

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: SCOTT ERNEST WHEELER (SBN 187998) FIRM NAME: LAW OFFICE OF SCOTT ERNEST WHEELER STREET ADDRESS: 250 WEST FIRST STREET, SUITE 216 CITY: CLAREMONT STATE: CA ZIP CODE: 91711 TELEPHONE NO.: (909) 621-4988 FAX NO.: (909) 621-4622 E-MAIL ADDRESS: SEW@SCOTTWHEELERLAWOFFICE.COM ATTORNEY FOR (name): PLAINTIFF, MAURA MUNOZ NAVA		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 NORTH FIRST STREET MAILING ADDRESS: CITY AND ZIP CODE: SAN JOSE, CALIFORNIA 95113 BRANCH NAME: DOWNTOWN SUPERIOR COURTHOUSE		
PLAINTIFF/PETITIONER: MAURA MUNOZ NAVA		CASE NUMBER: 22CV407455
DEFENDANT/RESPONDENT: PERFORMANCE FIRTS BUILDING SERVICES, INC.		JUDICIAL OFFICER: ZAYNER, THEODORE C
OTHER:		
PROPOSED ORDER (COVER SHEET)		DEPT.: 19

NOTE: This cover sheet is to be used to electronically file and submit to the court a proposed order. The proposed order sent electronically to the court must be in PDF format and must be attached to this cover sheet. In addition, a version of the proposed order in an editable word-processing format must be sent to the court at the same time as this cover sheet and the attached proposed order in PDF format are filed.

1. Name of the party submitting the proposed order:
PLAINTIFF, MAURA MUNOZ NAVA

2. Title of the proposed order:

[PROPOSED] ORDER GRANTING PLAINTIFF'S RENEWED MOTION FOR PRELIMINARY APPROVAL

3. The proceeding to which the proposed order relates is:

- a. Description of proceeding: **PLAINTIFFS MOTION FOR PRELIMINARY APPROVAL**
- b. Date and time: **SEPTEMBER 25, 2024** **1:30 p.m.**
- c. Place: **SANTA CLARA COURT DEPT. 19**

4. The proposed order was served on the other parties in the case.

SCOTT E. WHEELER, ESQ.

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

CASE NAME: MANURA MUNOZ NAVA V. PERFORMANCE FIRST BUILDING SERVICES INC.	CASE NUMBER: 22CV407455
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PROOF OF ELECTRONIC SERVICE**PROPOSED ORDER**

1. I am at least 18 years old and **not a party to this action**.
 - a. My residence or business address is (*specify*):
 Law Office of Scott Ernest Wheeler
 Scott Ernest Wheeler, Esq.
 Justin A. Wheeler, Esq.
 250 West First Street, Suite 216
 Claremont, California 91711
 - b. My electronic service address is (*specify*):
 sew@scottwheelerlawoffice.com
 jaw@scottwheelerlawoffice.com

2. I electronically served the *Proposed Order (Cover Sheet)* with a proposed order in PDF format attached, and a proposed order in an editable word-processing format as follows:
 - a. On (*name of person served*) (*If the person served is an attorney, the party or parties represented should also be stated.*):
 KUCHINSKY LAW OFFICE, P.C.
 Alexei Kuchinsky, Esq.
 220 Montgomery, Suite 2100
 San Francisco, CA 94104
 - b. To (*electronic service address of person served*): ak@kuchinskylawoffice.com

 - c. On (*date*): September 26, 2024

- ☒ Electronic service of the *Proposed Order (Cover Sheet)* with the attached proposed order in PDF format and service of the proposed order in an editable word-processing format on additional persons are described in an attachment.

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

Date: September 26, 2024

SCOTT ERNEST WHEELER, ESQ.

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

1 **LAW OFFICE OF SCOTT ERNEST WHEELER**

2 Scott Ernest Wheeler (SBN 187998)
3 Justin A. Wheeler (SBN 342226)
4 250 West First Street, Suite 216
5 Claremont, California 91711
6 Telephone: (909) 621-4988
7 Facsimile: (909) 621-4622
8 Email: sew@scottwheelerlawoffice.com

9 *Attorney for Plaintiff and the Putative Class*

Filed
October 3, 2024
Clerk of the Court
Superior Court of CA
County of Santa Clara
22CV407445
By: afloresca

10/3/2024 1:46:14 PM

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SANTA CLARA**

13 MAURA MUNOZ NAVA, individually,
14 and on behalf of all other aggrieved
15 employees,

16 Plaintiff,

17 v.

18 PERFORMANCE FIRST BUILDING
19 SERVICES, INC, a California corporation;
20 and DOES 1 through 50, inclusive,

21 Defendants.

Case No.: 22CV407445

[Assigned for all purposes to the Honorable
Theodore C. Zayner, Department 19]

**~~{PROPOSED}~~ ORDER GRANTING
PLAINTIFF'S RENEWED MOTION FOR
PRELIMINARY APPROVAL**

1 **[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL**

2 The Court now has before it Plaintiff's unopposed Renewed Motion for Preliminary
3 Approval of Class Action Settlement ("Motion"). After reviewing the Motion, the Second
4 Amended Class Action, Collective Action, and PAGA Settlement Agreement and Release
5 ("Settlement Agreement"), attached to the Declaration Of Scott Ernest Wheeler In Support Of
6 Plaintiff's Renewed Motion For Preliminary Approval Of Class Action Settlement Filed On Behalf
7 Of Plaintiff, and all exhibits attached thereto, and good cause appearing therefore, the Court hereby
8 finds and orders as follows:

9 1. The Court finds on a preliminary basis that the settlement memorialized in the
10 Settlement Agreement appears to be fair and adequate, and falls within the range of reasonableness,
11 and therefore meets the requirement for preliminary approval.

