

1 **MAYALL HURLEY P.C.**
ROBERT J. WASSERMAN (SBN: 258538)
2 rwasserman@mayallaw.com
3 JENNY D. BAYSINGER (SBN: 251014)
jbaysinger@mayallaw.com
4 2453 Grand Canal Boulevard
Stockton, California 95207-8253
Telephone: (209) 477-3833
5 Facsimile: (209) 473-4818

6 Attorneys for Plaintiff
ANGELA FLORES and the PUTATIVE CLASS

7
8 YGallegos@mwe.com
Laurie A. Baddon (SBN 299106)
lbaddon@mwe.com

9 **MCDERMOTT WILL & EMERY LLP**
10 2049 Century Park East
Suite 3200
11 Los Angeles, CA 90067-3206
Telephone: +1 310 277 4110
12 Facsimile: +1 310 277 4730

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14 Attorneys for Defendants
DART CONTAINER CORPORATION and DART CONTAINER
15 CORPORATION OF CALIFORNIA

16 UNITED STATES DISTRICT COURT

17 EASTERN DISTRICT OF CALIFORNIA

18 ANGELA FLORES, individually and on
19 behalf of other similarly situated current and
former employees,

20 Plaintiff,

21 v.

22
23 DART CONTAINER CORPORATION, a
Nevada corporation; DART CONTAINER
24 CORPORATION OF CALIFORNIA, a
Michigan corporation; and DOES 1-100,
25 inclusive,

26 Defendants.

Case No.: 2:19-cv-00083-WBS-EFB

Complaint Filed: January 11, 2019
FAC Filed: March 12, 2020
Trial Date: May 11, 2021

JOINT STIPULATION REGARDING CLASS
ACTION AND PAGA SETTLEMENT AND
RELEASE

1 This Joint Stipulation Regarding Class Action and PAGA Settlement and Release (“Agreement”)
2 is made and entered into between Plaintiff Angela Flores as an individual and representative of the class
3 (“Plaintiff”) and Defendants Dart Container Corporation and Dart Container Corporation of California
4 (“Defendants”). This Agreement is subject to the terms and conditions set forth below and approval of
5 the Court.

6 **I. RECITALS.**

7 Procedural Posture

8 1. On June 6, 2018, Plaintiff provided written notice to the California Labor and Workforce
9 Development Agency (“LWDA”) and Defendants that Plaintiff believed Defendants violated specific
10 provisions of the California Labor Code, including the facts and theories to support those alleged
11 violations.

12 2. On January 11, 2019, Plaintiff Angela Flores filed her Class Action Complaint for
13 Damages titled “*Angela Flores, individually and on behalf of other similarly situated current and former*
14 *employees v. Dart Container Corporation, a Nevada corporation; Dart Container Corporation of*
15 *California, a Michigan corporation; and DOES 1-100, inclusive*” in the United States District Court,
16 Eastern District of California case number 2:19-CV-00083-WBS-EFB.

17 3. On February 20, 2019, Defendants timely filed their Answer, wherein they generally
18 denied the allegations in the Complaint and asserted twelve affirmative defenses.

19 4. On March 12, 2020, with leave of Court, Plaintiff filed a First Amended Complaint for
20 Damages.

21 5. The First Amended Complaint pleads class and representative causes of action for (1)
22 Failure to Furnish Accurate Wage Statements; (2) Failure to Properly Pay Sick Leave Wages; (3) Failure
23 to Pay All Wages Due and Owing on Separation; (4) Unfair Business Practices; and (5) Private Attorney
24 General’s Act (“PAGA”) Claim for Recovery of Civil Penalties (Dkt. No. 23).

25 6. On May 28, 2020, in response to Defendants’ Motion to Dismiss, the Court dismissed
26 Plaintiff’s second cause of action for Failure to Properly Pay Sick Leave Wages (Dkt. No. 31).
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28

1 7. On June 11, 2020, Defendants filed their Answer to Plaintiff’s FAC, wherein they
2 generally denied the allegations in the Complaint and asserted thirteen affirmative defenses.

3 The Parties Have Engaged In Extensive Discovery

4 8. Between June, 2019 and August 31, 2020, as part of the Parties’ formal and informal
5 discovery and settlement negotiations, Defendants provided Plaintiff’s counsel with hundreds of pages
6 of documents and more than 150,000 line items of payroll data for Class Members. Specifically,
7 Defendants produced all of Plaintiff’s time and payroll records, and her personnel file. Defendants also
8 produced numerical data relating to class sizes and wage statements furnished, and written policies
9 applicable to the claims in this action. Additionally, Defendants produced redacted payroll data for all
10 Class Members between September, 2015 and August 7, 2020, amounting to hundreds of thousands of
11 lines of data. Counsel for the Parties have further investigated the applicable law as applied to the facts
12 discovered regarding Plaintiff’s claims, the defenses thereto, and the damages and penalties potentially
13 available to Plaintiff in the Class Action. In conjunction with those same negotiations, the Parties have
14 spoken at length about the strengths and weaknesses of their respective claims and defenses, the
15 certifiability of the class claims, and the scope of Defendants’ potential liability. Plaintiff retained an
16 expert to examine the data and determine the extent of the potential damages available to Class
17 Members and spot checked the expert’s results to verify the accuracy thereof.

18 The Parties Successful Settlement Efforts

19 9. On August 31, 2020 the Parties participated in good faith in arms' length settlement
20 discussions at a remote mediation with experienced employment class action mediator Kimberly Deck,
21 Esq.

22 10. This Agreement was executed in conjunction with the mediation.

23 11. As a result of the Class Action and efforts of Plaintiff and Class Counsel, Defendants:
24 have, as of November 2020, modified their itemized wage statements provided to California-based
25 employees for the purpose of avoiding future disputes notwithstanding the fact that they contend their
26 itemized wage statements complied with California Labor Code section 226(a), and modified how they
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1 pay their California-based employees when they redeem paid sick leave pursuant to Dart’s compliant
2 California paid sick leave policies.

3 The Parties’ Agreed To Terms

4 12. For purposes of this Settlement only, Plaintiff contends and Defendants do not dispute
5 that there is sufficient evidence to support the requisites for certification of the Class for settlement
6 purposes only, specifically:

7 a. There are approximately 502 Sick Pay Class Members, 131 Former Employee
8 Sub-Class Members and 423 Non-Exempt Wage Statement Class Members, each of
9 which is respectively so numerous as to make it impractical to join all Class Members;

10 b. The Class is ascertainable from Defendants’ records;

11 c. Common questions of law and fact exist;

12 d. The claims of the Plaintiff are typical of the claims of the Class Members and
13 Plaintiff is an adequate representative and should be appointed as such;

14 e. Mayall Hurley, P.C. is adequate to represent the Class and should be appointed as
15 Class Counsel;

16 f. The prosecution of separate actions by individual members of the Class would
17 create the risk of inconsistent or varying adjudications, which could establish
18 incompatible standards of conduct; and

19 g. Questions of law and fact common to the members of the Class predominate over
20 questions affecting individual members of the Class and a class action is superior to other
21 available means for the fair and efficient adjudication of the controversy.

