

1 Justian Jusuf – State Bar No. 201507
Email: jjusuf@jusuf-law.com
2 **LAW OFFICE OF JUSTIAN JUSUF, APC**
17011 Beach Blvd., Suite 900
3 Huntington Beach, California 92647
Phone: (714) 274-9815

4 Sahag Majarian II – State Bar No. 146621
Email: sahagii@aol.com
5 **MAJARIAN LAW GROUP, APC**
18250 Ventura Blvd.
6 Tarzana, California 91356
Phone: (818) 609-0807
7 Fax: (818) 609-0892

8 Attorneys for Plaintiff SEBASTIAN NICOLAS,
9 individually and on behalf of others similarly situated

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

12 SEBASTIAN NICOLAS, individually and on)
13 behalf of others similarly situated,)

14 Plaintiffs,)

15 vs.)

16 MASTERCRAFT PAINTING, INC. and)
17 DOES 1 through 50,)

18 Defendants.)

CASE NO.: 23CV001218

CLASS ACTION

Assigned For All Purposes To:
Judge: Hon. Jill Talley
Dept.: 27

SETTLEMENT AGREEMENT

Complaint Filed: May 8, 2023

1 This Settlement Agreement (“Agreement”) is made by and between Plaintiff Sebastian
2 Nicolas (“Plaintiff”) and Defendant Mastercraft Painting, Inc. (“Defendants”) (collectively the
3 “Parties”) with regard the claims asserted against Defendant in a civil action titled *Sebastian*
4 *Nicolas, individually and on behalf of others similarly situated, vs. Mastercraft Painting, Inc. and*
5 *Does 1-50*, Sacramento County Superior Court, Case No. 23CV001218 (the “Action”).

6 **I. THE SETTLEMENT**

7 Subject to Court approval pursuant to Rule 3.769 of the California Rules of Court and
8 Labor Code § 2699(1)(2), Plaintiff and Defendant have agreed to a settlement intended to fully
9 resolve all disputes between Plaintiff and Defendant in the Action based upon the terms and
10 conditions set forth in this Agreement including, but not limited to, Defendant paying a sum of
11 \$85,000.00 (Eighty-Five Thousand Dollars and Zero Cents) to establish a non-reversionary
12 Settlement Fund to pay for claims of the Class Members who do not opt out of the settlement, civil
13 penalties under the Labor Code Private Attorneys General Act (“PAGA”), Enhancement Award to
14 Plaintiff, the Settlement Administrator’s fee and expenses, and reasonable attorneys’ fees and
15 costs reimbursement to Class Counsel, in exchange for the releases provided herein.

16 A summary of the terms of the settlement (“Settlement”) is as follows:

17 • For purposes of this Settlement, Defendants stipulate to certification of a Class
18 defined as “any and all persons who have been employed by Mastercraft Painting, Inc. as non-
19 exempt employees in California at any time during the Class Period, from May 8, 2019 to March
20 31, 2023.” There are a total of 88 Class members, and they worked a total of approximately 6,294
21 Work Weeks.

22 • Class Members need not submit a claim to be paid under the Settlement. Upon the
23 Court granting final approval of the Settlement, the Settlement Administrator will mail settlement
24 checks to Class Members who do not opt out of the Settlement.

25 • Out of the Settlement Fund, a sum of \$7,000.00 (Seven Thousand Dollars and Zero
26 Cents) shall be allocated as payment for civil penalties under PAGA, 75% of which (\$5,250.00)
27 shall be paid to the Labor and Workforce Development Agency (“LWDA”), and the remaining
28 25% (\$1,750.00) shall be paid to Aggrieved Employees, proportionally based on the number of

1 Pay Periods they worked during the PAGA Period (from May 8, 2022 to March 31, 2023),
2 regardless of whether or not they otherwise opt out of the Class.

3 • Out of the Settlement Fund, a sum of \$5,000.00 (Five Thousand Dollars and Zero
4 Cents) will be paid to Plaintiff, as Enhancement Award for his services to the Class and taking the
5 risks of bringing the Action as a class action, which has resulted in benefits to the Class Members.

6 • Out of the Settlement Fund, a sum of \$6,500.00 (Six Thousand Five Hundred
7 Dollars and Zero Cents Cents) will be paid to the Settlement Administrator for its fee and costs for
8 administering this Settlement. The Parties have agreed to hire Phoenix Class Action
9 Administration Solutions, an experienced class action administrator, to serve as the Settlement
10 Administrator.

11 • Out of the Settlement Fund, a sum of \$28,333.33 (Twenty-Eight Thousand Three
12 Hundred Thirty-Three Dollars and Thirty-Three Cents), which is one-third (33.33%) of the
13 Settlement Fund, will be paid to Class Counsel in reasonable attorney's fees for services he has
14 performed in this Action and anticipated to be performed in connection with seeking approval,
15 monitoring the implementation of this Settlement, and doing other work relating to these
16 proceedings in this Action.

17 • Out of the Settlement Fund, a sum not to exceed \$5,000.00 (Five Thousand Dollars
18 and Zero Cents) will be paid to Class Counsel for reimbursement of costs and other expenses
19 incurred and reasonably anticipated to be incurred in this Action relating to claims against the
20 Defendants and this settlement.

21 • After deducting the Settlement Administrator's fee and costs, payments for
22 settlement of PAGA claims, Enhancement Award to Plaintiff, and Class Counsel's reasonable
23 attorneys' fees and reimbursement of costs from the Settlement Fund, the Net Settlement Amount,
24 estimated at approximately \$33,166.67 (Thirty-Three Thousand One Hundred Sixty-Six Dollars
25 and Sixty-Seven Cents), will be allocated Class Members proportionally based on their respective
26 Workweeks during the Class Period. Amounts allocated to Class Members who opt out of the
27 Class shall be re-allocated to Class Members who do not opt out of the Class proportionally based
28 on their respective shares of the Net Settlement Fund.

• Payments to the Class Members shall be attributed as 1/3 wages, 1/3 interest, and 1/3 penalties. Payments to Aggrieved Employees shall be attributed as penalties.