12 2. The Court conditionally certifies for settlement purposes the following California
13 Class (the "California Class" or "California Settlement Class"):

14 All nonexempt hourly employees who worked at any time for Defendant
15 in the state of California from November 14, 2018, through November 19, 2023.

16 The California Class Period is November 14, 2018, through November 19, 2023. (See,
17 Second Amended Agreement, ¶8).

18 3. The Court conditionally certifies for settlement purposes the following FLSA
19 Collective (the "FLSA Class" or "FLSA Settlement Class"):

20 All nonexempt hourly employees who worked at any time for Defendant
21 in the state of California from November 14, 2019, through November 19, 2023.

22 The FLSA Collective Period is November 14, 2019, through November 19, 2023. (See, Second
23 Amended Agreement, ¶18).

24 4. The court conditionally certifies for settlement purposes the portion of this
25 Settlement regarding the Private Attorneys General Act ("PAGA Aggrieved Employees):

26 All hourly, non-exempt employees employed by Defendant in California at any time
27 during the PAGA Period.
28

1 The PAGA Period means the time from August 26, 2021 through November 19, 2023. (See, Second
2 Amended Agreement, ¶31).

3 5. The Court finds, for settlement purposes, that the Class meets the requirements for
4 certification under California Code of Civil Procedure § 382 in that: (1) the Class is so numerous
5 that joinder is impractical; (2) there are questions of law and fact that are common, or of general
6 interest, to the Class, which predominate over any individual issues; (3) Plaintiff's claims are
7 typical of the claims of the Class; (4) Plaintiff and Plaintiff's counsel will fairly and adequately
8 protect the interests of the Class; and (5) a class action is superior to other available methods for
9 the fair and efficient adjudication of the controversy.
10

11 6. The Court appoints, for settlement purposes, Plaintiff Maura Munoz Nava as
12 Representative for the California and FLSA Collective Classes.
13

14 7. The Court appoints, for settlement purposes, Scott Ernest Wheeler and Justin A.
15 Wheeler of the Law Office of Scott Ernest Wheeler as Class Counsel.

16 8. The Parties are ordered to carry out the Settlement according to the terms of the
17 Second Amended Settlement Agreement.

18 9. The Court appoints Phoenix Class Action Administration Solutions as the
19 Settlement Administrator and is ordered to carry out the administration of the settlement according
20 to the terms of the Second Amended Settlement Agreement.
21

22 10. The Class and Collective Action Settlement Notice (Exh. A) shall be accompanied
23 by the Exclusion Form (Exh. B) and shall instruct Class Members to submit Exh. B to the
24 Settlement Administrator, Phoenix Class Action Administration Solutions, and not this Court. The
25 Settlement Administrator shall direct copies of any Exclusion Forms to counsel for the Parties. If
26 any Exclusion Forms are received from Class Members, the Settlement Administrator is ordered to
27 file a declaration concurrently with the filing of Plaintiff's Renewed Motion for Final Approval,
28 authenticating a copy of every exclusion form received.

1 11. The Class and Collective Action Settlement Notice (Exh. A) shall be accompanied
2 by the Objection Form (Exh. C) and shall instruct Class Members to submit Exh. C to the Settlement
3 Administrator, Phoenix Class Action Administration Solutions, and not this Court. The Settlement
4 Administrator shall direct copies of any Objection Forms to counsel for the Parties. If any
5 Objection Forms are received from Class Members, the Settlement Administrator is ordered to file
6 a declaration concurrently with the filing of Plaintiff's Renewed Motion for Final Approval,
7 authenticating a copy of every Objection Form received.

9 12. Phoenix Class Action Administration Solutions, the Settlement Administrator, shall
10 provide notice to any objecting party of any continuance of the hearing of Plaintiff's Renewed
11 Motion for Final Approval.

12 13. The Class and Collective Action Settlement Notice (Exh. A) shall be accompanied
13 by the FLSA Opt-In Form (Exh. D) and shall instruct FLSA Collective Members to submit Exh. D
14 to the Settlement Administrator, Phoenix Class Action Administration Solutions, and not this
15 Court, if the FLSA Collective Member wants to opt-in and participate in the FLSA portion of the
16 settlement.

17 14. The Parties are ordered to carry out the Settlement according to the following
18 implementation schedule:
19

Event	Date
Last day for Defendant to provide the Settlement Administrator with the Class Information	October 7, 2024 (20th day is a Sunday)
Last day for Settlement Administrator to mail Class Notice	October 17, 2024
Last day for Class Members to submit a dispute regarding Workweeks, Request for Exclusion, written Objection or opt-in to FLSA Settlement.	December 2, 2024 (45th day is a Sunday)
Last Day for Plaintiff to file Motion for Final Approval and for Attorney's Fees and Costs and Class Representative Service Award	Per Code

15. At the Final Approval Hearing, the Court will consider whether the Settlement should be finally approved as fair, reasonable and adequate, whether a final judgment should be entered, and whether the payments provided for under the Settlement, including attorneys' fees and costs and class representative service awards, should be finally approved and granted.

16. Pending the Final Approval Hearing, all proceedings in this Action, other than proceedings necessary to implement the Settlement and this Order, are stayed.

IT IS SO ORDERED.

