertain the accuracy of the Last Known Address of the Class Members. To the
25 extent this process yields an Updated Address, the Updated Address shall replace the Last Known
26 Address and be treated as the new Last Known Address for purposes of this Stipulation, for Class
27 Notice mailing, and mailing of settlement checks.
28

1 (d) If a Class Member is known to be deceased, the Class Notice for that deceased
2 Class Member shall be mailed to the Last Known Address (or Updated Address, if applicable) of the
3 legal representative of the deceased Class Member's estate, to the extent known.

4 (e) Unless the Settlement Administrator receives a Class Notice returned from the
5 United States Postal Service for reasons discussed below in this paragraph, that Class Notice shall be
6 deemed mailed and received by the Class Member to whom it was sent five (5) calendar days after
7 mailing. In the event that subsequent to the first mailing of a Class Notice and prior to the Response
8 Deadline, that Class Notice is returned to the Settlement Administrator by the United States Postal
9 Service as undeliverable, without a forwarding address, the Settlement Administrator shall undertake
10 an Experian Skip Tracing with respect to the Class Member to attempt to ascertain the current address
11 of the particular Class Member in question and, if such an address is ascertained, the Settlement
12 Administrator will re-send the Class Notice to the newly-found address within five (5) business days
13 of receipt of the returned Class Notice. In the event that subsequent to the first mailing of a Class
14 Notice and prior to the Response Deadline that Class Notice is returned to the Settlement
15 Administrator by the United States Postal Service with a forwarding address for the recipient, the
16 Settlement Administrator shall re-mail the notice to that address within five (3) business days of
17 receipt of the returned Class Notice, and the forwarding address shall be deemed the Updated Address
18 for that Class Member. In either event, the Class Notice shall be deemed received once it is mailed for
19 the second time. In the event that subsequent to the first mailing of a Class Notice it is returned to the
20 Settlement Administrator by the United States Postal Service as undeliverable, after the Response
21 Deadline, the Settlement Administrator shall be required to take no further action with respect to that
22 Class Notice and it shall be deemed to have been delivered. In the event the Settlement Administrator
23 must re-mail any Class Notice pursuant to the provisions of this Paragraph due to being returned, the
24 Response Deadline shall be extended by ten (10) calendar days from the date of the re-mailing of the
25 Class Notice, for those mailings. The Settlement Administrator shall include a cover letter with any
26 re-mailing informing the Class Member of the re-mailing of the Class Notice and extended Response
27 Deadline. Compliance with the procedures described in this paragraph shall constitute due and
28 sufficient notice to Class Members of the Settlement and of the Final Approval Hearing, and shall

1 satisfy the requirements of due process. Nothing else shall be required of or done by the Parties, Class
2 Counsel, counsel for Defendant, or the Settlement Administrator to provide notice of the Settlement
3 and the Final Approval Hearing.

4 5.3 Declaration of Compliance. No later than twenty (20) calendar days after the Response
5 Deadline (or any applicable extended Response Deadline), the Settlement Administrator shall provide
6 Class Counsel and counsel for Defendant with a declaration attesting to completion of the notice
7 process, including any attempts to obtain Updated Addresses for, and the re-sending of, any returned
8 Class Notices, including any and all other required steps (“Declaration of Compliance”), which shall
9 be filed with the Court by Class Counsel.

10 5.4 Responses to the Notice of Proposed Class Action Settlement. Pursuant to California
11 Rule of Court 3.766(d)(5), Class Members have the option to enter an appearance in this Litigation at
12 their own expense by obtaining their own attorney(s). Class Members who choose this option will be
13 responsible for any attorneys’ fees or costs incurred as a result of this election. The Class Notice will
14 advise Class Members of this option.

15 5.5 Objections to Settlement. Class Members who do not submit timely and valid Requests
16 for Exclusion may object to the Settlement by filing written objections (“Objection(s)”) with the Court
17 and serving a copy on the Parties by submitting the copy to the Settlement Administrator no later than
18 the Response Deadline. The Objection must: contain the Class Member’s full name, dates of
19 employment as an employee of Defendant, and signature; contain the case name and number of the
20 Action; set forth the legal and factual basis for the objection; and identify any counsel representing the
21 Class Member in connection with the Objection. A Class Member who objects to the Settlement will
22 still be considered a Settlement Class Member. The Settlement Administrator shall provide a copy of
23 any Objections that it receives to Class Counsel and counsel for Defendant. Any Class Member who
24 fails to timely file and serve an Objection shall be precluded from making any objection to the
25 Settlement, unless otherwise ordered by the Court.

26 5.6 Opting Out of Settlement. Class Members may elect to opt out of the Settlement and,
27 thus, exclude themselves from the Settlement Class. Opting Out of the Settlement Class does not opt
28 an Aggrieved Employee out of their portion of the PAGA Payment (set forth in Section 6.2). Class

1 Members who wish to exercise this option must mail to the Settlement Administrator a written
2 Request for Exclusion that is postmarked on or before the Response Deadline. If a timely and valid
3 Request for Exclusion is not received by the Settlement Administrator from a Class Member on or
4 before the Response Deadline, then that Class Member will be deemed to have forever waived his or
5 her right to seek exclusion from the Settlement and Settlement Class and shall be bound by the
6 Settlement and Judgment. The Class Notice will advise Class Members of the option to opt out of the
7 Settlement and will contain instructions on how to do so. Class Members who do validly request
8 exclusion from the Settlement by submitting a valid and timely Request for Exclusion shall not be
9 bound by the terms of the Settlement, shall not be allowed to object to the Settlement, and shall not be
10 entitled to any benefits as a result of the Settlement.

11 In the event that any Class Member timely submits a Request for Exclusion, but it is deficient,
12 as soon as possible but not later than five (5) business days after the Settlement Administrator's receipt
13 of such deficient Request for Exclusion, the Settlement Administrator shall send by first class, postage
14 pre-paid, United States mail a notice to such Class Member informing him or her of the deficiency and
15 that he or she has ten (10) calendar days from the date of the deficiency notice (which shall be the date
16 the deficiency notice is mailed) to cure the deficiency and postmark and mail a corrected Request for
17 Exclusion.

18 The Parties agree that the Response Deadline shall not be extended, and no untimely
19 submissions will be honored, under any circumstances, unless mutually agreed to by the Parties.

20 5.7 Right to Monitor and Review. All counsel have the right to monitor and review
21 administration of the Settlement to verify that the monies allocated to the Class Members are
22 distributed in the correct amount and to the proper Class Members, as well as ensure that the proper
23 mailing and administration is taking place (or took place).

24 **VI. CLASS SETTLEMENT FUNDING AND DISTRIBUTION**

25 6.1 Allocation of the Gross Settlement Amount. The "Gross Settlement Amount" means
26 total sum of no more and no less than One Million One-Hundred Thousand Dollars (\$1,100,000), that
27 Defendant shall pay under the terms of the Settlement (subject to the occurrence of the Effective
28 Date), inclusive of and allocated as follows:

1 (a) Attorneys' Fees and Expenses, not to exceed \$385,000 in fees and not to exceed
2 \$25,000 in litigation costs and expenses, to Class Counsel;

3 (b) Administration Expenses, not to exceed \$4,000, to the Settlement
4 Administrator;

5 (c) Service Award to the Class Representatives, not to exceed \$10,000 each;

6 (d) The amount of 75% of the PAGA Payment, in the amount of Fifty-Six
7 Thousand, Two Hundred and Fifty Dollars (\$56,250.00) to the State of California for the benefit of the
8 LWDA ("LWDA Payment"); and

9 (e) Net Settlement Amount (which is inclusive of 25% of the PAGA Payment
10 (Eighteen Thousand, Seven Hundred and Fifty Dollars (\$18,750.00)) and the Employee Payroll Taxes,
11 but does not include the Employer Payroll Taxes which will be paid by Defendant separately).

