


(SIGNATURE)

PLAINTIFF/PETITIONER: Sean Mcburney
 DEFENDANT/RESPONDENT: Eurofins Air Toxics, LLC

CASE NUMBER:
 34-2022-00321801-CU-OE-GDS

**PROOF OF SERVICE BY FIRST-CLASS MAIL
 NOTICE OF ENTRY OF JUDGMENT OR ORDER**

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is *(specify)*:
 515 S. Figueroa Street, Suite 1250, Los Angeles, CA 90071

2. I served a copy of the *Notice of Entry of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and *(check one)*:
 - a. ☐ deposited the sealed envelope with the United States Postal Service.
 - b. ☒ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Notice of Entry of Judgment or Order* was mailed:
 - a. on *(date)*: 5/6/2024
 - b. from *(city and state)*: Los Angeles, CA

4. The envelope was addressed and mailed as follows:

a. Name of person served: Barbara Antonucci / CONSTANGY, BROOKS, SMITH & PR Street address: 601 Montgomery Street, Suite 350 City: San Francisco State and zip code: CA 94111 b. Name of person served: Sarah K. Hamilton / CONSTANGY, BROOKS, SMITH & PR Street address: 601 Montgomery Street, Suite 350 City: San Francisco State and zip code: CA 94111	c. Name of person served: Elise Dvorochkin / CONSTANGY, BROOKS, SMITH & PR Street address: 601 Montgomery Street, Suite 350 City: San Francisco State and zip code: CA 94111 d. Name of person served: Dongying Zhang / CONSTANGY, BROOKS, SMITH & PR Street address: 601 Montgomery Street, Suite 350 City: San Francisco State and zip code: CA 94111
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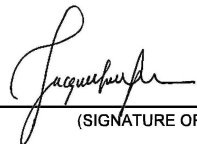
☐ Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*

5. Number of pages attached: 44

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

Date: 5/6/2024

Jacqueline Park
 (TYPE OR PRINT NAME OF DECLARANT)


 (SIGNATURE OF DECLARANT)

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Attorneys for Plaintiff

(Additional Counsel on Next Page)

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

SEAN MCBURNEY, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

EUROFINS AIR TOXICS, LLC, a limited
liability company; EUROFINS AIR
TOXICS, INC., a California corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No. 34-2022-00321801

[Assigned for all purposes to the Hon. Lauri
Damrell in Department 22]

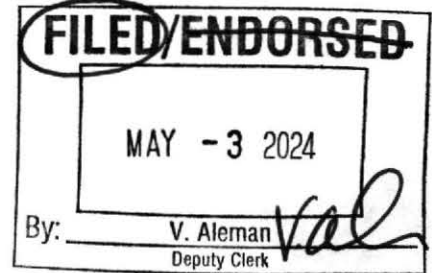
**~~PROPOSED~~ ORDER GRANTING
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND
FINAL JUDGMENT**

Date: May 3, 2024

Time: 9:00 a.m.

Dept.: 22

Complaint Filed: June 14, 2022



ADDITIONAL COUNSEL

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Attorneys for Plaintiff and the Class

1 Plaintiff SEAN MCBURNEY's ("Plaintiff") Motion for an Order Granting Final Approval of
2 Class Action Settlement came regularly for hearing on May 3, 2024. The Court has read, heard, and
3 considered all the pleadings and documents submitted, and the presentations made in connection with
4 the Motion.

5 **I. BACKGROUND**

6 **A. Class Members**

7 The Class Period and PAGA Period are from June 13, 2021 through April 30, 2023 ("Class
8 Period"). For settlement purposes only, the Court certifies the following Settlement Class: "all current
9 and former employees employed by Defendant in California who were paid any wages during the Class
10 Period" as defined in the Second Amended Joint Stipulation of Settlement ("Settlement Agreement" or
11 "Settlement"), attached hereto as Exhibit 1.

12 **B. Aggrieved Employees**

13 Pursuant to the Settlement Agreement, "Aggrieved Employees" means all current and former
14 employees employed by Defendant in California who were paid any wages at any time between June 13,
15 2021 and April 30, 2023.

16 **C. Operation of the Settlement.**

17 Pursuant to the Preliminary Approval Order dated December 11, 2023, this Court conditionally
18 certified the Class and granted preliminary approval to the Settlement. The Preliminary Approval Order
19 also approved of the proposed class notice. The Court entered the Preliminary Approval Order after
20 review and consideration of all of the pleadings filed in connection herewith.

21 In compliance with the Preliminary Approval Order, the Class Notice was sent to all Class
22 Members via first class mail. The notice process was timely completed.

23 This Court finds that the Settlement appears to be the product of serious, informed, non-collusive
24 negotiations, has no obvious deficiencies, and does not improperly grant preferential treatment to any
25 individuals. The Court further finds that the Settlement is fair, reasonable and adequate, that due and
26 adequate notice was provided to Class Members, and that Plaintiff has satisfied the standards for final
27 approval of a class action settlement under California law. Under the provisions of California *Code of*
28 *Civil Procedure* section 382 as set forth in *Vasquez v. Superior Court*, 4 Cal.3d 800, 821 (1971), the trial
court has discretion to certify a class where:

1 [Q]uestions of law or fact common to the members of the class
2 predominate over any questions affecting only individual members, and
3 that a class action is superior to the available methods for the fair and
4 efficient adjudication of the controversy ... Fed. R. Civ. Proc. 23.

5 Certification of a settlement class is the appropriate judicial device under these circumstances.

6 Good cause appearing **IT IS HEREBY ORDERED AND ADJUDICATED** as follows:

7 1. For purposes of this Order, the Court adopts all defined terms as set forth in the Second
8 Amended Joint Stipulation of Class Action Settlement and Release ("Settlement Agreement" or
9 "Settlement"), attached hereto as Exhibit 1.

10 2. The Settlement Agreement is not an admission by Defendant or by any of the Releasees,
11 nor is this Order a finding of the validity of any allegations or of any wrongdoings by Defendant or any
12 other Releasees. Neither this Order, the Settlement Agreement, nor any document referred to herein, nor
13 any action taken to carry out the Settlement Agreement, may be construed as, or may be used as, an
14 admission of any fault, wrongdoing, omission, concession, or liability whatsoever by or against
15 Defendant or any of the Releasees.

16 3. The Court has jurisdiction over the subject matter of the litigation, the Class
17 Representative, Settlement Class Members, and Defendant.

18 4. The Court finds that the dissemination of the Class Notice to the Class Members by the
19 appointed Settlement Administrator, Phoenix Settlement Administrators, constituted the best notice
20 practicable under the circumstances to all Class Members, and fully met the requirements of California
21 law and due process under the State and Federal Constitutions.

22 5. The Court approves the settlement of the above-captioned action, as set forth in the
23 Agreement, as fair, adequate, and reasonable to the Parties and Class Members. The Parties are directed
24 to perform in accordance with the terms set forth in the Agreement.

25 6. The Court hereby certifies the following Class for settlement purposes only: all current
26 and former employees employed by Defendant in California who were paid any wages during the Class
27 Period.

28 7. With respect to the Class and for purposes of approving the settlement only and for no
other purpose, this Court finds and concludes that: (a) the members of the Class are ascertainable and so

1 numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to
2 the Class, and there is a well-defined community of interest among members of the Class with respect to
3 the subject matter of the non-exempt claims in the Action; (c) the claims of Class Representative is
4 typical of the claims of Class Members; (d) the Class Representative has fairly and adequately protected
5 the interests of the Class Members; (e) a class action is superior to other available methods for an
6 efficient adjudication of this controversy; and (f) the counsel of record for the Class Representative, i.e.,
7 Class Counsel, are qualified to serve as counsel for Plaintiff in his individual and representative capacity
8 and for the Class Members.

9 8. Within fifteen (15) business days after the Effective Date, Defendant shall deposit the
10 Gross Settlement Amount of Two Hundred Sixty Thousand Dollars and No Cents (\$260,000.00) into a
11 Qualified Settlement Fund to be established by the Settlement Administrator.

12 9. From the Gross Settlement Amount, the Administrator shall pay:

- 13 a. to Class Counsel attorneys' fees in the amount of \$91,000.00 and reimbursement
14 of costs in the amount of \$15,752.67;
- 15 b. to Class Representative Sean McBurney for his services to the Class, and as
16 consideration for the execution of a general release, the amount of \$10,000.00;
- 17 c. to the California Labor and Workforce Development Agency the amount of
18 \$11,250.00 for its 75% share of PAGA Penalties. The remaining 25%, in the
19 amount of \$3,750, shall be paid to the Aggrieved Employees; and
- 20 d. to Phoenix Settlement Administrators the amount of \$8,000.00 for its fees and
21 costs in administering the settlement.

22 10. The Court finds that these amounts are fair and reasonable. The Administrator is directed
23 to make such payments in accordance with the terms of the Settlement Agreement.

24 11. The Court approves the Individual Settlement Payment and Individual PAGA Payment
25 amounts, which shall be distributed by the Administrator pursuant to the terms of the Settlement
26 Agreement from the Net Settlement Amount, after payment of those amounts set forth in Paragraph 8.

1 12. Settlement checks will remain valid for a period of 180 calendar days after they
2 issue. Any check not cashed within 180 calendar days will be distributed to the California State
3 Controller Unclaimed Property Fund and held in the name of the Settlement Class Member.

4 13. The Court finds that there were zero (0) individuals who opted out of the Settlement. All
5 Aggrieved Employees shall be bound by the PAGA Released Claims provided in the Settlement
6 Agreement. The Class Representative shall be bound by the additional general releases provided in the
7 Settlement Agreement.

8 14. Pursuant to the Settlement Agreement, the Court hereby orders that upon the Effective
9 Date and full funding of the Gross Settlement Amount (whichever is later), Plaintiff and the Settlement
10 Class (on behalf of themselves and their respective former and present representatives, agents, attorneys,
11 executors, heirs, administrators, successors, and assigns), shall release, relinquish and discharge all
12 Releasees, finally, forever and with prejudice, from any and all Class Released Claims during the Class
13 Period, as defined in the Settlement Agreement and set forth below:

14 a. "Class Released Claims" means all claims that were, or reasonably could have
15 been, alleged, based on the facts alleged in the operative complaint, including: (1)
16 any pay stub or wage statement violation under Labor Code §226; (2) any and all
17 penalties that arise from the claims listed in (1), including, but not limited to,
18 statutory penalties under Labor Code section 226, IWC, Wage Order 4-2001, and
19 any other applicable wage orders; and (3) all claims for attorneys' fees, costs, and
20 interest that arise from any of the claims listed in (1) and (2). This release does
21 not include the PAGA released claims.

22 b. "Releasees" means Eurofins Environment Testing Northern California, LLC,
23 Eurofins Air Toxics, LLC, Eurofins Air Toxics, Inc., Eurofins Air Toxics
24 Holdings, Inc., and all entities affiliated with them, and all present and former
25 officers, directors, employees, agents, insurers, assigns, representatives, owners,
26 partners, subsidiaries, parent companies, joint venturers, shareholders, clients,
27 joint employers, predecessors, managers, members, servants, successors-in-
28 interest, assigns, attorneys, all persons or entities acting in concert with or

1 affiliated with any of them, and any person or entity that could be liable for the
2 Released Claims.

3 15. Upon the Effective Date, Plaintiff, the LWDA, and Aggrieved Employees, shall release
4 and discharge all Releasees finally, forever and with prejudice, the PAGA Released Claim against the
5 Releasees during the Class Period, as defined in the Settlement Agreement and set forth below:

6 a. "PAGA Released Claims" means all claims that were, or reasonably could have
7 been, alleged based on the facts alleged in the operative complaint and the notice
8 to the LWDA for: (1) civil penalties under Labor Code §§226.3 and 2699
9 premised on any pay stub or wage statement violation under Labor Code §226;
10 and (2) all claims for attorneys' fees, costs, and interest that arise from any of the
11 claims listed in (1). This release does not include the Class Released Claims.

12 16. The Court further orders that, pursuant to the Settlement Agreement and upon the Effective Date,
13 in addition to the PAGA Released Claims and Class Released Claims, Plaintiff shall release the
14 Releasees, of any and all claims, obligations, demands, actions, rights, causes of action, and liabilities
15 against the Releasees, of whatever kind and nature, character and description whether sounding in tort,
16 contract, federal, state, and/or local law, statute, ordinance, regulation, common law, or other course of
17 law or contract, whether known or unknown, and whether anticipated or unanticipated, including all
18 unknown claims covered by California Civil Code section 1542 that could be or are asserted based upon
19 any theory or facts whatsoever, arising at any time up to and including the date of the execution of the
20 settlement agreement. This includes, but is not limited to, all claims pled in the First Amended
21 Complaint, claims for unpaid wages, waiting time penalties, pay stub violations and all other claims for
22 recovery including, but not limited to, damages, statutory penalties, civil penalties, under Labor Code
23 section 2698 et seq., Labor Code sections 201-204, 210, 216, 221-223, 226, 226.3, 226.7, 245-248.5,
24 256, 266.8, 510, 511, 512, 515, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1199, 2802, 2810.5,
25 IWC Wage Order 4-2001 and any other applicable wage orders, Business and Professions Code section
26 17200 et seq. and any and all claims or potential claims for attorneys' fees and costs. To the extent the
27 foregoing release is a release to which Section 1542 of the California Civil Code or similar provisions of
28 other applicable law may apply, Plaintiff expressly waives any and all rights and benefits conferred upon

him by the provisions of Section 1542 of the California Civil Code or similar provisions of applicable law which are as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Plaintiff may hereafter discover facts in addition to or different from those he now knows or believes to be true with respect to the subject matter of the General Release, but Plaintiff upon the Effective Date, shall be deemed to have, and by operation of the Final Order shall have, fully, finally, and forever settled and released any and all of the claims released pursuant to the General Release whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.

17. The Court hereby enters final judgment in this case in accordance with the terms of the Settlement (attached hereto as Exhibit 1), Preliminary Approval Order, and this Order. Without affecting the finality of the Settlement or Judgment entered, this Court shall retain exclusive and continuing jurisdiction over the action and the Parties, including all Settlement Class Members, for purposes of enforcing and interpreting this Order and the Settlement.

18. The Court sets a compliance hearing for March 14, 2025 @ 10:30 am on _____, 2025.

LAURI A. DAMRELL

IT IS SO ORDERED AND ADJUDGED.

DATED: May 3, 2024



[Signature]
Honorable Lauri Damrell
Judge of the Superior Court

LAURI A. DAMRELL

EXHIBIT 1

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Attorneys for Defendants
EUROFINS AIR TOXICS, INC. (improperly named) &
EUROFINS AIR TOXICS, LLC (currently known as Eurofins
Environment Testing Northern California, LLC)

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

SEAN MCBURNEY, as an individual and
on behalf of all others similarly situated,

Plaintiffs,

v.

EUROFINS AIR TOXICS, LLC, a limited
liability company; EUROFINS AIR
TOXICS, INC., a California corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No. 34-2022-00321801

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

ADDITIONAL COUNSEL FOR PLAINTIFF

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Attorneys for Plaintiff and the Putative Class

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

This Amended Joint Stipulation of Class Action Settlement and Release ("Settlement" or "Settlement Agreement") is made and entered into between Sean McBurney ("Plaintiff") on behalf of himself and the putative class members, and Eurofins Environment Testing Northern California, LLC (formerly known as Eurofins Air Toxics, LLC) ("Defendant")(hereinafter collectively referred to as the "Parties").

It is hereby stipulated and agreed, by and between the undersigned Parties, subject to approval of the Court, that the settlement of this action shall be effectuated upon and subject to the following terms and conditions:

DEFINITIONS

The following capitalized terms, when used in this Joint Stipulation of Settlement and Release, shall have the following meanings:

1. "Action" means *Sean McBurney v. Eurofins Air Toxics, LLC, et al.*, Sacramento County Superior Court, Case No. 34-2022-00321801 including any and all complaints filed, and related letters to the Labor Workforce Development Agency ("LWDA"), including any amended letters necessary to effectuate the Release.
2. "Aggrieved Employees" means all current and former employees employed by Defendant in California who were paid any wages at any time between June 13, 2021 and April 30, 2023.
3. "Attorneys' Fees and Costs" means attorneys' fees sought for Class Counsel's litigation and resolution of the Action, and all costs incurred and to be incurred by Class Counsel in the Action, subject to the Court's approval. Class Counsel will apply for, and Defendant will not oppose, attorneys' fees not to exceed thirty-five percent (35%) of the Gross Settlement Amount, or Ninety-One Thousand Dollars and 00/100 Cents (\$91,000.00), subject to the Court's approval. The Attorneys' Fees and Costs will also mean and include the additional reimbursement of any costs and expenses incurred in association with Class Counsel's litigation and settlement of the Action, up to Thirty Thousand Dollars (\$30,000.00), subject to the Court's approval.

- 1 4. "Class Counsel" means Diversity Law Group, Law Offices of Choi & Associates, Hyun
2 Legal, P.C. and Polaris Law Group.
- 3 5. "Class List" means a complete list of all Class Members that Defendant will diligently and
4 in good faith compile from its records and provide to the Settlement Administrator on a
5 confidential basis within thirty (30) calendar days after Preliminary Approval of this
6 Settlement. The Class List will be formatted in Microsoft Office Excel and will include
7 each Class Member's full name; most recent mailing address and telephone number; Social
8 Security number; the respective number of wage statements that each Class Member was
9 issued based on the number of checks during the Class Period and the respective number of
10 wage statements that each Class Member was issued (based on the number of checks from
11 June 13, 2021 through April 30, 2023); and any other relevant information needed to
12 calculate settlement payments.
- 13 6. "Class Member(s)" or "Settlement Class" means all current and former employees employed
14 by Defendant in California who were paid any wages during the Class Period.
- 15 7. "Class Period" or "PAGA Period" means the period from June 13, 2021 through April 30,
16 2023.
- 17 8. "Class Representative Enhancement Payment" means the amount to be paid to Plaintiff in
18 recognition of his effort and work in prosecuting the Action on behalf of Class Members,
19 and for his general release of claims.
- 20 9. "Court" means the Superior Court of the State of California for the County of Sacramento.
- 21 10. "Date of Preliminary Approval" means the date the Court enters an Order preliminarily
22 approving this Settlement Agreement, and the exhibits thereto, and setting a hearing for
23 Final Approval of the Settlement and approval of attorney's fees and costs.
- 24 11. "Defendant" means Defendant Eurofins Environment Testing Northern California, LLC
25 (formerly known as Eurofins Air Toxics, LLC).
- 26 12. "Effective Date" means the date on which the Superior Court's Order granting final
27 approval of this Settlement Agreement ("Final Approval Order") and entering Judgment
28 becomes final. The Court's Order "becomes final" upon the last of the following to occur:

- 1 12(a) If there are no appeals, motions, objections, or petitions to review or
2 intervene taken with respect to this Settlement Agreement, or if any
3 appeal, motion, objection, petition to review or intervene is filed and
4 subsequently withdrawn, the 65th day after Notice of the Court order
5 granting the Final Approval Order and entering Judgment or expiration
6 of the time to appeal, whichever is later; or
7
- 8 12(b) If an appeal, motion, objection, review, writ, or petition to review or
9 intervene is sought from the Final Approval Order, the date after the
10 Final Approval Order and Judgment is affirmed or the appeal, review, or
11 writ is dismissed or denied, and the Final Approval Order and Judgment
12 is no longer subject to further review or modification.
- 13 13. "Gross Settlement Amount" shall be the total amount that Defendant agrees to pay under
14 this Settlement Agreement. The Gross Settlement Amount has a maximum possible value
15 of Two Hundred Sixty Thousand Dollars and No Cents (\$260,000.00) to resolve all
16 Released Claims, any attorneys' fees and costs, Settlement Administration Costs, interest,
17 penalties, payment to the Labor Workforce Development Agency (the "LWDA") as
18 required by the Private Attorneys General Act (the "PAGA"), and Class Representative
19 Enhancement Payment to the named Plaintiff. There will be no reversion of the Gross
20 Settlement Amount to Defendant.
- 21 14. "Individual Settlement Payment" means each Participating Class Member's respective
22 share of the Net Settlement Amount.
- 23 15. "Net Settlement Amount" means the portion of the Gross Settlement Amount eligible to
24 distribution to Participating Class Members after deducting Attorneys' Fees and Costs, the
25 Class Representative Enhancement Payment, the PAGA portion of the settlement payable to
26 the State of California and the Aggrieved Employees, and Settlement Administration Costs.
27 The Net Settlement Amount will be distributed to each Participating Class Members.
- 28 16. "Notice of Objection" means a Class Member's valid and timely written objection to the

- 1 Settlement Agreement. For the Notice of Objection to be valid, it must include: (i) the
2 objector's full name, signature, address, and telephone number, (ii) a written statement of
3 all grounds for the objection accompanied by any legal support for such objection; and (iii)
4 copies of any papers, briefs, or other documents upon which the objection is based.
- 5 17. "Notice" means the Notice of Class Action Settlement, substantially in the form attached
6 as Exhibit A.
- 7 18. "PAGA Aggrieved Employee Payment" shall mean each Aggrieved Employee's share of
8 25% of the PAGA Amount.
- 9 19. "PAGA Released Claims" means all claims that were, or reasonably could have been,
10 alleged, based on the facts alleged in the operative complaint and the notice to the LWDA
11 for: (1) civil penalties under Labor Code §§ 226.3 and 2699 premised on any pay stub or
12 wage statement violation under Labor Code § 226; and (2) all claims for attorneys' fees,
13 costs, and interest that arise from any of the claims listed in (1). This release does not
14 include the Class Released Claims.
- 15 20. "Parties" means Plaintiff and Defendant collectively.
- 16 21. "Participating Class Members" means all Class Members who do not submit timely and
17 valid Requests for Exclusion.
- 18 22. "Participating Individuals" means all Participating Class Members and all Aggrieved
19 Employees.
- 20 23. "Plaintiff" or "Class Representative" means Plaintiff Sean McBurney.
- 21 24. "Preliminary Approval" means the Court order granting preliminary approval of the
22 Settlement Agreement.
- 23 25. "Class Released Claims" means all claims that were, or reasonably could have been, alleged,
24 based on the facts alleged in the operative complaint, including: (1) any pay stub or wage statement
25 violation under Labor Code § 226; (2) any and all penalties that arise from the claims listed in (1),
26 including, but not limited to, statutory penalties under Labor Code section 226, IWC Wage Order
27 4-2001, and any other applicable wage orders; and (3) all claims for attorneys' fees, costs, and
28 interest that arise from any of the claims listed in (1) and (2). This release does not include the

- 1 PAGA released claims.
- 2 26. "Releasees" means Eurofins Environment Testing Northern California, LLC, Eurofins Air
3 Toxics, LLC, Eurofins Air Toxics, Inc., Eurofins Air Toxics Holdings, Inc., and all entities
4 affiliated with them, and all present and former officers, directors, employees, agents, insurers,
5 assigns, representatives, owners, partners, subsidiaries, parent companies, joint venturers,
6 shareholders, clients, joint employers, predecessors, managers, members, servants, successors-in-
7 interest, assigns, attorneys, all persons or entities acting in concert with or affiliated with any of
8 them, and any person or entity that could be liable for the Released Claims (collectively
9 "Releasees").
- 10 27. "Request for Exclusion" or "Opt-Out Request" are used herein interchangeably, and shall
11 mean a Class Member's written request to be excluded from the Settlement. The Request
12 for Exclusion must: (i) set forth the name, address, telephone number and last four digits
13 of the Social Security Number of the Class Member requesting exclusion; (ii) be signed by
14 the Class Member; (iii) be returned to the Settlement Administrator; (iv) clearly state that
15 the Class Member does not wish to be included in the Settlement; and (v) be faxed or
16 postmarked on or before the Response Deadline.
- 17 28. "Response Deadline" means the deadline by which Class Members must postmark or fax
18 to the Settlement Administrator Requests for Exclusion, or postmark Notices of Objection
19 to the Settlement Administrator. The Response Deadline will be forty-five (45) calendar
20 days from the initial mailing of the Notice by the Settlement Administrator, unless the 45th
21 day falls on a Sunday or State holiday, in which case the Response Deadline will be
22 extended to the next day on which the U.S. Postal Service is open. The Parties agree to
23 provide a fifteen (15) day extension to class members who receive a re-mailed Notice.
- 24 29. "Settlement Administration Costs" means the costs payable from the Gross Settlement
25 Amount to the Settlement Administrator for administering this Settlement, including, but
26 not limited to, printing, distributing, and tracking documents for this Settlement, tax
27 reporting, distributing the Gross Settlement Amount, and providing necessary reports and
28 declarations, as requested by the Parties. The Settlement Administration Costs will be paid

1 from the Gross Settlement Amount, including, if necessary, any such costs in excess of the
2 amount represented by the Settlement Administrator as being the maximum costs
3 necessary to administer the Settlement. The Settlement Administration Costs is estimated
4 to be Eight Thousand Dollars (\$8,000).

5 30. "Settlement Administrator," shall be Phoenix Settlement Administrators. The Parties each
6 represent that they do not have any financial interest in the Settlement Administrator or
7 otherwise have a relationship with the Settlement Administrator that could create a conflict
8 of interest.

9 31. "Wage Statements" means the number wage statements issued to the Class Members
10 during the Class Period. Defendant has represented in connection with mediation that there are
11 approximately 6,000 pay periods in which wage statements were issued during the time period
12 from June 13, 2021 to December 29, 2022 to the Settlement Class. Should the number of pay
13 periods during this time period (i.e., June 13, 2021 to December 29, 2022) exceed 10% of the
14 represented estimate for this time period, Plaintiff will have the option to rescind the settlement
15 agreement.

16 **TERMS OF AGREEMENT**

17 The Plaintiff, on behalf of himself and the Settlement Class, and Defendant agree as
18 follows:

19 32. The Parties have stipulated to certification of the Class for settlement purposes only and
20 this Agreement requires preliminary and final approval by the Court. Accordingly, this
21 Agreement is contingent upon the approval and certification by the Court. If the Court does
22 not grant either Preliminary or Final Approval of the Settlement, the fact that the Parties
23 were willing to stipulate to class certification for the purposes of this Agreement shall have
24 no bearing on, nor be admissible in connection with, the issues of whether any class should
25 be certified in a non-settlement context. Defendant expressly reserves the right to challenge
26 the propriety of class certification for any purpose if the Settlement does not become final.

27 33. **Funding of the Gross Settlement Amount.** Within fifteen (15) business days after the
28 Effective Date, Defendant will make a one-time deposit of the Gross Settlement Amount

1 of Two Hundred Sixty Thousand Dollars and No Cents (\$260,000.00) into a Qualified
2 Settlement Fund to be established by the Settlement Administrator. After the Effective
3 Date, Defendant shall pay the Gross Settlement Amount in settlement of all individual,
4 class and PAGA claims in the Action. The Gross Settlement Amount shall constitute the
5 maximum total Settlement amount paid by Defendant. The Gross Settlement Amount will
6 be used for: (1) payments to the Participating Individuals; (2) class counsel's fees; (3) class
7 counsel's costs; (4) settlement administrator expenses; (5) the incentive/service payment to
8 Plaintiff; and (6) the portion of the PAGA Amount payable to the State of California.

9 34. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or
10 motion by Class Counsel for Attorneys' Fees up to 35% of the Gross Settlement Amount
11 (currently estimated at Ninety One Thousand Dollars and Zero Cents (\$91,000.00)), plus
12 reimbursement of costs and expenses incurred in association with Class Counsel's
13 litigation and settlement of the Action, not to exceed Thirty Thousand Dollars
14 (\$30,000.00), both of which will be paid from the Gross Settlement Amount and are
15 subject to Court approval. If the Court reduces the amount of Class Counsels' fees and
16 costs in the course of the settlement approval process, only the amount approved by the
17 Court shall be paid to Class Counsel. Any Attorneys' Fees and Costs sought but not
18 awarded by the Court will be added to the Net Settlement Amount.

19 35. Class Representative Enhancement Payment. Plaintiff will request Court approval of a
20 Class Representative Enhancement Payment of Ten Thousand Dollars (\$10,000.00).
21 Defendant agrees not to oppose an application by Plaintiff for an individual payment of \$10,000, as
22 an incentive award and for his general release of claims. Any such payment will be paid out of the
23 Gross Settlement Amount. Only the amount approved by the Court will be paid to Plaintiff. Any
24 amount of the incentive award/payment for Plaintiff's General Release not approved by the Court
25 will be added to the Net Settlement Amount.

26 36. Settlement Administration Costs. The Settlement Administrator will be paid for the
27 reasonable costs of administration of the Settlement and distribution of payments from the
28 Gross Settlement Amount, which is currently estimated to be Eight Thousand Dollars

1 (\$8,000). These costs, which will be paid from the Gross Settlement Amount, will include,
2 *inter alia*, the required tax reporting on the Individual Settlement Payments, the issuing of
3 1099 forms, distributing Notices, calculating and distributing the Gross Settlement
4 Amount, and providing necessary reports and declarations.

5 37. PAGA Amount. The amount of \$15,000 shall be allocated to civil penalties recoverable under
6 the Private Attorneys General Act, Cal. Lab. Code § 2698, et seq., with 75% to be paid to the State
7 of California from the Gross Settlement Amount, and 25% to be distributed to the aggrieved
8 employees as their PAGA Aggrieved Employees Payment. Any additional allocation required by
9 the court or the Labor Workforce Development Agency will be deducted from the Gross
10 Settlement Amount.

11 38. Net Settlement Amount. The “Net Settlement Amount” is the Gross Settlement Amount
12 *minus*: (1) Plaintiff’s counsel’s fees and costs; (2) the incentive awards/payment for
13 general release to Plaintiff; (3) the PAGA portion of the settlement payable to the State of
14 California and to the Aggrieved Employees; and (4) the cost of administration of settlement.

15 39. Individual Settlement Payment Calculations. Individual Settlement Payments will be
16 calculated and apportioned from the Net Settlement Amount based on the number of Wage
17 Statements each Participating Class Member was issued during the Class Period. Specific
18 calculations of Individual Settlement Payments will be made as follows:

19 39(a) The Settlement Administrator will calculate an estimated “Individual
20 Settlement Payment” based on the total number of Wage Statements
21 issued to each Class Member during the Class Period and the aggregate
22 total number of Wage Statements issued to all Class Members during
23 the Class Period.

24 39(b) To determine each Class Member’s estimated “Individual Settlement
25 Payment,” the Settlement Administrator will use the following formula:
26 Each Participating Class Members shall be entitled to receive a pro rata
27 portion of the Net Settlement Fund (their “Individual Settlement
28 Share”), calculated based upon the number of Wage Statements issued

1 thereby during the Class Period, divided by the total number of Wage
2 Statements issued to all Participating Class Members during said period.
3 The Settlement Administrator will calculate the number of Wage
4 Statements issued to Participating Class Members, the amount to be
5 paid per Wage Statements, and the Individual Settlement Share to be
6 paid to each Participating Class Member.

7 39(c) The Individual Settlement Payment will be reduced by any required
8 deductions for each Participating Class Members as specifically set
9 forth herein.

10 39(d) The entire Net Settlement Amount will be disbursed to all Class
11 Members who do not submit timely and valid Requests for Exclusion,
12 i.e. to all Participating Class Members. If there are any valid and timely
13 Requests for Exclusion, the Settlement Administrator shall
14 proportionately increase the Individual Settlement Payment for each
15 Participating Class Member according to the number of Wage
16 Statements issued to all Participating Class Members, so that the amount
17 actually distributed to the Participating Class Members equals 100% of
18 the Net Settlement Amount.

19 40. Labor and Workforce Development Agency Payment. Subject to Court approval, the
20 Parties agree that the amount of \$15,000 from the Gross Settlement Amount will be paid in
21 settlement of all individual and representative claims brought in the Action by or on behalf
22 of Plaintiff and Aggrieved Employees under the Labor Code Private Attorneys General
23 Act of 2004 (Cal. Lab. Code §§ 2698, et seq., "PAGA"). Pursuant to PAGA, Seventy-Five
24 Percent (75%), or Eleven Thousand Two Hundred and Fifty Dollars (\$11,250), of this sum
25 will be paid to the Labor and Workforce Development Agency ("LWDA") and Twenty-
26 Five Percent (25%), or Three Thousand Seven Hundred and Fifty Dollars (\$3,750.00), will
27 be allocated to Aggrieved Employees as provided in Paragraph 40. Payment to the LWDA
28 shall be made by the Settlement Administrator within thirty (30) days after the Effective

1 Date or as soon as reasonably practicable. Plaintiff agrees to provide timely notice to the
2 LWDA of the settlement as necessary to effectuate this Agreement.

3 41. PAGA Aggrieved Employees Payments. PAGA Aggrieved Employees Payments will be
4 calculated and apportioned from 25% of the PAGA Amount (\$3,750.00) based on the
5 number of Wage Statements each Class Member was issued during the PAGA Period.
6 Specific calculations of PAGA Aggrieved Employees Payments will be made as follows:

7 41(a) The Settlement Administrator will calculate the total number of Wage
8 Statements issued to each Aggrieved Employee during the PAGA
9 Period and the aggregate total number of Wage Statements issued to all
10 Aggrieved Employees during the PAGA Period.

11 41(b) To determine each Aggrieved Employees' estimated "PAGA Aggrieved
12 Employees Payment" the Settlement Administrator will use the
13 following formula: Each Aggrieved Employee shall be entitled to
14 receive a pro rata portion of the 25% of the PAGA Amount (\$3,750),
15 calculated based upon the number of Wage Statements issued thereby
16 during the PAGA Period, divided by the total number of Wage
17 Statements issued to all Aggrieved Employees during said period. The
18 Settlement Administrator will calculate the number of Wage Statements
19 issued to Aggrieved Employees, the amount to be paid per Wage
20 Statements, and the PAGA Aggrieved Employees Payments to be paid
21 to each Class Member.

22 41(c) The entire 25% of the PAGA Amount (\$3,750.00) will be disbursed to
23 all Aggrieved Employees regardless of whether they submit timely and
24 valid Requests for Exclusion.

25 42. Timing of Payments. The Settlement Administrator shall mail the Individual Settlement
26 Payments and PAGA Aggrieved Employees Payments to Participating Individuals within
27 ten (10) days after the Defendant's deadline to deposit the Gross Settlement Amount into
28 the Settlement Administrator's designated account or as soon as reasonably practicable

thereafter. The Settlement Administrator shall then provide written certification of mailing to Class Counsel and Defendants' Counsel.

43. No Credit Toward Benefit Plans. The Individual Settlement Payments made to each Participating Individual under this Settlement, as well as any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

44. Administration Process. The Parties agree to cooperate in the administration of the settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement.

45. Delivery of the Class List. Within thirty (30) calendar days of Preliminary Approval, Defendant will provide the Class List, on a confidential basis, to the Settlement Administrator.

46. Notice by First-Class U.S. Mail. Within ten (10) calendar days after receiving the Class List from Defendant, the Settlement Administrator will mail a Notice to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

47. Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any Notices returned to the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Notice. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or

1 other search using the name, address and/or Social Security number of the Class Member
2 involved, and will then perform a single re-mailing.

3 48. Notices. All Class Members will be mailed a Notice. Each Notice will provide: (i)
4 information regarding the nature of the Action; (ii) a summary of the Settlement's principal
5 terms; (iii) the Settlement Class definition; (iv) the total number of Wage Statements each
6 respective Class Member was issued by Defendant during the Class Period; (v) each Class
7 Member's estimated Individual Settlement Payment and the formula for calculating
8 Individual Settlement Payments; (vi) the dates which comprise the Class Period; (vii)
9 instructions on how to submit Requests for Exclusion or Notices of Objection; (viii) the
10 deadlines by which the Class Member must postmark or fax Request for Exclusions, or
11 postmark Notices of Objection to the Settlement; and (ix) the claims to be released. The
12 Parties will jointly prepare a Notice to be submitted to the Court for approval prior to
13 mailing.

14 49. Disputes Concerning Wage Statement Calculations. In calculating each individual Class
15 Member's share of the Net Settlement Amount, Defendant's records regarding Wage
16 Statements issued to each Class Member during the Class Period shall be presumed
17 correct. Class Members who challenge Defendant's records must submit a challenge in
18 writing to the Settlement Administrator and will bear the burden of proof, i.e., a Class
19 Member who fails to provide written documentation supporting a different number of
20 Wage Statements will have his or her challenge denied. All such challenges must be
21 received by the Response Deadline. Defendant and the Settlement Administrator will
22 coordinate to investigate the challenge and determine whether any correction to the number
23 of Wage Statements should be made. In no case will a challenge to the number of Wage
24 Statements result in a payment by Defendant in excess of the Gross Settlement Amount.
25 The Settlement Administrator will resolve the challenge and make a final and binding
26 determination without hearing or right of appeal.

27 50. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the
28 requirements listed herein, that Class Member will be given an opportunity to cure the

1 defect(s). The Settlement Administrator will mail the Class Member a cure letter within
2 three (3) business days of receiving the defective submission to advise the Class Member
3 that his or her submission is defective and that the defect must be cured to render the
4 Request for Exclusion valid. The Class Member will have until the later of (i) Response
5 Deadline or (ii) fifteen (15) calendar days from the date of the cure letter, whichever date is
6 later, to postmark or fax a revised Request for Exclusion. If the revised Request for
7 Exclusion is not postmarked or received by fax within that period, it will be deemed
8 untimely.

- 9 51. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
10 Settlement Agreement must sign and postmark a written Request for Exclusion to the
11 Settlement Administrator prior to the Response Deadline. In the case of Requests for
12 Exclusion that are mailed to the Settlement Administrator, the postmark date will be the
13 exclusive means to determine whether a Request for Exclusion has been timely submitted.
- 14 52. Class Released Claims. Upon the Effective Date, Plaintiff and all Participating Class Members
15 (on behalf of themselves and their respective former and present representatives, agents,
16 attorneys, executors, heirs, administrators, successors, and assigns), shall and hereby do
17 release and discharge all Releasees, finally, forever and with prejudice, from any and all
18 Class Released Claims during the class period.
- 19 53. PAGA Released Claims. Upon the Effective Date, Plaintiff, the LWDA, and Aggrieved
20 Employees, shall and hereby do release and discharge all Releasees, finally, forever and
21 with prejudice, from any and all PAGA Released Claims during the Class Period. The Parties
22 agree that there shall be no right for any Aggrieved Employee to opt out or otherwise exclude
23 himself or herself from the release of PAGA claims. The Parties intend and agree that the Final
24 Approval Order and the Judgment entered as a result of this Settlement shall have res
25 judicata and preclusive effect to the fullest extent allowed by law and shall also be
26 effective to adjudicate and release the claims and/or rights of the LWDA to recover civil
27 penalties against the Releasees on behalf of the Aggrieved Employees for any PAGA
28 Released Claims (i.e., the Judgment on this Settlement will have res judicata effect as to

1 those claims of the LWDA, whether pursued directly by the LWDA or by a representative
2 pursuant to PAGA).

3 54. Release by Plaintiff. Plaintiff will release the Releasees of any and all claims, obligations,
4 demands, actions, rights, causes of action, and liabilities against the Releasees, of whatever kind
5 and nature, character, and description whether sounding in tort, contract, federal, state and/or local
6 law, statute, ordinance, regulation, common law, or other source of law or contract, whether known
7 or unknown, and whether anticipated or unanticipated, including all unknown claims covered by
8 California Civil Code section 1542 that could be or are asserted based upon any theory or facts
9 whatsoever, arising at any time up to and including the date of the execution of the settlement
10 agreement. This includes, but is not limited to, all claims pled in the First Amended Complaint,
11 claims for unpaid wages, waiting time penalties, pay stub violations and all other claims for
12 recovery including, but not limited to, damages, statutory penalties, civil penalties, under Labor
13 Code section 2698 *et seq.*, Labor Code sections 201-204, 210, 216, 221-223, 226, 226.3, 226.7,
14 245-248.5, 256, 266.8, 510, 511, 512, 515, 558, 558.1, 1174, 1174.5, 1194, 1197, 1197.1, 1198,
15 1199, 2802, 2810.5, IWC Wage Order 4-2001 and any other applicable wage orders, Business and
16 Professions Code section 17200 *et seq.*, and any and all claims or potential claims for attorneys'
17 fees and costs. To the extent the foregoing release is a release to which Section 1542 of the
18 California Civil Code or similar provisions of other applicable law may apply, Plaintiff
19 expressly waives any and all rights and benefits conferred upon him by the provisions of
20 Section 1542 of the California Civil Code or similar provisions of applicable law which are
21 as follows:

22 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR
23 DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME
24 OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST
25 HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
26 DEBTOR.

27 Plaintiff may hereafter discover facts in addition to or different from those he now knows
28 or believes to be true with respect to the subject matter of the General Release, but Plaintiff

1 upon the Effective Date, shall be deemed to have, and by operation of the Final Order shall
2 have, fully, finally, and forever settled and released any and all of the claims released
3 pursuant to the General Release whether known or unknown, suspected or unsuspected,
4 contingent or non-contingent, which now exist, or heretofore have existed upon any theory
5 of law or equity now existing or coming into existence in the future, including, but not
6 limited to, conduct that is negligent, intentional, with or without malice, or a breach of any
7 duty, law or rule, without regard to the subsequent discovery or existence of such different
8 or additional facts.

9 55. Objection Procedures. To object to the Settlement Agreement, a Class Member should
10 postmark a valid Notice of Objection to the Settlement Administrator on or before the
11 Response Deadline. At no time will any of the Parties or their counsel seek to solicit or
12 otherwise encourage Class Members to submit written objections to the Settlement
13 Agreement or appeal from the Order and Judgment. Class Counsel will not represent any
14 Class Members with respect to any such objections to this Settlement, nor any future
15 putative Class Members who have timely excluded themselves from the settlement herein.
16 Nevertheless, even if a Class Member does not submit a written objection pursuant to these
17 Objection Procedures, the Class Member may still appear at the Final Approval Hearing
18 and orally object to this Settlement.

19 56. Certification Reports Regarding Individual Settlement Payment Calculations. The
20 Settlement Administrator will provide Defendant's counsel and Class Counsel a weekly
21 report that certifies the number of Class Members who have submitted valid Requests for
22 Exclusion, objections to the Settlement, and whether any Class Member has submitted a
23 challenge to any information contained in their Notice. Additionally, the Settlement
24 Administrator will provide to counsel for both Parties any updated reports regarding the
25 administration of the Settlement Agreement as needed or requested.

26 57. Distribution Timing of Individual Settlement Payments. Within twenty (20) calendar days
27 of receiving the Gross Settlement Amount from Defendant, the Settlement Administrator
28 will issue payments to: (i) Participating Individuals; (ii) Plaintiff; (iii) Class Counsel; and

- (iv) itself for Court-approved services performed in connection with the Settlement.
58. Un-cashed Settlement Checks. Settlement checks will remain valid for a period of 180 calendar days after they issue. Any check not cashed within 180 calendar days will be distributed to the California State Controller Unclaimed Property Fund and held in the name of the Settlement Class Member.
59. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify the total amount that was paid to all class members and ensure that distribution of the un-cashed funds be tendered to the California State Controller Unclaimed Property Fund.
60. Treatment of Individual Settlement Payments. Each putative class member's settlement award will be apportioned as follows: 100% penalties and interest. The penalties and interest shall be reported by IRS 1099 forms.
61. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will be responsible for issuing to Plaintiff, Participating Individuals, and Class Counsel any 1099 forms as may be required by law for all amounts paid pursuant to this Settlement.
62. Tax Liability. Defendant, Defendant's counsel and Class Counsel make no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff and Participating Individuals are not relying on any statement, representation, or calculation by Defendant or by the Settlement Administrator in this regard.
63. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES

1 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED);
2 (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS,
3 HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE
4 (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS
5 NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
6 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR
7 ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON
8 ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER
9 TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE
10 IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR
11 ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
12 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR
13 ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION
14 IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY
15 OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION,
16 INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

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

21 65. Nullification of Settlement Agreement. In the event that: (i) the Court does not finally
22 approve the Settlement as provided herein; or (ii) the Settlement does not become final for any
23 other reason, then this Settlement Agreement, and any documents generated to bring it into effect,
24 will be null and void. Any order or judgment entered by the Court in furtherance of this Settlement
25 Agreement will likewise be treated as void from the beginning. Any funds paid into the Settlement
26 Fund shall be returned to the Defendant. Complaint. The Parties stipulate and agree that for
27 settlement purposes only to the filing of an amended complaint if necessary to otherwise
28 effectuate the Release in this Settlement Agreement promptly after execution of this

- 1 Settlement Agreement. The Parties further stipulate and agree that Plaintiff shall file an
2 amended PAGA letter (“Amended PAGA Letter”) to the LWDA consistent with this
3 Agreement to effectuate this Agreement and/or the Releases in Paragraphs 51 and 52.
- 4 66. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to request the
5 Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order
6 for: (i) conditional certification of the Settlement Class for settlement purposes only, (ii)
7 preliminary approval of the proposed Settlement Agreement, (iii) setting a date for a Final
8 Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the
9 Notice to be sent to all Class Members as specified herein. In conjunction with the Preliminary
10 Approval hearing, Plaintiff will submit this Settlement Agreement, which sets forth the terms of
11 this Settlement, and will include the proposed Notice, which will include the proposed Notice of
12 Class Action Settlement document, attached as Exhibit A. Class Counsel will be responsible for
13 drafting all documents necessary to obtain preliminary approval, subject to the approval of
14 Defendant’s counsel. Class Counsel shall provide Defendants’ counsel a copy of a draft motion for
15 Preliminary Approval of Settlement Agreement at least five (5) business days in advance of filing it
16 with the Court.
- 17
- 18 67. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
19 deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement,
20 and with the Court’s permission, a Final Approval/Settlement Fairness Hearing will be
21 conducted to determine the Final Approval of the Settlement Agreement along with the
22 amounts properly payable for: (i) Individual Settlement Payments; (ii) the Class
23 Representative Enhancement Payment; (iii) Attorneys’ Fees and Costs; (iv) all Settlement
24 Administration Costs; and (v) allocation of PAGA penalties (PAGA Aggrieved Employee
25 Payments and . Class Counsel will be responsible for drafting all documents necessary to
26 obtain final approval. Class Counsel will also be responsible for drafting the application
27 for Attorneys’ Fees and Costs to be heard at the final approval hearing, subject to approval
28 by Defendant’s counsel. Class Counsel shall provide Defendants’ counsel a copy of a draft

1 motion for Final Approval of Settlement Agreement at least five (5) business days in advance of
2 filing it with the Court.

3 68. Right to Revoke. Defendant may, in its discretion, withdraw from the settlement if more than ten
4 percent (10%) of the putative class members opt out of the settlement. In this event, the settlement
5 shall be considered void *ab initio* and shall be of no force or effect whatsoever and shall not be
6 referred to or utilized for any purpose whatsoever. However, if revoked by Defendant, all
7 settlement administration costs shall be entirely paid by Defendant. The Parties agree not to
8 encourage putative class members to opt out of the settlement. Further, Class Counsel represents
9 that they have not encouraged other employees to opt out or to pursue individual claims against
10 Defendant.

11 69. Court Approval. If the Court fails to approve the settlement for any reason, the settlement shall be
12 considered void *ab initio* and shall be of no force or effect whatsoever and shall not be referred to
13 or utilized for any purpose whatsoever

14 70. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by the Court
15 or after the Final Approval/Settlement Fairness Hearing, the Parties will present the
16 Judgment to the Court for its approval which enters judgement in the Action in accordance
17 with the terms of the Settlement. After entry of the Judgment, the Court will have
18 continuing jurisdiction solely for purposes of addressing: (i) the interpretation and
19 enforcement of the terms of the Settlement, (ii) Settlement administration matters, and (iii)
20 such post-Judgment matters pursuant to Code of Civil Procedure §384 and as may be
21 appropriate under court rules or as set forth in this Settlement Agreement.

22 71. Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the
23 terms set forth in any attached Exhibits, which are incorporated by this reference as though
24 fully set forth herein. Any Exhibits to this Settlement Agreement are an integral part of the
25 Settlement.

26 72. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the
27 entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral
28 agreements may be deemed binding on the Parties. The Parties expressly recognize

1 California Civil Code Section 1625 and California Code of Civil Procedure Section
2 1856(a), which provide that a written agreement is to be construed according to its terms
3 and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no
4 such extrinsic oral or written representations or terms will modify, vary or contradict the
5 terms of this Settlement Agreement.

6 73. Amendment or Modification. No amendment, change, or modification to this Settlement
7 Agreement will be valid unless in writing and signed, either by the Parties or their counsel.

8 74. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
9 represent they are expressly authorized by the Parties whom they represent to negotiate this
10 Settlement Agreement and to take all appropriate action required or permitted to be taken
11 by such Parties pursuant to this Settlement Agreement to effectuate its terms and to
12 execute any other documents required to effectuate the terms of this Settlement
13 Agreement. The Parties and their counsel will cooperate with each other and use their best
14 efforts to effect the implementation of the Settlement. If the Parties are unable to reach
15 agreement on the form or content of any document needed to implement the Settlement, or
16 on any supplemental provisions that may become necessary to effectuate the terms of this
17 Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

18 75. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and
19 inure to the benefit of, the successors or assigns of the Parties hereto, as previously
20 defined.

21 76. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto will
22 be governed by and interpreted according to the laws of the State of California.

23 77. Execution and Counterparts. This Settlement Agreement is subject only to the execution
24 of all Parties. However, the Settlement Agreement may be executed in one or more
25 counterparts and by DocuSign. All executed counterparts and each of them, including
26 facsimile, DocuSigned, and scanned copies of the signature page, will be deemed to be one
27 and the same instrument provided that counsel for the Parties will exchange among
28 themselves original signed counterparts.

- 1 78. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
2 Settlement Agreement is a fair, adequate and reasonable settlement of the Action and have
3 arrived at this Settlement after arm's-length negotiations using an experienced class action
4 mediator familiar with this specific type of litigation and in the context of adversarial
5 litigation, taking into account all relevant factors, present and potential. The Parties further
6 acknowledge that they are each represented by competent counsel and that they have had
7 an opportunity to consult with their counsel regarding the fairness and reasonableness of
8 this Settlement.
- 9 79. Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement
10 invalid, the Court will first attempt to construe the provision as valid to the fullest extent
11 possible consistent with applicable precedents so as to define all provisions of this
12 Settlement Agreement valid and enforceable.
- 13 80. Waiver of Certain Appeals. Upon Final Court Approval, the Parties agree to waive
14 appeals and to stipulate to class certification for purposes of this Settlement only; except,
15 however, that Plaintiff or Class Counsel may appeal any reduction to the Attorneys' Fees
16 and Costs below the amount they request from the Court, and either party may appeal any
17 court order that materially alters the Settlement Agreement's terms.
- 18 81. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to
19 class action certification for purposes of the Settlement only. This includes the designation
20 of the class members as representative parties or aggrieved parties under the PAGA. If, for
21 any reason, the Settlement is not approved, the stipulation to certification will be void.
22 The Parties further agree that certification for purposes of the Settlement is not an
23 admission that class action certification is proper under the standards applied to contested
24 certification motions and that this Settlement Agreement will not be admissible in this or
25 any other proceeding as evidence that either (i) a class action should be certified or (ii)
26 Defendant is liable to Plaintiff or any Class Member, other than according to the
27 Settlement's terms.
- 28 82. Non-Admission of Liability. The Parties enter into this Settlement to resolve the dispute

1 that has arisen between them and to avoid the burden, expense and risk of continued
2 litigation. In entering into this Settlement, Defendant does not admit, and specifically
3 denies, that it violated any federal, state, or local law; violated any regulations or
4 guidelines promulgated pursuant to any statute or any other applicable laws, regulations or
5 legal requirements; breached any contract; violated or breached any duty; engaged in any
6 misrepresentation or deception; or engaged in any other unlawful conduct with respect to
7 its employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor
8 any of the negotiations connected with it, will be construed as an admission or concession
9 by Defendant of any such violations or failures to comply with any applicable law. Except
10 as necessary in a proceeding to enforce the terms of this Settlement, this Settlement
11 Agreement and its terms and provisions will not be offered or received as evidence in any
12 action or proceeding to establish any liability or admission on the part of Defendant or to
13 establish the existence of any condition constituting a violation of, or a non-compliance
14 with, federal, state, local or other applicable law.

15 83. Confidentiality Prior to Preliminary Approval. Plaintiff warrants that prior to Preliminary Approval
16 he will not disclose, disseminate and/or publicize, cause or permit to be disclosed, disseminated or
17 publicized, any of the terms of this Agreement, specifically or generally, to any person,
18 corporation, association, governmental agency, or other entity except: (1) to his attorneys,
19 accountants, or spouses, all of whom will also be instructed to keep this settlement agreement
20 confidential; (2) to the extent necessary to report income to appropriate taxing authorities; (3) in
21 response to an order of a court of competent jurisdiction or a subpoena issued under the authority
22 thereof; or (4) in response to an inquiry or subpoena issued by a state or federal governmental
23 agency. It is understood and agreed that notice of receipt by Plaintiff of any such judicial or agency
24 order, inquiry or subpoena shall immediately be communicated by the recipient to counsel for
25 Defendant telephonically, and then confirmed immediately thereafter in writing, so that Defendant
26 will have an opportunity to intervene to assert what rights it may have to non-disclosure prior to
27 responses to said order, inquiry or subpoena. Plaintiff specifically warrants that he will not directly
28 or indirectly initiate any conversation or other communication with any person regarding this

1 settlement agreement, or the matters giving rise to this settlement agreement prior to Preliminary
2 Approval, unless such communication is required to obtain Preliminary Approval from the Court.
3 If asked about this settlement agreement or the matters giving rise to this the settlement agreement,
4 Plaintiff shall respond by stating only that "the matter was resolved," or words to that effect.

5 84. Publicity. Plaintiff and his counsel agree not to issue a press release or otherwise communicate
6 with the media about the terms of the settlement. Plaintiff and his counsel may not advertise any of
7 the terms of the settlement prior to preliminary approval. Plaintiff and his counsel further agree
8 that if contacted regarding this case prior to preliminary approval or by the media, they will state
9 only that the lawsuit exists and has been resolved. This provision shall not prohibit Plaintiff's
10 counsel from communicating with class members after preliminary approval is granted.

11 85. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement
12 or failure to exercise a right or remedy by any of the Parties hereto will be considered to
13 imply or constitute a further waiver by such party of the same or any other condition,
14 covenant, right or remedy.

15 86. Enforcement Actions. In the event that one or more of the Parties institutes any legal
16 action or other proceeding against any other Party or Parties to enforce the provisions of
17 this Settlement or to declare rights and/or obligations under this Settlement, the successful
18 Party or Parties will be entitled to recover from the unsuccessful Party or Parties
19 reasonable attorneys' fees and costs, including expert witness fees incurred in connection
20 with any enforcement actions.

21 87. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
22 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not
23 be construed more strictly against one party than another merely by virtue of the fact that it
24 may have been prepared by counsel for one of the Parties, it being recognized that, because
25 of the arms-length negotiations between the Parties, all Parties have contributed to the
26 preparation of this Settlement Agreement.

27 88. Representation By Counsel. The Parties acknowledge that they have been represented by
28 counsel throughout all negotiations that preceded the execution of this Settlement

1 Agreement, and that this Settlement Agreement has been executed with the consent and
2 advice of counsel. Further, Plaintiff and Class Counsel warrant and represent that there are
3 no liens on the Settlement Agreement.

4 89. All Terms Subject to Final Court Approval. All amounts and procedures described in this
5 Settlement Agreement herein will be subject to final Court approval.

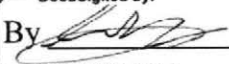
6 90. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
7 faith and execute all documents to the extent reasonably necessary to effectuate the terms
8 of this Settlement Agreement.

9 91. Binding Agreement. The Parties warrant that they understand and have full authority to
10 enter into this Settlement Agreement, and further intend that this Settlement Agreement
11 will be fully enforceable and binding on all parties, and agree that it will be admissible and
12 subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation
13 confidentiality provisions that otherwise might apply under federal or state law.

14
15 [SIGNATURES APPEAR ON FOLLOWING PAGE]

16 [REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
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28

1 Dated: September 15, 2023

DocuSigned by:
By 
936AE9D4200742D...
SEAN MCBURNEY

4 Dated: September 15, 2023

By 
EUROFINS ENVIRONMENT TESTING
NORTHERN CALIFORNIA, LLC

8 **APPROVED AS TO FORM:**

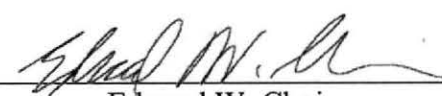
10 Dated: September 15, 2023

CONSTANGY, BROOKS, SMITH & PROPHETE
LLP

By 
Barbara I. Antonucci
Sarah K. Hamilton
Attorneys for Defendants

17 Dated: September 15, 2023

LAW OFFICES OF CHOI & ASSOCIATES

By 
Edward W. Choi
Attorneys for Plaintiff SEAN MCBURNEY

22 Dated: September 15, 2023

DIVERSITY LAW GROUP

By 
Larry W. Lee
Attorneys for Plaintiff SEAN MCBURNEY

1 DATED: December 1, 2023

POLARIS LAW GROUP

2
3 By: William L. Marder
4 William L. Marder
Attorneys for SEAN MCBURNEY

5 DATED: December 1, 2023

HYUN LEGAL, APC

6 By: Dennis S. Hyun
7 Dennis S. Hyun
Attorneys for SEAN MCBURNEY

EXHIBIT A

McBurney v. Eurofins Environment Testing Northern California, LLC

Sacramento Superior Court Case No. 34-2022-00321801

Notice of Class and PAGA Action Settlement

***You are not being sued. This notice affects your rights. Please read it carefully
A California Court authorized this Notice. This is not a solicitation from a lawyer.***

To: “Class Member” which means all current and former employees employed by Defendant Eurofins Environment Testing Northern California, LLC (formerly known as Eurofins Air Toxics, LLC) (“Defendant”) in California who were paid any wages from June 13, 2021 through April 30, 2023 (the “Class Period”).

All persons who meet the Class Member definition are also considered “Aggrieved Employees” under the terms of the settlement of certain California Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.* (“PAGA”) claims. This definition is for settlement purposes only and is not an admission of any wrongdoing by Defendant.

You have received this Notice because Defendant’s records indicate that you are a Class Member and Aggrieved Employee and are entitled to a settlement payment.

YOUR ESTIMATED CLASS AND PAGA PAYMENTS
According to Defendant’s records, you were issued a total of ____ Wage Statements during the Class Period and your estimated gross Individual Settlement is approximately \$ ____.
According to Defendant’s records, you were issued a total of ____ Wages Statements during the PAGA Period your estimated Individual PAGA Payment \$ ____.
Based on the above, your total estimated gross payment from the Settlement is approximately \$ ____.

On _____, 2023, the Honorable Lauri A. Damrell of the Sacramento County Superior Court granted preliminary approval of this class action and PAGA settlement. **Unless you choose to opt out of the Class Settlement by following the procedures described below, you will be deemed a Participating Class Member. If the Court grants final approval of the settlement, Participating Class Members and all Aggrieved Employees will be mailed a check for their share of the Net Settlement Amount.** The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at _____.m. on [INSERT DATE] in Department 28 of the Sacramento County Superior Court located at 720 9th Street, Sacramento, California 95814.

The Final Approval Hearing may be rescheduled by the Court to another date and/or time. Please check with the Settlement Administrator or Class Counsel for any scheduling changes. Contact information is provided below. As discussed below, you may also review the Court’s online records at <https://www.saccourt.ca.gov>.

If you move, you must send the Settlement Administrator your new address; otherwise, you may not receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator.

Summary of the Litigation

Plaintiff Sean McBurney, on behalf of other current and former employees, allege that Defendant violated California state labor laws by failing to provide compliant wage statements.

On January 31, 2023, the parties participated in a mediation with Steve Serratore, Esq., a neutral, experienced, and well-respected class action mediator. After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. With Mr. Serratore's guidance, the parties were able to negotiate a complete settlement of Plaintiff's claims.

Counsel for Plaintiff, and the attorneys appointed by the Court to represent the class, Diversity Law Group, Hyun Legal, APC, Law Offices of Choi & Associates, and Polaris Law Group (collectively, "Class Counsel"), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement.

Defendant has denied, and continues to deny, the factual and legal allegations in the case, and believes that it has valid defenses to Plaintiff's claims. By agreeing to settle, Defendant is not admitting liability on any of the factual or legal allegations or claims in the case or that the case can or should proceed as a class action. Defendant has agreed to settle the case as part of a compromise with Plaintiff.

Summary of The Proposed Settlement Terms

Plaintiff and Defendant have agreed to settle the underlying class claims in exchange for a Gross Settlement Amount of \$260,000. This amount is inclusive of: (1) all Individual Settlement Payments; (2) Class Representative Incentive Awards/General Release Payment of \$10,000 to Sean McBurney for his services on behalf of the Class, and for a release of all claims arising out of his employment with Defendant; (3) \$91,000 in attorneys' fees and actual litigation expenses estimated not to exceed \$30,000; (4) a \$15,000 settlement of claims under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), inclusive of a \$11,250 payment to the California Labor and Workforce Development Agency ("LWDA") and a \$3,750 payment ("PAGA Aggrieved Employee Payment") to all Aggrieved Employees; and (5) reasonable Settlement Administrator's Costs currently estimated at \$8,000. After deducting the above payments, a total of approximately \$106,000 (the "Net Settlement Amount") will be allocated to Class Members who do not opt out of the Settlement ("Participating Class Members") Additionally, all Aggrieved Employees will receive a proportional share of the \$3,750 PAGA Aggrieved Employee Payment, regardless whether they opt out of the Settlement Class.

Payments from Net Settlement Amount are based on Wage Statements Issued to Each Class Member. "Wage Statements" means the number wage statements issued to the Class Members during the time period from and including June 13, 2021 through April 30, 2023 (the "Class Period"). To determine each Settlement Class Member's estimated gross share of the Net Settlement Amount, the Settlement Administrator will use the following formula: Each Participating Class Members shall be entitled to receive a pro rata portion of the Net Settlement Fund (their "Individual Settlement Share"), calculated based upon the number of Wage Statements issued thereby during the Class Period, divided by the total number of Wage Statements issued to all Participating Class Members during said period. The Settlement Administrator will calculate the number of Wage Statements issued to Participating Class Members, the amount to be paid per Wage Statements, and the Individual Settlement Share to be paid to each Participating Class Member.

According to Defendant's records, you were issued a total of ____ Wage Statements during the Class Period and your estimated gross Individual Settlement is approximately \$ ____.

Payments from PAGA Payment. "PAGA Aggrieved Employee Payment" shall mean each Aggrieved Employee's share of 25% of the PAGA Amount. To determine each Settlement Class Member's estimated gross share of the PAGA Aggrieved Employee Payment, the Settlement Administrator will use the following formula: Each Aggrieved Employee shall be entitled to receive a pro rata portion of the PAGA Aggrieved Employee Payment, calculated based upon the number of Wage Statements issued thereby during the Class Period, divided by the total number of Wage

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Statements issued to all Aggrieved Employees during said period. The Settlement Administrator will calculate the number of Wage Statements issued to Aggrieved Employees, the amount to be paid per Wage Statements, and the PAGA Aggrieved Employee Payment to be paid to each Aggrieved Employee. A Request for Exclusion does not exclude an Aggrieved Employee from the release of claims under California Labor Code §§ 2698, *et seq.* and all Aggrieved Employees will receive their portion of the PAGA Amount even if he or she submits a valid Request for Exclusion.

According to Defendant's records, you were issued a total of ____ Wage Statements during the PAGA Period your estimated Individual PAGA Payment \$_____.

Your Total Estimated Gross Payment: Based on the above, your total estimated gross payment from the Settlement is approximately \$_____. If you believe the pay period information provided above is incorrect, please contact the Settlement Administrator to dispute the calculation. You must attach all documentation in support of your dispute (such as check stubs). All disputes must be postmarked on or before [insert date of Response Deadline] and must be sent to:

Settlement Administrator
c/o Phoenix Settlement Administrators

If you dispute the information stated above, Defendant's records will control unless you are able to provide documentation that establishes otherwise.

Timing of Payment. The Court will hold a Final Approval Hearing on _____, 2023 to decide whether to approve the Settlement. If the Court approves the Settlement, after that, there may be appeals. If there are appeals, it is uncertain whether they will be resolved and when. Resolving appeals can take time, often more than a year. You can check on the progress of the case by contacting the Settlement Administrator or as discussed below by visiting the Court's website, or going in person to the Clerk's office. *Please be patient.*

Taxes on Settlement Payments. Settlement Class Members' Individual Settlement Payments from the Net Settlement Amount will be allocated as 100% penalties and interest and shall be reported by IRS 1099 forms. Aggrieved Employees' PAGA Payments from the PAGA Aggrieved Employee Payment will be allocated as 100% penalties and interest and shall be reported by IRS 1099 forms. Class Members and Aggrieved Employees should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

Fee and Cost Award for Class Counsel. Class Counsel will request attorneys' fees in the amount of up to \$91,000, which represents 35% of the Gross Settlement Amount. Class Counsel will also request reimbursement of reasonable and actual litigation expenses incurred in prosecuting this Action, not to exceed \$30,000. The Court will not determine the amount of fees and costs until the Final Approval Hearing. If any portion of the amounts requested for attorneys' fees and costs are not awarded by the Court, that portion will be included in the Net Settlement Amount for distribution to Settlement Class Members. These attorneys' fees and costs shall compensate Class Counsel for the work they have performed and the expenses they have incurred in this Action. Class Members are not personally responsible for any of Class Counsel's attorneys' fees and costs.

Incentive Award and General Release Payment to the Class Representative. Class Counsel will also seek Incentive Award of no more than \$10,000 for Plaintiff Sean McBurney for acting as representative plaintiff on behalf of the Class and signing a general release of all claims. This payment will be in addition to whatever payment Plaintiff is otherwise entitled to as a Class Member. If approved by the Court, this amount will be paid from the Gross Settlement Amount for his risk and service on behalf of the Class, which included, among other things, reviewing documents, providing written statements, participating in meetings with Class Counsel, and performing other services of that nature, as well as his general release of all claims against Defendant.

Your Options Under the Settlement

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the Settlement, then no further action is required on your part. You will automatically be issued a payment of your share of the Settlement if and when the Settlement receives final approval by the Court.

If the Court grants final approval of the Settlement, you will be mailed a check for your share of the Net Settlement Amount and be deemed to have released or waived the Class Released Claims. If you are an Aggrieved Employee, your check will include your share of the PAGA Aggrieved Employee Payment and you will be deemed to have released or waived the PAGA Released Claims:

“Class Released Claims” that were, or reasonably could have been, alleged, based on the facts alleged in the operative complaint, including: (1) any pay stub or wage statement violation under Labor Code § 226; (2) any and all penalties that arise from the claims listed in (1), including, but not limited to, statutory penalties under Labor Code section 226, IWC Wage Order 4-2001, and any other applicable wage orders; and (3) all claims for attorneys’ fees, costs, and interest that arise from any of the claims listed in (1) and (2). This release does not include the PAGA released claims.

“PAGA Released Claims” means all claims that were, or reasonably could have been, alleged, based on the facts alleged in the operative complaint and the notice to the LWDA for: (1) civil penalties under Labor Code §§ 226.3 and 2699 premised on any pay stub or wage statement violation under Labor Code § 226; and (2) all claims for attorneys’ fees, costs, and interest that arise from any of the claims listed in (1). This release does not include the Class Released Claims. There shall be no right for any Aggrieved Employee to opt out or otherwise exclude himself or herself from the release of PAGA claims. The Final Approval Order and the Judgment entered as a result of this Settlement shall have res judicata and preclusive effect to the fullest extent allowed by law.

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the Class Settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator. Your request for exclusion must: (i) set forth your name, address, telephone number and last four digits of the Social Security Number of the Class Member requesting exclusion; (ii) be signed by you; (iii) be returned to the Settlement Administrator; (iv) clearly state that you do not wish to be included in the Settlement; and (v) be faxed or postmarked on or before _____, 2023. Sign, date, and mail the request for exclusion by First Class U.S. Mail to the address below.

Settlement Administrator
c/o Phoenix Settlement Administrators

The Request for Exclusion must be postmarked no later than _____, 2023 [insert Response Deadline]. If you receive a re-mailed Notice, you will be provided a fifteen (15) day extension to mail a Request for Exclusion. If you submit an untimely Request for Exclusion, your Request for Exclusion will be rejected, and you will be included in the Settlement Class.

If you choose **Option 2**, you will no longer be a Class Member, and you will:

- Not Receive an Individual Settlement Payment from the Net Settlement Amount.
- Not release the Class Released Claims.
- If you are an Aggrieved Employee, you will still release the PAGA Released Claims and receive an Individual PAGA Payment.

Option 3 – Object to the Settlement

You may object to the proposed Settlement in writing. You may also appear at the Final Approval Hearing at your expense, either in person, telephonically, or through an attorney, provided you notify the Court of your

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

intention to do so. All written objections, supporting papers and/or notices of intent to appear at the Final Approval Hearing must: (i) contain your full name, signature, address, and telephone number, (ii) a written statement of all grounds for the objection accompanied by any legal support for such objection; (iii) copies of any papers, briefs, or other documents upon which the objection is based; and be postmarked by _____, 2023.

All written objections must be mailed to the Settlement Administrator and postmarked no later than _____ 2023 [insert Response Deadline]. By submitting an objection, you are not excluding yourself from the Settlement. To exclude yourself from the Settlement, you must follow the directions described above. Please note that you cannot both object to the Settlement and exclude yourself. You must choose one option only. In the event that you submit both a Request for Exclusion and an Objection, the Request for Exclusion will be valid and Objection will be invalid.

Even if you do not submit a written objection, you may also appear at the Final Approval Hearing set for _____, 2023 at _____ m. in Department 28 of the Sacramento Superior Court located at 720 9th Street, Sacramento, California 95814 and discuss any objections with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. Whether or not the Court overrules your objection, you are deemed bound to the Settlement and to have released the Released Claims, and, if you are an Aggrieved Employee, the Released PAGA Claims.

Additional Information

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement. You can get a copy of the Settlement Agreement and other case documents by calling 1-8xx-xxx-xxxx, or by writing to the Settlement Administrator at [insert address]. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined (a) online on the Superior Court of California, County of Sacramento's Electronic Filing and Service Website at <https://www.saccourt.ca.gov>, or (b) in person at Superior Court of California, County of Sacramento, 720 9th Street, Sacramento, California 95814, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures.

Notice of Final Judgment. Should the Court granted final approval of this Settlement, a copy of the Final Order and Judgment will be available at [INSERT PHOENIX WEBSITE URL]

You also can contact Class Counsel:

Dennis S. Hyun, Esq.
Hyun Legal, APC
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
Phone: (213) 488-6555

Larry W. Lee., Esq.
Diversity Law Group, P.C.
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
Phone: (213) 488-6555

Edward W. Choi, Esq.
Law Offices of Choi & Associates
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
Phone: (213) 381-1515

William L. Marder, Esq.
Polaris Law Group
501 San Benito St. Suite 200

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Hollister, CA 95023
Phone: (831) 531-4214

**PLEASE DO NOT CALL THE COURT, DEFENDANT, OR DEFENDANT'S COUNSEL WITH ANY
QUESTIONS RELATED TO THE SETTLEMENT.**

Questions? Contact the Settlement Administrator toll free at 1-*-***-******