Dated: October 3, 2024



HONORABLE THEODORE C. ZAYNER
JUDGE OF THE SUPERIOR COURT

EXHIBIT A

NOTICE OF CLASS AND COLLECTIVE ACTION AND PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT

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

1. WHY SHOULD YOU READ THIS NOTICE?

A proposed settlement (the “Settlement”) has been reached in the class and collective action lawsuit entitled *Maura Munoz Nava v. Performance First Building Services, Inc.*, Superior Court of the State of California for the County of Santa Clara, Case No.: 22CV407445 (the “Action”). The Court only determined that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final approval hearing.

You may be entitled to money from this Settlement. Performance First Building Services, Inc. (“Defendant”) records show that you belong to the following “Class” of all current and former employees nonexempt, hourly employees who worked at Defendant at any time during the Class Period and therefore are a “Class Member” and therefore, you are also part of the proposed FLSA Collective.”. You may also qualify for a penalties payment pursuant to the Private Attorneys General Act of 2004 (“PAGA”). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

Your options are further explained in this Notice. You may participate in the California Settlement Class, the FLSA Collective, neither group, or both groups. To receive all payments under the Settlement, to exclude yourself from, or object to the Settlement, you must take action by certain deadlines.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS AS A MEMBER OF CALIFORNIA CLASS	
DO NOTHING AND RECEIVE PAYMENT AS A CALIFORNIA SETTLEMENT CLASS MEMBER; YOU MUST OPT-IN TO RECEIVE THE FLSA SETTLEMENT PAYMENT	If you do nothing, you will be considered part of the California Settlement Class and will receive the California settlement payment. You will also give up your rights to pursue a separate legal action against Defendant for the claims released under the Settlement. If you also wish to receive the FLSA settlement payment, you must submit the enclosed Opt-in form, as explained below.
EXCLUDE YOURSELF FROM THE CALIFORNIA SETTLEMENT CLASS	If you do not wish to participate in the California Class Settlement, you may exclude yourself by submitting a written request to be excluded. However, if you do so, you will not receive any payment under the Settlement and will not give the right to sue Defendant, with the exception of the PAGA Released Claims. If you exclude yourself from the Settlement, you will still receive your payment for penalties under the PAGA if you are eligible.
OBJECT	To object to the Settlement, you may object orally at the Final Approval Hearing, or you may write to the Settlement Administrator about why you don’t like the Settlement. This option is available only if you do not exclude yourself from the Settlement.

With respect to the wage claims brought under the Fair Labor Standards Act, 29 U.S.C. § 216(b) (“FLSA”) as part of the FLSA Collective, you may choose to (1) “Opt-in” to the FLSA Collective and receive the payment as a FLSA Collective Member, or (2) Object to the Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS AS A MEMBER OF THE FLSA COLLECTIVE	
“OPT IN” TO THE FLSA COLLECTIVE SETTLEMENT TO RECEIVE PAYMENT AS FLSA COLLECTIVE MEMBER	If the Court grants final approval of the Settlement and you would like to receive FLSA settlement payment, you MUST complete and submit the enclosed Opt-in Form. You will release all of the FLSA

	Released Claims, as defined below, and you will give up your right to pursue the FLSA Released Claims as defined below.
EXCLUDE YOURSELF FROM THE FLSA SETTLEMENT	If you do not want to participate as a FLSA Collective Member, please do not submit the enclosed Opt-in Form This means that you will not receive payment from the FLSA Collective Settlement, and you will not give up the right to sue Defendant for any of the FLSA Released Claims as defined below.
OBJECT	To object to the Settlement, you may object orally at the Final Approval Hearing, or you may write to the Settlement Administrator about why you don't like the Settlement. This option is available only if you do not exclude yourself from the Settlement

2. WHO IS AFFECTED BY THIS PROPOSED SETTLEMENT?

The Court has certified, for settlement purposes only, the following California Class and FLSA Collective:

California Class includes all nonexempt hourly employees who worked at any time for Defendant in the state of California from November 14, 2018 through November 19, 2023 ("California Class Period").

FLSA Collective includes all nonexempt hourly employees who worked at any time for Defendant from November 14, 2019 through November 19, 2023 ("FLSA Collective Period").

According to Defendant's records, you are a member of the California Class ("California Class Member") or FLSA Collective ("FLSA Collective Member") or both.

Also, according to Defendant's records, you were employed from August 24, 2021 to November 19, 2023, and are therefore a PAGA Aggrieved Employee.

3. WHAT IS THIS CASE ABOUT?

In the Action, Maura Munoz Nava, ("Plaintiff") alleges on behalf of herself and the Class the following claims against Defendant: (1) failure to provide meal periods pursuant to Labor Code Sections 226.7, 510, 512, 1194, 1197 and Industrial Welfare Order 5-2001, Section 11; (2) failure to provide rest periods pursuant to Labor Code Section 226.7, 512 and Industrial Welfare Order 5-2001, Section 12; (3) failure to pay overtime wages pursuant to Labor Code Sections 510, 1194, 1198, Industrial Welfare Order 5-2001, Section 3; (4) failure to pay minimum wages pursuant to Labor Code Section 1194, 1197 and Industrial Welfare Order 5-2001, Section 4; (5) failure to pay timely wages in violation of Labor Code Sections 204 and 210; (6) failure to pay all wages owed and due at termination of employment in violation of Labor Code Sections 201, 202 and 203; (7) failure to maintain required records in violation of Labor Code section 226 and Industrial Welfare Order 5-2001, Section 7; (8) failure to provide accurate itemized wage statements in violation of Labor Code section 226 and Industrial Welfare Order 5-2001, Section 7; (9) failure to provide for supplemental COVID-19 sick leave pursuant to Labor Code Sections 246, 248.1 and 248.6; (10) failure to provide suitable resting facilities pursuant to Industrial Welfare Order 5-2001, Section 13(B); (11) failure to reimburse for required work-related expenses under Labor Code Section 2802; (12) failure to pay wages under the Federal Labor Standards Act; (13) violation of the California Unfair Competition Law in violation of Business and Professions Code Section 17200; and (14) and violation of the California Private Attorneys' General Act ("PAGA"), Labor Code Sections 2698, 2699 and 2699.5, predicated on the violations of the California Labor Code and IWC Wage Order 5-2001.

Defendant denies any and all wrongdoing and maintains that it has complied with all laws alleged to have been violated in the First Amended Class Action Complaint ("Operative Complaint") filed by Plaintiff as part of this Settlement. The Court has not ruled on the merits of Plaintiff's claims or Defendant's defenses, however, the Court has granted preliminary approval of this Settlement.

This Settlement is a compromise reached after good faith, arm's length negotiations between Plaintiff and Defendant (the "Parties"), through their attorneys and a mediator. Both sides agree that in light of the risks and expenses associated with continued litigation, this Settlement is fair, adequate and reasonable. Plaintiff and Class Counsel believe this Settlement is in the best interests of the Class.

4. **WHO ARE THE ATTORNEYS IN THIS LAWSUIT?**

Class Counsel

THE LAW OFFICE OF SCOTT ERNEST WHEELER

Scott Ernest Wheeler
Jusitn A. Wheeler
250 West First Street, Ste. 216
Claremont, CA 91711
Telephone: (909) 621-4988

Defendant's Counsel

Alexei Kuchinsky
KUCHINSKY LAW OFFICE, P.C.
220 Montgomery, Suite 2100
San Francisco, CA 94104
Tel: (628) 200-0902

What will I receive under the Settlement?

Subject to final Court approval, Defendant will pay the total sum of \$300,000 (the "Gross Settlement Amount"). \$5,000 of the Gross Settlement Amount is allocated to resolve the FLSA Released Claims as defined below ("FLSA Settlement Amount"). It is estimated that, subject to Court approval, after deducting the attorney's fees and costs, service awards to Plaintiff, payment to the California Labor and Workforce Development Agency ("LWDA") and Aggrieved Employees for PAGA penalties, the FLSA Settlement Amount and settlement administration costs from Gross Settlement Amount, there will be a Net Settlement Amount of at least \$_____.

From this Net Settlement Amount, Individual Settlement Payments will be paid to each California Class Member who does not opt out of the Settlement Class ("Settlement California Class Member"). The Net Settlement Amount shall be divided among all Settlement California Class Members based on the ratio of the number of Compensable Pay Periods worked by each Settlement California Class Member to the total number of Pay Periods worked by all Settlement California Class Members, calculated based on Defendant's records.

According to Defendant's records, during the California Class Period of November 14, 2018 through November 19, 2023, you worked _____ Compensable Pay Periods in California, and therefore, your settlement payment as a California Class Member is estimated to be \$_____.

According to Defendant's records, during the FLSA Collective Period of November 14, 2019 through November 19, 2023, you worked _____ Compensable Pay Periods, and therefore, your settlement payment as a FLSA Collective Member is estimated to be \$_____.

According to Defendant's records, during the period of August 24, 2021 to November 19, 2023, you worked _____ PAGA Pay Periods in California, and therefore, your PAGA payment is estimated to be \$_____.

Your settlement payments are only estimates, and the recovery will vary. Your actual settlement payments may be higher or lower than estimated. The estimated range of possible recoveries for California Class Members varies from _____ to _____. Your estimated recovery is _____. PAGA Payments for penalties to PAGA Aggrieved Employees will range from _____ to _____. Your estimated PAGA Payment is _____.

If you wish to dispute the number of Compensable Pay Periods credited to you, you must submit a written dispute to the Settlement Administrator at _____ by mail, postmarked no later than [Response Deadline], or by e-mail by _____. The dispute must: (1) contain your full name, current address, telephone number, the last four digits of your Social Security number or full employee ID number; (2) contain the case name and case number ("*Maura Munoz Nava v. Performance First Building Services, Inc.*", Superior Court of the State of California for the County of Santa Clara, Case

No.: 22CV407445”); (3) contain a clear statement explaining that you wish to dispute the number of Compensable Pay Periods and the basis for your dispute; and (4) and be signed by you. You may also dispute your PAGA Pay Periods by following the same process you can dispute your Compensable Pay Periods set forth above. You should attach all documentation in support of your dispute.

5. WHEN AND HOW WILL I RECEIVE PAYMENT?

If the Court grants final approval of the Settlement, and only after the Effective Date of the Settlement defined below, the Settlement Administrator will send you a settlement check. The settlement approval process takes time so please be patient.

FLSA Collective Members, California Class Members, and PAGA Aggrieved Employees, including Plaintiff, will be eligible to receive a monetary award from the Net Settlement Amount. Please note that the Settlement provides three separate types of payments, based on the definitions above: (1) FLSA payments for the federal law claims; (2) California payments for the California state law claims; and (3) PAGA payments for the California PAGA claims. You are eligible to receive one or more of these payments under the Settlement. Some employees will be eligible for one payment, while others may be eligible for two or three of these payments. Your eligibility for each payment depends on when you worked for Defendant.