12 The "Net Settlement Sum" or "Net Settlement Amount" means the net amount that Defendant
13 will pay (subject to the occurrence of the Effective Date) to all Settlement Class Members, and is
14 calculated by subtracting Section 6.1(a)-(d) from the Gross Settlement Amount.

15 6.2 Calculation of the Individual Settlement Amounts. Individual Settlement Amounts to
16 be paid to Settlement Class Members shall be paid from the Net Settlement Amount. For purposes of
17 calculating the *estimated* Individual Settlement Amounts, the Settlement Administrator shall calculate
18 the estimated Net Settlement Amount based on the estimated values in Section 6.1(a)-(e) prior to
19 sending Class Notice to the Class Members. Prior to final distribution, the Settlement Administrator
20 shall calculate the *final* Net Settlement Amount based on the actual values in Section 6.1(a)-(e).

21 The portion of the Net Settlement Amount payable to each Settlement Class Member will be
22 calculated as follows:

23 (a) The Settlement Administrator will determine the total "Workweeks" for each Class
24 Member. Workweeks are to be calculated by determining the number of days between the Class
25 Member's start and end dates of employment during the Class Period and then dividing by seven (7).
26 If a Class Member was hired prior to October 6, 2016, then his or her start date will be October 6,
27 2016. The dates of employment will be provided to the Settlement Administrator.

28 (b) The Settlement Administrator shall divide the Net Settlement Amount by the total

1 number of Workweeks of all Settlement Class Members in order to determine the amount that each
2 Settlement Class Member is entitled to for each Workweek (the “Weekly Amount”). The Settlement
3 Administrator shall also divide the PAGA Payment by the total number of pay periods which occurred
4 during the PAGA Period by the Aggrieved Employees, in order to determine the amount that each
5 Aggrieved Employee is entitled to for each Workweek worked during the PAGA Period, (the “PAGA
6 Weekly Amount.”)

7 (c) The Settlement Administrator will multiply the Weekly Amount by the total number
8 of Workweeks that each Settlement Class Member is credited with to arrive at his or her Individual
9 Settlement Amount. The Individual Settlement Amount will be increased for Aggrieved Employees,
10 which the Settlement Administrator will calculate by multiplying the PAGA Weekly Amount by the
11 total number of pay periods during the PAGA period that each Aggrieved Employee is credited with to
12 arrive at this increase for the Aggrieved Employees.

13 (d) Settlement Class Members will be issued payment of their Individual Settlement
14 Amount subject to reduction for Employee and Payroll Taxes, excluding employer’s share of payroll
15 taxes, and the net payment is referred to as an “Individual Settlement Payment.”

16 Defendant will provide the Settlement Administrator with any information that is in the
17 Defendant’s possession reasonably necessary to perform the calculation of Workweeks for each
18 Settlement Class Member, and any other reasonably required information the Settlement
19 Administrator requests to perform the calculations required under this Stipulation.

20 Settlement Class Members will have one hundred and eighty (180) calendar days to negotiate
21 their respective settlement payments under this Agreement. Any checks not negotiated within the one
22 hundred and eighty (180) calendar days will be subject to the handling in conformity with Section 6.5.

23 6.3 Composition of Payments to Settlement Class Members. Each Individual Settlement
24 Amount will be allocated as follows: 45% shall be reported as wages on IRS Form W-2 and its state
25 and local equivalents, and 55% shall be reported as interest and penalties on IRS Form 1099 and its
26 state and local equivalents. The wage portion shall be subject to applicable employee payroll taxes.
27 The non-wage portion will not be subject to any Employee Payroll Taxes.

28 Other than the withholding of Employee Payroll Taxes with respect to the wage portion of

1 Individual Settlement Amounts, the Class Representatives and the Settlement Class Members are
2 solely responsible for the reporting and payment of the employee's share of any federal, state, and/or
3 local income or other tax or any other withholdings due with respect to any other funds received as a
4 part of the Settlement, if any. The Class Representatives agrees to hold Defendant harmless for and
5 against any damage or tax penalty Defendant incurs as a result of the failure by the Class
6 Representatives to pay all taxes due by their receipt of payments pursuant to this Stipulation.
7 Defendant shall have no responsibility for deciding the validity of the Individual Settlement Amounts
8 or any other payments made pursuant to this Stipulation, shall have no involvement in or responsibility
9 for the determination or payment of the Settlement Class Member's taxes and required withholdings,
10 and shall have no liability for any errors made with respect to such taxes and required withholdings.
11 Although the Settlement Administrator will calculate and pay the standard applicable taxes and
12 required withholdings, if any, on the portion of the Individual Settlement Amounts constituting wages
13 on the behalf of the Settlement Class Member, Plaintiffs and Settlement Class Members shall be solely
14 responsible for any and all employee's share of tax obligation associated with their respective
15 Individual Settlement Amounts and Service Award.

16 The Parties agree (and the Settlement Administrator shall warrant) that the Settlement shall be
17 administered as a qualifying, designated settlement fund pursuant to Section 468B of the International
18 Revenue Code. The Settlement Administrator shall be responsible for issuing all settlement payments
19 and handling all required state and federal tax withholding and reporting related thereto.

20 6.4 Time for Funding and Distribution of Payments under the Settlement. Within thirty
21 (30) calendar days of final approval, Defendant shall deposit \$600,000 of the Gross Settlement
22 Amount into a qualified settlement account established by the Settlement Administrator. The
23 remaining \$500,000 of the Gross Settlement Amount shall be deposited 120 days after the initial
24 payment into a qualified settlement account established by the Settlement Administrator. No later
25 than five (5) calendar days after Defendant deposits the second payment towards the Gross Settlement
26 Amount, resulting in complete payment of the Gross Settlement Amount, the Settlement Administrator
27 shall distribute the following payments: Individual Settlement Payments to Settlement Class Member,
28 Attorneys' Fees and Expenses to Class Counsel, Service Award to Class Representatives, Settlement

1 administration costs, and LWDA Payment to the LWDA, all in the Court-approved amounts. The
2 Settlement Administrator shall make every effort to pay the applicable taxes and required
3 withholdings, if any, associated with each Settlement Class Member's Individual Settlement Amount
4 and mail the Individual Settlement Payment to each Settlement Class Member, by first-class U.S. mail,
5 to the last-known address no later than five (5) calendar days after Defendant deposits the Gross
6 Settlement Amount with the Settlement Administrator. If the Settlement Administrator is not able to
7 do so within the time period set forth above, it shall so inform Class Counsel and provide an
8 approximate date by which the applicable taxes and required withholdings shall be paid and the
9 Individual Settlement Payments will be mailed. Under no circumstances shall the Settlement
10 Administrator distribute checks to Settlement Class Members until all Individual Settlement Payments
11 have been considered, calculated and accounted for, and all of the remaining monetary obligations
12 have been calculated and accounted for. Within two hundred and Fifty (250) calendar days of the
13 Effective Date, the Settlement Administrator provide to Class Counsel a declaration of payment to be
14 filed with the Court. In the event that any Settlement Class Member is deceased, payment shall be
15 made payable to the estate of that Settlement Class Member and delivered to the executor or
16 administrator of that estate, unless the Settlement Administrator has received an affidavit or
17 declaration pursuant to California Probate Code § 13101, in which case payment shall be made to the
18 affiant(s) or declarant(s).

19 6.5 Non-Cashed Settlement Checks. Individual Settlement Payment checks shall be valid
20 for a period of one hundred and eighty (180) calendar days after they are mailed, and thereafter, will
21 be cancelled. Funds associated with cancelled checks will be sent to the Unclaimed Property Fund in
22 the Settlement Class Member's name.

