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10 *Attorneys for Plaintiff*
11 MIRNA NUNEZ

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

14 MIRNA NUNEZ, individually, and on behalf of
15 other members of the general public similarly
16 situated;

17 Plaintiff,

18 vs.

19 CREATIVE DRY PROCESS, INC., a California
20 Corporation; and DOES 1 through 100,
21 inclusive,

22 Defendants.

Case No.: 20STCV15787

*Assigned for all purposes to: Hon. Elihu M.
Berle, Dept. 6*

CLASS ACTION

**DECLARATION OF CODY PAYNE IN
SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL**

Hearing Date: February 18, 2021
Hearing Time: 9:00 a.m.
Department: 6

Complaint Filed: April 23, 2020
Trial Date: None Set

1 6. During my employment at Protection Law Group, LLP, I played a significant role
2 in the class actions and PAGA actions for which I was responsible. In particular, I was often
3 involved in the strategy of the cases and drafting all of the briefs. I received a wide-array of wage
4 and hour class action experience performing the following types of tasks: drafting oppositions to
5 demurrers; oppositions to motions to strike and/or dismiss/demurrer; oppositions to removing
6 actions from state court to federal court; drafting remands from federal court to state court; drafting
7 and responding to written discovery; drafting and opposing discovery related motions; arguing
8 discovery related motions; drafting motions to consolidate related matters; interviewing hundreds
9 of putative class members and obtaining declarations in connection with class certification;
10 drafting motions for class certification; conducting exposure analyses to assess the strengths and
11 weaknesses of asserted claims, the likelihood of prevailing at class certification and potential
12 damages resulting from such claims; drafting mediation briefs; deposing corporate Person Most
13 Qualified, Senior Management, and percipient witnesses; deposing and defending retained expert
14 witnesses; and defending the depositions of Plaintiff and putative class members. In short, I played
15 an integral role in all aspects of litigation from the inception of a matter through and beyond class
16 certification.

17 7. During my practice and continuing today, I have been primarily devoted to working
18 in employment law and on complex class action and representative litigation and multi-plaintiff
19 work.

20 8. Payne Nguyen, LLP is a law firm specifically devoted to the representation of
21 employees against employers in California involving claims relating to violations of the California
22 Labor Code, including claims for failure to pay all wages owed, failure to pay overtime premiums,
23 failure to pay meal and rest premiums and failure to provide accurate wage records. The practice
24 of employment law is a very specific, narrow field which requires diligence in an ever-evolving
25 field of substantive and procedural law.

26 9. Although not exhaustive, below is a representative list of several of the wage and
27 hour class actions that I performed substantial work on while I was an attorney with Protection
28 Law Group, LLP, including, but not limited to:

- 1 • *Kesheshian, et al v. S. Cal. Logistics*, BC557981 (Los Angeles Superior Court wage and
2 hour class action appointing Protection Law Group, LLP as class counsel in settlement);
- 3 • *Sampson v. 24 HR Homecare LLC*, BC586019 (Los Angeles County Superior Court wage
4 and hour class action appointing Protection Law Group, LLP as class counsel in
5 settlement);
- 6 • *Torres v. Auto Rescue et al.*, RIC 1509900 (Riverside County Superior Court wage and
7 hour class action appointing Protection Law Group, LLP as class counsel in settlement);
- 8 • *Kashanian v. Plus Labs, Inc.*, (Santa Clara County Superior Court wage and hour class
9 action appointing Protection Law Group, LLP as class counsel in settlement);
- 10 • *Cadena v. Tetra Property Management*, 257425 (Tulare County Superior Court wage and
11 hour class action appointing Protection Law Group, LLP as class counsel in settlement).
- 12 • *Drayton v. Hollywood Park Casino*, BC593935 (Los Angeles Superior Court wage and
13 hour class action appointing Protection Law Group, LLP as class counsel in settlement);
- 14 • *Holzer v. Wedbush Securities, Inc.*, BC 550462 (Los Angeles Superior Court wage and
15 hour class action certifying class and appointing Protection Law Group, LLP as class
16 counsel);
- 17 • *Byrd v. Masonite Corp.*, 5:16-cv-00035-JGBKK (United States District Court, Central
18 District of California appointing Protection Law Group, LLP as class counsel in
19 settlement);
- 20 • *Hadrick v. Woodmont Real Estate Serv., et al.*, CIV 530405 (San Mateo County Superior
21 Court wage and hour class action appointing Protection Law Group, LLP as class counsel
22 in settlement); and
- 23 • *Stone v. Universal Protection Services*, AAA Case No. 01-15-0002-7497 (American
24 Arbitration Association wage and hour class action appointing Protection Law Group,
25 LLP as class counsel in settlement);
- 26 • *Commick v. Prometheus Real Estate Group, Inc.*, CIV531264 (San Mateo Superior Court
27 wage and hour class action appointing Protection Law Group, LLP as class counsel in
28 settlement);

- *Stone v. Universal Protection Services*, AAA Case No. 01-15-0002-7497 (American Arbitration Association wage and hour class action appointing Protection Law Group, LLP as class counsel in settlement);

10. I have served as class counsel in wage and hour class and/or representative actions seeking wages and penalties owed on behalf of employees for which preliminary and/or final approval of the settlement or class certification has been granted, including, but not limited to the following:

- *Gomez v. Fairway Staffing Services, Inc.*, BC689771 (Los Angeles Superior Court wage and hour class action appointing, in part, Cody Payne, Esq., as class counsel in settlement);
- *Gonzalez v. Queens Land Builder, Inc., et al.*, BC685765 (Los Angeles Superior Court wage and hour class action appointing, in part, Cody Payne, Esq., as class counsel in settlement);
- *Hansen v. General Electric International Inc., et al.*, BC713269 (Los Angeles Superior Court wage and hour class action appointing, in part, Cody Payne, Esq. as class counsel in settlement):

11. I am fully familiar with the legal and factual issues in this case, and have specific experience litigating complex wage and hour actions as class actions, including employment cases as set forth above. The Settlement presented here only resulted after having engaged in extensive informal discovery and investigation and is the product of hard-fought litigation and extensive arms' length negotiations. In my opinion as an experienced class counsel, the Settlement is fair, reasonable, adequate, and in the best interests of the Class.

PROCEDURAL HISTORY AND FACTUAL BACKGROUND

12. Plaintiff Mirna Nunez was employed by Defendant United Wash & Dye, Inc. (“United”) from February 2016 through July 2017 and was employed by Defendant Creative Dry Process, Inc. (“Creative”) (collectively, “Defendants”) from July 2017 through December 2018 as a warehouse employee. Plaintiff’s job duties included, stonewashing, folding, tagging, and finishing.

13. Defendants handle dying, stonewashing, folding, tagging, and finishing in California.

1 14. On April 23, 2020, Plaintiff initiated this matter by filing a complaint
2 (“Complaint”) against Creative. Plaintiff’s Complaint alleged damages based on the following
3 causes of action: (1) Unpaid Overtime; (2) Unpaid Meal Period Premiums; (3) Unpaid Rest Period
4 Premiums; (4) Unpaid Minimum Wages; (5) Final Wages Not Timely Paid; (6) Wages Not Timely
5 Paid During Employment; (7) Non-Complaint Wage Statements; (8) Failure to Keep Requisite
6 Payroll Records; and (9) Unfair Competition.

7 15. On December 23, 2020, Plaintiff filed a First Amended Complaint, adding
8 Defendant United Wash & Dye, Inc. as a defendant and including the following cause of action:
9 (10) Private Attorney General Act, Labor Code § 2698, *et seq.*

10 16. Defendants provided thousands of pages of documents including time sheets and
11 pay stubs. Further Defendants produced a 20% sampling of time and payroll data for relevant
12 class period, as well as sample paystubs, their policies, and other relevant documents.

13 17. After a thorough investigation and analysis of the informal discovery provided by
14 Defendants, the parties agreed to attend a mediation with Louis Marlin, a neutral and highly
15 respected mediator with extensive experience in complex wage and hour matters.

16 18. The parties attended mediation with Louis Marlin on September 24, 2020.

17 19. Prior to the mediation, the parties engaged in a pre-mediation conference to discuss
18 procedural and substantive matters going into the mediation. Part of that process included the
19 exchange of information in order to have sufficient information to properly evaluate the claims
20 and defenses in the case. At the mediation, Defendants maintained they had substantial defenses
21 to the alleged violations, including individual settlement agreements for ninety-four percent (94%)
22 of the workweeks, and that they had complied with California wage and hour laws at all times.

23 20. During the full day of mediation, the parties exchanged detailed information,
24 engaged extensively with the mediator, and debated their different views and analyses regarding
25 the scope of the alleged violations and the viability of Defendants’ potential defenses. The Parties
26 agreed to settle the matter on a class-wide basis for \$265,000 and that Defendants would not
27 oppose Plaintiff’s request to seek leave of court to file a First Amended Complaint asserting class-
28 wide claims, including Defendant United, solely for purposes of settlement.

1 e. Penalties pursuant to the Private Attorney General Act in the total amount
2 of \$10,000 with \$7,500 paid to the California Labor and Workforce
3 Development Agency and \$2,500 to be distributed to members of the PAGA
4 Group (PAGA Payment). (Ex. A, ¶ 18).

5 f. Net Settlement Amount of \$143,416.67.

6 26. The Net Settlement Amount shall be distributed to the Settlement Class Members
7 on a pro-rata basis based on the total work weeks worked during the Class Period. (Ex. A, ¶ 13).
8 There are an estimated 344 Class Members included in the settlement. (Ex. A, ¶ 11). The payment
9 to each Settlement Class Member will vary based on the total workweeks worked, but will provide
10 an average estimated settlement payment of \$416.90. If a Settlement Class Member previously
11 received an individual settlement payment from Defendants, that Settlement Class Member will
12 be paid an additional Fifty Dollars (\$50.00) from the Net Settlement Fund, or the difference
13 between their prior settlement payment and their pro rata amount, whichever is greater. (Ex. A, ¶
14 13).

15 27. This proposed Settlement resolves all of the Settlement Class Members' claims
16 against Defendants as to the facts in the complaint and claims that could have been alleged based
17 on such facts, including their wage and hour claims against Defendants and all claims under the
18 FLSA, and the provisions, rights, and benefits relating to the Settlement Class Released Claims
19 pursuant to Section 1542 of the California Civil Code. (Ex. A, ¶ 3).