FLSA Collective Members must submit timely and valid opt-in forms in order to become “Opt-in Plaintiffs” and receive an FLSA payment under the Settlement. Additionally, California Class Members will receive a California payment under the Settlement unless they opt out of the Settlement. FLSA Collective Members that submit timely and valid opt-in forms and California Class Members who do not opt out of the Settlement are together referred to as the “Settlement Class.”

IMPORTANT – If you are eligible to receive an FLSA payment, you MUST submit the enclosed Opt-in Form by [insert date] to receive your FLSA payment. If you do NOT submit the enclosed Opt-in Form by [insert date], you will not receive an FLSA payment. You do not have to submit an Opt-in Form to receive a California Class payment. Please see Section 8 of this Notice for further information regarding your options under the Settlement

Any settlement payment checks mailed to you under the Settlement shall remain negotiable for 180 days. If you do not negotiate (e.g., cash or deposit) a settlement check within this time period, you will be unable to receive those funds, but you will remain bound by the terms of the Settlement. Any funds that are not timely negotiated by a Settlement California Class Member will be paid to Legal Aid at Work’s Wage Protection Clinic. All funds attributable to PAGA penalties that are not timely negotiated by a PAGA Aggrieved Employee will also be paid to Legal Aid at Work’s Wage Protection Clinic.

The settlement payment issued to you will be allocated as follows: twenty percent (20%) as wages, eighty percent (80%) as penalties and interest. The wage portion of the Individual Settlement Payment shall be subject to withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable payroll taxes from the wage portion of the Individual Settlement Payment. None of the Parties or attorneys make any representations concerning the tax implications of this payment. You may wish to consult with your own tax advisors concerning the tax consequences of the Settlement.

6. HOW WILL THE LAWYERS BE PAID AND HOW WILL OTHER FUNDS UNDER THE SETTLEMENT BE DISTRIBUTED?

Class Counsel will ask the Court to award attorneys’ fees up to Hundred Thousand Dollars and Zero Cents (\$100,000.00) or 1/3 of the Gross Settlement Amount, and reimbursement of reasonable litigation costs not to exceed \$14,500. In addition, Class Counsel will ask the Court to authorize Class Representative Service Award payments of up to \$6,000 for her efforts in representing the Class. The cost of administering the Settlement will not exceed \$14,000. A payment in the amount of \$15,000 will also be made to the LWDA for its share of PAGA penalties, while \$5,000 will be paid to PAGA Aggrieved

Employees. Any of these amounts not awarded by the Court will be included in the estimated net settlement of \$ [REDACTED] and will be distributed to all participating California Class Members.

7. WHAT CLAIMS ARE BEING RELEASED BY THE PROPOSED SETTLEMENT?

As of the date that the Gross Settlement Amount is fully-funded by Defendant, and in exchange for the consideration provided under this Settlement, all participating California Class and FLSA Collective Members shall fully and finally release and discharge all Released Parties, from the California and FLSA Released claims defined as follows:

California Released Claims includes any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, action or causes of action, alleged in the operative Complaint for: (1) failure to provide meal periods pursuant to Labor Code Sections 226.7, 510, 512, 1194, 1197 and Industrial Welfare Order 5-2001, Section 11; (2) failure to provide rest periods pursuant to Labor Code Section 226.7, 512 and Industrial Welfare Order 5-2001, Section 12; (3) failure to pay overtime wages pursuant to Labor Code Sections 510, 1194, 1198, Industrial Welfare Order 5-2001, Section 3; (4) failure to pay minimum wages pursuant to Labor Code Section 1194, 1197 and Industrial Welfare Order 5-2001, Section 4; (5) failure to pay timely wages in violation of Labor Code Sections 204 and 210; (6) failure to pay all wages owed and due at termination of employment in violation of Labor Code Sections 201, 202 and 203; (7) failure to maintain required records in violation of Labor Code section 226 and Industrial Welfare Order 5-2001, Section 7; (8) failure to provide accurate itemized wage statements in violation of Labor Code section 226 and Industrial Welfare Order 5-2001, Section 7; (9) failure to provide for supplemental COVID-19 sick leave pursuant to Labor Code Sections 246, 248.1 and 248.6; (10) failure to provide suitable resting facilities pursuant to Industrial Welfare Order 5-2001, Section 13(B); (11) failure to reimburse for required work-related expenses under Labor Code Section 2802; (12) violation of the California Unfair Competition Law in violation of Business and Professions Code Section 17200; and (13) and violation of the California Private Attorneys' General Act ("PAGA"), Labor Code Sections 2698, 2699 and 2699.5, predicated on the violations of the California Labor Code and IWC Wage Order 5-2001 as alleged in the Operative Complaint and the California Labor and Workforce Development Agency ("LWDA") Notice dated August 26, 2022. This release shall apply to all claims arising at any point during the Class Period. This release does impact any claims which cannot be released such as Worker's Compensation benefits and unemployment benefits.

FLSA Released Claims includes any and all claims under the Fair Labor Standards Act, 29 U.S.C. § 216(b) that were or could have been alleged based on the facts alleged in the First Amended Complaint, including all claims for failure to pay all wages and overtime from November 14, 2019 through November 19, 2023

PAGA Release Claims means that Plaintiff and the State of California will release all claims for civil penalties only under the PAGA") in the Operative Complaint and that Plaintiff and the State of California are fully and irrevocably releasing the Released Parties from, in exchange for the consideration provided by this Settlement. Plaintiff and the State of California will only release claims alleged in the LWDA Notice and within the Operative Complaint. In particular, the released claims include the underlying purported violations for: (1) failure to provide meal periods pursuant to Labor Code Sections 226.7, 510, 512, 1194, 1197 and Industrial Welfare Order 5-2001, Section 11; (2) failure to provide rest periods pursuant to Labor Code Section 226.7, 512 and Industrial Welfare Order 5-2001, Section 12; (3) failure to pay overtime wages pursuant to Labor Code Sections 510, 1194, 1198, Industrial Welfare Order 5-2001, Section 3; (4) failure to pay minimum wages pursuant to Labor Code Section 1194, 1197 and Industrial Welfare Order 5-2001, Section 4; (5) failure to pay timely wages in violation of Labor Code Sections 204 and 210; (6) failure to pay all wages owed and due at termination of employment in violation of Labor Code Sections 201, 202 and 203; (7) failure to maintain required records in violation of Labor Code section 226 and Industrial Welfare Order 5-2001, Section 7; (8) failure to provide accurate itemized wage statements in violation of Labor Code section 226 and Industrial Welfare Order 5-2001, Section 7; (9) failure to provide for supplemental COVID-19 sick leave pursuant to Labor Code Sections 246, 248.1 and 248.6; (10) failure to provide suitable resting facilities pursuant to Industrial Welfare Order 5-2001, Section 13(B); and (11) failure to reimburse for

required work-related expenses under Labor Code Section 2802; as alleged in the Operative Complaint and the LWDA Notice dated August 26, 2022. Action.

Released Parties” collectively mean: (i) Defendant; and (ii) Defendant’s current officers, directors, employees and agents only.

“Effective Date” means the date on which the Superior Court’s Final Approval Order and Judgment becomes final and Defendant fully funds the Gross Settlement Amount to the Settlement Administrator. The Superior Court’s Final Approval Order and Judgment “becomes final” upon the latter of: (a) if there is no Objection to the Settlement, or if there is an Objection but it is withdrawn, then, the date that the Final Approval Order and Judgment is filed by the Court; (b) if there is an Objection to the Settlement that is not withdrawn, but no appeal is commenced thereafter, then, sixty-five (65) calendar days following the date that the Final Approval Order and Judgment is filed by the Court; (c) if there is an Objection to the Settlement, that is not withdrawn, and any appeal, writ, or other appellate proceeding opposing the Settlement has been filed within sixty-five (65) calendar days following the date that the Final Approval Order and Judgment is filed by the Court, then, when any such appeal, writ, or other appellate proceeding opposing the validity of the Settlement has been resolved finally and conclusively with no right to pursue further remedies or relief.

8. WHAT ARE MY OPTIONS?

You have several options under this Settlement. You may: (A) remain in the Class and receive payment under the Settlement; or (B) exclude yourself from the Settlement. If you choose option (A), you may also object to the Settlement.

OPTION A. Receive Payments

Remain in the California Class. If you remain in the California Class, you will receive payment and be represented by Class Counsel. If you wish to remain in the California Class and be eligible to receive a payment under the Settlement, you do *not* need to take any action. By remaining in the Class and receiving settlement monies, you consent to the release of the California Released Claims as described above.

PAGA Payment to Aggrieved Employees. If you are a PAGA Aggrieved Employee, you will receive a PAGA payment and be subject to the PAGA release outlined above.

Claim your FLSA payment. If you are eligible for an FLSA payment, you MUST complete and submit the enclosed Opt-in Form by [insert date] to receive your FLSA payment. The Opt-in Form must be submitted to the Settlement Administrator by email at [INSERT EMAIL ADDRESS], or by mail at [INSERT SETTLEMENT ADMINISTRATOR ADDRESS]. If you do not submit the enclosed Opt-in Form by [insert date], you will not receive an FLSA payment and will receive only California Class payment.

OPTION B. If You Do Not Want To Be Bound By The Settlement.

California Class. If you do not want to be part of the California Class Settlement, you must mail a Request for Exclusion to the Settlement Administrator by email at [INSERT EMAIL ADDRESS], or by mail at [INSERT SETTLEMENT ADMINISTRATOR ADDRESS] by the [Response Deadline]. Your Request for Exclusion must: (1) contain your full name, address, and telephone number, the last four digits of your social security number; (2), contain the case name and case number; and (3) a clear statement you are electing to be excluded from the Settlement; and (4) be signed by you. In order to be timely, your Request for Exclusion must be postmarked, or e-mailed, on or before [Response Deadline]. If you do not submit a valid and timely Request for Exclusion, your Request for Exclusion will be rejected, you will be deemed a member of the California Settlement Class, and you will be bound by the release of California Released Claims as described above. If you submit a valid and timely Request for Exclusion, you will *not* be entitled

to any payment as a California Class Member from the Net Settlement Amount but you will preserve all of the legal claims asserted in this Action against Defendant.

If you are a PAGA Aggrieved Employee, you will still receive a PAGA payment and be subject to the PAGA release outlined above even if you submit a Request for Exclusion. The Request for Exclusion form is enclosed with this notice for your convenience.

FLSA Collective. If you are eligible for an FLSA payment and you do nothing (you do not submit the Opt-in Form), you will not receive an FLSA payment, and you will not release any claims under the FLSA. If you are a California Class Member and do not timely and validly opt-out, you will automatically receive your California payment and will be bound by the Settlement including its release provisions as to California law claims.