• Any settlement checks that are not cashed after 180 (One Hundred Eighty) calendar days of issuance will be cancelled, and the money shall be transmitted to the California State Controller's Office, to be placed in its Unclaimed Property funds.

II. DEFINITIONS

Unless otherwise defined herein, all of the capitalized terms used in this Agreement shall have the meanings set forth below:

1. "Aggrieved Employees" means those Class Members who were employed by Defendant during the PAGA Period. There are a total of 30 Aggrieved Employees, and they were employed by Defendants a total of 1,071 Pay Periods.

2. "Class" or "Class Members" means any and all persons who have been employed by Mastercraft Painting, Inc. as non-exempt employees in California at any time during the Class Period. There are 88 Class members, and they worked a total of approximately 6,294 Work Weeks.

3. "Class Counsel" or "Plaintiff's Counsel" means:

Justian Jusuf
LAW OFFICE OF JUSTIAN JUSUF, APC
17011 Beach Blvd., Suite 900
Huntington Beach, CA 92647
Phone: (714) 274-9815

and

Sahag Majarian II
MAJARIAN LAW GROUP, APC
18250 Ventura Blvd.
Tarzana, California 91356
Phone: (818) 609-0807
Fax: (818) 609-0892

4. "Class Period" is from May 8, 2019 to March 31, 2023.

5. "Counsel for Defendant" means:

David M. Daniels
ELGUINDY, MEYER & KOEGEL, APC
2990 Lava Ridge Court, Suite 205
Roseville, CA 95661
Phone: (916) 778-3310
Fax: (916) 330-4433

1 6. “Effective Date” means the later of the time when: (i) the final approval Order is
2 entered, if there is no objection to the Settlement; (ii) the final approval Order is entered, if there is
3 one or more objections to the Settlement but all objections have been withdrawn before the final
4 approval Order is entered; or (iii) the final approval Order becomes final and no longer subject to
5 appeal, if there is one or more objections that have not been withdrawn when the final approval
6 Order is entered.

7 7. “Enhancement Award” means the payment to Plaintiff for his services to the Class
8 for bringing the Action as a class action, performing work and assisting Class Counsel in
9 connection with the prosecution of the Action for the benefit of the Class Members. The
10 Enhancement Award payment is in addition to whatever payment Plaintiff is otherwise entitled to
11 as a Class Member and/or as an Aggrieved Employee. Subject to Court approval, Defendants
12 have agreed to pay an Enhancement Award in the amount of \$5,000.00 (Five Thousand Dollars
13 and Zero Cents) to Plaintiff, to be paid out of the Settlement Fund.

14 8. “Final Approval Date” means the date that the Court grants final approval of this
15 Settlement.

16 9. “Net Settlement Amount” means the total amount of money available under the
17 terms of this Agreement for payment to the Class Members who do not opt out of the Settlement.
18 The estimated amount of the Net Settlement Amount is \$33,166.67 (Thirty-Three Thousand One
19 Hundred Sixty-Six Dollars and Sixty-Seven Cents), which is determined as follows: \$85,000.00
20 Settlement Fund minus \$7,000.00 PAGA Penalties (75% of which will be paid to the LWDA and
21 25% to be paid to Aggrieved Employees), minus \$5,000.00 Enhancement Award to Plaintiff,
22 minus \$6,500.00 Settlement Administrator’s fee and costs, minus \$28,333.33 reasonable
23 attorneys’ fees to Class Counsel, and minus \$5,000.00 reimbursement of costs and expenses
24 incurred by Class Counsel.

25 10. “Notice of Class Settlement” refers to the Notice attached hereto as Exhibit A,
26 which will be translated into Spanish upon Court approval, and mailed in English and Spanish to
27 Class Members to notify them of the terms of the Settlement and their rights thereunder.
28

11. “Opt Out Period” refers to that 45 (forty-five) calendar day period of time following the date the Settlement Administrator mails the Notice of Class Settlement to Class Members, within which any Class Members who wish to be excluded from the Settlement may submit a request to be excluded (“opt out”) from the Settlement by following the procedure set forth in this Agreement and the Notice of Class Settlement.

12. “PAGA Period” is from May 8, 2022 to March 31, 2023.

13. “Pay Period(s)” means the weekly payroll period(s) during which Aggrieved Employee was employed by Defendant during the PAGA Period.

14. “Preliminary Approval Date” means the date that the Court grants preliminary approval of this Settlement.

15. “Released Claims” means any and all claims asserted in the Complaint (filed May 8, 2023), as amended in the operative First Amended Complaint (filed August 15, 2023) arising during the Class Period and PAGA Period based on the facts alleged therein, including claims for alleged failure to pay at least the minimum wage for all hours worked, failure to provide meal periods, failure to provide rest periods, failure to provide accurate wage statements, and failure to reimburse work-related expenses, in alleged violations of California Labor Code sections 200, 203, 226, 226.7, 510, 1182.12, 1194, 1197, and 2805, and the applicable provisions of Wage Order 16. The Released Claims also include the derivative claims restitution under Business and Professions Code section 17200, *et seq.*, and for civil penalties under Labor Code Private Attorneys General Act (“PAGA”), Labor Code section 2698, *et seq.* arising during the PAGA Period, based on the alleged Labor Code violations.

16. “Released Parties” means Defendant Mastercraft Painting, Inc. and each of its predecessors in interest, successors in interest, shareholders, directors, officers, managers, employees, and agents.

17. “Settlement Agreement” or “Settlement” or “Agreement” means the terms and conditions set forth in this Settlement Agreement, which is subject to approval of the Court, pursuant to Rule 3.769 of the California Rules of Court and Labor Code § 2699(l).

18. “Settlement Fund” means the sum of \$85,000.00 (Eighty-Five Thousand Dollars

1 and Zero Cents) that Defendant shall pay under the terms of this Agreement. No portion of the
2 Settlement Fund amount shall revert back to Defendants. If the number of Class members exceeds
3 10% of 88, or the number of total Work Weeks worked by Class members exceeds 10% of 6,924,
4 the amount of Settlement Fund shall increase proportionally by the percentage of increase in the
5 total number of Class members or increase in the total number of pay periods, whichever is
6 greater.