23 **VII. NULLIFICATION OF THIS STIPULATION**

24 7.1 Non-Approval of the Stipulation. If (a) the Court should for any reason fail to approve
25 this Stipulation in the form agreed to by the Parties, or (b) the Court should for any reason fail to enter
26 Judgment of the Action, or (c) the approval of the Settlement and Judgment is reversed, modified or
27 declared or rendered void, then the Settlement and conditional class certification shall be considered
28 null and void, the First Amended Complaint becomes the operative complaint and Plaintiff dismisses

1 the PAGA claims, and neither the Settlement, conditional class certification, nor any of the related
2 negotiations or proceedings, shall be of any force or effect, and all parties to the Settlement shall stand
3 in the same position, without prejudice, as if the Class Settlement had been neither entered into nor
4 filed with the Court. Notwithstanding the foregoing, the Parties may attempt in good faith to cure any
5 perceived defects in the Stipulation to facilitate approval.

6 7.2 Defendant's Right to Void or Rescind Settlement Due to Opt-Outs. If twenty percent
7 (20%) or more of the Class Members submit timely and valid Requests for Exclusion, Defendant shall
8 have the option, in its sole discretion, to rescind this Stipulation, whereupon the Settlement and
9 Stipulation shall be null and void for any and all purposes and may not be used or introduced in the
10 Action or any other proceeding. The Parties will be restored to their respective positions in the Action
11 as if this Settlement was never negotiated, drafted, or agreed upon. The Settlement Administrator shall
12 notify Class Counsel and Counsel for Defendant of the total number of timely and valid Requests for
13 Exclusion and the individual settlement value for each such Class Members had they not opted out by
14 no later than fourteen (14) days after the Response Deadline. Should Defendant choose to void the
15 Settlement under this paragraph, it shall be responsible for all Administration Expenses actually
16 incurred up to the time it sought to void the Settlement.

17 7.3 Invalidation. Invalidation of any material portion of the Settlement shall invalidate the
18 Settlement in its entirety, unless the Parties through their counsel may subsequently agree in writing
19 that the remaining provisions of the Settlement are to remain in full force and effect.

20 7.4 Stay Upon Appeal. In the event of a timely appeal from the approval of the Settlement
21 and Judgment, the Judgment shall be stayed, and Defendant shall not be obligated to fund the Gross
22 Settlement Amount or take any other actions required by this Stipulation until all appeal rights have
23 been exhausted by operation of law.

24 7.5 Notice in Writing. Unless otherwise ordered by the Court, in the event the Stipulation
25 shall be terminated, cancelled, declared void, or fails to become effective in accordance with its terms,
26 within ten (10) business days after written notification of such event, Defendant and Class Counsel
27 shall notify each other of this event in writing.

1 **VIII. MOTION FOR COURT APPROVAL**

2 8.1 Preliminary Approval. Class Counsel shall promptly submit this Stipulation to the
3 Court for preliminary approval and determination by the Court as to its fairness, adequacy, and
4 reasonableness, and entry of a Preliminary Approval Order substantially in the form filed concurrently
5 herewith as **Exhibit 2**, which schedules a hearing on the question of whether the Settlement should be
6 approved as fair, reasonable, and adequate as to the Settlement Class Members, approving as to form
7 and content the proposed Class Notice attached hereto as **Exhibit 1**, and directing the mailing of the
8 Class Notice to Class Members. While Defendant can reserve their right to object to facts or assertions
9 made in the moving papers, Defense Counsel shall file a notice of non-opposition to the granting of
10 the motion for preliminary approval of the Settlement or join in the motion.

11 Failure of the Court to enter the Preliminary Approval Order in its entirety will be grounds for
12 Parties to terminate the Settlement and the terms of this Stipulation pursuant to Section 7.1; however,
13 pursuant to Section 7.1, the Parties are to take all reasonable steps to cure any deficiencies so as to
14 avoid any termination of the Settlement.

15 8.2 Final Approval. The Final Approval Hearing shall be held before the Court. At the
16 Final Approval Hearing, Plaintiff shall move the Court for the entry of the final order certifying the
17 Settlement Class for settlement purposes only and approving the Settlement as being fair, reasonable
18 and adequate to the Settlement Class Members within the meaning of California Rules of Court, Rule
19 3.769(c), (d) and (e) and for the entry of a final Judgment of the Action consistent with the terms of
20 the Settlement and California Rule of Court 3.769(h). Should the Court require Class Counsel and/or
21 Defense Counsel to submit any pleadings and/or evidence for the Court's determination, the Parties
22 will comply to the extent reasonable.

23 8.3 Entry of Judgment. Pursuant to California Rule of Court 3.769(h) and any other
24 applicable rules, if the court approves this Settlement after the Final Approval Hearing, the Court must
25 make and enter Judgment. The Judgment must include a provision for the retention of the court's
26 jurisdiction over the parties to enforce the terms of the Judgment. This Judgment shall be a judgment
27 for purposes of California Rule of Court 3.771(a).
28

1 **IX. RELEASES AND WAIVERS**

2 9.1 Release of Claims by Settlement Class Members and Plaintiffs. Upon the Effective
3 Date, each Settlement Class Member and Plaintiffs, each release, discharge, and agree to hold
4 harmless the Released Parties, and each of them, of and from any and all Released Claims during the
5 Class Period.

6 It is the desire of the Parties and the Class Members to fully, finally, and forever settle,
7 compromise, and discharge the Released Claims during the Class Period.

8 Plaintiffs and each Class Member (except those who submit a timely and valid Request for
9 Exclusion), will be bound to the release of Released Claims as a result of the Settlement and to the
10 terms of the judgment.

11 9.2 Release of Claims by Plaintiffs. Plaintiffs on behalf of themselves and their heirs,
12 executors, administrators, representatives and anyone who purports to act on their behalf, shall and do
13 hereby forever release, discharge and agree to hold harmless all Released Parties from any and all
14 charges, complaints, claims, allegations, liabilities, obligations, promises, agreements, controversies,
15 damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including
16 attorney fees and costs other than those specified in this Agreement), known or unknown, at law or in
17 equity, which Plaintiffs may now have against the Released Parties arising out of or in any way
18 connected with their employment by the Released Parties including, the Released Claims, claims that
19 were asserted or could have been asserted in the Complaint, and any and all transactions, occurrences,
20 or matters between the parties occurring at any time prior to signing the Agreement.

21 Without limiting the generality of the foregoing, this release shall include, but not be limited to
22 the following: any and all claims under the Americans With Disabilities Act, as amended; Title VII of
23 the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; 42 U.S.C. § 1981, as
24 amended; the Age Discrimination in Employment Act, as amended; the Fair Labor Standards Act, as
25 amended; the Equal Pay Act; the Employee Retirement Income Security Act, as amended; the
26 Consolidated Omnibus Budget Reconciliation Act; the Rehabilitation Act of 1973; the Family and
27 Medical Leave Act; the Civil Rights Act of 1966; the California Fair Employment and Housing Act;
28 the California Constitution; the California Labor Code; the California Government Code; the

1 California Civil Code; the Industrial Welfare Commission Wage Orders; the California Private
2 Attorneys General Act; the Unruh Civil Rights Act; the Bane Act; the Occupational Safety and Health
3 Act; the Worker Adjustment and Retraining Notification Act, as amended; the California Unfair
4 Competition Law (Cal. Bus. & Prof. Code § 17200 et seq.); any state, civil, or statutory laws,
5 including any and all human rights laws and laws against discrimination; any and all wage-and-hour
6 claims arising under the laws of the State of California, including, without limitation, statutory,
7 constitutional, contractual, and/or common law claims for wages, damages, restitution, unreimbursed
8 expenses, equitable relief, penalties, liquidated damages, and/or punitive damages; any and all other
9 federal, state and local statutes, ordinances, regulations, rules and other laws, and any and all claims
10 based on constitutional, statutory, common law or regulatory grounds as well as any other claims
11 based on theories of wrongful or constructive discharge, breach of contract or implied contract, fraud,
12 misrepresentation, promissory estoppel or intentional and/or negligent infliction of emotional distress,
13 or damages under any other federal, state or local statutes, ordinances, regulations, rules or laws; any
14 claims that could have been alleged in the Complaint; and any claims for interest, attorneys' fees,
15 and/or costs other than those specified in this Stipulation. This release is for any and all relief, no
16 matter how denominated, including, but not limited to, back pay, front pay, vacation pay, bonuses,
17 compensatory damages, tortious damages, liquidated damages, punitive damages, damages for pain
18 and suffering, and attorney fees and costs other than those specified in this Stipulation, and Plaintiffs
19 hereby forever releases, discharges and agrees to hold harmless the Released Parties from any and all
20 claims for attorney fees and costs other than those specified in this Stipulation arising out of the
21 matters released in this Stipulation.