20 28. Each Class Member's settlement allocation will be allocated between wage and
21 nonwage payments, as follows: twenty percent (20%) to wages; and eighty percent (80%) to non-
22 wages, interest, and penalties. (See Ex. A, ¶ 19.) Employee taxes on wages will be deducted from
23 the wage portion of each Class Member's settlement amount. Employer side payroll taxes shall be
24 paid separately from and in addition to the Class Settlement Amount. (See Ex., A ¶ 19.

25 29. Any checks issued by the Claims Administrator to Participating Class Members
26 will be negotiable for at least one hundred eighty (180) calendar days. Those funds represented
27 by settlement checks returned as undeliverable and those settlement checks remaining un-cashed
28 for more than one hundred and eighty (90) calendar days after issuance by the Settlement

1 Administrator shall be voided. Within thirty days (30) days after the expiration date of the
2 settlement checks, the Settlement Administrator shall provide to Class Counsel and Defendants’
3 Counsel a verification/declaration signed under penalty of perjury that it has mailed the settlement
4 checks to Participating Class Members, and if uncashed, that such amounts have been sent to the
5 Controller of the State of California to be held pursuant to the Unclaimed Property Law, California
6 Civil Code Section 1500, et seq. for the benefit of those Class Members who did not cash their
7 checks until such time as they claim their property in the name of the Class Member who did not
8 cash their checks until such time as they claim their property. (Ex. A, ¶ 27)

9 **THE SETTLEMENT IS REASONABLE**

10 **Method of Distribution**

11 30. The proposed settlement is based on the total number of weeks worked by each
12 class member. This method is commonly used in wage and hour class actions because it relies
13 upon objective evidence of the amount worked during employment, which Class Members can
14 easily review and confirm for themselves. This information is readily available from Defendants’
15 records, and the Settlement Administrator can apply the formula in a fair and transparent manner.

16 31. Additionally, this method of distribution is commonly used in wage and hour class
17 actions because it allows for a distribution that corresponds closely to the alleged damages since
18 employees experience the same working conditions, so their damages are directly related to the
19 amount worked while they were employed.

20 32. The effectiveness of Class Counsel in prosecuting this case has translated into
21 monetary benefits for the Settlement Class in the following respects: (1) the Settlement Class will
22 recover over a reasonably short period of time as opposed to waiting additional years for the same,
23 or possibly, a worse, result; (2) a guaranteed result that compares favorably with other similar class
24 action settlements of this type, (3) significant savings in Class Counsel’s fees and costs which
25 would have only increased significantly had the case progressed through trial, appeals, and
26 continued litigation.

27 **Discovery and Informed Arms-Length Negotiations**

1 33. Settlement was reached only after extensive informal discovery including the
2 review and analysis of a class wide sampling of time and payroll data, review of Defendants’
3 policies, an exchange of written briefs and analysis reflecting the strengths and weaknesses of each
4 parties case and extensive settlement discussions. The parties engaged in a full day of mediation
5 with Louis Marlin, a highly-respected mediator with particular experience in wage and hour class
6 actions. The settlement negotiations were at arm’s length and, although conducted in a professional
7 manner, were adversarial. Defendants at all times maintained that they had complied with
8 California wage and hour laws, and secured individual settlement agreements for ninety four
9 percent (94%) of the workweeks which total approximately \$61,975. If this matter had not resolved
10 at mediation, Plaintiff was prepared to vigorously litigate this dispute including through class
11 certification and trial. The proposed Settlement was reached at the end of a process that was neither
12 fraudulent nor collusive. To the contrary, counsel for the Parties advanced their respective
13 positions throughout the settlement negotiations.

14 34. Defendants provided my office with substantial informal discovery prior to and at
15 the mediation. Prior to mediation, Defendants informally produced a 20% sampling of time and
16 payroll records, Plaintiff’s personnel file, Defendants’ policies, and other relevant documents and
17 information regarding the size and scope of the class. My office went through thousands of pages
18 of discovery and conducted a class-wide assessment and analysis of Defendants’ potential
19 damages based on the documents and information provided. The parties extensively briefed these
20 issues and provided their analyses to each other and the mediator for his consideration. This
21 investigation allowed Plaintiff’s counsel to act intelligently in negotiating the settlement.

22 **Estimate of Potential Value**

23 35. My office analyzed all of the data and estimated the maximum potential exposure
24 at approximately \$2,687,282.52, assuming the Litigation was successful at trial on the principal
25 claims at issue, and then reduced this exposure analysis based on individual settlements and the
26 likelihood of obtaining class certification, prevailing at trial, and other attendant risks. This
27 amount is based on the total estimated maximum liability for all the workweeks at issue. Here,
28 there are approximately 18,917 workweeks at issue. Based on the average rate of pay provided by

1 Defendants, I estimated the total meal break damages owed at \$616,694.20 for all class members
2 during the class period. Rest breaks were unrecorded and were thus difficult to gauge. However,
3 based on Plaintiff's allegations, I estimated at a maximum there would be at least two and a half
4 missed rest period per week or approximately \$616,694.20 in potential damages. Waiting time
5 penalties were assumed for all former employees to an amount to \$801,177.60. For the overtime,
6 the total damages amounted to \$370,016.52 based on the uncompensated work performed at the
7 beginning and end of each shift and during unrecorded interrupted meal breaks. Penalties for
8 inaccurate wage statements amounted to \$282,700. However, during the mediation, Defendants
9 raised several issues which impacted the risks attendant to proceeding on a class action basis.

10 **Specific Risks Considered**

11 36. Although the investigation and information discovered supports Plaintiff's
12 contentions, Defendants raised potential defenses and other circumstances that impacted the risk
13 of proceeding on a class-wide basis, which factored into the decision to enter this settlement.

14 37. Defendants proffered defenses to both certification and the merits of Plaintiff's
15 claims. Defendants contended that Plaintiff's claims are not suitable for class certification because
16 individual issues and affirmative defenses would predominate should this case go to trial. As with
17 all class actions, these complex cases raise difficult management and proof issues and, accordingly,
18 there is a significant risk that the Court may deny class certification. Further Defendants secured
19 individual settlement agreements for ninety four percent (94%) of the workweeks which total
20 approximately \$61,975.

21 38. Potential individualized issues exist with respect to Plaintiff's meal period claims.
22 Given that records of actual meals taken exist, and Defendants argued that they had a compliant
23 policy and practice, Class Counsel had to consider the risk that the Court would find validity in
24 the individualized proof defense to certification of Plaintiff's meal period claim.

25 39. Plaintiff faced challenges certifying and proving his rest period allegations.
26 Defendants claim they allowed employees to take their state mandated rest periods and employees
27 are not required to record these breaks. Given the lack of records demonstrating rest period
28

1 violations, there were legitimate concerns Plaintiff would not be able to certify these claims or
2 prove substantial damages even assuming a uniform practice could be established.

3 40. Plaintiff also faced challenges certifying and proving liability for its minimum wage
4 and overtime claims. These claims were largely based on uncompensated off-the-clock work
5 performed by the class members both before and after their shift, as well as potential
6 uncompensated time that was unpaid due to Defendants' meal period practices. However, the
7 allegation that this time often went unrecorded and the individualized nature of the damages
8 presented substantial concerns regarding the manageability of the case and the risk the Court could
9 find these issues prevented certification.

10 41. There are also risks associated with Plaintiff's waiting time penalties and wage
11 statement claims. For one, these claims were derivative of Plaintiff's claims for unpaid meal and
12 rest period premiums, overtime, and failure to fully compensate class members for all time worked.
13 The risks faced by these claims also have affected the viability of Plaintiff's waiting time penalties
14 and wage statement claims. Moreover, each of these claims faced additional risks specific to each
15 claim. For instance, Plaintiff would need to prove that Defendants' waiting time violations were
16 willful. These derivative claims were extremely risky and accounted for more than three million
17 dollars of Defendants' estimated liability.

18 42. In allocating \$10,000.00 to PAGA, Plaintiff considered that PAGA penalties would
19 be subject to the same defenses and risks as Plaintiff's class claims, as well as defense unique to
20 PAGA, that PAGA penalties may not be stacked for violations based on the same conduct, and the
21 substantial risk that PAGA penalties may be reduced where they are duplicative, arbitrary, or
22 oppressive. Here the PAGA period includes 2,871 pay periods worked by 152 Aggrieved
23 Employees. Plaintiff contemplated one potential \$100 penalty for each of the 152 Aggrieved
24 Employees for the first pay period (\$15,200) and one potential \$200 penalty for each remaining
25 pay period over approximately 2,719 pay periods during the settlement period (\$543,800). Thus
26 the maximum penalty exposure under this analysis is \$559,000.

27 43. Defendants deny Plaintiff's allegations and claim they have properly paid putative
28 class members for all time worked. Based on Class Counsel's experience litigating similar and

1 complex matters along with my familiarity with defense counsel's reputation and experience, I
2 would reasonably expect a vigorous and lengthy defense to both class certification and merits
3 absent a settlement. Given the potential risks of these claims, I discounted my initial valuation 50
4 percent for the risks faced on these claims at certification and for merit based risks following
5 certification, including up to and through trial from \$2,687,282.52 to \$1,342,141.26. Thereafter, I
6 discounted my valuation by 50 percent for manageability at trial, from \$1,342,141.26 to
7 \$671,070.63. Finally, I discounted my valuation by 75 percent, from \$671,070.63 to \$167,767.66
8 to take into account the number of workweeks encompassed in the individual settlements secured
9 by Defendant.

10 44. I therefore submit that the Settlement is fair, reasonable, and adequate. The
11 Settlement is in the best interest of the Class Members and is within the accepted range of
12 recoveries for this type of litigation given the inherent risk of litigation, the risk of obtaining and
13 maintaining class certification and the costs of further litigation.

