

1 SAMUEL T. REES (State Bar No. 58099)  
2 THOMAS P. BLEAU (State Bar No. 152945)  
3 MARTIN R. FOX (State Bar No. 155783)  
4 BLEAU FOX  
5 2801 West Empire Avenue  
6 Burbank, California 91504  
7 Telephone: (818) 748-3434  
8 Facsimile: (818) 748-3436

9 SHANNON LISS-RIORDAN (State Bar No. 310719)  
10 LICHTEN & LISS-RIORDAN, P.C.  
11 729 Boylston Street, Suite 2000  
12 Boston, MA 02116  
13 Telephone: (617) 994-5800  
14 Facsimile: (617) 994-5801  
15 sliss@llrlaw.com

16 Attorneys for Plaintiff  
17 and the Plaintiff Class

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
19 COUNTY OF ORANGE

20 RAYMOND STODDARD and  
21 SANTIAGO MEDINA etc.,

22 Plaintiffs,

23 vs.

24 EQUILON ENTERPRISES, LLC, et  
25 al.,

26 Defendants.

Case No. 30-2010-00395208-CU-0E-  
CXC

Hon. William Claster  
Department CX 102

CLASS ACTION

**SUPPLEMENTAL DECLARATION  
OF SAMUEL T. REES IN SUPPORT  
OF MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

**[Filed Concurrently with  
Supplemental Memorandum Of  
Points And Authorities,  
Declarations of Phoenix  
Settlement Administrators and  
Shannon Liss-Riordan and  
Plaintiffs' Revised [Proposed]  
Preliminary Approval Order]**

Date: March 13, 2020

Time: 9:00 a.m.

Dept: CX 104

Complaint Filed: August 2, 2010

Trial Date: None Set

**Reservation No. 73219881**

1 I, SAMUEL T. REES, declare:

2 1. I remain an attorney at law duly licensed to practice in California  
3 and Louisiana. I also remain “Of Counsel” to Bleau Fox, a PLC, counsel for  
4 Plaintiff and Plaintiff Class herein.

5 2. I submit this Supplemental Declaration in response to the Court’s  
6 comments regarding the settlement. However, my prior declaration submitted  
7 in connection with this settlement remains true and correct.

8 3. Following receipt of the Court’s comments, I successfully negotiated  
9 amendments to the settlement agreement, class notice and the preliminary  
10 approval order with counsel for R&M. I remain the principal draftsman of those  
11 amended documents. Attached hereto as Exhibit C is a true and correct copy of  
12 the Amended and Restated Settlement Agreement and Exhibits. Exhibit 1  
13 thereto is the Amended Class Notice. Exhibit 2 thereto is the revised [Proposed]  
14 Preliminary Approval Order.

15 4. In response to the Court’s comments, attached hereto as Exhibit D is  
16 a redlined version comparing the Amended and Restated Settlement Agreement  
17 with the Settlement Agreement attached as Exhibit A to my earlier declaration.  
18 Attached hereto as Exhibit E is a redlined version comparing the amended Class  
19 Notice with the prior Class Notice submitted with my earlier declaration.  
20 Attached hereto as Exhibit F is a redlined version comparing the Revised  
21 [Proposed] Preliminary Approval Order with the prior [Proposed] Preliminary  
22 Approval Order submitted with my earlier declaration. I performed the  
23 redlining operation myself and believe they accurately show all changes made.  
24 In negotiating all changes, I believe that I have covered all of the concerns raised  
25 in this Court’s comments concerning those documents.

26 5. Medina has agreed to only seek \$5,000 as a Service Award. R&M  
27 has agreed not to oppose this request but both Medina and I understand that the  
28 amount of any Service Award is wholly at the discretion of this Court. I support

1 this Service Award based upon my knowledge of the services Medina has  
2 provided for nearly a decade as well as his involvement with the Wales Action  
3 before this Action was commenced. I also believe that this Service Award is  
4 more than fully justified by the financial risks Medina has assumed.

5 6. Medina has also resolved his personal claims asserted in the SAC  
6 with R&M and will receive an additional \$5,000 as compensation for those  
7 claims. This settlement is conditioned upon the consummation of the Class  
8 settlement.

9 7. As part of the Class Settlement, Bleau Fox and I have agreed that  
10 we shall not seek an award of attorneys' fees for the Class settlement in excess of  
11 1/3<sup>rd</sup> of the Total Settlement Amount or \$281,667. The costs and expenses  
12 incurred by Bleau Fox will be sought in addition to the \$281,667. I have  
13 estimated those costs and expenses to not exceed \$15,000.

14 8. One of the Court's comments raised the question about the provision  
15 in the Settlement Agreement regarding R&M's right to void the settlement if a  
16 sufficient number of Settlement Class Members request to be excluded from the  
17 settlement such that the Settlement would be disadvantageous to R&M. This  
18 Court's comments suggested that this provision might create a conflict between  
19 the subclass members. While I don't believe that a conflict existed, counsel for  
20 R&M and I revised this provision to base R&M's right to void the settlement not  
21 on a specific number of requests for exclusion but instead based upon the  
22 estimated value of the requesting Class members Individual Settlement  
23 Payments related to the Total Settlement Amount thereby giving all Class  
24 members who request exclusion an input into R&M's right. The actual  
25 Individual Settlement Payments for each Class member will not be known until  
26 this Court decides the amount of the Class Counsel Award for both fees and  
27 costs, the Service Award and the Settlement Administrator's costs. Therefore  
28 and in order to estimate Individual Settlement Payments, the Amended and

1 Restated Settlement Agreement now provides that the award of fees will be  
2 \$281,667, that additional attorneys' costs and expenses will be \$15,000, that the  
3 Service Award will be \$5,000 and that the Settlement Administrator's costs will  
4 be \$15,000. Based upon that estimation, all Settlement Class Members will  
5 have a right to affect R&M's right to void the settlement weighted to take into  
6 account the differing Individual Settlement Payments of each. In other words, it  
7 will take a greater number of cashiers to trigger R&M's right than it would take  
8 managers.

9       9.     One of the Court's comments sought to secure what information was  
10 provided to me as part of the mediation process. Of course, prior to the  
11 mediation, I had substantial verified facts. I had my interviews with Medina  
12 and Stoddard as well as many other managers at similarly situated MSO  
13 stations. I had interviews with cashiers at both R&M and similarly situated  
14 MSO stations. I had signed declarations from Medina, Stoddard and a number  
15 of other managers at similarly situated MSO stations. I had deposition  
16 transcripts from the depositions of Medina, Stoddard and other managers who  
17 assisted me in seeking class certification in the Wales Action along with  
18 attached exhibits. I had the deposition transcripts and exhibits of R&M's two  
19 senior officers as well as deposition transcript of other MSO operators. I had  
20 R&M's MSO contracts and leases with Equilon. I had handbooks and meal and  
21 rest break policies and On-Duty Meal Agreements from several MSO operators  
22 including R&M. I had deposition transcripts of Equilon officers and thousands  
23 of pages of documents produced by Equilon. I also had years of experience in  
24 representing service station dealers in California. Going into the mediation, I  
25 clearly had the facts to evaluate the strength of the claims asserted in the SAC.

26       10.    There were, however, certain facts which I need to learn or have  
27 verified in order to be prepared for mediation. I received a letter from R&M's  
28 counsel in December 2018 which provided certain answers to my questions

1 sufficient to convince me that I had sufficient information to conduct the  
2 mediation appropriately. While I am unable because of the mediation privilege  
3 to provide the Court with the letter I received, I believe that I have incorporated  
4 all necessary facts in the factual representations of R&M contained in  
5 Paragraph 59 of the Amended and Restated Settlement Agreement and those  
6 facts are not subject to any privilege. Also, the statements contained in the  
7 Supplemental Memorandum filed concurrently herewith regarding my  
8 knowledge are true and correct.

9       11.     Comments 8 and 13 by this Court seek further clarification of my  
10 damage calculations. While I had prepared damage models prior to mediation, I  
11 did so on the assumption that the wage and hour claims continued after  
12 September 2018 and perhaps were still occurring. That turned out to be  
13 incorrect and resulted in my damage models to be greatly exaggerated.

14       12.     I was aware before the mediation from Medina that in 2008 he was  
15 reclassified as an hourly employee, that R&M's meal and rest break policies had  
16 changed and that he had received payment for his missed meal breaks. I have  
17 since learned as verified by R&M's factual representations that in 2008 the  
18 California Department of Labor conducted an audit of R&M which resulted in  
19 the reclassification of all managers, the payment of missed meal break  
20 compensation and the change in meal and rest break policies. Based upon this  
21 knowledge, I revised my damage calculations and continued to make revisions  
22 up until the settlement was actually achieved in principal in Mid-January, 2019.  
23 My revised damage calculations were and are based upon certain assumptions  
24 virtually all of which have been verified by the discovery and investigation  
25 referenced above and the factual representations contained in Paragraph 59 of  
26 the Amended and Restated Settlement Agreement. I shall discuss those  
27 assumptions in the following paragraphs.

28

1           13. I assumed that there were 27 MSO stations operated by R&M  
2 during the class period. This was verified from my copies of the MSO contracts  
3 between R&M and Equilon.

4           14. I assumed that there were, during the Class Period, there were 37  
5 managers in total and that each of the 27 stations had a single manager  
6 assigned to them. This has been verified in part by R&M's representations of  
7 fact. This meant that during the Class Period 10 managers were demoted or left  
8 their employment with R&M. I also assumed that each manager received the  
9 same salary as Medina which has also been verified by R&M's representations of  
10 fact. I also assumed that all of the managers basically worked the same amount  
11 of overtime as reported and testified to by Stoddard and Medina although  
12 interviews with the amount of overtime incurred by other MSO station  
13 managers has caused me to slightly reduce my assumption. This information  
14 likely could only be verified by depositions by the other R&M managers, which  
15 would be very costly and time consuming but each Misclassification Subclass  
16 Member should be able to verify the amount of unpaid overtime he or she was  
17 due during the Class Period.

18           15. I assumed that during the Class Period there were 440 employees  
19 employed during all or part of the Class Period as hourly cashiers. This has  
20 been verified by R&M's representations of fact. I assumed that all stations were  
21 open 24/7/365 as mandated by Equilon. I assumed that R&M operated on a  
22 three 8 hour shift basis, which was verified in part by Medina and Stoddard and  
23 since by R&M. I assumed that all cashiers and mangers had signed an On-Duty  
24 Meal Agreement because that was an employment requirement of R&M learned  
25 during discovery and verified by Stoddard and Medina. It was also consistent  
26 with the policies of all other MSO operators. I assumed that all cashiers were  
27 paid at minimum wage which had been verified by R&M's representations and  
28 can be verified by Break Subclass members.

1           16.    Based upon the rest break theory alleged in the SAC, there were 15  
2 missed rest breaks per week at each of the stations, impacting the cashiers who  
3 worked the second and graveyard shifts Monday through Saturday and all  
4 cashiers working on Sunday. While I also had a meal break theory of the  
5 number of missed off-duty meal breaks each week per station, that became moot  
6 in light of the payment of missed meal break compensation for the entire class  
7 period and the change of policy.

8           17.    My damage calculations are contained in the Supplemental  
9 Memorandum with regard to Comment 8. I personally performed those  
10 calculations. Based upon the assumptions noted above, I am confident that my  
11 damage calculations as of the time of the mediation are very accurate.  
12 Moreover, my damage calculations fully justify the division of the Total  
13 Settlement Amount between the two subclasses.

14           18.    The Court has raised questions in its Comments as to the  
15 qualifications and role of Class Counsel. While I had thought that I had covered  
16 this in Paragraphs 22 through 30 of my prior declaration, I have also discussed  
17 this issue on pages 11 and 12 of the Supplemental Memorandum.

18           19.    In my view, the most important justification for Bleau Fox's  
19 appointment is the fact that Thomas Bleau, Martin Fox and I have been  
20 extensively involved in litigating the claims in the Related Actions, including  
21 this Action, since 2005 and the fact that Bleau Fox has twice been appointed  
22 Class Counsel in the Wales Action and performed their duties without any  
23 criticism by Judge Elias.

24           20.    The second most important justification for Bleau Fox's appointment  
25 is the extensive experience gained over decades in representing service station  
26 dealers and their employees.

27           21.    Attached hereto as Exhibit G is a true and correct copy of the Court's  
28 February 2011 order appointed Bleau Fox as Class Counsel for litigation of the

1 certified class in the Wales Action. Attached hereto as Exhibit H is a true and  
2 correct copy of Thomas Bleau's declaration in the Wales Action on which the  
3 Court found Bleau Fox to be qualified as Class Counsel. When a settlement was  
4 achieved in the Wales Action involving the claims of the certified class, the  
5 Preliminary Approval Order again appointed Bleau Fox as Class Counsel for  
6 settlement purposes. That Preliminary Approval Order is attached hereto as  
7 Exhibit I.

8 22. Shannon Liss-Riordan and her firm have had no involvement in this  
9 settlement and will not be seeking compensation from the settlement. See her  
10 declaration in this regard.

11 23. If appointed Class Counsel, I expect that I shall be performing  
12 virtually all of the services of Class Counsel but will be doing so under the  
13 supervision of Messrs. Bleau and Fox. I do not expect other lawyers in the firm  
14 to be involved in performing these services.

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

17 Dated: July 21, 2020



---

SAMUEL T. REES



# EXHIBIT C

1 SAMUEL T. REES (State Bar No. 58099)  
THOMAS P. BLEAU (State Bar No. 152945)  
2 MARTIN R. FOX (State Bar No. 155783)  
BLEAU FOX  
3 A Professional Law Corporation  
2801 West Empire Avenue  
4 Burbank, CA 91504  
Telephone: (818) 748-3434  
5 Facsimile: (818) 748-3436

6 Attorneys for Plaintiff  
and the Plaintiff Class  
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF ORANGE**  
10

11 RAYMOND STODDARD and SANTIAGO ) Case No. 30-2010-00395208-CU-OE-CXC  
MEDINA, etc., )  
12 ) Hon. William Claster  
Plaintiffs, ) Department CX 102  
13 )  
vs. ) CLASS ACTION  
14 )  
EQUILON ENTERPRISES, LLC, et al., ) **AMENDED AND RESTATED**  
15 ) **SETTLEMENT AGREEMENT WITH**  
R&Ms. ) **EXHIBITS**  
16 )  
Date: July 31, 2020  
17 ) Time: 8:30 a.m.  
Dept: CX104  
18 )  
Complaint Filed: August 2, 2010  
19 ) Trial Date: None Set

20  
21 **AMENDED AND RESTATED SETTLEMENT AGREEMENT**

22 This Amended and Restated Settlement Agreement (hereinafter the  
23 "Settlement Agreement") is made and entered into by and between R & M  
24 PACIFIC RIM, INC., a California corporation, ("R&M"), on the one hand, and  
25 SANTIAGO MEDINA ("Medina"), individually and on behalf of Settlement Class  
26 Members as hereinafter defined, on the other hand, subject to preliminary and  
27 final approval of the Court as hereinafter defined. This Settlement Agreement  
28 supersedes and replaces the Settlement Agreement dated December 2019.

1 **DEFINITIONS**

2 As used herein, the following terms shall have the following meanings:

3 1. **“Administration Costs”** means all fees and costs incurred and  
4 charged by the Settlement Administrator in connection with the processing and  
5 administration of this Settlement Agreement, including, but not limited to:  
6 (i) printing and mailing, emailing and re-mailing (if necessary) Class Notice, tax  
7 forms and other necessary documents to Class Members; (ii) attempting to locate  
8 Class Members whose Class Notice is returned undeliverable; (iii) computing the  
9 amount of and distributing Individual Settlement Payments, Class Counsel  
10 Award and Service Award; (iv) establishing and operating a toll free telephone  
11 number and website address to receive and respond to Class Members’ updated  
12 information and inquiries about the settlement; and (v) establishing a Qualified  
13 Settlement Fund, as defined by the Internal Revenue Code, calculating and  
14 remitting employer and employee payroll tax obligations and (vi) preparing and  
15 submitting filings required by law in connection with Settlement Awards and  
16 payments to the Representative Medina on his individual, non-class claims.

17 2. **“Class Action”** means the civil action styled *Raymond Stoddard*  
18 *and Santiago Medina, etc. v. Equilon Enterprises, LLC etc. et al.*, Orange County  
19 California Superior Court Case No. 30-2010-00395208-CU-OE-CXC.

20 3. **“Class Counsel”** means Bleau Fox, A Professional Law Corporation,  
21 including Samuel T. Rees, Of Counsel.

22 4. **“Class Counsel Award”** means (i) the attorneys’ fees for Class  
23 Counsel’s litigation and resolution of the Class Action, and all claims resolved by  
24 this Settlement, as awarded by the Court, which may not exceed one third (1/3)  
25 of the Total Settlement Amount and (ii) all actual expenses and costs incurred to  
26 date by Class Counsel in litigation and resolution of the Class Action as  
27 supported by declaration including billing records and as awarded by the Court.  
28

1 The Court shall determine the amount of the Class Counsel Award and it shall  
2 be paid from the Total Settlement Amount.

3       5.     “**Class Information**” means information regarding Settlement  
4 Class Members that R&M will in good faith compile from its records and provide  
5 to the Settlement Administrator and Class Counsel<sup>1</sup>. Class Information shall be  
6 provided in a Microsoft Excel spreadsheet and shall include, if possible, for each  
7 Settlement Class Member: full name, last known address, social security  
8 number, last known email address, last known telephone number, the number of  
9 work weeks during the Class Period that the Settlement Class Member was  
10 employed as a claimed exempt salaried employee, the gross wages paid to a non-  
11 exempt hourly Settlement Class Member for 2006, 2007 and 2008, and the dates  
12 of employment as a non-exempt hourly Settlement Class Member whose  
13 employment as a non-exempt hourly employee commenced after December 31,  
14 2005 and/or ceased before January 1, 2009. The foregoing information shall be  
15 derived using R&M’s payroll data. Because Settlement Class Members’ private  
16 information is included in the Class Information, Class Counsel and the  
17 Settlement Administrator shall maintain the Class Information in confidence  
18 and shall use and disclose Class Information only for purposes of this Settlement  
19 and for no other purpose; access shall be limited to the Settlement  
20 Administrator's and Class Counsel’s personnel with a need to use the Class  
21 Information as part of the administration of the Settlement, and transmission  
22 shall be through use of a secure, password-protected file.

23       6.     “**Class Notice**” means the notice of class action settlement,  
24 including the Information Sheet[Enclosure A], Request for Exclusion Form  
25 [Enclosure B], a Dispute Form [Enclosure C] and a copy of R&M’s  
26 representations of facts [Enclosure D] to be used to challenge the information

27 <sup>1</sup>       Defense Counsel has raised, and continues to raise, R&M’s concerns about protecting the privacy  
28 rights of its employees. R&M agrees to release such information to Class Counsel only after entry of an  
appropriate Court order instructing and authorizing it to do so. This provision, and any provision related  
to the Class Information, is expressly contingent upon entry of such an order.

1 contained in the Information Sheet on which the Individual Settlement Payment  
2 shall be calculated [Enclosure C], to be provided to Settlement Class Members,  
3 without material variation from Exhibit 1. The Class Notice shall be printed  
4 using Times New Roman 12 point typeface.

5 7. “**Class Period**” means August 2, 2006 through and including  
6 September 1, 2008.

7 8. “**Court**” means Orange County Superior Court.

8 9. “**Defense Counsel**” means Kring & Chung, LLP.

9 10. “**Effective Date**” means seven (7) days after which both of the  
10 following events have occurred: (i) the Court’s Final Approval order has been  
11 entered and (ii) the Court’s Final Approval order and Judgment have become  
12 Final.

13 11. “**Exclusion/Written Objection Deadline**” means the final date by  
14 which a Settlement Class Member may either (i) submit a written objection to  
15 any aspect of the Settlement, or (ii) request to be excluded from the Settlement.  
16 The Exclusion/Written Objection Deadline shall be sixty (60) days after the  
17 Notice Date, and shall be specifically identified and set forth in the Class Notice.

18 12. “**Final Approval**” means the Court’s entry of a Final Approval  
19 order finally approving this Settlement.

20 13. “**Final Approval Hearing**” means the hearing at or after which the  
21 Court will make a final decision as to whether the Settlement is fair, reasonable,  
22 and adequate, and therefore, finally approved by the Court.

23 14. “**Individual Settlement Payment**” means the amount payable  
24 from the Total Settlement Amount to each Settlement Class Member who does  
25 not submit a valid request for exclusion from the Settlement. The Individual  
26 Settlement Payment shall be calculated pursuant to Paragraph 79.

27 15. “**Judgment**” means the judgment to be entered in the Class Action  
28 on Final Approval of this Settlement.

1           16.    “**Legally Authorized Representatives**” means an  
2 administrator/administratrix, personal representative, or executor/executrix of a  
3 deceased Settlement Class Member’s estate; a guardian, conservator, or next  
4 friend of an incapacitated Settlement Class Member; or any other legally  
5 appointed person responsible for handling the business affairs of a Settlement  
6 Class Member.

7           17.    “**Named Plaintiff’s General Released Claims**” means, in  
8 addition to Settlement Class Members’ Released Claims, any and all past,  
9 present, and future claims and causes of action, whether known or unknown and  
10 without limitation as to when those claims or causes of action arose but solely  
11 against R&M and against its past, present parents, owners, subsidiaries,  
12 predecessors and successors, and each of their respective officers, directors,  
13 partners, shareholders, agents, and employees but related solely to actions taken  
14 by them while acting in those capacities but excluding (i) any and all claims and  
15 causes of against Equilon Enterprises, LLC, its parent and affiliates, including  
16 Equistaff, LLC, and Tesoro Refining & Marketing Company LLC and its parents  
17 and affiliates and (ii) excluding Medina’s wrongful termination claim and cause  
18 of action against R&M as alleged in the Fifth Cause of Action of the Second  
19 Amended Complaint filed in the Class Action, which claim is being settled  
20 pursuant to a separate settlement agreement between R&M and Medina.

21           18.    “**Notice Date**” means the date of the initial mailing of the Class  
22 Notice to Settlement Class Members, as set forth in Paragraph 88.

23           19.    “**Opt Out List**” means the Court-approved list of all persons who  
24 timely and properly request exclusion from the Settlement Class.

25           20.    “**Plan of Allocation**” means the plan for allocating the Total  
26 Settlement Amount between and among Settlement Class Members as approved  
27 by the Court.

28

1           21.    “**Preliminary Approval Date**” means the date that the Court  
2 enters the Preliminary Approval Order and thus: (i) preliminarily approves the  
3 Settlement, including the exhibits thereto, and (ii) enters an order providing for  
4 notice to the Settlement Class, an opportunity to opt out of the Settlement Class,  
5 an opportunity to submit timely and proper objections to the Settlement, and  
6 setting a hearing on the fairness of the terms of Settlement, including approval  
7 of the Class Counsel Award and Service Award.

8           22.    “**Preliminary Approval Order**” means the order that Medina and  
9 R&M will seek from the Court, without material variation from Exhibit 2. Entry  
10 of the Preliminary Approval Order shall constitute preliminary approval of the  
11 Settlement Agreement.

12           23.    “**R&M**” means R&M Pacific Rim, Inc.

13           24.    “**Released Claims**” means (i) Settlement Class Members’ Released  
14 Claims and (ii) Named Plaintiff’s General Released Claims.

15           25.    “**Service Award**” means the amount approved by the Court in its  
16 discretion to be paid to Medina, in addition to his respective Individual  
17 Settlement Payment, in recognition of his efforts in coming forward as named  
18 plaintiff and as consideration for a full, general, and comprehensive release of  
19 the Named Plaintiff’s General Released Claims. Medina intends to seek a  
20 Service Award of Five Thousand Dollars (\$5,000) and R&M shall not object to a  
21 Service Award of Five Thousand Dollars (\$5,000) or less. The Service Award  
22 shall be paid from the Total Settlement Amount.

23           26.    “**Settlement**” means the settlement of the Class Action between and  
24 among Medina and R&M, as set forth in this Settlement Agreement.

25           27.    “**Settlement Administrator**” means Phoenix Settlement  
26 Administrators.

27           28.    “**Settlement Administrator Expenses**” means the amount to be  
28 paid to the Settlement Administrator exclusively from the Total Settlement

1 Amount, including the total costs, expenses, and fees of the Settlement  
2 Administrator. The amount is not to exceed \$15,000.

3 29. **“Settlement Class”** means all persons who were employed by R&M  
4 and who worked at a Shell branded station operated by R&M and owned by  
5 Equilon Enterprises, LLC at any time during the period from August 2, 2006 to  
6 September 1, 2008. The Settlement Class consists of the Settlement  
7 Misclassification Subclass and the Settlement Break Subclass.

8 30. **“Settlement Class Member”** means any member of the Settlement  
9 Class. A Settlement Class Member may be part of the Settlement  
10 Misclassification Subclass or the Settlement Break Subclass or both. However, a  
11 Settlement Class Member may not be a part the Settlement Break Subclass for  
12 any given work week during the Class Period that the Settlement Class Member  
13 is a part of the Settlement Misclassification Subclass. Settlement Class Member  
14 includes his or her Legally Authorized Representatives.

15 31. **“Settlement Misclassification Subclass”** means all Settlement  
16 Class Members during any portion of the Class Period that they were declared  
17 by R&M as exempt employees and paid a salary.

18 32. **“Settlement Break Subclass”** means all Settlement Class  
19 Members during any portion of the Class Period that they were non-exempt  
20 hourly wage employees.

21 33. **“Settlement Class Members’ Released Claims”** means any and  
22 all claims alleged in the Second Amended Complaint, or that could have been  
23 alleged in the Second Amended Complaint based on the facts alleged therein,  
24 including claims for non-payment of overtime, missed meal and rest break  
25 compensation, interest thereon, attorneys’ fees and expenses and costs of suit.

26 34. **“Total Settlement Amount”** means Eight Hundred Forty-Five  
27 Thousand Dollars (\$845,000.00) for payment of all claims, which is the  
28 maximum amount that R&M is obligated to pay under this Settlement



1 Agreement under any circumstances in order to resolve and settle the Class  
2 Action, subject to Court approval. The Total Settlement Amount includes all  
3 costs and fees, including, but not limited to, the Class Counsel Award,  
4 Settlement Administrator Expenses, escrow costs and expenses, Service Award,  
5 and interest but does not include R&M's share of payroll taxes allocable to any  
6 portion of the Total Settlement Amount allocated to wages.

7 35. "Void Date" means the date by which any checks issued to  
8 Settlement Class Members shall become void, *i.e.* on the 181st day after each  
9 check's mailing.

10 36. "Work Week" means Monday through Sunday.

11 **RECITALS**

12 37. At all relevant times, Medina was and is a resident of Orange  
13 County, California. Medina was employed by R&M in approximately October  
14 2005 and remained so employed until December 26, 2008.

15 38. At all relevant times, R&M was and is a California corporation with  
16 its principal place of business in Orange County, California.

17 39. Defendant Equilon Enterprises, LLC ("Equilon") is a Delaware  
18 limited liability company with its principal place of business in Houston, Texas.  
19 At all relevant times, Equilon has operated under the fictitious business name of  
20 Shell Oil Products US and is qualified to do business and doing business in  
21 California and in Orange County. At all relevant times, Equilon was in the  
22 business of owning service stations and selling motor fuel to the consuming  
23 public.

24 40. Effective on February 1, 2005, Equilon and R&M entered into their  
25 first Multi-Site Operator ("MSO") lease and contract for a cluster of 21 stations  
26 all of which were located in Orange County, California. Pursuant to these  
27 agreements, R&M agreed to lease the convenience stores and car washes at  
28 these stations for its own benefit and agreed to operate all other aspects of those

1 service stations for the benefit of Equilon. These agreements were extended  
2 through the Class Period. R&M's sole business during the Class Period was to  
3 lease convenience stores and car washes from Equilon and to operate Equilon's  
4 service stations.

5 41. Pursuant to those agreements, Equilon required that all stations  
6 which R&M leased and operated for Equilon be open 24/7/365 unless closure was  
7 required by law. R&M complied with these requirements at all times during the  
8 Class Period.

9 42. At all times during his employment, Medina worked at these  
10 Equilon owned and R&M operated stations, first as a cashier and later as a  
11 manager. Upon being promoted to the position of manager, Medina alleges that  
12 R&M declared Medina to be an exempt employee, paid him a salary and did not  
13 pay him overtime. Prior to September 1, 2008, R&M reclassified Medina as a  
14 non-exempt employee and thereafter paid him an hourly wage. At all times  
15 during the Class Period, Medina alleges that he was forbidden by R&M from  
16 closing the station at which he worked in order to take an off-duty rest break  
17 and that he received no compensation for any missed rest break during the Class  
18 Period.

19 43. On May 20, 2005, Debbie Jo Wales commenced an action in the Los  
20 Angeles County California Superior Court against Shell Oil Company; Equilon  
21 and C6 Resources LLC, among others, as a class and representative action. The  
22 action was denominated *Wales v. Shell Oil Company, et al.*, Case No. BC 333 740  
23 (the "Wales Action"). Class Counsel represented plaintiffs in the Wales Action;  
24 and at all times Samuel T. Rees, "Of Counsel" to Class Counsel, was the lead  
25 attorney for plaintiffs in the Wales Action.

26 44. Among other claims in the Wales Action, plaintiffs therein asserted  
27 that managers of Equilon-owned and third-party-operated California service  
28 stations were misclassified and were improperly denied overtime pay and that

1 all such employees were denied off-duty rest breaks and compensation for  
2 missed rest breaks. Plaintiffs therein also alleged that Equilon was the "joint  
3 employer" of those employees and liable for their wage claims. Medina and  
4 Raymond Stoddard ("Stoddard") were putative class members in the Wales  
5 Action.

6 45. On August 2, 2010, Medina and Stoddard commenced the Class  
7 Action.

8 46. On October 15, 2010, the Court stayed the Class Action because of  
9 the pendency of the Wales Action. This stay remained in effect until August 13,  
10 2018.

11 47. While the stay in the Class Action was in effect, Stoddard died and  
12 is no longer a party plaintiff in the Class Action.

13 48. While the stay in the Class Action was in effect, substantial  
14 discovery was undertaken in the Wales Action. This discovery included the  
15 depositions of Medina, Stoddard, and Seung Il Kim as well as document  
16 production and other information from R&M.

17 49. Following the lifting of the stay in the Class Action, R&M and  
18 Medina decided to participate in a voluntary private mediation of the claims  
19 against R&M in the Class Action. After careful research and consideration, the  
20 parties selected the Honorable Carl J. West (Ret) of JAMS to be the mediator.  
21 Judge West is a well-respected retired Superior Court Judge with extensive  
22 experience in trying, arbitrating and mediating wage and hour class action  
23 disputes such as those alleged by Medina in the Class Action. Mediation was  
24 scheduled for January 3, 2019 and lasted the entire day. While Medina and  
25 R&M did not reach a settlement at the mediation hearing, Judge West remained  
26 involved in the mediation process; and, as a result, a settlement in principal was  
27 reached between those parties on January 15, 2019. The settlement in principal  
28 is the result of an informed and detailed evaluation of the total exposure and

1 potential liability, in relation to the costs and risks associated with continued  
2 litigation of the Class Action. The settlement in principle is subject to and  
3 expressly conditioned upon the Parties entering into this Settlement Agreement  
4 and the Court in the Class Action both preliminarily and finally approving the  
5 Settlement.

6 50. The settlement in principal reached as a result of the mediation does  
7 not resolve all claims in the Class Action. In addition to asserting claims  
8 against R&M, Medina has also asserted claims against Equilon claiming that it  
9 is the joint employer of employees working at the Equilon-owned service stations  
10 including those managed by R&M.

11 51. The Settlement, if finally approved and Judgment is entered, (i) will  
12 resolve all claims of the Settlement Class Members, who do not timely request to  
13 be excluded from the Settlement, against Equilon but only for claims during the  
14 Class Period and (ii) will resolve all claims of the Settlement Class Members,  
15 who do not timely request to be excluded from the Settlement, against R&M for  
16 all claims alleged in the Second Amended Complaint, or that could have been  
17 alleged in the Second Amended Complaint based on the facts alleged therein.

18 52. The Settlement, if finally approved and Judgment is entered, will  
19 not resolve (i) claims that arose prior to or after the Class Period, (ii) claims  
20 against Equilon, (iii) claims that are not alleged in the Second Amended  
21 Complaint and could not have been alleged in the Second Amended Complaint  
22 based on the facts alleged therein, (iv) claims that, as a matter of law cannot be  
23 released, (v) claims for retaliation, discrimination, or wrongful termination, or  
24 (vi) individual claims filed with the appropriate agency for the recovery of  
25 workers' compensation benefits.

26 53. Equilon has been granted summary judgment as to all claims  
27 asserted against it in the Class Action on the grounds that based upon the  
28 undisputed facts it is not the joint employer of any employee working at its

1 California owned and third-party-operated service stations. Medina has  
2 appealed this Summary Judgment which appeal is currently pending.

3 54. In addition to the class claims asserted in the Class Action, Medina  
4 has also asserted a claim for wrongful termination against R&M. As a result of  
5 the mediation, this claim has also been tentatively settled which settlement is  
6 conditioned upon the Court entering the Judgment on Final Approval of this  
7 Settlement. If approved, Medina will receive Five Thousand Dollars (\$5,000) in  
8 settlement of this claim.

9 55. On March 25, 2019, Medina filed his Second Amended Complaint in  
10 the Class Action. This is the operative and most recent complaint filed in the  
11 Class Action. Among other changes, the Second Amended Complaint removed  
12 Stoddard as a named plaintiff.

13 56. R&M has denied and continues to deny each and all of the claims  
14 and allegations made in the Class Action, including those in each pleading filed  
15 by Medina or Stoddard in the Class Action, and further denies that it has  
16 committed any illegal, unlawful, unfair, fraudulent and/or wrongful act,  
17 omission, or practice for which it owes any wages, compensation, penalties,  
18 restitution, interest, fees, costs or other payments whatsoever, including those  
19 alleged in the Class Action. R&M also has asserted a number of affirmative  
20 defenses in the Class Action which it believes are meritorious. R&M also denies,  
21 and continues to deny, *inter alia*, the allegations that the Settlement Class  
22 Members have suffered damage. Without limiting the foregoing, R&M contends  
23 that the Settlement Class Members were properly and timely paid all wages  
24 owed, including without limitation, all straight time, overtime pay, and double  
25 time pay and were provided meal and rest periods as required under California  
26 law.

27 57. In reaching the settlement in principal, Medina has recognized the  
28 expense and length of proceedings necessary to continue the Class Action

1 against R&M through discovery, trial and any possible appeals. Medina also  
2 has taken into account the uncertainty and risk of the outcome of further  
3 litigation, and the difficulties and delays inherent in such litigation. Medina  
4 also is aware of the burdens of proof necessary to establish class certification,  
5 liability, R&M's defenses thereto, and the difficulties in establishing damages,  
6 restitution and other requested relief for himself and all Class Members. Based  
7 on the foregoing, Medina and Class Counsel have determined that the  
8 Settlement Agreement is a fair, adequate and reasonable settlement, and that it  
9 is in the best interests of all Settlement Class Members. In that regard, the  
10 Parties agree that Judge West, at his sole discretion, may execute a declaration  
11 supporting the settlement and the reasonableness of it, and the Court, in its  
12 discretion, may contact Judge West *ex parte* to discuss the settlement and  
13 whether it is fair and reasonable.

14         58. R&M has concluded that any further defense of the Class Action  
15 would be protracted and expensive. Substantial amounts of time, energy and  
16 resources of R&M have been devoted and, unless this Settlement is made and  
17 approved, will continue to be devoted to the defense of the claims asserted in the  
18 Class Action. R&M has also taken into account the uncertainty and risks  
19 inherent in litigation, particularly complex litigation such as the Class Action.  
20 Based on the foregoing, R&M has concluded that it is desirable and beneficial  
21 that the Class Action be fully and finally settled in the manner and upon the  
22 terms and conditions set forth in this Settlement Agreement. R&M, therefore,  
23 has agreed to settle in the manner and upon the terms set forth in this  
24 Settlement Agreement in order to put to rest the claims as set forth in the Class  
25 Action. At the same time, R&M continues to deny each of the claims,  
26 allegations, and contentions asserted in the Class Action and denies that  
27 certification of any class is or was appropriate (other than for purposes of this  
28 Settlement only). R&M has repeatedly asserted and continues to assert

1 defenses thereto, and has expressly denied and continues to deny any  
2 wrongdoing or legal liability arising out of any of the facts or conduct alleged in  
3 the Class Action.

4 **NOW, THEREFORE, IT IS HEREBY AGREED, BY AND BETWEEN**  
5 the undersigned, that the Class Action shall be settled, subject to preliminary  
6 and final approval of the Court, upon and pursuant to the following terms and  
7 conditions:

8 **REPRESENTATIONS BY R&M.**

9 59. During the course of the mediation, R&M made certain factual  
10 representations to Medina to induce Medina to settle the Class Action. R&M  
11 now represents to the Settlement Class Members, and to no other person, that  
12 the following facts are true and that, solely for the purpose of deciding whether  
13 or not to object to the Settlement or request to be excluded from the Settlement,  
14 each Settlement Class Member may rely on these facts and verify that they are  
15 true as to that Settlement Class Member based on his or her own knowledge.  
16 The representations shall expire on the Effective Date and shall not be relied  
17 upon for any purpose thereafter. The representations should not be relied upon  
18 by any person, at any time, other than for the limited purposes explicitly set  
19 forth in this paragraph.

20 A. If no Settlement Class Member requests to be excluded from  
21 this Settlement, there are 37 employees who would be included in the  
22 Settlement Misclassification Subclass, 28 of whom are also included in the  
23 Settlement Break Subclass.

24 B. If no Settlement Class Member requests to be excluded from  
25 this Settlement, there are 440 employees who would be included in the  
26 Settlement Break Subclass, 28 of whom are also included in the Settlement  
27 Misclassification Subclass.

28

1 C. During the Class Period, each member of the Settlement  
2 Break Subclass was compensated at the minimum hourly rate applicable during  
3 the time that member worked or at an amount not materially greater than the  
4 minimum hourly rates of \$6.75 for 2006, \$7.50 for 2007 and \$8.00 for 2008.

5 D. During the Class Period, each member of the Settlement  
6 Misclassification Subclass was compensated by a salary equating to  
7 approximately and not materially higher than \$12.70 per hour, calculated by  
8 taking their annual salary and dividing it by 2,080 hours.

9 E. Prior to September 1, 2008, R&M reclassified each member of  
10 the Settlement Misclassification Subclass as a non-exempt employee. From and  
11 after September 1, 2008, R&M paid those employees an hourly wage and  
12 overtime when they worked more than 40 hours in a work week or more than 8  
13 hours in a workday as shown on their timecards.

14 F. Prior to September 1, 2008, R&M changed its rest break policy  
15 to clarify that all employees, including employees formerly claimed to be exempt  
16 employees and since reclassified as non-exempt employees, were entitled to and  
17 provided with duty-free, paid rest periods at the rate of no less than ten minutes  
18 net rest for every four hours worked, or major fraction thereof.

19 G. On or about July 5, 2008 and as a result of a California Labor  
20 Commissioner meal break audit, R&M paid approximately 370 employees a total  
21 of \$122,721.88 for missed meal break compensation. These payments were  
22 believed by R&M to resolve all meal break claims for the Class Period. In June  
23 2008, R&M modified its meal break policy to ensure that all non-exempt  
24 employees working more than 5 hours in a workday and not working alone were  
25 afforded a off-duty meal break, a form to report any missed or non-compliant  
26 meal breaks for which payment would be provided and continued to allow non-  
27 exempt employees working alone the option to sign an on-duty meal waiver if  
28 they wished to do so.