7 19. "Work Week(s)" means the seven calendar days of the payroll cycle during which
8 Class Members were employed by Defendants within the Class Period.

9 **III. PROCEDURAL BACKGROUND**

10 1. Defendant was in the business of providing property painting services in Northern
11 California. Plaintiff was employed by Defendant as a non-exempt employee.

12 2. On May 8, 2023, Plaintiff filed a class action complaint against Defendants,
13 alleging claims for (1) failure to pay minimum wage, (2) failure to provide meal periods, (3)
14 failure to provide rest periods, (4) failure to provide accurate wage statements, (5) failure to
15 reimburse employees for using personal cell phones for work, and (6) violation of Business and
16 Professions Code § 17200.

17 3. On August 15, 2023, Plaintiff filed the operative First Amended Complaint, adding
18 claims for civil penalties under PAGA.

19 4. Shortly after the commencement of the Action, Counsel for the respective parties
20 engaged in numerous and extensive discussions regarding the factual and legal issues involved in
21 the Action, their respective views on the strengths and weaknesses of the claims and defenses, and,
22 more importantly, the fact that Defendant is no longer in business as of March 31, 2023.

23 5. After extensive discussions among counsel for the respective Parties, the Parties
24 eventually reached the terms of a settlement to fully resolve all claims Plaintiff has asserted
25 against the Defendants in this Action.

26 6. Plaintiff and Class Counsel recognize the expense and length of continued
27 proceedings necessary to litigate their disputes through trial and through any possible appeals.
28 Plaintiff and Class Counsel have also taken into account the uncertainty and inherent risks of the

1 outcome of further litigation, the complexities and uncertain merits of their claims and defenses,
2 the collection risks, and the delays inherent in further litigation. Plaintiff and Class Counsel have
3 also taken into account Defendant's agreement to enter into the Settlement that confers substantial
4 benefits to the Class Members. Therefore, Plaintiff and Class Counsel have concluded that the
5 Settlement set forth in this Agreement is a fair, adequate and a reasonable Settlement, and is in the
6 best interests of the Class.

7 7. Defendant has concluded that any further defense of this litigation would be
8 protracted and expensive for all Parties. Defendant has also taken into account the significant
9 risks of further litigation in reaching its decision. Defendant has, therefore, agreed to settle in the
10 manner and upon the terms set forth in this Agreement.

11 **IV. THIS SETTLEMENT IS SUBJECT TO COURT APPROVAL**

12 This Agreement is conditioned on and contemplates: (i) entry of an Order granting
13 preliminary approval of the Settlement, and (ii) entry of an Order granting final approval of the
14 Settlement and entry of Judgment approving the Settlement with retention of jurisdiction for
15 enforcing the terms of the Settlement.

16 **V. SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURE**

17 **A. Preliminary Approval Of Settlement**

18 As soon as practicable, Plaintiff shall submit this Agreement to the Court for review and
19 its preliminary approval. Such submission shall include such motions, pleadings and evidence as
20 may be required for the Court to determine that the terms of settlement set forth in this Agreement
21 are fair, adequate and reasonable, as required by Rule 3.769 of the California Rules of Court.

22 **B. Settlement Administrator**

23 The Parties have agreed to hire Phoenix Class Action Administration Solutions, a third-
24 party settlement administrator, to administer this Settlement. The Settlement Administrator's fee
25 and expenses are capped at \$6,500.00 (Six Thousand Five Hundred Dollars and Zero Cents), to be
26 paid out the Settlement Fund.

27 **C. Notice To Class Members**

28 1. As soon as practicable, but no later than 14 (fourteen) calendar days after

1 the Court grants preliminary approval of the Settlement, Defendant shall provide the Class Data to
2 the Settlement Administrator. The Class Data shall include the following information for each
3 Class Member: the name, last-known home address, last-known home or cell phone number,
4 Social Security number, the number of Workweeks of the Class Member during the Class Period,
5 and the number of Pay Periods of the Aggrieved Employees during the PAGA Period. In addition,
6 Defendant shall provide the Settlement Administrator with tax withholding information and any
7 other or further information the Settlement Administrator may reasonably need to implement the
8 Settlement.

9 2. As soon as practicable, but no later than 14 (fourteen) calendar days after
10 receiving the database from Defendant, the Settlement Administrator shall print a Notice of Class
11 Settlement, in English and Spanish, and shall mail it to each of the Class Members by U.S. First
12 Class Mail. Prior to the mailing, the Settlement Administrator shall run the Class Members'
13 addresses through a National Change Of Addresses ("NCOA") service, to obtain the most updated
14 address information, and mail the Notice of Class Settlement to the most current addresses
15 available. The Settlement Administrator shall also perform a reasonable search for new addresses
16 for any Class Members whose mailings were returned by the Post Office as undeliverable, and
17 promptly re-mail the Notice of Class Settlement to any such Class Members.

18 3. The Notice of Class Settlement shall inform the Class Members of their
19 right to opt out of the Settlement or to object to the Settlement.

20 4. The Notice of Class Settlement provided to each Class Member shall set
21 forth the individualized estimated amount the Class Member will receive under the Settlement if
22 the Class Member does not opt out of the Settlement, as well as the estimated amount of PAGA
23 settlement allocated to him/her as a Settlement Aggrieved Employee, which will be mailed to
24 him/her whether or not he/she opts out of the Settlement.

25 **D. Exclusion (Opt-Outs)**

26 1. Any Class Member who wishes to be excluded from this Settlement must
27 mail to the Settlement Administrator a written statement expressing his/her desire to be excluded
28 (or opt out) from the Settlement, which must be postmarked no later than 45 (forty-five) calendar

1 days after the original date of the mailing of the Notice of Class Action Settlement. Any such
2 written request for exclusion must be submitted during the Opt Out Period and include the name
3 (and former names, if any), signature, current address, telephone number, and shall recite the
4 following language (verbatim) or other words to the same effect:

5 I wish to opt out of the settlement of this case, *Nicolas v. Mastercraft Painting,*
6 *Inc.*, Sacramento County Superior Court, Case No. 23CV001218.