14 **ATTORNEY FEES AND COSTS**

15 45. Plaintiff's Counsel's fees incurred are in line with the common fund requested.
16 Plaintiff's Counsel is seeking 33 percent of the Maximum Settlement Amount or \$83,333.33.
17 Plaintiff's Counsel has achieved an excellent result for the class during hard fought negotiations.
18 Plaintiff's Counsel has extensive experience in wage and hour disputes and was able to use its
19 extensive experience and skills to achieve this result. The Motion for Final Approval will elaborate
20 on the nature of the legal services provided, the time incurred in performing those services, and
21 Class Counsel's hourly rates. The Motion for Final Approval will also elaborate on the cost
22 reimbursement sought by Settlement Class Counsel, which are currently estimated at
23 approximately \$9,000. Notice of Plaintiff's Counsel's requested fees are disclosed in the Notice to
24 the Class. *See* Agreement Ex. 1.

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1 **THE METHOD OF NOTICE IS VERY LIKELY TO GIVE ACTUAL NOTICE**

2 46. Within fourteen (14) calendar days of the Court’s Order granting Plaintiff’s Motion
3 for Preliminary Approval, Defendants shall provide the Settlement Administrator, Phoenix
4 Settlement Administrators, who is qualified and experienced to administer the case, with the
5 names, last known address, last known home telephone number, social security number, date of
6 hire and date of termination (if applicable) of Class Members, number of work weeks during the
7 Class Period and PAGA Period, and the amount of any individual settlement previously paid by
8 Defendants to Class Members (Ex. A, ¶ 22).

9 47. Prior to mailing the Settlement Documents, the Settlement Administrator will
10 update the addresses for the Class Members using the National Change of Address database and
11 other available resources deemed suitable by the Settlement Administrator. At least five (5)
12 business days prior to this mailing, the Settlement Administrator shall provide Defendants with a
13 report listing the estimated Settlement Payment amounts to each Class Member. Within twenty
14 (20) days of receipt of the class list and information, the Settlement Administrator will complete
15 the mailing of the Notice to all Settlement Class Members. Any returned envelopes from the initial
16 mailing with forwarding addresses will be used by the Settlement Administrator to locate Class
17 Members and re-mail the Settlement Documents to the correct or updated address. The Settlement
18 Administrator will use all appropriate tracing methods, including skip tracing, to ensure that the
19 Settlement Documents are received by Class Members. The Settlement Administrator shall also
20 take reasonable steps including skip tracing to locate any Class Member whose Class Notice is
21 returned as undeliverable (Ex. A, ¶ 22).

22 48. I am not aware of an alternative method of providing Notice to the Class which
23 would result in a higher likelihood of actual notice. The original source of the mailing addresses
24 is from each Class Member, who provided the information to Defendants. As a fail-safe to this
25 highly reliable method, skip tracing will be performed if necessary. (Ex. A, ¶ 22). Under the terms
26 of the Settlement, the Settlement Administrator will track any and all opt outs, objections, and
27 disputes.

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EXHIBIT A

SETTLEMENT AGREEMENT

This Settlement Agreement is made by Mirna Nunez (“Plaintiff”), individually and on behalf all Class Members (as hereinafter defined) on the one hand, and Defendants Creative Dry Process, Inc. (“Creative”) and United Wash & Dye, Inc. (“United”) (collectively “Defendants”) on the other hand. This Settlement Agreement is subject to the approval of the Court.

I. NATURE OF THE CASE AND THE PARTIES’ SETTLEMENT

1. **The Parties and Class Counsel.** Plaintiff and Defendants are collectively referred to as “the Parties.” “Class Counsel” refers to Cody Payne and Kim Nguyen of Payne Nguyen, LLP.

2. **The Class Action.** On April 23, 2020, Plaintiff filed a class action in Los Angeles Superior Court against Creative, Case No. 20STCV15787 (“Lawsuit”). Plaintiff will file a first amended complaint adding United as an additional Defendant, and a claim for civil penalties under the Private Attorneys General Act (“PAGA”). The operative first amended complaint (“FAC”) alleges claims against Defendants on behalf of Plaintiff, and all persons who have been, or currently are, employed by Defendants in California as hourly non-exempt employees (“Class Members”) during the period beginning April 23, 2016 through the date the Court grants preliminary approval of this settlement (“Class Period”).

3. **Plaintiff’s Contentions.** As alleged in the FAC, Plaintiff contends that Defendants violated various provisions of the Labor Code by their alleged: (1) failure to pay Class Members wages, minimum wages, and overtime for all work hours at the correct regular and premiums rates; (2) failure to provide Class Members with rest breaks or pay rest break premiums; (3) failure to provide Class Members with meal breaks or pay meal break premiums; (4) failure to provide Class Members with complete and accurate wage statements; (5) failure to maintain required records for Class Members; (6) failure to timely pay Class Members all wages due during their employment and at termination; (7) unfair business practices; and (8) civil penalties under PAGA based on the foregoing alleged violations by Defendants. Plaintiff believes she filed a meritorious action, and that the requirements for class certification can be satisfied.

4. Defendants' Contentions. Defendants deny any liability or wrongdoing as alleged by Plaintiff. Defendants contend that they correctly compensated Class Members; provided Class Members with proper meal and rest periods or paid required premiums for missed or non-compliant breaks; provided Class Members with compliant wage statements; maintained all records for Class Members; and timely paid Class Members all wages owing during their employment and at the time of termination. Defendants further contend that for any purpose other than settlement, this action is not appropriate for class treatment.

5. The Mediation. The Parties participated in a mediation on September 24, 2020, with Louis Marlin, Esq. Prior to, and during the mediation, the Parties informally exchanged voluminous information, including production of time and pay records for a twenty percent (20 %) random sample of Class Members, policies, paystub exemplars, and class information. The Parties were able to reach a settlement at the mediation with the assistance of the mediator. This Settlement Agreement is a result of the Parties' arms-length negotiations.

6. Investigation. Class Counsel has diligently investigated the facts and claims alleged in the Lawsuit, including a thorough analysis of voluminous documents, interviews of Class Members, an analysis of the time and pay data informally produced by Defendants prior to the mediation, and the effect of individual settlement agreements entered into between Defendants and Class Members. Based on their independent investigation and evaluation, Plaintiff and Class Counsel believe that this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class in light of all known facts and circumstances, including the risks of significant delay, denial of a motion for class certification or decertification, the defenses asserted by Defendants, and potential appellate issues.

7. The Settlement Class. Class Members who do not timely opt out of the Settlement are referred to as "Settlement Class Members."

8. Cooperation. The Parties agree to cooperate and take all steps necessary and appropriate to effectuate the terms of this Settlement Agreement.

II. TERMS OF SETTLEMENT

9. **Purpose of the Parties.** The Parties agree that this action and any claims arising out of the Lawsuit be settled on the terms described herein as between the Class and Defendants, subject to the approval of the Court.

10. **Settlement "Effective Date."** The settlement embodied in this Settlement Agreement shall become effective on the later of:

- (a) The Court's final approval of the settlement, and the sixty (60) day time period to appeal the Judgment entered by the Court incorporating the terms of the Settlement has expired, or
- (b) Fourteen (14) days after the final resolution of any appeal that has been filed.

11. **Gross Settlement Fund.** In consideration for the release of the claims of the Settlement Class against Defendants, Defendants agree to create a "Gross Settlement Fund" of Two Hundred Sixty Five Thousand Dollars (\$265,000.00), as a full and complete settlement of all claims that were or could have been alleged in the Lawsuit. This Gross Settlement Fund constitutes a common fund for the payment of all claims hereunder, attorney's fees and litigation costs to Class Counsel, settlement administration costs, the Class Representative's Enhancement Award, and the agreed payment to the Labor Workforce Development Agency ("LWDA") pursuant to PAGA. The Gross Settlement Fund includes the individual settlements previously paid by Defendants to Class Members which total approximately Sixty One Thousand Nine Hundred Seventy Five Dollars (\$61,975.00). Defendants will make the signed individual settlement agreements available to Class Counsel for inspection upon request. Defendants stipulate and represent that the Lawsuit was a catalyst for the individual settlement payments previously paid by Defendants to Class Members and Defendants will provide a declaration if necessary or required by the Court in support of Plaintiff's settlement approval papers reflecting the same. The Gross Settlement Fund does not include Defendants' share of the employer-side payroll taxes on the amount of the settlement allocated to wages. The settlement is non-reversionary, and the entire

Gross Settlement Fund will be paid by Defendants. The settlement is based on Defendants' representations that as of July 24, 2020, there are approximately eighteen thousand nine hundred seventeen (18,917) workweeks during the Class Period and approximately three hundred forty four (344) class members, and approximately two thousand eight hundred seventy one (2,871) pay periods and one hundred fifty two (152) aggrieved employees during the PAGA Period. Of which, Defendants secured individual settlement agreements from two hundred forty eight (248) class members representing approximately ninety four percent (94%) (approximately seventeen thousand eight hundred (17,800) workweeks) of the total workweeks.

12. Net Settlement Fund. The "Net Settlement Fund" is the balance of the Gross Settlement Fund after payments have been made for attorney's fees and litigation costs to Class Counsel, the Class Representative's Enhancement Award, costs of settlement administration, and the LWDA payment.

13. Payments to Settlement Class Members from Net Settlement Fund. The Net Settlement Fund will be paid to Settlement Class Members calculated by a pro rata formula, based on the number of weeks worked by Class Members as a non-exempt hourly employee for Defendants in California during the Class Period. To determine a Class Member's potential claim, the Net Settlement Fund will be divided by the total number of weeks worked by all Class Members as non-exempt hourly employees in California during the Class Period, multiplied by the number of weeks worked by that Class Member as a non-exempt employee in California during the Class Period. If a Settlement Class Member previously received an individual settlement payment from Defendants, that Settlement Class Member will be paid an additional Fifty Dollars (\$50.00) from the Net Settlement Fund, or the difference between their prior settlement payment and their pro rata amount calculated under the formula described in this Paragraph, whichever is greater.

14. Attorneys' Costs. Class Counsel will apply to the Court for, and Defendants will not oppose, payment of Class Counsel's litigation costs from the Gross Settlement Fund, in an amount up to Nine Thousand Dollars (\$9,000.00). Attorneys' Costs shall include, but are not

limited to, all costs and expenses incurred by Plaintiff in the prosecution of this action, including filing fees, and expert fees. If the Court approves less than the amount requested by Class Counsel, the difference between the requested and awarded amounts will be included in the Net Settlement Fund and distributed pro rata to Settlement Class Members as set forth in Paragraph 13. In addition to the costs described in this Paragraph, Defendants separately reimbursed Class Counsel for Class Counsel's share of the mediation fee in the amount of Seven Thousand Dollars (\$7,000.00).