1 H. Pursuant to Equilon's contractual requirement, all Settlement  
2 Class Members were fluent in English.

3 60. Medina has determined that the compensation representations are  
4 true as to himself and as to the non-exempt employees working at the stations  
5 that Medina managed, that he was reclassified as a non-exempt employee in or  
6 about September 2008, that he and non-exempt employees working at the  
7 stations that he managed received certain missed meal break compensation in  
8 2008 and that R&M changed its rest break and meal break policies in or around  
9 September 2008 to allow all employees to either receive off-duty meal and rest  
10 breaks or compensation for missed breaks. With these exceptions, neither  
11 Medina nor Class Counsel has verified the truth of the foregoing representations  
12 but recognize that each Settlement Class Member will be able to determine  
13 whether any represented fact is materially untrue as to himself or herself in  
14 making a decision as to whether to request to be excluded from the Settlement.

15 **SUBMISSION OF THE SETTLEMENT AGREEMENT TO THE COURT**  
16 **FOR PRELIMINARY AND FINAL APPROVAL**

17 61. Upon execution of this Settlement Agreement, Medina shall submit  
18 to the Court a motion for preliminary approval of the Settlement. The motion  
19 for preliminary approval shall include a proposed plan for sending of the Class  
20 Notice to Settlement Class Members within sixty (60) days after the Preliminary  
21 Approval Date with the Notice Date being the date of mailing of the Class  
22 Notice, and establishing a period of sixty (60) days from the Notice Date within  
23 which any Settlement Class Member may (i) request exclusion from the  
24 Settlement Class, (ii) object to the proposed Settlement, or (iii) object to Class  
25 Counsel's request for the Class Counsel Award and for the Service Award to the  
26 Medina (the Exclusion/Written Objection Deadline).

27  
28

1           62. The Parties stipulate to conditional certification under *Code of Civil*  
2 *Procedure* Section 382, for settlement purposes only, of the Settlement  
3 Misclassification Subclass and the Settlement Rest Break Subclass.

4           63. The Parties agree that this stipulation, the Settlement, and any oral  
5 or written statements made in connection therewith, shall not be admissible in,  
6 and may not be used by any person for any purpose whatsoever in any legal  
7 proceeding, including but not limited to any arbitrations and/or any civil and/or  
8 administrative proceedings, other than a proceeding to enforce the terms of the  
9 Agreement, as further set forth in this Agreement, regardless of whether the  
10 Settlement is finally approved and/or consummated.

11           64. The Parties stipulate to the form of and agree to submit to the Court  
12 for its consideration this Settlement Agreement and the following Exhibits to  
13 this Settlement Agreement: Class Notice (Exhibit 1) and [Proposed] Preliminary  
14 Approval Order (Exhibit 2).

15           65. Solely for purposes of implementing this Settlement Agreement and  
16 effectuating the proposed Settlement, the Parties agree and stipulate that the  
17 Court may enter the Preliminary Approval Order, without material variation  
18 from Exhibit 2, preliminarily approving the Settlement and this Settlement  
19 Agreement. Among other things, the Preliminary Approval Order shall grant  
20 leave to preliminarily certify the Settlement Misclassification Subclass and the  
21 Settlement Break Subclass for settlement purposes only; approve Medina as  
22 class representative, appoint Class Counsel to represent the Settlement Class,  
23 and appoint the Settlement Administrator; approve the Class Notice and the  
24 Class Notice plan embodied in the Settlement Agreement, and approve them as  
25 consistent with *California Rules of Court* Rules 3.766(d) and 3.769(f) and due  
26 process; set out the requirements for disputing the information upon which  
27 Settlement Class Members' Individual Settlement Payment will be calculated;  
28 objecting to the Settlement; excluding Settlement Class Members who timely

1 and properly request to be excluded from the Settlement Class, all as provided in  
2 this Settlement Agreement; and provide that certification and all actions  
3 associated with certification are undertaken on the condition that the  
4 certification and other actions shall be automatically vacated and be of no force  
5 or evidentiary effect if this Settlement Agreement is terminated or disapproved,  
6 as provided in this Settlement Agreement.

7         66. At the Final Approval Hearing, Medina shall request entry of a  
8 Final Approval order and a Judgment, to be agreed upon by the Parties, the  
9 entry of which is a material condition of this Settlement and that, among other  
10 things:

11             A. Finally approves the Settlement as fair, reasonable, and  
12 adequate and directs its consummation pursuant to the terms of the Settlement  
13 Agreement;

14             B. Finds that Class Counsel and Medina adequately represented  
15 the Settlement Class for the purpose of entering into and implementing the  
16 Settlement Agreement;

17             C. Re-confirms the appointment of the Settlement Administrator  
18 and finds that the Settlement Administrator has fulfilled its duties under the  
19 Settlement to date;

20             D. Finds that the Class Notice: (i) constituted the best practicable  
21 notice; (ii) constituted notice that was reasonably calculated, under the  
22 circumstances, to apprise Settlement Class Members of the pendency of the Class  
23 Action, and their right to exclude themselves from or object to the proposed  
24 settlement and to appear at the Final Approval Hearing; (iii) was reasonable and  
25 constituted due, adequate, and sufficient notice to all persons entitled to receive  
26 notice; and (iv) met all applicable requirements of *California Rules of Court* Rules  
27 3.766(d) and 3.769(f), due process, and any other applicable rules or law;

28

1 E. Approves the Opt-Out List and determines that the Opt-Out  
2 List is a complete list of all Settlement Class Members who have timely and  
3 properly requested exclusion from the Settlement Class and, accordingly, shall  
4 neither share in nor be bound by the Final Approval order and Judgment;

5 F. Directs that the Final Approval order and Judgment of  
6 dismissal shall be final and entered forthwith;

7 G. Without affecting the finality of the Final Approval order and  
8 Judgment, directs that the Court retains continuing jurisdiction over Medina, the  
9 Settlement Class, and R&M as to all matters concerning the administration,  
10 consummation, and enforcement of this Settlement Agreement;

11 H. Adjudges that, as of the Final Approval Date, Medina, and all  
12 Settlement Class Members who have not been excluded from the Settlement  
13 Class as provided in the Opt-Out List approved by the Court, and their Legally  
14 Authorized Representatives, heirs, estates, trustees, executors, administrators,  
15 principals, beneficiaries, representatives, agents, assigns, and successors, and/or  
16 anyone claiming through them or acting or purporting to act for them or on their  
17 behalf, regardless of whether they have received actual notice of the proposed  
18 Settlement, have conclusively compromised, settled, discharged, and released the  
19 Named Plaintiff's General Released Claims (in the case of Medina) and  
20 Settlement Class Members' Released Claims (in the case of the Settlement Class  
21 Members, including Medina) against R&M and others identified therein and are  
22 bound by the provisions of this Settlement Agreement;

23 I. Declares this Agreement and the Final Approval order and  
24 Judgment to be binding on, and have *res judicata* and preclusive effect as to all  
25 pending and future lawsuits or other proceedings: (i) that encompass the Named  
26 Plaintiff's General Released Claims and that are maintained by or on behalf of  
27 Medina and/or his Legally Authorized Representatives, heirs, estates, trustees,  
28 executors, administrators, principals, beneficiaries, representatives, agents,

1 assigns, and successors, and/or anyone claiming through them or acting or  
2 purporting to act for them or on their behalf, and (ii) that encompass the  
3 Settlement Class Members' Released Claims and that are maintained by or on  
4 behalf of any Settlement Class Member who has not been excluded from the  
5 Settlement Class as provided in the Opt-Out List approved by the Court and/or  
6 his or her Legally Authorized Representatives, heirs, estates, trustees, executors,  
7 administrators, principals, beneficiaries, representatives, agents, assigns, and  
8 successors, and/or anyone claiming through them or acting or purporting to act  
9 for them or on their behalf, regardless of whether the Settlement Class Member  
10 previously initiated or subsequently initiates individual litigation or other  
11 proceedings encompassed by the Settlement Class Members' Released Claims,  
12 and even if such Settlement Class Member never received actual notice of the  
13 Class Action or this proposed Settlement;

14           J.     Determines that the Settlement Agreement and the  
15 Settlement provided for herein, and any proceedings taken pursuant thereto, are  
16 not, and should not in any event be offered, received, or construed as evidence of,  
17 a presumption, concession, or an admission by any party of liability or non-  
18 liability or of the certifiability or non-certifiability of a litigation class, or of any  
19 misrepresentation or omission in any statement or written document approved or  
20 made by any Party; provided, however, that reference may be made to this  
21 Settlement Agreement and the Settlement provided for herein in such  
22 proceedings as may be necessary to effectuate the provisions of this Settlement  
23 Agreement, as further set forth in this Settlement Agreement;

24           K.     Orders that the preliminary approval of the Settlement,  
25 certification of the Settlement Misclassification Subclass and the Settlement  
26 Break Subclass and final approval of the proposed Settlement, and all actions  
27 associated with them, are undertaken on the condition that they shall be vacated  
28 if the Settlement Agreement is terminated or disapproved in whole or in part by

1 the Court, or any appellate court and/or other court of review, in which event the  
2 Settlement Agreement and the fact that it was entered into shall not be offered,  
3 received, or construed as an admission or as evidence for any purpose, including  
4 but not limited to an admission by any Party of liability or non-liability or of any  
5 misrepresentation or omission in any statement or written document approved or  
6 made by any Party, or of the certifiability of a litigation class, as further provided  
7 in this Settlement Agreement;

8 L. Authorizes the Parties, without further approval from the  
9 Court, to agree to and adopt such amendments, modifications, and expansions of  
10 this Settlement Agreement, including all Exhibits hereto, as (i) shall be  
11 consistent in all material respects with the Final Approval order and (ii) do not  
12 limit the rights of Settlement Class Members; and

13 M. Contains such other and further provisions consistent with the  
14 terms of this Settlement Agreement to which the Parties expressly consent in  
15 writing.

16 67. At the Final Approval Hearing and as a part of the final approval of  
17 this Settlement, Class Counsel will also request approval of the Plan of  
18 Allocation set forth below. Any modification to the Plan of Allocation by the  
19 Court shall not (i) affect the enforceability of the Settlement Agreement; (ii)  
20 provide any of the Parties with the right to terminate the Settlement  
21 Agreement; or (iii) impose any obligation on R&M to increase the consideration  
22 paid in connection with the Settlement.

23 68. At the Final Approval Hearing, Class Counsel may also request  
24 entry of an Order approving the Class Counsel Award and the Service Award to  
25 Medina, which shall be paid exclusively from the Total Settlement Amount and  
26 in accordance with the distribution plan described below. In no event shall  
27 R&M otherwise be obligated to pay for any attorneys' fees and expenses or  
28 Service Award(s). The disposition of Class Counsel's application for a Class

1 Counsel Award, and for the Service Award, is within the sound discretion of the  
2 Court and is not a material term of this Settlement Agreement, and it is not a  
3 condition of this Settlement Agreement that such application be granted. Any  
4 disapproval or modification of such application by the Court shall not (i) affect  
5 the enforceability of the Settlement Agreement, (ii) provide any of the Parties  
6 with the right to terminate the Settlement Agreement, or (iii) increase the  
7 consideration R&M pays in connection with the Settlement. R&M shall have no  
8 liability to Class Counsel arising from any claim regarding the division of the  
9 Class Counsel Award between and among Class Counsel and any other counsel  
10 representing any of the Settlement Class Members.

11 69. In no event shall R&M be obligated to pay Settlement  
12 Administration Expenses beyond those provided for in this Settlement  
13 Agreement.

#### 14 **SETTLEMENT CONSIDERATION**

15 70. The total consideration for the Settlement from R&M is the Total  
16 Settlement Amount (\$845,000). This is an “all in” number that includes, without  
17 limitation, all monetary benefits and payments to the Settlement Class, Service  
18 Award, Class Counsel Award, and Settlement Administrator Expenses and all  
19 claims for penalties, interest, fees, and costs. The total consideration, however,  
20 does not include R&M's share of payroll taxes allocable to any portion of the  
21 Total Settlement Amount allocated to wages, which amount remains the  
22 responsibility of R&M. In no event shall R&M be liable for making any  
23 payments under this Settlement, or for providing any relief to Settlement Class  
24 Members, before the Effective Date, except as provided herein.

25 71. Medina and all Settlement Class Members who receive a payment of  
26 any kind from the Total Settlement Amount (excluding, in the case of Medina,  
27 the Service Award) expressly acknowledge that such payments shall be  
28 considered to be comprised of thirty-three percent (33%) wages for which an IRS

1 Form W-2 will be issued and sixty-seven percent (67%) non-wages for which an  
2 IRS Form 1099 will be issued, if required. Medina and all Settlement Class  
3 Members who receive a payment of any kind from the Total Settlement Amount  
4 agree to timely pay in full all of the federal, state, and municipal income taxes  
5 owed on such payments.

6 72. The terms of this Settlement Agreement relating to the Service  
7 Award and Class Counsel Award were not negotiated by the Parties before full  
8 agreement was reached as to all other material terms of the proposed  
9 Settlement, including, but not limited to, any terms relating to the relief to the  
10 Settlement Class. R&M agrees not to oppose a request for the Service Award for  
11 Medina of Five Thousand Dollars (\$5,000) or less, which will be left to the  
12 discretion of this Court.

13 73. Class Counsel agrees not to seek an award of attorneys' fees from  
14 the Court in excess of one third (1/3) of the Total Settlement Amount. R&M  
15 agrees not to oppose a request for attorneys' fees up to and including one third  
16 (1/3) of the Total Settlement Amount. Class Counsel shall also seek all actual  
17 expenses and costs incurred to date by Class Counsel in litigation and resolution  
18 of the Class Action. R&M and Settlement Class Members shall have no  
19 obligation regarding or liability for allocation or payment of the Class Counsel  
20 Award. Class Counsel shall file any request for attorneys' fees, costs and  
21 expenses and any request for a Service Award no later than fourteen (14) days  
22 before the Exclusion/Written Objection Deadline. Class Counsel's request for  
23 attorneys' fees, costs and expenses shall be supported by billing records.

24 74. The Settlement Administrator shall pay the Class Counsel Award by  
25 wire transfer to Bleau Fox, a PLC pursuant to wiring instructions from Class  
26 Counsel. Class Counsel shall provide the Settlement Administrator notice of  
27 receipt of the Class Counsel Award. R&M shall have no liability to Class  
28



1 Counsel or any other counsel for Medina or any Settlement Class Member  
2 arising from any claim regarding the division of the Class Counsel Award.

3 **FUNDING AND ALLOCATION OF SETTLEMENT**

4 75. Within fourteen (14) calendar days of the Effective Date, R&M shall  
5 provide the Total Settlement Amount (\$845,000) to the Settlement  
6 Administrator. The Settlement Administrator shall thereafter distribute the  
7 funds in the manner and at the times set forth in this Agreement.

8 76. Within twenty-one (21) days of the Effective Date, the payment of  
9 the Class Counsel Award, the Service Award approved by the Court and the  
10 Settlement Administrator Expenses (up to \$15,000) as approved by the Court,  
11 shall be made by the Settlement Administrator from the Total Settlement  
12 Amount. The Settlement Administrator shall use reasonable efforts to disburse  
13 Individual Settlement Payments within sixty (60) days after the Effective Date,  
14 but in no event before twenty-one (21) days after the Effective Date.

15 77. To receive a payment from the Settlement, a Settlement Class  
16 Member must not have submitted a request for exclusion from the Settlement.  
17 Settlement Class Members are not eligible to receive any compensation from the  
18 Settlement other than their Individual Settlement Payment.

19 78. After deduction from Total Settlement Amount of the Class Counsel  
20 Award, the Service Award and the Settlement Administrator Expenses, the  
21 remaining amount shall be allocated Seventy-Four percent (74%) to the  
22 Settlement Misclassification Subclass and Twenty-Six percent (26%) to the  
23 Settlement Break Subclass. Each such allocation shall be further allocated  
24 Thirty-Three percent (33%) to wages and Sixty-Seven percent (67%) to penalties  
25 and interest.

26 79. The amount of each Settlement Class Member's Individual  
27 Settlement Payment will be distributed from the Total Settlement Amount and  
28 calculated by the Settlement Administrator, as follows:

1           A.     Payment from the amount allocated to the Settlement  
2 Misclassification Subclass shall be prorated among the members of that subclass  
3 by taking the number of work weeks or portions thereof that such member was  
4 declared an exempt, salaried employee and paid a salary during the Class Period  
5 and multiplying. If a member of this subclass is also a member of the  
6 Settlement Break Subclass during any work week, then that member shall be  
7 deemed to be a member of the Settlement Misclassification Subclass for that  
8 entire work week and not a member of the Settlement Rest Break Subclass for  
9 any portion of that week, with the products adjusted accordingly. The product of  
10 that calculation shall serve as the numerator for proration purposes and the  
11 sum of all such products shall serve as the denominator for proration purposes.

12           B.     Payment from the amount allocated to the Settlement Break  
13 Subclass shall be prorated among the members of that subclass by taking the  
14 gross wages paid during the Class Period that such member was declared a non-  
15 exempt hourly wage employee and when that member was not also a member of  
16 the Settlement Misclassification Subclass. This amount shall serve as the  
17 numerator for proration purposes and the sum of all such products shall serve as  
18 the denominator for proration purposes. For non-exempt hourly wage employee  
19 who commenced in that position after December 31, 2005 and/or who ceased to  
20 be in that position before January 1, 2009, the employee's gross wages will be  
21 further prorated on a 365/365 daily basis so that the numerator shall only  
22 include his gross wages earned during the Class Period.

23           C.     If under the Plan of Allocation a Settlement Class Member  
24 will be distributed \$10 or more, then he or she will receive the entitled amount.  
25 If, however, the Settlement Class Member is due less than \$10, then his or her  
26 Individual Settlement Payment will be for \$10.

27           80.    Class Counsel will be permitted to review and approve the  
28 calculation of settlement funds to be distributed.

1 81. As described below, each Settlement Class Member will have the  
2 opportunity, should he or she disagree with the employment information used to  
3 calculate that employee's Individual Settlement Payment provided to him or her  
4 with his Class Notice, to provide documentation to establish the appropriate  
5 information. There will be a presumption that R&M's records are correct,  
6 absent evidence produced by a Settlement Class Member to the contrary.

7 82. The Settlement Administrator shall issue the Individual Settlement  
8 Payments from the Total Settlement Amount to each Settlement Class Member  
9 who does not properly opt out. The portion of the Individual Settlement  
10 Payments allocated to penalties and interest shall be reported by the Settlement  
11 Administrator to the applicable governmental authorities on IRS Form 1099s.  
12 The portion of the Individual Settlement Payments allocated to wages shall be  
13 reported by the Settlement Administrator to the applicable government  
14 authorities on IRS Form W-2s. The Service Award and Class Counsel Award  
15 shall likewise be reported on IRS Form 1099s by the Settlement Administrator.  
16 The Settlement Administrator shall be responsible for issuing copies of IRS  
17 Form 1099s to Medina and Settlement Class Members.

18 **CLASS NOTICE**

19 83. No more than thirty (30) calendar days after entry of the  
20 Preliminary Approval Order, R&M shall provide the Settlement Administrator  
21 and Class Counsel with the Class Information.

22 84. The Class Notice shall contain, for each Settlement Class Member,  
23 to the extent provided by R&M, his or her full name, last known address,  
24 verified social security number, any last known email address, any last known  
25 telephone number, and information used to calculate each Class Member's  
26 Individual Settlement Payment proration amount numerator. The Class Notice  
27 shall inform Settlement Class Members of their right to request exclusion from  
28 the Settlement, of their right to object to the Settlement, of their right to dispute

1 the information upon which their share of the Settlement will be calculated, of  
2 their right to correct or supplement any other personal information provided,  
3 and a description of the claims to be released unless they exercise their right to  
4 request exclusion from the Settlement.

5 85. As set forth in the Class Notice, Settlement Class Members will be  
6 provided thirty-five (35) days after the initial mailing of the Class Notice to  
7 dispute the information contained on their Information Sheet upon which their  
8 share of the Settlement will be calculated and provide documentation to support  
9 this dispute. A Dispute Form will be included with the Class Notice as  
10 Enclosure C for this purpose.

11 86. The Settlement Administrator shall review any documentation  
12 submitted by a Settlement Class Member and consult with the Parties to  
13 determine whether an adjustment is warranted. The Settlement  
14 Administrator's determination shall be binding upon the Settlement Class  
15 Member and the Parties, and the Settlement Class Members Individual  
16 Settlement Payment will be calculated according to the Settlement  
17 Administrator's determination. There will be a presumption that R&M's records  
18 are correct, absent evidence produced by a Settlement Class Member to the  
19 contrary.

20 87. Before Class Notices are mailed, the Settlement Administrator shall  
21 compile a list of all Settlement Class Members' social security numbers provided  
22 by R&M in the Class Information and send those names and social security  
23 numbers to the Social Security Administration for verification. Upon receipt of a  
24 report from the Social Security Administration with any Class Member names  
25 that do not match the social security number provided by R&M, commonly called  
26 "TIN matching," the Settlement Administrator shall not include the unverified  
27 social security number in the Information Sheet, Enclosure A to the Class  
28 Notice, and then either obtain a substitute IRS Form W-9 from that Settlement

1 Class Member or, if a properly completed IRS Form W-9 is not obtained and  
2 verified, utilize backup withholding on their Individual Settlement Payments.

3 88. No more than sixty (60) days after entry of the Preliminary Approval  
4 Order, provided Defendant timely complied with its obligation in Paragraph 84,  
5 the Settlement Administrator shall send a copy of the Class Notice by first class  
6 mail and, if provided in the Class Information, electronic mail to each  
7 Settlement Class Member.

8 89. If any Class Notice sent via first class mail to any Settlement Class  
9 Member is returned as undeliverable, the Settlement Administrator shall then  
10 make a good-faith attempt to obtain the most-current names and postal mail  
11 addresses for those Settlement Class Members, including cross-checking the  
12 names and/or postal mail addresses it received from R&M, as well as any other  
13 sources, with appropriate databases (e.g., the National Change of Address  
14 Database) and performing further reasonable searches (e.g., through  
15 Lexis/Nexis) for more-current names and/or postal mail addresses for those  
16 Settlement Class Members and resend the Class Notice. All Settlement Class  
17 Members' names and postal mail addresses obtained through these sources shall  
18 be protected as confidential and not used for purposes other than the notice and  
19 administration of this Settlement. The addresses determined by the Settlement  
20 Administrator as the current mailing address shall be presumed to be the best  
21 mailing address for each Settlement Class Member.

22 90. As set forth in the Class Notice, Settlement Class Members will be  
23 asked to update any personal information within sixty (60) days of the Notice  
24 Date. Updated personal information may be submitted on the Settlement  
25 Administrator's website established for this settlement or by fax to the number  
26 provided or by mail.

27 91. The Parties agree that the procedures set forth in this Section  
28 constitute reasonable and the best practicable notice under the circumstances

1 and an appropriate and sufficient effort to locate current addresses for  
2 Settlement Class Members such that no additional efforts to do so shall be  
3 required.

4 92. The Settlement Administrator will provide Class Notice without  
5 material variation from the form attached Exhibit 1. The Class Notice shall  
6 comply with California Rules of Court 3.766(d), 3.769(f) and due process.

7 93. At least twenty-one (21) days before the Final Approval Hearing, the  
8 Settlement Administrator shall prepare and provide to Class Counsel and  
9 Defense Counsel (i) a declaration of due diligence and proof of dissemination  
10 with regard to the mailing of the Class Notice, (ii) a listing of the names of all  
11 Settlement Class Members who have timely requested to be excluded from the  
12 Settlement (iii) a listing of the names of all Settlement Class Members who  
13 appear to not have received the Class Notice because they were returned  
14 undeliverable, (iv) billing records for administrative costs incurred to date and  
15 anticipated administrative costs for the completion of its duties and (v) a listing  
16 of the amount of the high and low Individual Settlement Payments and the  
17 amount of Medina's Individual Settlement Payment (the "Due Diligence  
18 Declaration"). Class Counsel shall be responsible for filing the Due Diligence  
19 Declaration with the Court.

20 94. If any individual whose name does not appear in the Class  
21 Information that R&M provides the Settlement Administrator (and who has not  
22 previously opted out of the Settlement Class), believes that he or she is a  
23 Settlement Class Member, he or she may dispute his or her exclusion from the  
24 Settlement Class. If an individual believes he or she is a Settlement Class  
25 Member, he or she must notify the Settlement Administrator within a  
26 reasonable amount of time after the Notice Date and at least ten (10) days prior  
27 to the Final Approval Hearing. The Parties will meet and confer regarding any  
28 such individuals in an attempt to reach an agreement as to whether any such

1 individual should be regarded as a Settlement Class Member. If the Parties so  
2 agree that any such individual should be regarded as a Settlement Class  
3 Member, the Settlement Administrator will mail and, if possible email, a Class  
4 Notice to the individual, and treat the individual as a Settlement Class Member  
5 for all other purposes. Such an individual will have all of the same rights as any  
6 other Settlement Class Member under this Agreement.

7 95. R&M understands its legal obligation not to retaliate in any manner  
8 against any Settlement Class Member for their participation and/or election to  
9 participate in the benefits to be afforded any of them by the Settlement and/or  
10 the Class Action.

#### 11 **PROCEDURES FOR REQUESTS FOR EXCLUSION**

12 96. Settlement Class Members (with the exception of Medina) may opt  
13 out of the Settlement. Those who wish to exclude themselves (or “opt out”) from  
14 the Settlement Class must submit timely, written requests for exclusion to the  
15 Settlement Administrator. To be effective, such a request must include the  
16 Settlement Class Member’s name, address, and telephone number; a clear and  
17 unequivocal statement that the Settlement Class Member wishes to be excluded  
18 from the Settlement Class and the signature of the Settlement Class Member or  
19 the Legally Authorized Representative of the Settlement Class Member.  
20 Completion, execution and timely submission of the Request for Exclusion Form,  
21 Attachment A to the Class Notice, shall be deemed to comply with this  
22 Paragraph. The request must be mailed or faxed to the Settlement  
23 Administrator at the address provided in the Class Notice and, if mailed, must  
24 be postmarked no later than the Exclusion/Written Objection Deadline. Absent  
25 actual receipt of such request by the Settlement Administrator prior to the  
26 Exclusion/Written Objection Deadline, the date of the postmark shall be the  
27 exclusive means used to determine whether a mailed request for exclusion has  
28 been timely submitted. Requests for exclusion must be exercised individually by

1 the Settlement Class Member. Attempted collective group, class, or subclass  
2 requests for exclusions shall be ineffective and disregarded by the Settlement  
3 Administrator.

4 97. Individual exclusion requests may be submitted by a Settlement  
5 Class Member's Legally Authorized Representative.

6 98. The Settlement Administrator shall promptly log each request for  
7 exclusion that it receives and promptly provide copies of the log and all such  
8 requests for exclusion to Class Counsel and Defense Counsel.

9 99. The Settlement Administrator shall prepare a list of all persons who  
10 timely and properly requested exclusion from the Settlement Class (the Opt-Out  
11 List) and shall, before the Final Approval Hearing, submit a declaration to the  
12 Court attesting to the accuracy of the list which declaration may be part of the  
13 Due Diligence Declaration.

14 100. All Settlement Class Members who are not included in the Opt-Out  
15 List approved by the Court shall be bound by this Settlement, and their  
16 Settlement Class Members' Released Claims shall be dismissed with prejudice  
17 and released as provided for herein, even if they never received actual notice of  
18 the Class Action or this proposed Settlement.

19 101. The Settlement Administrator, in its sole discretion, shall determine  
20 whether a request for exclusion was timely and properly submitted. The  
21 Settlement Administrator's decision shall be final, binding, and nonappealable  
22 absent a contrary order from the Court.

23 102. Medina agrees not to request exclusion from the Settlement Class.

24 103. Settlement Class Members may object to or opt out of the  
25 Settlement, but may not do both. Any Settlement Class Member who submits a  
26 timely and proper request for exclusion may not file an objection to the  
27 Settlement or receive a Settlement Payment, and shall be deemed to have  
28 waived any rights or benefits under the Settlement Agreement. If a Settlement



1 Class Member files both an objection and a valid and timely request for  
2 exclusion, the request for exclusion will override the objection, and the objection  
3 shall therefore be ignored.

4 104. No later than ten (10) business days after the Exclusion/Written  
5 Objection Deadline, the Settlement Administrator shall provide to Class Counsel  
6 and Defense Counsel the final Opt-Out List together with copies of the opt-out  
7 requests.

8 105. R&M understands its legal obligation not to retaliate in any manner  
9 against any Settlement Class Member for his or her exclusion of himself or  
10 herself from the Settlement.

11 106. If, after the Exclusion/Written Objection Deadline and before the  
12 Final Approval Hearing, Settlement Class Members whose combined  
13 “estimated” Individual Settlement Payments equal or exceed ten percent (10%)  
14 of the Total Settlement Amount submit timely and valid requests for exclusion  
15 from the Settlement, R&M shall have, in its sole and absolute discretion, the  
16 option to terminate this Settlement. The “estimated” Individual Settlement  
17 Payments shall be determined by assuming that the combined total amount for  
18 the Class Counsel Award, Service Award and Administrative Expenses paid to  
19 the Settlement Administrator is Three Hundred Sixteen Thousand Six Hundred  
20 and Sixty-Seven dollars (\$316,667). R&M shall exercise its option to terminate,  
21 if at all, prior to the Final Approval Hearing, provided the Settlement  
22 Administrator has provided R&M the Opt-Out List no later than ten (10)  
23 business days prior to the Final Approval Hearing and the combined amount of  
24 Individual Settlement Payments of those Settlement Class Members requesting  
25 to be excluded from the Settlement. If R&M decides to void the Settlement, then  
26 the Settlement and conditional class certification shall be considered void, and  
27 the Settlement, conditional class certification, and any related negotiations or  
28 proceedings shall be of no force and effect, and the Parties shall stand in the

1 same respective positions, without prejudice, as if this Settlement had been  
2 neither entered into nor filed with the Court. Should R&M void the Settlement  
3 under this paragraph, R&M shall be responsible for all Administration Costs  
4 incurred by the Settlement Administrator through the date R&M notifies the  
5 Settlement Administrator that it is exercising its option to terminate the  
6 Settlement.

### 7 **PROCEDURES FOR OBJECTIONS**

8 107. Any Settlement Class Member that wishes to object to the fairness,  
9 reasonableness, or adequacy of this Settlement Agreement or the proposed  
10 Settlement, the Plan of Allocation, the Class Counsel Award and/or the Service  
11 Award must provide to the Settlement Administrator (who shall forward it to  
12 Class Counsel and Defense Counsel), a timely statement of the objection, as set  
13 forth below, or appear in person at the Final Approval Hearing to make an  
14 objection. Objections may be submitted by one or more Settlement Class  
15 Members.

16 108. To be timely, a written objection must be mailed to the Settlement  
17 Administrator, and postmarked no later than the Exclusion/Written Objection  
18 Deadline. Absent actual receipt of a written objection prior to the  
19 Exclusion/Written Objection Deadline, the date of the postmark on the return-  
20 mailing envelope shall be the exclusive means used to determine whether  
21 objection has been timely submitted.

22 109. A written objection must contain at least the following: (i) the  
23 objector's full name, address, telephone number, and signature; (ii) a clear  
24 reference to the Class Action; (iii) a statement of the specific legal and factual  
25 basis for each objection argument; and (iv) a statement whether the objecting  
26 person or entity intends to appear at the Final Approval Hearing, either in  
27 person or through counsel and, if through counsel, a statement identifying that  
28 counsel by name, bar number, address, and telephone number. All objections

1 shall be signed by the objecting Settlement Class Member (or his Legally  
2 Authorized Representative), even if the Settlement Class Member is represented  
3 by counsel.

4 110. Any Settlement Class Member who does not file a timely written  
5 objection or appear personally or through his or her counsel at the Final  
6 Approval Hearing shall waive the right to object and shall be forever barred  
7 from making any objection to the proposed Settlement, the Plan of Allocation,  
8 the Class Counsel Award and the Service Award. Settlement Class Members  
9 who object to the proposed Settlement shall remain Settlement Class Members,  
10 and shall be deemed to have voluntarily waived their right to pursue an  
11 independent remedy against R&M.

12 111. To the extent any Settlement Class Member objects to the proposed  
13 Settlement, and such objection is overruled in whole or in part, such Settlement  
14 Class Member will be forever bound by the Final Approval order and Judgment.

15 112. It shall be Class Counsel's sole responsibility to submit and respond  
16 to any objections made with respect to any application for the Class Counsel  
17 Award and Service Award.

18 113. R&M understands its legal obligation not to retaliate in any manner  
19 against any Settlement Class Member for his or her objection to the Settlement.

#### 20 **RELEASES**

21 114. The Named Plaintiff's General Released Claims and the Settlement  
22 Class Members' Released Claims shall be released and dismissed with prejudice  
23 and on the merits (without an award of costs to any party other than as provided  
24 in this Settlement Agreement) upon entry of the Final Approval order and  
25 Judgment.

26 115. As of the Final Approval Date, Medina and all Settlement Class  
27 Members, who have not been excluded from the Settlement Class, individually  
28 and on behalf of their Legally Authorized Representatives, heirs, estates,

1 trustees, executors, administrators, representatives, agents, successors, and  
2 assigns, and anyone claiming through them or acting or purporting to act on  
3 their behalf, agree to forever release, discharge, hold harmless, and covenant not  
4 to sue on the Named Plaintiff's General Released Claims (in the case of Medina)  
5 and on the Settlement Class Members' Released Claims (in the case of the  
6 Settlement Class Members who have not been excluded from the Settlement  
7 Class), and by operation of the Final Judgment shall have fully and finally  
8 released, relinquished, and discharged all such claims; and they further agree  
9 that they shall not now or hereafter initiate, maintain, or assert any Named  
10 Plaintiff's General Released Claims (in the case of Medina) and any Settlement  
11 Class Members' Released Claims (in the case of the Settlement Class Members  
12 who have not been excluded from the Settlement Class), in any other court  
13 action or before any administrative body, tribunal, arbitration panel, or other  
14 adjudicating body. Without in any way limiting the scope of the releases  
15 described herein, the releases covers, without limitation, any and all claims for  
16 attorneys' fees, costs or disbursements incurred by Class Counsel or any other  
17 counsel representing Medina and/or Settlement Class Members, or by Medina  
18 and/or Settlement Class Members, or any of them, in connection with or related  
19 in any manner to the Class Action, the Settlement of the Class Action, the  
20 administration of such Settlement, and/or the Released Claims, except to the  
21 extent otherwise specified in the Settlement Agreement.

22       116. As of the Final Approval Date, Medina, and all Settlement Class  
23 Members, who have not been excluded from the Settlement Class, shall be  
24 permanently barred and enjoined from initiating, asserting, or prosecuting in  
25 any federal or state court or tribunal any and all Named Plaintiff's General  
26 Released Claims (in the case of Medina) and the Settlement Class Members'  
27 Released Claims (in the case of the Settlement Class Members who have not  
28 been excluded from the Settlement Class).

1 117. With respect only to the Named Plaintiff's General Released Claims,  
2 Medina, but not the Settlement Class Members, expressly acknowledges that he  
3 is familiar with principles of law such as Section 1542 of the California *Civil*  
4 *Code*, which provides:

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

11 With respect to the Named Plaintiff's General Released Claims, Medina  
12 shall be deemed to have expressly, knowingly, and voluntarily waived and  
13 relinquished, to the fullest extent permitted by law, the provisions, rights, and  
14 benefits he may otherwise have had pursuant to Section 1542 of the California  
15 *Civil Code* and all similar federal or state laws, rights, rules, or legal principles  
16 of any other jurisdiction that may be applicable herein. In connection with the  
17 release, Medina acknowledges that he is aware that he may hereafter discover  
18 claims presently unknown and unsuspected or facts in addition to or different  
19 from those which he now knows or believes to be true with respect to matters  
20 released herein. Nevertheless, Medina acknowledges that a portion of the  
21 consideration received herein is for a release with respect to unknown damages  
22 and complaints, whether resulting from known injuries and consequences or  
23 from unknown injuries or unknown consequences of known or unknown injuries,  
24 and states that it is the intention of Medina in agreeing to this release to fully,  
25 finally, and forever to settle and release all matters and all claims that exist,  
26 hereafter may exist, or might have existed (whether or not previously or  
27 currently asserted in any action), constituting Named Plaintiff's General  
28 Released Claims.

1 118. Medina further acknowledges, agrees and understands that: (i) he  
2 has read and understands the terms of this Settlement Agreement; (ii) he has  
3 been advised in writing to consult with an attorney other than Class Counsel  
4 before executing this Settlement Agreement; and (iii) he has obtained and  
5 considered such legal counsel as he deems necessary.

6 119. Subject to Court approval, Medina, and all Settlement Class  
7 Members to the extent they have not been excluded from the Settlement Class,  
8 shall be bound by this Settlement Agreement even if they never received actual  
9 notice of the Class Action and/or this Settlement.

10 **ADMINISTRATION OF THE SETTLEMENT FUND**

11 120. The Settlement Administrator or its authorized agents in  
12 consultation with the Parties and subject to the supervision, direction, and  
13 approval of the Court, shall calculate the allocation of and oversee the  
14 distribution of the Total Settlement Amount.

15 121. The Total Settlement Amount shall be applied, as follows:

16 A. To pay the total costs, expenses, and fees of the Settlement  
17 Administrator incurred in connection with providing Class Notice to potential  
18 Settlement Class Members, and the management and distribution of the Total  
19 Settlement Amount to Settlement Class Members, not to exceed \$15,000.00;

20 B. Subject to the approval and further order(s) of the Court, to  
21 pay Medina's Service Award as the Court determines appropriate;

22 C. Subject to the approval and further order(s) of the Court, to  
23 pay the Class Counsel Award as ordered by the Court; and

24 D. After the Effective Date and subject to the approval and  
25 further order(s) of the Court, to distribute the Individual Settlement Payments  
26 from the Total Settlement Amount for the benefit of the Settlement Class as  
27 provided above or as otherwise ordered by the Court.  
28

1           122. If any Settlement Class Member fails to negotiate his Individual  
2 Settlement Payment by the Void Date (*i.e.* checks are not cashed or checks are  
3 returned as undeliverable), then after the Void Date, the Settlement  
4 Administrator shall void the check and shall pay such unclaimed funds to the  
5 State of California for deposit into the California State Controller Unclaimed  
6 Property fund, with the identity of the Participating Class Member to whom the  
7 funds belong, to be held for that Settlement Class Member in accordance with  
8 the California Unclaimed Property Law. The money paid to the California State  
9 Controller Unclaimed Property will remain the Settlement Class Member's  
10 property. This will allow Settlement Class Members who did not cash their  
11 checks to collect their Individual Settlement Amounts at any time in the future.  
12 Therefore, there will be no unpaid residue or unclaimed or abandoned  
13 Settlement Class Member funds and California *Code of Civil Procedure* section  
14 384 shall not apply. The funds will be held by the State until claimed by the  
15 employee and those funds never cease to be the Settlement Class Member's  
16 property.

