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Attorneys for Plaintiff DAVID LOPEZ, as an individual and on behalf of all employees similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES-CENTRAL DISTRICT
SPRING STREET COURTHOUSE**

DAVID LOPEZ, as an individual and on behalf of all employees similarly situated,

Plaintiff,

v.

DUNWEIZER FABRICATION, INC., a California corporation; and DUNWEIZER MACHINE, INC., a California corporation, collectively dba DUNWEIZER MACHINE and FABRICATION, and DOES 1 through 50, inclusive,

Defendant.

Case No. BC717333

CLASS ACTION

AMENDED JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE

Assigned to for all purposes:
Hon Ann Jones; Dept.:11

Complaint Filed: August 14, 2018
Trial Date: None Yet Set

JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE

IT IS HEREBY STIPULATED, by and among Plaintiff DAVID LOPEZ (“Plaintiff” or “Mr. Lopez”) on behalf of himself and the Settlement Class Members on the one hand, and Defendant DUNWEIZER FABRICATION, INC. (“Dunweizer” or “Defendant”), on the other hand ; , and subject to the approval of the Court, that the above-captioned action is hereby being compromised and settled pursuant to the terms and conditions set forth in this Joint Stipulation of Class Action Settlement and Release (the “Settlement”).

1. DEFINITIONS

Capitalized terms used in this Settlement shall have the meanings set forth below:

1.1. “Action” means the lawsuit entitled *David Lopez v. Dunweizer Fabrication Inc., a California corporation, Dunweizer Machine, Inc. a California corporation dba Dunweizer Machine and Fabrication; and DOES 1 through 50, inclusive*, pending in the Superior Court of the State of California, County of Los Angeles, and designated as Case No. BC717333.

1.2. “Claims Administrator” means Phoenix Settlement Administrators.

1.3. “Claims Administration Costs” means the amount to be paid to the third-party Claims Administrator from the Gross Settlement Amount for the administration of the Settlement. The Claims Administration Costs amount is not to exceed five thousand dollars (\$5,000.00). Any portion of the requested Claims Administration Costs that is not awarded to the Claims Administrator shall be part of the Net Settlement Amount.

1.4. “Class Counsel” means Kevin Mahoney of the Mahoney Law Group, APC.

1.5. “Class Counsel Award” means reasonable attorneys’ fees for Class Counsel’s litigation and resolution of this Action in a maximum amount of fifty thousand dollars (\$50,000.00) (1/3rd of the Gross Settlement Amount). The Court shall determine the amount of the Class Counsel Award, and it shall be paid from the Gross Settlement Amount. Any portion of the requested Class Counsel Award that is not awarded to Class Counsel shall be part of the Net Settlement Amount.

1.6. “Class Counsel Costs” means expenses incurred by Class Counsel for Class Counsel’s litigation and resolution of this Action, not to exceed fifteen thousand dollars

1 (\$15,000.00). The Court shall determine the amount of the Class Counsel Costs, and it shall be
2 paid from the Gross Settlement Amount. Any portion of the requested Class Counsel Costs that
3 is not awarded to Class Counsel shall be part of the Net Settlement Amount.

4 1.7. "Class Information" means information regarding Settlement Class Members that
5 Defendant Dunweizer Fabrication Inc., a California corporation, ("DFI") will in good faith
6 compile from its records and provide to the Claims Administrator. Class Information shall be
7 provided as a Microsoft Excel spreadsheet and shall include: each Settlement Class Member's
8 full name; last known address; last known home telephone number; last four digits of the Class
9 Member's social security number; start and end dates of employment during the Class Period,
10 and the total number of work weeks each Settlement Class Member worked for Defendants DFI
11 during the Class Period. Because a portion of social security numbers are included in the Class
12 Information, the Claims Administrator shall maintain the Class Information in confidence; access
13 shall be limited to those with a need to use the Class Information as part of the administration of
14 the Settlement; and transmission shall be through use of a secure, password-protected file.

15 1.8. "Class Period" means the period from August 14, 2014 through and including the
16 Preliminary Approval Date.

17 1.9. "Class Representative Enhancement Award" means the amount that the Court
18 authorizes to be paid to Plaintiffs, not to exceed five thousand dollars (\$5,000.00) for Plaintiff
19 David Lopez, in recognition of Plaintiffs' efforts and risks in assisting with the prosecution of the
20 Action. The Class Representative Enhancement Award shall be paid from the Gross Settlement
21 Amount. Any portion of the requested Class Representative Enhancement Award that is not
22 awarded to Plaintiff David Lopez shall be part of the Net Settlement Amount.

23 1.10. "Court" means the Superior Court of the State of California for the County of Los
24 Angeles.

25 1.11. "Defendant" means Dunweizer Fabrication Inc., a California corporation,
26 inclusive and all of its current and former parents, owners, subsidiaries, predecessors and
27 successors, and each of their respective officers, directors, partners, shareholders and agents, and
28 any other successors, assigns, or legal representatives. It does not include Dunweizer Machine,

1 Inc., which is a separate and distinct entity from Dunweizer Fabrication, Inc. (Dunweizer
2 Machine, Inc. shall be dismissed from this lawsuit, as set forth below.)

3 1.12. "Defense Counsel" means Barry A. Bradley, Jaimee K. Wellerstein, and Gregory
4 B. Wilbur of BRADLEY & GMELICH, LLP.

5 1.13. "Effective Date" means the date that the Gross Settlement Amount is fully funded.

6 1.14. "Employee Taxes" means the employee's share of any and all applicable federal,
7 state, and local payroll taxes on the portion of Participating Class Members' Individual Settlement
8 Payment that constitutes wages. The Employee Taxes will be paid out of the Net Settlement
9 Amount.

10 1.15. "Employer Taxes" means the employer's share of any and all applicable federal,
11 state, and local payroll taxes on the portion of Participating Class Members' Individual Settlement
12 Payment that constitutes wages. The Employer Taxes will be paid by Defendant Dunweizer
13 Fabrication Inc., and not out of the Gross Settlement Amount or Net Settlement Amount.

14 1.16. "Final Approval Hearing" means the hearing held on the motion for final approval
15 of the Settlement.

16 1.17. "Final Approval Date" means the date which the Court grants final approval of the
17 Settlement.

18 1.18. "Final Judgment" means the Court's entry of an order of judgment in this Action
19 following the Court's final approval of the Settlement.

20 1.19. "Gross Settlement Amount" means the maximum amount Defendant shall have to
21 pay in connection with this Settlement, by way of a common fund, which shall be inclusive of all
22 Individual Settlement Amounts to Participating Class Members, Class Counsel Award, Class
23 Counsel Costs, Claims Administrator Costs, Class Representative Enhancement Award, and
24 PAGA Allocation. Subject to Court approval and the terms of this Settlement, the Gross
25 Settlement Amount Defendant shall be required to pay is one hundred, fifty thousand dollars
26 (\$150,000.00). No portion of the Gross Settlement Amount will revert to Defendant, and the
27 Settlement does not require Participating Class Members to submit claims as a prerequisite to
28 receiving their Individual Settlement Payment. This settlement sum is based on Defendant

1 Dunweizer Fabrication Inc.’s representation that the class size is forty-one (41) individuals.
2 Defendant shall not be required to pay more than the Gross Settlement Amount as long as the
3 class size does not increase by more than ten percent (10%). Should the class size increase by
4 more than ten percent (10%), the Gross Settlement Amount shall increase proportionately — e.g.,
5 if the class size increases by ten percent (10%), the Gross Settlement Amount shall also increase
6 by ten percent (10%). Under no other circumstances shall Defendant be required to pay more than
7 the Gross Settlement Amount except as provided for in this Settlement.

8 1.20. “Individual Settlement Payment” means the amount payable to each Participating
9 Class Member, as calculated pursuant to Paragraph 3.21 of the Settlement, from the Net
10 Settlement Amount. Checks for Individual Settlement Payments will specifically indicate that
11 they are void if not negotiated within one hundred eight (180) days of their issuance.

12 1.21. “PAGA Allocation” means five thousand (\$5,000.00), allocated from the Gross
13 Settlement Amount for the compromise of claims for civil penalties brought under the Labor Code
14 Private Attorneys General Act of 2004 (“PAGA”). Per California Labor Code section 2699(i),
15 three thousand seven hundred fifty dollars (\$3,750.00), representing 75% of the PAGA
16 Allocation, will be paid to California’s Labor Workforce Development Agency. The remaining
17 one thousand two hundred fifty dollars (\$1,250.00), representing 25% of the PAGA Allocation,
18 shall be part of the Net Settlement Amount to be distributed to Participating Class Members.

19 1.22. “LWDA PAGA Allocation” means three thousand seven hundred fifty dollars
20 (\$3,750.00), representing 75% of the PAGA Allocation, and is the amount payable from the Gross
21 Settlement Amount to California’s Labor Workforce Development Agency.

22 1.23. “Net Settlement Amount” means the Gross Settlement Amount, less the Class
23 Counsel Award, the Class Counsel Costs, the Class Representative Enhancement, the Claims
24 Administration Costs, and the LWDA PAGA Allocation. The Net Settlement Amount shall be
25 distributed in its entirety to Participating Class Members.

26 1.24. “Notice of Objection” means a written statement of objection to the Settlement
27 made and signed by a Settlement Class Member and includes the following: (1) the full name of
28 the Settlement Class Member; (2) the dates of employment of the Settlement Class Member; (3)

1 the last four (4) digits of the Settlement Class Member’s Social Security number and/or the
2 Employee ID number; (4) the basis for the objection; and, (5) whether the Settlement Class
3 Member intends to appear at the Final Approval Hearing.

4 1.25. “Notice of Settlement” means the Notice of Proposed Class Action Settlement
5 (substantially in the form attached hereto as **Exhibit “A”**).

6 1.26. “Notice Packet” means the Notice of Proposed Class Action Settlement and the
7 Request for Exclusion.

8 1.27. “Participating Class Members” means all Settlement Class Members who do not
9 submit a valid and timely Request for Exclusion.

10 1.28. “Parties” means Plaintiff and Defendant collectively, and “Party” shall mean any
11 Plaintiff or any Defendant, individually.

12 1.29. “Plaintiff” means David Lopez.

13 1.30. “Plaintiff’s General Released Claims” means, in addition to the releases made by
14 Participating Class Member, Plaintiff, on behalf of himself, his heirs, successors, assigns, and
15 estates, in exchange for the terms and conditions of this Agreement, including the Class
16 Representative Enhancement Award requested or as otherwise authorized by the Court, shall also,
17 as of the Effective Date, fully and forever release the Released Parties, to the full extent permitted
18 by law, of and from any and all claims arising from his employment with Defendant, known and
19 unknown, asserted and unasserted, which Plaintiff had or may have had against the Released
20 Parties, whether sounding in tort, in contract, in law, in equity or otherwise, and including but not
21 limited to all claims for violation of any local, state, or federal statute, rule, or regulation.

22 1.31. “Preliminary Approval Date” means the date the Court enters the Preliminary
23 Approval Order for the Settlement.

24 1.32. “Preliminary Approval Order” means the Proposed Order (filed concurrently with
25 this Settlement) for preliminary approval of the Settlement.

26 1.33. “Released Claims” means any and all claims arising from the facts alleged in the
27 Action, including all wage and hour claims for unpaid wages including minimum wage payments,
28 failure to pay wages during employment, failure to pay overtime, meal and rest break violations,

1 wage statement violations, restitution, disgorgement, conversion, unjust enrichment, civil and
2 statutory penalties, interests, liquidated damages, attorneys' fees and costs, claims under
3 California Labor Code sections 201-203, 204, 223, 226, 226.7, 510, 558, 1194, 2698-2699.5, and
4 claims under California Business & Professions Code sections 17200-17204. It is understood and
5 agreed that Released Claims do not include claims for workers compensation, unemployment, or
6 disability benefits of any nature, nor any claims, actions, or causes of action which may be
7 possessed by Settlement Class Members under state or federal discrimination statutes, including,
8 without limitation, the California Fair Employment and Housing Act, the California Government
9 Code § 12940, et seq.; the Unruh Civil Rights Act, the California Civil Code § 51, et seq.; the
10 California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000, et seq.; the
11 Americans with Disabilities Act, as amended, 42 U.S.C. § 12101, et seq.; the Employee
12 Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001, et seq.; and all of their
13 implementing regulations and interpretive guidelines.

14 1.34. "Released Parties" means David Lopez, Dunweizer Fabrication Inc., a California
15 corporation, and all of its current, former, and future parents, owners, subsidiaries, predecessors
16 and successors, each of their respective officers, directors, partners, shareholders and agents, and
17 any other successors, assigns, or legal representatives, and any other individual or entity which
18 could be jointly liable with any of the foregoing.

19 1.35. "Request for Exclusion" means the Request for Exclusion form (substantially in
20 the form attached hereto as **Exhibit B**).

21 1.36. "Response Deadline" means the date forty-five (45) days after the Claims
22 Administrator mails Notice Packets to Settlement Class Members, and shall be the last date on
23 which Settlement Class Members may: (a) postmark Requests for Exclusion from the Settlement,
24 or (b) postmark Objections to the Settlement.

25 1.37. "Settlement" means this Joint Stipulation of Class Action Settlement and Release.

26 1.38. "Settlement Class Member(s)" or "Settlement Class" means all non-exempt
27 employees, currently and formerly employed by Defendant Dunweizer Fabrication Inc., a
28 California corporation, ("DFI"), in the State of California during the Class Period, who were or

1 are California residents.

2 **2. RECITALS**

3 2.1. Class Certification. The Parties stipulate and agree to the certification of this
4 Action for purposes of this Settlement only. Should the Settlement not become final and effective,
5 class certification shall immediately be set aside (subject to further proceedings on motion of any
6 party to certify or deny certification thereafter). The Parties' willingness to stipulate to class
7 certification as part of the Settlement shall have no bearing on and shall not be admissible in or
8 considered in connection with, the issue of whether a class should be certified in a non-settlement
9 context in this Action, and shall have no bearing on and shall not be admissible or considered in
10 connection with the issue of whether a class should be certified in any other lawsuit.

11 2.2. Procedural History. On August 14, 2018 Plaintiff David Lopez, a former
12 employee of Defendant DFI, filed the Action in the Superior Court of California for the County
13 of Los Angeles as a proposed class action on behalf of all current and former non-exempt
14 California employees of Dunweizer Fabrication Inc., a California corporation, Dunweizer
15 Machine, Inc. a California corporation dba Dunweizer Machine and Fabrication during the period
16 of August 14, 2014 through the date of final judgment. Plaintiff Lopez alleged that Defendants
17 Dunweizer Fabrication Inc., and Dunweizer Machine, Inc. dba Dunweizer Machine and
18 Fabrication (1) failed to pay all wages, including overtime wages, (2) failed to provide rest
19 periods; (3) failed to provide meal periods; (4) failed to provide accurate itemized wage
20 statements; (5) failed to pay wages upon termination of employment; (6) engaged in unfair
21 business practices. Plaintiff Lopez sought recovery under the California Labor Code, the
22 applicable Industrial Welfare Commission Wage Order, and the California Business &
23 Professions Code. On or about February 1, 2019, Plaintiff Lopez filed his First Amended
24 Complaint, adding a cause of action for the violation of the Private Attorney's General Act
25 ("PAGA").

26 2.3. Settlement Negotiations. On November 11, 2019, the Parties participated in a
27 private mediation session with mediator Hon. Michael A. Latin., a well-respected, experienced
28 mediator in the field of wage and hour class actions. Prior to the mediation, Class Counsel

1 conducted extensive informal discovery and investigation during the prosecution of the Class
2 Action. The informal discovery and investigation included, among other things: (1) inspection
3 and analysis of employee documents and data, including personnel files, time and payroll records,
4 employment policies and procedures, and other relevant documents; (2) evaluation of legal
5 positions taken by Defendants; (3) evaluation of potential class-wide damages and PAGA
6 penalties; and (4) review and research of applicable law with respect to the claims and potential
7 defenses brought by Defendant. Class Counsel has vigorously prosecuted this Class Action, and
8 Defendant has vigorously defended it. The Parties have engaged in sufficient discovery and
9 investigation to assess the relative merits of the claims and contentions of the Parties. Based on
10 this information and the settlement discussions during the mediation conducted at arm's length
11 and settlement discussions, the Parties came to an agreement on November 11, 2019. The
12 settlement is the result of an informed and detailed evaluation of the potential liability of total
13 exposure in relation to the costs and risks associated with continued litigation of the Class Action.

14 2.4. Dismissal of Defendant Dunweizer Machine, Inc. ("DMI"). On or around
15 November 11, 2019, during mediation settlement negotiations, based upon records produced,
16 Plaintiff agreed to secure the complete and final dismissal of Defendant DMI, without prejudice,
17 with each side to assume their respective costs and attorney's fees (other than such litigation
18 Expenses and Attorney's fees approved by the court as set forth herein), subject to the Court's
19 ongoing jurisdiction over the Settlement process and any disputes that may arise over the
20 administration of the Settlement. On December 23, 2019, Plaintiff's counsel filed and served a
21 Request for Dismissal, Declaration and [Proposed] Order to dismiss Defendant DMI without
22 prejudice pursuant to California Rules of Court, Rule 3.770. On December 31, 2019, the Court
23 so ordered the dismissal, without prejudice, of Dunweizer Machine, Inc. Therefore, any reference
24 to Defendants hereinafter shall mean DFI, and DFI only.

25 2.5. Benefits of Settlement to Settlement Class Members. Plaintiff and Class Counsel
26 recognize the length of continued proceedings necessary to litigate their disputes through
27 certification, trial, and any possible appeal. Plaintiff and Class Counsel have also taken into
28 account the uncertainty and risk of the outcome of further litigation, the difficulties and delays

1 inherent in such litigation, including, but not limited to, the risks related to a contested motion for
2 class certification, and the risks related to liability raised by the issues in this case. Plaintiff and
3 Class Counsel are also aware of the burdens of proof necessary to establish liability for the claims
4 asserted in the Action and the difficulties in establishing damages for the Settlement Class
5 Members. Plaintiff and Class Counsel have also taken into account Defendant's agreement to
6 enter into a settlement that confers substantial relief upon Settlement Class Members. Based on
7 the foregoing, Plaintiff and Class Counsel have determined that this Settlement is a fair, adequate,
8 and reasonable, and is in the best interests of the Settlement Class Members.

9 2.6. Defendant's Denial of Wrongdoing and Liability and Reasons for Settlement.

10 Defendant contends that the Settlement Class Members were properly and timely paid all wages
11 owed, including, but not limited to, all straight time and overtime, and were provided meal and
12 rest periods as required under California law., Defendant further contends there were no wage
13 statement violations, failure to timely pay upon termination violations, or any other violation
14 alleged in the operative complaint. However, Defendant has concluded that any further defense
15 of this litigation would be protracted and expensive for all Parties. Substantial amounts of time,
16 energy and resources of Defendant has been and, unless this Settlement is made, will continue to
17 be devoted to the defense of the claims asserted by Plaintiff and Settlement Class Members.
18 Defendant has also taken into account the risks of further litigation in reaching their decision to
19 enter into this Settlement. Nonetheless, Defendant has concluded that further proceedings in the
20 Action would be protracted and expensive and that it is desirable that the Action be fully and
21 finally settled in the manner and upon the terms and conditions set forth in this Settlement in order
22 to dispose of burdensome and protracted litigation, to permit the operation of Defendant's
23 business without further expensive litigation and the distraction and diversion of its personnel
24 with respect to matters at issue in the Action. Defendant has also taken into account the
25 uncertainty and risks inherent in any litigation, especially in complex cases such as this Action.
26 Defendant has therefore determined that it is desirable and beneficial to them that the Action be
27 settled in the manner and upon the terms and conditions set forth in this Settlement.

28 2.7. No Admissions. The Parties understand and agree that this Settlement is the result

1 of a good faith compromise of disputed claims and allegations, and Defendant is entering into this
2 Settlement Agreement solely to resolve doubtful and disputed matters. No part of this Settlement
3 Agreement or any conduct or written or oral statements made in connection with this Settlement,
4 where or not the Settlement Agreement is finally approved and/or consummated, may be offered
5 as or construed to be an admission or concession of any kind by either of any of the Parties. In
6 particular, but without limiting the generality of the foregoing, nothing about this Settlement or
7 Settlement Agreement shall be offered or construed as an admission that Defendant has violated
8 any of their obligations under the California Labor Code, or of liability in general, or any
9 wrongdoing, impropriety, responsibility, or fault whatsoever on the part of Defendant and/or
10 Released Parties. In addition, this Settlement Agreement shall not be offered or be admissible in
11 evidence against any of the Parties or any of the Released Parties, except in any action or
12 proceeding brought by or against Plaintiff, the Class, Class Members, or Defendant to enforce its
13 terms, or by Defendant in defense of any claims brought by Plaintiff, the Class, or any Class
14 Members. The provisions of this paragraph shall become effective when this Settlement is signed
15 and shall be binding on the Parties and their counsel regardless of whether the Settlement
16 Agreement is preliminarily and/or finally approved or terminated for any reason, or rendered null
17 and void.

18 2.8. Settlement Class Members' Claims. Plaintiff claims that the Released Claims
19 have merit and give rise to liability on the part of Defendant. This Settlement is a compromise of
20 disputed claims. Nothing contained in this Settlement and no documents referred to herein, nor
21 any action taken to carry out this Settlement may be construed or used as an admission by or
22 against the Settlement Class Members or Class Counsel as to the merits or lack thereof of the
23 claims asserted.

24 2.9. Defendant's Defenses. Defendant has denied and continues to deny each and all
25 of the allegations, claims, and contentions alleged by Plaintiff in the Action. Defendant has
26 expressly denied and continues to deny all charges of wrongdoing or liability against it arising
27 out of any of the conduct, statements, acts, or omissions alleged in the Action. Defendant
28 contends that it complied in good faith with California and federal wage-and-hour laws and has

1 dealt legally and fairly with Plaintiff and Settlement Class Members. Defendant further denies
2 that, for any purpose other than settling this Action, these claims are appropriate for class or
3 representative treatment.

4 2.10. Gross Amount Payable by Defendant. Under the terms of this Settlement, the
5 gross amount payable by Defendant shall not exceed the Gross Settlement Amount of one
6 hundred-fifty thousand dollars (\$150,000.00), except as provided in this Settlement.

7 **3. TERMS OF SETTLEMENT**

8 The Parties agree as follows:

9 3.1. Binding Settlement. This Settlement shall bind the Parties and all Participating
10 Class Members, subject to the terms and conditions hereof and the Court's approval.

11 3.2. Release as To Plaintiff and All Settlement Class Members:

12 3.2.1. Release as To All Settlement Class Members. As of the Effective Date, all
13 Settlement Class Members, including Plaintiff, who do not opt out of the
14 Settlement, will be deemed to have fully, finally and forever released,
15 settled, compromised, relinquished, and discharged the Released Parties
16 from the Released Claims for the period of August 14, 2014 to the
17 Preliminary Approval Date.

18 3.2.2. Release as To Plaintiff. As of the Effective Date, Plaintiff will be deemed
19 to have fully, finally and forever released, settled, compromised,
20 relinquished, and discharged any and all of Plaintiff's General Released
21 Claims against the Released Parties. With respect to the Plaintiff's General
22 Released Claims only, Plaintiff shall be deemed to have, and by operation
23 of the Final Judgment shall have, expressly waived and relinquished, to the
24 fullest extent permitted by law, or any other similar provision under federal
25 or state law, which section provides:

26
27 *A general release does not extend to claims that the creditor or*
28 *releasing party does not know or suspect to exist in his or her favor at*

1 *the time of executing the release and that, if known by him or her, would*
2 *have materially affected his or her settlement with the debtor or*
3 *released party.*

4 Plaintiff may hereafter discover facts in addition to or different from those he now knows
5 or believes to be true with respect to the subject matter of the Plaintiff's General Released Claims,
6 but upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment
7 shall have, fully, finally, and forever settled and released any and all of the Plaintiff's General
8 Released Claims, whether known or unknown, suspected or unsuspected, contingent or non-
9 contingent, which now exist, or heretofore have existed, upon any theory of law or equity now
10 existing or coming into existence in the future, including, but not limited to, conduct that is
11 negligent, intentional, with or without malice or a breach of any duty, law or rule, without regard
12 to the subsequent discovery or existence of such different or additional facts. Plaintiff agrees not
13 to sue or otherwise make a claim against any of the Released Parties for Plaintiff's General
14 Released Claims.
15

16 3.3. Tax Liability. The Parties understand and agree that the Parties are not providing
17 tax or legal advice. Defendant DFI is responsible for any Employer Taxes. These payments shall
18 not be made from the Gross Settlement Amount or the Net Settlement Amount. Participating
19 Class Members will remain responsible for any Employee Taxes. Participating Class Members
20 will assume any employee tax obligations or consequences that may arise from this Settlement
21 and should consult with a tax expert if they have questions. However, Individual Settlement
22 Payments will be allocated as follows: ten percent (10%) as wages (a W-2 will be issued) and
23 eighty percent (80%) penalties and ten percent (10%) interest (a 1099 will be issued). Any
24 required payroll deductions will be based on this apportionment. The Parties agree that, in the
25 event that any taxing body determines that additional employee taxes are due from any
26 Participating Class Member, such Participating Class Member assumes all responsibility for the
27 payment of such taxes.
28

 3.4. Circular 230 Disclaimer. The Parties acknowledge and agree that (1) no provision

1 of this Settlement, and no written communication or disclosure between or among the Parties,
2 Class Counsel or Defense Counsel and other advisers, is or was intended to be, nor shall any such
3 communication or disclosure constitute or be construed or be relied upon as, tax advice within
4 the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended);
5 (2) the acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal
6 and tax counsel for advice (including tax advice) in connection with this Settlement, (b) has not
7 entered into this Settlement based upon the recommendation of any other party or any attorney or
8 advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure
9 by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the
10 acknowledging party; and (3) no attorney or adviser to any other party has imposed any limitation
11 that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of
12 whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax
13 treatment or tax structure of any transaction, including any transaction contemplated by this
14 Settlement.

15
16 3.5. Settlement Approval and Implementation Procedures. As part of this Settlement,
17 the Parties agree to the following procedures for obtaining the Court's preliminary approval of
18 the Settlement, certifying the Settlement Class, notifying Settlement Class Members of the
19 Settlement, obtaining the Court's final approval of the Settlement, and processing the Individual
20 Settlement Payments.

21 3.6. Preliminary Approval and Certification. As soon as practicable after execution of
22 this Settlement, but no later than thirty (30) days, the Parties will jointly submit this Settlement
23 to the Court for its preliminary approval. Such submission will include this Settlement, the
24 proposed Notice Packet, the proposed Preliminary Approval Order, and any memoranda and
25 evidence as may be necessary for the Court to determine that this Settlement is fair, adequate, and
26 reasonable. The Parties agree to request the Court to enter an order conditionally certifying the
27 Settlement Class after the preliminary approval hearing, in accordance with California Rules of
28 Court, Rule 3.769(c).

1 3.7. Class Information. No more than fifteen (15) calendar days after the entry of the
2 Preliminary Approval Order, Defendant DFI, shall provide the Claims Administrator with the
3 Class Information for purposes of mailing Notice Packets to Settlement Class Members,
4 including: 1. Class Member’s full name; 2. Class Member’s last known address; 3. Class
5 Member’s last known telephone number; 4. Class Member’s last four digits of social security
6 number; 5. Class Member’s employee identification number; and based on Defendant’s payroll
7 records, the Class Member’s total number of workweeks.

8 3.8. Notice by First Class U.S. Mail. Upon receipt of the Class Information, the Claims
9 Administrator will perform a search on the National Change of Address database to update the
10 Settlement Class Members’ addresses. No more than ten (10) calendar days after receiving the
11 Class Information from Defendant DFI, as provided herein, the Claims Administrator shall mail
12 copies of the Notice Packet to all Settlement Class Members by regular First-Class U.S. Mail.
13 The Claims Administrator shall exercise its best judgment to determine the current mailing
14 address for each Settlement Class Member. The address identified by the Claims Administrator
15 as the current mailing address shall be presumed to be the best mailing address for each Settlement
16 Class Member. It will be conclusively presumed that if an envelope so mailed has not been
17 returned within twenty (20) days of the mailing that the Settlement Class Member received the
18 Notice Packet.
19

20 3.9. Undeliverable Notices. Any Notice Packets returned to the Claims Administrator
21 as undeliverable on or before the Response Deadline shall be re-mailed to the forwarding address
22 affixed thereto, if any.

23 3.10. For each Settlement Class Member whose Notice Packet is returned without a
24 forwarding address, there will be one (1) skip trace by the Claims Administrator. If an updated
25 mailing address is identified, the Claims Administrator shall resend the Notice Packet to the
26 Settlement Class Member. One (1) supplemental Notice Packet shall be mailed to each Settlement
27 Class Member whose original Notice Packet is returned as undeliverable to the Claims
28 Administrator. Such re-mailing shall be made within five (5) business days of the Claims

1 Administrator receiving notice that the respective Notice Packet was undeliverable. Any requests
2 by the Claims Administrator for documents or information from Defendant DFI must be
3 responded to within a reasonable amount of time by counsel for Defendant DFI. It is the intent of
4 the Parties that reasonable means be used to locate the Settlement Class Members and apprise
5 them of their rights.

6
7 3.11. Settlement Class Members to whom Notice Packets are resent after having been
8 returned undeliverable to the Claims Administrator, during the entire Response Deadline, shall
9 have fourteen (14) calendar days thereafter, or until the Response Deadline has expired,
10 whichever is later, to mail the Request for Exclusion or a Notice of Objection. Notice Packets that
11 are resent shall inform the recipient of this adjusted deadline. The date of the postmark on the
12 return envelope shall be the exclusive means used to determine whether a Settlement Class
13 Member has returned his or her Request for Exclusion on or before the adjusted deadline. It will
14 be conclusively presumed that if an envelope so mailed has not been returned within twenty (20)
15 days of the mailing, that the Settlement Class Member received the Notice Packet. If a Settlement
16 Class Member's Notice Packet is returned to the Claims Administrator more than once as
17 undeliverable, then an additional Notice Packet shall not be re-mailed. Nothing else shall be
18 required of, or done by, the Parties, Class Counsel, or Defendants' Counsel to provide notice of
19 the proposed settlement.

20
21 3.12. Compliance with the procedures specified in paragraphs 3.8 through 3.11 of this
22 Settlement shall constitute due and sufficient notice to Settlement Class Members of this
23 Settlement and shall satisfy the requirement of due process. Nothing else shall be required of, or
24 done by, the Parties, Class Counsel, and Defense Counsel to provide notice of the proposed
25 Settlement.

26 3.13. Disputes. Settlement Class Members will have the opportunity during the forty-
27 five (45) day response period, should they disagree with Defendant DFI records regarding their
28 days worked during the Class Period, to provide documentation and/or an explanation to show

1 contrary days worked. If there is a dispute, the Claims Administrator will consult with the Parties
2 to determine whether an adjustment is warranted. The Claims Administrator shall determine the
3 eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this
4 Settlement. The Claims Administrator's determination of the eligibility for and amount of any
5 Individual Settlement Payment shall be binding upon the Settlement Class Member and the
6 Parties.

7 3.14. Exclusions (Opt-Outs). The Notice Packet shall state that Settlement Class
8 Members who wish to exclude themselves from the Settlement must submit a Request for
9 Exclusion by the Response Deadline. The Request for Exclusion: (1) must contain the name,
10 address, and the last four (4) digits of the Social Security number of the Settlement Class Member
11 requesting exclusion, (2) must be signed by the Settlement Class Member; and (3) must be
12 postmarked by the Response Deadline and returned to the Claims Administrator at the specified
13 address. If the Request for Exclusion is not signed by the Settlement Class Member or does not
14 contain the information listed in (1), it will not be deemed valid for exclusion from this Settlement.
15 The date of the postmark on the return-mailing envelope shall be the exclusive means used to
16 determine whether a Request for Exclusion has been timely submitted. Any Settlement Class
17 Member who requests to be excluded from the Settlement will not be entitled to any recovery
18 under the Settlement and will not be bound by the terms of the Settlement. Settlement Class
19 Members who receive a Notice Packet, but fail to submit a valid and timely Request for Exclusion
20 on or before the Response Deadline shall be bound by all terms of the Settlement and any Final
21 Judgment entered in this Action if the Settlement is approved by the Court. At no time shall any
22 of the Parties or their counsel seek to solicit or otherwise encourage members of the Settlement
23 Class to submit Requests for Exclusion from the Settlement. Class Counsel shall not represent
24 any Settlement Class Member with respect to any such Requests for Exclusion, Settlement Class
25 Members who submit a valid Request for Exclusion may not also submit a Notice of Objection.
26 The submission of a valid Request for Exclusion shall serve to preclude and nullify the submission
27 of a Notice of Objection by that Settlement Class Member.
28

1 3.15. Objections. The Notice Packet shall state that Settlement Class Members who
2 wish to object to the Settlement must not submit a Request for Exclusion and must submit a
3 written statement of objection (“Notice of Objection”) by the Response Deadline to the Claims
4 Administrator. The Notice of Objection must be signed by the Settlement Class Member and
5 state: (1) the full name of the Settlement Class Member; (2) the dates of employment of the
6 Settlement Class Member; (3) the last four (4) digits of the Settlement Class Member’s Social
7 Security number and/or the Employee ID number; (4) the basis for the objection; and, (5) whether
8 the Settlement Class Member intends to appear at the Final Approval Hearing. The Notice of
9 Objection must be postmarked by the Response Deadline and returned to the Claims
10 Administrator at the specified address. Within five (5) days of receiving a notice of objection
11 from a Settlement Class Member, the Claims Administrator shall forward the notice of objection
12 to Class Counsel and Defense Counsel. The Parties will thereafter lodge the Settlement Class
13 Member’s Notice of Objection with the Court. Settlement Class Members, regardless of whether
14 or not they submit a timely Notice of Objection, will have a right to appear at the Final Approval
15 Hearing, with or without an attorney, in order to have their objections heard by the Court. At no
16 time shall any of the Parties or their counsel seek to solicit or otherwise encourage Settlement
17 Class Members to file or serve written objections to the Settlement or appeal from the Final
18 Judgment. Class Counsel shall not represent any Settlement Class Members with respect to any
19 such objections.
20

21 3.16. Plaintiffs’ Participation. By executing this Settlement, Plaintiff hereby stipulates
22 he will not object to or exclude himself from the Settlement in any way.

23 3.17. No Solicitation of Settlement Objections or Exclusions. The Parties and their
24 counsel agree to use their best efforts to carry out the terms of this Settlement. At no time shall
25 any of the Parties or their counsel seek to solicit or otherwise encourage Settlement Class
26 Members to submit either written objections to the Settlement or Requests for Exclusion from the
27 Settlement, or to appeal from the Court’s Final Judgment.

28 3.18. Funding of the Gross Settlement Amount. This is a non-reversionary Settlement

1 in which Defendant is required to pay the entire Gross Settlement Amount. No portion of the
2 Gross Settlement Amount will revert to Defendants. Defendant DFI is separately and solely
3 responsible for any employer payroll taxes owed as a result of the Settlement. By no later than
4 twenty (20) calendar days after the Final Approval Date, DFI, shall provide to the Claims
5 Administrator the payment in the amount of seventy-five thousand dollars (\$75,000) (“The Initial
6 Payment.”). Thereafter, on the first of each month after at least thirty (30) days have lapsed
7 following The Initial Payment, Defendant DFI shall provide to the Claims Administrator five (5)
8 payments of \$15,000 per month (totaling \$75,000), thus funding the Gross Settlement Amount of
9 one hundred fifty thousand dollars (\$150,000.00) in full. No payments from the Gross Settlement
10 Amount shall be made before the Gross Settlement Amount is fully funded. No release in this
11 Settlement shall be effective until the Gross Settlement Amount is fully funded. In the event DFI
12 fails to make a timely payment of either the Initial Payment or any of the five (5) consecutive
13 monthly payments, the Claims Administrator shall notify DFI, Class Counsel, and Defendant’s
14 Counsel within five (5) days of the failure to pay. Thereafter, DFI shall have three (3) court days
15 within which to make such payment. Failure to cure shall result in a default. If Defendant
16 defaults, Plaintiff and all Participating Class Members will be able to pursue all claims, and the
17 Settlement becomes null and void

18
19 3.19. No more than five (5) business days after the Gross Settlement Amount is fully
20 funded, the Claims Administrator will provide the Parties with an accounting of all anticipated
21 payments from the Gross Settlement Amount. The Net Settlement Amount shall be calculated
22 by deducting from the Gross Settlement Amount payments for (1) Class Representative
23 Enhancement Awards, as specified in this Settlement and approved by the Court; (2) Class
24 Counsel Award, as specified in this Settlement and approved by the Court; (3) Class Counsel
25 Costs, as specified in this Settlement and approved by the Court; (4) Claims Administration Costs,
26 as specified in this Settlement and approved by the Court; and (5) the LWDA PAGA Allocation,
27 as specified in this Settlement and approved by the Court. The Net Settlement Amount shall be
28 distributed in Individual Settlement Payments in accordance with Paragraphs 3.20-3.21.

1 3.20. Individual Settlement Payments. Each Participating Class Member shall be
2 eligible to receive an Individual Settlement Payment, which is a share of the Net Settlement
3 Amount, based on the number of weeks worked by the Participating Class Member during the
4 Class Period, as a proportion of all weeks worked by all Participating Class Members during the
5 Class Period. Individual Settlement Payments shall be paid pursuant to the formula set forth in
6 Paragraph 3.21 below. Individual Settlement Payments shall be mailed by regular First-Class
7 U.S. Mail to Participating Class Members' last known mailing address no later than fifteen (15)
8 calendar days after the Gross Settlement Amount is fully funded. Individual Settlement Payments
9 will specifically indicate that they are void if not negotiated within one hundred eight (180) days
10 of their issuance. Individual Settlement Payments reflect settlement of a dispute regarding wages,
11 interest, and penalties. Individual Settlement Payments will be allocated as follows: ten percent
12 (10%) as wages; and eighty percent (80%) penalties and ten percent (10%) interest. The "wage"
13 portion of each Individual Settlement Payment will be reduced by any Employee Taxes. The
14 Claims Administrator shall issue the appropriate tax documents associated with the Individual
15 Settlement Payments, including an IRS Form W-2 for the amounts allocated as "wages" and an
16 IRS Form 1099 for the amounts allocated as "interest" or "penalties."

18 3.21. Individual Settlement Payment Formula. After deducting the Class Counsel
19 Award and Class Counsel Costs, the LWDA PAGA Allocation, Class Representative
20 Enhancement Awards, and Claims Administration Costs, the remaining funds (the "Net
21 Settlement Amount"), will be distributed as follows: The Claims Administrator shall divide the
22 Net Settlement Amount by the total number of workweeks Participating Class Members worked
23 during the Class Period in order to determine the amount each Participating Class Member is
24 entitled to for each workweek he or she was employed by Defendant DFI (the "Daily Amount").
25 The Claims Administrator will multiply the Daily Amount by the estimated total number of
26 workweeks that each Participating Class Member worked during the Class Period. The product
27 of each calculation represents the gross Individual Settlement Payment for the respective
28 Participating Class Member. The Claims Administrator will then deduct Employee Taxes

1 attributable to wages to arrive at the net Individual Settlement Payment for each respective Class
2 Member. Within fifteen (15) calendar days after Preliminary Approval, Defendant DFI, shall
3 provide the Claims Administrator with any information reasonably necessary to perform the
4 calculation of number of workweeks for each Settlement Class Member, and any other reasonably
5 required information the Claims Administrator requests to perform the calculations required
6 under this Settlement. Defendant shall have no responsibility for deciding the validity of any
7 Individual Settlement Payment or any other payments made pursuant to this Settlement, shall
8 have no involvement in or responsibility for the determination or payment of Employee Taxes,
9 and shall have no liability for any errors made with respect to such Employee Taxes.

10
11 3.22. Settlement Class Members are not eligible to receive any compensation other than
12 the Individual Settlement Payment, and they may only receive an Individual Settlement Payment
13 if they do not submit a valid and timely Request for Exclusion to opt out of the Settlement.
14 Plaintiff, however, is also eligible to receive a Class Representative Enhancement Award.

15 3.23. No benefit, including but not limited to pension benefits, shall increase or accrue
16 as a result of any payment made pursuant to this Settlement.

17 3.24. If a check for an Individual Settlement Payment is returned to the Claims
18 Administrator as undeliverable, the Claims Administrator shall promptly attempt to obtain a valid
19 mailing address by performing a skip trace search. If another address is identified, the Claims
20 Administrator shall mail the check to the newly identified address. If an Individual Settlement
21 Payment check is returned to the Claims Administrator a second time as undeliverable, the Claims
22 Administrator shall not attempt any further re-mailing of that check. Any settlement checks that
23 remain uncashed one hundred eighty (180) or more calendar days after issuance shall be voided.
24 The Claims Administrator shall forward all voided settlement checks to the California State
25 Controller's Office's Unclaimed Property Division. The Claims Administrator shall also compile
26 a list of the Participating Class Members for whom their funds were deposited with the California
27 State Controller's Office's Unclaimed Property Division. In such event, the Participating Class
28 Member shall nevertheless remain bound by the Settlement. The Parties agree that good cause

1 exists for the Court to approve this distribution because the unclaimed funds are unclaimed wages
2 of employees that will be held by the State of California for the benefit of these employees, who
3 may request receipt of payment from the California State Controller's Office's Unclaimed
4 Property Division.

5 3.25. Class Representative Enhancement Awards. Defendant agrees not to oppose or
6 object to any application or motion by Plaintiff for a Class Representative Enhancement Award,
7 not to exceed five thousand dollars (\$5,000.00) for Plaintiff David Lopez, as consideration for
8 Plaintiff's time and effort in bringing and prosecuting this matter. The Class Representative
9 Enhancement Award shall be paid to Plaintiff from the Gross Settlement Amount no later than
10 fifteen (15) calendar days after the Gross Settlement Amount is fully funded. The Claims
11 Administrator shall issue an IRS Form 1099 — MISC to Plaintiff for his Class Representative
12 Enhancement Award. Plaintiff shall be solely and legally responsible for payment of all applicable
13 taxes on the Class Representative Enhancement Award and shall hold Defendant harmless from
14 any claim or liability for taxes, penalties, or interest arising as a result of the Class Representative
15 Enhancement Award. The Class Representative Enhancement Award shall be in addition to
16 Plaintiff's Individual Settlement Payment as a Participating Class Member. In the event that the
17 Court awards lesser amounts than the Class Representative Enhancement Awards requested, then
18 any portion of the requested amounts not awarded to Plaintiff shall be added to the Net Settlement
19 Amount. Plaintiff shall not have the right to revoke his agreement to the Settlement on the
20 grounds the Court did not approve any or all of his request for a Class Representative
21 Enhancement Award.
22

23 3.26. Class Counsel Award and Costs. Defendant agrees not to oppose or object to any
24 application or motion by Class Counsel for a Class Counsel Award not to exceed fifty thousand
25 dollars (\$50,000.00) and Class Counsel Costs not to exceed fifteen thousand dollars (\$15,000.00)
26 from the Gross Settlement Amount. The Class Counsel Award and Class Counsel Costs shall be
27 paid no later than fifteen (15) calendar days after the Gross Settlement Amount is fully funded.
28 Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payments

1 made pursuant to this paragraph. The Claims Administrator shall issue an IRS Form 1099 —
2 MISC to Class Counsel for the payments made pursuant to this paragraph. This Settlement is not
3 contingent upon the Court awarding Class Counsel any particular amount in attorneys’ costs. Any
4 amount requested by Class Counsel for the Class Counsel Award and Class Counsel Costs and
5 not granted by the Court shall be part of the Net Settlement Amount.

6 3.27. PAGA Allocation. Subject to Court approval, the Parties shall allocate a total of
7 five thousand dollars (\$5,000.00) from the Gross Settlement Amount for the compromise of
8 claims for civil penalties brought under the PAGA (the “PAGA Allocation”). Per California
9 Labor Code section 2699(i), three thousand seven hundred fifty dollars (\$3,750.00), representing
10 75% of the PAGA Allocation, will be paid to California’s Labor Workforce Development
11 Agency. The remaining one thousand two hundred fifty dollars (\$1,250.00), representing 25% of
12 the PAGA Allocation, shall be part of the Net Settlement Amount to be distributed to Participating
13 Class Members.

14 3.28. LWDA PAGA Allocation. The LWDA PAGA Allocation shall be three thousand
15 seven hundred fifty dollars (\$3,750.00), representing 75% of the PAGA Allocation, and shall be
16 paid to California’s Labor Workforce Development Agency from the Gross Settlement Amount
17 by the Claims Administrator no later than fifteen (15) calendar days after the Gross Settlement
18 Amount is fully funded. The remaining one thousand two hundred fifty dollars (\$1,250.00),
19 representing 25% of the PAGA Allocation, shall be part of the Net Settlement Amount for
20 distribution to Participating Class Members.

21 3.29. Defendant’s Option to Terminate Settlement. If, after the Response Deadline and
22 before the Final Approval Hearing, five percent (5%) or more of the number of Settlement Class
23 Members submit timely and valid Requests for Exclusion from the Settlement, Defendant DFI
24 shall have, in its sole discretion, the option to terminate this Settlement. Defendant DFI shall
25 exercise its option to terminate, if it wishes, prior to the Final Approval Hearing. If Defendant
26 DFI decides to void the Settlement, then the Settlement and conditional class certification shall
27 be considered void, and neither the Settlement, conditional class certification, nor any of the
28

1 related negotiations or proceedings, shall be of any force or effect, and the Parties shall stand in
2 the same position, without prejudice, as if this Settlement had been neither entered into nor filed
3 with the Court. Should Defendant DFI void the Settlement under this paragraph, it shall be
4 responsible for all Claims Administration Costs incurred as of that date.

5 3.30. Claims Administration Costs. The Claims Administrator shall be paid for the costs
6 of administration of the Settlement from the Gross Settlement Amount. Such costs of
7 administration are not to exceed five thousand dollars (\$5,000.00), unless the court approves a
8 higher amount. No fewer than twenty (20) days prior to the Final Approval Hearing, the Claims
9 Administrator shall provide the Parties with a statement detailing the costs of administration. The
10 Claims Administrator, on Defendants' behalf, shall have the authority and obligation to make
11 payments, credits and disbursements, including payments and credits in the manner set forth in
12 this Settlement, to Participating Class Members, calculated in accordance with the methodology
13 set out in this Settlement and orders of the Court. The Parties agree to cooperate in the
14 administration of the Settlement and to make all reasonable efforts to control and minimize the
15 costs and expenses incurred in administration of the Settlement. The Parties each represent they
16 do not have any financial interest in the Claims Administrator or otherwise have a relationship
17 with the Claims Administrator that could create a conflict of interest. The Claims Administrator
18 shall be responsible for: processing and mailing all court-approved payments to the Plaintiffs,
19 Class Counsel, Participating Class Members, and the LWDA; printing and mailing the Notice
20 Packets to the Settlement Class Members as called for in this Settlement and ordered by the Court;
21 receiving and reporting Notice of Objections and Requests for Exclusion submitted by Settlement
22 Class Members; providing declaration(s) as necessary in support of preliminary and/or final
23 approval of this Settlement; and other tasks as the Parties mutually agree or the Court orders the
24 Claims Administrator to perform. The Claims Administrator shall keep the Parties timely
25 apprised of the performance of all Claims Administrator responsibilities. Any legally mandated
26 tax reports, tax forms, tax filings, or other tax documents required by administration of this
27 Settlement shall be prepared by the Claims Administrator. Any expenses incurred in connection
28

1 with such preparation shall be Claims Administration Costs. The Claims Administrator shall be
2 paid the Claims Administration Costs no later than fifteen (15) calendar days after the Gross
3 Settlement Amount is fully funded.

4 3.31. Final Approval Hearing. At a reasonable time following the Response Deadline,
5 the Court shall hold the Final Approval Hearing, where objections, if any, may be heard, and the
6 Court shall determine amounts properly payable for (i) the Class Counsel Award, (ii) the Class
7 Counsel Costs, (iii) the Class Representative Enhancement Awards, (iv) the LWDA PAGA
8 Allocation; and (v) the Claims Administration Costs.

9 3.32. Entry of Final Judgment. If the Court approves this Settlement at the Final
10 Approval Hearing, the Parties shall request that the Court enter the Final Judgment after the Gross
11 Settlement Amount has been fully funded, with the Court retaining jurisdiction over the Parties
12 to enforce the terms of the judgment pursuant to California Rules of Court, Rule 3.769(h). If the
13 Court grants final approval to the Settlement, notice of Final Approval shall be posted on the
14 Settlement Administrator's website, at www.phoenixclassaction.com.

15 3.33. No Effect on Employee Benefits. Amounts paid to Plaintiff or other Participating
16 Class Members pursuant to this Settlement will not count as earnings or compensation for
17 purposes of any benefits (e.g., pensions or retirement plans) sponsored by Defendants. It is
18 expressly understood and agreed that the receipt of Individual Settlement Amount shall not entitle
19 any Participating Class Member to additional compensation or benefits under any collective
20 bargaining agreement or under any bonus, contest or other compensation or benefit plan or
21 agreement in place during the period covered by the Settlement, nor shall it entitle any
22 Participating Class Member to any increased pension and/or retirement, or other deferred
23 compensation benefits. It is the intent of the Parties that Individual Settlement Amounts provided
24 for in this Stipulation are the sole payments to be made by Defendant to Participating Class
25 Members in connection with this Settlement, with the exception of Plaintiff, and that the
26 Participating Class Members are not entitled to any new or additional compensation or benefits
27 as a result of having received the Individual Settlement Awards. Furthermore, the receipt of
28

1 Individual Settlement Amounts by Participating Class Members shall not, and does not, by itself
2 establish any general, special, or joint employment relationship between and among the
3 Participating Class Member(s) and Defendants.

4 3.34. Nullification of Settlement. In the event: (i) the Court does not enter the
5 Preliminary Approval Order as specified herein; (ii) the Court does not grant final approval of the
6 Settlement as provided herein; (iii) the Court does not enter a Final Judgment as provided herein;
7 or (iv) the Settlement does not become final for any other reason, this Settlement shall be null and
8 void and any order or judgment entered by the Court in furtherance of this Settlement shall be
9 treated as void from the beginning. In such a case, the Parties and any funds to be awarded under
10 this Settlement shall be returned to their respective statuses as of the date and time immediately
11 prior to the execution of this Settlement, and the Parties shall proceed in all respects as if this
12 Settlement had not been executed, except that any costs and fees already incurred by the Claims
13 Administrator shall be paid by the Defendant. In the event an appeal is filed from the Court's
14 Final Judgment, or any other appellate review is sought, administration of the Settlement shall be
15 stayed pending final resolution of the appeal or other appellate review, but any fees incurred by
16 the Claims Administrator prior to it being notified of the filing of an appeal from the Court's Final
17 Judgment, or any other appellate review, shall be paid to the Claims Administrator by the
18 Defendant within thirty (30) days of said notification.

19
20 3.35. No Admission by the Parties. Defendant denies any and all claims alleged in this
21 Action and denies all wrongdoing whatsoever. This Settlement is not a concession or admission,
22 and shall not be used against Defendant as an admission or indication, with respect to any claim,
23 of any fault, concession, or omission by Defendant. Neither this Settlement, nor any of its terms
24 and conditions, nor any of the negotiations connected with it, is a concession or admission, and
25 none shall be used against Defendant as an admission or indication with respect to any claim of
26 any fault, concession, or omission by Defendant or that class certification is proper under the
27 standard applied to contested certification motions. The Parties stipulate and agree to the
28 certification of the proposed class for settlement purposes only. The Parties further agree that this

1 Settlement will not be admissible in this or any other proceeding as evidence that either: (i) a class
2 action should be certified or (ii) Defendant is liable to Plaintiff or any Class Member, other than
3 according to the terms of this Settlement.

4 3.36. Dispute Resolution. Except as otherwise set forth herein, all disputes concerning
5 the interpretation, calculation or payment of settlement claims, or other disputes regarding
6 compliance with this Settlement shall be resolved as follows:

7 3.37. If Plaintiff or Class Counsel, on behalf of Plaintiff or any Settlement Class
8 Members, or Defendant, at any time believe that the other Party or Parties have breached or acted
9 contrary to the Settlement, that Party shall notify the other Party or Parties in writing of the alleged
10 violation. Upon receiving notice of the alleged violation or dispute, the responding Party shall
11 have ten (10) days to correct the alleged violation and/or respond to the initiating Party with the
12 reasons why the Party disputes all or part of the allegation.

13 3.37.1. If the response does not address the alleged violation to the initiating
14 Party's satisfaction, the Parties shall negotiate in good faith for up to ten
15 (10) days to resolve their differences.

16 3.37.2. If thereafter, the Parties still cannot resolve the dispute, the Parties shall
17 utilize the services of Hon. Michael A. Latin. (Mediator) in a good-faith
18 attempt to mediate and resolve the dispute.

19 3.37.3. If the Parties are unable to resolve their differences after twenty (20)
20 days, either Party may file an appropriate motion for enforcement with
21 the Court.
22

23 3.38. Exhibits and Headings. The terms of this Settlement include the terms set forth in
24 Exhibits A and B, which are attached to this Settlement and incorporated by this reference as
25 though fully set forth in this paragraph. Any Exhibits to this Settlement are an integral part of the
26 Settlement. The descriptive headings of any paragraphs or sections of this Settlement are inserted
27 for convenience of reference only and do not constitute a part of this Settlement.

28 3.39. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the

1 Action and thereafter implement and complete the Settlement.

2 3.40. Amendment or Modification. This Settlement may be amended or modified only
3 by a written instrument signed by all the Parties and counsel for all Parties or their successors-in-
4 interest.

5 3.41. Entire Settlement. This Settlement and any attached Exhibits constitute the entire
6 agreement among these Parties, and no oral or written representations, warranties or inducements
7 have been made to any Party concerning this Settlement or its exhibits, other than the
8 representations, warranties and covenants contained and memorialized in the Settlement and its
9 exhibits. No other prior or contemporaneous written or oral agreements may be deemed binding
10 on the Parties.

11 3.42. Authorization to Enter into Settlement. Counsel for all Parties warrant and
12 represent they are expressly authorized by the Parties whom they represent to negotiate this
13 Settlement and to take all appropriate actions required or permitted to be taken by such Parties
14 pursuant to this Settlement to effectuate its terms, and to execute any other documents required
15 to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each
16 other and use their best efforts to affect the implementation of the Settlement. In the event the
17 Parties are unable to reach agreement on the form or content of any document needed to
18 implement the Settlement, or on any supplemental provisions that may become necessary to
19 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve
20 such disagreement. The person signing this Settlement on behalf of Defendant DFI represents
21 and warrants that he or she is authorized to sign this Settlement on behalf of Defendant DFI.
22 Plaintiff David Lopez represents and warrants that he is authorized to sign this Settlement and
23 that he has not assigned any claim, or part of a claim, covered by this Settlement to a third-party.
24

25 3.43. Binding on Successors and Assigns. This Settlement shall be binding upon, and
26 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

27 3.44. No Prior Assignments. The Parties and their counsel represent, covenant, and
28 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported

1 to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
2 action, cause of action or right herein released and discharged.

3 3.45. California Law Governs. All terms of this Settlement and the exhibits hereto shall
4 be governed by and interpreted according to the laws of the State of California.

5 3.46. This Settlement is Fair, Adequate and Reasonable. The Parties believe this
6 Settlement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
7 Settlement after extensive arms-length negotiations, taking into account all relevant factors,
8 present and potential.

9 3.47. Jurisdiction of the Court. In accordance with California Rule of Court 3.769(h),
10 the Parties agree that the Court shall retain jurisdiction with respect to the interpretation,
11 implementation, and enforcement of the terms of this Settlement and all orders and judgments
12 entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction
13 of the Court for purposes of interpreting, implementing, and enforcing this Settlement and all
14 orders and judgments entered in connection therewith.

15 3.48. Invalidity of Any Provision. Before declaring any provision of this Settlement
16 invalid, the Court shall first attempt to construe the provision to be valid to the fullest extent
17 possible, consistent with applicable precedents.

18 3.49. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
19 class certification for purposes of this Settlement only.

20 3.50. Cooperation. The Parties agree to cooperate fully with one another to accomplish
21 and implement the terms of this Settlement. Such cooperation shall include, but not be limited
22 to, execution of such other documents and the taking of such other action as may be reasonably
23 necessary to fulfill the terms of this Settlement. The Parties to this Settlement shall use their best
24 efforts, including all efforts contemplated by this Settlement and any other efforts that may
25 become necessary by Court order, or otherwise, to effectuate this Settlement and its terms.

26 3.51. Publicity. Plaintiff and Class Counsel agree that they will not issue any press
27 releases, initiate any contact with the press, respond to any press inquiry, or have any
28

1 communication with the press about the Action and/or the fact, amount, or terms of the
2 Settlement. However, Class Counsel may refer to the settlement amount and the nature of the case
3 without identifying any of the Parties. Before the date of the filing of the motion for preliminary
4 approval of the Settlement, Plaintiff and Class Counsel will not initiate any contact with
5 Settlement Class Members about the Settlement, except that: (a) Class Counsel, if contacted by
6 a Settlement Class Member, may respond that a settlement has been reached and that the details
7 will be communicated in a forthcoming Court-approved notice; and (b) Plaintiff, if contacted by
8 a Settlement Class Member, may respond only that the Settlement Class Member should contact
9 Class Counsel. Neither Plaintiff nor Class Counsel shall hold a press conference or otherwise
10 seek to affirmatively contact the media about the Settlement. If contacted by the media regarding
11 the Settlement, Class Counsel shall state, "It is a fair settlement, and we are happy with the
12 results." Additionally, no Party or their counsel shall disparage the Settlement.

13
14 3.52. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
15 and conditions of this Settlement. Accordingly, this Settlement will not be construed more strictly
16 against one party than another merely by virtue of the fact that it may have been prepared by
17 counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations
18 between the Parties, all Parties have contributed to the preparation of this Settlement.

19 3.53. Representation by Counsel. The Parties acknowledge that they have been
20 represented by counsel throughout all negotiations that preceded the execution of this Settlement,
21 and that this Settlement has been executed with the consent and advice of counsel, and reviewed
22 in full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the
23 Settlement Agreement.

24 3.54. All Terms Subject to Final Court Approval. All amounts and procedures described
25 in this Stipulation are subject to final Court approval.

26 3.55. Notices. Due to the emergency COVID-19 orders currently in place, the parties
27 are agreeable to electronic delivery in addition to Unites States mail delivery, so long as a party
28 recipient affirmatively acknowledges receipt of the email communication. Unless otherwise

1 specifically provided, all notices, demands or other communications in connection with this
2 Settlement shall be: (1) in writing; (2) if sent by United States registered or certified mail, return
3 receipt requested, shall be deemed given on the third business day after mailing; (3) if sent by
4 electronic mail, shall be deemed given on the day receipt was affirmatively acknowledged by any
5 of the intended recipients. Notice, demands or other communications shall be addressed as
6 follows:

7
8 **To Plaintiffs:**

9 Kevin Mahoney, Esq.
10 kmahoney@mahoney-law.net
11 Berkeh Alemzadeh, Esq.
12 balem@mahoney-law.net
13 MAHONEY LAW GROUP
14 249 East Ocean Boulevard, Suite 814
15 Long Beach, CA 90802
16 Telephone: (562) 590-5550
17 Facsimile: (562) 590-8400

8 **To Defendants:**

9 Barry A. Bradley, Esq.
10 bbradley@bglawyers.com
11 Jaimee K. Wellerstein, Esq.
12 jwellerstein@bglawyers.com
13 Gregory B. Wilbur, Esq.
14 gwilbur@bglawyers.com
15 BRADLEY & GMELICH, LLP
16 700 N. Brand Blvd., 10th Floor,
17 Glendale, CA 91203
18 Telephone: (818) 243-5200
19 Facsimile: (818) 243-5266

17 3.56. Execution by Settlement Class Members. It is agreed that it is impossible or
18 impractical to have each Settlement Class Member execute this Settlement. The Notice of
19 Settlement will advise all Settlement Class Members of the binding nature of the release and such
20 shall have the same force and effect as if each Settlement Class Member executed this Settlement.

21 3.57. Execution by Plaintiff and Defendant. Plaintiff and Defendant, by signing this
22 Settlement, are bound by the terms herein.


23 3.58. Fair, Adequate and Reasonable Settlement. The Parties hereto agree that the terms
24 and conditions of this Settlement are the result of lengthy, intensive, arms-length negotiations
25 between the Parties and that this Settlement shall not be construed in favor of or against any of
26 the Parties by reason of their participation in the drafting of this Settlement.

27 3.59. Binding Agreement. The Parties warrant that they understand and have full
28

1 authority to enter into this Settlement, and further intend that this Settlement will be fully
2 enforceable and binding on all Parties, and agree that it will be admissible and subject to
3 disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality
4 provisions that otherwise might apply under federal or state law.

5 Counterparts. This Settlement shall become effective upon its execution by all of the
6 undersigned. Plaintiff, Class Counsel, Defendant, and Defense Counsel may execute this
7 Settlement in counterparts, and execution of counterparts shall have the same force and effect as
8 if each had signed the same instrument. Copies of the executed Settlement shall be effective for
9 all purposes as though the signatures contained therein were original signatures.
10

11 Dated: 10/2/2020
12 _____, 2020

13 By: 
14 _____
15 Plaintiff David Lopez, as an individual, and
16 on behalf of himself and all similar situated
17 employees

18 Dated: : _____, 2020

19
20 By: _____
21 Edward Duncan, President
22 Defendant Dunweizer Fabrication, Inc.
23
24
25
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27
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2 disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality
3 provisions that otherwise might apply under federal or state law.

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6 Settlement in counterparts, and execution of counterparts shall have the same force and effect as
7 if each had signed the same instrument. Copies of the executed Settlement shall be effective for
8 all purposes as though the signatures contained therein were original signatures.
9

10 Dated: _____, 2020

11
12 By: _____
13 Plaintiff David Lopez, as an individual, and
14 on behalf of himself and all similar situated
15 employees
16

17 Dated: : Oct. 5th, 2020


18
19 By: 
20 Edward Duncan, President
21 Defendant Dunweizer Fabrication, Inc.
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23
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EXHIBIT A

**NOTICE OF CLASS ACTION SETTLEMENT
("NOTICE")**

David Lopez v. Dunweizer Fabrication, Inc.

Case No. BC717333

Los Angeles Superior Court

312 North Spring Street

Los Angeles, CA 90012

If you are a current or former non-exempt employee of DUNWEIZER FABRICATION, INC., from August 14, 2014 through [Date of Preliminary Approval], a class action settlement described in this letter may affect your rights. Please read this Notice carefully.

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

WHY ARE YOU RECEIVING THIS NOTICE?

- **A Former Dunweizer Fabrication, Inc. employee filed a lawsuit against Dunweizer Fabrication, Inc.**
- **Dunweizer Fabrication, Inc. denies any and all liability.**
- **The Parties to the lawsuit have reached a proposed settlement, and the Court has given its preliminary approval to the terms of the settlement. The Court has not decided that Dunweizer Fabrication, Inc. did anything wrong.**
- **Based on Dunweizer Fabrication, Inc.'s records, you are one of the current or former Dunweizer Fabrication, Inc. employees who is eligible to participate in the settlement.**
- **This proposed settlement could affect your legal rights, and you have a choice to make now:**

Your Legal Rights and Options in this Lawsuit	
Do Nothing	If you wish to receive your share of the settlement proceeds, you do not need to take any action. A settlement check will be sent to you. You will release your right to sue Dunweizer Fabrication, Inc. separately about the same legal claims in this lawsuit.
Ask to be Excluded	If you ask to be excluded, you will not receive a settlement check. You will keep any rights to sue Dunweizer Fabrication, Inc. separately about the same legal claims in this lawsuit. You must ask to be excluded by [insert date].
Object	Write to the Settlement Administrator about why you think the settlement should not be approved.

DUNWEIZER FABRICATION, INC., WILL NOT RETALIATE AGAINST ANY CLASS MEMBER FOR EXERCISING ANY OF THEIR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT

Your options and your deadlines to act are explained in this notice.

BASIC INFORMATION

1. WHY DID I GET THIS NOTICE?

You received this notice because Dunweizer Fabrication Inc.'s records show that you currently work, or previously worked for Dunweizer Fabrication Inc. as a non-exempt employee at some time since August 14, 2014 through [Preliminary Approval Date]. In other words, you are part of a "class" of employees on whose behalf David Lopez filed a class action lawsuit. The Parties to the lawsuit have reached a proposed settlement of the case, but the settlement must be approved by the Court. Hon. Ann Jones of the Los Angeles County Superior Court is overseeing the proposed Settlement of this Class Action and has given *preliminary* approval of the settlement so that you could receive this notice and learn about how it might affect your rights. The lawsuit is known as *David Lopez v. Dunweizer Fabrication, Inc. a California corporation, et. al.*; Case No. BC717333. You can access the entire case file online through the County of Los Angeles Superior Court's website: <http://www.lacourts.org/online-services/case-access/>

2. WHAT IS THIS LAWSUIT ABOUT?

This lawsuit is about whether non-exempt employees of Dunweizer Fabrication Inc. were provided all meal and rest periods legally required, whether they were paid all of the wages to which they were entitled under the law, whether the earnings of such employees and other required information on wage statements or "paystubs" that it provided, and whether such employees might be entitled to penalties under the law. If you want to learn more about the claims in this case, you may view a copy of the Complaint at www.phoenixclassaction.com.

3. HAS THE COURT DECIDED WHO IS RIGHT?

Dunweizer Fabrication Inc. denies each and all of the claims and contentions by the Named Plaintiff. It denies specifically that they violated any part of California law in the way that they provided the Class Members with all their wages including overtime wages; that they provided the Class Members with compliant meal and rest periods, in the way that they paid the Class Members, in the way that they reported the earnings and other required information on wage statements or "paystubs" that they provided to Class Members. The Court will not decide whether Plaintiff or Dunweizer Fabrication Inc. are correct. By giving preliminary approval to the settlement, the Court is not suggesting that the Plaintiff will win or lose this case. The Court's role in evaluating the Settlement is to decide whether the terms of the Settlement appear to be fair to the Class based on strengths and weaknesses of Plaintiff's claims, whether a settlement on behalf of all of the Class Members is appropriate based on the types of claims in Plaintiff's Complaint and whether Plaintiff and his lawyers will fairly represent the Class Members.

If you have questions, contact the Class Action Administrator at 888-517-4291

4. WHAT IS A CLASS ACTION AND WHO IS INVOLVED?

In a class action lawsuit, a “Class Representative” (in this case “David Lopez”) sues on behalf of himself and other people who have similar claims. The people together are a “Class” or “Class Members.” The Class Representative and all Class Members like them are called the Plaintiffs. The companies they sue are called the Defendants. In a class action, one court resolves the issues for everyone in the Class, except for those people who choose to exclude themselves from the Class.

5. WHAT IS THE TIME PERIOD TO WHICH THIS CLASS ACTION APPLIES?

This Class Action applies to all non-exempt employees of Dunweizer Fabrication Inc. employed at some time since August 14, 2014 through [Preliminary Approval Date], which is the date that the Court gave its preliminary approval to the Settlement. This time period is known as the “Class Period.” As described below, the Class Period is used to determine the amount of each Class Member’s share of the Settlement.

6. WHY IS THIS LAWSUIT A CLASS ACTION?

While Dunweizer Fabrication Inc. disputes this case, a preliminary settlement has been reached and the Court has stated that this lawsuit can be settled as a class action because:

- There are current or former Dunweizer Fabrication Inc. employees who worked as non-exempt employees;
- There are legal questions and facts that are common to each of them that would justify a settlement on behalf of the entire Class;
- David Lopez’ claims are typical of the claims of the rest of the Class;
- Mr. Lopez and his lawyers who will represent the Class will fairly and adequately represent the Class’ interests;
- Settling this lawsuit as a class action would be more efficient than having many individual lawsuits; and
- The terms of the settlement (described below in Parts 8 and 9) and the amounts to be paid appear to be fair and adequate based on the strengths and weaknesses of Plaintiff’s claims.

More information about why the Court has preliminarily allowed the parties to proceed with settling this lawsuit as a class action is available in the Court’s Preliminary Approval Order, which is available at www.phoenixclassaction.com.

7. IS THERE ANY MONEY AVAILABLE NOW?

No money is available now, because the Court has only given *preliminary* approval to the settlement. The Court has not yet decided to give *final* approval to the settlement. The Court will not decide whether to give final approval to the settlement until the Class Members have received notice of the lawsuit and had the opportunity to decide whether to participate in the settlement. If

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the Court grants final approval of the settlement, settlement funds will be paid to the Class Members.

THE TERMS OF THE SETTLEMENT

8. HOW MUCH IS THE TOTAL SETTLEMENT?

Dunweizer Fabrication Inc. has agreed to pay a total of one-hundred fifty thousand dollars (\$150,000.00) in settlement of Plaintiff's claims. This is referred to as the "Gross Settlement Value." Under the terms of the settlement, Dunweizer Fabrication Inc. has agreed to pay this total sum through an agreed upon payment schedule, and no part of the Gross Settlement Value will be returned to Dunweizer Fabrication Inc.

9. HOW MUCH OF THE SETTLEMENT WILL GO TO THE CLASS MEMBERS?

Certain deductions will be made from the Gross Settlement Value. The amount remaining after these deductions is referred to the "Net Settlement Value." The Net Settlement Value is the amount that will be divided amongst the Class Members, known as the Net Settlement Value.

Each of the deductions from the Gross Settlement Value listed below will be requested and the Court will decide how much to award at the time of final approval. The Court has preliminarily approved each of the following deductions from the Gross Settlement Value:

- Attorneys' fees **not to exceed** fifty-thousand Dollars (\$50,000.00) and costs of up to fifteen thousand dollars (\$15,000.00). **However, the Court will not approve the attorneys' fees amount until the final approval hearing;**
- Payment to the Settlement Administrator **not expected to exceed** Five Thousand Dollars (\$5,000.00) for the costs of sending notice out to the Class Members, responding to Class Member inquiries and distributing settlement funds to the Class Members if the Court gives its final approval to the settlement;
- Payment to the Class Representative **not to exceed** five thousand dollars (\$5,000.00) as an incentive for the filing of this lawsuit, for the risks incurred by Plaintiff in bringing the lawsuit, and for Plaintiff's participation in this lawsuit in assisting Class Counsel. **The Court will not approve the amount of the incentive award until the final approval hearing;** and
- Payment to the California Labor and Workforce Development Agency ("LWDA") of Three Thousand Seven Hundred Fifty Dollars (\$3,750.00), paid to the LWDA pursuant to California Labor Code Section 2699(i), which represents the LWDA's share of the civil penalties obtained by Plaintiff under the terms of the Settlement for alleged violations of the California Labor Code. Each of the above amounts is deducted from the Gross Settlement Value, and the remaining amount (Net Settlement Value) is to be distributed to all of the Class Members.

Defendant will be funding this settlement in installment payments. The first installment shall be no less than Seventy-Five Thousand U.S. Dollars (\$75,000.00) no later than twenty (20)

If you have questions, contact the Class Action Administrator at 888-517-4291

calendar days after Final Approval of the Settlement is granted, Defendant shall deposit the first installment payment with the Class Action Administrator. (The "Initial Payment"). Thereafter, on the first of each month after at least thirty (30) days have lapsed following The Initial Payment, Defendant shall provide to the Claims Administrator five (5) payments of Fifteen Thousand Dollars (\$15,000) per month (totaling \$75,000), thus funding the Gross Settlement Amount of one hundred fifty thousand dollars (\$150,000.00) in full. The Class Action Administrator shall advise Defendant's Counsel of the total funds necessary to make the employer payroll taxes required by this Settlement no later than seven (7) calendar days after the Effective Date of the Settlement, and Defendant shall deposit that additional amount with the Class Action Administrator no later than fifteen (15) calendar days from the Effective Date.

10. WHAT IS MY SHARE OF THE SETTLEMENT AND HOW IS IT CALCULATED?

The Settlement reflects Plaintiff's claims that he and the other Class Members are entitled to unpaid wages and premiums, interest on unpaid wages, and various penalties related to the failure to pay wages that are established under the California Labor Code. Generally, each Class Member's share of the Settlement depends on the length of time the Class Member was employed by Dunweizer Fabrication Inc. during anytime between August 14, 2014 through the [Preliminary approval Date]. The Settlement Administrator will calculate the amount that each Class Member will receive as follows:

- Ten percent (10%) of your Individual Settlement Payment represents unpaid wages. Your Wage Payment will be subject to W-2 taxes and withholdings in the same way that it would have been if you had received it as part of your paycheck from Dunweizer Fabrication, Inc.
- Eighty percent (80%) of your Individual Settlement Payment represents penalties. Each Class Member will receive an IRS Form 1099 for the remaining portion of their individual settlement amount not designated as wages.
- Finally, ten percent (10%) of your Individual Settlement Payment represents interest. Each Class Member will receive an IRS Form 1099 for the remaining portion of their individual settlement amount not designated as wages.

The amount of the actual amount of your individual Settlement share will depend on how many Class Members decide that they want to be excluded from the Settlement, and the actual amounts deducted from the Gross Settlement Value that the Court approves.

11. WHAT ARE THE TAX CONSEQUENCES IF I CHOOSE TO RECEIVE MY SHARE OF THE SETTLEMENT?

Neither the lawyers for the Class Members nor Dunweizer Fabrication, Inc. make any representations to you concerning the tax consequences of this Settlement or your participation in it, and you are encouraged to speak with your own personal tax advisor prior to acting in response to this Notice.

Please be advised that the tax withholdings will be reported to the appropriate taxing authority whether you cash the check or not. For the portion of the individual settlement that each Class

If you have questions, contact the Class Action Administrator at 888-517-4291

Member receives pursuant to 1099, taxes will not be withheld from this portion. However, taxes may need to be paid and each person should consult an accountant or other tax advisor in connection with funds received under the settlement.

12. WHAT RIGHTS AM I RELEASING UNDER THE SETTLEMENT?

If you choose to do nothing in response to this Notice, you will receive your share of the Settlement as described above. In exchange for your share of the Settlement, and once the Settlement has been *fully* funded, you will be releasing your right to bring your own lawsuit against Dunweizer Fabrication, Inc. for the same claims that Plaintiff asserted in his Complaint, or to bring claims that Plaintiff could have asserted based on the allegations in his Complaint. Specifically, if you choose to receive your share of the Settlement, you will be releasing your right to file a lawsuit or other claim against Dunweizer Fabrication, Inc. for California wage and hour violations that occurred during the Class Period, such as claims for unpaid minimum wages, off-the-clock work, unpaid or underpaid overtime wages, meal or rest period violations, paystub inaccuracies, failure to pay all wages due upon termination or resignation, and your right to seek civil or statutory penalties that may be related to such claims, specifically for claims under California Labor Code sections 201-203, 204, 223, 226, 226.7, 510, 558, 1194, 2698-2699.5 and under California Business & Professions Code sections 17200-17204. It is understood and agreed that Released claims do not include claims for workers compensation, unemployment, or disability benefits of any nature, nor any claims, actions, or causes of action which may be possessed by Settlement Class Members under state or federal discrimination statutes, including, without limitation, the California Fair Employment and Housing Act, the California Government Code § 12940, et seq.; the Unruh Civil Rights Act, the California Civil Code § 51, et seq.; the California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000, et seq.; the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101, et seq.; the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001, et seq.; and all of their implementing regulations and interpretive guidelines. **You may view the full text of the Release to which you will be subject if you receive your share of the Settlement at www.phoenixclassaction.com.**

13. WHAT RIGHTS WILL I RETAIN EVEN IF I RECEIVE MY SHARE OF THE SETTLEMENT?

Even if you choose to receive your share of the Settlement, you are **not** releasing Dunweizer Fabrication, Inc. or any other person or entity from claims for workers' compensation, unemployment, or disability benefits.

YOUR RIGHTS AND OPTIONS

You have to decide whether to stay in the Class or ask to be excluded from the Settlement.

14. WHAT HAPPENS IF I DO NOTHING AT ALL?

You don't have to do anything if you want to receive your share of the Settlement. You will automatically receive a check with your share of the Settlement so long as the Court gives its *final* approval to the Settlement and the Settlement Administrator has your current address. You will be

If you have questions, contact the Class Action Administrator at 888-517-4291

legally bound by all of the Orders the Court issues and judgments the Court makes with respect to this Settlement.

If for any reason the Court decides not to give final approval to the Settlement, the Settlement will be void and you will not receive your share of the Settlement. You will also retain any rights you may have had if Plaintiff's lawsuit had never been filed. Under the terms of the Settlement, if the Court does not give final approval to the Settlement for any reason, the parties to the lawsuit will continue with the lawsuit.

15. HOW DO I ASK THE COURT TO EXCLUDE ME FROM THE SETTLEMENT IF I DO NOT WANT TO PARTICIPATE?

If you want to be excluded from the Settlement, you must send the enclosed Opt Out Form, or a letter by fax or mail expressing your intent to opt-out of the Settlement in *David Lopez v. Dunweizer Fabrication, Inc. a California corporation, et. al.*,; Case No. BC717333 and not receive your share of the Settlement. Be sure to include your name, signature, address, telephone number, and last four digits of your Social Security Number. You must fax or mail your exclusion request, postmarked no later than [REDACTED], to:

David Lopez v. Dunweizer Fabrication, Inc.
c/o PHOENIX CLASS ACTION ADMINISTRATION
1411 N. Batavia St., Suite 105
Orange, CA 92867

If you send an Opt Out Form requesting exclusion to the Claims Administrator at the address listed above within the deadline identified above, indicating that you want to opt-out of the settlement in this case, **you will not be eligible** to receive any of the benefits under the Settlement. You will, however, retain whatever legal rights you may have against Defendant.

16. CAN I OBJECT TO THE SETTLEMENT?

Yes. If you do not opt out of the Settlement, you may object to the Settlement either personally or through an attorney at your own expense, by mailing a written objection to the Claims Administrator at the address set forth above in Part 15.

All objections must be signed and must include your name and address, and the name and case number of the Action: *David Lopez v. Dunweizer Fabrication, Inc. a California corporation*; Case No. BC717333. All objections must be mailed to the Claims Administrator, no later than **[insert date]**. You may appear, either personally or through an attorney, at your own expense, at the Final Approval Hearing that is discussed in Part below. Your objection should clearly explain why you object to the proposed Settlement. Even if you do not personally appear or through an attorney, the Court will still consider your objection.

Even if you mail an objection, if the Court gives its final approval to the Settlement you will receive your share of the Settlement and you will be subject to the release described in Part 12. unless you

If you have questions, contact the Class Action Administrator at 888-517-4291

timely mail a letter to the Settlement Administrator indicating that you want to be excluded from the Settlement, as described in Part 15.

THE LAWYERS IN THIS CASE

17. DO I HAVE A LAWYER IN THIS CASE?

The Court has decided that the attorneys of Mahoney Law Group, APC, at 249 E. Ocean Boulevard, Suite 814 Long Beach, CA 90802 may represent you and all Class Members. Attorney Kevin Mahoney and Berkeh (“Beyonca”) Alemzadeh of the Mahoney Law Group, APC are called “Class Counsel.”

18. SHOULD I GET MY OWN LAWYER?

You do not need to hire your own lawyer, because Class Counsel is working on your behalf. You may retain your own lawyer at your own expense. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

19. HOW WILL THE LAWYERS BE PAID?

If Class Counsel get money or benefits for the Class, they may ask the Court for fees and expenses. You won’t have to pay these fees and expenses. The fees and expenses that the Parties have agreed that Class Counsel may request are identified above at Part 9. If the Court grants Class Counsels’ request, the fees and expenses will be deducted from the Gross Settlement Value.

IMPORTANT FUTURE DATES

20. WHAT HAPPENS NEXT?

The Court has scheduled a Final Fairness Hearing for [Date of Hearing] at the Los Angeles County Superior Court, Department 11, located at 312 North Spring Street, Los Angeles, California 90012. At the Final Fairness Hearing, the Court will decide whether or not to grant final approval of the Settlement. At the same place and immediately following the Final Fairness Hearing, the Court will also rule on the Settlement Class Representative’s request for attorney’s fees, litigation costs, and incentive award. The hearing may be postponed without further notice to Class Members. You have the right, but are not required, to appear personally or through an attorney of your choosing, at your own expense, to object to or express your views regarding the Settlement and the requested attorney’s fees, costs and service award. If the Court grants final approval of the Settlement, Notice of the Entry of Judgment will be posted on the Settlement Administrator’s website at www.phoenixclassaction.com.

Class Members are advised to contact the Settlement Administrator to confirm the date has not been changed. Class Members wishing to appear remotely at the hearing may visit the Superior

Court of California, County of Los Angeles website at <https://www.lacourt.org/>, or LACourtConnect LACourtConnect@lacourt.org.

GETTING MORE INFORMATION

21. ARE MORE DETAILS AVAILABLE?

This Notice only summarizes the Action, the Settlement, and other related matters. There are a variety of ways that you can request more information.

The attorneys in this lawsuit are:

CLASS COUNSEL: Kevin Mahoney kmahoney@mahoney-law.net Berkeh Alemzadeh balem@mahoney-law.net Mahoney Law Group, APC 249 Ocean Blvd., Ste. 814 Long Beach, CA 90802 Tel: (562) 590-5550 Fax: (562) 590-8400	Attorneys for Defendant: Barry A. Bradley, Esq. bbradley@bglawyer.com BRADLEY & GMELICH, LLP 700 N. Brand Blvd., 10 th Floor, Glendale, CA 91203 Telephone: (818) 243-5200 Facsimile: (818) 243-5266
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- You may refer any questions about the lawsuit and the Settlement to the Settlement Administrator by calling 888-517-4291 or by calling Class Counsel at (562) 590-5550. You may also email Class Counsel at kmahoney@mahoney-law.net.
- You may visit www.phoenixclassaction.com to view documents filed in this matter, including the Complaint, Settlement Agreement, Motion for Preliminary Approval and accompanying papers, Motion for Final Approval and accompanying papers and Notice of Entry of Judgment in this case.
- You may visit www.phoenixclassaction.com where you can review the Complaint, all papers filed by Class Counsel in support of their Motion for Preliminary Approval of Class Action Settlement, the Court's Order Granting Preliminary Approval of Class Action Settlement, and the Joint Stipulation of Class Settlement that contains all terms of the Settlement. If the Court grants final approval to the Settlement, the website will also have copies of all papers filed by Class Counsel in support of their Motion for Final Approval of Class Action Settlement and the Court's Order Granting Final Approval of Class Action Settlement. If your address changes, or is different from the one on the
If you have questions, contact the Class Action Administrator at 888-517-4291

envelope enclosing this Notice, please promptly notify the Claims Administrator at 888-517-4291.

PLEASE DO NOT CONTACT OR WRITE THE CLERK OF THE COURT OR THE JUDGE, OR DEFENDANT, OR DEFENDANT'S ATTORNEYS WITH ANY QUESTIONS OR FOR INFORMATION REGARDING THIS NOTICE, THE EXCLUSION FORM, OR THE SETTLEMENT.

If you have questions, contact the Class Action Administrator at 888-517-4291