15. Attorneys' Fees. Class Counsel will apply to the Court for, and Defendants will not oppose, payment of attorneys' fees from the Gross Settlement Fund in an amount up to Eighty Eight Thousand Three Hundred Thirty Three Dollars and Thirty Three Cents (\$88,333.33), i.e., one third of the Gross Settlement Fund. If the Court approves less than the amount requested by Class Counsel, the difference between the requested and awarded amounts will be included in the Net Settlement Fund and distributed pro rata to Settlement Class Members as set forth in Paragraph 13.

16. Enhancement Award. Class Counsel will apply to the Court for, and Defendants will not oppose, payment from the Gross Settlement Fund of up to Five Thousand Dollars (\$5,000.00) to Plaintiff for her service as Class Representative ("Enhancement Award"). This amount shall be paid in addition to the Plaintiff's pro rata share of the Net Settlement Fund as set forth in Paragraph 13. If the Court approves less than the amount requested by Class Counsel, the difference between the requested and awarded amounts will be included in the Net Settlement Fund and distributed pro rata to Settlement Class Members as set forth in Paragraph 13.

17. Settlement Administration Costs. The reasonable costs of settlement administration through and beyond final approval, are estimated to be no greater than \$9,250.00, and shall be paid from the Gross Settlement Fund. If the Settlement Administrator's fees and costs are less than that amount, the difference will be included in the Net Settlement Fund and distributed pro rata to Settlement Class Members as set forth in Paragraph 13. If the Settlement Administrator's fees and costs are more than that that amount, the additional fees and costs will be paid from the Gross Settlement Fund.

18. PAGA Payment. The sum of Ten Thousand Dollars (\$10,000.00) from the Gross Settlement Fund is allocated to alleged penalties pursuant to PAGA. Of this amount, seventy-five percent (75 %) or Seven Thousand Five Hundred Dollars (\$7,500.00) shall be payable to the LWDA. The remainder shall be paid to those Class Members who were employed by Defendants as non-exempt employees in California during the period beginning April 23, 2019 ("PAGA Period"), pro rata as set forth in Paragraph 13. The amount payable to Class Members as set forth in this Paragraph will be paid to all Class Members employed during the PAGA Period, including those that may opt out of the Class Action Settlement. Any Class Member who receives a payment pursuant to this Paragraph and who opts out of the Class Action Settlement is bound by the release set forth in Paragraph 28 only as to claims under PAGA.

19. Taxes. The Settlement Administrator will make appropriate wage deductions and report payments on IRS Forms W-2 and 1099 as appropriate. The settlement payments to Settlement Class Members will be allocated as follows: twenty percent (20 %) to wages, and eighty percent (80 %) to non-wages, interest, and penalties. The employee and employer portion of payroll taxes will be based on the wage portion, only. The employee's portion of payroll taxes shall be paid from the individual settlement payments to Settlement Class Members. The employer's portion of payroll taxes will be paid by Defendants in addition to the Gross Settlement Fund. No taxes will be withheld from the Class Member's share of the PAGA settlement, or from any individual settlement payments previously received by Settlement Class Members. Settlement Class Members will be responsible for any other taxes associated with their settlement payments. The Parties agree that it is the obligation of the Settlement Class Members to pay appropriate federal, state, and local income taxes on all payments they receive under this Settlement Agreement. Neither Class Counsel nor Defendants' Counsel intend anything contained in this Settlement to constitute legal advice regarding the taxability of any amount paid hereunder, nor shall anything in this Settlement be relied upon as such.

Circular 230 Disclaimer: Each Party to this Agreement acknowledges and agrees that: (1) no provision of this Agreement, and no written communication or disclosure between or among

the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR part 10, as amended); (2) each Party (a) has relied exclusively upon his, her or its own independent legal and tax counsel for advice (including tax advice) in connection with this Agreement; (b) has not entered into this Agreement based upon the recommendation of any other Party or any attorney or advisor to any other Party; and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other Party to avoid any tax penalty that may be imposed; and (3) no attorney or adviser to any Party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by any other Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

III. SETTLEMENT ADMINISTRATOR

20. **Appointment.** The Parties have agreed to the appointment of Phoenix Class Action Administration Solutions to perform the duties of Settlement Administrator for the purpose of providing notice, status reports, resolving disputes regarding the amount of claims, issuing and mailing settlement checks, W-2's and 1099's, and reporting the payments to the appropriate taxing agencies. Within thirty (30) days from the mailing of the final settlement payments to Settlement Class Members, the Settlement Administrator shall prepare a declaration for the Court certifying that all settlement payments have been made. The Settlement Administrator shall provide such other reports as requested by counsel for the Parties or the Court, including any required declarations in support of preliminary and final approval of the Settlement.

21. **Resolution of Disputes.** All disputes relating to the Settlement Administrator's duties may be referred to the Court, if necessary, which will have continuing jurisdiction over this Settlement Agreement until all obligations contemplated by the Settlement Agreement have been fully carried out.

IV. NOTICE TO THE SETTLEMENT CLASS

22. Notice of Settlement. The Notice of Class Action Settlement (“Notice”) as approved by the Court, shall be mailed by the Settlement Administrator by First Class U.S. Mail, to the last known address of each Settlement Class Member in English and Spanish. The Notice is attached hereto as **Exhibit 1**. Within fourteen (14) days of the Court’s Order granting Plaintiff’s Motion for Preliminary Approval, Defendants shall provide to the Settlement Administrator the names, last known address, last known telephone number, social security number, date of hire and date of termination (if applicable) of Class Members, number of work weeks during the Class Period and PAGA Period, and the amount of any individual settlement previously paid by Defendants to Class Members. Prior to mailing the Settlement Documents, the Settlement Administrator will update the addresses for the Class Members using the National Change of Address database and other available resources deemed suitable by the Settlement Administrator. At least five (5) business days prior to this mailing, the Settlement Administrator shall provide Defendants with a report listing the estimated Settlement Payment amounts to each Class Member. Within twenty (20) days of receipt of the class list and information, the Settlement Administrator will complete the mailing of the Notice to all Settlement Class Members. Any returned envelopes from the initial mailing with forwarding addresses will be used by the Settlement Administrator to locate Class Members and re-mail the Settlement Documents to the correct or updated address. The Settlement Administrator will use all appropriate tracing methods, including skip tracing, to ensure that the Settlement Documents are received by Class Members. The Settlement Administrator shall also take reasonable steps including skip tracing to locate any Class Member whose Class Notice is returned as undeliverable.

23. Request for Exclusion. Class Members shall have forty-five (45) days from the mailing of the Notice to mail a signed, completed request to be excluded from the Settlement to the Settlement Administrator. The request to be excluded from the Settlement must include the Class Member’s full name, address, and telephone number, and shall be signed by the Class Member. The request should state, in effect, the following: “I WISH TO BE EXCLUDED FROM THE SETTLEMENT IN THE CLASS ACTION LAWSUIT. I UNDERSTAND BY

REQUESTING EXCLUSION FROM THE SETTLEMENT, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE LAWSUIT” or otherwise provide a clear a statement that the Class Member wishes to be excluded from the Settlement. Unsigned requests to be excluded from the Settlement, or those postmarked after the deadline will not be honored unless mutually agreed to by counsel for all Parties or ordered by the Court. The Settlement Administrator will provide counsel for the Parties with copies of any completed requests to be excluded from the Settlement. Neither the Parties nor their counsel will solicit or encourage Class Members to request to be excluded from the Settlement. Any Class Member who requests to be excluded from the Settlement will not be entitled to any recovery under the Settlement other than a pro rata portion of the amount allocated to PAGA as set forth in Paragraph 18 if eligible, and will not be bound by the terms of the Settlement except the release of PAGA claims if eligible, or have any right to object, appeal or comment thereon. Class Members who fail to submit a valid and timely Request for Exclusion shall be bound by all terms of the Settlement and any Final Judgment entered in this Action. The Settlement Administrator shall provide the Parties with weekly updates regarding the status of any Requests for Exclusion.

24. Objections. The Notice shall provide that Class Members who object to the Settlement must submit to the Settlement Administrator either a written statement objecting to the Settlement or a written notice of intention to appear at the Final Approval hearing and object, following the Court’s current social distancing procedures for attendance at hearings and review of court files. Such written statement or notice must be postmarked within forty-five (45) calendar days following the mailing of the Notice. The Settlement Administrator will notify all Parties of any objection within five (5) business days of receipt of the objection. Plaintiff will file any such objection(s) with the Court in advance of the Final Approval Hearing. The Notice of Objection must be signed by the Class Member, reference case number 20STCV15787, and state all of the following: (1) the full name of the Class Member; (2) the dates of employment of the Class Member; (3) the grounds for the objection; (4) if the Class Member intends to appear at the final approval hearing; and (5) any legal briefs, papers or memoranda the objecting Class Member

proposes to submit to the Court. Class Members who fail to object in the manner specified above, still have the right to appear in Court at the Final Approval Hearing to state his or her objections. If the Class Member does not submit a written objection or appear in Court to object at the Final Approval Hearing, the Class Member shall be deemed to have waived his or her right to object, and shall be foreclosed from making any objections to the Settlement whether by appeal or otherwise. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to object to the Settlement. The Settlement Administrator shall provide the Parties with weekly updates regarding the status of any objections.

25. Disputes. The Notice shall inform Class Members of the number of weeks they worked as a non-exempt employees in California during the Class Period and PAGA Period based on Defendants' records. Class Members may dispute this information by providing the Settlement Administrator with additional information and documentation postmarked within forty-five (45) calendar days following the mailing of the Notice. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator's determination of the eligibility for and amount of any Settlement payment shall be binding upon the Class Member and the Parties. Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court. Prior to any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the disputes without the necessity of involving the Court.

26. Settlement Processing. The date of the postmark on the return envelope shall be the exclusive means used to determine whether a Class Member has timely disputed the amount of the settlement payment, returned a request for exclusion from the settlement, or objected. Any Notice returned to the Settlement Administrator as non-delivered within forty-five (45) calendar days following the mailing of the Notice shall be re-mailed to the forwarding address affixed thereto within five (5) calendar days. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address by use of skip-tracing, or other search using the name, address and/or Social Security number of the Class Member involved, and

shall then perform a re-mailing, if another mailing address is identified by the Settlement Administrator. Class Members who receive a re-mailed Notice of Class Settlement and Summary Sheet shall have twenty (20) calendar days from the postmark date of the re-mailed Notice to object or opt-out.