22 In exchange for their Service Award, Plaintiffs expressly waive the protections of California
23 Civil Code section 1542, and it is their intention in executing this Stipulation that the same shall be
24 effective as a bar to each and every claim, complaint, action, debts, promises, demand, cause of action,
25 obligation, damage, liability, charge, attorneys' fees and costs other than those specified in this
26 Stipulation herein above released. The Plaintiff hereby expressly waives and relinquishes all of his
27 rights and benefits, if any, arising under California Civil Code section 1542, which provides:
28

1 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
2 **THAT THE CREDITOR OR RELEASING PARTY DOES NOT**
3 **KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT**
4 **THE TIME OF EXECUTING THE RELEASE AND THAT, IF**
5 **KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY**
6 **AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR**
7 **OR RELEASED PARTY.**

8 Plaintiffs may, being aware of Section 1542, hereafter discover facts in addition to or different from
9 those which they now know or believe to be true with respect to the subject matter of all the claims
10 referenced herein, but stipulate and agree that, upon the Effective Date, Plaintiffs shall and hereby do
11 fully, finally and forever settle and release any and all claims against the Released Parties, known or
12 unknown, suspected or unsuspected, contingent or non-contingent, that were asserted or could have
13 been asserted upon any theory of law or equity without regard to the subsequent discovery of existence
14 of such different or additional facts.

15 **X. DUTIES OF THE PARTIES**

16 10.1 Mutual Full Cooperation. The Parties agree to cooperate fully with one another to
17 accomplish and implement the terms of this Stipulation. Such cooperation shall include, but not be
18 limited to, execution of such other documents and the taking of such other actions as may reasonably
19 be necessary to fulfill the terms of this Settlement. The Parties shall use their best efforts, including all
20 efforts contemplated by this Stipulation and any other efforts that may become necessary by court
21 order or otherwise, to effectuate this Stipulation and the terms set forth herein. As soon as practicable
22 after execution of this Stipulation, Class Counsel, with the cooperation of Defendant and Defense
23 Counsel, shall take all necessary and reasonable steps to secure the Court's preliminary approval and
24 final approval of this Stipulation.

25 10.2 Duty to Support and Defend the Settlement. The Parties agree to abide by all of the
26 terms of the Settlement in good faith and to support the Class Settlement fully and to use their best
27 efforts to defend this Class Settlement from any legal challenge, whether by appeal or collateral attack.

28 10.3 Duties Prior to Court Approval. Class Counsel shall promptly submit this Stipulation to
 the Court for Preliminary Approval and determination by the Court as to its fairness, adequacy, and
 reasonableness. Promptly upon execution of this Stipulation, Class Counsel shall apply to the Court

1 for the entry of a Preliminary Order substantially in the form filed concurrently herewith as **Exhibit 2**,
2 scheduling a hearing on the question of whether the proposed Class Settlement should be approved as
3 fair, reasonable, and adequate as to the Settlement Class Members, approving as to form and content
4 the proposed Class Notice attached hereto as **Exhibit 1**, and directing the mailing of the Class Notice
5 to Settlement Class Members. While Defendant can reserve their right to object to facts or assertions
6 made in the moving papers, Defense Counsel shall file a notice of non-opposition to the granting of
7 the Motion for Preliminary Approval or join in the motion, and be given a chance to review the motion
8 for preliminary approval and the motion for final approval prior to filing.

9 **XI. MISCELLANEOUS PROVISIONS**

10 11.1 Voiding the Stipulation. Pending Court approval and other than as provided in Section
11 VIII (entitled “NULLIFICATION OF THIS STIPULATION”) herein, if any of the conditions set
12 forth in this Stipulation are not met and satisfied, this Stipulation shall, at the option of either Plaintiffs
13 or Defendant, be ineffective, void, and of no further force and effect, and shall not be used or be
14 admissible in any subsequent proceeding, either in this Court or in any other court or forum. If either
15 Party decides to void the Settlement, then the Settlement and conditional class certification shall be
16 considered void, and neither the Settlement, Stipulation, conditional class certification, nor any of the
17 related negotiations or proceedings, shall be of any force or effect, and the Parties shall stand in the
18 same position, without prejudice, as if this Stipulation had been neither entered into nor filed with the
19 Court. Should either Party choose to void the Settlement under this paragraph, such party shall be
20 responsible for all Administration Expenses actually incurred up to the time such Party sought to void
21 the Settlement not to exceed the cap of \$4,000. If both Defendant and Plaintiffs choose to void the
22 Settlement under this paragraph, each shall be responsible for their or its proportionate share of the
23 Administration Fees actually incurred not to exceed the collective cap of \$4,000.

24 11.2 No Prior Assignments. The Parties represent, covenant, and warrant that they have not
25 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber
26 to any person or entity any portion of any liability, claim, demand, action, cause of action, or right
27 herein released and discharged except as set forth herein.
28

1 11.3 Non-Admission. Nothing in this Stipulation shall be construed as or deemed to be an
2 admission by any Party of any liability, culpability, negligence, or wrongdoing toward any other Party,
3 or any other person, and the Parties specifically disclaim any liability, culpability, negligence, or
4 wrongdoing toward each other or any other person. Each of the Parties has entered into this Stipulation
5 with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses,
6 and contingencies. Nothing herein shall constitute any admission by the Released Parties of
7 wrongdoing or liability, or of the truth of any factual allegations in the Action. Nothing herein shall
8 constitute any admission by the Released Parties regarding the merits of the Claims in this Action,
9 including but not limited to claims for unpaid wages or other compensation, benefits or penalties under
10 California and/or federal law. Nothing herein shall constitute an admission by the Released Parties that
11 the Action was properly brought as a class or representative action other than for settlement purposes.
12 To the contrary, the Released Parties have denied and continue to deny each and every material factual
13 allegation and all Claims. To this end, the Class Settlement of the Action, the negotiation and
14 execution of this Stipulation, and all acts performed or documents executed pursuant to or in
15 furtherance of this Stipulation or the Class Settlement are not, shall not be deemed to be, and may not
16 be used as, an admission or evidence of any wrongdoing or liability on the part of the Released Parties
17 or of the truth of any of the factual allegations in the Complaint in the Action; and are not, shall not be
18 deemed to be, and may not be used as, an admission or evidence of any fault or omission on the part of
19 the Released Parties in any civil, criminal or administrative proceeding in any court, administrative or
20 governmental agency or other tribunal.

21 11.4 No Publicity.

