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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

XAVIER NUNEZ, on behalf of himself and all
others similarly situated

Plaintiff,

v.

NEVELL GROUP, INC., a California
Corporation, and DOES 1-100, inclusive,

Defendants.

Case No.: 30-2015-00783269-CU-OE-CXC

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

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

2 This Joint Stipulation of Class Action Settlement and Release (“Settlement” or “Settlement
3 Agreement”) is made and entered into by and between Plaintiff Xavier Nunez (“Plaintiff” or “Class
4 Representative”), as an individual and on behalf of all others similarly situated, and Defendant Nevell
5 Group, Inc. (“Defendant”) (collectively with Plaintiff, the “Parties”).

6 **DEFINITIONS**

7 The following definitions are applicable to this Settlement Agreement. Definitions contained
8 elsewhere in this Settlement Agreement will also be effective:

- 9 1. “Action” means *Nunez v. Nevell Group, Inc.*, No. 30-2015-00783269-CU-OE-CXC
10 (Orange County Superior Court).
- 11 2. “Attorneys’ Fees and Costs” means attorneys’ fees agreed upon by the Parties and
12 approved by the Court for Class Counsel’s litigation and resolution of the Action, and all out-of-pocket
13 costs incurred and to be incurred by Class Counsel in the Action, including but not limited to
14 expert/consultant fees, investigation costs, and costs associated with documenting the Settlement,
15 providing any notices required as part of the Settlement or Court order, securing the Court’s approval of
16 the Settlement, administering the Settlement, and obtaining entry of a Judgment terminating the Action.
17 Class Counsel will request attorneys’ fees not in excess of one-third (1/3) of the Gross Settlement
18 Amount, or One Million Seven Hundred Sixty Six Thousand Six Hundred Sixty Seven Dollars
19 (\$1,766,667). The Attorneys’ Fees and Costs will also mean and include the additional reimbursement of
20 any costs and expenses associated with Class Counsel’s litigation and settlement of the Action, up to
21 Fifty Thousand Dollars (\$50,000), subject to the Court’s approval. Defendant has agreed not to oppose
22 Class Counsel’s request for fees and reimbursement of costs as set forth above.
- 23 3. “Class Counsel” means Capstone Law APC and James Hawkins APLC.
- 24 4. “Class List” means a complete list of all Class Members that Defendant will diligently
25 and in good faith compile from its records and provide to the Settlement Administrator and Class
26 Counsel within twenty (20) calendar days after Preliminary Approval of this Settlement. The Class List
27 will be formatted in Microsoft Office Excel and will include: each Class Member’s full name; most last
28 known mailing address and telephone number; Social Security number; the respective number of

1 Workweeks that each Class Member worked during the Class Period and PAGA Period; and any other
2 relevant information needed to calculate settlement payments.

3 5. "Class Member(s)" or "Settlement Class" means all persons who worked for Defendant
4 in California as non-exempt construction workers from April 20, 2011 to (i) April 28, 2022, or (ii) the
5 date on which the total number of Class Members was no greater than 4,320 (in order of date of hire),
6 whichever occurs first.

7 6. "Class Period" means the period from April 20, 2011 to (i) April 28, 2022, or (ii) the
8 date on which the total number of Class Members was no greater than 4,320 (in order of date of hire),
9 whichever occurs first.

10 7. "Class Representative Enhancement Payment" means the amount to be paid to Plaintiff
11 in recognition of his effort and work in prosecuting the Action on behalf of Class Members, and for his
12 general release of claims. Subject to the Court granting final approval of this Settlement Agreement and
13 subject to the exhaustion of any and all appeals, Plaintiff will request Court approval of a Class
14 Representative Enhancement Payment of Ten Thousand Dollars (\$10,000).

15 8. "Court" means the Orange County Superior Court.

16 9. "Defendant" means Defendant Nevell Group, Inc.

17 10. "Effective Date" means the later of: (i) the date of Final Approval if no timely objections
18 are filed, or if timely objections are withdrawn prior to Final Approval; or (ii) the sixty-first (61) calendar
19 day after the date of Final Approval if a Class Member files a timely objection to the Settlement,
20 provided no appeal is initiated by an objector; or (iii) the date of final resolution of an appeal (including
21 any requests for rehearing and/or petitions for certiorari), resulting in final judicial approval of the
22 Settlement, if a timely appeal is initiated by an objector.

23 11. "Final Approval" means the date on which the Court enters an order granting final
24 approval of the Settlement Agreement.

25 12. "Gross Settlement Amount" means the Gross Settlement Amount of Five Million Three
26 Hundred Thousand Dollars (\$5,300,000), to be paid by Defendant in full satisfaction of all Released
27 Class Claims and Released PAGA Claims, which includes all Individual Settlement Payments,
28 Attorneys' Fees and Costs, the Class Representative Enhancement Payment, the PAGA Settlement

1 Amount, and Settlement Administration Costs. This Gross Settlement Amount has been agreed to by
2 Plaintiff and Defendant based on the aggregation of the agreed-upon settlement value of individual
3 claims. In no event will Defendant be liable for more than the Gross Settlement Amount except as
4 otherwise explicitly set forth herein. There will be no reversion of the Gross Settlement Amount to
5 Defendant. Defendant will be separately responsible for any employer payroll taxes required by law,
6 including the employer FICA, FUTA, and SDI contributions, which shall not be paid from the Gross
7 Settlement Amount.