27. Funding of Settlement. Defendants will pay an initial minimum payment of Thirty Five Thousand Dollars (\$35,000.00) to the Settlement Administrator by wire transfer within ten (10) days of the date the Court grants final approval of the Settlement. The balance of the Gross Settlement Fund will be paid in twelve (12) equal monthly payments commencing thirty (30) days after the initial payment. Individual settlement payments shall be mailed by regular First Class U.S. Mail to Settlement Class Members' last known mailing address within fourteen (14) calendar days after Defendants' final payment or the Effective Date as defined in Paragraph 10, whichever is later. Settlement checks which are uncashed after One Hundred Eighty (180) days of issuance shall be voided. Within thirty days (30) days after the expiration date of the settlement checks, the Settlement Administrator shall provide to Class Counsel and Defendants' Counsel a verification/declaration signed under penalty of perjury that it has mailed the settlement checks to Participating Class Members, and if uncashed, that such amounts have been sent to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code Section 1500, et seq. for the benefit of those Class Members who did not cash their checks until such time as they claim their property in the name of the Class Member who did not cash their checks until such time as they claim their property. No money from the Settlement will revert to the Defendants.

V. RELEASE BY THE NAMED PLAINTIFF AND THE CLASS

28. Scope of Release. Upon the final approval by the Court of this Settlement Agreement, and except as to such rights or claims as may be created by this Settlement Agreement, each Class Member who has not timely requested exclusion from the Settlement, fully releases and discharges Defendants, and all of their past, present, and future parent companies, subsidiaries, affiliates, divisions, joint ventures, agents, management companies, and all of their respective

employees, members, officers, directors, partners, legal representatives, accountants, trustees, executors, administrators, real or alleged alter egos, predecessors, successors, transferees, assigns and insurers (collectively "Released Parties"), from and all claims, demands, rights, liabilities, actions, grievances, demands for arbitration, and causes of action, of every nature and description, that were or could have been asserted based on the facts alleged in the FAC, including but not limited to, any state or federal claims (including without limitation claims under the Fair Labor Standards Act ("FLSA")), relating to the failure to pay wages, failure to pay minimum wages, failure to pay overtime, failure to provide meal or rest breaks, failure to provide accurate and complete wage statements, failure to keep records, unfair competition, PAGA penalties, waiting time penalties, interest, attorney's fees, or any other alleged known or unknown wage and hour violations that were alleged or could reasonably have been alleged based on arising out of the acts, facts, transactions, occurrences, representations, or omissions that were asserted in the Lawsuit ("Released Claims"). The cashing of the settlement check by a Settlement Class Member will be considered a consent and opt-in to the settlement of all related federal wage-hour claims under the FLSA, and each Settlement Class Member who cashes a settlement check will waive his or her rights to bring related claims under the FLSA during the Class Period. Any Class Member who receives a payment under PAGA pursuant to Paragraph 18 and who opts out of the Settlement is only bound by the release of PAGA claims.

29. Individual Release by Plaintiff. In addition to the releases made by the Settlement Class Members, Plaintiff makes the additional general release of all claims, known or unknown, in exchange and consideration of the Enhancement Award described in Paragraph 16. Plaintiff agrees to a general release of the Released Parties from all claims, demands, rights, liabilities, actions, grievances, demands for arbitration, and causes of action of every nature and description whatsoever, known or unknown, pending or threatened, asserted or that might have been asserted, whether brought in tort or in contract, whether under state or federal or local law during the Class Period. Except as otherwise specifically provided under this Settlement Agreement, Plaintiff expressly waives and relinquishes all rights and benefits afforded by § 1542 of the Civil Code of

the State of California, which states: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party." However, Plaintiff is not releasing any claims for workers' compensation benefits.

VI. JUDICIAL APPROVALS

30. Duties of Parties Prior to Preliminary Approval. The Parties shall submit this Settlement Agreement to the Superior Court for the County of Los Angeles in support of Plaintiff's Motion for Preliminary Approval. As soon as practicable after execution of this Settlement Agreement, Plaintiff shall apply to the Court for a Preliminary Approval Order substantially in the form attached hereto as **Exhibit 2** for the purpose of:

- (a) Scheduling a fairness hearing on the question of whether the proposed settlement should be finally approved as fair, reasonable and adequate as to the members of the class;
- (b) Approving Cody Payne and Kim Nguyen as Class Counsel, Plaintiff Mirna Nunez to serve as Class Representative, and Phoenix Class Action Administration Solutions to serve as the Settlement Administrator;
- (c) Approving the form and content of the proposed Notice of Class Action Settlement (**Exhibit 1**);
- (d) Directing the distribution of the Notice of Class Action Settlement;
- (e) Preliminarily approving the settlement; and
- (f) Provisionally certifying the Class for purposes of settlement.

31. Duties of Parties Following Preliminary Approval. Plaintiff shall file a Motion for Final Approval of the Settlement following the completion of the Notice and opt out process, and will submit a Proposed Final Approval Order and Judgment for review by the Court at the Final Approval hearing substantially in the form attached hereto as **Exhibit 3** for the purpose of:

- (a) Approving the settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;
- (b) Filing a motion for attorney's fees and litigation costs as set forth herein; and
- (c) Entering a Judgment which permanently bars all Class Members who have not timely opted out of the Settlement from prosecuting the Released Claims against Defendants and Released Parties.

32. Voiding Settlement. If the Court declines to approve any material term or condition of this Settlement Agreement, then this entire Settlement Agreement shall be void and unenforceable as to all Parties herein at the option of any Party, within thirty (30) days of receiving notice of the Court's action. Further, Defendants have the option of voiding this Settlement Agreement within thirty (30) days of receiving notice that more than ten percent (10 %) of the Class Members have timely completed valid requests to be excluded from the settlement. Each Party may exercise its option to void this settlement as provided above by giving notice, in writing, to the other and to the Court. The Party voiding the settlement pursuant to this Paragraph shall be responsible for any costs of administration incurred up to that date.

VII. MISCELLANEOUS PROVISIONS

33. Voluntary Nature. The Parties acknowledge that they have entered into this Settlement Agreement voluntarily, on the basis of their own judgment and without coercion, duress, or undue influence of any Party, and not in reliance on any promises, representations, or statements made by the other Parties other than those contained in this Settlement Agreement. Each of the Parties expressly waives any right to claim that this Settlement Agreement was in any way induced by fraud.

34. Informed Consent. Prior to execution of this Settlement Agreement, each Party has read this entire Settlement Agreement and been given the opportunity to consult with independent

counsel of their choosing and to have such independent counsel advise as to the meaning of this Agreement and its legal effect.

35. Authority. The signatories hereby represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

36. Cooperation. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties shall use their reasonable best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein.

37. No Admissions. Nothing contained herein is to be construed or deemed an admission of liability by Defendants. Each Party hereto has entered into this Settlement Agreement with the intention to avoid further disputes and the expense and inconvenience of litigation.

38. Enforcement. If a Party to this Settlement Agreement institutes any legal action, arbitration, or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights or obligations under this Settlement Agreement, then the prevailing Party shall recover from the unsuccessful Party, reasonable attorneys' fees and costs.

39. Employee Benefits. The amounts paid under this Settlement Agreement do not represent a modification of any previously credited hours of service under any employee benefit plan or policy sponsored by Defendants or Released Parties. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under, any benefit plans, policies or programs. Any payments made under the terms of this Settlement Agreement shall not be applied retroactively, currently or on a going-forward basis as salary, earnings, wages or any other form of compensation for the purposes of any sponsored benefit plan, policy or bonus program, including, but not limited to, vacation, leave, and sick policies. Defendants and Released Parties retain the right to modify the language of any benefit plans, policies and programs to effect

this intent and to make clear that any amounts paid pursuant to this Settlement Agreement are not for any measuring term as defined by applicable plans, policies, and programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement Agreement.

40. Construction. The Parties agree that this Settlement Agreement is the result of lengthy, intensive arms-length negotiations between the parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which that Party has participated in the drafting of this Settlement Agreement.

41. Captions and Interpretations. Paragraph titles or captions contained herein appear as a matter of convenience and for reference, and in no way define the scope of this Settlement Agreement or any provision hereof.

42. Modifications. This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

43. Waiver. No waiver of any of the terms of this Settlement Agreement shall be valid unless in writing and signed by the party to this Settlement Agreement against whom such waiver is sought to be enforced. The waiver by any Party to any provision of this Settlement Agreement shall not operate or be construed as a waiver of any subsequent breach by any Party, nor shall any waiver operate or be construed as a rescission of this Settlement Agreement.

44. Integration. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

45. No Prior Assignments. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators

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

46. Governing Law. This Settlement Agreement is made and entered into under the laws of the State of California, and shall be interpreted, applied and enforced under those laws, and any litigation concerning this Settlement Agreement shall be in the Superior Court of the County of Los Angeles, State of California.

47. Execution. This Settlement Agreement may be executed via facsimile or email, in multiple counterpart copies, each of which shall be deemed an original.

48. Signatories. The Parties agree that it is impossible or impractical to have each member of the Settlement Class execute this Settlement Agreement. The Notice of Class Action Settlement (**Exhibit 1**), will advise all Class Members of the binding nature of the release and such shall have the same force and effect as if this Settlement Agreement were executed by each Class Member.

IN WITNESS WHEREOF: the undersigned have duly executed this Agreement as of the date indicated below:

Dated: 12/22/2020

By: *Mirna Nunez*
Mirna Nunez
Plaintiff and Class Representative

Dated: _____

By: _____
Defendants Creative Dry Process, Inc. and
United Wash & Dye, Inc.

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

46. Governing Law. This Settlement Agreement is made and entered into under the laws of the State of California, and shall be interpreted, applied and enforced under those laws, and any litigation concerning this Settlement Agreement shall be in the Superior Court of the County of Los Angeles, State of California.

47. Execution. This Settlement Agreement may be executed via facsimile or email, in multiple counterpart copies, each of which shall be deemed an original.