22 Defendant’s Denials

23 13. By entering into this Settlement, Defendants deny and continue to deny: (a) all of the
24 allegations made by Plaintiff or the Class in the Action; (b) that it violated any applicable laws; (c) that
25 it is liable or owes damages, penalties, or other compensation or remedies to anyone with respect to the
26 alleged facts or laws asserted in the Action; and (d) that class certification or representative treatment of
27 the Action or any alleged claim is proper for any purposes other than settlement. Defendants emphasize
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1 that the Court has not made any findings of liability as to Defendants and the Court has not determined
2 that Class certification is warranted in this Action. Nonetheless, without admitting or conceding any
3 liability or wrongdoing whatsoever and without admitting or conceding that Class certification or
4 representative treatment is appropriate for any purpose other than settlement purposes alone, Defendants
5 have agreed to settle the Action on the terms and conditions set forth in this Agreement, to avoid the
6 burden, expense, and uncertainty of continuing the Action. Any stipulations or statements by
7 Defendants contained in this Agreement are made for settlement purposes only.

8 **II. DEFINITIONS.**

9 The following terms, when used in this Agreement, have the following meanings:

10 1.1 “Action” means the above stated lawsuit: *Flores v. Dart Container Corporation, et al.*,
11 United States District Court, Eastern District of California case number 2:19-cv-00083-WBS-EFB, filed
12 January 11, 2019 and amended March 12, 2020.

13 1.2 “Class Counsel” means Robert J. Wasserman and Jenny D. Baysinger of Mayall Hurley,
14 P.C.

15 1.3 “Class List” refers to the list of Class Member information to be provided to the Settlement
16 Administrator by Defendant.

17 1.4 “Class Member” refers collectively to the members of the Non-Exempt Wage Statement
18 Class, Sick Pay Class, and Former Employee Sub-Class.

19 1.5 “Class Representative” means Plaintiff Angela Flores.

20 1.6 “Complaint” means the operative First Amended Complaint on file in the Action with the
21 Court.

22 1.7 “Court” means the United States District Court, Eastern District of California.

23 1.8 “Defendants” collectively refers to Dart Container Corporation and Dart Container
24 Corporation of California.

25 1.9 “Defendants’ Counsel” means Yesenia M. Gallegos and Laurie Baddon of McDermott
26 Will & Emery, LLP.

27 1.10 “Employee Taxes and Withholdings” shall mean the employee’s share of any and all
28 applicable federal, state or local payroll taxes on the portion of any Participating Class Member’s

1 Settlement Share that constitutes wages. The Employee Taxes and Withholdings will be withheld from
2 and paid out of the Net Settlement Amount, as appropriate.

3 1.11 “Employer Taxes” shall mean and refer to Defendant’s share of federal, state and/or
4 local payroll taxes that is owed on the portion of any Participating Class Member’s Settlement Share that
5 constitutes wages. The Employer-side Taxes shall be separately paid by Defendant and shall not be paid
6 from the Maximum Settlement Amount or Net Settlement Amount.

7 1.12 “Enhancement Payment” or “Service Payment” means the amount approved by the Court
8 to be paid to the Class Representative in recognition of her efforts in coming forward as a class
9 representative, which is in addition to her respective Settlement Share as a Participating Class Member.

10 1.13 “Effective Date” shall be the first date after all of the following events or conditions have
11 been met or have occurred: (1) this Agreement has been executed by all Parties, Class Counsel and
12 Defendants’ Counsel; (2) the Court has given preliminary approval to the Agreement; (3) the Class
13 Notice has been given to members of the class, providing them with an opportunity to object to the
14 terms of the Agreement, or opt out of the Agreement; (4) the Court has held a Final Fairness Hearing,
15 entered a Final Order approving the settlement, and the Court has entered Judgment; (5) no termination
16 of the Agreement has occurred pursuant to Paragraph 10.1, below; and (6) in the event that there are
17 written objections filed prior to the formal fairness hearing which are not later withdrawn, the later of
18 the following events: (a) when the period for filing any appeal, writ or other appellate proceeding
19 opposing the Agreement has elapsed without any appeal, writ or other appellate proceeding having been
20 filed; (b) when any appeal, writ, or other appellate proceeding opposing the Settlement has been finally
21 dismissed with no material change to the terms of this Agreement and no right to pursue further
22 remedies or relief.

23 1.14 “Final Approval Date” means the date the Court enters an Order finally approving the
24 Agreement and the exhibits thereto.

25 1.15 “Former Employee Sub-Class Member” means all Sick Pay Class Members who separated
26 from employment at any time between January 11, 2016 and November 30, 2020 or Preliminary Approval,
27 whichever is earlier, and who did not participate in the class action settlement in *Alvarado v. Dart*
28 *Container Corp.*, Riverside County Superior Court Case No. RIC1211707.

1 1.16 “Former Employee Sub-Class Period” means January 11, 2016 through November 30,
2 2020 or Preliminary Approval, whichever is earlier.

3 1.17 “Individual Settlement Amount” refers to the separate, Confidential Settlement Agreement
4 and Release entered into between Plaintiff and Defendants regarding claims pending in the Superior Court
5 of California, County of San Joaquin Case No. STK-CV-UOE-2019-0006564.

6 1.18 “Maximum Settlement Amount” is the total sum of \$411,000, which is exclusive of
7 Defendants’ tax obligations (e.g. employer FICA, FUTA and SDI contributions on wage payments) on
8 any monies distributed to Participating Class Members that are allocated as wages under the Agreement.

9 1.19 “Net Settlement Amount” is the portion of the Maximum Settlement Amount available for
10 distribution to Participating Class Members after deduction of Plaintiff’s attorneys’ fees and litigation
11 costs, Settlement Administration Costs, State of California’s portion of the Private Attorneys General Act
12 of 2004 (“PAGA”) Payment, and the Enhancement Payment to the Class Representative.

13 1.20 “Non-Exempt Wage Statement Class Member” means all current and former hourly, non-
14 exempt California employees of Defendants who received a wage statement between January 11, 2018
15 and November 30, 2020 or Preliminary Approval, whichever is earlier, and 1) worked at least one shift
16 during which he/she both worked overtime and earned a shift differential and 2) did not participate in the
17 class action settlement in *Alvarado v. Dart Container Corp.*, Riverside County Superior Court Case No.
18 RIC1211707.

19 1.21 “Non-Exempt Wage Statement Class Period” means January 11, 2018 through November
20 30, 2020 or Preliminary Approval, whichever is earlier.

21 1.22 “Notice of Settlement” means the document substantially in the form attached hereto as
22 Exhibit 1.

23 1.23 “Notice Packet” means the Notice of Settlement.

24 1.24 “Notice Period” means forty-five (45) calendar days from the initial mailing of the Notice
25 Packet to Class Members.

26 1.25 “PAGA Payment” means the amount allocated from the Maximum Gross Settlement
27 Amount towards resolving claims under the Private Attorneys General Act of 2004, California Labor Code
28 §§ 2698 *et seq.*

1 1.26 “Participating Class Members” means any and all Class Members who have not made a
2 timely request to opt-out of the Agreement.

3 1.27 “Parties” mean Defendants and Plaintiff.

4 1.28 “Preliminary Approval Date” means the date the Court enters an Order preliminarily
5 approving the Agreement and the exhibits thereto.

6 1.29 “QSF” means a Qualified Settlement Fund set up by the Settlement Administrator for the
7 benefit of the Participating Class Members and from which the payments under this Agreement shall be
8 made.

9 1.30 “Qualifying Pay Periods” are pay periods worked by Class Members during each
10 respective Class Period in California and shall be calculated based on the number of pay dates each Class
11 Members has during the respective Class Period. The calculation of a Class Member’s pay periods and a
12 determination as to whether a Class Member was actively employed in California in a particular pay period
13 shall be construed from Defendants’ records.

14 1.31 “Released Claims” refers collectively to the claims released by Participating Class
15 Members and as defined in Paragraph 35(i)-(iii).

16 1.32 “Released PAGA Claims” means the PAGA claims released by Plaintiff on behalf of
17 herself and the other allegedly aggrieved employees and the LWDA, described in detail in Paragraph 36,
18 as against Defendants.

19 1.33 “Released Parties” means Defendants, their respective parents, subsidiaries, affiliates,
20 predecessor or successor, and related entities, and their respective officers, shareholders, directors, agents,
21 employees, and attorneys and insurers.

22 1.34 “Settlement Administration Costs” means the fees and expenses reasonably incurred by the
23 Settlement Administrator as a result of the procedures and processes expressly required by this Agreement,
24 and shall include all costs of administering the Agreement, including, but not limited to, all tax document
25 preparation, custodial fees, and accounting fees incurred by the Settlement Administrator; all costs and
26 fees associated with preparing, issuing and mailing any and all notices and other correspondence to Class
27 Members and/or Participating Class Members; all costs and fees associated with communicating with
28 Class Members, Class Counsel, and Defendants’ Counsel; all costs and fees associated with computing,

1 processing, reviewing, and paying the Settlement Shares, and resolving disputed claims; all costs and fees
2 associated with calculating tax withholdings and payroll taxes, making related payment to federal and
3 state tax authorities, and issuing tax forms relating to payments made under the Settlement; all costs and
4 fees associated with preparing any tax returns and any other filings required by any governmental taxing
5 authority or agency; all costs and fees associated with preparing any other notices, reports, or filings to be
6 prepared in the course of administering Settlement Shares; and any other costs and fees incurred and/or
7 charged by the Settlement Administrator in connection with the execution of its duties under this
8 Stipulation.

9 1.35 “Settlement Administrator” means and refers to Phoenix Class Action Administration
10 Solutions the third-party entity that will administer the Agreement as outlined in Sections 4 and 7.

11 1.36 “Settlement Share” means an individual Class Member’s allocation of the Net Settlement
12 Amount, as defined in Section 1.19.

13 1.37 “Sick Pay Class Member” means all current and former non-exempt California employees
14 of Defendants who were eligible for and used paid sick leave during a workweek when he/she also earned
15 shift differentials, non-discretionary bonuses, commissions, or other remuneration between January 11,
16 2015 and November 30, 2020 or Preliminary Approval, whichever is earlier.

17 1.38 “Sick Pay Class Period” means January 11, 2015 through November 30, 2020 or
18 Preliminary Approval, whichever is earlier.

19 **III. APPLICATION FOR APPROVAL OF THE SETTLEMENT, CLASS CERTIFICATION,**
20 **DISSEMINATION OF NOTICE, AND SETTING OF FINAL APPROVAL HEARING.**

21 14. Promptly upon the full execution of this Agreement, Plaintiff shall apply to the Court for
22 approval of the Settlement, including an Order of Preliminary Approval that, amongst other things, (a)
23 preliminarily approves the Settlement under the legal standards relating to the approval of class action
24 settlements; (b) preliminarily certifies the Class for settlement purposes only; (c) approves the Class
25 Notice and authorizes dissemination of the same; (d) preliminarily approves Plaintiff as Class
26 Representative; (e) preliminarily approves Mayall Hurley as Class Counsel; (f) preliminarily approves
27 Phoenix Class Action Administration Solutions to serve as Settlement Administrator; and (g) sets a Final
28 Approval Hearing and briefing schedule. Should this Settlement not become effective for any reason,

1 the fact that the Parties stipulated to certification of a Class shall have no bearing on and shall not be
2 admissible on the question of whether a class action should be certified in a non-settlement context.
3 Defendant does not waive, and instead expressly reserves, its rights to challenge the propriety of class
4 certification for any purpose should the Court not approve the Settlement Agreement.

5 **IV. CONSIDERATION FOR THE SETTLEMENT.**

6 15. Maximum Settlement Amount; Non-Reversionary.

7 The Parties agree to settle this Class Action for the Maximum Settlement Amount of \$411,000.
8 The settlement is being made on an all-in, non-reversionary basis, such that Defendant will pay the
9 entirety of the agreed-upon Maximum Settlement Amount. Subject to the terms and conditions of this
10 Agreement, the Maximum Settlement Amount is paid by Defendants in full and final settlement of (a)
11 the Released Claims, (b) the costs of the Settlement Administrator, (b) the payment to the LWDA, (c)
12 the Service Payment to Plaintiff, (d) Employee-side Taxes and Withholdings, and (e) Class Counsel's
13 Fees and Costs. The Maximum Settlement Amount shall be deposited into the QSF within ten (10)
14 business days of the Effective Date. The Maximum Settlement Amount does not include the Employer
15 Taxes, which also must be paid by Defendant.

16 16. Allocation of the Maximum Settlement Amount.

17 Subject to Court approval, the Maximum Settlement Amount of \$411,000 will be allocated as
18 follows:

- 19 (i) \$8,850 for the fees and costs of the Settlement Administrator;
- 20 (ii) \$11,250 for payment to LWDA under the PAGA;
- 21 (iii) \$2,500 for Service Payment to Plaintiff (and for Civil Code 1542 release);
- 22 (iv) \$7,500.00 for payment to Class Counsel for reasonable costs; and
- 23 (v) \$137,000 for payment to Class Counsel for attorneys' fees (1/3 of the MSA).

24 The remainder constitutes the Net Settlement Amount: \$243,900.

25 17. Escalator Clause.

26 The Parties agree that there are approximately 502 total Class Members; 423 in the Non-Exempt
27 Wage Statement Class, 502 in the Sick Pay Class, and 131 in the Former Employee Sub-Class. In the
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1 event the number of employees in any of the aforementioned categories increases by 5% or more, there
2 shall be an equal increase in the Maximum Settlement Amount (*e.g.*, if the number of class members
3 increases by 6%, the Maximum Settlement Amount Shall increase by 1%, etc.).

4 18. Reasonable Fees and Costs of the Settlement Administrator.

5 All of the Settlement Administrator’s costs, which are not to exceed \$8,850.00 unless otherwise
6 approved by the Court, will be paid out of the Maximum Settlement Amount from the QSF. If there are
7 any unused amounts of the allocated Settlement Administrator costs after the settlement distribution,
8 such amount shall be distributed to the *cy pres* beneficiary.

9 19. Payment to the LWDA under the PAGA.

10 The Settlement allocates \$15,000 to the PAGA claims. Defendants do not oppose the allocation.
11 Of that amount, 75% – or \$11,250 – will be paid to the LWDA, and 25% – or \$3,750 – will be returned
12 to the portion of the Net Settlement Amount allocated to the Participating Non-Exempt Wage Statement
13 Class Members. The Settlement Administrator shall make the payment to the LWDA within twenty
14 (20) business days after Defendant funds the QSF.

15 20. Service Payment to Plaintiff.

16 Subject to Court approval, Plaintiff will apply for a Service Payment not to exceed \$2,500, or
17 approximately .6% of the Maximum Settlement Amount, in consideration for her efforts on behalf of the
18 Class including, but not limited to, assisting in the investigation of her claims and consulting with Class
19 Counsel, providing critical information and documents to Class Counsel, participating in discovery,
20 attending and participating in the remote mediation, and assisting Class Counsel with preparations for
21 motion practice. Any Service Payment approved by the Court will be paid out of the Maximum
22 Settlement Amount and shall be in addition to Plaintiff’s Settlement Share under the terms of the
23 Settlement and in addition to the Plaintiff’s Individual Settlement Amount. The Settlement
24 Administrator shall mail the Service Payment to Plaintiff within twenty (20) business days after
25 Defendants fund the QSF. Defendants do not oppose the proposed Service Payment.

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1 21. Reasonable Attorneys' Fees and Costs to Class Counsel.

2 Subject to Court approval, Class Counsel will apply to the Court for an award of attorneys' fees
3 and costs incurred in connection with the prosecution of this matter; all of the work remaining to be
4 performed including, but not limited to, preparing all of the motions and documents necessary to secure
5 Court approval of the Settlement Agreement (including all related appellate work); carrying out their
6 duties to see that the Settlement Agreement is fairly administered and implemented; and responding to
7 questions from Class Members.

8 Class Counsel will apply to the Court for an award of attorneys' fees in an amount not to exceed
9 \$137,000, or one-third, of the Maximum Settlement Amount, and declared costs of up to \$7,500.
10 Defendants do not oppose Class Counsel's request. The fees and costs awarded to Class Counsel by the
11 Court shall be paid out of the Maximum Settlement Amount from the QSF. The Settlement
12 Administrator shall issue an IRS Form 1099 to Class Counsel in connection with this payment. The
13 Settlement Administrator shall distribute the attorneys' fees and costs awarded to Class Counsel within
14 twenty (20) business after Defendants fund the QSF.

15 Not less than 35 days following the mailing of the Class Notice, or such other time as the Court
16 may require, Class Counsel will file a motion for attorneys' fees, costs, and Service Payments with the
17 Court.

18 In the event that a lesser sum is awarded for the attorneys' fees and costs referenced above, or for
19 the Service Payment referenced in Paragraph 18, the approval by the Court of any such lesser sum(s)
20 shall not be grounds for Plaintiff and/or Class Counsel to terminate the Settlement, but such an order
21 shall be appealable by them. In the event that such an appeal is filed, administration of the portion of the
22 attorneys' fees and/or costs award and/or service payment in dispute will be segregated and stayed
23 pending the exhaustion of appellate review. If, after the exhaustion of any such appellate review,
24 additional amounts are distributable to the Participating Class Members, the cost of administration of the
25 payments to them will be paid out of such additional amounts and not by Defendants. In the event that
26 appellate review is not sought regarding Class Counsel's attorneys' fees and costs, any amount not
27 awarded in attorneys' fees, costs and Service Payment shall be added to the Maximum Settlement
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1 Amount and distributed to the Participating Class Members in accordance with the terms of the
2 Settlement.

3 22. Tax Treatment of Settlement Shares.

4 For the purpose of taxes and required withholdings, the Parties agree to the following: (1) 100%
5 of the amount distributed to each Participating Non-Exempt Wage Statement Class Member shall
6 constitute penalties (for which an IRS Form 1099 shall be issued); (2) 100% of the amounts paid to each
7 Former Employee Sub-Class Member shall constitute penalties (for which an IRS Form 1099 shall be
8 issued); (3) 33 1/3% of each Participating Sick Pay Class Member's Settlement Share shall constitute
9 wages (for which an IRS Form W-2 shall be issued), 33 1/3% shall constitute interest, and 33 1/3% shall
10 constitute penalties (for which an IRS Form 1099 shall be issued).

11 Prior to the distribution of Settlement Shares, the Settlement Administrator shall calculate the
12 total taxes and withholdings required as a result of the wage portion of the Settlement Share and such
13 actual amount will be deducted therefrom. Additionally, within five (5) business days of the Effective
14 Date, or earlier upon Defendants' request, the Settlement Administrator shall calculate the Employer
15 Taxes due on the wage portion of the Settlement Shares and issue instructions to Defendants to
16 separately fund these obligations. Defendants, Defendants' counsel, the Settlement Administrator, and
17 Plaintiff's counsel make no representation as to the tax treatment or legal effect of the payments called
18 for hereunder, and Plaintiff and Participating Class Members are not relying on any statement,
19 representation, or calculation by Defendants, Defendants' counsel, Plaintiff's counsel, or the Settlement
20 Administrator in this regard. Plaintiff and Participating Class Members understand and agree that they
21 will be solely responsible for the payment of any taxes and penalties assessed on their respective
22 payments described herein and will defend, indemnify, and hold Defendants, Defendants' counsel,
23 Plaintiff's counsel and the Settlement Administrator free and harmless from and against any claims
24 resulting from treatment of such payments as non-taxable damages.

25 23. No Effect on Employee Benefit Plans.

26 It is expressly understood and agreed that the receipt of Settlement Shares will not entitle any
27 Participating Class Member to additional or derivative compensation or benefits under any Defendant
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1 bonus, contest or other compensation or benefit plan or agreement in place during the period covered by
2 the Settlement, nor will it entitle any Participating Class Member to any increased retirement, 401k
3 benefits or matching benefits, or deferred compensation benefits. It is the intent of this Settlement that
4 the settlement awards provided for in this Agreement are the sole payments to be made by Defendants to
5 the Participating Class Members, and that the Participating Class Members are not entitled to any
6 additional or derivative compensation or benefits as a result of having received the Settlement Shares
7 (notwithstanding any contrary language or agreement in any benefit or compensation plan document that
8 might have been in effect during the period covered by this Settlement).

9 24. Undistributed Funds.

10 In the event that any checks mailed to Participating Class Members remain uncashed after the
11 expiration of 180 days from mailing, or an envelope mailed to a Participating Class Member is returned
12 and no forwarding address can be located for the Participating Class Member after reasonable efforts
13 have been made (including but not limited to skip tracing), then any such funds shall be transmitted to
14 the Settlement Administrator and distributed as follows in accordance with California Code of Civil
15 Procedure section 384:

16 100% to Court Appointed Special Advocates for Children of San Joaquin (serving San
17 Joaquin County), 127 N Sutter St, Stockton, CA 95202.

18 The Settlement Administrator shall apply for and return to Defendants any Employer Taxes paid on the
19 funds from the returned checks.

20 **V. ADMINISTRATION OF THE SETTLEMENT.**

21 25. Duties of the Settlement Administrator.

22 The Settlement Administrator shall perform the duties required by this Settlement by, among
23 other things, and without limitation, (i) receiving and updating through normal and customary
24 procedures the Class List to be produced by Defendants, so that it is updated prior to the mailing of the
25 Class Notice, (ii) populating, printing, and mailing the Court-approved Class Notice, (iii) creating and
26 maintaining an informational website, (iv) responding to Class Member inquiries as appropriate, (v)
27 performing necessary additional skip traces on any notices and/or checks returned as undeliverable, (vi)
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1 tracking exclusions and calculating the Settlement Shares of the Participating Class Members, (vii)
2 resolving disputes during the administration process in the manner described below, (viii) reporting to
3 Class Counsel and Defense Counsel regarding administration of the Settlement, (ix) establishing the
4 QSF in the manner described below, (x) preparing and mailing settlement checks to the Participating
5 Class Members, (xi) preparing and distributing the necessary CAFA notice documents required by 28
6 U.S.C. § 1715, (xii) preparing and distributing the Court-approved payments to itself, the LWDA, the
7 Class Representatives, and Class Counsel, (xiii) preparing all appropriate tax forms required in
8 connection with the payments called for by this Settlement and remitting those forms and all required
9 payments to the appropriate governmental agencies, providing any leftover funds to the designated Cy
10 *Pres*; preparing and filing with appropriate agencies all appropriate tax forms required and returning
11 payment to Defendants in connection with a return of Employer taxes owed on returned checks; (xiv)
12 preparing a final report summarizing the administration of the Settlement, and (xv) generally performing
13 all normal and customary duties associated with the administration of such settlements.

14 26. Dispute Resolution.

15 The Settlement Administrator shall have the initial responsibility for resolving any disputes that
16 arise during the administration of the Settlement including, without limitation, disputes regarding
17 whether a Class Member is entitled to a Settlement Share and, if so, the amount thereof. In resolving
18 such disputes, Defendants' employment records shall be presumed accurate and correct, and shall be
19 final and binding unless the information submitted by the individual (e.g., time records, wage
20 statements, employment records, etc.) proves otherwise. In the event that the Settlement Administrator
21 cannot resolve a dispute based upon a review of Defendant's records, the Settlement Administrator will
22 schedule a call with Class Counsel and Defense Counsel to discuss and resolve the dispute. After such
23 call, the Settlement Administrator will resolve the dispute and such resolution will be final and binding
24 on the Class Member.

25 27. Establishing the Qualified Settlement Fund.

26 The Settlement Administrator shall establish for the benefit of the Settlement Class members and
27 from which the Settlement Shares and all other payments under this Agreement shall be paid with the
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1 exception of the employer's share of payroll taxes. The Settlement Administrator shall have its own
2 Employer Identification Number under Internal Revenue Service Form W-9 and shall use its own
3 Employer Identification Number and shall transmit the required employers' and employees' share of the
4 withholdings, if any, to the appropriate state and federal tax authorities. The Settlement Administrator
5 shall establish a settlement fund that meets the requirements of a QSF under U.S. Treasury Regulation
6 section 468B-1 and section 468B of the Internal Revenue Code of 1986, as amended (the "Code"). The
7 QSF shall be an interest-bearing account at a federally insured bank that is mutually acceptable to the
8 parties and the Settlement Administrator. The parties agree that the QSF is intended to be a "Qualified
9 Settlement Fund" under Section 468B of the Code and Treas. Reg. Section 1.468B-1, 26 CFR Sections
10 1.468B-1, et seq., and will be administered by the Settlement Administrator. With respect to the QSF, the
11 Settlement Administrator shall: (1) open and administer in such a manner as to qualify and maintain the
12 qualification of the QSF as a "Qualified Settlement Fund" under Section 468B of the Code and Treas.
13 Reg. Section 1.468B-1; (2) satisfy all federal, state, and local income and other tax reporting, return, and
14 filing requirements with respect to Defendant and the QSF and any interest or other income earned by
15 the QSF; and (3) satisfy out of the QSF all (i) taxes (including any estimated taxes, interest, or penalties)
16 with respect to the interest or other income earned by the QSF, and (ii) fees, expenses, and costs
17 incurred in connection with the opening and administration of the QSF and the performance of its duties
18 and functions as described in this Settlement Agreement. The aforementioned taxes, fees, costs, and
19 expenses shall be treated as, and included in, the costs of administering the QSF and as Settlement
20 Administration costs. The Settlement Administrator shall provide copies to Defendants of any federal,
21 state, and local income or other tax reporting, return, and filing prepared on Defendants' behalf. The
22 Parties agree to cooperate with the Settlement Administrator and one another to the extent reasonably
23 necessary to carry out the provisions of this section.

24
25 The Settlement Administrator shall be treated as an "administrator" as defined at Treasury
26 Regulation section 1.468B-2(k) for purposes of federal and state income tax reporting with respect to the
27 distributions and payments made under this Settlement Agreement. Accordingly, the Settlement
28 Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2

1 for amounts deemed “wages” and IRS Forms 1099 for the amounts allocated as penalties and interest at
2 times and in the manner required by the Internal Revenue Code and consistent with this Settlement
3 Agreement. If the Internal Revenue Code, the regulations promulgated thereunder, or other applicable
4 tax law, is changed after the date of this Settlement Agreement, the processes set forth in this section
5 may be modified in a manner to comply with any such changes. Notwithstanding the treatment of the
6 payments to each Settlement Class member above, none of the payments called for by this Settlement
7 Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for
8 any purpose of any applicable benefit or retirement plan, unless required by such plans. Any interest
9 accrued shall inure to the benefit of the Class. The Maximum Settlement Amount shall be deposited
10 into the QSF within ten (10) business days of the Effective Date. Defendants may, at their discretion,
11 deposit the Maximum Settlement Amount at an earlier date.

12 **VI. CLASS LIST, NOTICE TO CLASS MEMBERS, PARTICIPATION IN THE**
13 **SETTLEMENT, AND SETTLEMENT SHARES.**

14 28. Provision of the Class List.

15 Within ten (10) business days of the Court’s entry of the Order of Preliminary Approval or
16 approval of the Class Notice, whichever is later, Defendants shall provide the Settlement Administrator
17 with the Class List containing the following for each Class Member: (i) name, (ii) last known address
18 and telephone number, (iii) social security number, (iv) dates of employment, and (v) pay period data
19 (i.e. total number of workweeks worked by each Class Member during each relevant time period).

20 29. Notice to Class Members.

21 Promptly upon receipt of the Class List, the Settlement Administrator shall access the National
22 Change of Address Database (“NCOA”) and update the addresses provided by Defendants. The
23 Settlement Administrator shall also populate the Class Notice as appropriate. Within ten (10) business
24 days after receipt of the Class List, the Settlement Administrator shall mail the Class Notice to each
25 Class Member via first-class mail. For each notice returned as undeliverable before the Response
26 Deadline, the Settlement Administrator shall promptly attempt to determine a correct address using its
27 best efforts and shall resend the notice to any new address determined thereby. Any costs incurred by
28

1 having the Settlement Administrator handle these administrative tasks shall be included in the
2 Settlement Administrator costs approved by the Court. Any re-mailed Class Notice shall be identical to
3 the original Class Notice.

4 Within ten (10) business days after receipt of the Class List, or as otherwise directed by the
5 Court, the Settlement Administrator shall also launch its informational website. In addition to the
6 information contained in the Class Notice, the Settlement Administrator shall also post the Order of
7 Preliminary Approval, the motion for final approval, the motion for attorneys' fees, costs and Service
8 Payment, and Order of Final Approval when each is filed with the Court. The informational website
9 shall remain active until thirty (30) calendar days after the Effective Date.

10 30. Proof Of Mailing.

11 No more than ten (10) business days after the close of the Notice Period, the Settlement
12 Administrator shall provide a declaration of due diligence and proof of mailing with regard to mailing of
13 the Class Notice to Class Counsel and Defendants' Counsel..

14 31. No Claim Form Required.

15 Each Participating Class Member shall be entitled to a share of the Net Settlement Amount.
16 Participating Class Members shall not be required to complete a claim form. Class Members shall
17 receive a Class Notice informing them of the terms of the Settlement Agreement, their right to opt-out
18 and/or object, and an estimate of their share of the Net Settlement Amount. Unless a Class Member
19 elects to opt-out, he or she will be a Participating Class Member. Settlement Shares will be mailed to all
20 Participating Class Members.

21 32. Allocation of the Net Settlement Amount and Calculation of Class Settlement Shares.

22 The Net Settlement Amount shall be allocated as follows: \$25,000 of the Net Settlement
23 Amount shall be distributed to the Sick Pay Class, 50% of the Net Settlement Amount, less the \$25,000
24 allocated to the Sick Pay Class, which is anticipated to equal \$109,450.00 ($\$243,900 \text{ Net Settlement}$
25 $\text{Amount} - \$25,000 = \$218,900 \times 0.5$), shall be distributed to the Former Employee Sub-Class, and 50%
26 of the Net Settlement Amount, less the \$25,000 allocated to the Sick Pay Class, which is also anticipated
27 to be \$109,450.00 shall be distributed to the Non-Exempt Wage Statements Class. The amount of each
28

1 Participating Class Member’s Class Settlement Share shall be determined by the Administrator as
2 follows:

3 (i) Sick Pay Class Members

4 The Settlement Share for each Participating Sick Pay Class Member will be
5 determined by dividing the number of pay periods worked by the Participating Sick
6 Pay Class Member during the Sick Pay Class Period by the total pay periods
7 worked by all Participating Sick Pay Class Members and multiplying the result by
8 the portion of the Net Settlement allocated to the Sick Pay Class, i.e., \$25,000.

9
10 (ii) Non-Exempt Wage Statement Class Members.

11 The Settlement Share for each Participating Non-Exempt Wage Statement Class
12 Member will be determined by dividing the number of pay periods worked by the
13 Participating Non-Exempt Wage Statement Class Member during the Non-Exempt
14 Wage Statement Class Period by the total pay periods worked by all Participating
15 Non-Exempt Wage Statement Class Members and multiplying the result by the
16 portion of the Net Settlement Amount allocated to the Non-Exempt Wage
17 Statement Class, i.e. 50% of the Net Settlement Amount, less the \$25,000 allocated
18 to the Sick Pay Class, which is expected to equal \$109,450.

19
20 (iii) Former Employee Sub-Class Members.

21 Each Participating Former Employee Sub-Class Member will receive an equal share
22 of the portion of the Net Settlement Amount allocated to the Former Employee Sub-
23 Class, i.e. 50% of the Net Settlement Amount, less the \$25,000 allocated to the Sick
24 Pay Class, which is expected to equal \$109,450.

25 The total Settlement Share due to each Participating Class Member shall be the sum of that
26 Participating Class Member’s individual Settlement Shares as a member of the Sick Pay Class, Non-
27 Exempt Wage Statement Class and/or Former Employee Sub-Class, as the case may be. The
28

1 Administrator shall mail the Settlement Shares to Participating Class Members within twenty (20)
2 business days after Effective Date.

3 33. Procedures for Challenges.

4 A Class Member may, before the Response Deadline, dispute the amount of his or her Settlement
5 Share, and the data used to calculate it, by timely sending a written notice to the Settlement
6 Administrator informing the Settlement Administrator of the nature of the dispute and providing any
7 records or documentation supporting their position. In response to such a challenge, Defendant will first
8 verify the accuracy of the information contained in its records. Next, Class Counsel and Defense
9 Counsel will make a good faith effort to resolve the dispute informally. If Class Counsel and Defense
10 Counsel are unable to agree, the dispute shall be resolved by the Settlement Administrator after
11 examination of the records provided by the Class Member and Defendant. The Settlement
12 Administrator's determination will be final and binding.

13 If, before the Response Deadline, an individual not previously identified in the Class List asserts
14 his or her membership in the Class and seeks recovery under the Settlement, the Settlement
15 Administrator shall provide Class Counsel and Defense Counsel with the evidence submitted by the
16 individual. To be eligible for recovery under this Settlement, individuals must provide sufficient proof
17 to the Settlement Administrator supporting his or her request for inclusion, including specific evidence
18 establishing that he or she qualifies as a Class Member as defined herein. If Class Counsel and Defense
19 Counsel agree an individual is not a Class Member, the Settlement Administrator will inform the
20 individual that their request for inclusion has been rejected. If Class Counsel and Defense Counsel are
21 unable to agree, the dispute shall be resolved by the Settlement Administrator after examination of the
22 records provided by the Class Member and Defendant. The Settlement Administrator's determination
23 will be final and binding.

24 **VII. EXCLUSIONS, OBJECTIONS AND BINDING EFFECT OF SETTLEMENT.**

25 34. Right to Opt-Out of Settlement.

26 The Class Notice will advise each Class Member of their right to exclude themselves from or
27 opt-out of the Settlement. To be effective, requests for exclusion must (a) be submitted in writing to the
28

1 Settlement Administrator, postmarked on or before the Response Deadline (i.e., no later than 45
2 calendar days from the date of mailing of the Class Notice); (b) contain the individual's full name,
3 current home (or mailing address), and the last four digits of his or her social security number; (c) be
4 signed by the individual; and (d) include written affirmation of his or her desire to exclude themselves
5 containing the following or substantially similar language:

6
7 "I elect to opt-out of the *Flores v. Dart Container Corporation, et al., et al* class action settlement. I
8 understand that by doing so, I will not be able to participate in the settlement, and will not receive a
9 share of the settlement."

10 The Settlement Administrator shall notify Class Counsel and Defense Counsel within 48 hours of its
11 receipt of requests for exclusion. The Class Notice shall include the specific address to which requests
12 for exclusion must be mailed as well as a summary of this paragraph. Any Class Member who timely
13 requests exclusion from this Settlement shall not have any rights under the Settlement, shall not be
14 entitled to receive a Settlement Share, shall not be bound by the Settlement or the Order of Final
15 Approval, and shall not have the right to file an objection to the Settlement. No Class Member responses
16 of any kind that are postmarked more than 45 calendar days from the date of mailing of the Class Notice
17 shall be considered. Responses from Class Members must be postmarked for mail with the U.S. Postal
18 Service. Responses sent by facsimile, email, or other forms of electronic transmission will not be
19 considered.

20
21 35. Right of Class Members to Object to Settlement.

22 The Class Notice will advise each Class Member of their right object to the Settlement. To be
23 effective, the Class Member cannot opt-out and his or her objection must (a) be mailed to the Court,
24 postmarked on or before the Response Deadline (i.e., no later than 45 calendar days from the date of
25 mailing of the Class Notice); (b) clearly identify the case name and number; (c) contain the objector's
26 full name, current home (or mailing address), and the last four digits of his or her social security
27 number; (d) clearly and concisely state all grounds for the objection; (e) indicate whether the objector is
28 represented by counsel and, if so, identify such counsel; (f) indicate whether the objector or his or her

1 counsel intend to appear at the Final Approval Hearing; and (g) be signed by the objector or his or her
2 counsel.

3 The Class Notice shall include the specific address to which objections must be mailed as well as
4 a summary of this paragraph. No Class Member may be heard at the Final Approval Hearing unless he
5 or she has complied with these requirements, or any requirements mandated by the Court, and any Class
6 Member who fails to comply with said requirements shall be deemed to have waived his or her right to
7 object to the Settlement unless the Court orders otherwise. The Parties will not be responsible for any
8 fees, costs, or expenses incurred by any Class Member and/or his or her counsel related to any
9 objections to the Settlement and/or appeals arising therefrom. Any Class Member whose objection is
10 overruled will be deemed to be a Participating Class Member and subject to the terms of this Settlement
11 and the Court’s Order of Final Approval.

12 36. Acknowledgment of Binding Terms of the Settlement.

13 Class Counsel, Plaintiff, and the Participating Class Members acknowledge that they may
14 hereafter discover facts or law different from, or in addition to, the facts or law they know or believe to
15 exist with respect to the Released Claims. Class Counsel, Plaintiff, and the Participating Class Members
16 nonetheless agree that this Agreement and the Released Claims contained herein shall be and remain
17 effective in all respects notwithstanding such different or additional facts or law regarding such Released
18 Claims. Class Counsel, Plaintiff, and the Participating Class Members will bound by the terms and
19 conditions of this Settlement, the Court’s Order of Final Approval, and the releases set forth herein.

20 **VIII. RELEASES**

21 37. Released Claims.

22 As of the Effective Date, and in exchange for the consideration provided herein, the Participating
23 Class Members, i.e., those that do not opt-out, and their respective heirs, beneficiaries, devisees,
24 executors, administrators, trustees, conservators, guardians, personal representatives, successors-in-
25 interest, and assigns, shall forever and completely release and discharge Defendants and Released
26 Parties from the following claims, (collectively the “Released Claims”):
27
28

- 1 (i) Participating Non-Exempt Wage Statement Members release Defendant and the Released
2 Parties of any and all claims for failure to furnish accurate itemized wage statements in
3 violation of Labor Code section 226(e), which arose at any point between January 11,
4 2018 and November 30, 2020 or the date of Preliminary Approval, whichever is earlier,
5 that are or could have been pled based on the facts asserted in the FAC on behalf of the
6 Non-Exempt Wage Statement Class;
- 7 (ii) Participating Sick Pay Class Members release Defendants and the Released Parties of any
8 and all claims for failure to pay sick pay under Labor Code section 218.5 and all claims
9 for restitution and other equitable relief, liquidated damages, or penalties for unfair
10 business practices in violation of Business and Professions Code section 17200 et. seq.,
11 which arose at any point between January 11, 2015 and November 30, 2020 or the date of
12 Preliminary Approval, whichever is earlier, that are or could have been pled based on the
13 facts asserted in the FAC on behalf of the Sick Pay Class.
- 14 (iii) Participating Former Employee Sub-Class Members release Defendant and the Released
15 Parties of any and all claims for failure to timely pay all wages due and owing at the end
16 of their employment in violation of Labor Code section 201-203, including without
17 limitation alleged underpaid sick pay wages, which arose at any point between January
18 11, 2016 and November 30, 2020 or the date of Preliminary Approval, whichever is
19 earlier, that are or could have been pled based on the facts asserted in the FAC on behalf
20 of the Former Employee Sub-Class.

21 38. Released PAGA Claims.

22 As of the Effective Date, Plaintiff, on behalf of herself the Labor and Workforce Development
23 Agency, and the other aggrieved employees in the State of California, releases Defendant and Released
24 Parties from any and all PAGA Claims based upon Defendant’s alleged violation of Labor Code
25 sections 201 – 203, 226, and 226.3, between January 11, 2018 and November 30, 2020 or the date of
26 Preliminary Approval, whichever is earlier . The claims described above are referred to herein as the
27 “Released PAGA Claims.”
28

1 **IX. FINAL SETTLEMENT APPROVAL.**

2 39. Final Approval Hearing.

3 Class Counsel will take all necessary steps to secure the Court’s final approval of this Settlement.
4 Defense Counsel agrees not to oppose Class Counsel’s request for final approval of this Settlement as
5 long as the Class Counsel’s request for final approval is consistent with the terms of this Settlement. A
6 Final Approval Hearing shall be held for the purpose of purpose of considering, *inter alia*, (a) the
7 fairness, adequacy, and reasonableness of the Settlement, (b) the Enhancement Payment to Plaintiff, (c)
8 the fees and reasonable costs of Class Counsel, and (d) the propriety of any timely objections as well as
9 Class Counsel’s and Defense Counsel’s response thereto. The date of the Final Approval Hearing shall
10 be set by the Court, and notice of such shall be provided to Class Members in the Class Notice.
11 Although the Court may continue the Final Approval Hearing without further notice to the Class
12 Members.

13 Plaintiff will respectfully request the Court enter an Order of Final Approval, and Defendant
14 agree not to oppose as long as the Order of Final Approval remains consistent with the terms of this
15 Settlement:

- 16 (i) Approving the Settlement, adjudging the terms thereof to be fair, reasonable, and
17 adequate, and directing consummation of its terms and provisions;
- 18 (ii) Approving payment to the Settlement Administrator;
- 19 (iii) Approving the Enhancement Payment to the Plaintiff for her service as Class
20 Representative;
- 21 (iv) Approving Class Counsel’s application for fees and reasonable costs;
- 22 (v) Permanently enjoining and restraining Participating Class Members from and against
23 initiating or pursuing against Defendants any individual, representative, or class claims
24 released by this Settlement;
- 25 (vi) Entering judgment in this Class Action consistent with the terms of this Settlement; and
26 (vii) Retaining jurisdiction to the extent necessary over the subject matter of the Class Action
27 and over the Parties and Class Members to enforce the terms of the Settlement.
28

1 **X. TERMINATION OF THE SETTLEMENT.**

2 40. Defendants’ Right to Terminate the Settlement.

3 Notwithstanding any other provision in this Settlement, if 10% or more of the Class Members
4 opt out of the Settlement, Defendant shall have the right, in its sole discretion, to rescind, nullify, and
5 terminate the Settlement within twenty (20) business days after the expiration of the Notice Period. The
6 Settlement Administrator shall notify Defense Counsel and Class Counsel via email immediately if the
7 10% threshold for opt-outs is exceeded. If Defendants exercise this right, however, they shall be
8 responsible for the reasonable fees and costs of the Settlement Administrator to that point.

9 41. Effect of Termination.

10 If the Settlement is terminated in accordance with the terms set forth herein (a) the Settlement
11 shall have no force or effect, and no party shall be bound by any of its terms; except as otherwise
12 provided herein, (b) the Order of Preliminary Approval and/or Order of Final Approval shall be vacated,
13 (c) the Settlement and all negotiations, statements, and proceedings related thereto shall be without
14 prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in
15 the Class Action prior to the settlement, and (d) neither this Settlement Agreement, nor the filings in
16 connection with the sought approval thereof shall be admissible or offered into evidence in the Class
17 Action or in any other action for any reason whatsoever.

18 42. Nullification of Settlement Agreement.

19 In the event: (i) the Court does not grant approval of the Settlement as provided herein; (ii) the
20 Court does not grant final approval of the Settlement as provided herein; (iii) the Court does not enter a
21 Final Judgment as provided herein; or (iv) the Settlement does not become final for any other reason,
22 this Settlement Agreement shall be deemed null and void, including Defendant’ obligation to fund the
23 Maximum Settlement Amount; provided, however, that reduction by the Court of Class Counsel fees
24 and costs or a reduction by the Court of Plaintiff’s Service Payment shall not render this Settlement null
25 and void. In the event this Settlement Agreement is rendered null and void as set forth herein, any order
26 or judgment entered by the Court in furtherance of this Settlement shall be treated as void from the
27 beginning, and the stipulations and recitals contained herein shall be of no force or effect, and shall not
28

1 be treated as an admission by the Parties or their Counsel. In such a case, the Parties and any funds to be
2 awarded under this Settlement shall be returned to their respective statuses as of the date and time
3 immediately prior to the execution of this Settlement Agreement; the Parties shall stand in the same
4 position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court;
5 and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed and
6 no individual or entity shall be entitled to the payment amounts contemplated herein, except that any
7 costs already incurred by the Settlement Administrator shall be paid in equal parts by Plaintiff and
8 Defendant.