8 13. "Individual Settlement Payment" means each Participating Class Member's and PAGA
9 Member's respective shares of the Net Settlement Fund and PAGA Fund.

10 14. "Net Settlement Fund" means the portion of the Gross Settlement Amount remaining
11 after deducting the Attorneys' Fees and Costs, the Class Representative Enhancement Payment, the
12 PAGA Settlement Amount, and Settlement Administration Costs. The Net Settlement Fund will be
13 distributed to Participating Class Members. There will be no reversion of the Net Settlement Fund to
14 Defendant.

15 15. "Notice of Objection" means a Class Member's valid and timely written objection to the
16 Settlement Agreement. For the Notice of Objection to be valid, it must include: (i) the objector's full
17 name, signature, address, and telephone number; (ii) a written statement of all grounds for the objection
18 accompanied by any legal support for such objection; (iii) copies of any papers, briefs, or other
19 documents upon which the objection is based; and (iv) a statement whether the objector intends to appear
20 at the final fairness hearing.

21 16. "Notice Packet" means the Notice of Class Action Settlement, substantially in the form
22 attached as Exhibit A.

23 17. "PAGA Members" means all persons who worked for Defendant in California as non-
24 exempt construction workers from April 20, 2014 to (i) April 28, 2022, or (ii) the date on which the total
25 number of Class Members was no greater than 4,320 (in order of date of hire), whichever occurs first.

26 18. "PAGA Period" means the period from April 20, 2014 to (i) April 28, 2022, or (ii) the
27 date on which the total number of Class Members was no greater than 4,320 (in order of date of hire),
28 whichever occurs first.

1 19. “PAGA Settlement Amount” means the amount that the Parties have agreed to pay to
2 the Labor and Workforce Development Agency (“LWDA”) and PAGA Members in connection with
3 Plaintiff’s claim under the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698,
4 *et seq.*, “PAGA”) (“PAGA Settlement”). The Parties have agreed that One Hundred Fifty Thousand
5 Dollars (\$150,000) of the Gross Settlement Amount will be allocated to the PAGA Settlement. Pursuant
6 to PAGA, Seventy-Five Percent (75%), or One Hundred Twelve Thousand Five Hundred Dollars
7 (\$112,500), of the PAGA Settlement Amount will be paid to the California Labor and Workforce
8 Development Agency (“Labor and Workforce Development Agency Payment”), and Twenty-Five
9 Percent (25%), or Thirty Seven Thousand Five Hundred Dollars (\$37,500) (“PAGA Fund”), of the
10 PAGA Settlement will be disbursed to PAGA Members regardless of whether they request to be
11 excluded from the Settlement Class.

12 20. “Parties” means Plaintiff and Defendant, collectively.

13 21. “Participating Class Members” means all Class Members who do not submit timely and
14 valid Requests for Exclusion.

15 22. “Plaintiff” means Plaintiff Xavier Nunez.

16 23. “Preliminary Approval” means the date on which the Court enters an order granting
17 preliminary approval of the Settlement Agreement.

18 24. “Released Class Claims” means all claims, rights, demands, liabilities and causes of
19 action that are alleged, or reasonably could have been alleged based on the facts asserted in the operative
20 Complaint in the Action including, but not limited to, the following claims: (i) violation of California
21 Labor Code §§ 510 and 1198 (unpaid overtime); (ii) violation of the Fair Labor Standards Act (unpaid
22 overtime); (iii) violations of Labor Code §§ 1182.12, 1194, 1197, 1197.1 and 1198; (iv) violation of
23 California Labor Code §§ 226.7, 512(a) & 1198 (failure to provide meal periods); (v) violation of Labor
24 Code §§ 226.7 & 1198 (failure to authorize and permit rest periods); (vi) violation of Labor Code § 226
25 (failure to provide compliant wage statements); (vii) violation of Labor Code §§ violation of Labor Code
26 §§ 201, 202 & 203 (failure to timely pay wages); (viii) violation of California Labor code § 2802 (unpaid
27 business-related expenses); (ix) violation of California Business & Professions Code § 17200, *et seq.*
28 (unlawful business practices); (x) violation of California Business & Professions Code § 17200, *et seq.*

(unfair business practices); and (xi) Private Attorneys General Act of 2004 Labor Code § 2698, *et seq.*

25. “Released PAGA Claims” means all claims asserted through California Labor Code §§ 2698, *et seq.*, that reasonably arise out of or are related to the Released Class Claims during the PAGA Period.

26. “Released Parties” means Defendant, its past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys, if any.

27. “Request for Exclusion” means a timely letter submitted by a Class Member indicating a request to be excluded from the Settlement Class. The Request for Exclusion must: (i) set forth the name, address, telephone number and last four digits of the Social Security Number of the Class Member requesting exclusion; (ii) be signed by the Class Member; (iii) be returned to the Settlement Administrator; (iv) clearly state that the Class Member does not wish to be included in the Settlement; and (v) be faxed or postmarked on or before the Response Deadline.

28. “Response Deadline” means the deadline by which Class Members must: (i) postmark or fax Requests for Exclusion to the Settlement Administrator; (ii) postmark or fax disputes concerning the calculation of Individual Settlement Payments to the Settlement Administrator; or (iii) postmark Notices of Objection to the Settlement Administrator. The Response Deadline will be forty-five (45) calendar days from the initial mailing of the Notice Packet by the Settlement Administrator, unless the forty-fifth (45th) calendar day falls on a Sunday or State holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open.

29. “Settlement Administration Costs” means the costs payable from the Gross Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to: printing, distributing, and tracking documents for this Settlement; tax reporting; distributing the Gross Settlement Amount; and providing necessary reports and declarations, as requested by the Parties. The Settlement Administration Costs will be paid from the Gross Settlement Amount, including, if necessary, any such costs in excess of the amount represented by the Settlement Administrator as being the maximum costs necessary to administer the Settlement. Based on an estimated Settlement Class of

1 approximately Four Thousand Three Hundred Twenty Class Members, the Settlement Administration
2 Costs are currently estimated to be Thirty Thousand Dollars (\$30,000).

3 30. "Settlement Administrator" means CPT Group, Inc., or any other third-party class action
4 settlement administrator agreed to by the Parties and approved by the Court for the purposes of
5 administering this Settlement. The Parties each represent that they do not have any financial interest in
6 the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that
7 could create a conflict of interest.

8 31. "Workweeks" means the number of days of employment for each Class Member during
9 the Class Period, subtracting days on leave of absence (if any), dividing by seven (7), and rounding up to
10 the nearest whole number. All Class Members will be credited with at least one Workweek during the
11 Class Period, and all PAGA Members will be credited with at least one Workweek during the PAGA
12 Period.

13 **TERMS OF AGREEMENT**

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

15 32. Fourth Amended Complaint. As a condition of settlement, Plaintiff will file a Fourth
16 Amended Complaint ("4AC") to conform the pleadings with the scope of the Released Class Claims and
17 Released PAGA Claims. Defendant will not be required to file an answer or other responsive pleading to
18 the 4AC. If, for any reason, the Court does not approve of the Settlement, or if the Settlement does not
19 become final for any reason, then the 4AC will be deemed withdrawn and the Third Amended
20 Complaint will again become the operative complaint without prejudice to Plaintiff's right to seek leave
21 to file another amended complaint and without prejudice to Defendant's rights to object and/or challenge
22 an amended pleading. Defendant does not impliedly or expressly waive any arguments or defenses to the
23 4AC.

24 33. Funding of the Gross Settlement Amount. Defendant will make a one-time deposit of
25 the Gross Settlement Amount of Five Million Three Hundred Thousand Dollars (\$5,300,000) into a
26 Qualified Settlement Account to be established by the Settlement Administrator. Defendant will pay the
27 employer's share of payroll taxes separately. After the Effective Date, the Gross Settlement Amount will
28 be used for: (i) Individual Settlement Payments; (ii) the Labor and Workforce Development Agency

1 Payment; (iii) the Class Representative Enhancement Payment; (iv) Attorneys' Fees and Costs; and (v)
2 Settlement Administration Costs. Defendant will deposit the Gross Settlement Amount and the
3 employer's share of payroll taxes within ten (10) calendar days of the Effective Date ("Funding Date").

4 34. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or
5 motion by Class Counsel for Attorneys' Fees and Costs of not more than One Million Seven Hundred
6 Sixty Six Thousand Six Hundred Sixty Seven Dollars (\$1,766,667), plus the reimbursement of all out-
7 of-pocket costs and expenses associated with Class Counsel's litigation and settlement of the Action
8 (including expert/consultant fees, investigations costs, etc.), not to exceed Fifty Thousand Dollars
9 (\$50,000), both of which will be paid from the Gross Settlement Amount.

10 35. Class Representative Enhancement Payment. In exchange for a general release, and in
11 recognition of his effort and work in prosecuting the Action on behalf of Class Members, Defendant
12 agrees not to oppose or impede any application or motion for a Class Representative Enhancement
13 Payment of Ten Thousand Dollars (\$10,000). The Class Representative Enhancement Payment will be
14 paid from the Gross Settlement Amount and will be in addition to Plaintiff's Individual Settlement
15 Payment paid pursuant to the Settlement. Plaintiff will be solely and legally responsible to pay any and
16 all applicable taxes on the Class Representative Enhancement Payment.