17           123. Settlement Class Members who are not on the Opt-Out List  
18 approved by the Court shall be subject to and bound by the provisions of the  
19 Settlement Agreement, the releases contained herein, and the Judgment with  
20 respect to all Settlement Class Members' Released Claims.

21           124. Payment from the Total Settlement Amount made pursuant to and  
22 in the manner set forth herein shall be deemed conclusive of compliance with  
23 this Settlement Agreement as to all Settlement Class Members.

24           125. No Settlement Class Member shall have any claim against Medina,  
25 Class Counsel, or the Settlement Administrator based on distributions made  
26 substantially in accordance with this Settlement Agreement and/or orders of the  
27 Court. No Settlement Class Member shall have any claim against any released  
28 party or its counsel relating to distributions made under this Settlement.

1 **EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION OF**  
2 **SETTLEMENT AGREEMENT**

3 126. If the Court does not approve the Settlement as set forth in this  
4 Settlement Agreement, or does not enter the Final Approval order and  
5 Judgment on the terms described herein, or if the Court enters the Judgment  
6 and appellate review is sought, and on such review, the entry of Judgment is  
7 vacated, modified in any material way, or reversed, or if the Final Approval  
8 order does not otherwise become Final, then this Settlement Agreement shall be  
9 cancelled and terminated, unless all Parties, in their sole discretion no later  
10 than thirty (30) days from the date such ruling becomes Final, provide written  
11 notice to all other Parties hereto of their intent to proceed with the Settlement  
12 under the terms of the Judgment as it may be modified by the Court or any  
13 appellate court.

14 127. In the event that: (i) the Settlement is not approved, is overturned,  
15 or is modified by the Court or on appeal, (ii) the Judgment does not become  
16 Final, or (iii) this Settlement Agreement is terminated, cancelled, or fails to  
17 become effective for any reason, then: (a) the Parties stipulate and agree the  
18 Settlement, this Settlement Agreement, the Class Information, the Opt-Out  
19 List, and all documents and oral or written communications exchanged and/or  
20 filed in connection with the Settlement shall be treated as privileged mediation  
21 communications under California *Evidence Code* Sections 1115 *et seq.*; (b) the  
22 Settlement shall be without force and effect upon the rights of the Parties  
23 hereto, and none of its terms shall be effective or enforceable, with the exception  
24 of this paragraph, which shall remain effective and enforceable; (c) the Parties  
25 shall be deemed to have reverted *nunc pro tunc* to their respective status  
26 immediately prior to execution of this Settlement Agreement; (d) all Orders  
27 entered in connection with the Settlement, including the conditional certification  
28 of the Settlement Class, the Settlement Misclassification Subclass, and/or the



1 Settlement Rest Break Subclass, shall be vacated without prejudice to any  
2 Party's position on the issue of class certification, the issue of amending the  
3 complaint, or any other issue, in the Class Action or any other action, and the  
4 Parties shall be restored to their litigation positions existing on the date of  
5 execution of this Settlement Agreement; and (e) the Parties shall proceed in all  
6 respects as if the Settlement Agreement and related documentation and orders  
7 had not been executed, and without prejudice in any way from the negotiation or  
8 fact of the Settlement or the terms of the Settlement Agreement. The  
9 Settlement Agreement, the Settlement, all communications, documents, orders,  
10 and evidence relating to the Settlement, the fact of their existence, any of their  
11 terms, any press release or other statement or report by the Parties or by others  
12 concerning the Settlement Agreement, the Settlement, their existence, or their  
13 terms, any negotiations, proceedings, acts performed, or documents executed  
14 pursuant to or in furtherance of the Settlement Agreement or the Settlement  
15 shall not be admissible in any proceeding, and shall not be offered, received, or  
16 construed as evidence of a presumption, concession, or an admission of liability,  
17 of unenforceability of any arbitration agreement, of the certifiability of a  
18 litigation class, or of any misrepresentation or omission in any statement or  
19 written document approved or made, or otherwise used by any person for any  
20 purpose whatsoever, in any trial of the Class Action or any other action or  
21 proceedings. Medina, Class Counsel and the Settlement Administrator shall  
22 return to Defense Counsel all copies of Class Information and Opt-Out Lists and  
23 shall not use or disclose the Class Information or Opt-Out List for any purpose  
24 or in any proceeding.

25       128. R&M does not agree or consent to certification of the Settlement  
26 Class, Settlement Misclassification Subclass, and/or Settlement Rest Break  
27 Subclass for any purpose other than to effectuate the Settlement of the Class  
28 Action. If this Settlement Agreement is terminated pursuant to its terms, or the

1 Effective Date for any reason does not occur, all Orders certifying the Settlement  
2 Class, Settlement Misclassification Subclass, and/or Settlement Rest Break  
3 Subclass and all preliminary and/or final findings regarding the Settlement  
4 Class certification order, shall be automatically vacated upon notice to the  
5 Court, the Class Action shall proceed as though the Settlement Class and, if  
6 applicable, the Settlement Misclassification Subclass and Settlement Rest Break  
7 Subclass, had never been certified pursuant to this Settlement Agreement and  
8 such findings had never been made, and the Class Action shall revert *nunc pro*  
9 *tunc* to the procedural *status quo* as of the date and time immediately before the  
10 execution of the Settlement Agreement, in accordance with this Settlement  
11 Agreement.

#### 12 **ADDITIONAL PROVISIONS**

13 129. All of the Exhibits to this Settlement Agreement are an integral part  
14 of the Settlement and are incorporated by reference as though fully set forth  
15 herein.

16 130. Medina and Class Counsel acknowledge that an adequate factual  
17 record has been established that supports the Settlement and hereby waive any  
18 right to conduct further discovery to assess or confirm the Settlement.

19 131. Unless otherwise noted, all references to “days” in this Settlement  
20 Agreement shall be to calendar days. In the event any date or deadline set forth  
21 in this Settlement Agreement falls on a weekend or federal legal holiday, such  
22 date or deadline shall be on the first business day thereafter.

23 132. This Settlement Agreement constitutes the full and complete  
24 agreement of the Parties hereto, and supersedes all prior negotiations and  
25 agreements, whether oral, written or otherwise, and may be amended or  
26 modified only by a written instrument signed by counsel for all Parties or the  
27 Parties’ successors-in-interest.  
28

1           133. The Parties reserve the right, subject to the Court’s approval, to  
2 make any reasonable extensions of time that might be necessary to carry out  
3 any of the provisions of this Settlement Agreement. Such extensions must be in  
4 writing to be enforceable.

5           134. The Settlement Agreement, the Settlement, the fact of the  
6 Settlement’s existence, any of terms of the Settlement Agreement, any press  
7 release or other statement or report by the Parties or by others concerning the  
8 Settlement Agreement or the Settlement, and any negotiations, proceedings,  
9 acts performed, or documents executed pursuant to or in furtherance of the  
10 Settlement Agreement or the Settlement: (i) may not be deemed to be, may not  
11 be used as, and do not constitute an admission or evidence of the validity of any  
12 released claims or of any wrongdoing or liability of R&M; (ii) may not be deemed  
13 to be, may not be used as, and do not constitute an admission or evidence of any  
14 fault, wrongdoing, or omission by R&M in any trial, civil, arbitration, criminal,  
15 or administrative proceeding of the Class Action or any other action or  
16 proceedings in any court, administrative agency, arbitration or other tribunal;  
17 and (iii) may not be used as evidence in any class certification proceeding.

18           135. The persons and entities released by this Settlement shall have the  
19 right to file the Settlement Agreement, the Final Approval order and Judgment,  
20 and any other documents or evidence relating to the Settlement in any action  
21 that may be brought against them in order to support a defense or counterclaim  
22 based on principles of *res judicata*, collateral estoppel, release, good-faith  
23 settlement, judgment bar, reduction, or any other theory of claim preclusion or  
24 issue preclusion or similar defense or counterclaim.

25           136. The Parties to the Settlement Agreement agree that the Total  
26 Settlement Amount and the other terms of the Settlement were negotiated at  
27 arm’s length and in good faith by the Parties, resulted from an arm’s-length  
28 mediation session facilitated by Hon. Carl J. West (Ret.), and reflect a

1 settlement that was reached voluntarily based upon adequate information and  
2 sufficient discovery and after consultation with experienced legal counsel.

3 137. Medina and Class Counsel have concluded that the Settlement set  
4 forth herein constitutes a fair, reasonable, and adequate resolution of the claims  
5 that Medina asserted against R&M, including the claims on behalf of the  
6 Settlement Class, and that it promotes the best interests of the Settlement  
7 Class.

8 138. To the extent permitted by law, all agreements made and orders  
9 entered during the course of the Class Action relating to the confidentiality of  
10 information shall survive this Settlement Agreement.

11 139. The Parties agree that Medina and Class Counsel are not required  
12 to return any documents produced by R&M until the final resolution of the Class  
13 Action.

14 140. The waiver by one Party of any breach of this Settlement Agreement  
15 by any other Party shall not be deemed a waiver of any other prior or  
16 subsequent breach of this Settlement Agreement.

17 141. This Settlement Agreement, including its Exhibits, constitutes the  
18 entire agreement among the Parties, and no representations, warranties, or  
19 inducements have been made to any Party concerning this Settlement  
20 Agreement or its Exhibits, other than the representations, warranties, and  
21 covenants contained and memorialized in this Settlement Agreement and its  
22 Exhibits.

23 142. This Settlement Agreement may be executed in one or more  
24 counterparts. All executed counterparts and each of them shall be deemed to be  
25 one and the same instrument provided that counsel for the Parties to this  
26 Settlement Agreement shall exchange among themselves original signed  
27 counterparts. Faxed or emailed signatures shall be deemed original signatures.  
28

1           143. The Parties hereto and their respective counsel agree that they will  
2 use their best efforts to obtain all necessary approvals of the Court required by  
3 this Settlement Agreement.

4           144. This Settlement Agreement shall be binding upon and shall inure to  
5 the benefit of the successors and assigns of the Parties hereto, including any and  
6 all released parties and any corporation, partnership, or other entity into or with  
7 which any released party hereto may merge, consolidate, or reorganize.

8           145. This Settlement Agreement shall not be construed more strictly  
9 against one Party than another merely because of the fact that it, or any  
10 respective provision of it, may have been prepared by counsel for one of the  
11 Parties, it being recognized that because of the arm's-length negotiations  
12 resulting in the Settlement Agreement, all Parties hereto have contributed  
13 substantially and materially to the preparation of the Settlement Agreement.

14           146. Except where this Settlement Agreement itself provides otherwise,  
15 all terms, conditions, and Exhibits are material and necessary to this Settlement  
16 Agreement and have been relied upon by the Parties in entering into this  
17 Settlement Agreement.

18           147. This Settlement Agreement shall be governed by the internal law,  
19 other than choice of law, of the State of California. Any action based on this  
20 Settlement Agreement, or to enforce any of its terms, shall be venued in Orange  
21 County Superior Court, which shall retain jurisdiction over all such disputes.  
22 All Parties to this Settlement Agreement shall be subject to the jurisdiction of  
23 Orange County Superior Court for all purposes related to this Settlement  
24 Agreement.

25           148. The Court shall retain continuing and exclusive jurisdiction over the  
26 Parties to this Settlement Agreement for the purpose of the administration and  
27 enforcement of this Settlement Agreement.  
28

1 149. The headings used in this Settlement Agreement are for the  
2 convenience of the reader only, and shall not affect the meaning or  
3 interpretation of this Settlement Agreement.

4 150. In construing this Settlement Agreement, the use of the singular  
5 includes the plural (and vice-versa) and the use of the masculine includes the  
6 feminine (and vice-versa).

7 151. Each Party to this Settlement Agreement warrants that he or it is  
8 acting upon his or its independent judgment and upon the advice of his or its  
9 counsel, and not in reliance upon any warranty or representation, express or  
10 implied, of any nature of any kind by any other Party, other than the warranties  
11 and representations expressly made in this Settlement Agreement.

12 IN WITNESS WHEREOF, the parties hereto have executed this Settlement Agreement on  
13 the day and year set forth below.

14 DATED: July 21, 2020

DATED: July 21, 2020

15 R&M PACIFIC RIM, INC.

16

17

18

By: 

SEE SIGNATURE TO THE LEFT

SANTIAGO MEDINA

19

APPROVED AS TO FORM AND CONTENT.

20

Dated: July 21, 2020

21

22

23

24

25

Dated: July 21, 2020

26

27

28

BLEAU FOX  
A Professional Law Corporation

By: 

SAMUEL T. REES

Attorneys for Plaintiff and the Plaintiff Class

KRING & CHUNG LLP

By: \_\_\_\_\_

ALLYSON K. THOMPSON

Attorneys for R&M PACIFIC RIM, INC.

# EXHIBIT 1

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND FINAL APPROVAL HEARING**

*Stoddard and Medina, etc. v. Equilon Enterprises, LLC, et al.*  
 Orange County California Superior Court Case No. 30-2010-00395208-CU-OE-CXC

**THE COURT AUTHORIZED THIS NOTICE.**  
**THIS IS NOT A SOLICITATION FROM A LAWYER.**

Pursuant to the Order of the Superior Court for the State of California for the County of Orange, you are hereby notified that a proposed settlement has been reached in the above-referenced case brought on behalf of the following individuals:

*All persons who were employed by R&M Pacific Rim, Inc. and who worked at a Shell branded station operated by R&M and owned by Equilon Enterprises, LLC at any time during the period from August 2, 2006 to September 1, 2008.*

You have been identified as a member of the above Settlement Class. This notice provides you with a brief description of the Class Action, the terms of the Settlement, and a description of your rights in connection with the Settlement. **Please read this entire notice carefully.** It may affect your legal rights, including your right to money you may be owed.

<b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
Participate in the Settlement	If the Court grants final approval of the Settlement, you do not need to do anything if you wish to receive your Individual Settlement Payment. However, it is highly recommended that you review the information on the attached Information Sheet [Enclosure A] and make any necessary corrections, including updating your contact information. Corrections must be submitted to the Settlement Administrator either electronically or by fax or mail as explained in Paragraph 9 below.
Exclude Yourself from the Settlement (Opt-Out)	If you do not want to participate in the Settlement and be bound by the releases therein, you must timely submit a signed written Request for Exclusion to the Settlement Administrator no later than [Insert Exclusion Deadline Date] or else you will be bound by the Settlement. Your Request for Exclusion must be submitted by mail or fax. In the case of mail Requests for Exclusion, the postmark shall determine whether that request was timely. Please refer to Paragraph 10 below for instructions on excluding yourself.
Object to the Settlement	If you wish to object to the Settlement, you must mail an appropriate written objection to the Settlement Administrator postmarked no later than [Insert Exclusion Deadline Date] and/or object in person or through an attorney at the Final Approval Hearing on [Insert Final Approval Hearing Date]. Please refer to Paragraph 11 below for instructions on objecting.

**Which option(s) you choose is entirely up to you.**

**THESE RIGHTS AND OPTIONS, INCLUDING THE DEADLINES BY WHICH TO EXERCISE THEM, ARE EXPLAINED IN THIS NOTICE.**



**TABLE OF CONTENTS**

**GENERAL INFORMATION REGARDING THIS NOTICE**..... 3  
    What is This Notice About?..... 3  
    What is This Lawsuit About?..... 3

**SUMMARY OF SETTLEMENT** ..... 4  
    Who Is Included in the Settlement? ..... 4  
    How to Participate in the Settlement ..... 5  
    What Are the Important Terms of the Settlement? ..... 6  
    What Are My Rights as a Settlement Class Member ..... 8  
    Class Counsel ..... 11  
    Final Settlement Approval Hearing..... 11  
    Getting More Information..... 12

**ENCLOSURES**

    A. Information Sheet ..... 13  
    B. Request for Exclusion Form..... 15  
    C. Class Information Dispute Form ..... 16  
    D. Representations of Fact by R&M ..... 17

## GENERAL INFORMATION REGARDING THIS NOTICE

### WHAT IS THIS NOTICE ABOUT?

This Notice pertains to the settlement (“Class Action Settlement” or “Settlement”) of claims against R&M Pacific Rim, Inc. (“R&M”) in a class action lawsuit entitled *Stoddard and Medina, etc. v. Equilon Enterprises, LLC; R&M Pacific Rim, Inc. et. al.*, Orange County Superior Court Case No. 30-2010-00395208-CU-OE-CXC (the “Class Action”).

This Class Action Settlement applies to all persons who were employed by R&M and who worked at a Shell branded station operated by R&M and owned by Equilon Enterprises, LLC at any time during the period from August 2, 2006 to September 1, 2008 (the "Settlement Class"). The Settlement Class is divided into two subclasses: (1) the Settlement Misclassification Subclass and (2) the Settlement Break Subclass. The Settlement Misclassification Subclass consists of all employees during this period who were declared by R&M as exempt employees and paid a salary. The Settlement Break Subclass consists of all employees during this period who were paid an hourly wage. You may be part of both subclasses.

The Orange County Superior Court (the “Court”) has preliminarily approved the Settlement and has directed the parties to notify the Settlement Class Members of the Settlement. If the proposed Class Action Settlement is finally approved by the Court, your legal rights may be affected. This Notice of Proposed Class Action Settlement summarizes the Class Action and the settlement, and what you need to do (i) if you want to be excluded or “opt-out” of the Settlement Class, (ii) if you want to object to the settlement, (iii) if you want to dispute the information on which your Individual Settlement Payment will be calculated and/or (iv) if you want to correct or supplement information contained in the accompanying Information Sheet [Enclosure A].

This Notice summarizes, but does not fully describe, the Class Action. You may inspect the court files at the Central Justice Center, 700 Civic Center Drive West, Santa Ana, CA 92701 from 8:30 a.m. to 4:30 p.m. Monday through Friday, holidays excepted. You may also review papers filed in the Class Action at the following web address, by accepting terms, inputting under the Case Tab the following case number (30-2010-00395208) and indicating 2010 as the year filed: <https://ocapps.occourts.org/civilwebShoppingNS/Login.do;jsessionid=3A1FC4852C74CBFCD6B17016C5C25AC5> The Register of Actions lists all papers which have been filed, most of which you can purchase on-line for a fee. You may also visit [\[settlement website\]](#) for more information, to review the Settlement Agreement, or to review certain Court filings relating to the Settlement.

**PLEASE DO NOT CONTACT THE COURT OR THE COURT CLERK REGARDING THE LAWSUIT.**

### WHAT IS THIS CLASS ACTION LAWSUIT ABOUT?

For a complete understanding of the claims asserted on your behalf in the Class Action, please review the Second Amended Complaint filed in the Class Action on March 25, 2019. This section is merely a summary of certain important allegations thereof. Also and while the Class Action was pending, Raymond Stoddard, one of the original named plaintiffs, died; and the Class Action is now being prosecuted only by Santiago Medina ("Medina").

The Class Action generally involves claims under California’s wage and hour laws. Insofar as claims are asserted against R&M in the Class Action, Medina primarily alleges that from and after August 2,

2006, R&M misclassified certain of its employees as "exempt" employees and improperly failed to pay them overtime wages and premium pay for missed off-duty meal and rest breaks. Medina further alleges that R&M also improperly failed to pay its hourly employees premium pay for their missed meal and rest breaks. These claims are asserted pursuant to the California *Labor Code*, California Unfair Competition Law and the applicable California Industrial Welfare Commission wage order. Other bases for relief also are asserted. These claims against R&M only relate to employees working at R&M operated stations.

Insofar as claims also are asserted against Equilon Enterprises, LLC, Medina primarily alleges that from and after May 2001, Equilon was a joint employer with its third party operators, including R&M, misclassified certain of its employees as "exempt" employees and improperly failed to pay them overtime wages and premium pay for missed off-duty meal and rest breaks and also improperly failed to pay its hourly employees premium pay for their missed meal and rest breaks. These claims also are asserted pursuant to the California *Labor Code*, California Unfair Competition Law and the applicable California Industrial Welfare Commission wage order. Other bases for relief are also asserted. These claims relate to all Equilon owned stations in California and operated by third parties, including R&M. As such, these claims are broader than the claims asserted against R&M but include all of those claims also. Summary Judgment in favor of Equilon on these claims was recently granted by the Court which Summary Judgment is on appeal.

On January 15, 2019, after good-faith negotiations with an experienced, neutral mediator, in which both Medina and R&M recognized the substantial risk of an uncertain outcome, Medina and R&M agreed to settle their dispute pursuant to the terms and conditions of a negotiated Settlement. The parties and their counsel have concluded that the Settlement is advantageous, considering the risks and uncertainties of continued litigation. The parties and their counsel have determined that the Settlement is fair, reasonable, and adequate and is in the best interests of the members of the Settlement Class.

R&M denies that it has done anything wrong or that it violated the law in any way. R&M further denies that it owes the Settlement Class any wages, restitution, penalties, or other damages and contends that Settlement Class members were properly compensated and properly provided meal and rest periods. Accordingly, the Settlement represents a compromise and settlement of disputed claims. Nothing in the Settlement is intended to be or will be construed as an admission by R&M that Medina's claims have merit or that R&M has any liability to Medina or the putative class on the claims alleged in the Class Action. **The Court has not ruled on the merits of Medina's claims against R&M.**

## SUMMARY OF THE SETTLEMENT

### WHO IS INCLUDED IN THE SETTLEMENT?

You have received this notice and are included in the Settlement because R&M's records show that you fall within the following definition:

*All persons who were employed by R&M and who worked at a Shell branded station operated by R&M and owned by Equilon Enterprises, LLC at any time during the period from August 2, 2006 to September 1, 2008.*

## HOW TO PARTICIPATE IN THE SETTLEMENT

If you are included in the above class definition, you are automatically considered a member of the Settlement Class. However, you have the right to request exclusion from the Settlement, the right to object to the Settlement, the right to dispute the information upon which your Individual Settlement Payment will be calculated, and the right to correct or supplement any other personal information provided.

**IF YOU WISH TO BE EXCLUDED FROM THIS SETTLEMENT AND NOT BE BOUND BY IT, YOU WILL NEED TO TIMELY SUBMIT A WRITTEN REQUEST FOR EXCLUSION CONTAINING THE NECESSARY INFORMATION BY [INSERT EXCLUSION DEADLINE DATE]. YOU MAY DO SO BY TIMELY COMPLETING, SIGNING AND SUBMITTING THE FORM INCLUDED WITH THIS NOTICE [ENCLOSURE B] BY MAIL OR BY FAX TO THE SETTLEMENT ADMINISTRATOR.**

**(Settlement Exclusion Information is Provided in Paragraph 10 Below.)**

**IF YOU WISH TO OBJECT TO ANY ASPECT OF THIS SETTLEMENT, YOU WILL NEED TO TIMELY SUBMIT A WRITTEN STATEMENT OF OBJECTION CONTAINING THE NECESSARY INFORMATION BY [INSERT EXCLUSION DEADLINE DATE] AND/OR APPEAR AT THE FINAL APPROVAL HEARING IN PERSON OR THROUGH AN ATTORNEY AND MAKE YOUR OBJECTION AT THAT TIME.**

**(Objection Information is Provided in Paragraph 11 Below.)**

**IF YOU WISH TO DISPUTE ANY OF THE ACCOMPANYING INFORMATION ON WHICH YOUR INDIVIDUAL SETTLEMENT PAYMENT WILL BE CALCULATED, YOU WILL NEED TO STATE THE BASIS FOR YOUR DISPUTE AND PROVIDE SUPPORTING DOCUMENTATION BY [INSERT DATE]. YOU MUST DO SO BY TIMELY COMPLETING, SIGNING AND SUBMITTING WITH APPROPRIATE DOCUMENTATION THE DISPUTE FORM INCLUDED WITH THIS NOTICE [ENCLOSURE C] BY MAIL OR BY FAX TO THE SETTLEMENT ADMINISTRATOR.**

**(Dispute Information is provided in Paragraph 2.d. Below.)**

**UNLESS YOU TIMELY SUBMIT A WRITTEN REQUEST TO BE EXCLUDED FROM THIS SETTLEMENT, YOU WILL BE BOUND BY ITS TERMS AND THE RELEASES DESCRIBED BELOW.**

Your Individual Settlement Payment will be based on the employment records of R&M which are presumed to be correct and which, as to your information, is set forth in the attached Information Sheet [Enclosure A].

Your interests as a member of the Settlement Class will be represented by Class Counsel. If you choose, you may enter an appearance individually or through your own counsel at your own expense. You have the right to consult and/or retain an attorney of your own choice, at your own expense, to advise you regarding the Settlement and your rights in connection with the Settlement. **If you have questions about this Settlement, you may contact Class Counsel by email at STReesEsq@earthlink.net or at (818) 748-3434, although email is preferable.**

## WHAT ARE THE IMPORTANT TERMS OF THE SETTLEMENT?

1. The Total Settlement Amount is \$845,000, inclusive of all damages, fees, costs, penalties, attorneys' fees and expenses and administration of the Settlement.
  - a. Class Counsel intends to seek by motion an award of attorneys' fees of \$281,667, plus costs and expenses, subject to Court approval. The motion will be available on [settlement website] upon filing and is subject to Court review and approval. You have the right to object to this award to Class Counsel. The amount approved by the Court will be deducted from the Total Settlement Amount before Individual Settlement Payments are calculated.
  - b. In addition, Medina intends to seek by motion a Service Award of \$5,000 for serving as the named plaintiff and Class Representative. You have the right to object to this Service Award which is also subject to review and approval by the Court. The amount approved by the Court will be deducted from the Total Settlement Amount before Individual Settlement Payments are calculated.
  - c. The Settlement Administrator will be paid a fee and costs for administrating this Settlement. The total amount of those fees and costs will not exceed \$15,000. The fees and costs will be deducted from the Total Settlement Amount before Individual Settlement Payments are calculated.
  - d. The remaining amount after these deductions (the "Remaining Settlement Amount") shall be split between the two subclasses per the formula summarized in Paragraph 2 below.
2. **Payment to Class Members.** The Remaining Settlement Amount will be distributed to the Settlement Class Members, as follows:
  - a. **Misclassification Subclass:** Seventy-four percent (74%) of the Remaining Settlement Amount shall be allocated to the Settlement Misclassification Subclass. This amount shall be prorated among the members of the Settlement Misclassification Subclass based upon the total number of Work Weeks (Monday through Sunday) or portions thereof each such member worked during the Class Period as an exempt employee divided by the total number of weeks and portions thereof worked by all members of this subclass. An employee whose classification was changed during a Work Week shall be deemed an exempt employee for the entire Work Week during the Class Period and not an hourly employee for that week. Each such allocation shall be further allocated Thirty-Three percent (33%) to wages and Sixty-Seven percent (67%) to penalties and interest.
  - b. **Break Subclass:** Twenty-Six percent (26%) of the Remaining Settlement Amount shall be allocated to the Settlement Break Subclass. This amount shall be prorated among the members of the Break Subclass based upon each employee's gross wages paid during the Class Period divided by the gross wages paid during the Class Period to all members of this subclass. An employee whose classification was changed from exempt to hourly during a Work Week shall not be deemed an hourly employee for the Work Week during the Class Period he or she was also an exempt employee. Each

such allocation shall be further allocated Thirty-Three percent (33%) to wages and Sixty-Seven percent (67%) to penalties and interest.

c. If a Settlement Class Member will be distributed \$10 or more, then he or she will receive the entitled amount. If, however, the Settlement Class Member is due less than \$10, then his or her Individual Settlement Payment will be for \$10, which may have a small effect on the payments to other members of that subclass.

d. **Settlement Class Members will be provided thirty-five (35) days after the initial mailing of the Class Notice to dispute the information upon which their share of the Settlement will be calculated but they must provide documentation to support this dispute.** You may do so by timely completing, signing and submitting with appropriate documentation the Dispute Form included with this notice [Enclosure C] by mail or by fax to the Settlement Administrator. The Settlement Administrator will resolve all such disputes and its decision will be final. R&M's employment records on which the accompanying Information Sheet is based are presumed correct.

e. Settlement Class Members who receive a payment of any kind from the Total Settlement Amount expressly acknowledge that such payments shall be considered to be comprised of thirty-three percent (33%) wages for which an IRS Form W-2 will be issued and sixty-seven percent (67%) non-wages for which an IRS Form 1099 will be issued. All Settlement Class Members who receive a payment of any kind from the Total Settlement Amount agree to timely pay in full all of the federal, state, and municipal income taxes owed on such payments.

f. **Unclaimed funds:** Individual Settlement Payment checks which are not cashed within 180 days of issuance will be deemed void. The funds represented by voided checks will then be paid to the State of California for deposit into the Unclaimed Property Fund for the benefit of the Settlement Class Member who did not timely cash his Individual Settlement Payment check.

3. This Settlement was made based upon certain representations of fact made by R&M and contained in the Settlement Agreement. These factual representations are set forth in Enclosure D to this Notice. **You should review these representations as they may affect your decisions regarding this settlement.**

Of primary importance are the representations that prior to September 1, 2008, (i) R&M reclassified all exempt employees as hourly employees and thereafter paid overtime to those employees, (ii) changed its rest break policies to allow all employees to take 10 minute off-duty rest breaks every 4 hours worked, or major fraction thereof, and (iii) changed its meal break policies to allow all employees who worked more than 5 hours in a workday to take a 30 minute off-duty meal break and were provided a form to report any missed or non-compliant meal breaks for which payment would be provided, and (iv) paid missed meal break compensation to 370 employees in settlement as a result of a California Labor Commissioner meal break audit.

4. You will be bound by this Settlement and the releases contained therein, if it is given final approval by the Court, unless you timely submit a valid written Request for Exclusion to the Settlement Administrator by the deadline of **[Insert Exclusion Deadline Date]**. You may do so by timely completing, signing and submitting the form included with this notice [Enclosure B] by

mail or by fax to the Settlement Administrator. If you do submit a valid Request for Exclusion by the deadline in accordance with the instructions for submitting a Request for Exclusion, you will be excluded from the Settlement and will not receive any Individual Settlement Payment, but you will retain the rights you may have, if any, to pursue your claims against Defendants and will not be bound by the releases contained in the Settlement Agreement.

5. If the Court does not grant final approval of the Settlement, or does not enter the Final Approval Order or if the Court's Final Approval Order is reversed in whole or in part on appeal, the parties have no obligations under the Settlement and Settlement Class Members will **not** receive any payments thereunder.
6. The Court has approved Phoenix Settlement Administrators as Settlement Administrator to administer the Settlement.
7. The Settlement, if given final approval by the Court, includes a very broad release to R&M and its affiliates. This release is, as follows:

Any and all claims alleged in the Second Amended Complaint, or that could have been alleged in the Second Amended Complaint based on the facts alleged therein, including claims for non-payment of overtime, missed meal and rest break compensation, interest thereon, attorneys' fees and expenses and costs of suit.

This release of fees and expenses includes, but is not limited to, those incurred by Class Counsel or any other counsel representing Medina or any Settlement Class Members, other than those expressly awarded by the Court as authorized by this Agreement.

8. Medina, as Class Representative, and Class Counsel, support the Settlement. Their reasons include the risk of being unable to pursue this case as a class action on behalf of all Class Members, the risk of a trial on the merits, the inherent delays and uncertainties associated with litigation, and the possibility that the Class is not entitled to any recovery from Defendants. Based on their experience litigating similar cases, Class Counsel believes that further proceedings in this case would be uncertain and, upon careful consideration of all facts and circumstances of this case, as well as the potential damages that could be recovered, Class Counsel believes that the Settlement is fair, reasonable, and adequate.

#### WHAT ARE MY RIGHTS AS A SETTLEMENT CLASS MEMBER?

9. **Participate in the Settlement.** You have the right to participate in the Settlement; and, if the Settlement is finally approved by the Court, you have the right to your Individual Settlement Payment. You do not have to do anything to exercise this right. However, if you decide to participate in the Settlement, you should review the attached Information Sheet [Enclosure A]. If there is no social security number on your Information Sheet, it is because the Settlement Administrator has not been able to verify that number with the Social Security Administration. If this applies to you, you will need to submit a Form W-9 to the Settlement Administrator which can be verified or your Individual Settlement Payment will be subject to backup withholding. You should also check to make sure your address and contact information are correct so that you will receive your Individual Settlement Payment if and when it is mailed. You may make corrections to your contact information in the Information Sheet either electronically at [www.XXXX.com](http://www.XXXX.com), by fax to (249) 209-2503 or by mail addressed to the Settlement

Administrator at Phoenix Settlement Administrators, PO Box 7208, Orange, CA 92863. A W-9 Form should be submitted by fax or mail to the Settlement Administrator.

If you need additional information, please contact the Settlement Administrator at (800) 523-5773 or at [Info@phoenixclassaction.com](mailto:Info@phoenixclassaction.com).

10. **Excluding Yourself from the Settlement (Opt-Out):** You have the right to exclude yourself from the Settlement and retain the right to pursue any individual claims you may have against R&M. If you do **not** wish to participate in the Settlement, you must mail or fax a written Request for Exclusion to the Settlement Administrator. The Request for Exclusion must include: (1) your name, address, and telephone number; (2) a clear and unequivocal statement that you wish to be excluded from the Settlement Class; and (3) your signature or the signature of your Legally Authorized Representative. The attached Request for Exclusion Form [Enclosure B] may be completed, signed and submitted to the Settlement Administrator should you wish to use it. The Request for Exclusion must be completed, signed, and mailed to the Settlement Administrator at Phoenix Settlement Administrators, PO Box 7208, Orange, CA 92863, postmarked no later than **[Exclusion/Written Objection Deadline]** or faxed to the Settlement Administrator at (249) 209-2503 by that date. If you fail to submit a Request for Exclusion in the manner and by the deadline specified above, you will be bound by all terms and conditions of the Settlement and Judgment.

**Any person who files a complete and timely Request for Exclusion will, upon receipt by the Settlement Administrator, no longer be a member of the Settlement Class and will not be eligible to receive a payment if the Settlement is finally approved.** Any such person will retain the right, if any, to pursue the claims released by this Settlement at his or her own expense. A Request for Exclusion that does not fulfill the requirements above will be deemed invalid. Requests for exclusion must be exercised individually by the Settlement Class Member. Attempted collective group, class, or subclass requests for exclusions shall be ineffective and disregarded by the Settlement Administrator.

If a Settlement Class Member submits both an objection and a valid and timely Request for Exclusion, the Request for Exclusion will be accepted and the objection will be rejected.

**There will be no retaliation or adverse employment action taken by R&M against any Settlement Class Member who participates in the Settlement, elects not to participate in the Settlement, or objects to the Settlement because of such participation, election, or objection.**

11. **Objecting to the Settlement:** You have the right to object to any of the terms of the Settlement, the Class Counsel Award and/or the Service Award. Any Settlement Class Member that wishes to object to the fairness, reasonableness, or adequacy of this Settlement Agreement or the proposed Settlement, the Plan of Allocation, the Class Counsel Award and/or the Service Award must provide to the Settlement Administrator (who shall forward it to Class Counsel and Defense Counsel), a timely signed statement of the objection or appear at the final hearing and make the objections or both. To be timely, a written objection must be mailed to the Settlement Administrator, and postmarked no later than **[60 days after notice date]**. A written objection must contain at least the following: (i) the objector's full name, address, telephone number, and signature; (ii) a clear reference to the Class Action; (iii) a statement of the specific legal and factual basis for each objection argument; and (iv) a statement whether the objecting person or



entity intends to appear at the Final Approval Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number. Objections may be submitted by one or more Settlement Class Members, but must identify each Settlement Class Member on whose behalf it is made.

If you submit both an objection and a valid and timely Request for Exclusion, the Request for Exclusion will be accepted and the objection will be rejected.

If the Court does not give final approval to the Settlement, no Individual Settlement Payments will be sent out and the lawsuit will continue.

If the Court gives final approval to the Settlement, you will be bound by the terms of the Settlement and receive your Individual Settlement Payment.

12. **Termination of the Settlement:** If after [Exclusion/Written Objection Deadline] and before the Final Approval Hearing, Settlement Class Members, whose estimated Individual Settlement Payments equal or exceed ten percent (10%) of the Total Settlement Amount, submit timely and valid Requests for Exclusion from the Settlement, R&M shall have, in its sole and absolute discretion, the option to terminate this Settlement. The estimated Individual Settlement Payments shall be calculated assuming that the combined total of the approved Class Counsel Award, approved Service Award and approved expenses for the Settlement Administrator are \$316,667. R&M shall exercise its option to terminate, if at all, prior to the Final Approval Hearing, provided the Settlement Administrator has provided R&M the Opt-Out List no later than ten (10) business days prior to the Final Approval Hearing. If R&M decides to void the Settlement, then the Settlement and conditional class certification shall be considered void; the Settlement, conditional class certification, and any related negotiations or proceedings shall be of no force and effect; and the Parties shall stand in the same respective positions, without prejudice, as if this Settlement had been neither entered into nor filed with the Court. Should R&M void the Settlement under this paragraph, R&M shall be responsible for all Settlement Administration Costs incurred through the date R&M notifies the Settlement Administrator that it is exercising its option to terminate the Settlement.
13. **Release of Employment Records:** The Court has authorized R&M to release to the Settlement Administrator and to Class Counsel, for purposes of this Settlement only and without prior notice to you, certain information concerning you and contained in R&M's employment records. This information includes your name, last known residence address, last known telephone number(s), last known email address, social security number, dates of employment and gross wages for 2006 through 2008.
14. **Keep Your Information Up to Date:** It is your obligation to make sure that the Settlement Administrator is able to verify your social security number and to keep the Settlement Administrator informed of any changes in your mailing address until your Settlement Payment is received, should final approval of the Settlement be granted. Failing to provide the Settlement Administrator with any change of your mailing address may prevent you from receiving your Individual Settlement Payment in a timely manner. The absence of a verified social security number will result in backup withholding applied to your Individual Settlement Payment.
15. **Information Available on Website:** The Settlement Administrator has created a website for purposes of this Settlement. The website address is [INSERT ADDRESS]. Among other

actions you may take through this website and information contained therein, you will be able to view the following documents: Second Amended Complaint; Settlement Agreement and exhibits; Class Notice; Motion for Preliminary Approval of this Settlement; Preliminary Approval Order; and Motion for Class Counsel Award and Service Award, when filed. You also will be able to correct certain information contained on the attached Information Sheet [Enclosure A].

16. **The Settlement Administrator's Address:** You may send a Request for Exclusion or Objection to the Settlement Administrator at the following address:

Phoenix Settlement Administrators  
PO Box 7208, Orange, CA 92863  
Ph: 800-523-5773  
Email: [Info@phoenixclassaction.com](mailto:Info@phoenixclassaction.com)  
Fax: 949-209-2503

#### CLASS COUNSEL

Contact information for Class Counsel is provided below:

SAMUEL T. REES  
BLEAU FOX  
A Professional Law Corporation  
2801 West Empire Avenue  
Burbank, CA 91504  
Telephone: (818) 748-3434  
Facsimile: (818) 748-3436  
Email: STReesEsq@earthlink.net

#### FINAL SETTLEMENT APPROVAL HEARING

The Court has scheduled the Settlement Fairness Hearing for \_\_ on \_\_, 20xx, in Department CX-104 of the Orange County Superior Court located at 751 W. Santa Ana Blvd., Santa Ana, California 92701. At this time, the Court will be asked to rule on the adequacy, reasonableness, and fairness of the Settlement and on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Service Award to Medina. If there are any objections, the Court will consider them. After the Settlement Fairness Hearing, the Court will decide whether to approve the Settlement.

The Settlement Fairness Hearing may be postponed without further notice to Settlement Class members.