48. Signatories. The Parties agree that it is impossible or impractical to have each member of the Settlement Class execute this Settlement Agreement. The Notice of Class Action Settlement (**Exhibit 1**), will advise all Class Members of the binding nature of the release and such shall have the same force and effect as if this Settlement Agreement were executed by each Class Member.

IN WITNESS WHEREOF: the undersigned have duly executed this Agreement as of the date indicated below:


Dated: _____

By: _____
Mirna Nunez
Plaintiff and Class Representative

Dated: December 21, 2020


By: RAUL QUINTERO O.
Defendants Creative Dry Process, Inc. and
United Wash & Dye, Inc.

Dated: December 28, 2020

By: 

Cody Payne
Kim Nguyen
Attorneys for Plaintiff and the Class

Dated: December 21, 2020

By: 

Jeffrey Fuchsman
Attorneys for Defendants Creative Dry
Process, Inc. and United Wash & Dye, Inc.

EXHIBIT 1

NOTICE OF CLASS ACTION SETTLEMENT

**Superior Court of California, County of Los Angeles
Nunez v. Creative Dry Process, Inc. and United Wash & Dye, Inc. Case No. 20STCV15787**

This Notice provides important information about a proposed settlement in the class action lawsuit brought by Mirna Nunez (“Plaintiff”) against Creative Dry Process, Inc. ("Creative") and United Wash & Dye, Inc. ("United") (collectively "Defendants"), and your right to participate in, exclude yourself from, or object to the settlement.

A. Summary of the Claims

Plaintiff contends that Defendants violated various provisions of the Labor Code by their alleged: (1) failure to pay Class Members wages, minimum wages, and overtime for all work hours at the correct regular and premiums rates; (2) failure to provide Class Members rest breaks or pay rest break premiums; (3) failure to provide Class Members meal breaks or pay meal break premiums; (4) failure to provide Class Members with complete and accurate wage statements; (5) failure to maintain required records for Class Members; (6) failure to timely pay Class Members all wages due during their employment and at termination; (7) unfair business practices; and (8) civil penalties under the Private Attorneys General Act (“PAGA”) based on the foregoing alleged violations by Defendants. Plaintiff seeks to recover on behalf of herself and other Class Members, wages, missed meal and rest break premiums, expenses, penalties, interest, costs, and attorney’s fees.

Defendants deny all of Plaintiff’s claims and maintains that they have complied with all applicable laws. Specifically, Defendants contend that they correctly compensated Class Members; provided Class Members with proper meal and rest periods or paid required premiums for missed or non-compliant breaks; provided Class Members with compliant wage statements; maintained all required records for Class Members; and timely paid Class Members all wages owing during their employment and at the time of termination. Defendants further contend that for any purpose other than settlement, this action is not appropriate for class treatment.

The Court has not decided if Defendants violated any laws or if Plaintiff or any other employees are entitled to any money or other relief.

B. Why You Are Receiving This Notice

On _____, 202_, the Superior Court of California, County of Los Angeles (“the Court”) preliminarily approved a class action settlement of the lawsuit on behalf of all persons who have been, or currently are, employed by Defendants in California as non-exempt hourly employees (“Class Members”) during the period April 23, 2016 through _____, 202_ (“Class Period”). According to Defendants' records, you are a Class Member. Because you are a Class Member, you have the right to participate in, object to, or exclude yourself from the settlement. This Notice explains your legal rights and options with respect to the settlement.

C. The Terms of the Settlement

Defendants have agreed to pay a maximum Gross Settlement Fund of \$265,000 in exchange for a release of the claims asserted by Plaintiff and Class Members in the lawsuit. The Gross Settlement Fund includes \$61,975 Defendants previously paid Class Members in individual settlements. Out of the Gross Settlement Fund, Class Counsel will be requesting the Court to award it up to \$88,333.33 in attorney's fees, up to \$9,000 in litigation costs, an Enhancement Award to Plaintiff Mirna Nunez of up to \$5,000.00, settlement administration costs of no more than \$9,250, and \$10,000 allocated to PAGA, 75 % of which, or \$7,500 will be paid to the Labor Workforce Development Agency ("LWDA") under PAGA. It is estimated that after deducting the attorney's fees, litigation costs, Enhancement Award, the amount allocated to PAGA, and administrative expenses from the Gross Settlement Fund, at least \$ _____ ("Net Settlement Fund") will be available for distribution to Class Members.

The Net Settlement Fund will be divided among Class Members as follows: To determine a Class Member's settlement payment, the Net Settlement Fund will be divided by the total number of weeks worked by all Class Members as non-exempt employees in California during the Class Period, multiplied by the number of weeks worked by that Class Member as a non-exempt employee in California. If you previously received an individual settlement payment from Defendants, you will be paid an additional \$50.00 from the Net Settlement Fund, or the difference between your prior individual settlement payment and your pro rata amount calculated under the formula described in this Paragraph, whichever is greater. Unless you exclude yourself from the settlement as explained below, you will receive a settlement payment.

In addition, \$2,500 from the amount allocated to PAGA will be paid to Class Members who were employed with Defendants as non-exempt employees in California during the period April 23, 2019 to _____, 202_ ("PAGA Period"). If you worked during the PAGA Period, to determine your share of the PAGA settlement, the PAGA settlement will be divided by the total number of weeks worked by all eligible Class Members as non-exempt employees in California during the PAGA Period, multiplied by the number of weeks worked by you as a non-exempt employee in California during the PAGA Period. You will receive your portion for the PAGA settlement even if you request exclusion from the settlement.

D. Your Options

You have three options: (1) participate in the settlement and not object to the settlement; (2) participate in the settlement and object to the settlement; or (3) request exclusion from the settlement.

If you choose to participate in the settlement (i.e., remain in the Class), you may also object to the settlement, as explained below. If you remain in the Class, you will be represented by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the settlement. If you remain in the Class, you will be subject to any Judgment that will be entered in the Action, including the release of the Released Claims as described above.

If you request exclusion from the settlement, you cannot also object to the settlement, because the settlement no longer affects you.

1. Participate in the Settlement

Under the settlement, you will receive a settlement payment unless you request exclusion from the settlement. According to Defendants' records you worked ____ weeks during the Class Period as a non-exempt employee. As such, your settlement payment is estimated to be \$ _____.

Even if you request exclusion, you will receive a portion of the PAGA settlement if you worked during the PAGA Period. According to Defendants' records, you worked ____ weeks during the PAGA Period as a non-exempt employee in California. As such, your share of the PAGA settlement is estimated to be \$ _____.

If you believe that the number of weeks worked is incorrect, you should provide the Settlement Administrator with an explanation, along with any documentation relating to your disagreement by no later than _____, 202___. If there is a dispute about the number of weeks you worked, the Settlement Administrator will review the Defendants' records and your records to attempt to resolve the dispute.

You should send your explanation and documentation regarding any dispute over the number of weeks you worked as a Class Member to the Settlement Administrator at the following address:

Creative Dry Process Class Action Settlement Administrator

c/o _____

P.O. Box _____

_____, _____

() ____ - ____

Settlement checks will be mailed to Settlement Class Members, so if your address changes, you should inform the Settlement Administrator of the change. Your settlement payment will be mailed to you some time after the Court grants final approval of the settlement at the Final Approval Hearing.

Twenty percent (20 %) of your settlement payment is allocated to wages, and taxes will be withheld from that portion and will be reported on a W-2. The remaining eighty percent (80 %) of your settlement payment is allocated to non-wages and interest. No taxes will be withheld from this portion and will be reported on a 1099. If you received a portion of the PAGA settlement, no taxes will be withheld from this portion and will be reported on a 1099. Class Members are responsible for the proper income tax treatment of their settlement payments. The Settlement Administrator, Defendants and their counsel, and Plaintiff and Class Counsel cannot and are not providing tax advice concerning the tax consequences and treatment of any settlement payment received by Class Members.

2. Object to the Settlement

If you do not exclude yourself from the settlement, you have the right to object to the settlement. To do so, you must mail to the Settlement Administrator at the address noted above, your objection in writing. To be valid, your objection must be mailed to Settlement Administrator and postmarked no later than _____, 202___. Class Counsel will provide the Court with your objection prior to the final approval hearing. You can also hire an attorney at your own expense to represent you in your objection.

An objection must be signed by you, it must reference case number 20STCV15787, and it must state all of the following: (1) your full name; (2) your dates of employment with Defendants; (3) the grounds for the objection; (4) if the you intend to appear at the final approval hearing; and (5) include any legal briefs, papers or memoranda you propose to submit to the Court in support of your objection. If you fail to make your objection in the manner specified above, you still have the right to appear in Court at the Final Approval Hearing to state your objections. If you wish to appear for the Final Approval Hearing, you must adhere to the Court's current social distancing procedures for attendance at hearings and review of court files, a link of which will be found at the Settlement Administrator's Website ----. If you do not submit a written objection or appear in Court to object at the Final Approval Hearing, you will be deemed to have waived your right to object and shall be foreclosed from making any objections to the settlement whether by appeal or otherwise. Class Members may appear remotely for the Final Approval Hearing and should contact the court clerk for Department 6 at (213) 310-7006 for instructions on how to appear remotely.

3. Exclude Yourself from the Settlement

If you wish to exclude yourself from the settlement, you must mail to the Settlement Administrator a valid request to be excluded from the settlement. The request to be excluded from the settlement should state, in effect, the following: "I WISH TO BE EXCLUDED FROM THE SETTLEMENT IN THE CLASS ACTION LAWSUIT. I UNDERSTAND BY REQUESTING EXCLUSION FROM THE SETTLEMENT, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE LAWSUIT." The request for exclusion from the settlement must be postmarked no later than _____, 202__, and mailed to the Settlement Administrator at the address noted above. If you exclude yourself from the settlement, you will not be entitled to recover any settlement payment except your share of the PAGA settlement if you worked during the PAGA Period. You will also not be allowed to object to the settlement but you will retain the right to bring any claims you may have against Defendants.