17 36. Settlement Administration Costs. The Settlement Administrator will be paid for the
18 reasonable costs of administration of the Settlement and distribution of payments from the Gross
19 Settlement Amount, which is currently estimated to be Thirty Thousand Dollars (\$30,000). These costs,
20 which will be paid from the Gross Settlement Amount, will include, *inter alia*, the required tax reporting
21 on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms, distributing Notice
22 Packets, calculating and distributing the Gross Settlement Amount, and providing necessary reports and
23 declarations.

24 37. PAGA Settlement Amount. Subject to Court approval, the Parties agree that the amount
25 of One Hundred Fifty Thousand Dollars (\$150,000) from the Gross Settlement Amount will be
26 designated for satisfaction of Plaintiff's PAGA claim. Pursuant to PAGA, Seventy-Five Percent (75%),
27 or One Hundred Twelve Thousand Five Hundred Dollars (\$112,500), of this sum will be paid to the
28 LWDA and Twenty-Five Percent (25%), or Thirty Seven Thousand Five Hundred Dollars (\$37,500),

will be paid to PAGA Members in proportion to the number of Workweeks worked during the PAGA Period.

38. No Right to Exclusion or Objections by Representative Action Members. Because this settlement resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private Attorney General of, and for, the State of California and the LWDA, the Parties agree that no PAGA Member has the right to exclude himself or herself from the release of the Released PAGA Claims. All PAGA Members will receive their shares of the PAGA Fund, and will release the Released PAGA Claims, regardless of whether he or she cashes any payment received as a result of this Settlement. The Parties also agree that no PAGA Member has the right to object to the terms of the Settlement Agreement.

39. Net Settlement Fund. The entire Net Settlement Fund will be distributed to Participating Class Members. No portion of the Net Settlement Fund will revert to or be retained by Defendant.

40. PAGA Fund. The entire PAGA Fund will be distributed to all PAGA Members. No portion of the PAGA Fund will revert to or be retained by Defendant.

41. Individual Settlement Payment Calculations. Individual Settlement Payments will be calculated and apportioned from the Net Settlement Fund and PAGA Fund based on the number of Workweeks a Class Member worked during the Class Period and PAGA Period. Specific calculations of Individual Settlement Payments will be made as follows:

41(a) Payments from the Net Settlement Fund. Defendant will calculate the total number of Workweeks worked by each Class Member during the Class Period and the aggregate total number of Workweeks worked by all Class Members during the Class Period. To determine each Class Member's estimated "Individual Settlement Payment" from the Net Settlement Fund, the Settlement Administrator will use the following formula: The Net Settlement Fund will be divided by the aggregate total number of Workweeks, resulting in the "Workweek Value." Each Class Member's "Individual Settlement Payment" will be calculated by multiplying each individual Class Member's total number of Workweeks by the Workweek

1 Value. The Individual Settlement Payment will be reduced by any required
2 deductions for each Participating Class Member as specifically set forth
3 herein, including employee-side tax withholdings or deductions. The entire
4 Net Settlement Fund will be disbursed to all Class Members who do not
5 submit timely and valid Requests for Exclusion. If there are any valid and
6 timely Requests for Exclusion, the Settlement Administrator shall
7 proportionately increase the Individual Settlement Payment for each
8 Participating Class Member according to the number of Workweeks
9 worked, so that the amount actually distributed to the Settlement Class
10 equals 100% of the Net Settlement Fund.

11 41(b) Payments from the PAGA Fund. Defendant will calculate the total number
12 of Workweeks worked by each PAGA Member during the PAGA Period
13 and the aggregate total number of Workweeks worked by all PAGA
14 Members during the PAGA Period. To determine each PAGA Member's
15 estimated "Individual Settlement Payment," the Settlement Administrator
16 will use the following formula: the PAGA Fund will be divided by the
17 aggregate total number of Workweeks, resulting in the "PAGA Workweek
18 Value." Each PAGA Member's "Individual Settlement Payment" will be
19 calculated by multiplying each individual PAGA Member's total number of
20 Workweeks by the PAGA Workweek Value. The entire PAGA Fund will
21 be disbursed to all PAGA Members.

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

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

4 44. Delivery of the Class List. Within twenty (20) calendar days of Preliminary Approval,
5 Defendant will provide the Class List to the Settlement Administrator.

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

10 46. Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement
11 Administrator will perform a search based on the National Change of Address Database for information
12 to update and correct for any known or identifiable address changes. Any Notice Packets returned to the
13 Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly
14 via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement
15 Administrator will indicate the date of such re-mailing on the Notice Packet. If no forwarding address is
16 provided, the Settlement Administrator will promptly attempt to determine the correct address using a
17 skip-trace, or other search using the name, address and/or Social Security number of the Class Member
18 involved, and will then perform a single re-mailing. Those Class Members who receive a re-mailed
19 Notice Packet, whether by skip-trace or by request, will have either (i) an additional fifteen (15) calendar
20 days or (ii) until the Response Deadline, whichever is later, to submit a Request for Exclusion or an
21 objection to the Settlement.