Objecting to the Settlement: If you believe the proposed Settlement is not fair, reasonable or adequate in any way, you may object to it orally or in writing. If you wish to object to the Settlement you may do so orally at the Final Approval Hearing without the need to submit a written objection. If you want to make a written objection, you can do so by submitting a written Objection by the Response Deadline to the Settlement Administrator by U.S. Mail at Post Office Box 7208, Orange, CA 92863, or e-mail the written Objection to Info@phoenixclassaction.com. The written Objection must contain the following: (a) your full name, address, telephone number, and the last four digits of your social security number; (b) the case name and case number; (c) the dates of employment with Defendant; (d) a concise statement of the reasons for objecting; and (e) be signed by you. In order to be timely, the written objection should be postmarked, or e-mailed, on or before [REDACTED]. Class Counsel will provide the Court with your written objection prior to the Final Approval Hearing. You can also hire an attorney at your own expense to represent you regarding the objection. The Objection Form is enclosed with this notice for your convenience.

You cannot object to the Settlement if you request exclusion from the Settlement.

9. WHAT IS THE NEXT STEP IN THE APPROVAL OF THE SETTLEMENT?

The Court will hold a final approval hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement and the plan of distribution of the payments described herein, on [REDACTED] in Department 19 at Superior Court of California, County of Santa Clara, 191 N. 1st Street, Santa Clara, California 95113. The final approval hearing may be continued without further notice to California Class Members unless you filed an objection to the Settlement and the Settlement Administrator will notify you if the final approval hearing is continued. You may appear at the Final Approval Hearing at your expense, either in person, telephonically, by Microsoft Teams by using the Court's Remote Appearance Link (https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml), or through an attorney at your own expense. You are not required to attend the Final Approval Hearing in order to receive payment under the Settlement.

10. HOW CAN I GET ADDITIONAL INFORMATION?

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Settlement Agreement, which is on file with the Clerk of the Court. The pleadings and other records in this litigation, including the Settlement Agreement, are accessible and may be examined: (a) online on the Superior Court of California, County of Santa Clara's Website at <https://www.scefilng> and https://www.scscourt.org/online_services/case_info.shtml or (b) in person at Records, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures.

You can visit the Court's website at: https://www.scscourt.org/general_info/news_media/covid19.shtml for information regarding updated COVID-19 protocols.

The Settlement Administrator maintains a website at (INSERT WEBSITE ADDRESS) which provides links to important documents for your review regarding this matter.

It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your monetary Settlement Award. If you fail to keep your address current, you may not receive your Settlement Award.

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE

EXHIBIT B

Maura Munoz Nava v. Performance First Building Services, Inc.,
Superior Court of the State of California for the County of Santa Clara,
Case No.: 22CV407445

EXCLUSION FORM

IF YOU DO NOT WANT TO PARTICIPATE IN THE SETTLEMENT, YOU MUST SIGN AND FILL OUT THIS FORM ACCURATELY AND IN ITS ENTIRETY, AND YOU MUST EMAIL TO (INSERT EMAIL ADDRESS) OR MAIL THIS FORM BY FIRST CLASS U.S. MAIL TO THE SETTLEMENT ADMINISTRATOR, PHOENIX SETTLEMENT ADMINISTRATORS AT THE ADDRESS BELOW AND IT MUST BE POSTMARKED OR EMAILED ON OR BEFORE .

Phoenix Settlement Administrators Re: Nava v. Performance First Building Services, Inc.
P.O. Box 7208 Orange, CA 92863 Phone: (800) 523-5773 Email: Info@phoenixclassaction.com E-Mail (insert address)

PLEASE CHECK THE BOX THAT ACCURATELY REFLECTS YOUR CHOICE:

☐	IT IS MY DECISION TO BE <u>EXCLUDED</u> FROM BOTH CALIFORNIA CLASS AND FLSA COLLECTIVE AND <u>NOT</u> TO RECEIVE ANY MONEY UNDER THE SETTLEMENT.
☐	IT IS MY DECISION TO BE <u>EXCLUDED</u> FROM THE CALIFORNIA CLASS ONLY AND <u>NOT</u> TO RECEIVE ANY MONEY UNDER THE CALIFORNIA CLASS SETTLEMENT.
☐	IT IS MY DECISION TO BE <u>EXCLUDED</u> FROM THE FLSA COLLECTIVE ONLY AND <u>NOT</u> TO RECEIVE ANY MONEY UNDER THE FLSA COLLECTIVE SETTLEMENT.

I confirm that I was employed by and performed work for Performance First Building Services, Inc., between November 14, 2018 through November 19, 2023. I confirm that I have received notice of the proposed settlement in this action. I have decided to be excluded from either the California Class, FLSA Collective, or both, and I have decided not to participate in the proposed Settlement. I understand that by submitting this Exclusion Form, I will be forever barred from receiving any money under the Settlement and will not be bound by the Settlement. If you exclude yourself from the Settlement, you will still

receive your share of the penalties payment under the Private Attorneys General Act of 2004 (“PAGA”) if you are eligible.

DATED: _____

(Signature)

(Address)

(Type or Print Name)

(City, State, Zip)

(Employee ID or Last Four Social Security
Numbers)

EXHIBIT C

Maura Munoz Nava v. Performance First Building Services, Inc.,
Superior Court of the State of California for the County of Santa Clara,
Case No.: 22CV407445

OBJECTION FORM

THIS FORM MUST BE POSTMARKED OR EMAILED NO LATER THAN xxx.

ONLY RETURN THIS FORM IF YOU WANT TO OBJECT TO THE SETTLEMENT.