E. Release of Claims

Upon the final approval by the Court of this Settlement Agreement, and except as to such rights or claims as may be created by the Settlement Agreement, each Class Member who has not timely requested exclusion from the Settlement, fully releases and discharges Defendants, and all of their past, present, and future parent companies, subsidiaries, affiliates, divisions, joint ventures, agents, management companies, and all of their respective employees, members, officers, directors, partners, legal representatives, accountants, trustees, executors, administrators, real or alleged alter egos, predecessors, successors, transferees, assigns and insurers (collectively “Released Parties”), from and all claims, demands, rights, liabilities, actions, grievances, demands for arbitration, and causes of action, of every nature and description, that were or could have been asserted based on the facts alleged in the FAC, including but not limited to, any state or federal claims (including without limitation claims under the Fair Labor Standards Act (“FLSA”)), relating to the failure to pay wages, failure to pay minimum wages, failure to pay overtime, failure to provide meal or rest breaks, failure to provide accurate and complete wage statements, failure to keep records, unfair competition, PAGA penalties, waiting time penalties, interest, attorney’s fees, or any other alleged known or unknown wage and hour violations that were alleged or could reasonably have been alleged based on arising out of the acts, facts, transactions, occurrences, representations, or omissions that were asserted in the Lawsuit (“Released Claims”). The cashing of the settlement check by a Settlement Class Member will be considered a consent and opt-in to the settlement of all related federal wage-hour claims under the FLSA, and each Settlement Class Member who cashes a settlement check will waive his or her rights to bring related claims under the FLSA during the Class Period. Any Class Member who receives a payment under PAGA pursuant to Paragraph 18 and who opts out of the Settlement is only bound by the release of PAGA claims.

F. Final Approval Hearing

The Court has scheduled a Final Approval Hearing for _____, 202__, at _____ a./p.m. in Department 6 of the Superior Court of California, County of Los Angeles, located at 312 N. Spring Street, Los Angeles, CA 90012. At the Final Approval Hearing, the Court will decide whether to grant final approval of the settlement. The Court will also rule on the application by Plaintiff for an award of attorney’s fees, litigation costs, administration costs, payment to the LWDA, and an Enhancement Award to Plaintiff. You have the right to attend the Final Approval Hearing and address the Court. You also have the right to retain an attorney at your own expense to speak on your behalf. You are not required to attend the Final Approval Hearing.

G. Where to Get More Information

If you want more information about the lawsuit or the settlement, you can contact Class Counsel or any other advisor of your choice. You can also view and obtain copies of lawsuit and related documents in the Court’s file by going to the Clerk’s office. DO NOT CONTACT THE JUDGE OR JUDGE’S COURTROOM CLERK. Below is the contact information for the lawyers representing the Parties and for the Clerk of the Court.

Class Counsel

Cody Payne
Kim Nguyen
Payne Nguyen LLP

Defendants' Counsel

Jeffrey Fuchsman
Ballard Rosenberg Golper &

The Court

Superior Court of California
County of Los Angeles

4640 Admiralty Way, Suite 500
Marina del Rey, CA 90292
Tele: (310) 360-9882
Fax: (310) 928-7469
cody@paynellp.com

Savitt, LLP
15760 Ventura Blvd., 18th Floor
Encino, CA 91436
Tele: (818) 508-3700
Fax: (818) 506-4827
jfuchsman@brgslaw.com

312 N. Spring Street, Los
Angeles, CA 90012
www.lacourt.org

BY ORDER OF THE COURT ENTERED ON _____ 202__.

EXHIBIT 2

1 CODY PAYNE, SBN 282342
cody@paynellp.com
2 KIM NGUYEN, SBN 293906
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3 PAYNE NGUYEN, LLP
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Telephone: (310) 360-9882
5 Facsimile: (310) 928-7469

6 Attorneys for Plaintiff MIRNA NUNEZ

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
10

11 MIRNA NUNEZ, individually, and on behalf
of other members of the general public
12 similarly situated,

13 Plaintiff,

14 vs.

15 CREATIVE DRY PROCESS, INC., a
California Corporation; and DOES 1 through
16 100, inclusive,

17 Defendants.

Case No. 20STCV15787

Assigned to Hon. Elihu M. Berle, Dept. 6

**[PROPOSED] ORDER FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

DATE:
TIME:
DEPT.:

Action Filed: April 23, 2020
Trial Date: None Set

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20 On _____, 202__, the Honorable Elihu M. Berle considered Plaintiff MIRNA
21 NUNEZ's ("Plaintiff") Motion for Preliminary Approval of Class Action Settlement and
22 Provisional Class Certification for Settlement Purposes Only ("Approval Motion"), Declarations of
23 _____ in Support of Motion for Preliminary Approval of Class Action Settlement,
24 the Joint Stipulation for Class Action Settlement ("Settlement Agreement"), Notice of Class Action
25 Settlement ("Class Notice") and the documents submitted in support of the Approval Motion.

26 Cody Payne, Esq. and Kim Nguyen of Payne Nguyen, LLP, 4640 Admiralty Way, Suite 500,
27 Marina del Rey, CA 90292; Telephone: (310) 360-9882; Facsimile: (310) 928-7469; Email:
28 cody@paynellp.com; kim@paynellp.com appeared for and on behalf of Plaintiff and the Putative

1 Class; Jeffrey Fuchsman of Ballard Rosenberg Golper & Savitt, LLP, appeared on behalf of
2 Defendants Creative Dry Process, Inc. and United Wash & Dye, Inc. (collectively “Defendants”).

3 Having considered the Approval Motion, the Declarations, and all supporting legal
4 authorities and documents, the Court ordered as follows:

5 **IT IS HEREBY ORDERED THAT:**

6 1. This Order incorporates by reference the definitions in the Settlement Agreement,
7 attached as **Exhibit 1** to the Declaration of _____, and all terms defined therein shall have
8 the same meaning in this Order as set forth in the Settlement Agreement.

9 2. For settlement purpose only, the Court certifies the following Settlement Class: All
10 current and former non-exempt hourly employees of Defendants in California during the period
11 beginning April 23, 2016 through _____.

12 3. The Court preliminarily appoints named Plaintiff Mirna Nunez as Class
13 Representative and Cody Payne, Esq. and Kim Nguyen Esq. of Payne Nguyen, LLP as Class
14 Counsel.

15 4. The Court hereby preliminarily approves the proposed class Settlement upon the
16 terms and conditions set forth in the Settlement Agreement. The Court finds that on a preliminary
17 basis that the Settlement appears to be within the range of reasonableness of settlement that could
18 ultimately be given final approval by the Court. It appears to the Court on a preliminary basis that
19 the Settlement amount is fair, adequate, and reasonable as to all potential Class members when
20 balanced against the probable outcome of further litigation relating to liability and damages issues.
21 It further appears that extensive and costly investigation and research has been conducted such that
22 counsel for the Parties at this time are reasonably able to evaluate their respective positions. It
23 further appears to the Court that the Settlement at this time will avoid substantial additional costs
24 by all Parties, as well as the delay and risks that would be presented by the further prosecution of
25 the Action. It further appears that the Settlement has been reached as the result of intensive, non-
26 collusive, arms-length negotiations utilizing an experienced mediator.

27 5. The Court approves, as to form and content, the proposed Class Notice attached as
28 **Exhibit 1** to the Settlement Agreement.

1 6. The Court directs the mailing of the Class Notice by first-class mail to the Class
2 Members in accordance with the schedule and procedures set forth in the Settlement Agreement.
3 The Court finds that the dissemination of the Class Notice set forth in the Settlement Agreement
4 complies with the requirements of due process of law, and appears to be the best notice practicable
5 under the circumstances.

6 7. The Court hereby preliminarily approves the definition and disposition of the Gross
7 Settlement Fund of \$265,000, which is inclusive of payment of attorneys' fees not to exceed
8 \$88,333.33, which is 1/3 of the Gross Settlement Fund, costs not to exceed \$7,000, incentive award
9 not to exceed \$5,000 to Plaintiff, PAGA penalties of \$10,000 (of which 75% or \$7,500 will be paid
10 to the LWDA and 25% or \$2,500 will be paid to eligible Class Members), \$61,975 in individual
11 settlements previously paid to Class Members, and costs of administration not to exceed
12 \$ _____. Defendants shall pay the employer's share of payroll taxes on the portion of the
13 Gross Settlement Amount payable to Participating Class Members as wages, in addition to the Gross
14 Settlement Fund.

15 8. The Court confirms _____ as the Settlement Administrator. The
16 Settlement Administrator shall prepare and submit to Class Counsel and Defendants' Counsel a
17 declaration attesting to the completion of the notice process as set forth in the Settlement Agreement,
18 including an explanation of efforts to resend any Class Notice returned undeliverable and the total
19 number of opt-outs and objections received before and after the deadline.

20 9. The Court directs Defendants to provide the Settlement Administrator with the
21 "Class List" for Class Members providing the following information: (1) names; (2) last known
22 home address and telephone numbers; (3) date of hire; (4) date of termination; (5) number of work
23 weeks; (6) amount of individual settlement; and (7) social security number. Defendants shall
24 provide the "Class List" as referenced herein, to the Settlement Administrator in accordance with
25 the procedure and deadlines set forth in the Settlement Agreement, by _____, 202__.

26 10. The Settlement Administrator shall use the National Change of Address database
27 (U.S. Postal Service) to check for updated addresses for Class Members and shall then mail, via first
28 class U.S. mail, the Class Notice to Class Members as approved in paragraph 5 herein, in accordance

1 with the procedure and deadlines set forth in the Settlement Agreement, by _____,
2 202__.

3 11. The deadline by which Class Members may dispute the number of workweeks, opt-
4 out or object shall be forty-five (45) days from the date of mailing of the Class Notice or
5 by _____, 202__. Any Class Member who desires to be excluded from the Settlement
6 must timely mail his or her written request for exclusion in accordance with the Class Notice. All
7 such persons who properly and timely exclude themselves from the Settlement shall not be Class
8 Members, and shall have no rights with respect to the settlement, no interest in the settlement
9 proceeds, and no standing to object to the proposed settlement. However, Class Members who
10 request exclusion but were employed during the PAGA Period as defined in the Settlement
11 Agreement will receive their pro rata portion of the PAGA settlement upon final approval of the
12 Settlement.

13 12. The deadline for filing objections to any of the terms of the Settlement shall be forty-
14 five (45) days from the date of mailing of the Class Notice or by _____, 20___. Any
15 Class Member who wishes to object to the Settlement must either serve a written objection on the
16 Settlement Administrator or appear at the Final Approval hearing to object. The Settlement
17 Administrator will email a copy of any written objections to Class Counsel and counsel for
18 Defendants. Class Counsel will lodge a copy of the objection with the Court. The objection should
19 set forth, in a clear and concise manner, the factual and legal basis for the objection. Any Class
20 Member who fails to make his or her objection in the manner provided for in this Order shall be
21 deemed to have waived such objection and shall forever be foreclosed from making any objection
22 to or appeal of the fairness, reasonableness or adequacy of the Settlement as incorporated in the
23 Settlement Agreement, or to the award of attorneys' fees, costs, or incentive award to class
24 representative.