22 47. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice Packet
23 will provide: (i) information regarding the nature of the Action; (ii) a summary of the Settlement's
24 principal terms; (iii) the Settlement Class and PAGA Member definitions; (iv) the total number of
25 Workweeks each respective Class Member and PAGA Member worked for Defendant during the Class
26 Period and PAGA Period; (v) each Class Member's and PAGA Member's estimated Individual
27 Settlement Payment and the formula for calculating Individual Settlement Payments; (vi) the dates which
28 comprise the Class Period and PAGA Period; (vii) instructions on how to submit Requests for Exclusion

or Notices of Objection; (viii) the deadlines by which the Class Member must postmark or fax Request for Exclusions, or postmark Notices of Objection to the Settlement; and (ix) the claims to be released.

48. Disputed Information on Notice Packets. Class Members will have an opportunity to dispute the information provided in their Notice Packets. To the extent Class Members dispute their employment dates or the number of Workweeks on record, Class Members may produce evidence to the Settlement Administrator showing that such information is inaccurate. Defendant's records will be presumed correct, but the Settlement Administrator shall contact the Parties regarding the dispute and the Parties will work in good faith to resolve it. All disputes must be submitted by the Response Deadline, and will be decided within ten (10) business days after the Response Deadline.

49. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3) business days of receiving the defective submission to advise the Class Member that his or her submission is defective and that the defect must be cured to render the Request for Exclusion valid. The Class Member will have until (i) the Response Deadline or (ii) fifteen (15) calendar days from the date of the cure letter, whichever date is later, to postmark or fax a revised Request for Exclusion. If the revised Request for Exclusion is not postmarked or received by fax within that period, it will be deemed untimely.

50. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the Settlement Agreement must sign and fax or postmark a written Request for Exclusion to the Settlement Administrator within the Response Deadline. In the case of Requests for Exclusion that are mailed to the Settlement Administrator, the postmark date will be the exclusive means to determine whether a Request for Exclusion has been timely submitted.

51. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid Request for Exclusion will be bound by all of its terms, including those pertaining to the Released Class Claims, as well as any Judgment that may be entered by the Court if it grants final approval to the Settlement.

52. Releases by Participating Class Members. Upon the Funding Date, and except as to such

rights or claims as may be created by this Settlement Agreement, each Participating Class Member, together and individually, on their behalf and on behalf of their respective heirs, executors, administrators, agents, and attorneys, shall fully and forever release and discharge all of the Released Parties, or any of them, from each of the Released Class Claims arising during the Class Period.

53. Releases by PAGA Members. Upon the Funding Date, and except as to such rights or claims as may be created by this Settlement Agreement, each PAGA Member, together and individually, on their behalf and on behalf of their respective heirs, executors, administrators, agents, and attorneys, shall fully and forever release and discharge all of the Released Parties, or any of them, from each of the Released PAGA Claims during the PAGA Period.

54. Defendant's Right to Rescind. In the event that more than Fifteen Percent (15%) of Class Members submit elections to opt-out of the Settlement Class, or a number of Class Members whose share of the Net Settlement Fund is Five Percent (5%) or more, Defendant will have the right to rescind and terminate the Settlement without prejudice to its pre-settlement positions and defenses in the Action. Should the Fifteen Percent (15%) threshold for opt-outs be exceeded, the Settlement Administrator shall notify counsel for all parties via email immediately. If Defendant rescinds the Settlement, then Defendant will be responsible for all Settlement Administration Costs incurred to the date of rescission.

55. Objection Procedures. To object to the Settlement Agreement, a Class Member may either postmark a valid Notice of Objection to the Settlement Administrator on or before the Response Deadline, or appear in person at the Final Approval Hearing. Class Members who fail to object either by submitting a valid Notice of Objection or appearing in person at the Final Approval Hearing will be deemed to have waived all objections to the Settlement and will be foreclosed from making any objections, whether by appeal or otherwise, to the Settlement Agreement. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written objections to the Settlement Agreement or appeal from the final approval order and judgment. Class Counsel will not represent any Class Members with respect to any such objections to this Settlement. If a Class Member timely submits both a Notice of Objection and a Request for Exclusion, the Request for Exclusion will be given effect and considered valid, the Notice of Objection shall be rejected, and the

1 Class Member shall not participate in or be bound by the Settlement.

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

8 57. Distribution Timing of Individual Settlement Payments. Within ten (10) calendar days
9 of the Funding Date, the Settlement Administrator will issue payments to: (i) Participating Class
10 Members and PAGA Members; (ii) the Labor and Workforce Development Agency; (iii) Plaintiff; and
11 (iv) Class Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved
12 services performed in connection with the Settlement.

13 58. Un-cashed Settlement Checks. Funds represented by Individual Settlement Payment
14 checks returned as undeliverable and Individual Settlement Payment checks remaining un-cashed for
15 more than one hundred and eighty (180) calendar days after issuance will be tendered to the State
16 Controller's Office, Unclaimed Property Division.

17 59. Certification of Completion. Upon completion of administration of the Settlement, the
18 Settlement Administrator will provide a written declaration under oath to certify such completion to the
19 Court and counsel for all Parties.

20 60. Treatment of Individual Settlement Payments. All Individual Settlement Payments will
21 be allocated as follows: (i) Twenty Percent (20%) of each Individual Settlement Payment will be
22 allocated as wages for which IRS Forms W-2 will be issued; and (ii) Eighty Percent (80%) will be
23 allocated as non-wages for which IRS Forms 1099-MISC will be issued.

24 61. Administration of Taxes by the Settlement Administrator. The Settlement Administrator
25 will be responsible for issuing to Plaintiff, Participating Class Members, PAGA Members, and Class
26 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to
27 this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes
28 and penalties to the appropriate government authorities.

62. Tax Liability. Defendant makes no representation as to the tax treatment or legal effect of the payments called for hereunder. Plaintiff and Participating Class Members 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 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

64. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,

transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged.

65. Nullification of Settlement Agreement. In the event that (i) the Court does not finally approve the Settlement as provided herein, or (ii) the Settlement does not become final for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will likewise be treated as void from the beginning.

66. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to request the Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order for: (i) conditional certification of the Settlement Class for settlement purposes only; (ii) preliminary approval of the proposed Settlement Agreement; and (iii) setting a date for a final fairness hearing. The Preliminary Approval Order will provide for the Notice Packet to be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval hearing, Plaintiff will submit this Settlement Agreement, which sets forth the terms of this Settlement, and will include the proposed Notice of Class Action Settlement, attached as Exhibit A. Class Counsel will be responsible for drafting all documents necessary to obtain preliminary approval.

67. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement, and with the Court's permission, a final fairness hearing will be conducted to determine the Final Approval of the Settlement Agreement along with the amounts properly payable for: (i) Attorneys' Fees and Costs; (ii) the Class Representative Enhancement Payment; (iii) Individual Settlement Payments; (iv) the Labor and Workforce Development Agency Payment; (v) all Settlement Administration Costs. The final fairness hearing will not be held earlier than thirty (30) calendar days after the Response Deadline. Class Counsel will be responsible for drafting all documents necessary to obtain final approval. Class Counsel will also be responsible for drafting the attorneys' fees and costs application to be heard at the final approval hearing.

68. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by the Court or after the final fairness hearing, the Parties will present the Judgment to the Court for its

1 approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of
2 addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) Settlement
3 administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or
4 as set forth in this Settlement Agreement. A copy of the Judgment will be posted to the Settlement
5 Administrator's website.

6 69. Release by Plaintiff. Upon the Funding Date, in addition to the claims being released by
7 all Participating Class Members, Plaintiff will release and forever discharge the Released Parties, to the
8 fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and not
9 asserted, which Plaintiff has or may have against the Released Parties as of the date of execution of this
10 Settlement Agreement. To the extent the foregoing release is a release to which Section 1542 of the
11 California Civil Code or similar provisions of other applicable law may apply, Plaintiff expressly waives
12 any and all rights and benefits conferred upon him by the provisions of Section 1542 of the California
13 Civil Code or similar provisions of applicable law which are as follows:

14 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
15 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
16 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
17 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
18 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
19 PARTY.

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

23 71. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the
24 entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements
25 may be deemed binding on the Parties. The Parties expressly recognize California Civil Code Section
26 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is
27 to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and
28 the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or

1 contradict the terms of this Settlement Agreement.

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

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

13 74. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,
14 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

15 75. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto
16 will be governed by and interpreted according to the laws of the State of California.

17 76. Execution and Counterparts. This Settlement Agreement is subject only to the execution
18 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All
19 executed counterparts and each of them, including electronic (e.g., DocuSign), facsimile, and scanned
20 copies of the signature page, will be deemed to be one and the same instrument.

21 77. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
22 Settlement Agreement is a fair, adequate and reasonable settlement of the Action and have arrived at this
23 Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account
24 all relevant factors, present and potential. The Parties further acknowledge that they are each represented
25 by competent counsel and that they have had an opportunity to consult with their counsel regarding the
26 fairness and reasonableness of this Settlement.

27 78. Invalidity of Any Provision. Before declaring any provision of this Settlement
28 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent

possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

79. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class certification for purposes of this Settlement only; except, however, that Plaintiff or Class Counsel may appeal any reduction to the Attorneys' Fees and Costs below the amount they request from the Court, and either party may appeal any court order that materially alters the Settlement Agreement's terms.

80. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to class action certification for purposes of the Settlement only. If, for any reason, the Settlement is not approved, the stipulation to certification will be void. The Parties further agree that certification for purposes of the Settlement is not an admission that class action certification is proper under the standards applied to contested certification motions and that this Settlement Agreement will not be admissible in this or any other proceeding as evidence that either (i) a class action should be certified or (ii) Defendant is liable to Plaintiff or any Class Member, other than according to the Settlement's terms.

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

82. No Public Comment: The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry, or have any

1 communication with the press about the fact, amount or terms of the Settlement.

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

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

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

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

19 87. All Terms Subject to Final Court Approval. All amounts and procedures described in
20 this Settlement Agreement herein will be subject to final Court approval.

21 88. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
22 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
23 Settlement Agreement.

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

READ CAREFULLY BEFORE SIGNING

PLAINTIFF

Dated: 5/16/2022

DocuSigned by:
Xavier Nunez
E59995656AAB499...
Xavier Nunez

DEFENDANT

Dated: 5/19/2022

DocuSigned by:
Bryan Bodine
8AC1B7E5D92646F...
Please print name of Authorized Signatory
Nevell Group, Inc.

APPROVED AS TO FORM

CAPSTONE LAW APC

Dated: May 16, 2022

By: Raul Perez
Raul Perez
Attorneys for Plaintiff Xavier Nunez

JAMES HAWKINS APLC

Dated: May 16, 2022

By: James Hawkins
James Hawkins
Attorneys for Plaintiff Xavier Nunez

**ATKINSON, ANDELSON, LOYA, RUDD &
ROMO**

Dated: May 19, 2022

By: Amber Healy
Amber Healy
Attorneys for Defendant Nevell Group, Inc.

Exhibit A

Nunez v. Nevell Group, Inc., No. 30-2015-00783269-CU-OE-CXC
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF ORANGE COUNTY
NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully

To: All persons who worked for Defendant Nevell Group, Inc. (“Defendant”) in California as non-exempt construction workers at any time during the period from April 20, 2011 to: (i) April 28, 2022, or (ii) the date on which the total number of Class Members was no greater than 4,320 (in order of date of hire), whichever occurs first (“Class Members”).

All persons who worked for Defendant in California as non-exempt construction workers at any time during the period from April 20, 2014 to: (i) April 28, 2022, or (ii) the date on which the total number of Class Members was no greater than 4,320 (in order of date of hire), whichever occurs first] (“PAGA Members”).

On _____, the Honorable William D. Claster of the Orange County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendant’s records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at ____:00 .m. on _____, 2023 in Department CX104 of the Orange County Superior Court located at 751 West Santa Ana Blvd., Santa Ana, California 92701.

You are not required to attend the hearing, but if you wish to attend, you may attend the hearing telephonically (remotely), which can be set up through CourtCall at 1 (888) 882-6878 or <https://courtcall.com>. A prescheduled appointment is currently necessary to review any documents in the clerk’s office.

Please also note that the Final Fairness Hearing may be rescheduled by the Court to another date and/or time. Please visit [settlement website] for any scheduling changes.

If you move, you must send the Settlement Administrator your new address; otherwise, you may never receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator.

Summary of the Litigation

Plaintiff Xavier Nunez, on his behalf and on behalf of other current and former non-exempt employees, alleges that Defendant violated California state labor laws as a result of its alleged failure to, among other things: (1) pay minimum and overtime wages to employees for all hours worked; (2) provide employees with meal and rest breaks; (3) timely pay all wages owed to employees during each pay period and upon termination of their employment; (4) reimburse employees for all necessary business expenses; and (5) provide employees with accurate, itemized wage statements.

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. On April 19, 2021, the parties participated in a mediation with Hon. Carl J. West (Ret.), an experienced and well-respected class action mediator. With Hon. Carl J. West (Ret.) 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, Capstone Law APC and James Hawkins APLC (“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. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

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 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 \$5,300,000. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members; (2) a Class Representative Enhancement Payment of \$10,000 to Xavier Nunez for his services on behalf of the class, and for a release of all claims arising out of his employment with Defendant; (3) \$1,766,667 in attorneys' fees and up to \$50,000 in litigation costs and expenses; (4) a \$150,000 settlement of claims under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), inclusive of a \$112,500 payment to the California Labor and Workforce Development Agency ("LWDA") in connection with the PAGA, and a \$37,500 payment ("PAGA Fund") to all PAGA Members; and (5) reasonable Settlement Administrator's fees and expenses currently estimated at \$30,000. After deducting the above payments, a total of approximately \$ _ will be allocated to Class Members who do not opt out of the Settlement Class ("Net Settlement Fund"). Additionally, all PAGA Members will receive a proportional share of the \$37,500 PAGA Fund, regardless whether they opt out of the Settlement Class.

Payments from Net Settlement Fund. Defendant will calculate the total number of Workweeks worked by each Class Member from April 20, 2011 [to: (i) April 28, 2022, or (ii) the date on which the total number of Class Members was no greater than 4,320 (in order of date of hire), whichever occurs first] ("Class Period") and the aggregate total number of Workweeks worked by all Class Members during the Class Period. To determine each Class Member's estimated share of the Net Settlement Fund, the Settlement Administrator will use the following formula: The Net Settlement Fund will be divided by the aggregate total number of Workweeks, resulting in the "Workweek Value." Each Class Member's share of the Net Settlement Fund will be calculated by multiplying each individual Class Member's total number of Workweeks by the Workweek Value. The Individual Settlement Payment will be reduced by any required deductions for each Class Members as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member's share of the Net Settlement Fund according to the number of Workweeks worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Fund.

According to Defendant's records, you worked during the Class Period in a non-exempt position for a total of ____ Workweeks. Accordingly, your estimated payment from the Net Settlement Fund is approximately \$ ____.

Payments from PAGA Fund. Defendant will calculate the total number of Workweeks worked by each PAGA Member from April 20, 2014 to: [(i) April 28, 2022, or (ii) the date on which the total number of Class Members was no greater than 4,320 (in order of date of hire), whichever occurs first] ("PAGA Period") and the aggregate total number of Workweeks worked by all PAGA Members during the PAGA Period. To determine each PAGA Member's estimated share of the PAGA Fund, the Settlement Administrator will use the following formula: The PAGA Fund will be divided by the aggregate total number of Workweeks, resulting in the "PAGA Workweek Value." Each PAGA Member's share of the PAGA Fund will be calculated by multiplying each individual Participating PAGA Member's total number of Workweeks by the PAGA Workweek Value. A Request for Exclusion does not exclude a PAGA Member from the release of claims under California Labor Code §§ 2698, *et seq.* and the PAGA Member will receive their portion of the PAGA fund even if he or she submits a valid Request for Exclusion.

According to Defendant's records, you worked during the PAGA Period in a non-exempt position for a total of ____ Workweeks. Accordingly, your estimated payment from the PAGA Fund is approximately \$ ____.

Your Estimated Payment: Based on the above, your estimated payment from the settlement is approximately \$ _____. If you believe the Workweek 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, W2s, or letters from HR). All disputes must be postmarked or faxed on or before [insert date of Response Deadline] and must be sent to:

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

Settlement Administrator

c/o _____

Fax No. _____

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

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 20% of each settlement payment will be allocated as wages for which IRS Forms W-2 will be issued, and 80% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

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 receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the Released Class Claims and Released PAGA Claims:

Released Class Claims: All claims, rights, demands, liabilities and causes of action that are alleged, or reasonably could have been alleged based on the facts asserted in the operative Complaint in the Action including, but not limited to, the following claims: (i) violation of California Labor Code §§ 510 and 1198 (unpaid overtime); (ii) violation of the Fair Labor Standards Act (unpaid overtime); (iii) violations of Labor Code §§ 1182.12, 1194, 1197, 1197.1 and 1198; (iv) violation of California Labor Code §§ 226.7, 512(a) & 1198 (failure to provide meal periods); (v) violation of Labor Code §§ 226.7 & 1198 (failure to authorize and permit rest periods); (vi) violation of Labor Code § 226 (failure to provide compliant wage statements); (vii) violation of Labor Code §§ violation of Labor Code §§ 201, 202 & 203 (failure to timely pay wages); (viii) violation of California Labor code § 2802 (unpaid business-related expenses); (ix) violation of California Business & Professions Code § 17200, *et seq.* (unlawful business practices); (x) violation of California Business & Professions Code § 17200, *et seq.* (unfair business practices); and (xi) Private Attorneys General Act of 2004 Labor Code § 2698, *et seq.*

Released PAGA Claims: All claims asserted through California Labor Code § 2698, *et seq.*, that reasonably arise out of or are related to the Released Class Claims during the PAGA Period.

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Settlement Administrator

c/o _____

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

The Request for Exclusion must be postmarked or faxed not later than _____, 2023. If you submit a Request for Exclusion which is not postmarked or faxed by _____, 2023, 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 a Payment from the Net Settlement Fund.
- Not release the Released Class Claims.
- You will, however, release the Released PAGA Claims if you are a PAGA Member, and will receive a payment from the PAGA Fund.

Option 3 – Object to the Settlement

If you decide to object to the settlement because you find it unfair or unreasonable, you may submit a written objection stating why you object to the settlement, or you may instead appear at the Final Fairness Hearing to object to the Settlement. Written objections must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed to the administrator at [administrator's address].

All written objections must be received by the administrator by not later than _____ 2023. 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.

You may also, if you wish, appear at the Final Fairness Hearing set for _____ at _____ a.m./p.m. in the Superior Court of the State of California, for the County of Orange County and discuss your objection 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. If the Court overrules your objection, you will be deemed to have released the Released Class Claims and Released PAGA Claims.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel.

Raul Perez
Capstone Law APC
1875 Century Park E., Suite 1000
Los Angeles, CA 90067
Phone: 1 (888) 510-3267

Christina Lucio
James Hawkins APLC
9880 Research Drive, Suite 200
Irvine, CA 92618
Phone: Number

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANT'S ATTORNEYS WITH INQUIRIES.

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