7 2. Any Class Member who submits a valid and timely request for exclusion
8 from this Settlement shall be barred from participating in this Settlement, shall be barred from
9 objecting to this Settlement, shall receive no benefit from this Settlement (except for the portions
10 of PAGA settlement allocated to him/her), and shall not be bound by the terms of this Agreement.

11 3. The Settlement Administrator shall give notice to Class Counsel and
12 Counsel for Defendants of the name and number of Class Members who submit a timely request
13 for exclusion no later than 14 (fourteen) calendar days after the close of the Opt-Out Period.

14 **E. Cooperation**

15 The Parties will cooperate reasonably and in good faith for the purpose of achieving
16 occurrence of the conditions and accomplishing the terms set forth in this Agreement, including
17 without limitation, timely filing all motions, papers and evidence necessary to do so.

18 **F. Declaration of Compliance**

19 As soon as practicable, but no later than 14 (fourteen) calendar days following the close of
20 the Opt Out Period, the Settlement Administrator shall provide Class Counsel and Counsel for
21 Defendants with a declaration attesting to completion of the notice process set forth in this
22 Agreement, including an explanation of efforts to resend undeliverable notices returned with
23 forwarding addresses, the number of opt outs, and other information relevant to settlement
24 administration, which declarations shall be filed with the Court by Class Counsel along with their
25 papers requesting final approval of the Settlement.

26 **G. Sufficient Notice**

27 Compliance with the procedures described in this Agreement shall constitute due and
28 sufficient notice to Class Members of this Settlement and the Final Fairness and Approval
Hearing, shall satisfy the requirements of due process, and nothing else shall be required of the

1 named Plaintiffs, Class Counsel, Defendants, or Counsel for Defendants to provide notice of the
2 Settlement and the Final Fairness and Approval Hearing.

3 **H. Objections to Settlement**

4 1. Deadline for Objections

5 Any Class Member wishing to object to the approval of this settlement shall mail a written
6 objection to the Settlement Administrator within 45 calendar days from the date of mailing of the
7 Notice of Class Settlement. The Settlement Administrator shall promptly forward a copy of any
8 and all objections to Class Counsel and Counsel for Defendants. Any Class Member who submits
9 an objection shall retain the right to receive his/her share under the Settlement.

10 2. Responses to Objections

11 Class Counsel and/or Counsel for Defendants shall file any responses to any written
12 objections submitted to the Court in accordance with this Agreement at least five (5) court days
13 before the Final Fairness and Approval Hearing.

14 **I. Final Fairness and Approval Hearing**

15 On the date set forth for the Final Fairness and Approval Hearing in the Order granting
16 preliminary approval of the Settlement, which shall be approximately 120 (one hundred twenty)
17 calendar days after the Court grants preliminary approval of this Agreement, a Final Fairness and
18 Approval Hearing shall be held before the Court in order to consider and determine whether:
19 (i) the Court should give this Agreement final approval; (ii) Class Counsel's application for
20 attorneys' fees and reimbursement of expenses they have incurred should be granted; (iii)
21 application for Enhancement Awards for Plaintiffs; and (iv) any timely objections made and all
22 responses by Class Counsel and Counsel for Defendant to such objections have any merit.

23 This Agreement is contingent upon approval by the Court. If the Court does not grant
24 preliminary or final approval, the Parties shall be restored to their positions prior to the execution
25 of this Agreement without waiver of any rights, remedies or defenses.

26 **J. Allocation of Net Settlement Amount**

27 1. Subject to Court approval, a sum of \$7,000.00 (Seven Thousand Dollars
28 and Zero Cents) of the Settlement Fund shall be allocated as payment for civil penalties under

1 PAGA, 75% of which (i.e. \$5,250.00) shall be paid to the LWDA, and the balance of 25% (i.e.,
2 \$1,750.00) shall be allocated to Aggrieved Employees proportionally based on their respective
3 Pay Periods during the PAGA Period.

4 2. The Net Settlement Fund shall be allocated to the Class Members
5 proportionally based on their respective Workweeks during the Class Period.

6 3. For purposes of this Settlement, payment to the Class Members under this
7 Settlement shall be attributed as follows: 1/3 wages, 1/3 interest, and 1/3 penalties. Both the
8 employee's portion and the employer's portion of payroll taxes shall be paid out of the Net
9 Settlement Fund.

10 **K. Enhancement Award to Plaintiff**

11 Subject to Court approval, Defendant has agreed to pay as a part of the Settlement Fund,
12 and will not oppose application for, an Enhancement Award in the amount of \$5,000.00 (Five
13 Thousand Dollars and Zero Cents) to Plaintiff, for services he rendered that have resulted in
14 substantial benefits to the Class. The Enhancement Award payment is in addition to whatever
15 payment Plaintiff is otherwise entitled to as a Class Member and as an Aggrieved Employee.

16 **L. Payment Of Class Counsel Attorneys' Fees And Costs.**

17 1. Subject to Court approval, Defendants have agreed to pay as a part of the
18 Settlement Fund, and will not oppose Class Counsel's application for, an award of attorneys' fees
19 in the amount of \$28,333.33 (Twenty-Eight Thousand Three Hundred Thirty-Three Dollars and
20 Thirty-Three Cents), which represents one-third (33.33%) of the Settlement Fund, and
21 reimbursement of costs and expenses incurred in an amount not to exceed \$5,000.00 (Five
22 Thousand Dollars and Zero Cents), to be paid out of the Settlement Fund.

23 2. If the Court does not award the foregoing requested amounts, Plaintiff and
24 Class Counsel reserve the right to appeal the decision. Any Order or proceedings relating to the
25 attorneys' fee application by Class Counsel, or any appeal from any Order relating thereto or
26 modification or reversal thereof, shall not operate to terminate or cancel this Agreement. If the
27 Court-approved fees and costs amount are less than the foregoing amounts and Plaintiff and/or
28 Class Counsel appeal from that order, the amount reduced by the Court shall be kept in a trust

1 account pending appellate review of such an order. If there are any additional administration costs
2 associated with this trust or distribution to the Class Members following an unsuccessful appeal,
3 Class Counsel shall pay such costs.

