

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

CARLOS FLORES, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

NIKKISO AMERICA, INC., a Delaware
Corporation; ACD, LLC, a California
Limited Liability Company; CRYOGENIC
INDUSTRIES, INC., a Delaware
Corporation; CRYOGENIC INDUSTRIES
SERVICE COMPANIES, LLC, a
California Limited Liability Company;
CRYOQUIP, LLC, a California Limited
Liability Company; COSMODYNE, LLC,
a California Limited Liability Company;
and DOES 1 through 20, inclusive;

Defendants.

Case No.: CVRI2204626

*[Assigned to Hon. Harold Hopp, Dept 1, for all
purposes]*

[PROPOSED] ORDER:

- 1) PRELIMINARILY APPROVING
CLASS ACTION AND PAGA
SETTLEMENT;**
- 2) CONDITIONALLY CERTIFYING A
CLASS FOR SETTLEMENT
PURPOSES ONLY;**
- 3) DIRECTING DISTRIBUTION TO THE
CLASS OF THE SETTLEMENT
NOTICE AND EXPLANATION FORM;
AND**
- 4) SETTING A HEARING FOR FINAL
APPROVAL OF THE SETTLEMENT**

1 Having reviewed the Class and PAGA Settlement Agreement and Release of Claims (the
2 “Settlement Agreement” or “S.A.”), which is attached as Exhibit A to the Declaration of Brian
3 Mankin in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement
4 filed on May 24, 2024, between Plaintiff Carlos Flores (“Plaintiff”) and Defendants Nikkiso
5 America, Inc., ACD, LLC, Cryogenic Industries, Inc., Cryogenic Industries Service Companies,
6 LLC, Cryoquip, LLC, Cosmodyne, LLC, and Integrated Cryogenic Solutions, LLC (collectively,
7 “Defendants”) (Plaintiff and Defendants shall collectively be referred to as “Parties”), as well as
8 the Memorandum of Points and Authorities in Support of the Unopposed Motion for Preliminary
9 Approval of Class Action Settlement, the documents submitted in support of the motion, and all
10 supporting legal authorities and documents, IT IS HEREBY ORDERED:

11 1. The Court GRANTS preliminary approval of the Settlement based upon the terms
12 set forth in the Settlement Agreement and finds its terms to be within the range of reasonableness
13 of a settlement that ultimately could be granted final approval by the Court at a Final Approval
14 hearing. The settlement appears to be fair, adequate and reasonable to the Class. Based on a
15 review of the papers submitted by Plaintiff, the Court finds that the Settlement is the result of
16 arms-length negotiations conducted after the Parties adequately investigated and became familiar
17 with the strengths and weaknesses of the claims. The assistance of an experienced mediator in
18 the Settlement process supports the Court’s conclusion that the Settlement is non-collusive.

19 2. For settlement purposes only, the Court finds that the proposed Class is
20 ascertainable and that there is a sufficiently defined community of interest among the Class
21 Members in questions of law and fact. The Court certifies the following Class, for settlement
22 purposes only: All members of the ACD Class and Cryogenic Class, which are further defined
23 as follows in the Settlement Agreement:

24 a. “ACD Class” means all current and former nonexempt (hourly paid)
25 employees employed by Defendant ACD, LLC (which also does business in California as ACD
26 and Nikkiso ACD) in California during the ACD Class Period of January 1, 2020, through
27 January 16, 2024.
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1 b. “Cryogenic Class” means current and former nonexempt (hourly paid)
2 employees employed by Defendants Nikkiso America, Inc., ACD, LLC, Cryogenic Industries,
3 Inc., Cryogenic Industries Service Companies, LLC, Cryoquip, LLC, Cosmodyne, LLC, and
4 Integrated Cryogenic Solutions, LLC in California during the Cryogenic Class Period of October
5 25, 2018, through December 31, 2019.

6 3. Additionally, the “Aggrieved Employee(s)” is defined to include all current and
7 former nonexempt (hourly paid) employees employed by Defendant ACD, LLC (which also
8 does business in California as ACD and Nikkiso ACD) in California during the PAGA Period of
9 October 25, 2021, through January 16, 2024.