Name (First, Middle, Last)

[preprinted by settlement administrator]

OBJECT	If you choose, you may object to this Settlement. The Court may or may not agree with your objection. Objecting to the Settlement will not exclude you from the Settlement, and if you participate in the Settlement and receive a Settlement Share you do so in exchange for a release of the Released Claims as more fully discussed below.
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If you wish to Object to the Settlement you can do so orally at the Final Approval Hearing or you may object in writing. If you choose to object in writing, you must mail your written Objection to the Settlement Administrator at Post Office Box 7208, Orange, CA 92863, or e-mail the written objection to Info@phoenixclassaction.com. The written Objection should contain the following: (a) contain your full name, address, telephone number, and the last four digits of your social security number; (b) clearly identify the case name and number (*Maura Munoz Nava v. Performance First Building Services, Inc.*, Superior Court of the State of California for the County of Santa Clara, Case No.: 22CV407445); (c) the dates of employment with Defendant; (d) provide a concise statement of the reasons for objecting; and (e) be signed by you. In order to be timely, the written objection must be postmarked, or e-mailed, on or before [redacted], 2024. Class Counsel will provide the Court with your written objection prior to the Final Approval Hearing. You can appear at the Final Approval Hearing either in person, telephonically, by using Microsoft Teams through the Court's Remote Hearing Links (https://www.sccscourt.org/general_info/ra_teams/video_hearings_teams.shtml) and make an oral objection, or you can make a written objection. You can hire an attorney to represent you to make an Objection at your own expense.

You can appear in person at the Final Approval Hearing set for [redacted], 2024 at [redacted] in Dept. 19, of the Superior Court of the State of California, County of Santa Clara and discuss your objections with the Court and the Parties. The Final Approval Hearing may be continued to another date. If you file a timely written Objection, the Settlement Administrator will notify you of any continuance of the Final Approval Hearing. You may withdraw your Objection at any time. If you have submitted a Request for Exclusion Form, you may not submit objections to the Settlement. You do not need to state an intent to appear at or appear at the Final Approval Hearing to have your Objection considered by the Court.

Please state all reasons for the objection below and sign, date and include your address and telephone number. The Settlement Administrator will stamp the date received on the original and send copies of each objection to Class Counsel and Counsel for Performance First Building Services, Inc., who will then file the objection with the Court.

Reason(s) for Objection: (you may include additional pages if necessary)

Dated: _____

(Signature)

(Typed or Print Name)

(Employee Id. or Last Four Social Security
Numbers)

(Address)

If you wish to object to the Settlement, you must mail or email your Objection by ,
2024:

Phoenix Settlement Administrators
Re: *Nava v. Performance First Building Services, Inc.*
P.O. Box 7208
Orange, CA 92863
Phone: (800) 523-5773
Email: Info@phoenixclassaction.com

EXHIBIT D

Maura Munoz Nava v. Performance First Building Services, Inc.,
Superior Court of the State of California for the County of Santa Clara,
Case No.: 22CV407445

TO RECEIVE YOUR FAIR LABOR STANDARDS ACT (FLSA) SETTLEMENT PAYMENT
YOU MUST COMPLETE, SIGN, AND SUBMIT THIS OPT-IN CLAIM FORM
ELECTRONICALLY OR BY FIRST CLASS U.S. MAIL, ON OR BEFORE
(POSTMARK DEADLINE), TO:

Phoenix Settlement Administrators Re: Nava v. Performance First Building Services, Inc.
P.O. Box 7208 Orange, CA 92863 Phone: (800) 523-5773 Email: Info@phoenixclassaction.com E-Mail (insert address)

CONSENT TO JOIN COLLECTIVE ACTION AND OPT-IN TO THE SETTLEMENT
Pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq.

1. I consent and agree to pursue my claims relating to and arising from the alleged violations of Defendant Performance First Building Services, Inc. (“Defendant”) of the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq. in connection with the above-referenced litigation.
2. I have worked as a non-exempt hourly employee for Defendant in the United States at any time between November 14, 2019 and November 19, 2023.
3. I understand that this Action has been filed as a proposed collective action under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201, et seq. I hereby consent, agree, and opt-in to join this lawsuit and become an Opt-in Plaintiff herein and be bound by any judgment of the Court or any settlement of this Action.
4. I hereby consent and agree to be bound by the settlement of the Fair Labor Standards Act (FLSA) claims asserted in the above-entitled lawsuit, as set forth in the Notice of Settlement and the Second Amended Class Action Settlement Agreement (“Settlement”). I understand that to receive my settlement payment for the release of my FLSA claims, I must expressly agree to opt into this Settlement and expressly release my claims under the FLSA.
5. Upon Final Approval, my signature below constitutes a full and final release and discharge of claims against Defendants and the Releasees under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201 et seq. (“FLSA claims”), through November 19, 2023, as described more fully in the Settlement on file with the Court.
6. I agree that the information as shown in this FLSA Opt-In Claim Form is true and correct to the best of my knowledge, and I hereby expressly agree to opt-in to the Settlement.

DATED: _____
(Signature)

(Address) (Type or Print Name)

(City, State, Zip) (Employee ID or Last Four Social Security Numbers)

****IMPORTANT NOTICE****

Statute of Limitations concerns mandate that you return this form as soon as possible to preserve your rights.

YOU MUST SUBMIT THIS OPT-IN FORM BY [INSERT DATE] TO RECEIVE AN FLSA PAYMENT UNDER THE SETTLEMENT.

This form may be submitted electronically via email to Info@phoenixclassaction.com or via U.S. Mail.

Please keep a copy of the completed Opt-in Form for your records.