4 3. Except as provided herein, each of the Parties and Class Members shall bear
5 his, her or its own attorneys' fees and costs in connection with this Action.

6 **M. Time for Funding**

7 On October 27, 2023, Defendant has funded the Settlement by transmitting \$85,000.00
8 (Eighty-Five Thousand Dollars and Zero Cents) to the Settlement Administrator, to be held by the
9 Settlement Administrator, for the benefit of this Settlement Agreement.

10 **N. Uncashed Checks**

11 Subject to Court approval or otherwise ordered by the Court, any settlement checks that are
12 not cashed after 180 (One Hundred Eighty) calendar days of issuance will be cancelled, and the
13 money shall be transmitted to the California State Controller's Office, to be placed in its
14 Unclaimed Property funds.

15 **VI. LIMITATIONS ON USE OF THIS SETTLEMENT**

16 **A. No Admission of Liability.**

17 Neither the acceptance nor the performance by Defendant of the terms of this Agreement
18 nor any of the related negotiations or proceedings leading to settlement of the Action, including
19 approval of this Agreement by the Court, is or shall be claimed to be, construed as, or deemed a
20 precedent or an admission by Defendant of the truth of any allegations and claims made in the
21 Action by Plaintiff.

22 **B. Circular 230 Disclaimer**

23 Each Party to this Stipulation (for purposes of this section, the "Acknowledging Party";
24 and each party to this Stipulation other than the Acknowledging Party, an "Other Party")
25 acknowledges and agrees that (1) no provision of this Stipulation, and no written communication
26 or disclosure between or among the Parties or their attorneys and other advisers, is or was intended
27 to be, nor shall any such communication or disclosure constitute or be construed or be relied upon
28 as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR

1 Part 10, as amended); (2) the Acknowledging Party (a) has relied exclusively upon his or its own,
2 independent legal and tax advisers for advice (including tax advice) in connection with this
3 Stipulation, (b) has not entered into this Stipulation based upon the recommendation of any Other
4 Party or any attorney or advisor to any Other Party, and (c) is not entitled to rely upon any
5 communication or disclosure by any attorney or advisor to any Other Party to avoid any tax
6 penalty that may be imposed on the Acknowledging Party; and (3) no attorney or advisor to any
7 Other Party has imposed any limitation that protects the confidentiality of any such attorney's or
8 adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure
9 by the Acknowledging Party of the tax treatment or tax structure of any transaction, including any
10 transaction contemplated by this Stipulation.

11 **C. Non-Evidentiary Use If No Approval; Continuing Jurisdiction of Court and**
12 **Evidentiary Use.**

13 If the Court for any reason does not approve this Settlement, neither this Agreement nor
14 any of its terms, nor any documents, communications, statements or conduct in the negotiation or
15 drafting of it, shall be offered or used as evidence by Plaintiff, any Class Member (including any
16 individual who requested to be excluded from the Class), Defendant, or their respective counsel, in
17 the Action or any other lawsuit or arbitration.

18 Provided the Court approves this Settlement, the Parties stipulate the Court shall continue
19 to have jurisdiction over this matter to enforce this settlement pursuant to Code of Civil Procedure
20 section 664.6, and this Agreement may be used in any action or proceeding to interpret or to
21 enforce the Settlement, this Agreement or in any action or proceeding related to the Released
22 Claims. In the event of any legal action or proceeding related to, arising out of, or to enforce this
23 Agreement, the prevailing party shall be entitled to recover its, her or his actual attorneys' fees and
24 costs incurred in connection therewith.

25 **D. Nullification.**

26 1. If the Court for any reason does not approve this Settlement, this Agreement
27 shall be considered null and void, and all Parties shall stand in the same position, without
28 prejudice or waiver of any rights, remedies or defenses, as if this Agreement had been neither

1 entered into nor filed with the Court.

2 **VII. RELEASE**

3 As of the Effective Date, and except as to such rights or claims as may be created by this
4 Settlement Agreement, Plaintiff and any and all Class Members who do not opt out of the
5 Settlement are deemed to have fully released and discharged the Released Parties from all
6 Released Claims.

7 **VIII. MISCELLANEOUS PROVISIONS**

8 **A. Warranty.**

9 Plaintiff, Class Counsel, and Defendant represent and warrant that each of them has
10 authority to enter into this Agreement, and that by doing so they are not in breach or violation of
11 any agreement with any third parties. The Parties and their counsel further agree that the Action
12 shall be stayed in all respects except with respect to implementing and processing the Settlement,
13 and for the purposes of filing Motions for Preliminary Approval and Final Approval.

14 **B. Amendments.**

15 The terms and provisions of this Agreement may be amended only by a written agreement
16 which is both: (1) signed by Plaintiff, Class Counsel, Defendant, and Counsel for Defendant; and
17 (2) approved by the Court.

18 **C. No Inducements.**

19 Plaintiff and Defendant acknowledge that they are entering into this Agreement as a free
20 and voluntary act, without duress or undue pressure or influence of any kind or nature whatsoever,
21 and that neither Plaintiff nor Defendant, and each of them, have relied on any promises,
22 representations or warranties regarding the subject matter hereof other than as set forth in this
23 Agreement.

24 **D. No Prior Assignment.**

25 The Parties represent, covenant, and warrant that they have not directly or indirectly,
26 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or
27 entity any portion of any liability, claim, demand, action, cause of action or rights herein released
28 and discharged except as set forth herein.

1 **E. Counterparts.**

2 This Agreement, and any amendments hereto, may be executed in any number of
3 counterparts, each of which when executed and delivered shall be deemed to be an original and all
4 of which taken together shall constitute but one and the same instrument.

5 **F. Successors.**

6 This Settlement Agreement shall be binding upon and inure to the benefit of the settling
7 Parties hereto and their respective heirs, executors, administrators, successors and assigns, and
8 upon any corporation, partnership or other entity into or with which any settling Party hereto may
9 merge, combine or consolidate. As used in the preceding sentence and elsewhere throughout this
10 Settlement Agreement, "including" shall mean including without limitation.

11 **G. Governing Law.**

12 This Settlement Agreement shall be governed by and construed, enforced, and administered
13 in accordance with the laws of the State of California, without regard for the law of the State
14 regarding conflicts of laws or choice of law. Any orders or judgments entered by the Court in
15 conjunction with the proceedings relating to or arising out of this Settlement Agreement shall be
16 construed and enforced under, and all issues relating to the preclusive effect of such orders or
17 judgments shall be determined by, the laws of the State of California relating to the construction,
18 enforcement, and preclusive effect of orders and judgments entered by state courts.

19 **H. Regulation.**

20 In the event that any provision in this Settlement Agreement shall be affected by any rule,
21 regulation, ordinance, order, directive, or statute by any unit of government, whether state, federal,
22 or local, such rule, regulation, ordinance, order, directive, or statute shall supersede and take
23 precedence over any such provision of this Settlement Agreement to the contrary, and any such
24 offending provisions shall be deemed severable, and in no event shall Defendant be in violation of
25 this Settlement Agreement nor shall this Settlement Agreement be in any way affected should
26 Defendant take any action or change any of their business practices to comply with such state,
27 federal, or local rules, regulations, ordinances, or statutes currently in force or enacted in the
28 future.

I. Headings.

The headings contained in this Settlement Agreement are for convenience and reference purposes only, and shall not be given weight in its construction.

J. Integration.

This Agreement contains the entire agreement between the Parties concerning the subject matter thereof, and supersedes all prior agreements, understandings, commitments, and practices between the Parties thereto. No oral modifications, express or implied, may alter or vary the terms of this Agreement.

AGREED,

Dated: November 9, 2023

PLAINTIFF:

DocuSigned by:



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Sebastian Nicolas

Dated: November 6, 2023

DEFENDANT:

MASTERCRAFT PAINTING, INC.

By:



Ed Daniels

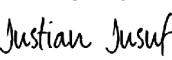
Its: President and Authorized Representative

APPROVED AS TO FORM:

Dated: November 9, 2023

LAW OFFICE OF JUSTIAN JUSUF, APC
MAJARIAN & ASSOCIATES, APC

DocuSigned by:



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By:

Justian Jusuf

Attorney for Plaintiff Sebastian Nicolas, individually and on behalf of others similarly situated

Dated: November 6, 2023

ELGUINDY MEYER & KOEGEL, APC

By:



David M. Daniels

Attorneys for Defendant Mastercraft Painting, Inc.

Exhibit A

NOTICE OF CLASS SETTLEMENT AND FAIRNESS HEARING

Nicolas v. Mastercraft Painting, Inc.
Sacramento County Superior Court, Case No. 23CV001218

<<FIRST AND LAST NAME>>

<<ADDRESS>>

<<CITY AND ZIP CODE>>

TO: ALL PERSONS WHO HAVE BEEN EMPLOYED BY MASTERCRAFT PAINTING, INC. AS NON-EXEMPT EMPLOYEES IN CALIFORNIA AT ANY TIME FROM MAY 8, 2019 TO MARCH 31, 2023 (“CLASS PERIOD”) (“CLASS MEMBERS”)

A court authorized this Notice. This is not a solicitation from a lawyer.

Please read this Notice carefully. Your rights may be affected.

- A former employee (“Plaintiff”) has sued Mastercraft Painting, Inc. (“Defendant”), alleging that Defendant failed to pay employees at least the minimum wage for all hours worked, failed to provide meal periods, failed to provide rest periods, failed to provide accurate wage statements, and failed to reimburse employees for using personal cell phones for work-related calls. Plaintiff also seeks civil penalties under the Labor Code Private Attorneys General Act (“PAGA”).
- Defendant has denied any wrongdoing or liability, but Plaintiff and Defendant have agreed to a settlement to resolve the alleged class claims and PAGA claims, and the Court has granted preliminary approval of the settlement.
- The Court has certified a Class for purposes of the Settlement, but has not ruled on the merits of Plaintiff’s claims or Defendant’s defenses.
- You received this Notice because you are a member of the Class according to Defendant’s records.
- Under the Settlement, you will receive approximately \$_____ in settlement of civil penalties under PAGA. This amount will be mailed to you whether or not you opt out of the Class Settlement.
- If you do not opt out of the Class Settlement, a sum of approximately \$_____ will be mailed to you upon the Court granting final approval of the settlement.
- The amounts listed above are based on Defendant’s records of the number of Work Weeks you worked as a non-exempt employee in California during the Class Period (from May 8, 2019 to March 31, 2023) and Pay Periods you worked during the PAGA Period (from May 8, 2022 to March 31, 2023). Defendant’s records show that you worked: ____ Work Weeks during the Class Period, and worked _____ Pay Periods during the PAGA Period.
- Upon the Court granting final approval and entering a judgment approving the settlement, the notice of judgment will be available at the Settlement Administrator’s website: _____

YOUR RIGHTS UNDER THE SETTLEMENT

Do Nothing	Stay as Class Member. Receive money under the Settlement. Give up right to sue separately. By doing nothing, a settlement check will be mailed to you upon the Court granting final approval of the Settlement, but you give up any rights to sue Defendant separately for the claims being released under the Settlement.
Opt Out	Get out of this Settlement. Receive no money under the Settlement. Keep rights to sue separately. By excluding yourself (opting out) from the Class, you give up the right to receive money under the Settlement, but keep any rights to sue Defendant separately for the claims being released under the Settlement.

Object	If you feel any of the terms of the Settlement are unfair, you may object to the Settlement following the procedure described in this Notice. You have a right to appear through your own attorney.
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- Any questions after you read this Notice? Contact the Settlement Administrator at (XXX) XXX-XXXX or attorneys for the Class at (818) 609-0807 or (714) 274-9815.

The Superior Court of California for the County of Sacramento has granted preliminary approval to a class action settlement (the “Settlement”) in the above-captioned action (“Action”).

The Court has conditionally certified the following Class for settlement purposes only: “Any and all persons who have been employed by Mastercraft Painting, Inc. as non-exempt employees in California at any time during the Class Period, from May 8, 2019 to March 31, 2023.”

A. DESCRIPTION OF THE LAWSUIT

Plaintiff has brought this lawsuit as a class action. In a class action, one or more persons bring claims in a lawsuit on behalf of themselves and others who are in a similar situation or have similar possible claims against one or more defendants. The Plaintiff in this case has made claims on behalf of all current and former non-exempt, non-exempt employees of Defendants in California at any time during the Class Period, from May 8, 2019 to March 31, 2023. In the lawsuit, Plaintiff alleges that Defendants failed to pay non-exempt employees at least the minimum wage for all hours worked, failed to provide meal breaks, failed to provide rest breaks, failed to provide accurate wage statements, and failed to reimburse them for using personal cell phones for work-related calls. Plaintiff also alleges that Defendants violated the Unfair Competition Law, Business and Professions Code section 17200, *et seq.* In addition, Plaintiff also seeks civil penalties under the PAGA. Based on those allegations, Plaintiff seeks class damages for unpaid wages, restitution, expense reimbursements, statutory damages, civil penalties, and other relief.

Defendant denies Plaintiff’s claims and denies any wrongdoing or liability. The Court has not ruled on the merits of Plaintiff’s claims or Defendant’s defenses, and the parties have agreed to the Settlement.

Plaintiff and Class Counsel believe the Settlement is fair and in the best interest of the Class and for these reasons are seeking final approval of the Settlement. The attorneys for the employees (“Class Counsel”) in this lawsuit are:

Justian Jusuf
LAW OFFICE OF JUSTIAN JUSUF APC
17011 Beach Blvd., Suite 900
Huntington Beach, CA 92647
Phone: (714) 274-9815

Sahag Majarian II
MAJARIAN LAW GROUP, APC
18250 Ventura Blvd.
Tarzana, California 91356
Phone: (818) 609-0807
Fax: (818) 609-0892

The attorneys for Defendant are:

David M. Daniels
ELGUINDY, MEYER & KOEGEL, APC
2990 Lava Ridge Court, Suite 205
Roseville, CA 95661
Phone: (916) 778-3310
Fax: (916) 330-4433

B. SUMMARY OF PROPOSED SETTLEMENT TERMS.

The following is a summary of the Settlement terms. The specific and complete terms of the Settlement are stated in the Settlement Agreement, which has been preliminarily approved by the Court. A full copy of the Settlement Agreement, as well as other public documents filed in this case, can be inspected during business

hours in the Office of the Court Clerk, 720 9th Street, Sacramento, CA 95814. The documents are also available at the Sacramento County Superior Court website: <https://www.saccourt.ca.gov/indexes/online-services.aspx>

Subject to the Court's final approval, the terms of the proposed Settlement are as follows:

1. Settlement Fund: Defendant will pay a total of \$85,000 (Eighty-Five Thousand Dollars) to establish a Settlement Fund, to pay Class Members who do not opt out of the Settlement, civil penalties under PAGA, Enhancement Award to Plaintiff, the Settlement Administrator's fee and expenses, and Class Counsel attorneys' fees and expenses. The employees' and employers' portions of payroll taxes on the portion of settlement payments attributed as wages will also be paid out of the Settlement Fund.

2. Settlement Formula and Distribution.

A sum of \$4,000 from the Settlement Fund is attributed as settlement of claims for civil penalties under PAGA. 75% (\$5,250) of this amount will be paid to the Labor and Workforce Development Agency, and 25% (\$1,750) of the amount will be paid to those non-exempt who were employed by Defendant at any time during the PAGA Period (from May 8, 2022 to March 31, 2023). If you are eligible for this payment, the amount you will receive for this portion of the settlement is shown on the first page of this notice.

After deducting the PAGA civil penalties settlement amount, the Enhancement Award to Plaintiff, the Settlement Administrator's fee and expenses, and Class Counsel attorneys' fees and expenses, the remaining amount ("Net Settlement Fund") will be allocated to Class Members proportionally based on their respective Workweeks during the Class Period (from May 8, 2019 to March 31, 2023). The amount you will receive upon the Court granting final approval of the Settlement, if you do not opt out of the Settlement, is shown on the first page of this notice.

You do not need to do anything to receive your share under the Settlement. Upon the Court granting final approval of the Settlement, a settlement check for the PAGA portion will be mailed to you, regardless of whether or not you opt out of the Settlement. And if you do not opt out of the Settlement, the settlement check to you will also include the non-PAGA portion.

The approximate amounts of your share under the Settlement are shown on the first page of this Notice. The amounts were calculated based on Defendants' records of the number of Work Weeks worked by you and other Class Members. If you disagree with the number of your Work Weeks stated on this Notice, please write to the Settlement Administrator and state the number of Work Weeks during the Class Period in which you worked for Mastercraft Painting, Inc. as a non-exempt employee in California during the Class Period and PAGA Period, and attach any and all documents that support your claim (such as pay stubs, cancelled checks, etc.). To dispute the number of your Work Weeks, you must mail your challenge and supporting documents to the Settlement Administrator on or before _____, 2023. Please be advised that the number of Work Weeks stated on page one of this Notice is presumed to be correct unless the documents you timely submit prove otherwise.

For purposes of tax reporting under the Settlement, payments made to you under this Settlement will be deemed one-third wages, one-third interest, and one-third penalties. Nothing in this Notice or the Settlement Agreement is intended to be tax advice. You should consult your tax advisor for any tax issues pertaining to this Settlement.

3. Subject to the Court's final approval, the following amounts will be deducted from the total Settlement Fund prior to calculation of the Net Settlement Fund: (a) \$7,000 (Seven Thousand Dollars) in settlement of PAGA claims, (b) Class Counsel will seek an award of attorneys' fees for their services in these Actions in the amount of \$28,333 (Twenty-Eight Thousand Three Hundred Thirty-Three Dollars), which is one-third of the Settlement Fund, and reimbursement of costs and expenses they have incurred in this Actions in an amount not to exceed \$5,000 (Five Thousand Dollars); (c) Class Counsel will ask the Court for an Enhancement Award of \$5,000 (Five Thousand Five Hundred Dollars) for Plaintiff/Class Representative to compensate for the time and risk undertaken in bringing this Action as a class action; and (c) payment to the Settlement Administrator for its costs and fees in administering the Settlement and payout process, in the amount of \$6,500

(Six Thousand Five Hundred Dollars).

4. Release. If you do not wish to be part of this Settlement or wish to bring your own lawsuit against Mastercraft Painting, Inc. for the Released Claims (as defined below), you need to timely request to be excluded (“opt out”) from the Settlement using the procedure described in this Notice. If you do not effectively opt out of the Settlement, and on final Court approval of the Settlement, you will fully release all Released Claims (as described below):

“Released Claims” means any and all claims asserted against Mastercraft Painting, Inc. in the Complaint (filed May 8, 2023), as amended in the operative First Amended Complaint (filed August 15, 2023) arising during the Class Period and PAGA Period based on the facts alleged therein, including claims for alleged failure to pay at least the minimum wage for all hours worked, failure to provide meal periods, failure to provide rest periods, failure to provide accurate wage statements, and failure to reimburse work-related expenses, in alleged violations of California Labor Code sections 200, 203, 226, 226.7, 510, 1182.12, 1194, 1197, and 2805, and the applicable provisions of Wage Order 16. The Released Claims also include the derivative claims restitution under Business and Professions Code section 17200, et seq., and for civil penalties under Labor Code Private Attorneys General Act (“PAGA”), Labor Code section 2698, et seq. arising during the PAGA Period, based on the alleged Labor Code violations.

Upon final approval of the Court of this settlement and except as to such rights or claims as may be created by the Settlement Agreement, the Class Members who do not opt out, will be deemed to fully release and discharge the Released Parties, which include Defendant Mastercraft Painting, Inc., and each of its predecessors in interest, successors in interest, shareholders, directors, officers, managers, employees, and agents from the Released Claims.

C. TO RECEIVE YOUR SHARE OF THE MONEY UNDER THE SETTLEMENT.

You do not need to do anything to receive your share under the Settlement, and a settlement check will be mailed to you if you do not opt out of the Settlement. The estimated amount of your share under the Settlement is reflected on the first page of this Notice.

D. WHAT IF YOU DO NOTHING?

If you do nothing, you will remain a member of the Settlement Class, and a settlement check will be mailed to you upon final approval of the Settlement, pursuant to the terms of the Settlement. As a member of the Class, you will be bound by all the terms of the Settlement, including the release of the Released Claims, as set forth above, which will prevent you from suing Mastercraft Painting, Inc. for the matters being settled in this case.

E. TO REQUEST EXCLUSION FROM THE SETTLEMENT.

If you want to be excluded (“opt out”) from the Settlement, you must mail a written request to be excluded (opt out) from the Settlement to the Settlement Administrator, postmarked on or before _____, 2023, to the following address:

[SETTLEMENT ADMINISTRATOR]
[ADDRESS]
[CITY AND ZIP CODE]

To be valid, your request to opt out of the Settlement must be in writing, and it must include your name (and former names, if any), signature, current address, telephone number, and shall recite the following language (verbatim) or other words to the same effect:

I wish to opt out of the settlement of this case, *Nicolas vs. Mastercraft Painting, Inc.*, Orange County Superior Court, Case No. 23CV001218.

If you file a timely and valid written request for exclusion, you will no longer be a member of the Class,

and you will not be eligible to receive money under the Settlement or object to the terms of the Settlement. However, you will not be bound by the terms of the Settlement, and may pursue any claims you may have, at your own expense, against Pirozzi Enterprises, LLC and/or Chef Alessandro Pirozzi, Inc.

F. OBJECTION TO THE SETTLEMENT AND/OR NOTICE OF INTENTION TO APPEAR.

If you do not opt out of the Settlement but believe the Settlement is unfair or inadequate in any respect, you may object to the Settlement in writing. You may also appear at the Final Approval Hearing, either in person or through an attorney at your own expense, provided you notify the Court of your intent to do so. All written objections, supporting papers and/or notices of intent to appear at the Final Approval Hearing must (a) clearly identify the case name and number (Nicolas v. Mastercraft Painting, Inc., Case Number 23CV001218, (b) be mailed to the Settlement Administrator, [ADMINISTRATOR'S ADDRESS AND ZIP CODE] postmarked on or before _____, 2023.

The written objection must be signed and dated, and include your name, dates of employment as a non-exempt employee of Mastercraft Painting, Inc. in California, and a complete description of the basis for the objection. A Class Member who objects to the Settlement will still be considered a member of the Class.

G. FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT.

The Final Approval Hearing on the fairness and adequacy of the proposed Settlement is scheduled for _____, 2024 in Department 27 of the Sacramento County Superior Court, located at 720 9th Street, Sacramento, CA 95814. The Final Approval Hearing may be continued without further notice, unless you have timely filed an objection. It is not necessary for you to attend this hearing, unless you file an objection and indicate your intention to appear.

Any Class Member who has not opted out will be bound by the Settlement approved by the Court at the Final Approval Hearing. If the Settlement is not approved, the lawsuit will continue to be prepared for trial or other judicial resolution.

H. ADDITIONAL INFORMATION.

This Notice only summarizes the lawsuit, the Settlement and related matters. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined at the office of the clerk during business hours, at Sacramento Superior Court, 720 9th Street, Sacramento, CA 95814. The documents are also available at the Sacramento County Superior Court website: <https://www.saccourt.ca.gov/indexes/online-services.aspx>.

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT

If your address changes, or is different from the address stated on the first page of this Notice, please promptly notify the Settlement Administrator or Class Counsel.