10 4. The class action settlement set forth in the Settlement Agreement between
11 Plaintiff and Defendants is preliminarily approved as it appears to be proper, to fall within the
12 range of a fair, reasonable, and adequate settlement, and to be presumptively valid, subject only
13 to any objections that may be raised at the Final Approval Hearing.

14 5. For settlement purposes only, the Court appoints Plaintiff Carlos Flores as Class
15 Representative, and Brian Mankin and Peter Carlson as Class Counsel.

16 6. The Court approves Phoenix Settlement Administrators to act as the Settlement
17 Administrator, who is directed to fulfill all of the duties and services set forth in the Settlement
18 Agreement, including but not limited to paragraphs 66 to 78. The Settlement Administrator shall
19 file a declaration concurrently with the Motion for Final Approval, authenticating a copy of
20 every Objection Form and Exclusion Form received by the Settlement Administrator.
21 Furthermore, in the event of a continuance of the hearing of the motion for final approval, the
22 Settlement Administrator must give notice of such continuance to any objecting party.

23 7. The Court approves, as to form and content, the Class Notice, Exclusion Form,
24 Objection Form, and Dispute Form (attached hereto as Exhibits A, B, C, and D, respectively)
25 that the Class Members may use. The Court further finds the Class Notice, Exclusion Form,
26 Objection Form and Dispute Form fairly apprise the Class Members of the terms of the proposed
27 settlement and of their options in connection with the settlement.
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1 8. Class Members who wish to request exclusion, object to the Settlement or dispute
2 Weeks Worked via the Exclusion Form and/or Objection Form and/or Dispute Form are directed
3 to mail the appropriate form above to the Settlement Administrator (and not to the Court) within
4 the time periods set forth in the Class Notice.

5 9. The Settlement Administrator is directed to mail the Notice, Request for
6 Exclusion Form, Objection Form, and Dispute Form by first class mail to the Class Members in
7 English in accordance with the Settlement Agreement and schedule set forth below.

8 10. The Court finds that the deadlines and method set forth in the Settlement
9 Agreement for the mailing of the Notice and related forms described herein meet the
10 requirements of due process, provide the best notice practicable under the circumstances,
11 constitute due and sufficient notice to all persons entitled to notice, and otherwise satisfy the
12 requirements of California law.

13 11. The Court directs the Administrator to perform address verification measures and
14 mail the Notice by first class mail to the Class Members (in English and Spanish) not later than
15 10 days after it receives the “Class Data” as defined in the Settlement Agreement and to
16 otherwise carry out the Settlement according to the terms of the Settlement Agreement and in
17 conformity with this Order. The Parties are also ordered to carry out the Settlement according to
18 the terms of the Settlement Agreement.

19 12. All Class Members shall be deemed to participate in the Settlement, although any
20 Class Member who wishes to comment on or object to the Settlement or who elects not to
21 participate in the Settlement has until forty-five (45) days after the mailing of the Class Notice to
22 submit an objection or Request to be Excluded, pursuant to the procedures set forth in the Notice.

23 13. The Court approves the handling of unclaimed funds set forth in the Settlement
24 Agreement, specifically that any unclaimed funds in the Administrator’s account as a result of a
25 failure to timely cash a settlement check shall be issued to the State Controller’s Office in the
26 name of the Class Member, as set forth in the Settlement Agreement.

14. The following dates shall govern for purposes of this settlement:

June 18, 2024	Preliminary Approval (PA) hearing
July 12, 2024	<u>24 days after PA</u> : Deadline for Administrator to complete first mailing of the Notice Packet to all Class Members.
August 26, 2024	<u>45 days after mailing Notice</u> : Deadline for Class Members to submit Requests for Exclusion, Disputes and Objections to the settlement.
16 court days before Final Approval hearing	Deadline for Plaintiff to file and serve Motion for Final Approval and application for award of fees, costs and service payments.
9 court days before Final Approval hearing	Deadline for filing of any written opposition to Plaintiff's Motion for Final Approval, or filing response to an objection.
5 court days before final approval hearing	Deadline for filing of any written reply to opposition Motion for Final Approval
TBD – October 28, 2024	<u>Approx. 130 days after PA</u> : Final Approval Hearing

15. A final approval hearing shall be held in this Court on _____, 2024 at _____ a.m. to determine (1) whether the proposed settlement is fair, reasonable, and adequate and should be finally approved by the Court; (2) the amount of Attorneys' Fees and Costs Award to Class Counsel; and (3) the amount of the Service Payment to the Class Representative.