25 13. All papers filed in support of Final Approval, including supporting documents for
26 attorneys' fees and costs shall be filed on _____, 202__.

27 14. Class Counsel and Counsel for Defendants shall file any responses to any written
28 objections submitted to the Court by _____, 202__.

1 15. A final approval hearing shall be held with the Court on _____, 202__
2 at _____ a.m./p.m., in Department 6 of the Superior Court of California County of Los Angeles,
3 312 N. Spring St., Los Angeles, CA 90012, to determine (1) whether the proposed settlement is fair,
4 reasonable, and adequate and should be finally approved by the Court; (2) the amount of attorneys’
5 fees and costs to award Class Counsel; and (3) the amount of incentive award to the Class
6 Representative. The Settlement Administrator shall provide Notice of any continuance of the final
7 approval hearing to any Class Members who have submitted an objection to the Settlement.

8 16. In the event the Settlement does not become effective in accordance with the terms
9 of the Settlement, or the Settlement is not finally approved, or is terminated, cancelled or fails to
10 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
11 and the Parties shall revert to their respective positions as of the commencement of the Action. The
12 Parties will be free to assert any claim or defense that could have been asserted at the outset of the
13 Action.

14 **IT IS SO ORDERED.**

15
16 DATED: _____

Honorable Elihu M. Berle
Judge of the Superior Court

EXHIBIT 3

1 CODY PAYNE, SBN 282342
cody@paynellp.com
2 KIM NGUYEN, SBN 293906
kim@paynellp.com
3 PAYNE NGUYEN, LLP
4640 Admiralty Way, Suite 500
4 Marina del Rey, CA 90292
Telephone: (310) 360-9882
5 Facsimile: (310) 928-7469

6 Attorneys for Plaintiff MIRNA NUNEZ

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
10

11 MIRNA NUNEZ, individually, and on behalf
of other members of the general public
12 similarly situated,

13 Plaintiff,

14 vs.

15 CREATIVE DRY PROCESS, INC., a
California Corporation; and DOES 1 through
16 100, inclusive,

17 Defendants.

Case No. 20STCV15787

Assigned to Hon. Elihu M. Berle, Dept. 6

**[PROPOSED] ORDER FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

DATE:
TIME:
DEPT.:

Action Filed: April 23, 2020
Trial Date: None Set

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20 The Plaintiff's Motion for Final Approval of the Settlement (the "Final Approval Motion")
21 as set forth in the Stipulation of Class Action Settlement (the "Settlement Agreement") came for
22 hearing on _____, 202__ in Department 6 of the above entitled court. The Final
23 Approval Motion was unopposed by Defendants Creative Dry Process, Inc. and United
24 Wash & Dye, Inc. (collectively "Defendants"). Having considered the Final Approval Motion, the
25 Settlement Agreement, the Declarations, and all other materials properly before the Court and
26 having conducted an inquiry pursuant to California Rules of Court, rule 3.769(g), the Court finds
27 that the Settlement Agreement was entered by all parties in good faith, and the Settlement
28 Agreement is approved. Due and adequate notice having been given to the Class, and the Court

1 having considered the Settlement Agreement, all papers filed and proceedings had herein and all
2 oral and written comments received regarding the proposed settlement, and having reviewed the
3 record in this Litigation, and good cause appearing,

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

5 1. The Court, for purposes of this Judgment and Order (“Judgment”), refers to all
6 defined terms as set forth in the Settlement Agreement.

7 2. The Court has jurisdiction over the subject matter over this Action, the Class
8 Representative, the Class Members, and Defendants.

9 3. The Court finds that the distribution of the Class Notice, as provided for in the Order
10 Granting Preliminary Approval for the Settlement, constituted the best notice practicable under the
11 circumstances to all Class Members and fully met the requirements of California law and due
12 process under the California and United States Constitution. Based on evidence and other material
13 submitted, the actual notice to the class was adequate.

14 4. The Court finds that the instant Action presented a good faith dispute of the claims
15 alleged, and the Court finds in favor of settlement approval. Specifically, the claims on behalf of
16 the Class Members included the alleged (1) failure to pay Class Members wages, minimum wages
17 and overtime for all work hours at the correct regular and premiums rates; (2) failure to provide
18 Class Members with rest breaks or pay rest break premiums; (3) failure to provide Class Members
19 with meal breaks or pay meal break premiums; (4) failure to provide Class Members with complete
20 and accurate wage statements; (5) failure to timely pay Class Members all wages during
21 employment and at termination; (6) failure to keep requisite payroll records; (7) unfair business
22 practices; and (8) claims for civil penalties under the California Private Attorneys General Act of
23 2004 (“PAGA”).

24 5. No Class Members requested Exclusion from the Settlement, so all Class Members
25 are entitled to payment pursuant to the Settlement and this Judgment.

26 6. The Court approves the Settlement, as set forth in the Settlement Agreement and each
27 of the releases and other terms, as fair, just, reasonable, and adequate. The Parties are directed to
28 perform in accordance with the terms set forth in the Settlement Agreement.

1 7. The Parties are to bear their own costs, except as otherwise provided in the Settlement
2 Agreement.

3 8. For purposes of effectuating this Order and Judgment (including the Released
4 Claims), this Court has certified the following class: “All current and former non-exempt hourly
5 employees of Defendants in California during the period beginning April 23, 2016 through
6 _____.” The Court deems this definition sufficient for purposes of California Rules
7 of Court, rule 3.765(a).

8 9. With respect to the Settlement Class and for purposes of approving this Settlement,
9 this Court finds and concludes as follows: (a) the Class Members are ascertainable and so numerous
10 that joinder of all members is impracticable; (b) there are questions of law or fact common to the
11 Class Members, and there is a well-defined community of interest among the Class Members with
12 respect to the subject matter of the Action; (c) the claims of the Class Representative are typical of
13 the claims of the Class Members; (d) the Class Representative has fairly and adequately protected
14 the interests of the Class Members; (e) a class action is superior to other available methods for an
15 efficient adjudication of this controversy; and (f) Class Counsel are qualified to serve as counsel for
16 the Plaintiff in his individual and representative capacity and for the Settlement Class.

17 10. By this Judgment, the Class Representative shall release, relinquish, and discharge,
18 and each of the Settlement Class Members shall be deemed to have, and by operation of the
19 Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released
20 Claims, as defined in the Settlement Agreement.

21 11. Neither the Settlement Agreement nor the Settlement contained therein, nor any act
22 performed or document executed pursuant to or in furtherance of the Settlement Agreement or the
23 Settlement (i) is or may be deemed to be or may be used by the Plaintiff or Class Members as an
24 admission of, or evidence of, the validity of any of the Class Members’ Released Claims, or of any
25 wrongdoing or liability of Defendants or any of the other Released Parties; or (ii) is or may be
26 deemed to be or may be used by the Plaintiff or Class Members as an admission of, or evidence of,
27 any fault or omission of Defendants or any of the other Released Parties in any civil, criminal, or
28 administrative proceeding in any court, administrative agency, or other tribunal. Defendants or any

1 of the other Released Parties may file the Settlement Agreement and/or the Judgment from this
2 Action in any other action that may be brought against it or them in order to support a defense or
3 counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement,
4 judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense
5 or counterclaim.

6 12. The "Settlement Amount" to be paid under the Settlement Agreement is \$265,000.
7 From this amount, Class Counsel sought an award of attorney's fees of \$88,333.33, litigation
8 expenses of \$7,000, a Service Award for Plaintiff of \$5,000, \$ _____ to _____
9 as the Settlement Administrator, and \$10,000 for PAGA penalties, \$7,500 of which is paid to the
10 LWDA and \$2,500 to eligible Class Members who were employed during the PAGA Period as set
11 forth in the Settlement Agreement. Defendants do not oppose these requests. The Court finds that
12 the Settlement Amount is fair, reasonable and adequate, and awards the payments set forth below
13 from the Settlement Amount:

- 14 A) \$88,333.33 to Class Counsel for attorney's fees;
- 15 B) \$7,000 to Class Counsel for litigation costs and expenses;
- 16 C) \$5,000 to Plaintiff as a Service Award;
- 17 D) \$ _____ to the Settlement Administrator for the costs of settlement
18 administration;
- 19 E) \$7,500 to the LWDA and \$2,500 to eligible employees under PAGA; and
- 20 F) After deducting the foregoing payments from the Settlement Amount, the
21 remainder shall form the Net Settlement Amount payable to the Settlement Class Members as set
22 forth in the Settlement Agreement and as calculated by the Settlement Administrator.

23 13. The Settlement Administrator is directed to calculate the Class Member's Individual
24 Settlement Amounts from the Net Settlement Amount and issue all payments in accordance with
25 the timeline set forth in the Settlement Agreement

26 14. The Settlement Administrator shall mail a reminder postcard to any Class Member
27 whose Settlement check is not negotiated within 60 days of mailing.

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15. Settlement Class Members shall have 120 days to negotiate the settlement check from the date of issuance by the Settlement Administrator. If a Participating Class Member does not negotiate his/her check within this time period, the check will be canceled. The value of the unclaimed funds in the Settlement Administrator's account as a result of a failure to timely cash a settlement check shall be sent to the California State Controller Unclaimed Property.

16. This document shall constitute a Judgment for purposes of California Rule of Court 3.769(h). The Court reserves exclusive and continuing jurisdiction over the Action, the Class Representative, the Class Members, and Defendants for the purposes of supervising the implementation, enforcement, construction, administration, and interpretation of the Settlement Agreement and this Judgment.

IT IS SO ORDERED.

DATED: _____

Honorable Elihu M. Berle
Judge of the Superior Court

EXHIBIT B

Subject: Thank you for your Proposed Settlement Submission

Date: Friday, January 8, 2021 at 4:36:46 PM Pacific Standard Time

From: FormAssembly on behalf of DIR PAGA Unit

To: cody@paynellp.com

01/08/2021 04:36:40 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm