**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF LOS ANGELES**

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| SALVADOR CORTEZ, individually and on behalf of others similarly situated,<br><br>Plaintiff,<br><br>vs.<br><br>DIRECT PAINTING & DECORATING, INC., a California corporation; and DOES 1 through 50, inclusive,<br><br>Defendants. | Case No.: 23STCV02248 (Lead)<br>Consolidated with Case No.: 23STCV07806<br><br>*Assigned for all purposes to: Judge William F. Highberger, Department 10*<br><br>**JOINT STIPULATION FOR CLASS ACTION AND PAGA SETTLEMENT**<br><br>Complaint Filed: February 1, 2023<br>Trial date: None Set |

# JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT

This Joint Stipulation for Class Action and PAGA Settlement is entered into by and between Plaintiff Salvador Cortez, individually and on behalf of the Class, and Defendant Direct Painting & Decorating, Inc.

## DEFINITIONS

1. "Agreement" or "Settlement Agreement" means this Joint Stipulation for Class Action and PAGA Settlement.

2. "Action" means the above entitled civil action in Los Angeles County Superior Court which consolidates *Cortez v. Direct Painting & Decorating, Inc.*, LASC Case No. 23STCV02248 ("the Class Action") filed February 1, 2023, and *Cortez v. Direct Painting & Decorating Inc.* LASC Case No.: 23STCV07806 ("The PAGA Only Action").

3. "Class Counsel" means Protection Law Group, LLP.

4. "Class Counsel's Fees and Costs" means attorneys' fees for Class Counsel's litigation and resolution of this Action and their expenses and costs incurred in connection with the Action, which shall be paid from the Gross Settlement Amount. Class Counsel will request attorneys' fees not to exceed one-third (1/3) of the Gross Settlement Amount, i.e. Fifty Six Thousand and Fourteen Dollars and Thirty Three Cents ($56,014.33) and the reimbursement costs and expenses associated with the litigation and settlement of the Action, not to exceed Six Thousand Dollars ($6,000.00). Defendant does not oppose Plaintiff's contention that the filing of the lawsuit had the catalytic effect of prompting Defendant to issue the $20,543.00 in Prior Release Payments and that Plaintiff's counsel may seek to recover attorneys' fees for their role in securing the Prior Release Payments. The attorneys' fees and costs awarded are subject to the Court's approval. If the attorneys' fees and costs awarded by the Court are a reduced amount, then the difference between the amount set forth above and the reduced attorneys' fees and costs awarded shall be distributed pro-rata to Participating Class Members. Defendant has agreed not to oppose Class Counsel's request for attorneys' fees and costs as set forth above. Such attorneys' fees and costs shall be paid from the Qualified Settlement Fund. Class Counsel will be issued an IRS Form

1099 for the Attorneys' Fees and Costs Award detailed in this Section and shall be solely and legally responsible for paying all applicable taxes on the payment made pursuant to this paragraph.

5. "Class List" means a complete list of all Class Members that Defendant will diligently and in good faith compile from their records and provide to the Settlement Administrator within fourteen (14) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include Class Member's: (1) full name; (2) last known home address; (3) last known telephone number; (4) social security number; (5) start and end dates of active employment as a non-exempt employee of Defendant in the State of California; (6) total Workweeks worked by each Class Member during the Class Period; (7) total Workweeks worked by each PAGA Member during the PAGA Period; (8) prior settlement payments made to the Class Members, if any; and (9) any other information required by the Settlement Administrator in order to effectuate the terms of the Settlement.

6. "Class" or "Class Members" means all current and former hourly-paid, non-exempt employees of Defendant who worked for Defendant in the State of California at any time during the Class Period.

7. "Class Period" means the period from February 1, 2019, until May 31, 2024.

8. "Class Representative" means Plaintiff Salvador Cortez in his capacity as representative of the Participating Class Members.

9. "Class Representative Enhancement Payment" means the amount that the Court authorizes to be paid to Plaintiff Salvador Cortez, in addition to his Individual Settlement Payment, in recognition of the efforts and risks he has taken in assisting with the prosecution of the Action and in exchange for the General Release of his claims as provided herein.

10. "Complaint" means the Class Action Complaint in the Class Action and the Representative Action in the PAGA-Only Action or any amendments thereto as of the Effective Date.

11. "Court" means the Superior Court of the State of California for the County of Los Angeles.

12. "Defendant" means Direct Painting & Decorating, Inc.

13. "Defense Counsel" means Bruce D. May and Edward J. Farrell of Stuart Kane LLP.

14. "Effective Date" means: the later of: (a) if no timely objections are submitted or if all objections are withdrawn, the date upon which the Court enters Final Approval; (b) if an objection is submitted and not withdrawn, the date for filing an appeal and no such appeal being filed (c) if any timely appeals are filed, the date of the resolution (or withdrawal) of any such appeal in a way that does not alter the terms of the settlement

15. "Final Approval" means the Court entering an order granting final approval of the Settlement Agreement.

16. "Gross Settlement Amount" means the sum of One Hundred Sixty-Eight Thousand, Forty-Three Dollars ($168,043.00). The Gross Settlement Amount is non-reversionary; no portion of the Gross Settlement Amount will return to Defendant. The Parties agree that Defendant shall receive credit towards the Gross Settlement Amount for release payments previously made to Class Members after the filing of this lawsuit in the amount of Twenty Thousand Five Hundred and Forty-Three Dollars and Zero Cents ($20,543.00) ("Prior Release Payments"). Thus, the additional total payment by Defendant in connection with this Settlement shall not exceed One Hundred Forty-Seven Thousand, Five Hundred Dollars and Zero Cents ($147,500.00), excluding employer-side payroll taxes.

17. "Individual Settlement Payment" means the amount payable from the Net Settlement Amount to each Participating Class Member and any payment a PAGA Member is eligible to receive from the employee portion of the PAGA Payment. Individual Settlement Payments shall be paid by a Settlement Check made payable to Participating Class Members and/or PAGA Members. Any Participating Class Members who received any Prior Release Payments shall have such amounts credited against their Individual Settlement Payment. If the payment amount a Participating Class Member received from the Prior Release Payments made by Defendant exceeds the amount the Participating Class Member would be entitled to as an Individual Settlement Payment, then that Participating Class Member will receive $0 of the Net Settlement Amount.

18. "Net Settlement Amount" means the funds available for payments to the Class, which shall be amount remaining after the following amounts are deducted from the Gross Settlement Amount: (1) Class Counsel's fees, (2) Class Counsel's costs, (3) Settlement Administration Costs, (4) Class Representative Enhancement Payment to Plaintiff Cortez; and (5) the PAGA Payment to the LWDA and PAGA Members.

19. "Notice" means the Notice of Class Action Settlement in a form substantially similar to the form attached hereto as Exhibit A, that will be mailed to Class Members' last known addresses, and which will provide Class Members with information regarding the Action and information regarding the settlement of the Action.

20. "PAGA" means the California Labor Code Private Attorneys General Act of 2004 Cal. Lab. Code §§ 2698 *et seq.*

21. "PAGA Payment" means the amount that the Parties have agreed to allocate in order to settle claims arising under the Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq*., "PAGA"). The Parties have agreed that Eight Thousand Dollars ($8,000.00) of the Gross Settlement Amount will be allocated to the resolution of all PAGA claims. Seventy Five Percent (75%) of this amount ($6,000.00) will be paid to the California Labor and Workforce Development Agency ("LWDA") in accordance with Labor Code §§ 2698 *et seq*. Twenty Five Percent (25%) of this amount ($2,000.00), will be distributed to PAGA Members. PAGA Members will receive payment from the employee portion of the PAGA Payment regardless of their decision to participate in the class action if the PAGA Payment is approved by the Court.

22. "PAGA Period" means the period from February 1, 2022, through May 31, 2024.

23. "PAGA Members" means all current and former hourly-paid non-exempt employees of Defendant who worked for Defendant in the state of California at any time during the PAGA Period.

24. "Parties" means Plaintiff and Defendant, collectively, and "Party" shall mean either Plaintiff or Defendant, individually.

25. "Participating Class Members" means all Class Members who do not submit valid and timely Requests for Exclusion.

26. "Plaintiff" means Salvador Cortez.

27. "Preliminary Approval" means the Court order granting preliminary approval of the Settlement Agreement.

28. "Prior Release Payments" means the payments previously made by the Company for the release of certain class member's individual wage claims and individual PAGA claims after the filing of this lawsuit pursuant to individual settlement agreements in the total amount of Twenty Thousand Five Hundred and Forty-Three Dollars and Zero Cents ($20,543.00)

29. "Objection" means a Participating Class Member's valid and timely written objection to the Settlement Agreement. For an Objection to be valid, it must include: (a) the objector's full name, address, telephone number, last four digits of the employees' social security number or employee ID number and (b) the name of the case and case number; and (c) a written statement of all grounds for the objection accompanied by legal support, if any, for such objection. Any Participating Class Member may also object at the hearing on final approval, regardless of whether they have submitted a written objection.

30. "Released Class Claims" means claims, rights, demands, liabilities and causes of actions that are alleged, or that reasonably could have been alleged, based on the facts asserted in the operative complaint in the Action including the following claims: (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest periods or compensation in lieu thereof; (iv) failure to reimburse necessary business expenses; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation; (vii) failure to provide timely pay wages during employment; (viii) failure to pay reporting time pay; (ix) unfair business practices; (x) failure to maintain required payroll records and (xi) any other claim that reasonably could have been alleged based on the allegations in the Complaint. This release shall apply to claims that arose during the Class Period.

31. "Released PAGA Claims" means all claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004 ("PAGA") that are or could have been premised on the facts alleged both in the PAGA Notice provided to the LWDA and in the operative

complaint including allegations regarding Defendant’s (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest periods or compensation in lieu thereof; (iv) failure to reimburse necessary business expenses; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation; (vii) failure to provide timely pay wages during employment; (viii) failure to pay reporting time pay; and (ix) failure to maintain required payroll records. This release shall apply to claims that arose during the PAGA Period.

32. “Released Parties” means Defendant Direct Painting & Decorating, Inc., and its past, present and/or future related entities and their respective officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

33. “Request for Exclusion” means a valid and timely written statement submitted by a Class Member requesting to be excluded from the settlement of the Released Class Claims. To be effective, the Request for Exclusion must contain (a) the Class Member’s name, address, telephone number, and the last four digits of the Class Member’s Social Security number and/or the Employee ID number and (b) a clear statement requesting to be excluded from the settlement of the class claims. To be effective, the Request for Exclusion must be post-marked by the Response Deadline and received by the Settlement Administrator. The Request for Exclusion shall not be effective as to the release of claims arising under PAGA.

34. “Response Deadline” means the date sixty (60) days after the Settlement Administrator mails Notice to Class Members which is the last date on which Class Members may submit Requests for Exclusion from or Objections to the Settlement, or Workweek Disputes. In the event the 60th day falls on a Sunday or Federal holiday, the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline for Requests for Exclusion, Objections, or Workweek Disputes will be extended fifteen (15) calendar days for any Class Member who is re-mailed a Notice by the Settlement Administrator, unless the 15th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be

extended to the next day on which the U.S. Postal Service is open. The Response Deadline may also be extended by express agreement between Class Counsel and Defense Counsel. Under no circumstances, however, will the Settlement Administrator have the authority to unilaterally extend the Response Deadline.

35. "Settlement" means the disposition of the Action pursuant to this Agreement under the terms finally approved by the Court.

36. "Settlement Administrator" means Apex Class Action, LLC, 18 Technology Drive, Suite 164, Irvine CA 92618; Phone: 1-800-355-0700. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

37. "Settlement Administration Costs" mean 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, calculating/confirming the class member Workweeks from the information contained in the Class List, calculating each Participating Class Member's Individual Settlement Payment, calculating the PAGA Portion of the PAGA Members individual settlement payment, tax reporting, distributing the Gross Settlement Amount, providing necessary reports and declarations, and other duties and responsibilities set forth herein to process this Settlement, and as requested by the Parties. Settlement Administration Costs shall not exceed Four Thousand, Five Hundred Dollars ($4,500).

38. "Workweek" shall mean any calendar week (i.e. a week beginning on Sunday and ending on Saturday) in which a Class Member or PAGA Member worked at least 1 day.

39. "Workweek Dispute" shall mean written notice that the Class Member is contesting the number of weeks worked during the Class Period. Workweek disputes must be timely submitted to the settlement Administrator by the Response Deadline.

**TERMS OF AGREEMENT**

40. Settlement Consideration: Defendant shall fund the Gross Settlement Amount and all applicable employer-side payroll taxes following Final Approval by the Court and the

occurrence of the Effective Date. The total value of the Settlement is One Hundred Sixty-Eight Thousand, Forty-Three Dollars ($168,043.00) to be paid by Defendant in full satisfaction of all claims arising from the Action. The Parties agree that Defendant shall receive credit towards the Gross Settlement Amount for the Prior Release Payments in the amount of Twenty Thousand Five Hundred and Forty-Three Dollars and Zero Cents ($20,543.00). Thus, the additional total payment by Defendant in connection with this Settlement shall not exceed One Hundred Forty-Seven Thousand, Five Hundred Dollars and Zero Cents ($147,500.00), excluding employer-side payroll taxes. The Gross Settlement Amount includes all Individual Settlement Payments to Participating Class Members, all employee-side taxes arising from the payments made under this Settlement, the Class Representative Incentive Award to Plaintiff, Settlement Administration Costs to the Settlement Administrator, PAGA Payment, and all Attorneys' Fees and Costs. In addition, Defendant shall also pay the employer-side share of payroll taxes on the wage portion of the Individual Settlement Payments. However, Defendant shall not pay more than the $147,500.00 in new funds plus the employer-side share of payroll taxes on the wage portion of the Individual Settlement Payments, which will be calculated by the Settlement Administrator, subject to the provisions below.

41. <u>Potential Increase to the Gross Settlement Amount:</u> The Gross Settlement Amount is based on Defendant's representation that the Class Members worked a total approximately 5,086 Workweeks within the Class Period. Should the actual number of Workweeks increase by more than ten percent (10%) (i.e. by more than 509 Workweeks) Defendant shall increase the Gross Settlement Amount on a *pro-rata* basis equal to the percentage increase in the number of Workweeks worked by the Class Members above 10%. For example, if the number of Workweeks increases by 11% to 5,645 Workweeks, the Gross Settlement Amount would increase by 1%.

42. <u>Funding of the Gross Settlement Amount</u>: Within fourteen (14) calendar days after the Effective Date of the Settlement, Defendant will deposit the Gross Settlement Amount (minus the Prior Release Payments) and all applicable employer-side payroll taxes into a Qualified Settlement Fund ("QSF") to be established by the Settlement Administrator. Defendant shall provide all information necessary for the Settlement Administrator to calculate necessary payroll

taxes including its official name, 8 digit state unemployment insurance tax ID number, and other information requested by the Settlement Administrator, no later than seven (7) calendar days after the Effective Date.

43. Distribution of the Gross Settlement Amount: Within fourteen (14) calendar days of the funding of the Settlement, the Settlement Administrator will issue payments for: (a) Individual Settlement Payments; (b) the PAGA Payment to the Labor and Workforce Development Agency; (c) the Class Representative Enhancement Payment; (d) Class Counsel's Fees and Costs and (e) Settlement Administration Costs.

44. Attorneys' Fees and Costs: Defendant agrees not to oppose any application or motion by Class Counsel for attorneys' fees of not more than one-third (1/3) of the total gross settlement amount or Fifty-Six Thousand, and Fourteen Dollars and Thirty-Three Cents ($56,014.33) plus the reimbursement of costs and expenses associated with the litigation and settlement of the Action, in an amount not to exceed Six Thousand Dollars ($6,000.00), both of which will be paid from the Gross Settlement Amount. Any portion of the requested fees or costs that is not awarded to the Class Counsel shall be reallocated to the Net Settlement Amount and distributed to Participating Class Members as provided in this Agreement.

45. Class Representative Enhancement Payment: Defendant agrees not to oppose or object to any application or motion by Plaintiff for a Class Representative Enhancement Payment of Five Thousand Hundred Dollars ($5,000). The Class Representative Enhancement Payment is in exchange for the General Release of the Plaintiff's individual claims and for his time, effort, and risk in bringing and prosecuting the Action. Any portion of the requested Class Representative Enhancement Payment that is not awarded to the Class Representative shall be reallocated to the Net Settlement Amount and distributed to Participating Class Members as provided in this Agreement.

46. Settlement Administration Costs: The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments from the Gross Settlement Amount as further set forth in this Agreement. Settlement Administration Costs shall not exceed Four Thousand, Five Hundred Dollars ($4,500).

47. PAGA Payment: Eight Thousand Dollars ($8,000.00) shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the PAGA. The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Payment, or Six Thousand Dollars ($6,000.00), to the California Labor and Workforce Development Agency ("LWDA"). Two Thousand Dollars ($20,500) will be distributed to PAGA Members on a *pro rata* basis based on the total number of Workweeks worked by each PAGA Member during the PAGA Period. PAGA Members shall receive their portion of the PAGA Payment regardless of their decision to opt-out of the class settlement.

48. Net Settlement Amount for Payment of Class Claims: The Net Settlement Amount will be used to satisfy the class portion of Participating Class Members Individual Settlement Payments in accordance with the terms of this Agreement. The estimated Net Settlement Amount is as follows:

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| Gross Settlement Amount | $ | 168,043.00 |
| Enhancement Payments: | $ | 5,000.00 |
| Class Counsel's Fees: | $ | 58,815.05 |
| Class Counsel's Costs: | $ | 6,000.00 |
| PAGA Payment | $ | 8,000.00 |
| Settlement Administration Costs: | $ | 4,500.00 |
| **Estimated Net Settlement Amount** | $ | 87,727.95 |

49. Individual Settlement Payment Calculations: Individual Settlement Payments will be paid from the Net Settlement Amount and the 25% portion of the PAGA Payment allocated for PAGA Members and shall be paid pursuant to the following formula:

a) Calculation of Class Portion of Individual Settlement Payments: The Settlement Administrator will calculate the total Workweeks for all Participating Class Members by adding the number of Workweeks worked by each Participating Class Member during the Class Period. The respective Workweeks for each Participating Class Member will be divided by the total Workweeks for all Participating Class Members, resulting in the Payment Ratio for each

Participating Class Member. Each Participating Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Participating Class Member's estimated share of the Net Settlement Amount.

Any Participating Class Members who received payment from the Prior Release Payments made by Defendant shall have such amounts credited against their Individual Settlement Payment. If the amount a Participating Class Member received from their Prior Release Payment made by Defendant exceeds the amount the Participating Class Member would be entitled to as an Individual Settlement Payment, then that Participating Class Member will receive $0 of the Net Settlement Amount.

b) <u>Calculation of PAGA Portion of Individual Settlement Payments:</u> The Settlement Administrator will calculate the total Workweeks for all PAGA Members by adding the number of Workweeks worked by each PAGA Member during the PAGA Period. The respective Workweeks for each PAGA Member will be divided by the total Workweeks for all PAGA Members, resulting in the Payment Ratio for each PAGA Member. Each PAGA Member's Payment Ratio will then be multiplied by the employee portion of the PAGA Payment to calculate each PAGA Member's estimated share of the PAGA Payment. PAGA Members shall receive this portion of their Individual Settlement Payment regardless of whether they opt out of the participation regarding the class claims.

c) <u>Allocation of Individual Settlement Payments:</u> The Class Portion of each Individual Settlement Payments will be allocated as follows: twenty percent (20%) of each Individual Settlement Payment will be allocated as wages, forty percent (40%) shall be allocated as interest, and forty percent (40%) shall be allocated as penalties. The PAGA Portion of each Individual Settlement Payment will be allocated 100% as Penalties. The portion of the Individual Settlement Payment allocated to wages will be reported by the Settlement Administrator on an IRS Form W-2. The remaining non-wage payments will be reported on an IRS Form-1099 by the Settlement Administrator.

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

51. Settlement Administration Process: The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement. The Settlement Administrator will provide the following services:

b) Establish and maintain a Qualified Settlement Fund.

c) Calculate the Individual Settlement Payment each Participating Class Member is eligible to receive and the portion of the PAGA Payment each PAGA Member shall receive.

d) Print and mail the Notice.

e) Conduct additional address searches for mailed Notices that are returned as undeliverable.

f) Process Requests for Exclusion, field inquiries from Class Members,

g) Print and issue and issue Settlement Payment Checks, prepare IRS W2 and 1099 Tax Forms and any other filings required by any governmental taxing authority.

h) Provide declarations and/or other information to this Court as requested by the Parties and/or the Court regarding the settlement administration process.

i) Provide weekly status reports to counsel for the Parties.

j) Posting a notice of final judgment online at Settlement Administrator's website.

k) Translate the Notice from English to Spanish

52. Delivery of the Class List: Within fourteen (14) calendar days after Preliminary Approval, Defendant will provide the Class List to the Settlement Administrator. This is a material term of the Agreement, and if Defendant fails to comply, Plaintiff shall have the right to void the Agreement.

53. Notice by First-Class U.S. Mail: Within seven (7) calendar days after receiving the Class List from Defendant, the Settlement Administrator will mail the Notice to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

54. Confirmation of Contact Information in the Class List: Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any Notice returned to the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Notice. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address and/or Social Security number of the Class Member involved, and will then perform a single re-mailing. If any notice sent to a Class Member by the Settlement Administrator is returned as undeliverable to a current employee, then Defendant shall make all reasonable efforts to obtain the current address from the Class Member and provide the same within seven (7) calendar days of notice from the Settlement Administrator. Those Class Members who receive a re-mailed Notice, whether by skip-trace or by request, will have between the later of (a) an additional fifteen (15) calendar days or (b) the Response Deadline to postmark a Request for Exclusion, Objection, or Workweek Dispute.

55. Notice: All Class Members will be mailed a Notice. Each Notice will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's principal terms; (c) the Class definition; (d) the total number of Workweeks each respective Class Member worked for Defendat during the Class Period; (e) each Class Member's estimated Individual Settlement

Payment and the formula for calculating Individual Settlement Payments; (f) the dates which comprise the Class Period; (g) instructions on how to opt-out of and object to the Class Portion of the Settlement; (h) the deadlines by which the Class Member must postmark Requests for Exclusion, Objections to the Settlement, or Workweek Disputes; (i) the claims to be released, as set forth herein; and (j) the date for the final approval hearing.

56. Disputed Information on Notice: Class Members will have an opportunity to dispute the information provided in their Notice. To the extent Class Members dispute the number of Workweeks with which they have been credited or the amount of their Individual Settlement Payment, Class Members may produce evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendant's records, Defendant's records will be presumed determinative. However, if a Class Member produces evidence to the contrary by the Response Deadline, the Settlement Administrator will evaluate the evidence submitted by the Class Member and will make the final decision as to the number of eligible Workweeks that should be applied and/or the Individual Settlement Payment to which the Class Member may be entitled.

57. 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 the later of (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter, whichever date is later, to postmark a revised Request for Exclusion. If a Class Member responds to a cure letter by filing a defective claim, then the Settlement Administrator will have no further obligation to give notice of a need to cure. If the revised Request for Exclusion is not postmarked within that period, it will be deemed untimely.

58. Request for Exclusion Procedures: Any Class Member wishing to be excluded from the Settlement must sign and postmark a written Request for Exclusion to the Settlement Administrator by the Response Deadline. The Request for Exclusion must include (a) the Class

Member's name, address, telephone number, and the last four digits of the Class Member's Social Security number and/or the Employee ID number and (b) a clear statement requesting to be excluded from the settlement of the class claims. The date of the postmark on the return mailing envelope receipt confirmation will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. All Requests for Exclusion will be submitted to the Settlement Administrator, who will certify jointly to Class Counsel and Defendant's Counsel the Requests for Exclusion that were timely submitted. All Class Members who do not request exclusion from the Action will be bound by all terms of the Settlement Agreement if the Settlement is granted final approval by the Court. The Request for Exclusion shall not be effective as to the release of claims arising under the Private Attorneys General Act.

59. Defendant's Right to Rescind: If ten percent (10%) or more of the Class Members (rounded to the next whole number) elect not to participate in the Settlement, Defendant may, at its election, rescind the Settlement Agreement and all actions taken in furtherance of it will be thereby null and void. Defendant must meet and confer with Class Counsel prior to exercising this right and must make clear their intent to rescind the Agreement within fourteen (14) calendar days of the Settlement Administrator notifying the Parties of these opt-outs. If Defendant exercises its right to rescind the Agreement, Defendant shall be responsible for all Settlement Administration Costs incurred to the date of rescission.

60. Settlement Terms Bind All Class Members Who Do Not Opt-Out: Upon the complete funding of the Gross Settlement Amount, any Class Member who does not affirmatively opt-out of the Settlement 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. Class Members who opt-out of the Settlement shall not be bound by such Judgment or the Class Release. However, the opt-out shall not be effective as to the release of claims arising under the Private Attorneys General Act. The names of Class Members who have opted-out of the settlement shall be disclosed to the Counsel for both Plaintiff and Defendant and noted in the proposed Judgment submitted to the Court.

61. Objection Procedures: To object to the Settlement, a Participating Class Member must postmark a valid Objection to the Settlement Administrator on or before the Response Deadline. The Objection must be signed by the Participating Class Member and contain all information required by this Settlement Agreement including the employees full name, address, telephone number, the last four digits of their social security number and/or Employee ID number, the name of the case and case number, and the specific reason including any legal grounds for the Participating Class Member's objection. The postmark date will be deemed the exclusive means for determining that the Notice of Objection is timely. Participating Class Members who fail to object in the manner specified above will be foreclosed from making a written objection but shall still have a right to appear at the Final Approval Hearing in order to have their objections heard by the Court. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Participating Class Members to submit written objections to the Settlement or appeal from the Order and Judgment. Class Counsel will not represent any Class Members with respect to any objections to this Settlement.

62. Certification Reports Regarding Individual Settlement Payment Calculations: The Settlement Administrator will provide Defense Counsel and Class Counsel a weekly report which certifies: (a) the number of Class Members who have submitted valid Requests for Exclusion; (b) the number of Notices returned and re-mailed and (c) whether any Class Member has submitted a challenge to any information contained in the Notice. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested.

63. Uncashed Settlement Checks: Any checks issued by the Settlement Administrator to Participating Class Members and PAGA Members will be negotiable for at least one hundred eighty (180) calendar days. If a Participating Class Member or PAGA Member does not cash his or her Settlement Check or PAGA payment check within 180 days, the uncashed funds, subject to Court approval, shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code §1500, *et. seq*. for the benefit of those Participating Class Members and PAGA Members who did not cash their checks until such time

that they claim their property. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out to Participating Class Members and the entire 25% portion of the PAGA Payment will be paid out to the PAGA Members, whether or not they all cash their Settlement Checks or PAGA payment checks. Therefore, Defendant will not be required to pay any interest on such amounts. The Individual Settlement Payments provided to Participating Class Members and to PAGA Members shall prominently state the expiration date or a statement that the Settlement Check will expire in one hundred eighty (180) days, or alternatively, such a statement may be made in a letter accompanying the Individual Settlement Payment. Expired Individual Settlement Payments will not be reissued, except for good cause and as mutually agreed by the Parties in writing. The parties agree no unclaimed funds will result from the settlement.

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

65. Tax Liability: Defendant makes no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff and Participating Class Members are not relying on any statement, representation, or calculation by Defendant or by the Settlement Administrator in this regard. Plaintiff and Participating Class Members understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on the payments described herein. Defendant's share of any employer payroll taxes and other required employer withholdings due on the Individual Settlement Payments, including, but not limited to, Defendant's FICA and FUTA contributions, shall be paid separate and apart from the Gross Settlement Amount.

66. 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 shall 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.

67. 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.

68. Release by Participating Class Members: Upon the complete funding of the Gross Settlement Amount and all applicable employer-side payroll taxes by Defendant, Participating Class Members shall fully release and discharge the Released Parties from the Released Class Claims that arose during the Class Period. This release shall be binding on all Participating Class Members.

69. Release by the State of California and LWDA: Upon the complete funding of the Gross Settlement Amount and all applicable employer-side payroll taxes by Defendant the LWDA and the State of California, through Plaintiff as its agent and/or proxy, shall release and discharge the Released Parties from the Released PAGA Claims that arose during the PAGA Period. The Parties intend for this PAGA settlement to have claim preclusion, issue preclusion, or otherwise bar a representative action if an aggrieved employee were to bring a subsequent claim on behalf

of the LWDA based on the same factual predicate as this action and covering the same time period.

70. Release of Additional Claims & Rights by Plaintiff: Upon the funding of the Gross Settlement Amount, Plaintiff Salvador Cortez agrees—on behalf of himself only—to the additional following General Release: In consideration of Defendant's promises and agreements as set forth herein, Plaintiff hereby fully releases the Released Parties from any and all Released Class Claims and Released PAGA Claims and also generally releases and discharges the Released Parties from any and all claims, demands, obligations, causes of action, rights, or liabilities of any kind which have been or could have been asserted against the Released Parties arising out of or relating to their employment by Defendant or termination thereof, including but not limited to claims for wages, restitution, penalties, retaliation, defamation, discrimination, harassment or wrongful termination of employment. This release specifically includes any and all claims, demands, obligations and/or causes of action for damages, restitution, penalties, interest, and attorneys' fees and costs (except provided by the Settlement Agreement) relating to or in any way connected with the matters referred to herein, whether or not known or suspected to exist, and whether or not specifically or particularly described herein. Specifically, Plaintiff Salvador Cortez waives all rights and benefits afforded by California Civil Code Section 1542, which provides:

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

This release specifically excludes claims for unemployment insurance, disability, social security, and workers compensation (with the exception of claims arising pursuant to California Labor Code Sections 132(a) and 4553)

71. Neutral Employment Reference: Defendant agrees that it will adopt a neutral reporting policy regarding any future employment references related to Plaintiff. In the event that any potential or future employers of Plaintiff requests a reference regarding Defendant's

employment of Plaintiff, Defendant shall only provide Plaintiff's dates of employment and job titles during employment. Defendant shall not refer to the Action or this Settlement in responding to reference requests concerning Plaintiff.

72. Contentions Regarding Termination and Future Employment: Defendant contends that it had legitimate non-discriminatory and non-retaliatory reasons for terminating Diaz's employment which would also disqualify him from being rehired or reemployed by Defendant. Plaintiff acknowledges that Defendant contends he has no legal right to be rehired or re-employed by the Defendant, and currently has no intention of seeking to be rehired or reemployed by Defendant.

73. Nullification of Settlement Agreement: In the event that: (a) the Court does not finally approve the Settlement as provided herein; (b) the Court strikes or does not approve any material term of this Settlement Agreement; or (c) the Settlement does not become final as written and agreed to by the Parties for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void, all amounts deposited into the QSF will be returned to Defendant, and the Parties shall be returned to their original respective positions. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will likewise be treated as void from the beginning. Should the Court fail to approve this settlement for any reason, the Parties agree that they will meet and confer in good faith in an effort to reach a settlement that may be approved by the Court.

74. Preliminary Approval Hearing: Plaintiff will obtain a hearing before the Court to request Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order for: (a) conditional certification of the Class for settlement purposes only, (b) Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a Final Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the Notice to be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval hearing, Plaintiff will submit this Agreement, which sets forth the terms of the Settlement, and will include the proposed Notice attached as Exhibit A. Defendant agrees that it will not oppose Plaintiff's motion for Preliminary Approval. Any failure by the Court to fully and

completely approve the Agreement as to the Action will result in this Settlement Agreement and the Memorandum of Understanding entered into by the Parties, and all obligations under this Settlement Agreement and the Memorandum of Understanding being nullified and voided.

75. Final Settlement Approval Hearing and Entry of Judgment: Upon expiration of the deadlines to postmark Requests for Exclusion or Objections to the Settlement Agreement, a Final Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval of the Settlement Agreement along with the amounts properly payable for: (a) Individual Settlement Payments; (b) the Attorneys' Fees and Costs; (c) the Class Representative Enhancement Payments; and (d) the Settlement Administration Costs. Class Counsel will be responsible for drafting all documents necessary to obtain Final Approval, and will allow Defense Counsel to review final drafts of all such documents at least 48 hours before the documents are filed. Any failure by the Court to fully and completely approve the Settlement Agreement as to all of the Action, or the entry of any Order by another Court with regard to any of the Action which has the effect of modifying material terms of this Agreement or preventing the full and complete approval of the Settlement Agreement as written and agreed to by the Parties, will result in this Agreement and all obligations under this Agreement being null and void. Defendant agrees it shall not oppose the granting of the Motion for Final Approval, provided Defendant has not exercised its right to rescind pursuant to the terms of this Agreement.

76. Judgment and Continued Jurisdiction: Upon Final Approval of the Settlement by the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the Judgment to the Court for its approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) Settlement administration matters, and (c) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement.

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

78. Entire Agreement: This Settlement Agreement and any attached Exhibits constitute

the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties.

79. Amendment or Modification: This Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest and approved by the Court.

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

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

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

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

84. Acknowledgement that the Settlement is Fair and Reasonable: The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations and in the context of adversarial

litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

85. Invalidity of Any Provision: Before declaring any provision of this 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 Agreement valid and enforceable.

86. 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 either party may appeal any court order that materially alters the Settlement Agreement's terms.

87. Class Action Certification for Settlement Purposes Only: The Parties agree to stipulate to class action certification only for purposes of the Settlement. 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 Agreement will not be admissible in this or any other proceeding as evidence that either: (a) a class action should be certified or (b) Defendant is liable to Plaintiff or any Class Member, other than according to the Settlement's terms.

88. Non-Admission of Liability: The Parties enter into this Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, it has 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 their employees. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall 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 Agreement, this Agreement and its terms and provisions shall 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.

89. Captions: The captions and section numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this Agreement.

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

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

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

93. Representation By Counsel: The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel and reviewed in full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the Agreement.

94. All Terms Subject to Final Court Approval: All amounts and procedures described

in this Settlement Agreement herein will be subject to final Court approval.

95. Cooperation and Execution of Necessary Documents: The Parties agree to cooperate to promote participation in the Settlement, and in seeking court approval of the Settlement. The Parties and their counsel agree not to take any action to encourage any Class Members to opt out of and/or object to the Settlement. Defendant agrees not to obtain any settlement agreement waivers, Pick Up Stix agreements or arbitration agreements from any Class Member prior to the funding of the Gross Settlement Amount concerning claims released via this Agreement, or enter into any arbitration agreement with any Class Member that covers the claims released via this Agreement during the Settlement approval process prior to the funding of the Gross Settlement Amount and that the Parties will work in good faith to reach an agreement approved by the Court.

96. Confidentiality: The Parties and their counsel agree to keep the terms of the Settlement confidential until the filing of Plaintiff's Motion for Preliminary Approval. Plaintiff, Class Counsel, Defendant 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 communication with the press about the fact, amount or terms of the Settlement Agreement. Nothing in this Settlement Agreement shall limit Defendant's ability to fulfill disclosure obligations reasonably required by law or in furtherance of business purposes, including the fulfillment of obligations stated in this Settlement Agreement or limit Class Counsel's communications with the Class Members in furtherance of approval of this Settlement.

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

[SIGNATURES ON FOLLOWING PAGE]

Dated: 8/18/2024

**PLAINTIFF**

Signed by:

By: 

1975094A270047F...

Salvador Cortez

Dated: 8/19/2024

**PROTECTION LAW GROUP, LLP**

By: 

Heather Davis
Amir Nayebdadash
D. Luke Clapp
Attorneys for Plaintiff

Dated: _______________

**DEFENDANT**

**DIRECT PAINTING & DECORATING, INC.**

By: ________________________________

Name: ________________________________

Title: ________________________________

Dated: _______________

**STUART KANE LLP**

By: ________________________________

Bruce D. May
Edward J. Farrell
Attorneys for Defendant

Dated: ____________ **PLAINTIFF**

By: ______________________
Salvador Cortez

Dated: ____________ **PROTECTION LAW GROUP, LLP**

By: ______________________
Heather Davis
Amir Nayebdadash
D. Luke Clapp
Attorneys for Plaintiff

Dated: 8/15/24 **DEFENDANT**

**DIRECT PAINTING & DECORATING, INC.**

By: Edward A Lozano
Name: Edward Lozano
Title: Vice President

Dated: Aug. 14, 2024 **STUART KANE LLP**

By: ______________________
Bruce D. May
Edward J. Farrell
Attorneys for Defendant

# Exhibit A

# COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

**Salvador Cortez v. Direct Painting & Decorating, Inc.** Los Angeles Superior Court case nos. 23STCV02248 and 23STCV07806

***The Superior Court for the State of California 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 ("Action") against Direct Painting & Decorating, Inc. ("Direct Painting") for alleged wage and hour violations. The Action was filed by a former Direct Painting employee named Salvador Cortez ("Plaintiff") and seeks payment of (1) back wages, penalties, interest, costs, and attorneys' fees for a class of hourly employees ("Class Members") who worked for Direct Painting during the Class Period (February 1, 2019, to May 31, 2024); and (2) penalties under the California Private Attorney General Act ("PAGA") for all hourly employees who worked for Direct Painting during the PAGA Period (February 1, 2022, to May 31, 2024) ("PAGA Members").

The proposed Settlement has two main parts: (1) a Class Settlement requiring Direct Painting to fund Individual Class Payments, and (2) a PAGA Settlement requiring Direct Painting to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

The amount you are eligible to receive under the Settlement will depend on how long you worked as an hourly employee for Direct Painting during the Class Period and whether you previously received a settlement payment from Direct Painting. If you previously received a settlement payment from Direct Painting ("Prior Release Payment"), that amount will be credited against the amount you are eligible to receive from the Settlement.

Based on Direct Painting's records, and the Parties' current assumptions, **you previously received a settlement payment from Direct Painting in the Amount of ___________.**

Based on Direct Painting's records, and the Parties' current assumptions, **your Individual Class Payment, following the deduction of your Prior Release Payment, if any, is estimated to be $______ (less withholding) and your Individual PAGA Payment is estimated to be $__**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Direct Painting's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Direct Painting's records showing that **you worked ___ workweeks** during the Class Period, **_ workweeks** during the PAGA Period, and that you received a Prior Release Payment in the amount of ___________. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. 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 Direct Painting to make payments under the Settlement and requires Class Members and PAGA Member to give up their rights to assert certain claims against Direct Painting.

If you worked for Direct Painting during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing**. You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Direct Painting.

(2) **Opt-Out of the Class Settlement**. You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Direct Painting, and, if you are an PAGA Member, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

**Direct Painting will not retaliate against you for any actions you take with respect to the proposed Settlement.**

**SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

| | |
|---|---|
| **You Don't Have to Do Anything to Participate in the Settlement** | If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Direct Painting that are covered by this Settlement (Released Claims). |
| **You Can Opt-out of the Class Settlement but not the PAGA Settlement**<br><br>**The Opt-out Deadline is ________________** | If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section **6** of this Notice.<br><br>You cannot opt-out of the PAGA portion of the proposed Settlement. Direct Painting must pay Individual PAGA Payments to all PAGA Members and the PAGA Members must give up their rights to pursue Released Claims (defined below). |

| | |
|---|---|
| **Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement**<br><br>**Written Objections Must be Submitted by _________________** | All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section **7** of this Notice. |
| **You Can Participate in the ______________ Final Approval Hearing** | The Court's Final Approval Hearing is scheduled to take place on _________________. 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. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section **8** of this Notice. |
| **You Can Challenge the Calculation of Your Workweeks/Pay Periods**<br><br>**Written Challenges Must be Submitted by _________________** | The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Direct Painting's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by ______________. See Section **4** of this Notice. |

## 1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former Direct Painting employee. The Action accuses Direct Painting of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination and reimbursable expenses, and failing to provide meal periods, rest breaks and 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 (Lab. Code, § 2698, et seq.) ("PAGA"). Plaintiff is represented in the Action by attorneys Heather Davis, Amir Nayebdadash, and D. Luke Clapp of Protection Law Group, 149 Sheldon Street, El Segundo CA 90245; telephone (424)290-3045; fax (866)264-7880 ("Class Counsel.")

Direct Painting strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws. Direct Painting has agreed to this Settlement just to avoid attorneys' fees and other costs of litigation.

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

So far, the Court has made no determination whether Direct Painting or Plaintiff is correct on the merits. In the meantime, attorneys for Plaintiff and Direct Painting negotiated extensively for several months in an effort to resolve the Action by negotiating an 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") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Direct Painting 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, Direct Painting does 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) Direct Painting has 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 PAGA Members. 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. <u>Direct Painting Will Pay $168,043.00 as the Gross Settlement Amount (Gross Settlement)</u>. This includes the sum of $20,543.00 that Direct Painting has already paid to certain current employees of Direct Painting as part of an individual settlement of the claim in this Action. Employees who received money as part of an individual settlement will have these payments credited against what they are eligible to receive under this Settlement. Direct Painting has agreed to deposit the Gross Settlement (minus the prior individual settlements) into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorneys' fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Direct Painting will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court become 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. <u>Court Approved Deductions from Gross Settlement.</u> At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

    A. Up to $56,014.33 [1/3 of the Gross Settlement] to Class Counsel for attorneys' fees and up to $6,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

    B. Up to $5,000 as a Class Representative Award to Plaintiff for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.

    C. Up to $4,500 to the Administrator for services administering the Settlement.

D. Up to $8,000 for PAGA Penalties, allocated 75% to the California Labor & Workforce Development Agency (LWDA) and 25% in Individual PAGA Payments to the PAGA Members based on their PAGA Period Pay Periods.

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 Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and Direct Painting are asking the Court to approve an allocation of 20 % of each Individual Class Payment to taxable wages ("Wage Portion"), 40% to interest, and 40% to penalties("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Direct Painting will separately pay the employer payroll taxes it owes 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 Direct Painting 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, 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 Class Settlement, unless you notify the Administrator in writing, not later than ______________, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the ________________ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her/their representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Direct Painting.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments provided they worked during the PAGA Period and are required to give up their right to assert PAGA claims against Direct Painting based on the PAGA Period facts alleged in the Action.

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 enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Direct Painting have agreed that, in either case, the Settlement will be void: Direct Painting will not pay any money and Class Members will not release any claims against Direct Painting.

8. Administrator. The Court has appointed a neutral company, Apex Class Actions LLC, 18 Technology Drive, Suite 164 Irvine, CA 92618; info@apexclassaction.com; telephone 1-800 355 0700 (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re- mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final and Direct Painting has fully funded the Gross Settlement 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 Direct Painting or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and 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 former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, release Released Parties from (i) all claims, rights, demands, liabilities and causes of actions that are alleged, or that reasonably could have been alleged, based on the facts asserted in the operative complaint in the Action including the following claims: (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest periods or compensation in lieu thereof; (iv) failure to reimburse necessary business expenses; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation; (vii) failure to provide timely pay wages during employment; (viii) failure to pay reporting time pay; (ix) unfair business practices; (x) failure to maintain required payroll records and (xi) any other claim that reasonably could have been alleged based on the allegations in the Complaint. This release shall apply to claims that arose during the between February 1, 2019, and May 31, 2024.

10. PAGA Members' PAGA Release. After the Court's judgment is final, and Direct Painting has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all

PAGA Members will be barred from asserting PAGA claims against Direct Painting, whether or not they exclude themselves from the Settlement. This means that all PAGA Members, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue or participate in any other PAGA claim against Direct Painting or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The PAGA Members' Releases are as follows:

> All PAGA Members are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that that are or could have been premised on the facts alleged both in the PAGA Notice provided to the LWDA and in the operative complaint including allegations regarding Defendant's (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest periods or compensation in lieu thereof; (iv) failure to reimburse necessary business expenses; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation; (vii) failure to provide timely pay wages during employment; (viii) failure to pay reporting time pay;  and (ix) failure to maintain required payroll records. This release shall apply to claims that arose between February 1, 2022, and May 31, 2024.

**4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member; and (c) deducting the Prior Release Payment (if any) from the resulting amount.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing $8,000 by the total number of PAGA Pay Periods worked by all PAGA Members and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual PAGA Member.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Direct Painting's records, are stated in the first page of this Notice. You have until __________________ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.
You need to support your challenge by sending copies of pay stubs or other records. The

Administrator will accept Direct Painting's calculation of Workweeks and/or Pay Periods based on Direct Painting'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 Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Direct Painting's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

**5. HOW WILL I GET PAID?**

The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as PAGA Members. The single check will combine the Individual Class Payment and the Individual PAGA Payment. If you opt-out of the settlement but are an PAGA Member you will still be mailed your portion of the PAGA Payment if eligible.

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

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

Submit a written and signed letter with your name, present address, telephone number and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as Cortez v. Direct Painting & Decorating Inc. , and include your identifying information (full name, address, telephone number, approximate dates of employment and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _______________, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

**7. HOW DO I OBJECT TO THE SETTLEMENT?**

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Direct Painting are asking the Court to approve. At least 16 court days before the Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website ___________(url)_________ or the Court's website ______(url)_________.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is** ________________. Be sure to tell the Administrator what you object to, why you object and any facts that support your objection. Make sure you identify the Action ________ ____________ and include your name, current address, telephone number and approximate dates of employment for Direct Painting and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

**8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

You can, but don't have to, attend the Final Approval Hearing on ______________ at __(time)___ in Department [7] of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (https://www.lacourt.org/lacc/). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website ______________________________ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

**9. HOW CAN I GET MORE INFORMATION?**

The Agreement sets forth everything Direct Painting and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to __________(specify entity)______ website at __________(url)___ ______. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (http://www.lacourt.org/casesummary/ui/index.aspx) **[confirm]** and entering the Case Number for the Action, Case No. 23STCV02248. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

Class Counsel:

Heather Davis
heather@protectionlawgroup.com
Protection Law Group
149 Sheldon Street, El Segundo CA 90245
424-290-3045.

Settlement Administrator:

Apex Class Actions LLC
info@apexclassaction.com
18 Technology Drive, Suite 164 Irvine, CA 92618;
1-800-355-0700.

**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT**

**10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

If you lose or misplace your settlement check before cashing it, the 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

☐ you will have no way to recover the money.

**11. WHAT IF I CHANGE MY ADDRESS?**

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