**You are not required to attend the Settlement Fairness Hearing, although any Settlement Class member is welcome to attend the hearing.**

## GETTING MORE INFORMATION

This notice summarizes the Class Action and the proposed Settlement. For more precise terms and conditions of the Settlement, please contact Class Counsel (contact information above), or visit the office of the Court Clerk located at the Central Justice Center, 700 Civic Center Drive West, Santa Ana, CA 92701, during business hours.

**PLEASE DO NOT TELEPHONE THE COURT, FOR INFORMATION ABOUT THE SETTLEMENT! YOU MAY CALL CLASS COUNSEL LISTED ABOVE.**

**ENCLOSURE A**  
**INFORMATION SHEET**

CLAIMANT ID: [INSERT]

VERIFICATION NUMBER: [INSERT]

The information provided below was provided by R&M Pacific Rim, Inc. ("R&M") from its employment records and was ordered by the Court to be provided to Phoenix Settlement Administrators and Class Counsel for settlement purposes only and without prior notice to you. PLEASE VERIFY THAT THE INFORMATION IS CORRECT AND MAKE CHANGES WHERE NECESSARY. Your Individual Settlement Payment will be partially based on this information.

**1. Your Contact Information**

Please review and, if necessary, correct on the line to the right your contact information:

Name: <<Name>> \_\_\_\_\_  
Address: <<Address>> \_\_\_\_\_  
City, State, Zip: <<City>>, <<State>> <<Zip Code>> \_\_\_\_\_  
Social Security Number: [INSERT ONLY IF VERIFIED] \_\_\_\_\_  
Telephone Number: [INSERT] \_\_\_\_\_  
Email Address: [INSERT] \_\_\_\_\_

**If there is no Social Security Number shown above, it is because the number provided by R&M could not be verified with the Social Security Administration. In such case, you will need to provide the Settlement Administrator with a substitute IRS Form W-9 which can be verified or your Individual Settlement Payment will be subject to backup withholding.**

**2. Information for Misclassification Subclass, if applicable.**

The personnel and payroll records of R&M show that during the Class Period (August 2, 2006 through September 1, 2008), you were employed by R&M as an exempt, salaried employee, as follows:

Dates of Employment as Exempt: <<Start Date>> - <<End Date>>  
<<Start Date>> - <<End Date>>

Number of Full Work Weeks, Rounded Up [INSERT NUMBER]

You will receive both IRS W-2 and 1099 forms with your payment.

**3. Information for Break Subclass, if applicable.**

The personnel and payroll records of R&M show that during the Class Period (August 2, 2006 through September 1, 2008), you were employed by R&M as an hourly employee, as follows:

Dates of Employment as Hourly: <<Start Date>> - <<End Date>>  
<<Start Date>> - <<End Date>>

2006 Reported Gross Wages: [INSERT NUMBER]  
2007 Reported Gross Wages: [INSERT NUMBER]

2008 Reported Gross Wages: [INSERT NUMBER]

You will receive both IRS W-2 and 1099 forms with your payment.

**ENCLOSURE B**  
**REQUEST FOR EXCLUSION FORM**

**THIS COMPLETED AND SIGNED REQUEST FOR EXCLUSION  
FORM MUST EITHER BE POSTMARKED ON OR BEFORE OR  
FAXED TO THE SETTLEMENT ADMINISTRATOR ON OR  
BEFORE **[Insert Exclusion Date]****

*Stoddard and Medina, etc. v. Equilon Enterprises, LLC, et al.*  
Orange County California Superior Court Case No. 30-2010-00395208-CU-OE-CXC

I, \_\_\_\_\_, hereby request that I be excluded from the Class  
[Print Full Name]

Action Settlement of the above lawsuit and excluded from the Settlement Class. I understand by timely submitting this completed form to Phoenix Settlement Administration, I will not receive any payment from this Settlement, will not be bound by the releases in the Settlement Agreement and may pursue my own remedies against R&M Pacific Rim, Inc. at my own expense.

My address and telephone number are, as follows:

\_\_\_\_\_  
[Print Street Address]

\_\_\_\_\_  
[Print City, State and Zip Code]

\_\_\_\_\_  
[Print Area Code and Telephone Number]

\_\_\_\_\_  
[Sign Full Name]

**MAIL OR FAX COMPLETED REQUEST FOR EXCLUSION FORM TO**

**Phoenix Settlement Administrators  
PO Box 7208, Orange, CA 92863**

**Fax Number: (249) 209-2503**

**ENCLOSURE C**  
**CLASS INFORMATION DISPUTE FORM**

I, \_\_\_\_\_, hereby dispute the following information  
[Print Full Name]  
contained in my Information Sheet and upon which my Individual Settlement Payment will be  
calculated. I enclose documentation to support my dispute.

**COMPLETE EACH APPROPRIATE SECTION.**

Employment Dates.

(Do not insert a date prior to August 2, 2006 or after September 1, 2008)

I actually commenced my employment as a salaried, exempt employee or was converted to a salaried  
exempt employee on \_\_\_\_\_.

I actually ceased my employment as a salaried, exempt employee or was converted to a non-exempt,  
hourly employee on \_\_\_\_\_.

I actually commenced my employment as a non-exempt, hourly employee on  
\_\_\_\_\_.

I actually ceased my employment as a non-exempt, hourly employee on \_\_\_\_\_.

Hourly Employee Gross Wages.

(Do not include wages paid when you were a salaried, exempt employee)

My actual Gross Wages from R&M for 2006 as a non-exempt Hourly Employee were \$ \_\_\_\_\_.

My actual Gross Wages from R&M for 2007 as a non-exempt Hourly Employee were \$ \_\_\_\_\_.

My actual Gross Wages from R&M for 2008 as a non-exempt Hourly Employee were \$ \_\_\_\_\_.

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
[Sign Full Name]

**MAIL OR FAX COMPLETED REQUEST FOR EXCLUSION FORM TO**

**Phoenix Settlement Administrators  
PO Box 7208, Orange, CA 92863**

**Fax Number: (249) 209-2503**

**ENCLOSURE D**  
**REPRESENTATIONS OF FACT BY R&M**

(See Paragraph 59 of the Amended and Restated Settlement Agreement)

A. If no Settlement Class Member requests to be excluded from this Settlement, there are 37 employees who would be included in the Settlement Misclassification Subclass, 28 of whom are also included in the Settlement Break Subclass.

B. If no Settlement Class Member requests to be excluded from this Settlement, there are 440 employees who would be included in the Settlement Break Subclass, 28 of whom are also included in the Settlement Misclassification Subclass.

C. During the Class Period, each member of the Settlement Break Subclass was compensated at the minimum hourly rate applicable during the time that member worked or at an amount not materially greater than the minimum hourly rates of \$6.75 for 2006, \$7.50 for 2007 and \$8.00 for 2008.

D. During the Class Period, each member of the Settlement Misclassification Subclass was compensated by a salary equating to approximately and not materially higher than \$12.70 per hour, calculated by taking their annual salary and dividing it by 2,080 hours.

E. Prior to September 1, 2008, R&M reclassified each member of the Settlement Misclassification Subclass as a non-exempt employee. From and after September 1, 2008, R&M paid those employees an hourly wage and overtime when they worked more than 40 hours in a work week or more than 8 hours in a workday as shown on their timecards.

F. Prior to September 1, 2008, R&M changed its rest break policy to clarify that all employees, including employees formerly claimed to be exempt employees and since reclassified as non-exempt employees, were entitled to and authorized and permitted to take duty-free, paid rest periods at the rate of no less than ten minutes net rest for every four hours worked, or major fraction thereof.

G. On or about July 5, 2008, and as a result of a California Labor Commissioner meal break audit, R&M paid approximately 370 employees for missed meal break compensation. These payments were believed by R&M to resolve all meal break claims for the Class Period. In June 2008, R&M modified its meal break policy to ensure that all non-exempt employees working more than 5 hours in a workday and not working alone were afforded an off-duty meal break, a form to report any missed or non-compliant meal breaks for which payment would be provided and continued to allow non-exempt employees working alone the option to sign an on-duty meal waiver if they wished to do so.

H. Pursuant to Equilon's contractual requirement, all Settlement Class Members were fluent in English.



## EXHIBIT 2

1 SAMUEL T. REES (State Bar No. 58099)  
THOMAS P. BLEAU (State Bar No. 152945)  
2 MARTIN R. FOX (State Bar No. 155783)  
BLEAU FOX  
3 A Professional Law Corporation  
2801 West Empire Avenue  
4 Burbank, CA 91504  
Telephone: (818) 748-3434  
5 Facsimile: (818) 748-3436  
6 Attorneys for Plaintiff  
and the Plaintiff Class  
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF ORANGE**

10  
11 RAYMOND STODDARD and SANTIAGO ) Case No. 30-2010-00395208-CU-OE-CXC  
MEDINA, etc., )  
12 ) Hon. William Claster  
Plaintiffs, ) Department CX 102  
13 )  
vs. ) CLASS ACTION  
14 )  
EQUILON ENTERPRISES, LLC, et al., ) **REVISED [PROPOSED] PRELIMINARY**  
15 ) **APPROVAL ORDER**  
R&Ms. )  
16 ) Date: July 31, 2020  
17 ) Time: 9:00 a.m.  
18 ) Dept: CX 104  
19 ) Complaint Filed: August 2, 2010  
Trial Date: None Set  
20 ) **Reservation No. 73219881**

21  
22 WHEREAS, this action is pending before this Court as a Class Action; and  
23 WHEREAS, Plaintiff Santiago Medina ("Medina") has filed an unopposed  
24 motion with this Court for an Order preliminarily approving the settlement of  
25 the Class Action entered into by and between R & M Pacific Rim, Inc., a  
26 California corporation, ("R&M") and Medina, individually and on behalf of  
27 Settlement Class Members as defined therein, in accordance with their  
28 Amended and Restated Settlement Agreement, which, together with the

1 Exhibits attached to the Amended and Restated Settlement Agreement, sets  
2 forth the terms and conditions for a proposed partial settlement of the Class  
3 Action; and the Court having read and considered the Amended and Restated  
4 Settlement Agreement and the Exhibits attached thereto;

5 NOW, THEREFORE, IT IS HEREBY ORDERED:

6 1. This Preliminary Order incorporates by reference the definitions in  
7 the Settlement Agreement, as filed with the Court with Medina's motion, and all  
8 terms defined therein shall have the same meaning as set forth in the Amended  
9 and Restated Settlement Agreement.

10 2. The Court hereby grants Medina's Motion for Preliminary Approval  
11 of Class Action Settlement and finds the terms of the Amended and Restated  
12 Settlement Agreement to be within the range of reasonableness of a settlement  
13 that ultimately could be granted approval by the Court at a Final Approval  
14 Hearing.

15 3. The Court preliminarily approves the terms of the Amended and  
16 Restated Settlement Agreement and finds that they fall within the range of  
17 approval as fair, adequate, and reasonable. The Court hereby preliminarily finds  
18 that the Settlement Agreement is the product of informal, non-collusive  
19 negotiations conducted at arms' length by the parties. The Court has considered  
20 the estimate of the Class Members' total recovery, R&M's potential liability, the  
21 allocation of settlement proceeds among Class Members, including the two  
22 subclasses, and the fact that a settlement represents a compromise of the  
23 parties' respective positions rather than the result of a finding of liability at  
24 trial. The assistance of an experienced mediator in the settlement process  
25 supports the Court's conclusion that the Settlement is non-collusive and  
26 reasonable. The Settlement is presumptively valid.

27 4. For purposes of the Settlement only, the Court finds that the  
28 proposed Settlement Class is ascertainable and that there is a sufficiently well-

1 defined community of interest among the members of the Settlement Class in  
2 questions of law and fact. Therefore, the Court preliminarily certifies as the  
3 Settlement Class, for settlement purposes only, all persons who were employed  
4 by R&M and who worked at a Shell branded station operated by R&M and  
5 owned by Equilon Enterprises, LLC at any time during the period from August  
6 2, 2006 to September 1, 2008. The Settlement Class consists of the Settlement  
7 Misclassification Subclass, consisting of all Settlement Class Members during  
8 any portion of the Class Period that they were declared by R&M as exempt  
9 employees and paid a salary. and the Settlement Break Subclass, consisting of  
10 all Settlement Class Members during any portion of the Class Period that they  
11 were non-exempt hourly wage employees.

12 5. For purposes of the Settlement only, Medina is approved as the  
13 Class Representative.

14 6. For purposes of the Settlement only, Bleau Fox, a Professional Law  
15 Corporation, is appointed and approved as Class Counsel.

16 7. The Court hereby appoints and approves Phoenix Settlement  
17 Administrators as the Settlement Administrator.

18 8. After balancing the privacy interests of the Settlement Class as  
19 asserted by R&M, the Court finds that in order for the Class Notice to be mailed  
20 to the Settlement Class at their last known address based upon R&M's  
21 employment records, that the Settlement Administrator and Class Counsel have  
22 sufficient information to locate Settlement Class members and that the  
23 Settlement Administrator and Class Counsel have sufficient information to  
24 prorate Individual Settlement payments for each subclass, it is necessary and  
25 appropriate, without prior notice to the Settlement Class, that R&M be  
26 authorized and directed to provide to the Settlement Administrator and Class  
27 Counsel the Class Information to be used solely for the purposes of settlement of  
28 this Class Action. Having so determined, the Court hereby orders R&M to so

1 provide to the Settlement Administrator and Class Counsel the Class  
2 Information to be so used.

3 9. A hearing ("Final Approval Hearing") shall be conducted before this  
4 Court on \_\_\_\_\_, 2020, at \_\_\_\_ a.m., in Department CX104, to  
5 determine whether the proposed settlement of the Class Action on the terms and  
6 conditions provided for in the Settlement Agreement is fair, reasonable and  
7 adequate, whether said settlement should be finally approved by the Court, and  
8 whether a Final Approval Order and Judgment should be entered herein.

9 10. The Court hereby approves, as to form and content, the Class Notice,  
10 Information Sheet and Request for Exclusion Form attached as Exhibit 1 to the  
11 Amended and Restated Settlement Agreement.

12 11. The Court approves the requirements for disputing the information  
13 upon which Settlement Class Members' share of the Settlement will be  
14 calculated, objecting to the Settlement, and excluding Settlement Class  
15 Members who timely and properly request to be excluded from the Settlement  
16 Class, all as provided in the Amended and Restated Settlement Agreement. The  
17 Court finds that the procedures and requirements for submitting objections in  
18 connection with the Final Approval Hearing are intended to ensure the efficient  
19 administration of justice and the orderly presentation of any Settlement Class  
20 Member's objection to the Settlement, in accordance with the due process rights  
21 of all Settlement Class Members.

22 12. The Court finds that the mailing of the Class Notice substantially in  
23 the manner and form as set forth in the Amended and Restated Settlement  
24 Agreement and this Preliminary Approval Order meets the requirements of  
25 *California Rules of Court* Rules 3.766(d) and 3.769(f), California Code of Civil  
26 Procedure section 382, California Civil Code section 1781, other applicable law,  
27 and due process, and is the best notice practicable under the circumstances, and  
28 shall constitute valid, due and sufficient notice to all Settlement Class Members.

1           13.    The Court hereby authorizes the Settlement Administrator to mail  
2 or cause to be mailed to Settlement Class Members the Class Notice, completed  
3 Information Sheet and the Request for Exclusion Form. Such documents shall  
4 be sent by First Class U.S. mail, postage prepaid. Mailing of the Class Notice  
5 shall occur within Sixty (60) days after the entry of this Preliminary Approval  
6 Order. The Class Notice, completed Information Sheet and the Request for  
7 Exclusion Form shall be mailed using the information provided by R&M in the  
8 Class Information, as updated, to the extent that Class Notices are returned  
9 undeliverable, by the Settlement Administrator as provided in the Amended and  
10 Restated Settlement Agreement. Class Counsel may provide additional updated  
11 mailing and/or emailing addresses to the Settlement Administrator. If these  
12 procedures are followed, notice to Class Members shall be deemed to have been  
13 satisfied, and if the intended recipient of the Class Notice does not receive the  
14 Class Notice, the intended recipient shall nevertheless remain a Settlement  
15 Class Member and shall be bound by all terms of the Settlement Agreement and  
16 this Preliminary Approval Order. The Settlement Administrator shall provide  
17 periodic reports to Class Counsel and Defense Counsel.

18           14.    Before Class Notices are mailed, the Settlement Administrator shall  
19 compile a list of all Settlement Class Members' social security numbers provided  
20 by R&M in the Class Information and send those names and social security  
21 numbers to the Social Security Administration for verification. Upon receipt of a  
22 report from the Social Security Administration with any Class Member names  
23 that do not match the social security number provided by R&M, commonly called  
24 "TIN matching," the Settlement Administrator shall then either obtain a  
25 substitute IRS Form W-9 from that Settlement Class Member or, if a properly  
26 completed IRS Form W-9 is not obtained, utilize backup withholding on their  
27 Individual Settlement Payments.

28

1 15. Prior to forty-six days following the entry of this Preliminary  
2 Approval Order, Class Counsel shall serve and file its application for a Class  
3 Counsel Award and litigation costs and expenses as well as any application for a  
4 Service Award.

5 16. Five days prior to the Final Approval Hearing, Class Counsel shall  
6 serve and file the declaration of the Settlement Administrator containing the  
7 information required by the Amended and Restated Settlement Agreement.

8 17. The Court reserves the right to adjourn or continue the date of the  
9 Final Approval Hearing without further notice to Class Members, and retains  
10 jurisdiction to consider all further applications or motions arising out of or  
11 connected with the proposed settlement.

12 IT IS SO ORDERED.

13 Dated: \_\_\_\_\_, 2020 \_\_\_\_\_

14 William D. Cluster  
15 Judge of the Superior Court

16 APPROVED AS TO FORM AND CONTENT.

17 Dated: July 21, 2020

18 BLEAU FOX  
19 A Professional Law Corporation

20 By:  /s/ Samuel T. Rees  
21 SAMUEL T. REES

22 Attorneys for Plaintiff and the Plaintiff Class

23 Dated: July 21, 2020

24 KRING & CHUNG LLP

25 By:  /s/ Allyson K. Thompson  
26 ALLYSON K. THOMPSON

27 Attorneys for R&M PACIFIC RIM, INC.  
28

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to  
3 the within action; my business address is 580 West Empire Avenue, Burbank, California 91504.

4 On July 21, 2020, I served the foregoing document(s) described as **REVISED [PROPOSED]**  
5 **PRELIMINARY APPROVAL ORDER** on the interested parties to this action who are listed on the  
6 attached Service List by electronically serving those persons at the electronic addresses noted therein.

6  **STATE:** I declare under penalty of perjury under the laws of the State of California that the foregoing  
7 is true and correct.

7  **FEDERAL:** I declare under penalty of perjury under the laws of the United States of America that the  
8 foregoing is true and correct of my own personal knowledge, and that I am employed in the office of a  
9 member of the Bar of this Court at whose discretion this service was made.

9 Executed on July 21, 2020, at Burbank, California.

10 \_\_\_\_\_  
11 /s/ Nathan Childress

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Nathan Childress



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**SERVICE LIST**

Raymond A. Cardozo, Esq.  
Reed Smith, LLP  
355 South Grand Avenue  
Suite 2900  
Los Angeles, CA 90071-3048  
[RCardozo@reedsmith.com](mailto:RCardozo@reedsmith.com)

Allyson K. Thompson  
Attorney at Law  
Kring & Chung, LLP  
38 Corporate Park  
Irvine, CA 92606  
[athompson@kringandchung.com](mailto:athompson@kringandchung.com)

# EXHIBIT D

1 SAMUEL T. REES (State Bar No. 58099)  
THOMAS P. BLEAU (State Bar No. 152945)  
2 MARTIN R. FOX (State Bar No. 155783)  
BLEAU FOX  
3 A Professional Law Corporation  
2801 West Empire Avenue  
4 Burbank, CA 91504  
Telephone: (818) 748-3434  
5 Facsimile: (818) 748-3436  
6 Attorneys for Plaintiff  
and the Plaintiff Class  
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF ORANGE  
10

11 RAYMOND STODDARD and SANTIAGO ) Case No. 30-2010-00395208-CU-OE-CXC  
MEDINA, etc., )  
12 ) Hon. William Claster  
Plaintiffs, ) Department CX 102  
13 )  
vs. ) CLASS ACTION  
14 )  
EQUILON ENTERPRISES, LLC, et al., ) **AMENDED AND RESTATED**  
15 ) **SETTLEMENT AGREEMENT WITH**  
R&Ms. ) **EXHIBITS**  
16 )  
Date: July 31, 2020  
17 ) Time: 8:30 a.m.  
Dept: CX104  
18 )  
Complaint Filed: August 2, 2010  
19 ) Trial Date: None Set  
20

21 **AMENDED AND RESTATED SETTLEMENT AGREEMENT**

22 This Amended and Restated Settlement Agreement (hereinafter the  
23 "Settlement Agreement") is made and entered into by and between R & M  
24 PACIFIC RIM, INC., a California corporation, ("R&M"), on the one hand, and  
25 SANTIAGO MEDINA ("Medina"), individually and on behalf of Settlement Class  
26 Members as hereinafter defined, on the other hand, subject to preliminary and  
27 final approval of the Court as hereinafter defined. This Settlement Agreement  
28 supersedes and replaces the Settlement Agreement dated December 2019.

1 **DEFINITIONS**

2 As used herein, the following terms shall have the following meanings:

3 1. **“Administration Costs”** means all fees and costs incurred and  
4 charged by the Settlement Administrator in connection with the processing and  
5 administration of this Settlement Agreement, including, but not limited to:  
6 (i) printing and mailing, emailing and re-mailing (if necessary) Class Notice, tax  
7 forms and other necessary documents to Class Members; (ii) attempting to locate  
8 Class Members whose Class Notice is returned undeliverable; (iii) computing the  
9 amount of and distributing Individual Settlement Awards Payments, Class  
10 Counsel Award and Service Award; ~~(iv) processing and validating Claim Forms;~~  
11 ~~(v)~~ establishing and operating a toll free telephone number and website address  
12 to receive and respond to Class Members’ updated information and inquiries  
13 about the settlement ~~and to submit Claim Forms~~; and ~~(vi)~~ establishing a  
14 Qualified Settlement Fund, as defined by the Internal Revenue Code, calculating  
15 and remitting employer and employee payroll tax obligations and (vi) preparing  
16 and submitting filings required by law in connection with Settlement Awards  
17 and payments to the Representative Plaintiff Medina on his individual, non-class  
18 claims.

19 ~~2. **“Claim Form”** means the Proof of Claim substantially in the form of~~  
20 ~~Exhibit 2 hereto.~~

21 ~~3.2.~~ **“Class Action”** means the civil action styled *Raymond Stoddard*  
22 *and Santiago Medina, etc. v. Equilon Enterprises, LLC etc. et al.*, Orange County  
23 California Superior Court Case No. 30-2010-00395208-CU-OE-CXC.

24 ~~4.3.~~ **“Class Counsel”** means Bleau Fox, A Professional Law Corporation,  
25 including Samuel T. Rees, Of Counsel.

26 ~~5.4.~~ **“Class Counsel Award”** means (i) the attorneys’ fees for Class  
27 Counsel’s litigation and resolution of the Class Action, and all claims resolved by  
28 this Settlement, as awarded by the Court, which may not exceed one third (1/3)

1 of the Total Settlement Amount and (ii) all actual expenses and costs incurred to  
2 date by Class Counsel in litigation and resolution of the Class Action, ~~and all~~  
3 ~~claims resolved by this Settlement,~~ as supported by declaration ~~and~~ including  
4 billing records and as awarded by the Court. The Court shall determine the  
5 amount of the Class Counsel Award and it shall be paid from the Total  
6 Settlement Amount.

7 ~~6.5.~~ **“Class Information”** means information regarding Settlement  
8 Class Members that R&M will in good faith compile from its records and provide  
9 to the Settlement Administrator and Class Counsel<sup>1</sup>. Class Information shall be  
10 provided in a Microsoft Excel spreadsheet and shall include, if possible, for each  
11 Settlement Class Member: full name, last known address, social security  
12 number, last known email address, last known telephone number, the number of  
13 work weeks during the Class Period that the Settlement Class Member was  
14 employed as a claimed exempt salaried employee, the gross wages paid to a non-  
15 exempt hourly Settlement Class Member for 2006, 2007 and 2008, and the dates  
16 of employment as a non-exempt hourly Settlement Class Member whose  
17 employment as a non-exempt hourly employee commenced after December 31,  
18 2005 and/or ceased before January 1, 2009. The foregoing information shall be  
19 derived using R&M’s payroll data. Because Settlement Class Members’ private  
20 information is included in the Class Information, Class Counsel and the  
21 Settlement Administrator shall maintain the Class Information in confidence  
22 and shall use and disclose Class Information only for purposes of this Settlement  
23 and for no other purpose; access shall be limited to the Settlement  
24 Administrator's and Class Counsel’s personnel with a need to use the Class  
25 Information as part of the administration of the Settlement, and transmission  
26 shall be through use of a secure, password-protected file.

27 <sup>1</sup> Defense Counsel has raised, and continues to raise, R&M’s concerns about protecting the privacy  
28 rights of its employees. R&M agrees to release such information to Class Counsel only after entry of an  
appropriate Court order instructing and authorizing it to do so. This provision, and any provision related  
to the Class Information, is expressly contingent upon entry of such an order.

1           7.6. **“Class Notice”** means the notice of class action settlement,  
2 including the Information Sheet[Enclosure A], Request for Exclusion Form  
3 [Enclosure B], a Dispute Form [Enclosure C] and a copy of R&M’s  
4 representations of facts [Enclosure D] to be used to challenge the information  
5 contained in the Information Sheet on which the Individual Settlement Payment  
6 shall be calculated [Enclosure C], to be provided to Settlement Class Members,  
7 without material variation from Exhibit 1.– The Class Notice shall be printed  
8 using Times New Roman 12 point typeface.

9           8.7. **“Class Period”** means August 2, 2006 through and including  
10 September 1, 2008.

11           9.8. **“Court”** means Orange County Superior Court.

12           10.9. **“Defense Counsel”** means Kring & Chung, LLP.

13           11.10. **“Effective Date”** means seven (7) days after which both of  
14 the following events have occurred: (i) the Court’s Final Approval order has been  
15 entered and (ii) the Court’s Final Approval order and Judgment have become  
16 Final.

17           12.11. **“Exclusion/Written Objection Deadline”** means the final  
18 date by which a Settlement Class Member may either (i) submit a written  
19 objection to any aspect of the Settlement, or (ii) request to be excluded from the  
20 Settlement. The Exclusion/Written Objection Deadline shall be sixty (60) days  
21 after the Notice Date, and shall be specifically identified and set forth in the  
22 ~~Preliminary Approval Order and the~~ Class Notice.

23           13.12. **“Final Approval”** means the Court’s entry of a Final  
24 Approval order finally approving this Settlement.

25           14.13. **“Final Approval Hearing”** means the hearing at or after  
26 which the Court will make a final decision as to whether the Settlement is fair,  
27 reasonable, and adequate, and therefore, finally approved by the Court.  
28

1           ~~15.~~14. \_\_\_\_\_ “**Individual Settlement Payment**” means the amount  
2 payable from the Total Settlement Amount to each ~~Responding~~ Settlement Class  
3 Member who does not submit a valid request for exclusion from the Settlement.  
4 The Individual Settlement Payment shall be calculated pursuant to Paragraph  
5 ~~8079~~.

6           ~~16.~~15. \_\_\_\_\_ “**Judgment**” means the judgment to be entered in the Class  
7 Action on Final Approval of this Settlement.

8           ~~17.~~16. \_\_\_\_\_ “**Legally Authorized Representatives**” means an  
9 administrator/administratrix, personal representative, or executor/executrix of a  
10 deceased Settlement Class Member’s estate; a guardian, conservator, or next  
11 friend of an incapacitated Settlement Class Member; or any other legally  
12 appointed person responsible for handling the business affairs of a Settlement  
13 Class Member.

14           ~~18.~~ \_\_\_\_\_ “**Named Plaintiff’s General Released Claims**” means, in  
15 addition to Settlement Class Members’ Released Claims, ~~the following two~~  
16 ~~categories of claims and causes of action:~~

17           ~~17.~~ \_\_\_\_\_ (i) ~~Anyany~~ and all past, present, and future claims and  
18 causes of action, whether known or unknown and without limitation as to when  
19 those claims or causes of action arose but solely against R&M and against its  
20 past, present parents, owners, subsidiaries, predecessors and successors, and  
21 each of their respective officers, directors, partners, shareholders, agents, and  
22 employees but related solely to actions taken by them while acting in those  
23 capacities but excluding (i) any and all claims and causes of against Equilon  
24 Enterprises, LLC, its parent and affiliates, including Equistaff, LLC, and Tesoro  
25 Refining & Marketing Company LLC and its parents and affiliates and (ii)  
26 excluding Medina’s wrongful termination claim and cause of action against R&M  
27 as alleged in the Fifth Cause of Action of the Second Amended Complaint filed in  
28

1 the Class Action, which claim is being settled pursuant to a separate settlement  
2 agreement between R&M and Medina; ~~and.~~

3 ~~—— (ii) Any and all past, present, and future claims and causes of~~  
4 ~~action, whether known or unknown, but arising during the Class Period~~  
5 ~~and against any person or entity.~~

6 ~~19.18.~~        “**Notice Date**” means the date of the initial mailing of the  
7 Class Notice to Settlement Class Members, as set forth in Paragraph ~~8988~~.

8 ~~20.19.~~        “**Opt Out List**” means the Court-approved list of all persons  
9 who timely and properly request exclusion from the Settlement Class.

10 ~~21.20.~~        “**Plan of Allocation**” means the plan for allocating the Total  
11 Settlement Amount between and among ~~Responding~~ Settlement Class Members  
12 as approved by the Court.

13 ~~22.21.~~        “**Preliminary Approval Date**” means the date that the  
14 Court enters the Preliminary Approval Order and thus: (i) preliminarily  
15 approves the Settlement, including the exhibits thereto, and (ii) enters an order  
16 providing for notice to the Settlement Class, an opportunity to opt out of the  
17 Settlement Class, an opportunity to submit timely and proper objections to the  
18 Settlement, and setting a hearing on the fairness of the terms of Settlement,  
19 including approval of the Class Counsel Award ~~and Service Award~~.

20 ~~23.22.~~        “**Preliminary Approval Order**” means the order that  
21 Medina and R&M will seek from the Court, without material variation from  
22 Exhibit ~~32~~. Entry of the Preliminary Approval Order shall constitute  
23 preliminary approval of the Settlement Agreement.

24 ~~24.23.~~        “**R&M**” means R&M Pacific Rim, Inc.

25 ~~25.24.~~        “**Released Claims**” means (i) Settlement Class Members’  
26 Released Claims and (ii) Named Plaintiff’s General Released Claims.

27  
28



1           ~~26.~~ **“Responding Settlement Class Member”** means any Settlement  
2 ~~Class Member who timely returns a Claim Form to the Settlement~~  
3 ~~Administrator, pursuant to Paragraph 91.~~

4           ~~27-25.~~ **“Service Award”** means the amount approved by the Court in  
5 its discretion to be paid to Medina, in addition to his respective Individual  
6 Settlement Payment, in recognition of his efforts in coming forward as named  
7 plaintiff and as consideration for a full, general, and comprehensive release of  
8 the Named Plaintiff’s General Released Claims. Medina intends to seek a  
9 Service Award of Five Thousand Dollars (\$5,000) and R&M shall not object to a  
10 Service Award of Five Thousand Dollars (\$5,000) or less. The Service Award  
11 shall be paid from the Total Settlement Amount.

12           ~~28-26.~~ **“Settlement”** means the settlement of the Class Action  
13 between and among Medina and R&M, as set forth in this Settlement  
14 Agreement.

15           ~~29-27.~~ **“Settlement Administrator”** means Phoenix Settlement  
16 Administrators.

17           ~~30-28.~~ **“Settlement Administrator Expenses”** means the amount  
18 to be paid to the Settlement Administrator exclusively from the Total Settlement  
19 Amount, including the total costs, expenses, and fees of the Settlement  
20 Administrator. The amount is not to exceed \$15,000.

21           ~~31-29.~~ **“Settlement Class”** means all persons who were employed by  
22 R&M and who worked at a Shell branded station operated by R&M and owned  
23 by Equilon Enterprises, LLC at any time during the period from August 2, 2006  
24 to September 1, 2008. The Settlement Class consists of the Settlement  
25 Misclassification Subclass and the Settlement ~~Rest-Break~~ Subclass.

26           ~~32-30.~~ **“Settlement Class Member”** means any member of the  
27 Settlement Class. A Settlement Class Member may be part of the Settlement  
28 Misclassification Subclass or the Settlement ~~Rest-Break~~ Subclass or both.

1 However, a Settlement Class Member may not be a part the Settlement ~~Rest~~  
2 Break Subclass for any given work week during the Class Period that the  
3 Settlement Class Member is a part of the Settlement Misclassification Subclass.  
4 Settlement Class Member includes ~~the~~his or her Legally Authorized  
5 Representatives.

6 ~~33.~~31. **"Settlement Misclassification Subclass"** means all  
7 Settlement Class Members during any portion of the Class Period that they  
8 were declared by R&M as exempt employees and paid a salary.

9 ~~34.~~32. **"Settlement ~~Rest~~ Break Subclass"** means all Settlement  
10 Class Members during any portion of the Class Period that they were non-  
11 exempt hourly wage employees.

12 ~~35.~~33. **"Settlement Class Members' Released Claims"** means any  
13 and all ~~past and present claims, actions, demands, causes of action, suits, debts,~~  
14 ~~obligations, damages, rights or liabilities, of any nature and description~~  
15 ~~whatsoever, known or unknown, but arising during the Class Period and for~~  
16 ~~claims arising during the Class Period for compensatory, consequential, punitive~~  
17 ~~or exemplary damages, statutory damages, declaratory relief, injunctive relief,~~  
18 ~~equitable relief, penalties, interest, attorneys' fees, costs and/or disbursements,~~  
19 ~~including, but not limited to, those incurred by Class Counsel or any other~~  
20 ~~counsel representing Medina or any Settlement Class Members (other than~~  
21 ~~those expressly awarded by the Court in the Class Counsel Award authorized by~~  
22 ~~this Agreement), that arose during the Class Period and from or are reasonably~~  
23 ~~based on or related to R&M's alleged failure to classify Settlement Class~~  
24 ~~Members as non-exempt employees and compensate those employees overtime~~  
25 ~~and/or R&M's alleged failure to provide the Settlement Class Members with off-~~  
26 ~~duty rest breaks or compensate them for missed off-duty rest breaks, and~~  
27 ~~specifically includes the following claims arising solely during the Class Period~~  
28 ~~and from, based on or reasonably relating to, claims asserted or alleged in the~~

1 ~~Class Action: claims for unpaid wages (including without limitation claims for~~  
2 ~~overtime and meal period and rest period premiums), liquidated damages,~~  
3 ~~expense reimbursements, interest, penalties (including waiting time penalties~~  
4 ~~pursuant to Labor Code Section 203, wage statement penalties pursuant to~~  
5 ~~Labor Code Section 226, restitution, and civil and statutory penalties), claims~~  
6 ~~under Business and Professions Code Section 17200, et seq., claims under the~~  
7 ~~federal Fair Labor Standards Act, claims for attorneys' fees and costs, and~~  
8 ~~claims for unfair business practices. "Settlement Class Members' Released~~  
9 ~~Claims" do not include claims that, as a matter of law, cannot be released and do~~  
10 ~~not include claims for retaliation, discrimination, wrongful termination, or~~  
11 ~~individual claims filed with the appropriate agency for the recovery of workers'~~  
12 ~~compensation benefits. "Settlement Class Members' Released Claims" do not~~  
13 ~~include claims, actions, demands, causes of action, suits, debts, obligations,~~  
14 ~~damages, rights or liabilities, of any nature and description whatsoever, known~~  
15 ~~or unknown, existing or potential, recognized now or hereafter, expected or~~  
16 ~~unexpected, pursuant to any theory of recovery and arising before or after the~~  
17 ~~Class Period including those against Equilon Enterprises, LLC, its parent and~~  
18 ~~affiliates, including Equistaff, LLC, and Tesoro Refining & Marketing Company~~  
19 ~~LLC and its parents and affiliates. claims alleged in the Second Amended~~  
20 ~~Complaint, or that could have been alleged in the Second Amended Complaint~~  
21 ~~based on the facts alleged therein, including claims for non-payment of overtime,~~  
22 ~~missed meal and rest break compensation, interest thereon, attorneys' fees and~~  
23 ~~expenses and costs of suit.~~

24       ~~36.34.~~ **"Total Settlement Amount"** means Eight Hundred Forty-  
25 Five Thousand Dollars (\$845,000.00) for payment of all claims, which is the  
26 maximum amount that R&M is obligated to pay under this Settlement  
27 Agreement under any circumstances in order to resolve and settle the Class  
28 Action, subject to Court approval. The Total Settlement Amount includes all

1 costs and fees, including, but not limited to, the Class Counsel Award,  
2 Settlement Administrator Expenses, escrow costs and expenses, Service Award,  
3 and interest but does not include R&M's share of payroll taxes allocable to any  
4 portion of the Total Settlement Amount allocated to wages.

5 ~~37.35.~~ 35. “Void Date” means the date by which any checks issued to  
6 ~~Responding~~ Settlement Class Members shall become void, *i.e.* on the 181st day  
7 after each check’s mailing.

8 36. “Work Week” means Monday through Sunday.

9 **RECITALS**

10 ~~38.37.~~ 37. At all relevant times, Medina was and is a resident of Orange  
11 County, California. Medina was employed by R&M in approximately October  
12 2005 and remained so employed until December 26, 2008.

13 ~~39.38.~~ 38. At all relevant times, R&M was and is a California corporation  
14 with its principal place of business in Orange County, California.

15 ~~40.39.~~ 39. Defendant Equilon Enterprises, LLC (“Equilon”) is a Delaware  
16 limited liability company with its principal place of business in Houston, Texas.  
17 At all relevant times, Equilon has operated under the fictitious business name of  
18 Shell Oil Products US and is qualified to do business and doing business in  
19 California and in Orange County. At all relevant times, Equilon was in the  
20 business of owning service stations and selling motor fuel to the consuming  
21 public.

22 ~~41.40.~~ 40. Effective on February 1, 2005, Equilon and R&M entered into  
23 their first Multi-Site Operator (“MSO”) lease and contract for a cluster of 21  
24 stations all of which were located in Orange County, California. Pursuant to  
25 these agreements, R&M agreed to lease the convenience stores and car washes  
26 at these stations for its own benefit and agreed to operate all other aspects of  
27 those service stations for the benefit of Equilon. These agreements were  
28 extended through the Class Period. R&M's sole business during the Class

1 Period was to lease convenience stores and car washes from Equilon and to  
2 operate Equilon's service stations.

3 42.41. Pursuant to those agreements, Equilon required that all  
4 stations which R&M leased and operated for Equilon be open 24/7/365 unless  
5 closure was required by law. R&M complied with these requirements at all  
6 times during the Class Period.

7 43.42. At all times during his employment, Medina worked at these  
8 Equilon owned and R&M operated stations, first as a cashier and later as a  
9 manager. Upon being promoted to the position of manager, Medina alleges that  
10 R&M declared Medina to be an exempt employee, paid him a salary and did not  
11 pay him overtime. Prior to September 1, 2008, R&M reclassified Medina as a  
12 non-exempt employee and thereafter paid him an hourly wage. At all times  
13 during the Class Period, Medina alleges that he was forbidden by R&M from  
14 closing the station at which he worked in order to take an off-duty rest break  
15 and that he received no compensation for any missed rest break during the Class  
16 Period.

17 44.43. On May 20, 2005, Debbie Jo Wales commenced an action in  
18 the Los Angeles County California Superior Court against Shell Oil Company;  
19 Equilon and C6 Resources LLC, among others, as a class and representative  
20 action. The action was denominated *Wales v. Shell Oil Company, et al.*, Case  
21 No. BC 333 740 (the "Wales Action"). Class Counsel represented plaintiffs in the  
22 Wales Action; and at all times Samuel T. Rees, "Of Counsel" to Class Counsel,  
23 was the lead attorney for plaintiffs in the Wales Action.

24 45.44. Among other claims in the Wales Action, plaintiffs therein  
25 asserted that managers of Equilon-owned and third-party-operated California  
26 service stations were misclassified and were improperly denied overtime pay  
27 and that all such employees were denied off-duty rest breaks and compensation  
28 for missed rest breaks. Plaintiffs therein also alleged that Equilon was the

1 "joint employer" of those employees and liable for their wage claims. Medina  
2 and Raymond Stoddard ("Stoddard") were putative class members in the Wales  
3 Action.

4 ~~46.45.~~ On August 2, 2010, Medina and Stoddard commenced the  
5 Class Action.

6 ~~47.46.~~ On October 15, 2010, the Court stayed the Class Action  
7 because of the pendency of the Wales Action. This stay remained in effect until  
8 August 13, 2018.

9 ~~48.47.~~ While the stay in the Class Action was in effect, Stoddard died  
10 and is no longer a party plaintiff in the Class Action.

11 ~~49.48.~~ While the stay in the Class Action was in effect, substantial  
12 discovery was undertaken in the Wales Action. This discovery included the  
13 depositions of Medina, Stoddard, and Seung Il Kim as well as document  
14 production and other information from R&M.

15 ~~50.49.~~ Following the lifting of the stay in the Class Action, R&M and  
16 Medina decided to participate in a voluntary private mediation of the claims  
17 against R&M in the Class Action. After careful research and consideration, the  
18 parties selected the Honorable Carl J. West (Ret~~-~~) of JAMS to be the mediator.  
19 Judge West is a well-respected retired Superior Court Judge with extensive  
20 experience in trying, arbitrating and mediating wage and hour class action  
21 disputes such as those alleged by Medina in the Class Action. Mediation was  
22 scheduled for January 3, 2019 ~~to last~~ and lasted the entire day. While Medina  
23 and R&M did not reach a settlement at the mediation hearing, Judge West  
24 remained involved in the mediation process; and, as a result, a settlement in  
25 principal was reached between those parties on January 15, 2019. The  
26 settlement in principal is the result of an informed and detailed evaluation of  
27 the total exposure and potential liability, in relation to the costs and risks  
28 associated with continued litigation of the Class Action. The settlement in

1 principle is subject to and expressly conditioned upon the Parties entering into  
2 this Settlement Agreement and the Court in the Class Action both preliminarily  
3 and finally approving the Settlement.

4 ~~51.50.~~        The settlement in principal reached as a result of the  
5 mediation does not resolve all claims in the Class Action. In addition to  
6 asserting claims against R&M, Medina has also asserted claims against Equilon  
7 claiming that it is the joint employer of employees working at the Equilon-owned  
8 service stations including those managed by R&M.

9 ~~52.51.~~        The Settlement, if finally approved and Judgment is entered,  
10 (i) will resolve all claims of the Settlement Class Members, who do not timely  
11 request to be excluded from the Settlement, against Equilon but only for claims  
12 ~~arising during the Class Period and regardless of whether the Settlement Class~~  
13 ~~Member is also a Responding Settlement Class Member~~ and (ii) will resolve all  
14 claims of the Settlement Class Members, who do not timely request to be  
15 excluded from the Settlement, against R&M for ~~claims related to their~~  
16 ~~employment by R&M regardless of whether the Settlement Class Member is also~~  
17 ~~a Responding Settlement Class Member~~ all claims alleged in the Second  
18 Amended Complaint, or that could have been alleged in the Second Amended  
19 Complaint based on the facts alleged therein.

20 ~~53.52.~~        The Settlement, if finally approved and Judgment is entered,  
21 will not resolve (i) claims that arose prior to or after the Class Period,  
22 ~~including (ii) claims against Equilon, or (iii) claims that are not related to alleged~~  
23 ~~in the Settlement Class Member's employment by R&M or Second Amended~~  
24 ~~Complaint and could not have been alleged in the Second Amended Complaint~~  
25 ~~based on the facts alleged therein, (iv) claims~~ that, as a matter of law cannot be  
26 released ~~or, (v) claims for retaliation, discrimination, or~~ wrongful termination, or  
27 (vi) individual claims filed with the appropriate agency for the recovery of  
28 workers' compensation benefits.

1           ~~54.53.~~ \_\_\_\_\_ Equilon has been granted summary judgment as to all claims  
2 asserted against it in the Class Action on the grounds that based upon the  
3 undisputed facts it is not the joint employer of any employee working at its  
4 California owned and third-party-operated service stations. Medina ~~intends to~~  
5 ~~appeal~~ has appealed this Summary Judgment which ~~will be commenced prior to~~  
6 ~~the mailing of the Class Notice~~ appeal is currently pending.

7           ~~55.54.~~ \_\_\_\_\_ In addition to the class claims asserted in the Class Action,  
8 ~~Plaintiff Medina~~ has also asserted a claim for wrongful termination against  
9 R&M. As a result of the mediation, this claim has also been tentatively settled  
10 which settlement is conditioned upon the Court entering the Judgment on Final  
11 Approval of this Settlement. If approved, Medina will receive Five Thousand  
12 Dollars (\$5,000) in settlement of this claim.

13           ~~56.55.~~ \_\_\_\_\_ On March 25, 2019, ~~Plaintiff Medina~~ filed his Second Amended  
14 Complaint in the Class Action. This is the operative and most recent complaint  
15 ~~by Plaintiff~~ filed in the Class Action. Among other changes, the Second Amended  
16 Complaint removed Stoddard as a named plaintiff.

17           ~~57.56.~~ \_\_\_\_\_ R&M has denied and continues to deny each and all of the  
18 claims and allegations made in the Class Action, including those in each  
19 pleading filed by ~~the Plaintiff Medina or Stoddard~~ in the Class Action, and  
20 further denies that it has committed any illegal, unlawful, unfair, fraudulent  
21 and/or wrongful act, omission, or practice for which it owes any wages,  
22 compensation, penalties, restitution, interest, fees, costs or other payments  
23 whatsoever, including those alleged in the Class Action. R&M also has asserted  
24 a number of affirmative defenses in the Class Action which it believes are  
25 meritorious. R&M also denies, and continues to deny, *inter alia*, the allegations  
26 that the Settlement Class Members have suffered damage. Without limiting the  
27 foregoing, R&M contends that the Settlement Class Members were properly and  
28 timely paid all wages owed, including without limitation, all straight time,



1 overtime pay, and double time pay and were provided meal and rest periods as  
2 required under California law.

3 ~~58-57.~~        In reaching the settlement in principal, Medina has recognized  
4 the expense and length of proceedings necessary to continue the Class Action  
5 against R&M through discovery, trial and any possible appeals. Medina also  
6 has taken into account the uncertainty and risk of the outcome of further  
7 litigation, and the difficulties and delays inherent in such litigation. Medina  
8 also is aware of the burdens of proof necessary to establish class certification,  
9 liability, R&M's defenses thereto, and the difficulties in establishing damages,  
10 restitution and other requested relief for himself and all Class Members. Based  
11 on the foregoing, Medina and Class Counsel have determined that the  
12 Settlement Agreement is a fair, adequate and reasonable settlement, and that it  
13 is in the best interests of all Settlement Class Members. In that regard, the  
14 Parties agree that Judge West, at his sole discretion, may execute a declaration  
15 supporting the settlement and the reasonableness of it, and the Court, in its  
16 discretion, may contact Judge West *ex parte* to discuss the settlement and  
17 whether it is fair and reasonable.

18 ~~59-58.~~        R&M has concluded that any further defense of the Class  
19 Action would be protracted and expensive. Substantial amounts of time, energy  
20 and resources of R&M have been devoted and, unless this Settlement is made  
21 and approved, will continue to be devoted to the defense of the claims asserted in  
22 the Class Action. R&M has also taken into account the uncertainty and risks  
23 inherent in litigation, particularly complex litigation such as the Class Action.  
24 Based on the foregoing, R&M has concluded that it is desirable and beneficial  
25 that the Class Action be fully and finally settled in the manner and upon the  
26 terms and conditions set forth in this Settlement Agreement. R&M, therefore,  
27 has agreed to settle in the manner and upon the terms set forth in this  
28 Settlement Agreement in order to put to rest the claims as set forth in the Class

1 Action. At the same time, R&M continues to deny each of the claims,  
2 allegations, and contentions asserted in the Class Action and denies that  
3 certification of any class is or was appropriate (other than for purposes of this  
4 Settlement only). R&M has repeatedly asserted and continues to assert  
5 defenses thereto, and has expressly denied and continues to deny any  
6 wrongdoing or legal liability arising out of any of the facts or conduct alleged in  
7 the Class Action.

8 **NOW, THEREFORE, IT IS HEREBY AGREED, BY AND BETWEEN**  
9 the undersigned, that the Class Action shall be settled, subject to preliminary  
10 and final approval of the Court, upon and pursuant to the following terms and  
11 conditions:

12 **REPRESENTATIONS BY R&M.**

13 ~~60-59.~~ R&M During the course of the mediation, R&M made certain  
14 factual representations to Medina to induce Medina to settle the Class Action.  
15 R&M now represents to the Settlement Class Members, and to no other person,  
16 that the following facts are true and that, solely for the purpose of deciding  
17 whether or not to object to the Settlement or request to be excluded from the  
18 Settlement, each Settlement Class Member may rely on these facts- and verify  
19 that they are true as to that Settlement Class Member based on his or her own  
20 knowledge. The representations shall expire on the Effective Date and shall not  
21 be relied upon for any purpose thereafter. The representations should not be  
22 relied upon by any person, at any time, other than for the limited purposes  
23 explicitly set forth in this paragraph.

24 A. If no Settlement Class Member requests to be excluded from  
25 this Settlement, there are 37 employees who would be included in the  
26 Settlement Misclassification Subclass, 28 of whom are also included in the  
27 Settlement ~~Rest~~-Break Subclass.

28

1 B. If no Settlement Class Member requests to be excluded from  
2 this Settlement, there are 440 employees who would be included in the  
3 Settlement ~~Rest~~-Break Subclass, 28 of whom are also included in the Settlement  
4 Misclassification Subclass.

5 C. During the Class Period, each member of the Settlement ~~Rest~~  
6 Break Subclass was compensated at the minimum hourly rate applicable during  
7 the time that member worked or at an amount not materially greater than the  
8 minimum hourly rates of \$6.75 for 2006, \$7.50 for 2007 and \$8.00 for 2008.

9 D. During the Class Period, each member of the Settlement  
10 Misclassification Subclass ~~were~~was compensated by a salary equating to  
11 approximately and not materially higher than \$12.70 per hour, calculated by  
12 taking their annual salary and dividing it by 2,080 hours.

13 E. Prior to September 1, 2008, R&M reclassified each  
14 ~~members~~member of the Settlement Misclassification Subclass as a non-exempt  
15 employee. From and after September 1, 2008, R&M paid those employees an  
16 hourly wage and overtime when they worked more than 40 hours in a work week  
17 or more than 8 hours in a workday as shown on their timecards.

18 F. Prior to September 1, 2008, R&M changed its rest break policy  
19 to clarify that all employees, including employees formerly claimed to be exempt  
20 employees and since reclassified as non-exempt employees, were entitled to and  
21 provided with duty-free, paid rest periods at the rate of no less than ten minutes  
22 net rest for every four hours worked, or major fraction thereof.

23 G. On or about July 5, 2008 and as a result of a California Labor  
24 Commissioner meal break audit, R&M paid approximately 370 employees a total  
25 of \$122,721.88 for missed meal break compensation. These payments were  
26 believed by R&M to resolve all meal break claims for the Class Period. In June  
27 2008, R&M modified its meal break policy to ensure that all non-exempt  
28 employees working more than 5 hours in a workday and not working alone were

1 afforded a off-duty meal break, a form to report any missed or non-compliant  
2 meal breaks for which payment would be provided and continued to allow non-  
3 exempt employees working alone the option to sign an on-duty meal waiver if  
4 they wished to do so.

5 ~~61.—Neither Medina nor Class Counsel has verified the truth of the~~  
6 ~~foregoing representations; and, as a result, neither makes any representation as~~  
7 ~~to the truth of the foregoing representations.~~

8 H. Pursuant to Equilon’s contractual requirement, all Settlement  
9 Class Members were fluent in English.

10 60. Medina has determined that the compensation representations are  
11 true as to himself and as to the non-exempt employees working at the stations  
12 that Medina managed, that he was reclassified as a non-exempt employee in or  
13 about September 2008, that he and non-exempt employees working at the  
14 stations that he managed received certain missed meal break compensation in  
15 2008 and that R&M changed its rest break and meal break policies in or around  
16 September 2008 to allow all employees to either receive off-duty meal and rest  
17 breaks or compensation for missed breaks. With these exceptions, neither  
18 Medina nor Class Counsel has verified the truth of the foregoing representations  
19 but recognize that each Settlement Class Member will be able to determine  
20 whether any represented fact is materially untrue as to himself or herself in  
21 making a decision as to whether to request to be excluded from the Settlement.

22 **SUBMISSION OF THE SETTLEMENT AGREEMENT TO THE COURT**  
23 **FOR PRELIMINARY AND FINAL APPROVAL**

24 ~~62.61.~~ Upon execution of this Settlement Agreement, Medina shall  
25 submit to the Court a motion for preliminary approval of the Settlement. The  
26 motion for preliminary approval shall include a proposed plan for sending of the  
27 Class Notice to Settlement Class Members within sixty (60) days after the  
28 Preliminary Approval Date ~~(with the Notice Date),~~ being the date of mailing of

1 the Class Notice, and establishing a period of sixty (60) days from the Notice  
2 Date within which any Settlement Class Member may (i) request exclusion from  
3 the Settlement Class, (ii) object to the proposed Settlement, or (iii) object to  
4 Class Counsel's request for the Class Counsel Award and for the Service Award  
5 to the Plaintiff Medina (the Exclusion/Written Objection Deadline).

6 ~~63.~~62.\_\_\_\_\_ The Parties stipulate to conditional certification under *Code of*  
7 *Civil Procedure* Section 382, for settlement purposes only, of the Settlement  
8 Misclassification Subclass and the Settlement Rest Break Subclass.

9 ~~64.~~63.\_\_\_\_\_ The Parties agree that this stipulation, the Settlement, and  
10 any oral or written statements made in connection therewith, shall not be  
11 admissible in, and may not be used by any person for any purpose whatsoever in  
12 any legal proceeding, including but not limited to any arbitrations and/or any  
13 civil and/or administrative proceedings, other than a proceeding to enforce the  
14 terms of the Agreement, as further set forth in this Agreement, regardless of  
15 whether the Settlement is finally approved and/or consummated.

16 ~~65.~~64.\_\_\_\_\_ The Parties stipulate to the form of and agree to submit to the  
17 Court for its consideration this Settlement Agreement and the following  
18 Exhibits to this Settlement Agreement: Class Notice (Exhibit 1) and [Proposed]  
19 Preliminary Approval Order (Exhibit ~~3~~); Class Notice (Exhibit 1); and Claim  
20 Form (Exhibit 2).

21 ~~66.~~65.\_\_\_\_\_ Solely for purposes of implementing this Settlement  
22 Agreement and effectuating the proposed Settlement, the Parties agree and  
23 stipulate that the Court may enter the Preliminary Approval Order, without  
24 material variation from Exhibit ~~32~~, preliminarily approving the Settlement and  
25 this Settlement Agreement. Among other things, the Preliminary Approval  
26 Order shall grant leave to preliminarily certify the Settlement Misclassification  
27 Subclass and the Settlement ~~Rest~~-Break Subclass for settlement purposes only;  
28 approve Medina as class representative, appoint Class Counsel to represent the

1 Settlement Class, and appoint the Settlement Administrator; approve the Class  
2 Notice; and the ~~class notice~~ Class Notice plan embodied in the Settlement  
3 Agreement, and approve them as consistent with *California Rules of Court* Rules  
4 3.766(d) and 3.769(f) and due process; set out the requirements for disputing the  
5 information upon which Settlement Class Members' ~~share of the~~ Individual  
6 Settlement Payment will be calculated; ~~;~~ objecting to the Settlement; ~~;~~ excluding  
7 Settlement Class Members who timely and properly request to be excluded from  
8 the Settlement Class, all as provided in this Settlement Agreement; and provide  
9 that certification and all actions associated with certification are undertaken on  
10 the condition that the certification and other actions shall be automatically  
11 vacated and be of no force or evidentiary effect if this Settlement Agreement is  
12 terminated or disapproved, as provided in this Settlement Agreement.

13 ~~67.66.~~ 66. At the Final Approval Hearing, Medina shall request entry of  
14 a Final Approval order and a Judgment, to be agreed upon by the Parties, the  
15 entry of which is a material condition of this Settlement and that, among other  
16 things:

17 A. Finally approves the Settlement as fair, reasonable, and  
18 adequate and directs its consummation pursuant to the terms of the Settlement  
19 Agreement;

20 B. Finds that Class Counsel and Medina adequately represented  
21 the Settlement Class for the purpose of entering into and implementing the  
22 Settlement Agreement;

23 C. Re-confirms the appointment of the Settlement Administrator  
24 and finds that the Settlement Administrator has fulfilled its duties under the  
25 Settlement to date;

26 D. Finds that the Class Notice: (i) constituted the best practicable  
27 notice; (ii) constituted notice that was reasonably calculated, under the  
28 circumstances, to apprise Settlement Class Members of the pendency of the Class

1 Action, and their right to exclude themselves from or object to the proposed  
2 settlement and to appear at the Final Approval Hearing; (iii) was reasonable and  
3 constituted due, adequate, and sufficient notice to all persons entitled to receive  
4 notice; and (iv) met all applicable requirements of *California Rules of Court* Rules  
5 3.766(d) and 3.769(f), due process, and any other applicable rules or law;

6 E. Approves the Opt-Out List and determines that the Opt-Out  
7 List is a complete list of all Settlement Class Members who have timely and  
8 properly requested exclusion from the Settlement Class and, accordingly, shall  
9 neither share in nor be bound by the Final Approval order and Judgment;

10 F. Directs that the Final Approval order and Judgment of  
11 dismissal shall be final and entered forthwith;

12 G. Without affecting the finality of the Final Approval order and  
13 Judgment, directs that the Court retains continuing jurisdiction over Medina, the  
14 Settlement Class, and R&M as to all matters concerning the administration,  
15 consummation, and enforcement of this Settlement Agreement;

16 H. Adjudges that, as of the Final Approval Date, Medina, and all  
17 Settlement Class Members who have not been excluded from the Settlement  
18 Class as provided in the Opt-Out List approved by the Court, and their Legally  
19 Authorized Representatives, heirs, estates, trustees, executors, administrators,  
20 principals, beneficiaries, representatives, agents, assigns, and successors, and/or  
21 anyone claiming through them or acting or purporting to act for them or on their  
22 behalf, regardless of whether they have received actual notice of the proposed  
23 Settlement, have conclusively compromised, settled, discharged, and released the  
24 Named Plaintiff's General Released Claims (in the case of Medina) and  
25 Settlement Class Members' Released Claims (in the case of the Settlement Class  
26 Members, including Medina) against R&M and others identified therein and are  
27 bound by the provisions of this Settlement Agreement;

28

1 I. Declares this Agreement and the Final Approval order and  
2 Judgment to be binding on, and have *res judicata* and preclusive effect as to all  
3 pending and future lawsuits or other proceedings: (i) that encompass the Named  
4 Plaintiff's General Released Claims and that are maintained by or on behalf of  
5 Medina and/or his Legally Authorized Representatives, heirs, estates, trustees,  
6 executors, administrators, principals, beneficiaries, representatives, agents,  
7 assigns, and successors, and/or anyone claiming through them or acting or  
8 purporting to act for them or on their behalf, and (ii) that encompass the  
9 Settlement Class Members' Released Claims and that are maintained by or on  
10 behalf of any Settlement Class Member who has not been excluded from the  
11 Settlement Class as provided in the Opt-Out List approved by the Court and/or  
12 his or her Legally Authorized Representatives, heirs, estates, trustees, executors,  
13 administrators, principals, beneficiaries, representatives, agents, assigns, and  
14 successors, and/or anyone claiming through them or acting or purporting to act  
15 for them or on their behalf, regardless of whether the Settlement Class Member  
16 previously initiated or subsequently initiates individual litigation or other  
17 proceedings encompassed by the Settlement Class Members' Released Claims,  
18 and even if such Settlement Class Member never received actual notice of the  
19 Class Action or this proposed Settlement;

20 J. Determines that the Settlement Agreement and the  
21 Settlement provided for herein, and any proceedings taken pursuant thereto, are  
22 not, and should not in any event be offered, received, or construed as evidence of,  
23 a presumption, concession, or an admission by any party of liability or non-  
24 liability or of the certifiability or non-certifiability of a litigation class, or of any  
25 misrepresentation or omission in any statement or written document approved or  
26 made by any Party; provided, however, that reference may be made to this  
27 Settlement Agreement and the Settlement provided for herein in such  
28



1 proceedings as may be necessary to effectuate the provisions of this Settlement  
2 Agreement, as further set forth in this Settlement Agreement;

3           K.     Orders that the preliminary approval of the Settlement,  
4 certification of the Settlement Misclassification Subclass and the Settlement ~~Rest~~  
5 Break Subclass and final approval of the proposed Settlement, and all actions  
6 associated with them, are undertaken on the condition that they shall be vacated  
7 if the Settlement Agreement is terminated or disapproved in whole or in part by  
8 the Court, or any appellate court and/or other court of review, in which event the  
9 Settlement Agreement and the fact that it was entered into shall not be offered,  
10 received, or construed as an admission or as evidence for any purpose, including  
11 but not limited to an admission by any Party of liability or non-liability or of any  
12 misrepresentation or omission in any statement or written document approved or  
13 made by any Party, or of the certifiability of a litigation class, as further provided  
14 in this Settlement Agreement;

15           L.     Authorizes the Parties, without further approval from the  
16 Court, to agree to and adopt such amendments, modifications, and expansions of  
17 this Settlement Agreement, including all Exhibits hereto, as (i) shall be  
18 consistent in all material respects with the Final Approval order and (ii) do not  
19 limit the rights of Settlement Class Members; and

20           M.     Contains such other and further provisions consistent with the  
21 terms of this Settlement Agreement to which the Parties expressly consent in  
22 writing.

23           ~~68-67.~~ \_\_\_\_\_ At the Final Approval Hearing and as a part of the final  
24 approval of this Settlement, Class Counsel will also request approval of the Plan  
25 of Allocation set forth below. Any modification to the Plan of Allocation by the  
26 Court shall not (i) affect the enforceability of the Settlement Agreement; (ii)  
27 provide any of the Parties with the right to terminate the Settlement  
28

1 Agreement; or (iii) impose any obligation on R&M to increase the consideration  
2 paid in connection with the Settlement.

3 ~~69.68.~~ At the Final Approval Hearing, Class Counsel may also  
4 request entry of an Order approving the Class Counsel Award and the Service  
5 Award to Medina, which shall be paid exclusively from the Total Settlement  
6 Amount and in accordance with the distribution plan described below. In no  
7 event shall R&M otherwise be obligated to pay for any attorneys' fees and  
8 expenses or Service Award(s). The disposition of Class Counsel's application for  
9 a Class Counsel Award, and for the Service Award, is within the sound  
10 discretion of the Court and is not a material term of this Settlement Agreement,  
11 and it is not a condition of this Settlement Agreement that such application be  
12 granted. Any disapproval or modification of such application by the Court shall  
13 not (i) affect the enforceability of the Settlement Agreement, (ii) provide any of  
14 the Parties with the right to terminate the Settlement Agreement, or (iii)  
15 increase the consideration R&M pays in connection with the Settlement. R&M  
16 shall have no liability to Class Counsel arising from any claim regarding the  
17 division of the Class Counsel Award between and among Class Counsel and any  
18 other counsel representing any of the Settlement Class Members.

19 ~~70.69.~~ In no event shall R&M be obligated to pay Settlement  
20 Administration Expenses beyond those provided for in this Settlement  
21 Agreement.

### 22 **SETTLEMENT CONSIDERATION**

23 ~~71.70.~~ The total consideration for the Settlement from R&M is the  
24 Total Settlement Amount (\$845,000). This is an "all in" number that includes,  
25 without limitation, all monetary benefits and payments to the Settlement Class,  
26 Service Award, Class Counsel Award, and Settlement Administrator Expenses  
27 and all claims for penalties, interest, fees, and costs. The total consideration,  
28 however, does not include R&M's share of payroll taxes allocable to any portion

1 of the Total Settlement Amount allocated to wages, which amount remains the  
2 responsibility of R&M. In no event shall R&M be liable for making any  
3 payments under this Settlement, or for providing any relief to Settlement Class  
4 Members, before the Effective Date, except as provided herein.

5 ~~72.71.~~        Medina and all ~~Responding~~ Settlement Class Members who  
6 receive a payment of any kind from the Total Settlement Amount  
7 (~~including~~excluding, in the case of Medina, the Service Award) expressly  
8 acknowledge that such payments shall be considered to be comprised of thirty-  
9 three percent (33%) wages for which an IRS Form W-2 will be issued and sixty-  
10 seven percent (67%) non-wages for which an IRS Form 1099 will be issued, if  
11 required. Medina and all ~~Responding~~ Settlement Class Members who receive a  
12 payment of any kind from the Total Settlement Amount agree to timely pay in  
13 full all of the federal, state, and municipal income taxes owed on such payments.

14 ~~73.72.~~        The terms of this Settlement Agreement relating to the  
15 Service Award and Class Counsel Award were not negotiated by the Parties  
16 before full agreement was reached as to all other material terms of the proposed  
17 Settlement, including, but not limited to, any terms relating to the relief to the  
18 Settlement Class. R&M agrees not to oppose a request for the Service Award for  
19 ~~Plaintiff Medina of Five Thousand Dollars (\$5,000) or less,~~ which will be left to  
20 the discretion of this Court.

21 ~~74.73.~~        Class Counsel agrees not to seek an award of attorneys' fees,  
22 ~~costs and expenses~~ from the Court in excess of one third (1/3) of the Total  
23 Settlement Amount. R&M agrees not to oppose a request for attorneys' fees,  
24 ~~costs and expenses~~ up to and including one third (1/3) of the Total Settlement  
25 Amount. Class Counsel shall also seek all actual expenses and costs incurred to  
26 date by Class Counsel in litigation and resolution of the Class Action. R&M and  
27 Settlement Class Members shall have no obligation regarding or liability for  
28 allocation or payment of the Class Counsel Award. Class Counsel shall file any

1 request for attorneys' fees, costs and expenses and any request for a Service  
2 Award no later than fourteen (14) days before the Exclusion/Written Objection  
3 Deadline. Class Counsel's request for attorneys' fees, costs and expenses shall  
4 be supported by billing records.

5 ~~75-74.~~        The Settlement Administrator shall pay the Class Counsel  
6 Award by wire transfer to Bleau Fox, a PLC pursuant to wiring instructions  
7 from Class Counsel. Class Counsel shall provide the Settlement Administrator  
8 notice of receipt of the Class Counsel Award. R&M shall have no liability to  
9 Class Counsel or any other counsel for Medina or any Settlement Class Member  
10 arising from any claim regarding the division of the Class Counsel Award.

#### 11 **FUNDING AND ALLOCATION OF SETTLEMENT**

12 ~~76-75.~~        Within fourteen (14) calendar days of the Effective Date, R&M  
13 shall provide the Total Settlement Amount (\$845,000) to the Settlement  
14 Administrator. The Settlement Administrator shall thereafter distribute the  
15 funds in the manner and at the times set forth in this Agreement.

16 ~~77-76.~~        Within twenty-one (21) days of the Effective Date, the  
17 payment of the Class Counsel Award, the Service Award approved by the Court  
18 and the Settlement Administrator Expenses (up to \$15,000),) as approved by the  
19 Court. shall be made by the Settlement Administrator from the Total Settlement  
20 Amount. The Settlement Administrator shall use reasonable efforts to disburse  
21 Individual Settlement Payments within sixty (60) days after the Effective Date,  
22 but in no event before twenty-one (21) days after the Effective Date.

23 ~~78-77.~~        To receive a payment from the Settlement, a Settlement Class  
24 Member must ~~(1) have submitted a Claim Form, making him or her a~~  
25 ~~Responding Settlement Class Member, and (2) not have submitted a request for~~  
26 exclusion from the Settlement. Settlement Class Members are not eligible to  
27 receive any compensation from the Settlement other than ~~the~~their Individual  
28 Settlement Payment.

1           79.78. \_\_\_\_\_ After deduction from Total Settlement Amount of the Class  
2 Counsel Award, the Service Award and the Settlement Administrator Expenses,  
3 the remaining amount shall be allocated Seventy-Four percent (74%) to the  
4 Settlement Misclassification Subclass and Twenty-Six percent (26%) to the  
5 Settlement ~~Rest~~ Break Subclass. Each such allocation shall be further allocated  
6 Thirty-Three percent (33%) to wages and Sixty-Seven percent (67%) to penalties  
7 and interest.

8           80.79. \_\_\_\_\_ The amount of each ~~Responding~~ Settlement Class Member's  
9 Individual Settlement Payment will be distributed from the Total Settlement  
10 Amount and calculated by the Settlement Administrator, as follows:

11           A.     Payment from the amount allocated to the Settlement  
12 Misclassification Subclass shall be prorated among the members of that subclass  
13 by taking the number of work weeks or portions thereof that such member was  
14 declared an exempt, salaried employee and paid a salary during the Class Period  
15 and multiplying. If a member of this subclass is also a member of the  
16 Settlement ~~Rest~~ Break Subclass during any work week, ~~thant~~then that member  
17 shall be deemed to be a member of the Settlement Misclassification Subclass for  
18 that entire work week and not a member of the Settlement Rest Break Subclass  
19 for any portion of that week, with the products adjusted accordingly. The  
20 product of that calculation shall serve as the numerator for proration purposes  
21 and the sum of all such products shall serve as the denominator for proration  
22 purposes.

23           B.     Payment from the amount allocated to the Settlement ~~Rest~~  
24 Break Subclass shall be prorated among the members of that subclass by taking  
25 the gross wages paid during the Class Period that such member was declared a  
26 non-exempt hourly wage employee and when that member was not also a  
27 member of the Settlement Misclassification Subclass. This amount shall serve as  
28 the numerator for proration purposes and the sum of all such products shall

1 serve as the denominator for proration purposes. For non-exempt hourly wage  
2 employee who commenced in that position after December 31, 2005 and/or who  
3 ceased to be in that position before January 1, 2009, the employee's gross wages  
4 will be further prorated on a 365/365 daily basis so that the numerator shall  
5 only include his gross wages earned during the Class Period.

6 C. If under the Plan of Allocation a ~~responding~~ Settlement Class  
7 Member will be distributed \$10 or more, then he or she will receive the entitled  
8 amount. If, however, the ~~Responding~~ Settlement Class Member is due less than  
9 \$10, then his or her Individual Settlement Payment will be for \$10.

10 ~~81.80.~~ \_\_\_\_\_ Class Counsel will be permitted to review and approve the  
11 calculation of settlement funds to be distributed.

12 ~~82.—Following distribution of the Individual Settlement Payments to~~  
13 ~~Responding Settlement Class Members, all funds not claimed prior to the Void~~  
14 ~~Date (i.e. all funds from uncashed checks) shall be redistributed to those~~  
15 ~~members of the Settlement Misclassification Subclass who received and cashed~~  
16 ~~their Individual Settlement Payments. These unclaimed funds shall be~~  
17 ~~redistributed pro-rata pursuant to the same formulas described in Paragraph 80~~  
18 ~~A after excluding any Settlement Misclassification Subclass members whose~~  
19 ~~Individual Settlement Payment was not claimed by the Void Date.~~

20 ~~83.81.~~ \_\_\_\_\_ As described below, each Settlement Class Member will have  
21 the opportunity, should he or she disagree with the employment information  
22 used to calculate that employee's Individual Settlement Payment provided to  
23 him or her ~~in~~with his ~~Claim Form~~Class Notice, to provide documentation to  
24 establish the appropriate information. There will be a presumption that R&M's  
25 records are correct, absent evidence produced by a Settlement Class Member to  
26 the contrary.

27 ~~84.82.~~ \_\_\_\_\_ The Settlement Administrator shall issue the Individual  
28 Settlement Payments from the Total Settlement Amount to each ~~Responding~~

1 Settlement Class Member who does not properly opt out. The portion of the  
2 Individual Settlement Payments allocated to penalties and interest shall be  
3 reported by the Settlement Administrator to the applicable governmental  
4 authorities on IRS Form 1099s. The portion of the Individual Settlement  
5 Payments allocated to wages shall be reported by the Settlement Administrator  
6 to the applicable government authorities on IRS Form W-2s. The Service Award  
7 and Class Counsel Award shall likewise be reported on IRS Form 1099s by the  
8 Settlement Administrator. The Settlement Administrator shall be responsible  
9 for issuing copies of IRS Form 1099s to Medina and ~~Responding~~ Settlement  
10 Class Members.

### 11 CLASS NOTICE ~~& CLAIM PROCEDURES~~

12 ~~85-83.~~ No more than thirty (30) calendar days after entry of the  
13 Preliminary Approval Order, R&M shall provide the Settlement Administrator  
14 and Class Counsel with the Class Information ~~for purposes of locating members~~  
15 ~~of the Settlement Class and sending the Class Notice and Claim Form to~~  
16 ~~Settlement Class Members.~~

17 ~~86-84.~~ The Class Notice shall ~~include a Claim Form to~~ contain, for  
18 each Settlement Class Member ~~containing~~, to the extent provided by R&M, his  
19 or her full name, last known address, verified social security number, any last  
20 known email address, any last known telephone number, and information used  
21 to calculate each Class Member's Individual Settlement Payment proration  
22 amount numerator. The Class Notice shall inform Settlement Class Members of  
23 their right to request exclusion from the Settlement, of their right to object to  
24 the Settlement, of their right to dispute the information upon which their share  
25 of the Settlement will be calculated, of their right to correct or supplement any  
26 other personal information provided, ~~of their obligation to return a Claim Form~~  
27 ~~to receive their Individual Settlement Payment,~~ and a description of the claims  
28

1 to be released ~~regardless of whether or not they submit a Claim Form~~ unless  
2 they exercise their right to request exclusion from the Settlement.

3 87.85. As set forth in the Class Notice, Settlement Class Members  
4 will be provided thirty-five (35) days after the initial mailing of the Class Notice  
5 ~~and accompanying Claim Form~~ to dispute the information contained on their  
6 Information Sheet upon which their share of the Settlement will be calculated  
7 and provide documentation to support this dispute. - A Dispute Form will be  
8 included with the Class Notice as Enclosure C for this purpose.

9 88.86. The Settlement Administrator shall review any documentation  
10 submitted by a Settlement Class Member and consult with the Parties to  
11 determine whether an adjustment is warranted. The Settlement  
12 Administrator's determination shall be binding upon the Settlement Class  
13 Member and the Parties, and the Settlement Class Members Individual  
14 Settlement Payment will be calculated according to the Settlement  
15 Administrator's determination. There will be a presumption that R&M's records  
16 are correct, absent evidence produced by a Settlement Class Member to the  
17 contrary.

18 87. Before Class Notices are mailed, the Settlement Administrator shall  
19 compile a list of all Settlement Class Members' social security numbers provided  
20 by R&M in the Class Information and send those names and social security  
21 numbers to the Social Security Administration for verification. Upon receipt of a  
22 report from the Social Security Administration with any Class Member names  
23 that do not match the social security number provided by R&M, commonly called  
24 "TIN matching," the Settlement Administrator shall not include the unverified  
25 social security number in the Information Sheet, Enclosure A to the Class  
26 Notice, and then either obtain a substitute IRS Form W-9 from that Settlement  
27 Class Member or, if a properly completed IRS Form W-9 is not obtained and  
28 verified, utilize backup withholding on their Individual Settlement Payments.



1           ~~89.88.~~ \_\_\_\_\_ No more than sixty (60) days after entry of the Preliminary  
2 Approval Order, provided Defendant timely complied with its obligation in  
3 Paragraph ~~8684~~, the Settlement Administrator shall send a copy of the Class  
4 Notice ~~and Claim Form~~ by first class mail and, if provided in the Class  
5 Information, electronic mail to each Settlement Class Member. ~~The~~  
6 ~~Administrator will send a follow-up reminder by first class mail to each~~  
7 ~~Settlement Class Member who has not returned a Claim Form approximately 30~~  
8 ~~days into the notice period.~~

9           ~~90.89.~~ \_\_\_\_\_ If any Class Notice sent via first class mail to any Settlement  
10 Class Member is returned as undeliverable, the Settlement Administrator shall  
11 then make a good-faith attempt to obtain the most-current names and postal  
12 mail addresses for those Settlement Class Members, including cross-checking  
13 the names and/or postal mail addresses it received from R&M, as well as any  
14 other sources, with appropriate databases (e.g., the National Change of Address  
15 Database) and performing further reasonable searches (e.g., through  
16 Lexis/Nexis) for more-current names and/or postal mail addresses for those  
17 Settlement Class Members and resend the Class Notice. All Settlement Class  
18 Members' names and postal mail addresses obtained through these sources shall  
19 be protected as confidential and not used for purposes other than the notice and  
20 administration of this Settlement. The addresses determined by the Settlement  
21 Administrator as the current mailing address shall be presumed to be the best  
22 mailing address for each Settlement Class Member.

23           ~~91.~~—As set forth in the Class Notice, Settlement Class Members will be  
24 asked to ~~submit a Claim Form to the Settlement Administrator~~ update any  
25 personal information within sixty (60) days of the Notice Date. ~~Any Settlement~~  
26 ~~Class Member who does not submit a Claim Form, or who does not submit a~~  
27 ~~Claim Form in a timely manner, will not receive any distribution from the Total~~  
28 ~~Settlement Amount.~~ Claim Forms Updated personal information may be

1 submitted on the Settlement Administrator's website established for this  
2 settlement ~~and shall be deemed received on the date transmitted by the~~  
3 ~~Settlement Class Member;~~ or by fax to the number provided ~~and shall be deemed~~  
4 ~~received on the date received by the Settlement Administrator;~~ or by mail ~~and~~  
5 ~~shall be deemed received on the postmark date contained thereon. However,~~  
6 ~~any Settlement Class Members who do not submit a Claim Form and do not~~  
7 ~~timely request to be excluded from the Settlement will nevertheless be bound by~~  
8 ~~the release of the Settlement Members' Released Claims and precluded from~~  
9 ~~bringing any such claims released thereby.~~

10 ~~92.90. \_\_\_\_\_ The number and manner of any reminder to be sent to the~~  
11 ~~Settlement Class Members, beyond that described in Paragraph 90, following~~  
12 ~~the initial Class Notice mailing is to be determined by Class Counsel and the~~  
13 ~~Settlement Administrator.~~

14 ~~93.91. \_\_\_\_\_~~ The Parties agree that the procedures set forth in this Section  
15 constitute reasonable and the best practicable notice under the circumstances  
16 and an appropriate and sufficient effort to locate current addresses for  
17 Settlement Class Members such that no additional efforts to do so shall be  
18 required.

19 ~~94.92. \_\_\_\_\_~~ The Settlement Administrator will provide Class Notice  
20 without material variation from the form attached Exhibit 1 ~~and will complete~~  
21 ~~and provide with the Class Notice a Claim Form for each member of the~~  
22 ~~Settlement Class.~~ The Class Notice shall comply with California Rules of Court  
23 3.766(d), 3.769(f) and due process.

24 ~~95.93. \_\_\_\_\_~~ At least twenty-one (21) days before the Final Approval  
25 Hearing, the Settlement Administrator shall prepare and provide to Class  
26 Counsel and Defense Counsel (i) a declaration of due diligence and proof of  
27 dissemination with regard to the mailing of the Class Notice, (ii) a listing of the  
28 names of all Settlement Class Members who have timely requested to be

1 excluded from the Settlement, ~~a listing of the names of all Settlement Class~~  
2 ~~Members who have timely submitted completed Claim Forms, a listing of the~~  
3 ~~names of all Settlement Class Members who have not timely submitted Claim~~  
4 ~~Forms and (iii) a listing of the names of all Settlement Class Members who~~  
5 appear to not have received the Class Notice because they were returned  
6 undeliverable, (iv) billing records for administrative costs incurred to date and  
7 anticipated administrative costs for the completion of its duties and (v) a listing  
8 of the amount of the high and low Individual Settlement Payments and the  
9 amount of Medina's Individual Settlement Payment (the "Due Diligence  
10 Declaration"), ~~to Class Counsel and Defense Counsel along with a copy of all~~  
11 ~~completed Claim Forms.").~~ Class Counsel shall be responsible for filing the Due  
12 Diligence Declaration ~~but not the Claim Forms~~ with the Court.

13 96.94. If any individual whose name does not appear in the Class  
14 Information that R&M provides the Settlement Administrator (and who has not  
15 previously opted out of the Settlement Class), believes that he or she is a  
16 Settlement Class Member, he or she may dispute his or her exclusion from the  
17 Settlement Class. If an individual believes he or she is a Settlement Class  
18 Member, he or she must notify the Settlement Administrator within a  
19 reasonable amount of time after the Notice Date and at least ten (10) days prior  
20 to the Final Approval Hearing. The Parties will meet and confer regarding any  
21 such individuals in an attempt to reach an agreement as to whether any such  
22 individual should be regarded as a Settlement Class Member. If the Parties so  
23 agree that any such individual should be regarded as a Settlement Class  
24 Member, the Settlement Administrator will mail and, if possible email, a Class  
25 Notice to the individual, and treat the individual as a Settlement Class Member  
26 for all other purposes. Such an individual will have all of the same rights as any  
27 other Settlement Class Member under this Agreement.

28

1           97.95. \_\_\_\_\_ R&M understands its legal obligation not to retaliate in any  
2 manner against any Settlement Class Member for their participation and/or  
3 election to participate in the benefits to be afforded any of them by the  
4 Settlement and/or the Class Action.

5  
6                           **PROCEDURES FOR REQUESTS FOR EXCLUSION**

7           98.96. \_\_\_\_\_ Settlement Class Members (with the exception of Medina) may  
8 opt out of the Settlement. Those who wish to exclude themselves (or “opt out”)  
9 from the Settlement Class must submit timely, written requests for exclusion to  
10 the Settlement Administrator. To be effective, such a request must include the  
11 Settlement Class Member’s name, address, and telephone number; a clear and  
12 unequivocal statement that the Settlement Class Member wishes to be excluded  
13 from the Settlement Class; and the signature of the Settlement Class Member or  
14 the Legally Authorized Representative of the Settlement Class Member.

15 Completion, execution and timely submission of the Request for Exclusion Form,  
16 Attachment A to the Class Notice, shall be deemed to comply with this

17 Paragraph. The request must be mailed or faxed to the Settlement  
18 Administrator at the address provided in the Class Notice and, if mailed, must  
19 be postmarked no later than the Exclusion/Written Objection Deadline. Absent  
20 actual receipt of such request by the Settlement Administrator prior to the  
21 Exclusion/Written Objection Deadline, the date of the postmark shall be the  
22 exclusive means used to determine whether a mailed request for exclusion has  
23 been timely submitted. Requests for exclusion must be exercised individually by  
24 the Settlement Class Member. Attempted collective group, class, or subclass  
25 requests for exclusions shall be ineffective and disregarded by the Settlement  
26 Administrator.

27           99.97. \_\_\_\_\_ Individual exclusion requests may be submitted by a  
28 Settlement Class Member’s Legally Authorized Representative.

1           ~~100.~~98.       The Settlement Administrator shall promptly log each request  
2 for exclusion that it receives and promptly provide copies of the log and all such  
3 requests for exclusion to Class Counsel and Defense Counsel.

4           ~~101.~~99.       The Settlement Administrator shall prepare a list of all  
5 persons who timely and properly requested exclusion from the Settlement Class  
6 (the Opt-Out List) and shall, before the Final Approval Hearing, submit a  
7 declaration to the Court attesting to the accuracy of the list which declaration  
8 may be part of the Due Diligence Declaration.

9           ~~102.~~100.     All Settlement Class Members who are not included in the  
10 Opt-Out List approved by the Court shall be bound by this Settlement, and their  
11 Settlement Class Members' Released Claims shall be dismissed with prejudice  
12 and released as provided for herein, even if they never received actual notice of  
13 the Class Action or this proposed Settlement.

14          ~~103.~~101.     The Settlement Administrator, in its sole discretion, shall  
15 determine whether a request for exclusion was timely and properly submitted.  
16 The Settlement Administrator's decision shall be final, binding, and  
17 nonappealable absent a contrary order from the Court.

18          ~~104.~~102.     Medina agrees not to request exclusion from the Settlement  
19 Class.

20          ~~105.~~103.     Settlement Class Members may object to or opt out of the  
21 Settlement, but may not do both. Any Settlement Class Member who submits a  
22 timely and proper request for exclusion may not file an objection to the  
23 Settlement or receive a Settlement Payment, and shall be deemed to have  
24 waived any rights or benefits under the Settlement Agreement. If a Settlement  
25 Class Member files both an objection and a valid and timely request for  
26 exclusion, the request for exclusion will override the objection, and the objection  
27 shall therefore be ignored.  
28

1           ~~106.104.~~ No later than ten (10) business days after the  
2 Exclusion/Written Objection Deadline, the Settlement Administrator shall  
3 provide to Class Counsel and Defense Counsel the final Opt-Out List together  
4 with copies of the opt-out requests.

5           ~~107.105.~~ R&M understands its legal obligation not to retaliate in any  
6 manner against any Settlement Class Member for his or her exclusion of himself  
7 or herself from the Settlement.

8           ~~108.106.~~ If, after the Exclusion/Written Objection Deadline and before  
9 the Final Approval Hearing, ~~five or more of the number of~~ Settlement  
10 ~~Misclassification Subclass~~Class Members whose combined “estimated”  
11 Individual Settlement Payments equal or exceed ten percent (10%) of the Total  
12 Settlement Amount submit timely and valid ~~request~~requests for exclusion from  
13 the Settlement, R&M shall have, in its sole and absolute discretion, the option to  
14 terminate this Settlement. The “estimated” Individual Settlement Payments  
15 shall be determined by assuming that the combined total amount for the Class  
16 Counsel Award, Service Award and Administrative Expenses paid to the  
17 Settlement Administrator is Three Hundred Sixteen Thousand Six Hundred and  
18 Sixty-Seven dollars (\$316,667). R&M shall exercise its option to terminate, if at  
19 all, prior to the Final Approval Hearing, provided the Settlement Administrator  
20 has provided R&M the Opt-Out List no later than ten (10) business days prior to  
21 the Final Approval Hearing; and the combined amount of Individual Settlement  
22 Payments of those Settlement Class Members requesting to be excluded from  
23 the Settlement. If R&M decides to void the Settlement, then the Settlement and  
24 conditional class certification shall be considered void, and the Settlement,  
25 conditional class certification, and any related negotiations or proceedings shall  
26 be of no force and effect, and the Parties shall stand in the same respective  
27 positions, without prejudice, as if this Settlement had been neither entered into  
28 nor filed with the Court. Should R&M void the Settlement under this paragraph,

1 R&M shall be responsible for all Administration Costs incurred by the  
2 Settlement Administrator ~~Costs incurred~~ through the date R&M notifies the  
3 Settlement Administrator that it is exercising its option to terminate the  
4 Settlement.

### 5 PROCEDURES FOR OBJECTIONS

6 ~~109.107.~~ Any Settlement Class Member that wishes to object to the  
7 fairness, reasonableness, or adequacy of this Settlement Agreement or the  
8 proposed Settlement, the Plan of Allocation, the Class Counsel Award and/or the  
9 Service Award must provide to the Settlement Administrator (who shall forward  
10 it to Class Counsel and Defense Counsel), a timely statement of the objection, as  
11 set forth below, or appear in person at the Final Approval Hearing to make an  
12 objection. Objections may be submitted by one or more Settlement Class  
13 Members.

14 ~~110.108.~~ To be timely, a written objection must be mailed to the  
15 Settlement Administrator, and postmarked no later than the Exclusion/Written  
16 Objection Deadline. Absent actual receipt of a written objection prior to the  
17 Exclusion/Written Objection Deadline, the date of the postmark on the return-  
18 mailing envelope shall be the exclusive means used to determine whether  
19 objection has been timely submitted.

20 ~~111.109.~~ A written objection must contain at least the following: (i) the  
21 objector's full name, address, telephone number, and signature; (ii) a clear  
22 reference to the Class Action; (iii) a statement of the specific legal and factual  
23 basis for each objection argument; and (iv) a statement whether the objecting  
24 person or entity intends to appear at the Final Approval Hearing, either in  
25 person or through counsel and, if through counsel, a statement identifying that  
26 counsel by name, bar number, address, and telephone number. All objections  
27 shall be signed by the objecting Settlement Class Member (or his Legally  
28

1 Authorized Representative), even if the Settlement Class Member is represented  
2 by counsel.

3 ~~112. —The right to object must be exercised individually by a Settlement~~  
4 ~~Class Member or his or her Legally Authorized Representative. Attempted~~  
5 ~~collective, group, class, or subclass objections shall be ineffective and~~  
6 ~~disregarded.~~

7 ~~113.~~110. Any Settlement Class Member who does not file a timely  
8 written objection or appear personally or through his or her counsel at the Final  
9 Approval Hearing shall waive the right to object and shall be forever barred  
10 from making any objection to the proposed Settlement, the Plan of Allocation,  
11 the Class Counsel Award and the Service Award. Settlement Class Members  
12 who object to the proposed Settlement shall remain Settlement Class Members,  
13 and shall be deemed to have voluntarily waived their right to pursue an  
14 independent remedy against R&M.

15 ~~114.~~111. To the extent any Settlement Class Member objects to the  
16 proposed Settlement, and such objection is overruled in whole or in part, such  
17 Settlement Class Member will be forever bound by the Final Approval order and  
18 Judgment.

19 ~~115.~~112. It shall be Class Counsel's sole responsibility to submit and  
20 respond to any objections made with respect to any application for the Class  
21 Counsel Award and Service Award.

22 ~~116.~~113. R&M understands its legal obligation not to retaliate in any  
23 manner against any Settlement Class Member for his or her objection to the  
24 Settlement.

### 25 RELEASES

26 ~~117.~~114. The Named Plaintiff's General Released Claims and the  
27 Settlement Class Members' Released Claims shall be released and dismissed  
28 with prejudice and on the merits (without an award of costs to any party other



1 than as provided in this Settlement Agreement) upon entry of the Final  
2 Approval order and Judgment.

3 ~~118.115.~~ As of the Final Approval Date, Medina, and all Settlement  
4 Class Members, who have not been excluded from the Settlement Class ~~as~~  
5 ~~provided in the Opt Out List, regardless of whether the Settlement Class~~  
6 ~~Members returned a Claim Form or not~~, individually and on behalf of their  
7 Legally Authorized Representatives, heirs, estates, trustees, executors,  
8 administrators, representatives, agents, successors, and assigns, and anyone  
9 claiming through them or acting or purporting to act on their behalf, agree to  
10 forever release, discharge, hold harmless, and covenant not to sue on the Named  
11 Plaintiff's General Released Claims (in the case of Medina) and on the  
12 Settlement Class Members' Released Claims (in the case of the Settlement Class  
13 Members who have not been excluded from the Settlement Class ~~as provided in~~  
14 ~~the Opt Out List~~), and by operation of the Final Judgment shall have fully and  
15 finally released, relinquished, and discharged all such claims; and they further  
16 agree that they shall not now or hereafter initiate, maintain, or assert any  
17 Named Plaintiff's General Released Claims (in the case of Medina) and any  
18 Settlement Class Members' Released Claims (in the case of the Settlement Class  
19 Members who have not been excluded from the Settlement Class ~~as provided in~~  
20 ~~the Opt Out List~~), in any other court action or before any administrative body,  
21 tribunal, arbitration panel, or other adjudicating body. Without in any way  
22 limiting the scope of the ~~releaser~~releases described herein, ~~this releasethe~~  
23 releases covers, without limitation, any and all claims for attorneys' fees, costs  
24 or disbursements incurred by Class Counsel or any other counsel representing  
25 Medina and/or Settlement Class Members, or by Medina and/or Settlement  
26 Class Members, or any of them, in connection with or related in any manner to  
27 the Class Action, the Settlement of the Class Action, the administration of such  
28

1 Settlement, and/or the Released Claims, except to the extent otherwise specified  
2 in the Settlement Agreement.

3 ~~119.116.~~ As of the Final Approval Date, Medina, and all Settlement  
4 Class Members, who have not been excluded from the Settlement Class ~~as~~  
5 ~~provided in the Opt Out List~~, shall be permanently barred and enjoined from  
6 initiating, asserting, or prosecuting in any federal or state court or tribunal any  
7 and all Named Plaintiff's General Released Claims (in the case of Medina) and  
8 ~~any~~ Settlement Class Members' Released Claims (in the case of the  
9 Settlement Class Members who have not been excluded from the Settlement  
10 Class ~~as provided in the Opt Out List~~).

11 ~~120.117.~~ With respect only to the Named Plaintiff's General Released  
12 Claims, Medina ~~and, but not~~ the Settlement Class Members, expressly  
13 ~~acknowledge~~ acknowledges that ~~they are~~ he is familiar with principles of law such  
14 as Section 1542 of the California *Civil Code*, which provides:

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

21 ~~121. With respect to the Settlement Class Members' Released Claims,~~  
22 ~~each Settlement Class Member who has not been excluded from the Settlement~~  
23 ~~Class as provided in the Opt Out List shall be deemed to have expressly,~~  
24 ~~knowingly, and voluntarily waived and relinquished, to the fullest extent~~  
25 ~~permitted by law, the provisions, rights, and benefits he or she may otherwise~~  
26 ~~have had pursuant to Section 1542 of the California Civil Code and all similar~~  
27 ~~federal or state laws, rights, rules, or legal principles of any other jurisdiction~~  
28 ~~that may be applicable herein. In connection with the release, the Settlement~~

1 ~~Class Members acknowledge that they are aware that they may hereafter~~  
2 ~~discover claims presently unknown and unsuspected or facts in addition to or~~  
3 ~~different from those which they now know or believe to be true with respect to~~  
4 ~~matters released herein.~~

5 ~~122.~~ \_\_\_\_ With respect to the Named Plaintiff's General Released Claims,  
6 Medina shall be deemed to have expressly, knowingly, and voluntarily waived  
7 and relinquished, to the fullest extent permitted by law, the provisions, rights,  
8 and benefits he may otherwise have had pursuant to Section 1542 of the  
9 California *Civil Code* and all similar federal or state laws, rights, rules, or legal  
10 principles of any other jurisdiction that may be applicable herein. In connection  
11 with the release, Medina acknowledges that he is aware that he may hereafter  
12 discover claims presently unknown and unsuspected or facts in addition to or  
13 different from those which he now knows or believes to be true with respect to  
14 matters released herein. Nevertheless, Medina acknowledges that a portion of  
15 the consideration received herein is for a release with respect to unknown  
16 damages and complaints, whether resulting from known injuries and  
17 consequences or from unknown injuries or unknown consequences of known or  
18 unknown injuries, and states that it is the intention of Medina in agreeing to  
19 this release to fully, finally, and forever to settle and release all matters and all  
20 claims that exist, hereafter may exist, or might have existed (whether or not  
21 previously or currently asserted in any action), constituting Named Plaintiff's  
22 General Released Claims.

23 ~~123.~~ 118. \_\_\_\_ Medina further acknowledges, agrees, and understands that:  
24 (i) he has read and understands the terms of this Settlement Agreement; (ii) he  
25 has been advised in writing to consult with an attorney other than Class  
26 Counsel before executing this Settlement Agreement; and (iii) he has obtained  
27 and considered such legal counsel as he deems necessary.  
28

1           ~~124.119.~~ Subject to Court approval, Medina, and all Settlement Class  
2 Members to the extent they have not been excluded from the Settlement Class  
3 ~~as provided in the Opt Out List~~, shall be bound by this Settlement Agreement  
4 even if they never received actual notice of the Class Action and/or this  
5 Settlement.

6                           **ADMINISTRATION OF THE SETTLEMENT FUND**

7           ~~125.120.~~ The Settlement Administrator or its authorized agents in  
8 consultation with the Parties and subject to the supervision, direction, and  
9 approval of the Court, shall calculate the allocation of and oversee the  
10 distribution of the Total Settlement Amount.

11           ~~126.121.~~ The Total Settlement Amount shall be applied, as follows:

12                   A. To pay the total costs, expenses, and fees of the Settlement  
13 Administrator incurred in connection with providing Class Notice to potential  
14 Settlement Class Members, and the management and distribution of the Total  
15 Settlement Amount to ~~Responding~~ Settlement Class Members, not to exceed  
16 \$15,000.00;

17                   B. Subject to the approval and further order(s) of the Court, to  
18 pay Medina's Service Award as the Court determines appropriate;

19                   C. Subject to the approval and further order(s) of the Court, to  
20 pay the Class Counsel Award as ordered by the Court; and

21                   D. After the Effective Date and subject to the approval and  
22 further order(s) of the Court, to distribute the Individual Settlement Payments  
23 from the Total Settlement Amount for the benefit of the ~~Responding~~ Settlement  
24 Class as provided above or as otherwise ordered by the Court.

25           ~~127.122.~~ If any ~~portion of the Total Settlement Amount is not~~  
26 ~~successfully redistributed~~ Class Member fails to negotiate his Individual  
27 Settlement ~~Misclassification Subclass after~~ Payment by the Void Date (*i.e.* checks  
28 are not cashed or checks are returned as undeliverable ~~after the second~~

1 ~~distribution~~), then after the Void Date ~~for redistributed checks~~, the Settlement  
2 Administrator shall void the check and shall pay such unclaimed funds to the  
3 State of California for deposit into the California State Controller Unclaimed  
4 Property fund, with the identity of the Participating Class Member to whom the  
5 funds belong, to be held for that Settlement ~~Misclassification Subclass members~~  
6 who (1) received and cashed their second Individual Class Member in accordance  
7 with the California Unclaimed Property Law. The money paid to the California  
8 State Controller Unclaimed Property will remain the Settlement Payments, and  
9 (2) received a second Class Member's property. This will allow Settlement Class  
10 Members who did not cash their checks to collect their Individual Settlement  
11 Payment Amounts at any time in an amount greater than the future. Therefore,  
12 there will be no unpaid residue or equal to \$100.00 unclaimed or, if none exist,  
13 then to the *cy pres* beneficiary of the Settlement, Wage Justice Center, subject to  
14 the requirements of abandoned Settlement Class Member funds and California  
15 Code of Civil Procedure ~~Section 384~~, section 384 shall not apply. The funds will  
16 be held by the State until claimed by the employee and those funds never cease  
17 to be the Settlement Class Member's property.

18 ~~128.123.~~ 123. Settlement Class Members who are not on the Opt-Out List  
19 approved by the Court shall be subject to and bound by the provisions of the  
20 Settlement Agreement, the releases contained herein, and the Judgment with  
21 respect to all Settlement Class Members' Released Claims, ~~regardless of whether~~  
22 ~~they submitted a Claim Form or obtain any distribution from the Total~~  
23 ~~Settlement Amount.~~

24 ~~129.124.~~ 124. Payment from the Total Settlement Amount made pursuant to  
25 and in the manner set forth herein shall be deemed conclusive of compliance  
26 with this Settlement Agreement as to all Settlement Class Members.

27 ~~130.125.~~ 125. No Settlement Class Member shall have any claim against  
28 Medina, Class Counsel, or the Settlement Administrator based on distributions

1 made substantially in accordance with this Settlement Agreement and/or orders  
2 of the Court. No Settlement Class Member shall have any claim against any  
3 released party or its counsel relating to distributions made under this  
4 Settlement.

5 **EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION OF**  
6 **SETTLEMENT AGREEMENT**

7 ~~131.~~126. If the Court does not approve the Settlement as set forth in  
8 this Settlement Agreement, or does not enter the Final Approval order and  
9 Judgment on the terms described herein, or if the Court enters the Judgment  
10 and appellate review is sought, and on such review, the entry of Judgment is  
11 vacated, modified in any material way, or reversed, or if the Final Approval  
12 order does not otherwise become Final, then this Settlement Agreement shall be  
13 cancelled and terminated, unless all Parties, in their sole discretion no later  
14 than thirty (30) days from the date such ruling becomes Final, provide written  
15 notice to all other Parties hereto of their intent to proceed with the Settlement  
16 under the terms of the Judgment as it may be modified by the Court or any  
17 appellate court.

18 ~~132.~~127. In the event that: (i) the Settlement is not approved, is  
19 overturned, or is modified by the Court or on appeal, (ii) the Judgment does not  
20 become Final, or (iii) this Settlement Agreement is terminated, cancelled, or fails  
21 to become effective for any reason, then: (a) the Parties stipulate and agree the  
22 Settlement, this Settlement Agreement, the Class Information, the Opt-Out  
23 List, and all documents and oral or written communications exchanged and/or  
24 filed in connection with the Settlement shall be treated as privileged mediation  
25 communications under California *Evidence Code* Sections 1115 *et seq.*; (b) the  
26 Settlement shall be without force and effect upon the rights of the Parties  
27 hereto, and none of its terms shall be effective or enforceable, with the exception  
28 of this paragraph, which shall remain effective and enforceable; (c) the Parties

1 shall be deemed to have reverted *nunc pro tunc* to their respective status  
2 immediately prior to execution of this Settlement Agreement; (d) all Orders  
3 entered in connection with the Settlement, including the conditional certification  
4 of the Settlement Class, the Settlement Misclassification Subclass, and/or the  
5 Settlement Rest Break Subclass, shall be vacated without prejudice to any  
6 Party's position on the issue of class certification, the issue of amending the  
7 complaint, or any other issue, in the Class Action or any other action, and the  
8 Parties shall be restored to their litigation positions existing on the date of  
9 execution of this Settlement Agreement; and (e) the Parties shall proceed in all  
10 respects as if the Settlement Agreement and related documentation and orders  
11 had not been executed, and without prejudice in any way from the negotiation or  
12 fact of the Settlement or the terms of the Settlement Agreement. The  
13 Settlement Agreement, the Settlement, all communications, documents, orders,  
14 and evidence relating to the Settlement, the fact of their existence, any of their  
15 terms, any press release or other statement or report by the Parties or by others  
16 concerning the Settlement Agreement, the Settlement, their existence, or their  
17 terms, any negotiations, proceedings, acts performed, or documents executed  
18 pursuant to or in furtherance of the Settlement Agreement or the Settlement  
19 shall not be admissible in any proceeding, and shall not be offered, received, or  
20 construed as evidence of a presumption, concession, or an admission of liability,  
21 of unenforceability of any arbitration agreement, of the certifiability of a  
22 litigation class, or of any misrepresentation or omission in any statement or  
23 written document approved or made, or otherwise used by any person for any  
24 purpose whatsoever, in any trial of the Class Action or any other action or  
25 proceedings. Medina, Class Counsel and the Settlement Administrator shall  
26 return to Defense Counsel all copies of Class Information and Opt-Out Lists and  
27 shall not use or disclose the Class Information or Opt-Out List for any purpose  
28 or in any proceeding.

1           ~~133.~~128. R&M does not agree or consent to certification of the  
2 Settlement Class, Settlement Misclassification Subclass, and/or Settlement Rest  
3 Break Subclass for any purpose other than to effectuate the Settlement of the  
4 Class Action. If this Settlement Agreement is terminated pursuant to its terms,  
5 or the Effective Date for any reason does not occur, all Orders certifying the  
6 Settlement Class, Settlement Misclassification Subclass, and/or Settlement Rest  
7 Break Subclass and all preliminary and/or final findings regarding the  
8 Settlement Class certification order, shall be automatically vacated upon notice  
9 to the Court, the Class Action shall proceed as though the Settlement Class and,  
10 if applicable, the Settlement Misclassification Subclass and Settlement Rest  
11 Break Subclass, had never been certified pursuant to this Settlement Agreement  
12 and such findings had never been made, and the Class Action shall revert *nunc*  
13 *pro tunc* to the procedural *status quo* as of the date and time immediately before  
14 the execution of the Settlement Agreement, in accordance with this Settlement  
15 Agreement.

16                                   **ADDITIONAL PROVISIONS**

17           ~~134.~~129. All of the Exhibits to this Settlement Agreement are an  
18 integral part of the Settlement and are incorporated by reference as though fully  
19 set forth herein.

20           ~~135.~~130. Medina and Class Counsel acknowledge that an adequate  
21 factual record has been established that supports the Settlement and hereby  
22 waive any right to conduct further discovery to assess or confirm the Settlement.

23           ~~136.~~131. Unless otherwise noted, all references to “days” in this  
24 Settlement Agreement shall be to calendar days. In the event any date or  
25 deadline set forth in this Settlement Agreement falls on a weekend or federal  
26 legal holiday, such date or deadline shall be on the first business day thereafter.

27           ~~137.~~132. This Settlement Agreement constitutes the full and complete  
28 agreement of the Parties hereto, and supersedes all prior negotiations and



1 agreements, whether oral, written or otherwise, and may be amended or  
2 modified only by a written instrument signed by counsel for all Parties or the  
3 Parties' successors-in-interest.

4 ~~138.133.~~ 133. The Parties reserve the right, subject to the Court's approval,  
5 to make any reasonable extensions of time that might be necessary to carry out  
6 any of the provisions of this Settlement Agreement. Such extensions must be in  
7 writing to be enforceable.

8 ~~139.134.~~ 134. The Settlement Agreement, the Settlement, the fact of the  
9 Settlement's existence, any of terms of the Settlement Agreement, any press  
10 release or other statement or report by the Parties or by others concerning the  
11 Settlement Agreement or the Settlement, and any negotiations, proceedings,  
12 acts performed, or documents executed pursuant to or in furtherance of the  
13 Settlement Agreement or the Settlement: (i) may not be deemed to be, may not  
14 be used as, and do not constitute an admission or evidence of the validity of any  
15 released claims or of any wrongdoing or liability of R&M; (ii) may not be deemed  
16 to be, may not be used as, and do not constitute an admission or evidence of any  
17 fault, wrongdoing, or omission by R&M in any trial, civil, arbitration, criminal,  
18 or administrative proceeding of the Class Action or any other action or  
19 proceedings in any court, administrative agency, arbitration or other tribunal;  
20 and (iii) may not be used as evidence in any class certification proceeding.

21 ~~140.135.~~ 135. The persons and entities released by this Settlement shall  
22 have the right to file the Settlement Agreement, the Final Approval order and  
23 Judgment, and any other documents or evidence relating to the Settlement in  
24 any action that may be brought against them in order to support a defense or  
25 counterclaim based on principles of *res judicata*, collateral estoppel, release,  
26 good-faith settlement, judgment bar, reduction, or any other theory of claim  
27 preclusion or issue preclusion or similar defense or counterclaim.  
28

1           ~~141.136.~~ The Parties to the Settlement Agreement agree that the Total  
2 Settlement Amount and the other terms of the Settlement were negotiated at  
3 arm's length and in good faith by the Parties, resulted from an arm's-length  
4 mediation session facilitated by Hon. Carl J. West (Ret.), and reflect a  
5 settlement that was reached voluntarily based upon adequate information and  
6 sufficient discovery and after consultation with experienced legal counsel.

7           ~~142.137.~~ Medina and Class Counsel have concluded that the Settlement  
8 set forth herein constitutes a fair, reasonable, and adequate resolution of the  
9 claims that Medina asserted against R&M, including the claims on behalf of the  
10 Settlement Class, and that it promotes the best interests of the Settlement  
11 Class.

12           ~~143.138.~~ To the extent permitted by law, all agreements made and  
13 orders entered during the course of the Class Action relating to the  
14 confidentiality of information shall survive this Settlement Agreement.

15           ~~144.139.~~ The Parties agree that Medina and Class Counsel are not  
16 required to return any documents produced by R&M until the final resolution of  
17 the Class Action.

18           ~~145.140.~~ The waiver by one Party of any breach of this Settlement  
19 Agreement by any other Party shall not be deemed a waiver of any other prior or  
20 subsequent breach of this Settlement Agreement.

21           ~~146.141.~~ This Settlement Agreement, including its Exhibits, constitutes  
22 the entire agreement among the Parties, and no representations, warranties, or  
23 inducements have been made to any Party concerning this Settlement  
24 Agreement or its Exhibits, other than the representations, warranties, and  
25 covenants contained and memorialized in this Settlement Agreement and its  
26 Exhibits.

27           ~~147.142.~~ This Settlement Agreement may be executed in one or more  
28 counterparts. All executed counterparts and each of them shall be deemed to be

1 one and the same instrument provided that counsel for the Parties to this  
2 Settlement Agreement shall exchange among themselves original signed  
3 counterparts. Faxed or emailed signatures shall be deemed original signatures.

4 ~~148.143.~~ The Parties hereto and their respective counsel agree that  
5 they will use their best efforts to obtain all necessary approvals of the Court  
6 required by this Settlement Agreement.

7 ~~149.144.~~ This Settlement Agreement shall be binding upon and shall  
8 inure to the benefit of the successors and assigns of the Parties hereto, including  
9 any and all released parties and any corporation, partnership, or other entity  
10 into or with which any released party hereto may merge, consolidate, or  
11 reorganize.

12 ~~150.145.~~ This Settlement Agreement shall not be construed more  
13 strictly against one Party than another merely because of the fact that it, or any  
14 respective provision of it, may have been prepared by counsel for one of the  
15 Parties, it being recognized that because of the arm's-length negotiations  
16 resulting in the Settlement Agreement, all Parties hereto have contributed  
17 substantially and materially to the preparation of the Settlement Agreement.

18 ~~151.146.~~ Except where this Settlement Agreement itself provides  
19 otherwise, all terms, conditions, and Exhibits are material and necessary to this  
20 Settlement Agreement and have been relied upon by the Parties in entering into  
21 this Settlement Agreement.

22 ~~152.147.~~ This Settlement Agreement shall be governed by the internal  
23 law, other than choice of law, of the State of California. Any action based on this  
24 Settlement Agreement, or to enforce any of its terms, shall be venued in Orange  
25 County Superior Court, which shall retain jurisdiction over all such disputes.  
26 All Parties to this Settlement Agreement shall be subject to the jurisdiction of  
27 Orange County Superior Court for all purposes related to this Settlement  
28 Agreement.

1 ~~153.~~148. The Court shall retain continuing and exclusive jurisdiction  
2 over the Parties to this Settlement Agreement for the purpose of the  
3 administration and enforcement of this Settlement Agreement.

4 ~~154.~~149. The headings used in this Settlement Agreement are for the  
5 convenience of the reader only, and shall not affect the meaning or  
6 interpretation of this Settlement Agreement.

7 ~~155.~~150. In construing this Settlement Agreement, the use of the  
8 singular includes the plural (and vice-versa) and the use of the masculine  
9 includes the feminine (and vice-versa).

10 ~~156.~~151. Each Party to this Settlement Agreement warrants that he or  
11 it is acting upon his or its independent judgment and upon the advice of his or  
12 its counsel, and not in reliance upon any warranty or representation, express or  
13 implied, of any nature of any kind by any other Party, other than the warranties  
14 and representations expressly made in this Settlement Agreement.

15 IN WITNESS WHEREOF, the parties hereto have executed this Settlement Agreement on  
16 the day and year set forth below.

17 DATED: ~~December \_\_, 2019~~ July 21, 2020

DATED: ~~December \_\_, 2019~~ July 21, 2020

18 R&M PACIFIC RIM, INC.

19  
20  
21 By: \_\_\_\_\_

\_\_\_\_\_ SANTIAGO MEDINA

22  
23 APPROVED AS TO FORM AND CONTENT.

24 Dated: ~~December \_\_, 2019~~ July 21, 2020

BLEAU FOX  
A Professional Law Corporation

25  
26 By: \_\_\_\_\_

SAMUEL T. REES

27  
28 Attorneys for Plaintiff and the Plaintiff Class

1 Dated: ~~December \_\_, 2019~~ July 21, 2020 KRING & CHUNG LLP

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

By: \_\_\_\_\_  
ALLYSON K. THOMPSON  
Attorneys for R&M PACIFIC RIM, INC.

# EXHIBIT E

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND FINAL APPROVAL HEARING**

*Stoddard and Medina, etc. v. Equilon Enterprises, LLC, et al.*  
 Orange County California Superior Court Case No. 30-2010-00395208-CU-OE-CXC

**THE COURT AUTHORIZED THIS NOTICE.**  
**THIS IS NOT A SOLICITATION FROM A LAWYER.**

Pursuant to the Order of the Superior Court for the State of California for the County of Orange, you are hereby notified that a proposed settlement has been reached in the above-referenced case brought on behalf of the following individuals:

*All persons who were employed by R&M Pacific Rim, Inc. and who worked at a Shell branded station operated by R&M and owned by Equilon Enterprises, LLC at any time during the period from August 2, 2006 to September 1, 2008.*

You have been identified as a ~~potential~~ member of the above Settlement Class. This notice provides you with a brief description of the Class Action, the terms of the Settlement, and a description of your rights in connection with the Settlement. **Please read this entire notice carefully.** It may affect your legal rights, including your right to money you may be owed.

<b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
Participate in the Settlement	<del>If the Court grants final approval of the Settlement, you do not need to do anything if you wish to receive a share of the Settlement proceeds, you your Individual Settlement Payment. However, it is highly recommended that you review the information on the attached Information Sheet [Enclosure A] and make any necessary corrections, including updating your contact information. Corrections must submit a Claim, which you can do be submitted to the Settlement Administrator either electronically at [A hyperlink to XXXXXXXX will be included here] or by fax or by mail, as explained below in Paragraph 9. In order to receive your share of the Settlement if the Court grants final approval of the Settlement, you must submit a Claim form no later than [60 days after Notice Date]. below.</del>
Exclude Yourself from the Settlement (Opt-Out)	If you do not want to participate in the Settlement <del>and be bound by the releases therein</del> , you must <del>mail a timely submit a signed</del> written Request for Exclusion to the Settlement Administrator <del>postmarked</del> no later than <del>[60 days after Notice</del> <b>Insert Exclusion Deadline Date</b> <del>];</del> or else you will be bound by the Settlement. <del>Your Request for Exclusion must be submitted by mail or fax. In the case of mail Requests for Exclusion, the postmark shall determine whether that request was timely.</del> Please refer to Paragraph <del>11</del> <b>10</b> below for instructions on excluding yourself.
Object to the Settlement	If you wish to object to the Settlement, you must mail <del>an appropriate</del> written objection to the Settlement Administrator postmarked no later than <del>[60 days after notice date].</del> <b>Insert Exclusion Deadline Date</b> <del> and/or object in person or through an attorney at the Final Approval Hearing on [Insert Final Approval Hearing Date].</del> Please refer to Paragraph <del>12</del> <b>11</b> below for instructions on

	objecting.
<del>Participate in the Fairness Hearing</del>	<del>If you submit an objection to the Settlement, you may also indicate in the objection whether you wish to appear and be heard at the time of the Fairness Hearing.</del>
<del>Do Nothing</del>	<del>If you do nothing with respect to the Notice, and the Court grants final approval of the Settlement, you will be automatically considered a member of the Class but you will receive no payment.</del>

Which option(s) you choose is entirely up to you.

**THESE RIGHTS AND OPTIONS, INCLUDING THE DEADLINES BY WHICH TO EXERCISE THEM, ARE EXPLAINED IN THIS NOTICE.**

**TABLE OF CONTENTS**

**GENERAL INFORMATION REGARDING THIS NOTICE**..... 3  
 What is This Notice About?..... 3  
 What is This Lawsuit About?..... 3

**SUMMARY OF SETTLEMENT** ..... 4  
 Who Is Included in the Settlement? ..... 4  
 How to Participate in the Settlement ..... ~~45~~  
 What Are the Important Terms of the Settlement.....~~5?~~  
6  
 What Are My Rights as a Settlement Class Member ..... 8  
 Class Counsel ..... 11  
 Final Settlement Approval Hearing ..... 11  
 Getting More Information..... ~~11~~12

**ENCLOSURES**

A. Information Sheet ..... 13  
B. Request for Exclusion Form..... 15  
C. Class Information Dispute Form ..... 16  
D. Representations of Fact by R&M ..... 17



## GENERAL INFORMATION REGARDING THIS NOTICE

### WHAT IS THIS NOTICE ABOUT?

This Notice pertains to the ~~partial~~-settlement (“Class Action Settlement” or “Settlement”) of claims against R&M Pacific Rim, Inc. (“R&M”) in a class action lawsuit entitled *Stoddard and Medina, etc. v. Equilon Enterprises, LLC; R&M Pacific Rim, Inc. et. al.*, Orange County Superior Court Case No. 30-2010-00395208-CU-OE-CXC (the “Class Action”).

This Class Action Settlement applies to all persons who were employed by R&M ~~Pacific Rim, Inc. (“R&M”)~~ and who worked at a Shell branded station operated by R&M and owned by Equilon Enterprises, LLC at any time during the period from August 2, 2006 to September 1, 2008 (the “Settlement Class”). The Settlement Class is divided into two subclasses: (1) the Settlement Misclassification Subclass and (2) the Settlement ~~Rest~~-Break Subclass. The Settlement Misclassification Subclass consists of all employees during this period who were declared by R&M as exempt employees and paid a salary. The Settlement ~~Rest~~ Break Subclass consists of all employees during this period who were paid an hourly wage. You may be part of both subclasses.

The Orange County Superior Court (the “Court”) has preliminarily approved the Settlement and has directed the parties to notify the Settlement Class Members of the Settlement. If the proposed Class Action Settlement is finally approved by the Court, your legal rights may be affected. This Notice of Proposed Class Action Settlement summarizes the Class Action and the settlement, and what you need to do (i) if you want to ~~file a claim, be excluded or~~ “opt-out” of the ~~class, Settlement Class,~~ (ii) if you want to object to the settlement ~~or,~~ (iii) if you want to dispute the information on which your Individual Settlement Payment will be calculated and/or (iv) if you want to correct or supplement information contained in the accompanying ~~claim form.~~ Information Sheet [Enclosure A].

This Notice summarizes, but does not fully describe, the Class Action. You may inspect the court files at the Central Justice Center, 700 Civic Center Drive West, Santa Ana, CA 92701 from 8:30 a.m. to 4:30 p.m. Monday through Friday, holidays excepted. You may also visit ~~[settlement website] for more information, to review the Settlement~~ You may also review papers filed in the Class Action at the following web address, by accepting terms, inputting under the Case Tab the following case number (30-2010-00395208) and indicating 2010 as the year filed: <https://ocapps.occourts.org/civilwebShoppingNS/Login.do;jsessionid=3A1FC4852C74CBFCD6B17016C5C25AC5> The Register of Actions lists all papers which have been filed, most of which you can purchase on-line for a fee. You may also visit ~~[settlement website] for more information, to review the Settlement Agreement,~~ or to review certain Court filings relating to the Settlement.

**PLEASE DO NOT CONTACT THE COURT OR THE COURT CLERK REGARDING THE LAWSUIT.**

### WHAT IS THIS CLASS ACTION LAWSUIT ABOUT?

For a complete understanding of the claims asserted on your behalf in the Class Action, please review the Second Amended Complaint filed in the Class Action on March 25, 2019. This section is merely a summary of certain important allegations thereof. Also and while the Class Action was pending,

Raymond Stoddard, one of the original named plaintiffs, died; and the Class Action is now being prosecuted only by Santiago Medina ("Medina").

The Class Action generally involves claims under California's wage and hour laws. Insofar as claims are asserted against R&M in the Class Action, Medina primarily alleges that from and after August 2, 2006, R&M misclassified certain of its employees as "exempt" employees and improperly failed to pay them overtime wages and premium pay for missed off-duty meal and rest breaks ~~and~~. Medina further alleges that R&M also improperly failed to pay its hourly employees premium pay for their missed meal and rest breaks. These claims are asserted pursuant to the California *Labor Code*, California Unfair Competition Law and the applicable California Industrial Welfare Commission wage order. Other bases for relief also are asserted. These claims against R&M only relate to employees working at R&M operated stations.

Insofar as claims also are asserted against Equilon Enterprises, LLC, Medina primarily alleges that from and after May 2001, Equilon was a joint employer with its third party operators, including R&M, ~~and~~ misclassified certain of its employees as "exempt" employees and improperly failed to pay them overtime wages and premium pay for missed off-duty meal and rest breaks and also improperly failed to pay its hourly employees premium pay for their missed meal and rest breaks. These claims also are asserted pursuant to the California *Labor Code*, California Unfair Competition Law and the applicable California Industrial Welfare Commission wage order. Other bases for relief are also asserted. These claims relate to all Equilon owned stations in California and operated by third parties, including R&M. As such, these claims are broader than the claims asserted against R&M but include all of those claims also. Summary Judgment in favor of Equilon on these claims was recently granted by the Court which Summary Judgment is on appeal.

On January 15, 2019, after good-faith negotiations with an experienced, neutral mediator, in which both Medina and R&M recognized the substantial risk of an uncertain outcome, Medina and R&M agreed to settle their dispute pursuant to the terms and conditions of a negotiated Settlement. The parties and their counsel have concluded that the Settlement is advantageous, considering the risks and uncertainties of continued litigation. The parties and their counsel have determined that the Settlement is fair, reasonable, and adequate and is in the best interests of the members of the Settlement Class.

R&M denies that it has done anything wrong or that it violated the law in any way. R&M further denies that it owes the Settlement Class any wages, restitution, penalties, or other damages and contends that Settlement Class members were properly compensated and properly provided meal and rest periods. Accordingly, the Settlement represents a compromise and settlement of disputed claims. Nothing in the Settlement is intended to be or will be construed as an admission by R&M that Medina's claims have merit or that R&M has any liability to Medina or the putative class on the claims alleged in the Class Action. **The Court has not ruled on the merits of Medina's claims against R&M.**

## **SUMMARY OF THE SETTLEMENT**

### **SUMMARY OF THE SETTLEMENT**

### **WHO IS INCLUDED IN THE SETTLEMENT?**

You have received this notice and are included in the Settlement because R&M's records show that you fall within the following definition:

*All persons who were employed by R&M and who worked at a Shell branded station operated by R&M and owned by Equilon Enterprises, LLC at any time during the period from August 2, 2006 to September 1, 2008.*

## HOW TO PARTICIPATE IN THE SETTLEMENT

If you are included in the above class definition, you are automatically considered a member of the Settlement Class. However, you have the right to request exclusion from the Settlement, the right to object to the Settlement, the right to dispute the information upon which your Individual Settlement Payment will be calculated, and the right to correct or supplement any other personal information provided. ~~Moreover:~~

~~**YOU WILL NEED TO TIMELY SUBMIT A CLAIM FORM BY [INSERT DATE] IN ORDER TO RECEIVE YOUR INDIVIDUAL SETTLEMENT PAYMENT.**~~

~~**(Claims Submission Information is Provided in Paragraph 9 Below.)**~~

**IF YOU WISH TO BE EXCLUDED FROM THIS SETTLEMENT AND NOT BE BOUND BY IT, YOU WILL NEED TO TIMELY SUBMIT A WRITTEN REQUEST FOR EXCLUSION CONTAINING THE NECESSARY INFORMATION BY [INSERT DATE]. EXCLUSION DEADLINE DATE. YOU MAY DO SO BY TIMELY COMPLETING, SIGNING AND SUBMITTING THE FORM INCLUDED WITH THIS NOTICE [ENCLOSURE B] BY MAIL OR BY FAX TO THE SETTLEMENT ADMINISTRATOR.**

**(Settlement Exclusion Information is Provided in Paragraph ~~11~~10 Below.)**

**IF YOU WISH TO OBJECT TO ANY ASPECT OF THIS SETTLEMENT, YOU WILL NEED TO TIMELY SUBMIT A WRITTEN STATEMENT OF OBJECTION CONTAINING THE NECESSARY INFORMATION BY [INSERT DATE]. EXCLUSION DEADLINE DATE AND/OR APPEAR AT THE FINAL APPROVAL HEARING IN PERSON OR THROUGH AN ATTORNEY AND MAKE YOUR OBJECTION AT THAT TIME.**

**(Objection Information is Provided in Paragraph ~~12~~11 Below.)**

**IF YOU WISH TO DISPUTE ANY OF THE ACCOMPANYING INFORMATION ON WHICH YOUR INDIVIDUAL SETTLEMENT PAYMENT WILL BE CALCULATED, YOU WILL NEED TO STATE THE BASIS FOR YOUR DISPUTE AND PROVIDE SUPPORTING DOCUMENTATION BY [INSERT DATE]. YOU MUST DO SO BY TIMELY COMPLETING, SIGNING AND SUBMITTING WITH APPROPRIATE DOCUMENTATION THE DISPUTE FORM INCLUDED WITH THIS NOTICE [ENCLOSURE C] BY MAIL OR BY FAX TO THE SETTLEMENT ADMINISTRATOR.**

**(Dispute Information is ~~Provided~~provided in Paragraph 2. ~~(e)~~.d. Below.)**

**UNLESS YOU TIMELY SUBMIT A WRITTEN REQUEST TO BE EXCLUDED FROM THIS SETTLEMENT, YOU WILL BE BOUND BY ITS TERMS AND THE RELEASES DESCRIBED BELOW.**

Your Individual Settlement Payment will be based on the employment records of R&M which are presumed to be correct and which, as to your information, is set forth in the attached ~~claim form~~. Information Sheet [Enclosure A].

Your interests as a member of the Settlement Class will be represented by Class Counsel. If you choose, you may enter an appearance individually or through your own counsel at your own expense. You have the right to consult and/or retain an attorney of your own choice, at your own expense, to advise you regarding the Settlement and your rights in connection with the Settlement. **If you have questions about this Settlement, you may contact Class Counsel by email at STReesEsq@earthlink.net or at (818) 748-3434, although email is preferable.**

#### WHAT ARE THE IMPORTANT TERMS OF THE SETTLEMENT?

1. The Total Settlement Amount is \$845,000, inclusive of all damages, fees, costs, penalties, attorneys' fees and expenses and administration of the Settlement.
  - a. Class Counsel ~~can~~ intends to seek by motion an award of ~~up to 1/3 attorneys' fees of the Total Settlement Amount \$281,667,~~ plus costs and expenses ~~per motion,~~ subject to the Court approval. The motion will be available on [settlement website] upon filing and as the is subject to Court approves. ~~review and approval.~~ You have the right to object to this award to Class Counsel. The amount approved by the Court will be deducted from the Total Settlement Amount before Individual Settlement Payments are calculated.
  - b. In addition, ~~Medina intends to seek by motion~~ a Service Award ~~to Medina and Administrator~~ costs ~~as of~~ \$5,000 for serving as the named plaintiff and Class Representative. You have the right to object to this Service Award which is also subject to review and approval by the Court. The amount approved by the Court will be deducted from the Total Settlement Amount before payment to the two subclasses. Individual Settlement Payments are calculated.
  - c. The Settlement Administrator will be paid a fee and costs for administrating this Settlement. The total amount of those fees and costs will not exceed \$15,000. The fees and costs will be deducted from the Total Settlement Amount before Individual Settlement Payments are calculated.
  - d. The remaining amount after these deductions (the "Remaining Settlement Amount") shall be split between the two subclasses per the formula summarized in Paragraph 2 below. ~~The remaining Total Settlement Amount will fund payments to Class Members who timely submit a valid Class Member Claim. If you want to participate in the Settlement and receive your payment, be sure to file your claim!~~
2. **Payment to Class Members.** The Remaining Settlement Amount will be distributed only to those the Settlement Class Members ~~who timely submit a valid Claim., as follows:~~

a. **Misclassification Subclass:** Seventy-four percent (74%) of the Remaining Settlement Amount shall be allocated to the Settlement Misclassification Subclass. This amount shall be prorated among the members of the Settlement Misclassification Subclass based upon the total number of ~~weeks~~Work Weeks (Monday through Sunday) or portions thereof each such member worked during the Class Period as an exempt employee divided by the total number of weeks and portions thereof worked by all members of this subclass. An employee whose classification was changed during a ~~work~~week~~Work Week~~ shall be deemed an exempt employee for the entire ~~week~~Work Week during the Class Period and not an hourly employee for that week. Each such allocation shall be further allocated Thirty-Three percent (33%) to wages and Sixty-Seven percent (67%) to penalties and interest.

b. **Rest-Break Subclass:** Twenty-Six percent (26%) of the Remaining Settlement Amount shall be allocated to the Settlement ~~Rest~~-Break Subclass. This amount shall be prorated among the members of the ~~Rest~~ Break Subclass based upon each employee's gross wages paid during the Class Period divided by the gross wages paid during the Class Period to all members of this subclass. An employee whose classification was changed from exempt to hourly during a ~~work~~week~~Work Week~~ shall not be deemed an hourly employee for the ~~entire~~week~~Work Week~~ during the Class Period he or she was also an exempt employee. Each such allocation shall be further allocated Thirty-Three percent (33%) to wages and Sixty-Seven percent (67%) to penalties and interest.

c. \_\_\_\_\_ If a ~~Responding~~ Settlement Class Member will be distributed \$10 or more, then he or she will receive the entitled amount. If, however, the ~~Responding~~-Settlement Class Member is due less than \$10, then his or her Individual Settlement Payment will be for \$10, which may have a small effect on the payments to other members of that subclass.

~~e.d.~~ \_\_\_\_\_ Settlement Class Members will be provided thirty-five (35) days after the initial mailing of the Class Notice ~~and accompanying claim form to dispute the information upon which their share of the Settlement will be calculated and to but they must provide documentation to support this dispute.~~ You may do so by timely completing, signing and submitting with appropriate documentation the Dispute Form included with this notice [Enclosure C] by mail or by fax to the Settlement Administrator. The Settlement Administrator will resolve all such disputes and its decision will be final. R&M's employment records on which the accompanying ~~claim form~~Information Sheet is based are presumed correct.

~~e.e.~~ \_\_\_\_\_ Settlement Class Members who receive a payment of any kind from the Total Settlement Amount expressly acknowledge that such payments shall be considered to be comprised of thirty-three percent (33%) wages for which an IRS Form W-2 will be issued and sixty-seven percent (67%) non-wages for which an IRS Form 1099 will be issued. All Settlement Class Members who receive a payment of any kind from the Total Settlement Amount agree to timely pay in full all of the federal, state, and municipal income taxes owed on such payments.

e. ~~Unclaimed funds will be redistributed to those members of the Settlement Misclassification Subclass who received and cashed their individual payments pursuant to the same formula described in section 2(b) above.~~

f. Unclaimed funds: Individual Settlement Payment checks which are not cashed within 180 days of issuance will be deemed void. The funds represented by voided checks will then be paid to the State of California for deposit into the Unclaimed Property Fund for the benefit of the Settlement Class Member who did not timely cash his Individual Settlement Payment check.

3. This Settlement was made based upon certain representations of fact made by R&M and contained in the Settlement Agreement ~~at Paragraph 60.~~ These factual representations are set forth in Enclosure D to this Notice. You should review these representations as they may affect your decisions regarding this settlement. A copy of the Settlement Agreement and Exhibits may be downloaded at [INSERT WEBSITE].

3. Of primary importance ~~is~~ are the representations that prior to September 1, 2008, (i) R&M reclassified all exempt employees as hourly employees and thereafter paid overtime to those employees, (ii) changed its rest break policies to allow all employees to take 10 minute off-duty rest breaks every 4 hours worked, or major fraction thereof, and (iii) changed its meal break policies to allow all employees who worked more than 5 hours in a workday to take a 30 minute off-duty meal break and were provided compensation for a form to report any missed or non-compliant meal breaks for which payment would be provided, and (iv) paid missed meal break compensation to 370 employees in settlement as a result of a California Labor Commissioner meal break audit.

4. You will be bound by this Settlement and the releases contained therein, if it is given final approval by the Court, unless you timely submit a valid written Request for Exclusion to the Settlement Administrator, ~~postmarked~~ by the deadline of [60 days after Insert Exclusion Deadline Date]. You may do so by timely completing, signing and submitting the form included with this notice date]. [Enclosure B] by mail or by fax to the Settlement Administrator. If you do ~~mail~~ submit a valid Request for Exclusion by the deadline in accordance with the instructions for submitting a Request for Exclusion, you will be excluded from the Settlement and will not receive any Individual Settlement Payment, but you will retain the ~~right~~ rights you may have, if any, to pursue your claims against Defendants and will not be bound by the releases contained in the Settlement Agreement.

5. If the Court does not grant final approval of the Settlement, or does not enter the Final Approval Order or if the Court's Final Approval Order is reversed in whole or in part on appeal, the parties have no obligations under the Settlement and Settlement Class Members will **not** receive any payments thereunder.

6. The Court has approved Phoenix Settlement Administrators as ~~settlement administrator~~ Settlement Administrator to administer the Settlement.

7. The Settlement, if given final approval by the Court, includes a very broad release to R&M and its affiliates. This release is, as follows:

~~“[A]ny and all past and present claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or liabilities, of any nature and description whatsoever, known or unknown, but arising during the Class Period and for claims arising during the Class Period for compensatory, consequential, punitive or exemplary damages, statutory damages, declaratory relief, injunctive relief, equitable relief, penalties, interest, attorneys’ fees, costs and/or disbursements, including, but not limited to, those incurred by Class Counsel or any other counsel representing Medina or any Settlement Class Members (other than those expressly awarded by the Court in the Class Counsel Award authorized by this Agreement), that arose during the Class Period and from or are reasonably based on or related to R&M’s alleged failure to classify Settlement Class Members as non-exempt employees and compensate those employees overtime and/or R&M’s alleged failure to provide the Settlement Class Members with off-duty rest breaks or compensate them for missed off-duty rest breaks, and specifically includes the following claims arising solely during the Class Period and from, based on or reasonably relating to, claims asserted or alleged in the Class Action: claims for unpaid wages (including without limitation claims for overtime and meal period and rest period premiums), liquidated damages, expense reimbursements, interest, penalties (including waiting time penalties pursuant to *Labor Code* Section 203, wage statement penalties pursuant to *Labor Code* Section 226, restitution, and civil and statutory penalties), claims under *Business and Professions Code* Section 17200, *et seq.*, claims under the federal Fair Labor Standards Act, claims for attorneys’ fees and costs, and claims for unfair business practices. “Settlement Class Members’ Released Claims” do not include claims that, as a matter of law, cannot be released and do not include claims for retaliation, discrimination, wrongful termination, or individual claims filed with the appropriate agency for the recovery of workers’ compensation benefits. “Settlement Class Members’ Released Claims” do not include claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or liabilities, of any nature and description whatsoever, known or unknown, existing or potential, recognized now or hereafter, expected or unexpected, pursuant to any theory of recovery and arising before or after the Class Period including those against Equilon Enterprises, LLC, its parent and affiliates, including Equistaff, LLC, and Tesoro Refining & Marketing Company LLC and its parents and affiliates.~~

Any and all claims alleged in the Second Amended Complaint, or that could have been alleged in the Second Amended Complaint based on the facts alleged therein, including claims for non-payment of overtime, missed meal and rest break compensation, interest thereon, attorneys’ fees and expenses and costs of suit.

This release of fees and expenses includes, but is not limited to, those incurred by Class Counsel or any other counsel representing Medina or any Settlement Class Members, other than those expressly awarded by the Court as authorized by this Agreement.

8. Medina, as Class Representative, and Class Counsel, support the Settlement. Their reasons include the risk of being unable to pursue this case as a class action on behalf of all Class Members, the risk of a trial on the merits, the inherent delays and uncertainties associated with litigation, and the possibility that the Class is not entitled to any recovery from Defendants.

Based on their experience litigating similar cases, Class Counsel believes that further proceedings in this case would be uncertain and, upon careful consideration of all facts and circumstances of this case, as well as the potential damages that could be recovered, Class Counsel believes that the Settlement is fair, reasonable, and adequate.

#### WHAT ARE MY RIGHTS AS A SETTLEMENT CLASS MEMBER?

~~9. To submit a claim electronically, **[click on this link]**, or go to **www.XXXX.com** and enter your **Claimant ID and Verification Number**, provided in the accompanying claim form. **[Website name will be linked to website where claims can be submitted; Claimant ID and Verification Number will be automatically entered for Class members who enter the website through this link.]**~~

~~To submit a claim by fax, please complete and fax it to the Settlement Administrator at (249) 209-2503 and retain confirmation that the fax was successfully transmitted.~~

~~9. To submit a claim by paper, please complete and return the enclosed claim form to the Settlement Administrator at the address listed below. **Participate in the Settlement.** You have the right to participate in the Settlement; and, if the Settlement is finally approved by the Court, you have the right to your Individual Settlement Payment. You do not have to do anything to exercise this right. However, if you decide to participate in the Settlement, you should review the attached Information Sheet [Enclosure A]. If there is no social security number on your Information Sheet, it is because the Settlement Administrator has not been able to verify that number with the Social Security Administration. If this applies to you, you will need to submit a Form W-9 to the Settlement Administrator which can be verified or your Individual Settlement Payment will be subject to backup withholding. You should also check to make sure your address and contact information are correct so that you will receive your Individual Settlement Payment if and when it is mailed. You may make corrections to your contact information in the Information Sheet either electronically at [www.XXXX.com](http://www.XXXX.com), by fax to (249) 209-2503 or by mail addressed to the Settlement Administrator at Phoenix Settlement Administrators, PO Box 7208, Orange, CA 92863. A W-9 Form should be submitted by fax or mail to the Settlement Administrator.~~

~~If you need additional **claim form** information, please contact the Settlement Administrator at (800) 523-5773 or at [Info@phoenixclassaction.com](mailto:Info@phoenixclassaction.com).~~

~~**In order to receive a monetary payment from this Settlement, you must submit your claim no later than **[60 days after notice date]**.**~~

~~10. **Receiving a Settlement Payment:** If you wish to receive payment from this Settlement, you must submit a valid and timely Claim no later than **[60 days after preliminary approval]**. If the settlement is finally approved, you will receive your payment by paper check at the address where this notice was mailed (unless you timely provide an updated address to the Settlement Administrator).~~



11.10. **Excluding Yourself from the Settlement (Opt-Out):** You have the right to exclude yourself from the Settlement and retain the right to pursue any individual claims you may have against R&M. If you do **not** wish to participate in the Settlement, you must mail ~~in~~ **or fax** a written Request for Exclusion to the Settlement Administrator. The Request for Exclusion must include: (1) your name, address, and telephone number; (2) a clear and unequivocal statement that you wish to be excluded from the Settlement Class; and (3) your signature or the signature of your Legally Authorized Representative. The attached Request for Exclusion Form [Enclosure B] may be completed, signed and submitted to the Settlement Administrator should you wish to use it. The Request for Exclusion must be completed, signed, and mailed to the Settlement Administrator at ~~the address identified below~~ **Phoenix Settlement Administrators, PO Box 7208, Orange, CA 92863**, postmarked no later than **[Exclusion/Written Objection Deadline]** or faxed to the Settlement Administrator at (249) 209-2503 by that date. If you fail to ~~return~~ **submit** a Request for Exclusion in the manner and by the deadline specified above, you will be bound by all terms and conditions of the Settlement and Judgment.

**Any person who files a complete and timely Request for Exclusion will, upon receipt by the Settlement Administrator, no longer be a member of the Settlement Class and will not be eligible to receive a payment if the Settlement is finally approved.** Any such person will retain the right, if any, to pursue the claims released by this Settlement at his or her own expense. A Request for Exclusion that does not fulfill the requirements above will be deemed invalid. Requests for exclusion must be exercised individually by the Settlement Class Member. Attempted collective group, class, or subclass requests for exclusions shall be ineffective and disregarded by the Settlement Administrator.

If a Settlement Class Member submits both an objection and a valid and timely Request for Exclusion, the Request for Exclusion will be accepted and the objection will be rejected. ~~If a Settlement Class Member submits both a Claim and a Request for Exclusion from the Settlement, the Settlement Class Member may be given an opportunity to clarify his or her response. If not modified by the Settlement Class Member, the Request for Exclusion will apply and the Claim will be rejected.~~

**There will be no retaliation or adverse employment action taken by R&M against any Settlement Class Member who participates in the Settlement, elects not to participate in the Settlement, or objects to the settlement because of the Settlement Class member's decisions about whether and how to participate in the Settlement Settlement because of such participation, election, or objection.**

12.11. **Objecting to the Settlement:** You have the right to object to any of the terms of the Settlement, the Class Counsel Award and/or the Service Award. Any Settlement Class Member that wishes to object to the fairness, reasonableness, or adequacy of this Settlement Agreement or the proposed Settlement, the Plan of Allocation, the Class Counsel Award and/or the Service Award must provide to the Settlement Administrator (who shall forward it to Class Counsel and Defense Counsel), a timely **signed** statement of the objection or appear at the final hearing and make the objections or both. To be timely, a written objection must be mailed to the Settlement Administrator, and postmarked no later than **[60 days after notice date]**. A written objection must contain at least the following: (i) the objector's full name, address, telephone number, and signature; (ii) a clear reference to the Class Action; (iii) a statement of the specific legal and

factual basis for each objection argument; and (iv) a statement whether the objecting person or entity intends to appear at the Final Approval Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number. ~~All objections shall~~ Objections may be signed submitted by the ~~objecting one or more Settlement Class Members, but must identify each Settlement Class Member (or his/her Legally Authorized Representative), even if the Settlement Class Member on whose behalf it is represented by counsel made.~~

If you submit both an objection and a valid and timely Request for Exclusion, the Request for Exclusion will be accepted and the objection will be rejected.

If the Court does not give final approval to the Settlement, no Individual Settlement Payments will be sent out and the lawsuit will continue.

If the Court ~~overrules your objection and~~ gives final approval to the Settlement, you will be bound by the terms of the Settlement and ~~only receive a Settlement Payment if you submitted a Claim.~~

~~Remember, you must timely submit a claim form even if you object to the Settlement if you want to~~ receive your Individual Settlement Payment.

~~13.12.~~ **Termination of the Settlement:** If after [Exclusion/Written Objection Deadline] and before the Final Approval Hearing, ~~five or more of the~~ Settlement ~~Misclassification Subclass~~ Class Members, whose estimated Individual Settlement Payments equal or exceed ten percent (10%) of the Total Settlement Amount, submit timely and valid ~~request~~ Requests for ~~exclusion~~ Exclusion from the Settlement, R&M shall have, in its sole and absolute discretion, the option to terminate this Settlement. The estimated Individual Settlement Payments shall be calculated assuming that the combined total of the approved Class Counsel Award, approved Service Award and approved expenses for the Settlement Administrator are \$316,667. R&M shall exercise its option to terminate, if at all, prior to the Final Approval Hearing, provided the Settlement Administrator has provided R&M the Opt-Out List no later than ten (10) business days prior to the Final Approval Hearing. If R&M decides to void the Settlement, then the Settlement and conditional class certification shall be considered void, ~~and;~~ the Settlement, conditional class certification, and any related negotiations or proceedings shall be of no force and effect; ~~and~~ the Parties shall stand in the same respective positions, without prejudice, as if this Settlement had been neither entered into nor filed with the Court. Should R&M void the Settlement under this paragraph, R&M shall be responsible for all Settlement ~~Administrator~~ Administration Costs incurred through the date R&M notifies the Settlement Administrator that it is exercising its option to terminate the Settlement.

~~14.13.~~ **Release of Employment Records:** The Court has authorized R&M to release to the Settlement Administrator and to Class Counsel, for purposes of this Settlement only and without prior notice to you, certain information concerning you and contained in R&M's employment records. This information includes your name, last known residence address, last known telephone number(s), last known email address, social security number, dates of employment and gross wages for 2006 through 2008.

~~15.14.~~ **Keep Your Information Up to Date:** ~~If you submit a Claim, it~~ It is your obligation to make sure that the Settlement Administrator is able to verify your social security number and to keep the Settlement Administrator informed of any changes in your mailing address until your Settlement Payment is received, should final approval of the Settlement be granted. Failing to provide the Settlement Administrator with any change of your mailing address may prevent you from receiving ~~and perhaps losing your Individual Settlement Payment in a timely manner.~~ The absence of a verified social security number will result in backup withholding applied to your Individual Settlement Payment.

~~16.15.~~ **Information Available on Website:** The Settlement Administrator has created a website for purposes of this Settlement. The website address is [INSERT ADDRESS]. Among other actions you may take through this website and information contained therein, you will be able to ~~download~~ view the following documents: Second Amended Complaint; Settlement Agreement and exhibits; Class Notice; ~~Claim Forms;~~ Motion for Preliminary Approval of this Settlement; ~~and Preliminary Approval Order.~~ If you need a duplicate of your; and Motion for Class Counsel Award and Service Award, when filed. You also will be able to correct certain information contained in on the accompanying claim form, please contact the Settlement Administrator. attached Information Sheet [Enclosure A].

~~17.16.~~ **The Settlement Administrator's Address:** You may send a ~~paper Claim;~~ Request for Exclusion; or Objection to the Settlement Administrator ~~to~~ at the following address:

Phoenix Settlement Administrators  
PO Box 7208, Orange, CA 92863  
Ph: 800-523-5773  
Email: [Info@phoenixclassaction.com](mailto:Info@phoenixclassaction.com)  
Fax: 949-209-2503

#### CLASS COUNSEL

Contact information for Class Counsel is provided below:

SAMUEL T. REES  
BLEAU FOX  
A Professional Law Corporation  
2801 West Empire Avenue  
Burbank, CA 91504  
Telephone: (818) 748-3434  
Facsimile: (818) 748-3436  
Email: STReesEsq@earthlink.net

#### FINAL SETTLEMENT APPROVAL HEARING

The Court has scheduled the Settlement Fairness Hearing for \_\_ on \_\_, 20xx, in Department CX-104 of the Orange County Superior Court located at 751 W. Santa Ana Blvd., Santa Ana, California 92701. At this time, the Court will be asked to rule on the adequacy, reasonableness, and fairness of the Settlement and on Class Counsel's request for attorneys' fees and reimbursement of documented costs and

expenses and the Service Award to Medina. If there are any objections, the Court will consider them. After the Settlement Fairness Hearing, the Court will decide whether to approve the Settlement.

The Settlement Fairness Hearing may be postponed without further notice to Settlement Class members.

**You are not required to attend the Settlement Fairness Hearing, although any Settlement Class member is welcome to attend the hearing.**

### GETTING MORE INFORMATION

This notice summarizes the Class Action and the proposed Settlement. For more precise terms and conditions of the Settlement, please contact Class Counsel (contact information above), or visit the office of the Court Clerk located at the Central Justice Center, 700 Civic Center Drive West, Santa Ana, CA 92701, during business hours.

**PLEASE DO NOT TELEPHONE THE COURT, FOR INFORMATION ABOUT THE SETTLEMENT! YOU MAY CALL CLASS COUNSEL LISTED ABOVE.**

**ENCLOSURE A**  
**INFORMATION SHEET**

**CLAIMANT ID: [INSERT]**

**VERIFICATION NUMBER: [INSERT]**

**The information provided below was provided by R&M Pacific Rim, Inc. ("R&M") from its employment records and was ordered by the Court to be provided to Phoenix Settlement Administrators and Class Counsel for settlement purposes only and without prior notice to you. PLEASE VERIFY THAT THE INFORMATION IS CORRECT AND MAKE CHANGES WHERE NECESSARY. Your Individual Settlement Payment will be partially based on this information.**

**1. Your Contact Information**

Please review and, if necessary, correct on the line to the right your contact information:

Name: <<Name>> \_\_\_\_\_  
Address: <<Address>> \_\_\_\_\_  
City, State, Zip: <<City>>, <<State>> <<Zip Code>> \_\_\_\_\_  
Social Security Number: [INSERT ONLY IF VERIFIED] \_\_\_\_\_  
Telephone Number: [INSERT] \_\_\_\_\_  
Email Address: [INSERT] \_\_\_\_\_

**If there is no Social Security Number shown above, it is because the number provided by R&M could not be verified with the Social Security Administration. In such case, you will need to provide the Settlement Administrator with a substitute IRS Form W-9 which can be verified or your Individual Settlement Payment will be subject to backup withholding.**

**2. Information for Misclassification Subclass, if applicable.**

The personnel and payroll records of R&M show that during the Class Period (August 2, 2006 through September 1, 2008), you were employed by R&M as an exempt, salaried employee, as follows:

Dates of Employment as Exempt: <<Start Date>> - <<End Date>>  
\_\_\_\_\_ <<Start Date>> - <<End Date>>  
\_\_\_\_\_

Number of Full Work Weeks, Rounded Up [INSERT NUMBER]  
\_\_\_\_\_

You will receive both IRS W-2 and 1099 forms with your payment.

**3. Information for Break Subclass, if applicable.**

The personnel and payroll records of R&M show that during the Class Period (August 2, 2006 through September 1, 2008), you were employed by R&M as an hourly employee, as follows:

Dates of Employment as Hourly: <<Start Date>> - <<End Date>>  
\_\_\_\_\_ <<Start Date>> - <<End Date>>  
\_\_\_\_\_

2006 Reported Gross Wages: [INSERT NUMBER]  
\_\_\_\_\_

2007 Reported Gross Wages: [INSERT NUMBER]

2008 Reported Gross Wages: [INSERT NUMBER]

You will receive both IRS W-2 and 1099 forms with your payment.

**ENCLOSURE B**  
**REQUEST FOR EXCLUSION FORM**

**THIS COMPLETED AND SIGNED REQUEST FOR EXCLUSION FORM MUST EITHER BE POSTMARKED ON OR BEFORE OR FAXED TO THE SETTLEMENT ADMINISTRATOR ON OR BEFORE [Insert Exclusion Date]**

*Stoddard and Medina, etc. v. Equilon Enterprises, LLC, et al.*  
Orange County California Superior Court Case No. 30-2010-00395208-CU-OE-CXC

I, \_\_\_\_\_, hereby request that I be excluded from the Class  
\_\_\_\_\_ [Print Full Name]

Action Settlement of the above lawsuit and excluded from the Settlement Class. I understand by timely submitting this completed form to Phoenix Settlement Administration, I will not receive any payment from this Settlement, will not be bound by the releases in the Settlement Agreement and may pursue my own remedies against R&M Pacific Rim, Inc. at my own expense.

My address and telephone number are, as follows:

\_\_\_\_\_  
\_\_\_\_\_ [Print Street Address]

\_\_\_\_\_  
\_\_\_\_\_ [Print City, State and Zip Code]

\_\_\_\_\_  
\_\_\_\_\_ [Print Area Code and Telephone Number]

\_\_\_\_\_  
\_\_\_\_\_ [Sign Full Name]

**MAIL OR FAX COMPLETED REQUEST FOR EXCLUSION FORM TO**

**Phoenix Settlement Administrators**  
**PO Box 7208, Orange, CA 92863**

**Fax Number: (249) 209-2503**

**ENCLOSURE C**  
**CLASS INFORMATION DISPUTE FORM**

I, \_\_\_\_\_, hereby dispute the following information  
\_\_\_\_\_ [Print Full Name]  
contained in my Information Sheet and upon which my Individual Settlement Payment will be  
calculated. I enclose documentation to support my dispute.

**COMPLETE EACH APPROPRIATE SECTION.**

Employment Dates.

(Do not insert a date prior to August 2, 2006 or after September 1, 2008)

I actually commenced my employment as a salaried, exempt employee or was converted to a salaried  
exempt employee on \_\_\_\_\_.

I actually ceased my employment as a salaried, exempt employee or was converted to a non-exempt,  
hourly employee on \_\_\_\_\_.

I actually commenced my employment as a non-exempt, hourly employee on  
\_\_\_\_\_.

I actually ceased my employment as a non-exempt, hourly employee on \_\_\_\_\_.

Hourly Employee Gross Wages.

(Do not include wages paid when you were a salaried, exempt employee)

My actual Gross Wages from R&M for 2006 as a non-exempt Hourly Employee were \$ \_\_\_\_\_.

My actual Gross Wages from R&M for 2007 as a non-exempt Hourly Employee were \$ \_\_\_\_\_.

My actual Gross Wages from R&M for 2008 as a non-exempt Hourly Employee were \$ \_\_\_\_\_.

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
[Sign Full Name]

**MAIL OR FAX COMPLETED REQUEST FOR EXCLUSION FORM TO**

**Phoenix Settlement Administrators**  
**PO Box 7208, Orange, CA 92863**

**Fax Number: (249) 209-2503**



**ENCLOSURE D**  
**REPRESENTATIONS OF FACT BY R&M**

(See Paragraph 59 of the Amended and Restated Settlement Agreement)

A. If no Settlement Class Member requests to be excluded from this Settlement, there are 37 employees who would be included in the Settlement Misclassification Subclass, 28 of whom are also included in the Settlement Break Subclass.

B. If no Settlement Class Member requests to be excluded from this Settlement, there are 440 employees who would be included in the Settlement Break Subclass, 28 of whom are also included in the Settlement Misclassification Subclass.

C. During the Class Period, each member of the Settlement Break Subclass was compensated at the minimum hourly rate applicable during the time that member worked or at an amount not materially greater than the minimum hourly rates of \$6.75 for 2006, \$7.50 for 2007 and \$8.00 for 2008.

D. During the Class Period, each member of the Settlement Misclassification Subclass was compensated by a salary equating to approximately and not materially higher than \$12.70 per hour, calculated by taking their annual salary and dividing it by 2,080 hours.

E. Prior to September 1, 2008, R&M reclassified each member of the Settlement Misclassification Subclass as a non-exempt employee. From and after September 1, 2008, R&M paid those employees an hourly wage and overtime when they worked more than 40 hours in a work week or more than 8 hours in a workday as shown on their timecards.

F. Prior to September 1, 2008, R&M changed its rest break policy to clarify that all employees, including employees formerly claimed to be exempt employees and since reclassified as non-exempt employees, were entitled to and authorized and permitted to take duty-free, paid rest periods at the rate of no less than ten minutes net rest for every four hours worked, or major fraction thereof.

G. On or about July 5, 2008, and as a result of a California Labor Commissioner meal break audit, R&M paid approximately 370 employees for missed meal break compensation. These payments were believed by R&M to resolve all meal break claims for the Class Period. In June 2008, R&M modified its meal break policy to ensure that all non-exempt employees working more than 5 hours in a workday and not working alone were afforded an off-duty meal break, a form to report any missed or non-compliant meal breaks for which payment would be provided and continued to allow non-exempt employees working alone the option to sign an on-duty meal waiver if they wished to do so.

H. Pursuant to Equilon's contractual requirement, all Settlement Class Members were fluent in English.

# EXHIBIT F

1 SAMUEL T. REES (State Bar No. 58099)  
THOMAS P. BLEAU (State Bar No. 152945)  
2 MARTIN R. FOX (State Bar No. 155783)  
BLEAU FOX  
3 A Professional Law Corporation  
2801 West Empire Avenue  
4 Burbank, CA 91504  
Telephone: (818) 748-3434  
5 Facsimile: (818) 748-3436

6 Attorneys for Plaintiff  
and the Plaintiff Class  
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF ORANGE**  
10

11 RAYMOND STODDARD and SANTIAGO )	Case No. 30-2010-00395208-CU-OE-CXC
MEDINA, etc., )	
12 )	Hon. William Claster
Plaintiffs, )	Department CX 102
13 )	
vs. )	CLASS ACTION
14 )	
EQUILON ENTERPRISES, LLC, et al., )	<b><u>REVISED [PROPOSED] PRELIMINARY</u></b>
15 )	<b><u>APPROVAL ORDER</u></b>
R&Ms. )	
16 )	
17 )	Date: <del>April 10, 2019</del> <u>July 31, 2020</u>
18 )	Time: <u>8:30:00</u> a.m.
19 )	Dept: <del>CX104</del> <u>CX 104</u>
20 )	
21 )	Complaint Filed: <del>August 2, 2010</del>
22 )	Trial Date: <del>_____</del> None Set
23 )	
24 )	<b><u>Reservation No. 73219881</u></b>

23 WHEREAS, this action is pending before this Court as a Class Action; and  
24 WHEREAS, Plaintiff Santiago Medina ("Medina") has filed an unopposed  
25 motion with this Court for an Order preliminarily approving the settlement of  
26 the Class Action entered into by and between R & M Pacific Rim, Inc., a  
27 California corporation, ("R&M") and Medina, individually and on behalf of  
28 Settlement Class Members as defined therein, in accordance with their

1 Amended and Restated Settlement Agreement, which, together with the  
2 Exhibits attached to the Amended and Restated Settlement Agreement, sets  
3 forth the terms and conditions for a proposed partial settlement of the Class  
4 Action; and the Court having read and considered the Amended and Restated  
5 Settlement Agreement and the Exhibits attached thereto;

6 NOW, THEREFORE, IT IS HEREBY ORDERED:

7 1. This Preliminary Order incorporates by reference the definitions in  
8 the Settlement Agreement, as filed with the Court with Medina's motion, and all  
9 terms defined therein shall have the same meaning as set forth in the Amended  
10 and Restated Settlement Agreement.

11 2. The Court hereby grants Medina's Motion for Preliminary Approval  
12 of Class Action Settlement and finds the terms of the Amended and Restated  
13 Settlement Agreement to be within the range of reasonableness of a settlement  
14 that ultimately could be granted approval by the Court at a Final Approval  
15 Hearing.

16 3. The Court preliminarily approves the terms of the Amended and  
17 Restated Settlement Agreement and finds that they fall within the range of  
18 approval as fair, adequate, and reasonable. The Court hereby preliminarily finds  
19 that the Settlement Agreement is the product of informal, non-collusive  
20 negotiations conducted at arms' length by the parties. The Court has considered  
21 the estimate of the Class Members' total recovery, R&M's potential liability, the  
22 allocation of settlement proceeds among Class Members, including the two  
23 subclasses, and the fact that a settlement represents a compromise of the  
24 parties' respective positions rather than the result of a finding of liability at  
25 trial. The assistance of an experienced mediator in the settlement process  
26 supports the Court's conclusion that the Settlement is non-collusive and  
27 reasonable. The Settlement is presumptively valid.  
28

1           4.     For purposes of the Settlement only, the ~~court~~Court finds that the  
2 proposed Settlement Class is ascertainable and that there is a sufficiently well-  
3 defined community of interest among the members of the Settlement Class in  
4 questions of law and fact. Therefore, the Court preliminarily certifies as the  
5 Settlement Class, for settlement purposes only, all persons who were employed  
6 by R&M and who worked at a Shell branded station operated by R&M and  
7 owned by Equilon Enterprises, LLC at any time during the period from August  
8 2, 2006 to September 1, 2008. The Settlement Class consists of the Settlement  
9 Misclassification Subclass, consisting of all Settlement Class Members during  
10 any portion of the Class Period that they were declared by R&M as exempt  
11 employees and paid a salary. and the Settlement ~~Rest~~ Break Subclass,  
12 consisting of all Settlement Class Members during any portion of the Class  
13 Period that they were non-exempt hourly wage employees.

14           5.     For purposes of the Settlement only, Medina is approved as the  
15 Class Representative.

16           6.     For purposes of the Settlement only, Bleau Fox, a Professional Law  
17 Corporation, is appointed and approved as Class Counsel.

18           7.     The Court hereby appoints and approves Phoenix Settlement  
19 Administrators as the Settlement Administrator.

20           8.     After balancing the privacy interests of the Settlement Class as  
21 asserted by R&M, the Court finds that in order for the Class Notice to be mailed  
22 to the Settlement Class at their last known address based upon R&M's  
23 employment records, that the Settlement Administrator and Class Counsel have  
24 sufficient information to locate Settlement Class members and that the  
25 Settlement Administrator and Class Counsel have sufficient information to  
26 prorate Individual Settlement payments for each subclass, it is necessary and  
27 appropriate, without prior notice to the Settlement Class, that R&M be  
28 authorized and directed to provide to the Settlement Administrator and Class

1 Counsel the Class Information to be used solely for the purposes of settlement of  
2 this Class Action. Having so determined, the Court hereby orders R&M to so  
3 provide to the Settlement Administrator and Class Counsel the Class  
4 Information to be so used.

5 9. A hearing ("Final Approval Hearing") shall be conducted before this  
6 Court on \_\_\_\_\_, 2020, at \_\_\_\_ a.m., in Department CX104, to  
7 determine whether the proposed settlement of the Class Action on the terms and  
8 conditions provided for in the Settlement Agreement is fair, reasonable and  
9 adequate, whether said settlement should be finally approved by the Court, and  
10 whether a Final Approval Order and Judgment should be entered herein.

11 10. The Court hereby approves, as to form and content, the Class Notice,  
12 Information Sheet and Claim Request for Exclusion Form attached as  
13 Exhibits Exhibit 1 and 2 to the Amended and Restated Settlement Agreement.

14 11. The Court approves the requirements for disputing the information  
15 upon which Settlement Class Members' share of the Settlement will be  
16 calculated, objecting to the Settlement, and excluding Settlement Class  
17 Members who timely and properly request to be excluded from the Settlement  
18 Class, all as provided in the Amended and Restated Settlement Agreement. The  
19 Court finds that the procedures and requirements for submitting objections in  
20 connection with the Final Approval Hearing are intended to ensure the efficient  
21 administration of justice and the orderly presentation of any Settlement Class  
22 Member's objection to the Settlement, in accordance with the due process rights  
23 of all Settlement Class Members.

24 12. The Court finds that the mailing of the Class Notice ~~and Claim~~  
25 ~~Form~~ substantially in the manner and form as set forth in the Amended and  
26 Restated Settlement Agreement and this Preliminary Approval Order meets the  
27 requirements of *California Rules of Court* Rules 3.766(d) and 3.769(f), California  
28 Code of Civil Procedure section 382, California Civil Code section 1781, other

1 applicable law, and due process, and is the best notice practicable under the  
2 circumstances, and shall constitute valid, due and sufficient notice to all  
3 Settlement Class Members.

4 13. The Court hereby authorizes the Settlement Administrator to mail  
5 or cause to be mailed to Settlement Class Members the Class Notice, completed  
6 Information Sheet and ~~Claim~~the Request for Exclusion Form. Such documents  
7 shall be sent by First Class U.S. mail, postage prepaid. Mailing of the Class  
8 Notice shall occur within Sixty (60) days after the entry of this Preliminary  
9 Approval Order. The Class Notice, completed Information Sheet and ~~Claim~~the  
10 Request for Exclusion Form shall be mailed using the information provided by  
11 R&M in the Class Information, as updated, to the extent that Class Notices are  
12 returned undeliverable, by the Settlement Administrator as provided in the  
13 Amended and Restated Settlement Agreement. Class Counsel may provide  
14 additional updated mailing and/or emailing addresses to the Settlement  
15 Administrator. If these procedures are followed, notice to Class Members shall  
16 be deemed to have been satisfied, and if the intended recipient of the Class  
17 Notice does not receive the Class Notice, the intended recipient shall  
18 nevertheless remain a Settlement Class Member and shall be bound by all terms  
19 of the Settlement Agreement and this Preliminary Approval Order. The  
20 Settlement Administrator shall provide periodic reports to Class Counsel and  
21 Defense Counsel.

22 14. Before Class Notices ~~and Claim Forms~~ are mailed, the Settlement  
23 Administrator shall compile a list of all Settlement Class Members' social  
24 security numbers provided by R&M in the Class Information and send those  
25 names and social security numbers to the Social Security Administration for  
26 verification. Upon receipt of a report from the Social Security Administration  
27 with any Class Member names that do not match the social security number  
28 provided by R&M, commonly called "TIN matching," the Settlement

1 Administrator shall then either obtain a substitute IRS Form W-9 from that  
2 ~~Responding~~ Settlement Class ~~Members~~Member or, if a properly completed IRS  
3 Form W-9 is not obtained, utilize backup withholding on their Individual  
4 Settlement Payments.

5 ~~15.—The Court hereby finds that Settlement Class Members who wish to~~  
6 ~~receive their Individual Settlement Payment must complete, sign and return by~~  
7 ~~facsimile, by First Class U.S. mail, postage prepaid or online through a website~~  
8 ~~which the Settlement Administrator is authorized to establish for the~~  
9 ~~settlement, or otherwise deliver, the Claim Form (attached as Exhibit 2 to the~~  
10 ~~Settlement Agreement) to the Settlement Administrator in accordance with the~~  
11 ~~instructions and deadline specified in the Class Notice.~~

12 ~~16~~15. Prior to forty-six days following the entry of this Preliminary  
13 Approval Order, Class Counsel shall serve and file its application for a Class  
14 Counsel Award and litigation costs and expenses as well as any application for a  
15 Service Award.

16 ~~17~~16. Five days prior to the Final Approval Hearing, Class Counsel shall  
17 serve and file the declaration of the Settlement Administrator containing the  
18 information required by the Amended and Restated Settlement Agreement.

19 ~~18~~17. The Court reserves the right to adjourn or continue the date of the  
20 Final Approval Hearing without further notice to Class Members, and retains  
21 jurisdiction to consider all further applications or motions arising out of or  
22 connected with the proposed settlement.

23 IT IS SO ORDERED.

24 Dated: \_\_\_\_\_, ~~2019~~2020 \_\_\_\_\_

25 William D. Cluster  
26 Judge of the Superior Court

27 APPROVED AS TO FORM AND CONTENT.

28 Dated: ~~November~~July 21, 2020 BLEAU FOX  
A Professional Law Corporation



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

By: \_\_\_\_\_/s/ Samuel T. Rees

\_\_\_\_\_  
SAMUEL T. REES

Attorneys for Plaintiff and the Plaintiff Class

Dated: ~~November \_\_, 2019~~ July 21, 2020 KRING & CHUNG LLP

By: \_\_\_\_\_/s/ Allyson K. Thompson

\_\_\_\_\_  
ALLYSON K. THOMPSON

Attorneys for R&M PACIFIC RIM, INC.

# EXHIBIT G

FILED  
Superior Court of California  
County of Los Angeles

FEB 10 2011

John A. Clarke, Executive Officer/ Clerk

By Alfredo Morales, Deputy  
ALFREDO MORALES

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

DEBBIE JO WALES, et al.,

Plaintiffs,

vs.

SHELL OIL COMPANY, et al.,

Defendants.

Case No.: BC333740

ORDER RE: RENEWED MOTION FOR  
CLASS CERTIFICATION

I.

**BACKGROUND**

This is an alleged wage and hour class action. Plaintiffs Debbie Jo Wales ("Wales") and Allen Johnson ("Johnson") (collectively "Plaintiffs") assert that Site Managers of gas stations using the Shell Oil Company ("Shell") brand were misclassified as exempt from overtime pay. The Defendant is Equistaff, LLC ("Equistaff"), the successor in interest to Shell.

Plaintiffs filed the case on behalf of Site Managers employed at three different kinds of Shell-branded gas stations. (A) salary operated retail outlet ("SORO") stations;<sup>1</sup> (B) contract

<sup>1</sup> SORO stations were owned and operated by Shell itself.

1 operated retail outlet ("CORO") stations;<sup>2</sup> and (C) multi-site operator ("MSO") stations.<sup>3</sup>  
2 However, in November 2010, the Court granted Equistaff's motion to dismiss the class  
3 allegations "as to all alleged SORO, CORO, and MSO classes except the SORO  
4 [M]isclassification [C]lass."<sup>4</sup> Accordingly, the SORO Misclassification Class is the only  
5 putative class remaining in the case.

6 Plaintiffs here move to certify the SORO Misclassification Class.<sup>5</sup> For the reasons  
7 discussed below, the Court grants the motion.

## 8 II.

### 9 DISCUSSION

10 To certify a class, there must be an ascertainable class and a community of interest.<sup>6</sup>  
11 The existence of an ascertainable class depends on the class definition, the class size, and the  
12 means of identifying class members.<sup>7</sup> A community of interest involves predominating  
13 common legal or factual questions, typical class representatives, and adequate class  
14 representatives and class counsel.<sup>8</sup>

#### 15 A. *Ascertainable Class*

16 Equistaff does not address ascertainability in the opposition brief. The Court finds the  
17 evidence cited by Plaintiffs sufficient to meet their burden to establish an ascertainable class.  
18

---

19 <sup>2</sup> CORO stations were operated by third parties as independent businesses.

20 <sup>3</sup> Like CORO stations, MSO stations were operated by independent third parties.

21 <sup>4</sup> (11/18/10 Minute Order, p. 1.)

22 <sup>5</sup> This is a renewed motion for class certification. In June 2010, the Court denied Plaintiffs' original motion for  
class certification without prejudice relative to Equistaff.

23 <sup>6</sup> (*Block v. Major League Baseball* (1998) 65 Cal.App.4<sup>th</sup> 538, 542.)

24 <sup>7</sup> (*Reyes v. San Diego County Bd. of Supervisors* (1987) 196 Cal.App.3d 1263, 1274.)

25 <sup>8</sup> (*Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 473.)

1 **B. Community of Interest**

2 **I. Predominating Common Questions**

3 In connection with the renewed motion for class certification, Plaintiffs filed a separate  
4 statement that identifies purported facts relating to the SORO Misclassification Class. The  
5 relevant purported facts are Facts 54-61 (other alleged facts are included in the separate  
6 statement, but they pertain to the dismissed putative classes).

7 The Court and the parties discussed the purported facts and the corresponding evidence  
8 during oral arguments. As the Court noted, the evidence indicates that Shell/Equistaff made a  
9 blanket classification in deeming the Site Managers exempt. Indeed, the evidence suggests that  
10 the Shell/Equistaff human resources department created the exempt designation without any  
11 individualized determinations and without studying whether the Site Managers worked more  
12 than fifty percent of the time on exempt activities.<sup>9</sup> The evidence also tends to show that SORO  
13 Site Managers had similar job duties and responsibilities and performed similar tasks.<sup>10</sup>

14 In *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4<sup>th</sup> 319, the seminal case on  
15 certification of misclassification claims, the California Supreme Court held that these types of  
16 evidence are sufficient to demonstrate commonality. Nevertheless, Equistaff claims common  
17 questions do not predominate because (a) cases such as *Arenas v. El Torito Restaurants, Inc.*  
18 (2010) 183 Cal.App.4<sup>th</sup> 723 hold that evidence of a blanket classification, alone, does not  
19 provide a basis for certifying a misclassification class, and (b) even assuming SORO Site  
20 Managers had similar duties and tasks, Plaintiffs fail to establish that they performed non-  
21 exempt tasks a majority of the time – i.e., Plaintiffs do not show that the amount of time worked  
22 on exempt and non-exempt tasks can be demonstrated via common proof.

23  
24 <sup>9</sup> (See Plaintiffs' Separate Statement, Facts 54-56, 58; see also, e.g., Plaintiffs' Compendium of Exhibits, Vol. VII,  
25 Exs. 109, p. 6 and 110, p. 8.)

<sup>10</sup> (See Plaintiffs' Separate Statement, Fact 59.)

1 The Court finds Equistaff's interpretation of *Arenas* unavailing. The decision actually  
2 instructs that a misclassification claim is "susceptible to common proof" where the evidence  
3 shows that "the duties between class members are similar[.]"<sup>11</sup> The record here contains  
4 comparable evidence.<sup>12</sup>

5 Additionally, *Arenas* must be read in conjunction with *Sav-On*. The primary focus of  
6 both is the degree of discretion to be afforded a trial court when it considers parties' class  
7 certification evidence. Together, they hold that the trial court has great discretion to review the  
8 record and to credit one party's evidence over the other party's evidence.<sup>13</sup> Having reviewed  
9 the evidence in the current record, this Court finds that Plaintiffs demonstrate common issues as  
10 to whether Shell/Equistaff engaged in misclassification by classifying employees according to  
11 job description and whether particular tasks are exempt or non-exempt.<sup>14</sup>

12 The lack of evidence concerning the amount of time worked on exempt and non-exempt  
13 activities does not change the result. *Sav-On* states that "task classification is a mixed question  
14 of law and fact appropriate for a court to address separately from calculating the amount of time  
15 specific employees actually spend on specific tasks[.]"<sup>15</sup> Moreover, "the necessity for class  
16 members to individually establish eligibility and damages" is not a bar to certification.<sup>16</sup> To the  
17 extent time calculations become unmanageable in the future, the Court "retains the option of  
18 decertification."<sup>17</sup>

19 \_\_\_\_\_  
20 <sup>11</sup> (*Arenas, supra*, 183 Cal.App.4<sup>th</sup> at 735.)

21 <sup>12</sup> (*See* Plaintiffs' Separate Statement, Fact 59.)

22 <sup>13</sup> (*Sav-On, supra*, 34 Cal.4<sup>th</sup> at 326-27, 331; *Arenas, supra*, 183 Cal.App.4<sup>th</sup> at 731-34.)

23 <sup>14</sup> (*See Sav-On, supra*, 34 Cal.4<sup>th</sup> at 329-330.)

24 <sup>15</sup> (*Id.* at 330-31 (emphasis added).)

25 <sup>16</sup> (*Id.* at 334 (rejecting argument that individual issues predominated because class members would need to individually show the amount of time performing exempt and non-exempt tasks).)

<sup>17</sup> (*Id.* at 335.)

1 **2. Typicality and Adequacy**

2 Equistaff does not challenge typicality and adequacy. Based on the evidence, the Court  
3 finds that Wales and Johnson are typical and adequate with respect to the common issues  
4 identified above. Plaintiffs' counsel are adequate class counsel.

5 **C. Superiority**

6 Equistaff contends the class method is inferior because Plaintiffs fail to present "a  
7 methodology for trying this case on common facts which would show how much time all, or  
8 even most, Site Managers spent on exempt duties."<sup>18</sup> Equistaff says Plaintiffs do not meet their  
9 burden since they present no statistical evidence or expert testimony showing how a trial on  
10 exemption could be manageable and performed without mini-trials.<sup>19</sup>


11 The Court rejects Equistaff's argument for the reasons stated in section II.B.1. of this  
12 order. The class method is superior given the presence of an ascertainable class and a  
13 community of interest.

14 **III.**

15 **CONCLUSION AND ORDER**

16 Plaintiffs' renewed motion for class certification is granted with respect to the SORO  
17 Misclassification Class.

18  
19 DATED: JAN 10 2011

20   
21 \_\_\_\_\_  
22 EMILIE H. ELIAS  
23 Judge of the Superior Court  
24

25 <sup>18</sup> (Opposition, p. 17.)

<sup>19</sup> (*Id.* at pp. 17-19.)

# EXHIBIT H



1 SAMUEL T. REES, ESQ. (State Bar No. 58099)  
THOMAS P. BLEAU, ESQ. (State Bar No. 152945)  
2 MARTIN FOX, ESQ. (State Bar No. 155783)  
BLEAU FOX, A P.L.C.  
3 3575 Cahuenga Blvd., West  
Suite 580  
4 Los Angeles, CA 90068  
Telephone: (323) 874-8613  
5 Fax: (323) 874-1234

6 Attorneys for Plaintiffs  
and the Plaintiff Class  
7  
8  
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF LOS ANGELES  
12

13 DEBBIE JO WALES, ALLAN JOHNSON, ) Case No. BC 333 740  
and other similarly situated )  
14 persons, ) [Consolidated with BC 351 104]  
 )  
15 Plaintiffs, ) Hon. Emilie H. Elias  
 ) Department 324  
16 vs. )  
 ) CLASS ACTION  
17 SHELL OIL COMPANY, et al., )  
 ) DECLARATION OF THOMAS P. BLEAU  
18 Defendants. ) IN SUPPORT OF MOTION FOR  
 ) CERTIFICATION OF PLAINTIFF  
19 ) CLASSES  
 )  
20 )  
 ) Date:  
21 ) Time:  
 ) Dept: 324  
22 )  
 )  
23 )  
 )

24  
25 I, THOMAS P. BLEAU, declare that:

26 1. I am an attorney at law, duly licensed to practice before  
27 the Courts of the State of California. I am a partner of the law  
28

1 firm of Bleau Fox, a Professional Law Corporation, associated  
2 attorneys for plaintiffs in this case.

3 2. My firm's background and qualifications are set forth  
4 hereinafter. I and my firm have litigated against Shell Oil, and  
5 its various affiliated companies including Equilon, LLC and Motiva,  
6 LLC, for over a decade. I and my firm have represented dozens of  
7 Plaintiffs against Equilon and Shell including many actions having  
8 many named plaintiffs.

9 3. I attended Framingham State College in Massachusetts  
10 where I graduated with honors and received a Bachelor of Arts  
11 degree in Economics in 1987. I received my Juris Doctor degree from  
12 the University of La Verne in 1990. I am A.V. rated by Martindale-  
13 Hubbell.

14 4. Martin Fox also received his Juris Doctor from the  
15 University of La Verne in 1990. While attending law school, Mr.  
16 Fox owned and ran a commercial glazing business with over 40  
17 employees. This experience give him unique insight to employee  
18 wage issues within a service industry including prevailing wage  
19 contracts for government installations. Mr. Fox founded what is  
20 now known as Bleau Fox in 1991 and because of his small business  
21 background, focuses his primary emphasis on business litigation,  
22 wage and hour cases (both plaintiff and defense), contracts  
23 (formation and litigation) and gas station transactions and  
24 litigation.

25 5. Bleau Fox has been involved in gas station litigation,  
26 both in State and Federal Courts, in dozens of cases against Shell  
27 since 1998 through the present. Our firm's involvement includes  
28 representing plaintiffs as well as defendants with regard to Shell

1 Oil. This firm has also been involved with class actions regarding  
2 anti-trust matters involving Equilon and Shell including  
3 participating in the preparation of a matter heard before the  
4 United States Supreme Court (involving Equilon).

5 6. This Firm's litigation against Shell over the many years  
6 has allowed us to become very familiar with the policies, customs  
7 and business plans of Shell and its various companies. Over the  
8 years, I have flown all over the country taking depositions of  
9 senior Shell executives and Shell management regarding their  
10 business plans, customs and policies.

11 7. I have handled and tried over 50 bench and jury trials  
12 during my career. These cases have included substantial complex  
13 litigation involving gasoline stations to significant participation  
14 in major trial and appellate court proceedings in association with  
15 Mr. Joseph Alito Jr. I and my firm have also handled many appeals  
16 in both state and federal courts specifically regarding gas  
17 stations.

18 8. Additionally, my firm represents both Plaintiffs and  
19 Defendants in wage and hour cases, many of which are focused solely  
20 within the gas station community.

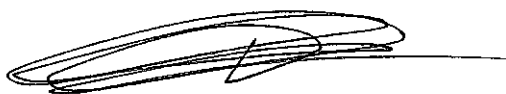
21 9. Over the years, I have been involved with many matters  
22 involving gas stations in several states in association with local  
23 counsel and we are routinely engaged to provide consultation,  
24 expertise and guidance regarding gas station litigation by other  
25 attorneys throughout the country. We are also frequently asked to  
26 speak to large groups of those involved in the gas station industry  
27 with regard to current issues and concerns within same.

28

1           10. Samuel T. Rees has recently joined this firm as "Of  
2 Counsel." Mr. Rees' resume showing his background is attached  
3 hereto as Exhibit A. Mr. Rees has been involved in representing  
4 the Plaintiffs and plaintiff class since the inception.

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

7 Dated: October \_15, 2009

  
\_\_\_\_\_  
Thomas P. Bleau, Declarant

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT A**

# Samuel T. Rees

26 Muirfield Place  
New Orleans, Louisiana 70131  
E-mail: [STReesEsg@Earthlink.net](mailto:STReesEsg@Earthlink.net)

Office: (504) 391-7435  
Fax: (504) 391-7435  
Cell: (213) 220-9988

## PROFESSIONAL EXPERIENCE

### **Bleau Fox, Los Angeles, CA**

**2009 – Present**

#### **Of Counsel**

Joined firm in October 2009. Primary areas of emphasis remain employee rights, products liability, antitrust, wrongful termination, and general civil litigation and transactional matters involving insurance, banking, and manufacturing companies.

### **Daar & Newman, Los Angeles, CA**

**1992 – 2009**

#### **Of Counsel**

For this litigation and international transactional firm, specialized in products liability, antitrust, wrongful termination, and general civil litigation and transactional matters involving insurance, banking, and manufacturing companies.

Former National Litigation Counsel to Amcast Industrial Corporation. Joined Amcast as General Counsel while remaining “of counsel” at Daar & Newman. Returned to Daar & Newman when Amcast’s reduced size no longer justified a employed counsel.

- Appeared before the United States Supreme Court representing former thrift executive seeking recovery from Federal government after being precluded from all employment in the financial institution industry.
- Successfully represented a major insurance broker in a suit against a subsidiary of GE Capital for sales of sub-standard modular housing units for schools in Mexico.
- Secured several seven figure settlements and judgments for clients.
- Secured substantial settlements for irrigation equipment distributors in antitrust litigation.

### **Amcast Industrial Corporation, Dayton, OH**

**2001 – 2003**

*Formerly \$700 million international manufacturer of metal products to automotive, construction industries. (OTC – AICO.OB, Formerly NYSE - AIZ)*

#### **Vice President, General Counsel, Secretary**

Report to the Chairman/CEO. Principal advisor to the Board. Corporate Secretary to all subsidiaries. Chief Legal Officer, Environmental Compliance Officer and Risk Manager. Advise corporation on all corporate, governance, litigation, risk management, contracts, and employment issues. Focus on product liability, environmental compliance, and antitrust. Manage small in-house legal team and all outside legal resources globally with annual budget of \$3 million.

- Reviewed all legal matters and created strategic litigation plans. Established pragmatic approaches and managed staff, calendar and budget resources to reach objectives.
- Reduced overall litigation expenses by \$1.4 million.
- Risk Manager responsible for purchasing all corporate insurance and managing all claims. Managed self-insured and insured workers’ compensation programs for 4,600 employees including all outside services.
- Negotiated and consummated sale of Italian wheel manufacturer.
- Restructured corporate governance and reporting caused by Sarbanes Oxley.

**Knapp, Petersen & Clarke, Glendale, CA****1990 – 1992****Senior Principal**

Established a new business litigation department for predominantly insurance defense firm. Began relationship with Amcast Industries, successfully trying or resolving all matters assigned.

**Leff, Katz, Rees & Mocciaro, Los Angeles, CA****1986 – 1990****Leff & Jensen, Beverly Hills, CA****1982 – 1986**

*Spin-off firms from Hahn, Crazier & Leff.*

**Senior Litigation Partner**

Ran litigation departments in these two firms, managing 4-15 litigation lawyers. Focus on financial institutions, product liability, and general business litigation.

- Represented two corporations in mass tort and insurance litigation regarding the MGM Grand Las Vegas fire. Counter-sued manufacturers and secured settlements such that clients were kept whole.
- Successfully represented senior executive in FDIC litigation involving collapse of Beverly Hills Savings.
- Represented numerous savings and loan associations, banks and insurance companies for litigation and regulatory issues.

**Hahn, Cazier & Leff, Los Angeles, CA****1973 – 1982****Litigation and Assistant Managing Partner**

Initially specialized in real estate and corporate securities. Migrated to litigation and financial institutions, forming numerous thrifts. Gained substantial business litigation trial and appellate experience.

**EDUCATION****University of Southern California, Los Angeles, California**

- A.B., Political Science, 1970
- J.D., 1973, Co-Chair - Hale Moot Court

## LEGAL CREDENTIALS

### Admitted to Practice in:

- All California and Louisiana state courts
- The United States Supreme Court
- The United States Court of Appeals for the Ninth Circuit and California District Courts
- *Pro Hac Vice* in Arizona, Texas, Indiana and Utah

## PROFESSIONAL MEMBERSHIPS & ACTIVITIES

- California State Bar Association
- Louisiana Bar Association
- Los Angeles County Bar Association
- Former Judicial Arbitrator – Los Angeles Superior Court
- Former President – Los Angeles County Bar Association Credit Union
- Former Directorships – Pacific Coast Bank and Bank of San Marino

## REPORTED DECISIONS

- *Pelletier v. Behrens*, 516 U.S. 299 (1996)
- *Pelletier v. Federal Home Loan*, 968 F.2d 865 (9th Cir. 1992)
- *Pelletier v. Federal Home Loan*, 130 F.3d 429 (9th Cir. 1997)
- *Pelletier v. Federal Home Loan Bank of San Francisco*, 145 F.3d 1094 (9th Cir. 1998)
- *Hydro-Air Equip., Inc v. Hyatt Corp.* 852 F.2d 403 (9th Cir. 1988)
- *In re Beverly Hills Bancorp*, 649 F.2d 1329 (9th Cir. 1981)
- *In re MGM Grand Hotel Fire Litigation*, 570 F.Supp 913 (Nev. 1983)
- *Ribbens Int'l, S.A. de C.V. v. Transport Int'l Pool, Inc.*, 40 F.Supp.2d 1141 (CD Cal. 1999)
- *Ribbens Int'l, S.A. de C.V. v. Transport Int'l Pool, Inc.*, 45 F.Supp.2d 982 (CD Cal. 1999)
- *Ribbens Int'l, S.A. de C.V. v. Transport Int'l Pool, Inc.*, 47 F.Supp.2d 1117 (CD Cal. 1999)

## PERSONAL INFORMATION

- Married, one daughter.
- Hobbies – Golf, Skiing, Tennis and Flying (Single Engine Instrument)



# EXHIBIT I

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORIGINAL FILED**  
NOV 01 2011  
**LOS ANGELES  
SUPERIOR COURT**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

DEBBIE JO WALES, ALLEN JOHNSON, and  
other similarly situated persons,

Plaintiffs,

vs.

SHELL OIL COMPANY, SHELL OIL  
PRODUCTS COMPANY, EQUILON  
ENTERPRISES, LLC, EQUISTAFF, LLC,  
TEXACO INC., TEXACO REFINING AND  
MARKETING, INC., RIMPCO, INC., and DOES  
1-500,

Defendants.

Case No. BC 333740  
[Consolidated with BC 351104]

[Assigned For All Purposes To  
Judge John Shepard Wiley, Jr., Dept. 311]

**PRELIMINARY APPROVAL ORDER**

1 WHEREAS, this action is pending before this Court as a Class Action; and

2 WHEREAS, Plaintiffs Debbie Jo Wales and Allen Johnson have filed a motion with this  
3 Court for an Order preliminarily approving the settlement of the Class Action in accordance with the  
4 Parties' Settlement Agreement, which, together with the Exhibits attached to the Settlement  
5 Agreement, set forth the terms and conditions for a proposed settlement of the Class Action; and the  
6 Court having read and considered the Settlement Agreement and the Exhibits attached thereto;

7 NOW, THEREFORE, IT IS HEREBY ORDERED:

8 1. This Preliminary Order incorporates by reference the definitions in the Settlement  
9 Agreement, as filed with the Court with Plaintiffs' motion, and all terms defined therein shall have  
10 the same meaning as set forth in the Settlement Agreement.

11 2. The Court hereby grants Plaintiffs' Motion for Preliminary Approval of Class Action  
12 Settlement. In doing so, the Court construes for purposes of settlement only the previously certified  
13 class to include each Site Manager and Restaurant Manager who was employed by Defendant, a  
14 subsidiary of Shell Oil Company and now known as C6 Resources LLC, at Shell or Texaco branded  
15 stations located in the State of California during the Class Period, and who was paid a salary and  
16 classified as an exempt employee, and who did not previously opt out of the Class Action.

17 3. The Court hereby preliminarily finds that the Settlement Agreement is the product of  
18 informal, non-collusive negotiations conducted at arms' length by the Parties. The Court has  
19 considered the estimate of the Class Members' total recovery, Defendant's potential liability, the  
20 allocation of settlement proceeds among Class Members and the fact that a settlement represents a  
21 compromise of the Parties' respective positions rather than the result of a finding of liability at trial.

22 4. Debbie Jo Wales and Allan Johnson are the Representative Plaintiffs.

23 5. Bleau Fox, a Professional Law Corporation, is Class Counsel.

24 6. The Court hereby approves Rust Consulting, Inc. as the Claims Administrator.

25 7. A hearing ("Settlement Fairness Hearing") shall be conducted before this Court on  
26 February 1, 2012, at 8:30 a.m., in Department 311, to determine whether the proposed  
27 settlement of the Class Action on the terms and conditions provided for in the Settlement Agreement  
28 is fair, reasonable and adequate, whether said settlement should be finally approved by the Court,

1 and whether the Order and Final Judgment, attached as Exhibit 4 to the Settlement Agreement,  
2 should be entered herein.

3 8. The Court hereby approves, as to form and content, the Class Notice and Claim Form  
4 attached as Exhibits 1 and 2 to the Settlement Agreement. The Court finds that the mailing of the  
5 Class Notice and Claim Form substantially in the manner and form as set forth in the Settlement  
6 Agreement and this Preliminary Approval Order meets the requirements of due process, and is the  
7 best notice practicable under the circumstances, and shall constitute due and sufficient notice to all  
8 Class Members.

9 9. The Court hereby authorizes the Claims Administrator to mail or cause to be mailed  
10 to Class Members the Class Notice and Claim Form. Such documents shall be sent by First Class  
11 U.S. mail, postage prepaid. Mailing of the Class Notice shall occur by the date specified in the  
12 Implementation Schedule, which is Exhibit 5 to the Settlement Agreement. The Class Notice and  
13 Claim Form shall be mailed using the last known mailing address information available to  
14 Defendant, as updated by the Claims Administrator utilizing the national Change of Address  
15 database maintained by the United States Postal Service ("USPS") for Class Members who may have  
16 moved and filed a change of address form with the USPS. Class Counsel may provide additional  
17 updated mailing addresses to the Claims Administrator. Any Class Notice returned to the Claims  
18 Administrator as non-deliverable shall be promptly sent to the forwarding address affixed to the  
19 Class Notice that has been returned, if any. If no forwarding address is affixed to the Class Notice  
20 that has been returned, the non-delivered Class Notice shall be promptly resent by the Claims  
21 Administrator after an attempt is made to update the address via any automated credit header search  
22 database such as Lexis Nexis. If these procedures are followed, notice to Class Members shall be  
23 deemed to have been satisfied, and if the intended recipient of the Class Notice does not receive the  
24 Class Notice, the intended recipient shall nevertheless remain a Class Member and shall be bound by  
25 all terms of the Settlement Agreement and this Preliminary Approval Order. The Claims  
26 Administrator shall provide periodic reports to Class Counsel and Defense Counsel.

27 10. Before Class Notices and Claim Forms are mailed, the Claims Administrator shall  
28 compile a list of all Class Member social security numbers provided by Defendant and send those

1 names and social security numbers to the Social Security Administration for verification. Upon  
2 receipt of a report from the Social Security Administration with any Class Member names that do not  
3 match the social security number provided by Defendant, commonly called "TIN matching," the  
4 Claims Administrator shall then either obtain a substitute IRS Form W-9 from Eligible Class  
5 Members or, if a properly completed IRS Form W-9 is not obtained, utilize backup withholding on  
6 their Settlement Awards.

7 11. The Court hereby finds that Class Members who wish to participate in the settlement  
8 provided for in the Settlement Agreement must complete, sign and return by facsimile, by First Class  
9 U.S. mail, postage prepaid or online through a website which the Claims Administrator is authorized  
10 to establish for the settlement, or otherwise deliver, the Claim Form (attached as Exhibit 2 to the  
11 Settlement Agreement) to the Claims Administrator in accordance with the instructions and deadline  
12 specified on the Claim Form and in the Implementation Schedule.

13 12. By January 20, 2012, Class Counsel shall serve and file a motion for final  
14 approval of the settlement. By January 3, 2012, Class Counsel and all law firms which  
15 previously represented the Representative Plaintiffs in the Class Action shall serve and file any  
16 motions for the award of attorneys' fees and litigation costs and expenses provided for in the  
17 Settlement Agreement. By January 20, 2012, Class Counsel shall serve and file a  
18 report and declaration from the Claims Administrator demonstrating compliance with the Settlement  
19 Agreement and this Preliminary Approval Order.

20 13. The provisions of the Settlement Agreement concerning the Funds Available for  
21 Settlement and the distributions therefrom are preliminarily approved.

22 14. No person or entity who/which is not a Representative Plaintiff, a Class Member,  
23 Class Counsel, a law firm which previously represented the Representative Plaintiffs in the Class  
24 Action or the Claims Administrator shall have any right to any portion of, or to participate in the  
25 distribution of, the Funds Available for Settlement unless otherwise ordered by the Court and as  
26 provided in the Settlement Agreement.

27 15. Class Members shall continue to be bound by all determinations of the Court, and by  
28 the Settlement Agreement and the Order and Final Judgment, whether favorable or unfavorable.

1           16. Any Class Member may appear and show cause, if he or she has any, as to why the  
2 proposed settlement of the Class Action embodied in the Settlement Agreement should or should not  
3 be approved as fair, reasonable and adequate, or why the Order and Final Judgment should or should  
4 not be entered; provided, however, that no Class Member or any other person shall be heard or  
5 entitled to contest the approval of the terms and conditions of the proposed settlement, or, if  
6 approved, the Order and Final Judgment to be entered thereon approving the same, or the  
7 enhancement payments to the Representative Plaintiffs, or the separate payments to the  
8 Representative Plaintiffs on their individual, non-class claims, or the award of attorneys' fees and  
9 litigation costs and expenses, unless on or before December 27, 2011, that Class Member has  
10 served by hand delivery or by First Class U.S. mail, postage prepaid, a notice of intent to appear at  
11 the Settlement Fairness Hearings and/or written objections, evidence and/or briefs in support of his  
12 or her position upon Class Counsel and Defense Counsel, and, in addition, filed his or her notice to  
13 appear and/or objections, evidence and/or briefs with the Clerk of this Court.

14           17. Any Class Member who does not make his or her objections in the manner provided  
15 for in this Preliminary Approval Order and the Class Notice shall be deemed to have waived such  
16 objections and shall forever be foreclosed from making any objection to or appealing from any  
17 determination regarding the fairness, reasonableness or adequacy of the proposed settlement, and all  
18 terms therein, this Preliminary Approval Order, or the Order and Final Judgment.

19           18. All attorneys' fees and litigation costs and expenses approved by the Court shall be  
20 paid pursuant to the Settlement Agreement upon the release of all attorney liens. Upon such  
21 payment(s), Defendant, the Released Parties, and Defense Counsel, shall have no further liability or  
22 responsibility to Class Counsel or any other law firm which previously represented the  
23 Representative Plaintiffs in the Class Action for attorneys' fees and litigation costs and expenses  
24 incurred on behalf of the Representative Plaintiffs or any other Class Members in the Class Action.

25           19. All Administration Costs, including the mailing of Class Notices and Claim Forms  
26 and the establishment of a website for purposes of administering the settlement, shall be paid for as  
27 provided in the Settlement Agreement.  
28

1           20. To the extent permitted by law, and pending a final determination as to whether the  
2 settlement contained in the Settlement Agreement should be approved, Class Members, whether  
3 directly, representatively, or in any other capacity, and without regard as to whether or not such  
4 persons have appeared in the Class Action, shall not institute or prosecute any Settled Claims against  
5 Defendant or any of the Released Parties.

6           21. The Court reserves the right to adjourn or continue the date of the Settlement Fairness  
7 Hearing without further notice to Class Members, and retains jurisdiction to consider all further  
8 applications or motions arising out of or connected with the proposed settlement.

9           IT IS SO ORDERED.

10  
11  
12 Dated: 11/11/11

**JOHN SHEPARD WILEY JR.**

John Shepard Wiley, Jr.  
Judge of the Superior Court

13  
14  
15 Approved As To Form And Content:

16 BLEAU FOX

17 A Professional Law Corporation

18 

19 By: \_\_\_\_\_

SAMUEL T. REES

20 Attorneys for the Representative Plaintiffs and Class Members

21  
22 REED SMITH LLP

23  
24 By:  \_\_\_\_\_

REMY KESSLER  
Attorneys for Defendant  
EQUISTAFF, LLC

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 580 West Empire Avenue, Burbank, California 91504.

On July 21, 2020, I served the foregoing document(s) described as **SUPPLEMENTAL DECLARATION OF SAMUEL T. REES IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** on the interested parties to this action who are listed on the attached Service List by electronically serving those persons at the electronic addresses noted therein.

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

**FEDERAL:** I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own personal knowledge, and that I am employed in the office of a member of the Bar of this Court at whose discretion this service was made.

Executed on July 21, 2020, at Burbank, California.

\_\_\_\_\_/s/ Nathan Childress

Nathan Childress



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**SERVICE LIST**

Raymond A. Cardozo, Esq.  
Reed Smith, LLP  
355 South Grand Avenue  
Suite 2900  
Los Angeles, CA 90071-3048  
[RCardozo@reedsmith.com](mailto:RCardozo@reedsmith.com)

Allyson K. Thompson  
Attorney at Law  
Kring & Chung, LLP  
38 Corporate Park  
Irvine, CA 92606  
[athompson@kringandchung.com](mailto:athompson@kringandchung.com)