22 (a) Plaintiffs and Defendant, and their respective counsel, recognize, and accept
23 that the Parties to this Stipulation desire that information regarding the terms of this Stipulation, the
24 fact of the Settlement embodied in this Stipulation, the disposition of the Action, the Action, and all
25 matters relating to the litigation of the Action, including discovery proceedings therein, and evidence
26 obtained during the course of the Action, shall be provided to the Class by way of the Court-approved
27 Class Notice and public access to Court records in the Action, and that this information shall not
28 otherwise be discussed with or presented to the media or press, and shall not be discussed or

mentioned in any of Class Counsel's internal or external advertising or marketing materials, including but not limited to any website(s) maintained by Class Counsel, except that Class Counsel may add the Gross Settlement Amount to any verdicts and settlement counts without specifying Defendant's name.

(b) Further, Plaintiffs and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry, post on any internet websites except that Class Counsel may add the Gross Settlement Amount to any verdicts and settlement counts without specifying Defendant's name, or have any communication with the press about the Action, and/or the fact, amount or terms of the Settlement. Before the date of the filing of the motion for preliminary approval of the Settlement, Plaintiffs and their counsel will not initiate any contact with Class Members or anyone else about the Settlement, except that: (a) Class Counsel, if contacted by a Class Member, may respond that a settlement has been reached and that the details will be communicated in a forthcoming Court-approved notice; and (b) the Plaintiffs, if contacted by a Class Member, may respond only that the Class Member should contact Class Counsel.

11.5 Non-Retaliation. Defendant understands and acknowledges that they have a legal obligation not to retaliate against any Class Member who elects to participate in the Settlement or elects to opt out of the Settlement. Defendant will refer any inquiries regarding this Settlement to the Settlement Administrator or Class Counsel and will not discourage Class Members who are currently working for Defendant, directly or indirectly, from making claims, opting out or objecting to the Class Settlement.

11.6 Construction. The Parties hereto agree that the terms and conditions of this Stipulation are the result of lengthy, intensive, arms-length non-collusive negotiations between the Parties and that this Stipulation is not to be construed in favor of or against any Party by reason of the extent to which any Party or its counsel participated in the drafting of this Stipulation. If any of the dates in the Stipulation fall on a weekend, bank or court holiday, the time to act shall be extended to the next business day. Except that should the Response Deadline (or extension(s) thereof specified in the Stipulation relating to a deficiency notice or a re-mailing) fall on a Saturday and regular U.S. Mail service is in operation that day, then no further extension pursuant to this paragraph shall apply to these specific deadlines. The language of all parts of this Stipulation shall in all cases be construed as

1 a whole, according to its fair meaning, and not strictly for or against either Party. No Party shall be
2 deemed the drafter of this Stipulation. The Parties acknowledge that the terms of the Stipulation are
3 contractual and are the product of negotiations between the Parties and their counsel. Each Party and
4 his/its counsel cooperated in the drafting and preparation of the Stipulation. In any construction to be
5 made of the Stipulation, the Stipulation shall not be construed against any Party and the canon of
6 contract interpretation set forth in California Civil Code section 1654 shall not be applied.

7 11.7 Governing Law. The Stipulation and the exhibits hereto shall be considered to have
8 been negotiated, executed, and delivered, and to have been wholly performed, in the State of
9 California, and the rights and obligations of the Parties to the Stipulation shall be construed and
10 enforced in accordance with, and governed by, the internal, substantive laws of the State of California
11 without regard to conflict of law principles in all respects, including execution, interpretation,
12 performance, and enforcement.

13 11.8 Notices. Except for mailing of the Class Notice to Class Members, any and all notices
14 or other communications required or permitted under this Stipulation shall be in writing and shall be
15 sufficiently given if delivered to the Party or their counsel by U.S. certified mail, postage prepaid, e-
16 mail, facsimile, or overnight delivery addressed to the address of the Party appearing in this
17 Stipulation.

18 11.9 Captions and Interpretations. Section titles or captions contained herein are inserted as
19 a matter of convenience and for reference only and in no way define, limit, extend, or describe the
20 scope of this Stipulation or any provision thereof.

21 11.10 Modification. This Stipulation may not be changed, altered, or modified, except in
22 writing signed by the Parties' counsel and approved by the Court. In the event that the Court requires
23 certain changes to this Stipulation, the Parties agree that such amendments can be made through a
24 stipulation signed solely by their counsel, provided that such amendment conforms precisely to the
25 Court's order.

26 11.11 Integration Clause. This Stipulation contains the entire agreement between the Parties
27 relating to the Settlement of the Action and the transactions contemplated thereby, and all prior or
28 contemporaneous agreements, understandings, representations, and statements, whether oral or

1 written, and whether by a party or such party's legal counsel, are hereby superseded. No rights under
2 this Stipulation may be waived except in writing executed by the Parties.

3 11.12 Successors and Assigns. This Stipulation shall be binding upon and inure to the benefit
4 of the Parties and Settlement Class Members (excluding only persons who submit a timely and valid
5 Request for Exclusion) and their respective present and former heirs, trustees, executors,
6 administrators, representatives, officers, directors, shareholders, agents, employees, insurers,
7 attorneys, accountants, auditors, advisors, consultants, pension and welfare benefit plans, fiduciaries,
8 parent companies, subsidiaries, affiliates, related companies, joint ventures, predecessors, successors,
9 and assigns.

10 11.13 Corporate Signatories. Any person executing this Stipulation or any such related
11 document on behalf of a corporate signatory hereby warrants and promises, for the benefit of all
12 Parties hereto, that such person has been duly authorized by such corporation to execute this
13 Stipulation or any such related document.

14 11.14 Execution in Counterparts. This Stipulation shall become effective upon its execution
15 by all of the undersigned. The Parties may execute this Stipulation in counterparts, and execution of
16 counterparts shall have the same force and effect as if all Parties had signed the same instrument.
17 Parties may also execute the Stipulation by way of electronic signature or other electronic means.

18 11.15 No Third Party Beneficiaries. The Stipulation shall be binding upon, and inure to the
19 benefit of, the successors and assigns of the Parties hereto; however, this Stipulation is not designed to
20 and does not create any third party beneficiaries unless otherwise specifically provided herein.

21 11.16 No Cooperation with Other Claims. The Class Representatives shall not cooperate with,
22 help, bring, counsel, aid, or in any manner assist any person or entity in filing or pursuing a claim,
23 complaint, class action, collective action, representative action, action, debt, promise, demand,
24 grievance, cause of action, obligation, damage, liability, or charge against Defendant, except as
25 required by law or regulation.

26 11.17 Other Claims. No person shall have any claim against the Class Representatives, Class
27 Counsel, the Settlement Administrator, or any of the Released Parties based on the payments made or
28

1 other actions taken substantially in accordance with this Stipulation and the settlement contained
2 herein or further orders of the Court.

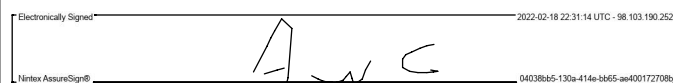
3 11.18 Attorney Fees, Costs and Expenses. Except as otherwise specifically provided for
4 herein, each party shall bear his or its own attorney fees, costs and expenses, taxable or otherwise,
5 incurred by them in or arising out of the Action and shall not seek reimbursement thereof from any
6 other party to this Stipulation.

7 11.19 Action to Enforce Agreement. In any suit or court action to enforce the terms of this
8 Stipulation, the prevailing party shall be entitled to recover their or its attorneys' fees and costs.

9 11.20 Court Retains Jurisdiction. The Court shall retain jurisdiction with respect to
10 implementation and enforcement of the terms of the Stipulation, and all parties hereto submit to the
11 jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the
12 Stipulation.

13 IN WITNESS WHEREOF, the Parties and their counsel have executed this Stipulation on the
14 date below their signatures or the signature of their representatives. The date of the Stipulation shall be
15 the date of the latest signature.

16
17 THIS STIPULATION HAS BEEN READ AND AGREED TO INDIVIDUALLY AND ON
18 BEHALF OF THE PROPOSED CLASS:

19
20  2022-02-18 22:31:14 UTC - 98.103.190.252
21 Nintex AssureSign® 04038b5-130a-414e-bb65-ae400172708b

Dated: 02/18/2022

22 Plaintiff Andrew Nugent-Gomez

Dated: _____

23
24 Plaintiff Thomas Contreras

1 other actions taken substantially in accordance with this Stipulation and the settlement contained
2 herein or further orders of the Court.

3 11.18 Attorney Fees, Costs and Expenses. Except as otherwise specifically provided for
4 herein, each party shall bear his or its own attorney fees, costs and expenses, taxable or otherwise,
5 incurred by them in or arising out of the Action and shall not seek reimbursement thereof from any
6 other party to this Stipulation.

7 11.19 Action to Enforce Agreement. In any suit or court action to enforce the terms of this
8 Stipulation, the prevailing party shall be entitled to recover their or its attorneys' fees and costs.

9 11.20 Court Retains Jurisdiction. The Court shall retain jurisdiction with respect to
10 implementation and enforcement of the terms of the Stipulation, and all parties hereto submit to the
11 jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the
12 Stipulation.

13 IN WITNESS WHEREOF, the Parties and their counsel have executed this Stipulation on the
14 date below their signatures or the signature of their representatives. The date of the Stipulation shall be
15 the date of the latest signature.

16
17 THIS STIPULATION HAS BEEN READ AND AGREED TO INDIVIDUALLY AND ON
18 BEHALF OF THE PROPOSED CLASS:

19
20
21 _____ Dated: _____
22 Plaintiff Andrew Nugent-Gomez
23  2022-02-22 16:46:33 UTC - 67.180.212.168
Nintex AssureSign® 2/22/22
ad9f38b1-3a75-4e41-92eb-ae440132f5f2

24 Plaintiff Thomas Contreras
25
26
27
28

1 READ AND AGREED TO ON BEHALF OF SHAWCOR PIPE PROTECTION LLC

2
3
4  Kevin Reizer - Group President
5 Shawcor Pipe Protection LLC

Dated: March 1 2022

6 APPROVED AS TO FORM AND CONTENT:

7
8
9 

Dated: March 1, 2022

10 Beth A. Kahn, Esq.
11 Lisa Reimbold Esq.
12 Clark Hill LLP
Attorneys for Defendant

13
14 

Dated: February 23, 2022

16 Kitty K. Szeto, Esq.
17 Parris Law Firm
18 Attorney for Plaintiffs and Class Members

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND
HEARING DATE FOR COURT APPROVAL**

**IF YOU WORKED FOR SHAWCOR AS AN HOURLY OR NON-EXEMPT
EMPLOYEE IN CALIFORNIA AT ANY TIME BETWEEN JANUARY 16, 2016
AND [PRELIMINARY APPROVAL DATE], YOU MAY BE ENTITLED TO
MONEY FROM THIS SETTLEMENT.**

A court authorized this Notice. You are not being sued. This is not a solicitation from a lawyer.

On [Preliminary Approval Date], the Court in this action granted preliminary approval of a proposed settlement as set forth in the Joint Stipulation and Agreement for Class and Representative Action Settlement and Release ("Settlement Agreement") concerning the lawsuit noted above ("the Lawsuit"). You are receiving this Notice because you worked for Defendant Shawcor Pipe Protection LLC ("Shawcor") as an hourly-paid or non-exempt employee in California at some point between January 16, 2016 and [Preliminary Approval Date] ("Class Period"), and you may be entitled to share in the funds to be made available for the proposed settlement of this class action.

You are not being sued. However, your rights may be affected by the legal proceedings in the Lawsuit. If the proposed settlement of this class action is granted final approval by the Court, you may have the right to be paid a share of the proposed settlement funds.

You do **NOT** have to do anything if you want to participate in this settlement.
A check will be automatically mailed to you.

**PLEASE READ THIS ENTIRE NOTICE CAREFULLY.
YOUR RIGHTS MAY BE AFFECTED
BY THE PROPOSED SETTLEMENT DESCRIBED IN THIS NOTICE.**

You have received this Notice because Shawcor's records indicate that you are a member of the Settlement Class. This notice is designed to inform you about your options in this Settlement, all of which are dependent on the Court's final approval of the Settlement.

1. What Is This Case About?

Andrew Nugent-Gomez and Thomas Contreras were employed by Shawcor. They sued Shawcor on behalf of all current and former hourly-paid or non-exempt employees of Shawcor in the State of California claiming various wage-and-hour violations. The parties have agreed to settle this dispute without any finding of wrongdoing by Shawcor.

The Lawsuit is being settled as a "class action." In a class action, the plaintiff, also referred to as a class representative, sues on behalf of himself and other persons with similar claims ("Class Members"). Based on Shawcor's records, you were an hourly-paid or non-exempt employee employed by Shawcor in the State of California at any time between January 16, 2016 to [Preliminary Approval Date]. Therefore, you are a member of the Settlement Class and you may receive money from the proposed settlement.

If the Court approves the proposed settlement at the Final Approval Hearing scheduled for _____ the proposed settlement will bind all Settlement Class Members. If the Court does not approve the proposed settlement, the Settlement Agreement will have no effect or precedential value in any subsequent proceedings in the Lawsuit or in any other litigation.

2. How Can I Receive Money From The Settlement?

You do not have to do anything to receive money from this settlement. A check will be automatically mailed to you if the Court grants final approval of the settlement.

3. Will I Be Subject To Discipline Or Retaliation If I Participate In The Settlement?

No.

4. How Much Is The Settlement?

Shawcor has agreed to pay \$1,100,000.00 ("Gross Settlement Amount") to settle the Released Claims defined below. After attorneys' fees and costs, a class representative enhancement award, and settlement administration costs are deducted from the Gross Settlement Amount, the remaining amount ("Net Settlement Amount") will be automatically distributed to Settlement Class Members who do not opt out.

5. How Much Money Will I Receive?

The Net Settlement Amount of approximately \$591,000.00 prior to deduction for payroll taxes will be paid out to Settlement Class Members.

Your individual share of the Net Settlement Amount before deduction for payroll taxes will be calculated based on the total number of weeks you worked for Shawcor during the Class Period as reflected in Shawcor's records.

Your total number of Workweeks in the Settlement Class Period (January 16, 2016 through [date of preliminary approval]) based on Shawcor's records is _____. If you disagree with this number, you must provide the correct dates of employment during the Class Period along with supporting documentation to the Third Party Administrator by mail no later than _____.

Your Individual Settlement Amount shall be calculated by dividing the total Workweeks worked by all Settlement Class Members into the Net Settlement Amount, multiplied by your Workweeks listed above. Your estimated Individual Settlement Amount is \$_____. This amount may change depending on final rulings from the Court. Applicable payroll deductions will be made for withholding of state and federal taxes. Your Individual Settlement Amount will be allocated 45% as wages, subject to withholding of applicable taxes, and 55% to interest and penalties reported on an IRS Form 1099. You will have 180 days to cash your check. If you do not cash the check within 180 days, your check will be cancelled and funds associated with your cancelled check will be sent in your name to the Unclaimed Property Fund, <https://ucpi.sco.ca.gov/UCP>.

6. When Will I Receive the Money?

Please be patient. This Settlement must be approved by the Court before any payments can be issued.

7. Can I Object To The Settlement?

Yes. To do so, you must mail a written statement of objection to the Settlement Administrator at the address listed on the last page of this Notice.

Your written objection and/or notice of intent to appear must be postmarked or delivered to the Settlement Administrator no later than [Response Deadline].

Your written objection must: contain the Class Member's full name, dates of employment as an employee of Defendant, and signature; contain the case name and number of the Action; set forth the legal and factual basis for the objection; and identify any counsel representing the Class Member in connection with the Objection.

If you fail to make your objections in the manner specified above, you shall be deemed to have waived any objections and you shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement Agreement, or any aspect of the proposed settlement, including, without limitation, the fairness, reasonableness or adequacy of the proposed settlement, the enhancement award to the Class Representatives, or any award of attorneys' fees or reimbursement of costs and expenses.

If the Court rejects your objection, you will still be bound by the terms of the Settlement Agreement and you will still receive a settlement check.

8. Can I Opt Out of The Settlement?

Yes. To opt out, you must submit to the Settlement Administrator a written Request for Exclusion that is postmarked on or before [Response Deadline]. If a timely and valid Request for Exclusion is not received by the Settlement Administrator from a Class Member on or before the Response Deadline, then that Class Member will be deemed to have forever waived his or her right to seek exclusion from the Settlement and Settlement Class and shall be bound by the Settlement and Judgment. Class Members who do validly request exclusion from the Settlement by submitting a valid and timely Request for Exclusion shall not be bound by the terms of the Settlement, shall not be allowed to object to the Settlement, and shall not be entitled to any benefits as a result of the Settlement.

9. What Happens If I Do Nothing?

You will receive money from this settlement and you will be bound by the Release described below.

10. What Rights Am I Giving Up?

Upon the Effective Date, each Settlement Class Member and Plaintiffs, each release, discharge, and agree to hold harmless the Released Parties, and each of them, of and from any and all Released Claims during the Class Period.

Released Parties mean Defendant Shawcor Pipe Protection LLC, and all of its respective current and former parents, subsidiaries, predecessors, successors, and each of their respective owners, officers, directors, employees, partners, shareholders, agents, and any other successors, heirs, assigns, or legal representatives, any attorneys, insurers, and claims representatives.

Released Claims means any and all federal and California state law wage-and-hour claims, rights, demands, liabilities, and/or causes of action of every nature and description arising from any and all claims that were alleged or could have been alleged in the Complaint based on the facts contained therein, arising during the period from January 16, 2016 through the Preliminary Approval Date, including, without limitation, statutory, constitutional, contractual, and/or common law claims

for wages, reimbursements, damages, unpaid costs, penalties (including penalties under the California Labor Code's Private Attorneys General Act of 2004, as amended (including claims under PAGA for violations of California Labor Code sections 98.6, 201, 203, 204, 204b, 210, 226.3, 226, 226.7, 510, 512, 558, 1102.5, 1194, 2802, and IWC Wage Order No. 4-2001 Section 11-12), California Labor Code section 2698, et seq.), liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief, including without limitation, California Labor Code sections 201, 202, 203, 204, 218, 221, 223, 226, 226.7, 510, 512, 1174, 1174(d), 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802, and any federal counterparts, California Business and Professions Code section 17200, et seq., any IWC Wage Orders, meal and rest period violations, including alleged meal and rest break violations arising from or related to Defendant's written meal or rest break policies; meal and rest period violations; violations arising from unpaid minimum wages or overtime wages, including violations arising from off-the-clock work; untimely pay during and at termination of employment; unreimbursed business expenses; record-keeping violations; and inaccurate pay stubs.

11. Who Is The Class Representative?

The Court has appointed Andrew Nugent-Gomez and Thomas Contreras as the Class Representatives to represent you in this settlement. They will each ask the Court to approve an enhancement award in an amount not to exceed a total of \$10,000 to be paid from the Gross Settlement Amount to compensate each of them for their efforts in filing and assisting with the prosecution of the Lawsuit and in reaching this settlement on your behalf.

12. How Will The Attorneys' Fees For The Class Be Paid?

You do not need to pay any portion of either Class Counsel's or Shawcor's attorneys' fees and costs. All payment for Class Counsel's attorneys' fees and costs will be deducted from the Gross Settlement Amount. Class Counsel has actively litigated this matter since January 16, 2020. Class Counsel will ask the Court to approve an award of attorneys' fees' in the amount of \$385,000 to Class Counsel for their work in prosecuting this Lawsuit and obtaining this Settlement on your behalf. Class Counsel will also ask the Court to approve an award of \$25,000 to Class Counsel for reimbursement of the costs and expenses they have incurred on behalf of the Class.

13. When And Where Is The Final Approval Hearing?

The Final Approval Hearing has been scheduled on _____ at **8:30 a.m.** before the Honorable David Cohn in Department S-26 of the Superior Court of California located at 247 West Third Street, San Bernardino, California 92415, at which time Judge Cohn will determine: (1) whether the proposed settlement should be approved as fair, reasonable and adequate to the Settlement Class and (2) whether the proposed Final Approval Order and Judgment should be entered by the Court. The Final Approval Hearing date and time may change without further notice given to you. Please contact the Settlement Administrator at the address and telephone below to find out if there has been a change to the date and time of the Final Approval Hearing.

You Are Not Required To Attend The Final Approval Hearing.

14. Where Can I Get Additional Information?

This Notice provides only a summary of the matters relating to the proposed settlement. For more information or questions, you may contact the Settlement Administrator as follows:

Simpluris, Inc.
P.O. Box _____
Santa Ana, California 92799
Telephone: (888) 369-3780
Facsimile: (714) 824-8591

**PLEASE DO NOT CALL OR CONTACT THE COURT WITH QUESTIONS ABOUT THE
PROPOSED SETTLEMENT OR THE SETTLEMENT PROCESS.**

R. Rex Parris (SBN 96567)
Alexander R. Wheeler (SBN 239541)
Kitty K. Szeto (SBN 258136)
Ryan A. Crist (SBN 316653)
PARRIS LAW FIRM
43364 10th Street West
Lancaster, California 93534
Telephone (661) 949-2595
Facsimile (661) 949-7524

Attorneys for Plaintiff

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

ANDREW NUGENT-GOMEZ,
individually, on behalf of other members of
the general public similarly situated;

Plaintiff,

v.

SHAWCOR PIPELINE PROTECTION
LLC, an unknown business entity;
SHAWCOR PIPE PROTECTION LLC, an
unknown business entity; SHAWCOR, an
unknown business entity; and DOES 1
through 100, inclusive,

Defendants.

Case No. CIVDS2001526

[Assigned for All Purposes to the
Honorable David Cohn, Dept. S26]

CLASS ACTION

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

[Filed Together with Plaintiff's Unopposed
Motion; Declaration of Kitty K. Szeto]

Date: May 11, 2022
Time: 10:00 a.m.
Dept.: S26

Complaint Filed: January 16, 2020
Trial Date: None Set

1 Plaintiff Andrew Nugent-Gomez' unopposed motion for an order granting
2 preliminary approval of the proposed settlement of the above-captioned action on a
3 classwide basis, approving the manner and content of notice to the class, and setting a
4 final approval hearing came on for hearing before the above-entitled court.

5 Having read the Joint Stipulation and Agreement for Class and Representative
6 Action Settlement and Release ("Settlement Agreement") attached as Exhibit "A" to the
7 Declaration of Kitty K. Szeto and supporting documents, the unopposed motion for
8 preliminary approval, as well as the points and authorities and declarations filed in
9 support thereof, the Court finds that: the proposed settlement appears fair, reasonable,
10 and adequate; notice of the proposed settlement should be sent to the class in the manner
11 described herein; and a hearing should be held after said notice is issued to determine if
12 the Settlement Agreement and the proposed settlement are fair, reasonable, and adequate
13 to the class and if an order granting final approval should be entered in this action based
14 upon the terms of the Settlement Agreement.

15 **IT IS THEREFORE ORDERED THAT:**

16 1. This Order incorporates by reference the parties' Settlement Agreement and
17 all defined terms herein shall have the same meaning as set forth in the Settlement
18 Agreement.

19 2. The Settlement Agreement, the proposed Settlement described therein, and
20 the total maximum settlement amount of **\$1,100,000.00** are preliminarily approved as
21 fair, reasonable, and adequate.

22 3. The Court hereby appoints the Parris Law Firm and Lawyers *for* Justice,
23 PC as Class Counsel and preliminarily approves Class Counsel's request for attorneys'
24 fees in the amount of \$385,000 and costs in an amount not to exceed \$25,000.

25 4. The Court hereby appoints Plaintiff Andrew Nugent-Gomez and Thomas
26 Contreras as the Class Representatives and preliminarily approves the Class
27 Representative Service Award request in the total amount of \$10,000 to each Class
28 Representative.

1 5. A hearing (“Final Approval Hearing”) shall be held before the Honorable
2 David Cohn in Department S26 of the above-entitled court located at **247 West Third**
3 **Street, San Bernardino, California 92415** on **July 14, 2022** at **10:00 a.m.** to determine:
4 whether the proposed Settlement, on the terms and conditions provided for in the
5 Settlement Agreement, is fair, reasonable, and adequate and whether said Settlement
6 should be finally approved by the Court. The Court may adjourn or continue the Final
7 Approval Hearing without further notice to the Class Members.

8 6. The Court hereby approves, as to form and content, the Notice of Proposed
9 Class Action and Hearing for Court Approval attached as Exhibit “1” to the Settlement
10 Agreement (“Class Notice”).

11 7. The Court hereby appoints Simpluris, Inc. as the Settlement Administrator.

12 8. The Court finds that the mailing of the Class Notice substantially in the
13 manner and form as set forth in the Settlement Agreement and this Order meets the
14 requirements of Section 382 of the Code of Civil Procedure, Rule 3.769 of the California
15 Rules of Court, and due process, and is the best notice practicable under the
16 circumstances, and shall constitute due and sufficient notice to all persons entitled
17 thereto.

18 9. Within five (5) calendar days after preliminary approval, Defendant shall
19 provide the Settlement Administrator with a Microsoft Office Excel spreadsheet
20 containing each Class Member’s full name, last known address, Social Security number,
21 dates of employment during the Class Period; and the number of weeks worked during
22 the Class Period as an hourly-paid employee; and any other relevant information needed
23 to identify Class Members and calculate settlement payments (“Class List”).

24 10. Within five (5) calendar days after the delivery of the Class List, the
25 Settlement Administrator shall mail the Class Notice to the Class Members by First Class
26 mail through the United States Postal Service.

27 ////

28 ////

1 11. Class Members will then have thirty (30) calendar days from the date of the
2 mailing of the Class Notice to timely submit an opt out or a written objection to the
3 proposed Settlement.

4 12. The Settlement Administrator shall furnish counsel for the parties with a
5 weekly report regarding the status of mailing and the processing of opt outs and
6 objections.

7 13. All discovery and other pretrial proceedings are stayed and suspended until
8 further order of the Court, except such proceedings as may be necessary to implement the
9 Settlement Agreement and this Order.

10 14. The Court reserves the right to adjourn or continue the date of the Final
11 Approval Hearing without further notice to the Class Members, and retains jurisdiction to
12 consider all further applications arising out of or connected with the proposed Settlement.

13 **IT IS SO ORDERED.**

14 DATE: _____

Honorable David Cohn
San Bernardino County Superior Court

1 R. Rex Parris (SBN 96567)
Kitty K. Szeto (SBN 258136)
2 John M. Bickford (SBN 280929)
Ryan A. Crist (SBN 316653)
3 **PARRIS LAW FIRM**
43364 10th Street West
4 Lancaster, California 93534
Telephone (661) 949-2595
5 Facsimile (661) 949-7524

6 Attorneys for Plaintiff

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN BERNARDINO**
10

11 ANDREW NUGENT-GOMEZ,)
individually, on behalf of other members of)
12 the general public similarly situated;)

13 Plaintiff,

14 v.

15 SHAWCOR PIPELINE PROTECTION)
LLC, an unknown business entity;)
16 SHAWCOR PIPE PROTECTION LLC, an)
unknown business entity; SHAWCOR, an)
17 unknown business entity; and DOES 1)
through 100, inclusive,)

18 Defendants.
19
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Case No. CIVDS2001526

[Assigned for All Purposes to the
Honorable David Cohn, Dept. S26]

CLASS ACTION

**[PROPOSED] FINAL ORDER OF APPROVAL
AND JUDGMENT**

Date: July 14, 2022
Time: 10:00 a.m.
Dept.: S26

1 Plaintiffs unopposed motion for an order granting final approval of the proposed
2 settlement of the above-captioned action on a classwide basis came on for hearing before
3 the above-entitled court.

4 Having read the Joint Stipulation and Agreement for Class and Representative
5 Action Settlement and Release (“Settlement Agreement”) attached as Exhibit “A” to the
6 Declaration of Kitty K. Szeto and supporting documents, the unopposed motion for final
7 approval, as well as the points and authorities and declarations filed in support thereof,
8 the Court finds that: the proposed settlement appears fair, reasonable, and adequate and
9 an order granting final approval should be entered in this action based upon the terms of
10 the Settlement Agreement.

11 **IT IS THEREFORE ORDERED THAT:**

12 1. This Order incorporates by reference the parties’ Settlement Agreement and
13 all defined terms herein shall have the same meaning as set forth in the Settlement
14 Agreement.

15 2. The Settlement Agreement, the proposed Settlement described therein, and
16 the Gross Settlement Amount of **\$1,100,000.00** is approved as fair, reasonable, and
17 adequate.

18 3. The parties shall effectuate the terms of the Settlement Agreement
19 consistent with the deadlines set forth by this Order and in the Settlement Agreement.

20 4. Within thirty (30) calendar days of this order, Defendant Shawcor Pipe
21 Protection LLC (“Defendant”) shall deposit \$600,000.00 of the Gross Settlement Amount
22 into a qualified settlement account established by Simpluris, Inc. (“Settlement
23 Administrator”). The remaining \$500,000.00 of the Gross Settlement Amount shall be
24 deposited by Defendant within 120 days after the initial payment into the qualified
25 settlement account established by the Settlement Administrator. No later than five (5)
26 calendar days after Defendant deposits the second payment towards the Gross Settlement
27 Amount, resulting in complete payment of the Gross Settlement Amount, the Settlement
28 Administrator shall distribute the following payments.

5. The Court hereby approves Class Counsel's request for attorneys' fees in the amount of \$385,000.00 and costs in the amount of \$25,000.

6. The Court hereby approves the Class Representative Service Award request in the amount of \$10,000 to Andrew Nugent-Gomez and \$10,000 to Thomas Contreras.

7. The Court hereby approves the PAGA Payment in the total amount of \$56,250 to the California Labor Workforce Development Agency pursuant to California Labor Code section 2699.

8. The Court hereby approves Settlement Administration Costs in the total amount of \$4,000 to Simpluris, Inc.

9. The Settlement Administrator shall timely distribute the Gross Settlement Amount in accordance with this Order and the Settlement Agreement.

10. The Court hereby enters judgment in this Action barring and enjoining Plaintiff and all Settlement Class Members from prosecuting against any of the Released Parties for any of the Released Claims as those terms are defined in the Settlement Agreement upon satisfaction of all payments and obligations under the Settlement Agreement.

11. The Court retains jurisdiction over the parties to enforce the Settlement Agreement and this judgment pursuant to Code of Civil Procedure section 664.6 and California Rules of Court, Rule 3.769(h).

IT IS SO ORDERED.

DATE: _____

Honorable David Cohn
San Bernardino County Superior Court