16. Neither this Order, the Settlement Agreement, nor any document referred to therein, nor any action taken to carry out the settlement embodied in the Settlement Agreement may be construed as, or may be used by Plaintiff or the Class Members in this Action as an admission by or against Defendants or any of the other Released Parties (as that term is defined in the Settlement Agreement) of any fault, wrongdoing or liability whatsoever.

17. The Court may, for good cause shown, extend any of the deadlines set forth in this Order. If any Class Member submits an objection to the settlement and the Final Approval Hearing is continued, either Class Counsel or the Settlement Administrator are directed to give notice of the new hearing date to the objecting party; and

1 18. In the event that the Settlement Agreement does not receive final approval or the
2 Effective Date of the Settlement does not occur, this Order shall be rendered null and void and
3 shall be vacated.
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5 Date: _____
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7 Honorable Harold Hopp
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EXHIBIT “A”

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT

Flores v. Cryogenic, ACD, Nikkiso America, and others
(Riverside Superior Court, Case No. CVRI2204626)

***The Riverside Superior Court authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (the “Action”) filed by Plaintiff Carlos Flores (“Plaintiff” or “Class Representative”) against Defendants Nikkiso America, Inc., ACD, LLC, Cryogenic Industries, Inc., Cryogenic Industries Service Companies, LLC, Cryoquip, LLC, Cosmodyne, LLC, and Integrated Cryogenic Solutions, LLC (collectively, “Defendants”) for alleged violations of the California Labor Code. (As used in this Notice, Plaintiff and Defendants shall collectively be referred to as the “Parties”).

The Action was filed by Plaintiff and seeks payment of unpaid wages, statutory damages and penalties, interest and attorneys’ fees on behalf of two distinct groups of Defendants’ employees in California:

(1) The “Cryogenic Class” which is defined as all current and former nonexempt (hourly paid) employees employed by Defendants Nikkiso America, Inc., ACD, LLC, Cryogenic Industries, Inc., Cryogenic Industries Service Companies, LLC, Cryoquip, LLC, Cosmodyne, LLC, and Integrated Cryogenic Solutions, LLC in California from October 25, 2018, through December 31, 2019 (the “Cryogenic Class Period”).

(2) The “ACD Class” which is defined as all current and former nonexempt (hourly paid) employees employed by Defendant ACD, LLC, in California from January 1, 2020, through January 16, 2024 (the “ACD Class Period”).

Additionally, Plaintiff’s Action seeks payment of penalties under the California Private Attorneys General Act (“PAGA”) for all current and former nonexempt (hourly paid) employees employed by Defendant ACD, LLC, in California from the “PAGA Period” of October 25, 2021, through January 16, 2024 (the “Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payments to Class Members, and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA Payments to Aggrieved Employees and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendants’ records, and the Parties’ current assumptions, your Individual Class and PAGA Payments are shown in the charts below, along with the applicable data points from which these estimates are derived.

[CLASS MEMBER NAME] [ID/CONTROL NUMBER]

Two Parts	Weeks Worked	Your Estimated Share
Class Member	INSERT (During Class Period)	\$INSERT (Individual Class Payment)
Aggrieved Employee	INSERT (During PAGA Period)	\$INSERT (Individual PAGA Payment)

Please note that the actual amount you receive may be different from the above and will depend on several factors. (If no amount is stated for your Individual PAGA Payment then, according to Defendants’ records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.) Also, while the range of recovery will differ for Class Members, it is estimated that the average payment will be \$**XX**, the high payment will be \$**XX**, and the low payment will be \$**XX**. If you believe that you worked more weeks during the periods discussed above, you can submit a challenge by **DATE**, 2024 (“Response Deadline”). See **Section 4** of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not

yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have a few options as shown in the Chart below:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE A SETTLEMENT PAYMENT	If you want to receive your full settlement payment, then no further action is required on your part. You will automatically receive a settlement payment if the Settlement receives final approval by the Court. You will be bound by the terms of the Settlement Agreement and will give up your right to sue on the Released Class Claims described in Section 3 .
EXCLUDE YOURSELF	If you do not wish to participate in the settlement of the Class Claims, you may "opt-out" of the settlement of the Class Claims. If you choose to opt-out, you must submit a Request for Exclusion Form by [REDACTED], 2024 (see Section 6 for more details on how to opt-out). If you opt-out, you will no longer be a Class Member, and you will (1) <u>not</u> receive an Individual Class Payment, but you will preserve your right to pursue the Released Class Claims described below subject to applicable statutes of limitations, and (2) be barred from filing an objection to the settlement. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released PAGA Claims. See Section 6 of this Notice.
OBJECT	If you decide to object to the settlement with respect to the Class Claims because you find it unfair or unreasonable, you must submit an Objection Form stating why you object to the settlement by [REDACTED], 2024 (see Section 7 for more details on how to object).
DISPUTE THE NUMBER OF WEEKS WORKED	If you believe the number of workweeks that you were credited with working in the chart above is incorrect, you may submit the enclosed Dispute Form with any supporting evidence to the XX (the "Settlement Administrator"), a third party that is responsible for sending this Notice) (see Section 4 for more details on how to submit a Dispute Form). Defendants' records will be presumed correct, but you may provide evidence to the Settlement Administrator showing how many Work Weeks you believe you should be credited.

YOU MAY ATTEND THE FINAL APPROVAL HEARING, BUT IT'S NOT REQUIRED	
DATE: DATE , 2024 TIME: 8:30 A.M.	At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. See Section 8 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendants. The Action accuses Defendants of violating California labor laws by failing to pay minimum and overtime wages, failure to provide meal and rest breaks and pay meal and rest period premiums, failure to reimburse business expenses, failure to timely pay wages each period and upon separation of employment, and failure to provide accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act ("PAGA").

Defendants strongly deny violating any laws or failing to pay any wages and contend they complied with all applicable laws.

Both Parties are represented by attorneys in the Action. See **Section 9** below for their contact information.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendants or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”), Plaintiff and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendant Will Pay \$460,000 as the “Settlement Amount.” Defendant has agreed to pay a total Settlement Amount of \$460,000, and will deposit the Settlement Amount into an account controlled by Settlement Administrator. The Settlement Administrator will use the Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s Costs, and PAGA Penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendants will fund the Settlement Amount approximately 15 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to one-third of the Settlement Amount (\$153,333.33) to Class Counsel for attorneys’ fees and up to \$25,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. **\$9,000** to the Settlement Administrator for services administering the Settlement.

C. Up to \$30,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their share of Weeks Worked during the PAGA Period.

D. Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the remainder (the “Net Settlement Amount”) by making Individual Class Payments to Participating Class Members based on their pro rata share of total Weeks Worked during the Class Period.

4. Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking the Court to approve an allocation of one-third of each Individual Class Payment to taxable wages (“Wage Portion”) and two-thirds to penalties and interest (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer payroll taxes they owe on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendants have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller's Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Settlement, unless you opt-out of the Settlement, not later than the Response Deadline. See Section 6 of this Notice for details on how to Opt-Out.

7. The Proposed Settlement Will be Void If the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendants will not pay any money and Class Members will not release any claims against Defendant.

8. Settlement Administrator. The Court has appointed a neutral company, **XX** (the “Settlement Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Settlement Administrator will also decide any Disputes over weeks worked, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Settlement Administrator’s contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final and Defendants have fully funded the Settlement Amount and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities for wages based on the facts alleged in the Action for the duration of the Cryogenic Class Period, the ACD Class Period, and the PAGA Period, which are resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective representatives, agents, heirs, and assigns, release the Released Parties (which includes Defendants and their officers, directors, employees and agents) from all claims stated in the operative Complaint and those based solely upon the facts in the Complaint, including: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to reimburse business expenses, (6) failure to timely pay final wages, (7) failure to provide accurate itemized wage statements, and (8) unfair and unlawful competition (the “Released Class Claims”). The operative release period for the Cryogenic Class is October 25, 2018, through December 31, 2019. The operative release period for the ACD Class is January 1, 2020, through January 16, 2024. Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the periods discussed above.

10. Release of Released PAGA Claims. After the Court's judgment is final, and Defendants have paid the Settlement Amount (and separately paid the employer-side payroll taxes), Plaintiff on behalf of himself, the State of California and the LWDA shall release the Released Parties from all PAGA claims that Plaintiff alleged against the Released Parties based on the facts stated in the relevant LWDA notice letter and only to the extent that they are alleged in the operative Complaint, including all PAGA claims seeking civil penalties premised upon: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to reimburse business expenses, (6) failure to timely pay wages each period, (7) failure to timely pay wages upon separation of employment, (8) failure to provide accurate itemized wage statements, and (9) all other claims for civil penalties recoverable under the Private Attorneys General Act, Labor Code §§ 2698 et seq. based on the facts or claims alleged in the LWDA notice letters and Complaint. The time period governing the Released PAGA Claims shall be any time during the PAGA Period.

4. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Weeks Worked by all Participating Class Members during the Cryogenic Class Period and ACD Class Period (the "Combined Class Period"), and (b) multiplying the result by the number of Weeks Worked by each individual Participating Class Member during the Combined Class Period.

2. Individual PAGA Payments. The Settlement Administrator will calculate Individual PAGA Payments by (a) dividing \$7,500 by the total number of Weeks Worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by the number of Weeks Worked by each individual Aggrieved Employee during the PAGA Period.

3. Disputing Weeks Worked and/or Share Points. The number of weeks you worked during the Combined Class Period and PAGA Period, as recorded in Defendants' records, are stated in the tables on page 2 of this Notice. You have until **DATE** ("Response Deadline") to dispute the number of Workweeks credited to you by mailing the enclosed Dispute Form to the Settlement Administrator on or before **[INSERT DATE 45 Days After Mailing]**. Section 9 of this Notice has the Administrator's contact information.

You need to support your dispute by sending copies of pay stubs or other records. The Settlement Administrator will accept Defendants' calculation of weeks worked based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Settlement Administrator will resolve challenges based on your submission and on input from Class Counsel and Defendants' Counsel. The Settlement Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members and Aggrieved Employees. The Settlement Administrator will send, by U.S. mail, a single check to every Participating Class Member (which includes every Class Member who doesn't opt-out) and Aggrieved Employee. The single check will combine the Individual Class Payment and the Individual PAGA Payment.

2. Aggrieved Employees Only. If you opted out of the Class settlement, but qualify as an Aggrieved Employee, then the Settlement Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee, including those who opt out of the Class Settlement.

Your check will be sent to the same address as this Notice. If you change your address, notify the Settlement Administrator as soon as possible. Section 9 of this Notice has the Settlement Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

You will be treated as a Participating Class Member, participating fully in the Settlement, unless you opt-out of the Settlement, not later than the Response Deadline. To opt-out, you must complete, sign, and mail the accompanying Request for Exclusion Form to the Settlement Administrator, postmarked on or before the Response Deadline (as a reminder, **the "Response Deadline" is DATE, 2024**). Any person who submits a timely Request for Exclusion from the Class Claims

(1) will not have any rights under this Settlement, including the right to object, appeal or comment on the Settlement; (2) will not be entitled to receive an Individual Class Payment; (3) will preserve the right to pursue the Released Class Claims, and (4) will not be bound by this Settlement, or the Judgment.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Claims remain eligible to receive an Individual PAGA Payment.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. A Participating Class Member who disagrees with any aspect of the Settlement may wish to object. If you wish to object to the proposed Settlement, you or your own attorney must submit a written objection, on the enclosed Objection Form and include any and all evidence and supporting papers. The Objection Form and any accompanying evidence and papers must be sent to the Settlement Administrator at the address listed in Section 9 on the Objection Form, **postmarked** on or before the Response Deadline. If you do not comply with these procedures and the deadline for objections, the Court may not consider your objection at the Final Approval Hearing, and you may lose the right to contest the approval of the Settlement. You are still eligible to receive a settlement payment should the settlement become Final even if you object to the settlement. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment before entry of judgment.

8. WHEN IS THE FINAL APPROVAL HEARING?

On **DATE**, 2024, the Court will hold a public hearing in Department 1 of the Superior Court for the State of California, County of Riverside, 4050 Main St, Riverside, CA 92501, for the purposes of determining whether the proposed Settlement is fair, adequate and reasonable and should be approved, whether to approve Class Counsel's applications for attorneys' fees and costs, whether to approve the payments to the LWDA, and whether to approve Plaintiff's request for the service award. This hearing may be continued or rescheduled by the Court. Objectors to the proposed settlement will be provided notice in the event that the Final Approval Hearing is continued to a later date. Class Members who support the proposed Settlement do not need to appear at the hearing and do not need to take any other action to indicate their approval. Class Members who object to the proposed Settlement are not required to attend the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

If you have questions about this Notice, the enclosed Request for Exclusion Form, Dispute Form, or Objection Form, or the Settlement itself, or if you did not receive this Notice in the mail and you believe that you are or may be a member of the Class, you should contact the Administrator for more information or to request that a copy of this Notice and request for Exclusion, Objection, and Dispute Forms be sent to you in the mail. If you wish to communicate directly with Class or Defense Counsel, you may contact them at the information below. You may also seek advice and guidance from your own private attorney at your own expense if you so desire.

This Notice is only a summary. For more detailed information, you may review the Settlement Agreement, containing the complete terms of the proposed Settlement, which is on file with the Court and attached to the Declaration of Brian J. Mankin in Support of Motion for Preliminary Approval of Class Action Settlement filed on DATE, 2024 and available to be inspected at any time during regular business hours at the Clerk's Office, Superior Court for the State of California, County of Riverside, 4050 Main St, Riverside, CA 92501. You may also review the pleadings, records, and other papers on file in this lawsuit at the Clerk's Office or online at <https://epublic-access.riverside.courts.ca.gov/public-portal/>. To access the case file, click on "Case Number Search," then create a free online account, then type in the case number (CVRI2204626) where requested, and click "Search." You may also email Class Counsel and request a copy of the Settlement Agreement.

DO NOT TELEPHONE THE COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT

The contact information for Class Counsel and the Settlement Administrator are below:

Class Counsel	Settlement Administrator
Brian Mankin, Esq. <i>brian@LMLfirm.com</i> Peter Carlson, Esq. <i>peter@LMLfirm.com</i> Lauby Mankin Lauby LLP 5198 Arlington Ave, PMB 513 Riverside, CA 92504 Tel: (951) 320-1444	Name Mailing Address Telephone Number

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Settlement Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Settlement Administrator if you move or otherwise change your mailing address.

EXHIBIT “B”

REQUEST FOR EXCLUSION FORM

Flores v. Cryogenic, ACD, Nikkiso America, and others
(Riverside Superior Court, Case No. CVRI2204626)

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

DO YOU WANT TO PARTICIPATE IN THE SETTLEMENT AND RECEIVE A SETTLEMENT CHECK? (check the box that applies)

☐

YES: STOP HERE -- DO NOT RETURN THIS FORM. NO FURTHER ACTION IS NEEDED TO PARTICIPATE IN THE SETTLEMENT.

☐

NO: SIGN, DATE AND RETURN THIS FORM TO EXCLUDE YOURSELF FROM THE SETTLEMENT.

By signing below, I am excluding myself from the Settlement:

I do NOT want to participate in the settlement in *Flores v. Nikkiso America, Inc.* (Riverside Superior Court Case No. CVRI2204626). I understand by excluding myself from the settlement that I will not receive any money from the settlement other than an Individual PAGA Payment if I qualify as an Aggrieved Employee (see first page of the Court Approved Notice of Class Action Settlement).

Signed on _____, 2024

[NAME]

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL, POSTMARKED NO LATER THAN [INSERT DEADLINE]:

Settlement Administrator:

Name

Mailing Address

Telephone Number

EXHIBIT “C”

OBJECTION FORM

Flores v. Cryogenic, ACD, Nikkiso America, and others
(Riverside Superior Court, Case No. CVRI2204626)

Please verify and/or complete any missing identifying information:

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

DO YOU OBJECT TO THE SETTLEMENT? (check the box that applies)

☐

NO: STOP HERE -- DO NOT RETURN THIS FORM

☐

YES: COMPLETE THE REVERSE SIDE AND RETURN THIS FORM

The Court will consider your objection at the Final Approval Hearing if you submit a timely and valid written statement of objection. Any objection should describe the nature of and basis for the objection, and any other information that you would like the Court to consider.

I OBJECT to the Settlement in the case of *Flores v. Nikkiso America, Inc.* on the following grounds (if additional space is necessary, please include additional sheets of paper):

Signed on _____, 2024

[NAME]

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL, POSTMARKED NO LATER THAN [INSERT OBJECTION DEADLINE]:

Settlement Administrator:

Name
Mailing Address
Telephone Number

EXHIBIT “D”

DISPUTE FORM

Flores v. Cryogenic, ACD, Nikkiso America, and others
(Riverside Superior Court, Case No. CVRI2204626)

Please verify and/or complete any missing identifying information:

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

The following charts are based on the records of Defendants Nikkiso America, Inc., ACD, LLC, Cryogenic Industries, Inc., Cryogenic Industries Service Companies, LLC, Cryoquip, LLC, Cosmodyne, LLC, and Integrated Cryogenic Solutions, LLC, (“Defendants”) and reflect:

- (1) The number of weeks that you worked for Defendants in California from October 25, 2018, through December 31, 2019. In other words, this data point provides the number of weeks with which you are credited as working as a “Cryogenic Class” member (as that term is defined in the Notice which was sent to you at the same time as this form).
- (2) The number of weeks that you worked for Defendant ACD, LLC, in California from January 1, 2020, through January 16, 2024. In other words, this data point provides the number of weeks with which you are credited as working as an “ACD Class” member (as that term is defined in the Notice which was sent to you at the same time as this form).
- (3) The number of weeks that you worked for Defendant ACD, LLC, in California from October 25, 2021, through January 16, 2024. In other words, this data point provides the number of weeks with which you are credited as working as an “Aggrieved Employee” (as that term is defined in the Notice which was sent to you at the same time as this form).

<i>Data Points for Calculations of Individual Class Payment</i>	
Weeks Worked as Cryogenic Class member from 10/25/2018 to 12/31/2019	INSERT
Weeks Worked as ACD Class member from 1/1/2020 to 1/16/2024	INSERT

<i>Data Points for Calculations of Individual PAGA Payment</i>	
Weeks Worked as “Aggrieved Employee” from 10/25/2021 to 1/16/2024	INSERT

DO YOU DISAGREE WITH THE INFORMATION ABOVE AND WANT THE PARTIES AND ADMINISTRATOR TO INVESTIGATE FURTHER?

☐

NO: STOP HERE -- DO NOT RETURN THIS FORM.

☐

YES: COMPLETE THE REVERSE SIDE AND RETURN THIS FORM.

Please state why you believe that you should be credited with more Weeks Worked than shown in the chart and attach copies (not originals) of supporting documentation. The Parties and Settlement Administrator will consider your challenge and make a determination as to these issues.

Signed on _____, 2024

[NAME]

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL, POSTMARKED NO LATER THAN [INSERT DEADLINE]:

Settlement Administrator:

Name
Mailing Address
Telephone Number