9 **XI. MISCELLANEOUS TERMS.**

10 43. Mutual Cooperation.

11 The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement
12 Agreement, including but not limited to, executing and amending such documents and taking such other
13 actions as may reasonably be necessary to implement the terms of this Settlement Agreement. The
14 Parties shall use their best efforts, including all efforts contemplated by this Settlement Agreement and
15 any other efforts that may become necessary by order of the Court or otherwise, to effectuate this
16 Settlement Agreement and the terms set forth herein. Neither party, nor their counsel, employees, or
17 agents, shall solicit or encourage any Class Member to exclude themselves from the Settlement or object
18 to the Settlement.

19 44. Non-Evidentiary Use.

20 Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible
21 in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement;
22 provided, however, that this Settlement Agreement may be used by Defendant and/or the Released
23 Parties to prove or defend against any claim released herein by Plaintiff or any Settlement Class member
24 in any claim or threatened claim, including but not limited to any judicial, quasi-judicial, administrative,
25 or governmental proceeding. Neither this Settlement Agreement or its terms, nor any statements or
26 conduct in the negotiation or drafting of it, shall be admissible, offered, or used as evidence by the
27 Parties, any Settlement Class member, or their respective counsel in the Action or in any other
28

1 proceeding as evidence of liability or wrongdoing by Defendant and/or the Released Parties, or for any
2 purpose whatsoever. If Final Approval does not occur, the Parties agree that this Settlement Agreement
3 is void, but remains protected by California Evidence Code Section 1152. In the event of non-approval
4 by the Court, the Parties may not use the fact that the Parties agreed to settle the case (nor any
5 communications regarding the Settlement or any confidential data provided for settlement purposes
6 only), as evidence of Defendant's liability.

7 45. Modification.

8 This Settlement Agreement may not be changed, altered, or modified, except in writing and
9 signed by counsel for the Parties, and approved by the Court, provided however that changes solely to
10 the timing and deadlines herein may be made for administrative convenience by written agreement of
11 counsel for all Parties without Court approval. This Settlement Agreement may not be discharged
12 except by performance in accordance with its terms or by a writing signed by the Parties hereto and
13 approved by the Court.

14 46. Integration Clause – Entire Agreement.

15 This Settlement Agreement and the attached exhibits contains the entire agreement between the
16 Parties relating to the settlement of the Class Action and the transaction contemplated hereby, and all
17 prior or contemporaneous agreements, understandings, representations, and statements, whether oral or
18 written and whether by a party or such party's legal counsel, are merged herein. In entering into this
19 Settlement Agreement, none of the Parties has relied on any representation or promise not expressly set
20 forth in this Settlement Agreement. No rights hereunder may be waived except in writing.

21 47. Class Counsel Signatories.

22 It is agreed that because of the anticipated large number of Participating Class Members, it will
23 be impossible or impractical to have each Participating Class Member execute this Settlement
24 Agreement. As such, Class Counsel is signing on behalf of the Participating Class Members. In
25 addition, the Notice will advise Class Members of the binding nature of the Settlement, and their right to
26 Opt-Out and/or object, and shall have the same force and effect as if it were executed individually by
27 each Participating Class Member.
28

1 48. Interim Stay of Proceedings.

2 Pending the completion of the approval process, the Parties agree to a stay of all proceedings in
3 the Class Action except those necessary to implement the Settlement itself.

4 49. Notices.

5 Any notices, requests, requests, demands, or other communications required or necessitated by
6 this Settlement Agreement shall be in writing and, except as provided elsewhere in this Settlement
7 Agreement, shall be delivered as follows:

8 If to Plaintiff or Class Counsel, then to:

9 Robert J. Wasserman, Esq.

10 Jenny D. Baysinger, Esq.

11 Mayall Hurley P.C.

12 2453 Grand Canal Blvd.

13 Stockton, CA 95207

14 Email: rwasserman@mayallaw.com

15 Email: jbaysinger@mayallaw.com

If to Defendant or Defense Counsel, then to:

Yesenia Gallegos, Esq.

Laurie Baddon, Esq.

McDermott Will & Emory LLP

2049 Century Park East, Suite 3200

Los Angeles, CA 90067-3206

Email: ygallegos@mwe.com

Email: lbaddon@mwe.com

16 50. Resolution of Disputes Arising from Preparation of Settlement Agreement.

17 If the Parties have a dispute with regard to the preparation of this Settlement Agreement, they
18 agree to first attempt to resolve the dispute informally through good-faith negotiations, but if those
19 efforts are unsuccessful, they agree to seek the guidance of their mediator, Kimberly Deck, Esq. The
20 Parties will split the cost of the mediator, and all Parties will bear their own fees and costs.

21 51. Retention of Jurisdiction by the Court.

22 Following approval of the Settlement and the Court’s entry of the Order of Final Approval, the
23 Court shall retain jurisdiction for the purpose of addressing any issues which may arise with respect to
24 the administration of the Settlement or the enforcement of the Settlement’s terms.

25 52. Choice of Law.

26 This Settlement shall be governed by and construed, enforced and administered in accordance
27 with the laws of the State of California.

28 53. Construction.

1 This Agreement is entered into freely and voluntarily without duress or undue pressure or
2 influence of any kind or nature whatsoever and neither Party has relied on any promises,
3 representations or warranties regarding the subject matter hereof other than as set forth in this
4 Agreement. Each Party has been represented by counsel in the settlement negotiations leading up
5 to, and in connection with the preparation and execution of, this Settlement Agreement. The
6 Parties acknowledge and agree that all Parties had an equal hand in drafting this Agreement so
7 that it shall not be deemed to have been prepared or drafted by one Party or another. All Parties
8 waive the provisions of California Civil Code section 1654 (and any other equivalent state,
9 federal, or local provision), which provides, in part, that “the language of a contract should be
10 interpreted most strongly against the Party who caused the uncertainty to exist.”

11 54. Execution in Counterparts.

12 This Agreement may be executed in counterparts, by facsimile and/or by electronic
13 signature/PDF, each of which shall be deemed an original, and all of which together shall constitute one
14 and the same instrument. Any signature to this Agreement transmitted by facsimile or electronically and
15 any copies of any signatures are valid and binding.

16 55. Authority.

17 The individuals signing this Agreement represent and warrant that they are authorized to do so.
18 Those individuals likewise represent and warrant that they have the authority to execute this Agreement
19 and to take all appropriate action required and permitted to be taken by this Agreement, except such
20 action that is the prerogative of the Court.

21
22 Date: 11/4/2020

By: 
7A129F8E57ED426...
Plaintiff Angela Flores

23
24 Date: _____

By: _____
Defendant Dart Container Corporation

25
26 Date: _____

By: _____
Defendant Dart Container Corporation
of California

1 This Agreement is entered into freely and voluntarily without duress or undue pressure or
2 influence of any kind or nature whatsoever and neither Party has relied on any promises,
3 representations or warranties regarding the subject matter hereof other than as set forth in this
4 Agreement. Each Party has been represented by counsel in the settlement negotiations leading up
5 to, and in connection with the preparation and execution of, this Settlement Agreement. The
6 Parties acknowledge and agree that all Parties had an equal hand in drafting this Agreement so
7 that it shall not be deemed to have been prepared or drafted by one Party or another. All Parties
8 waive the provisions of California Civil Code section 1654 (and any other equivalent state,
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18 Those individuals likewise represent and warrant that they have the authority to execute this Agreement
19 and to take all appropriate action required and permitted to be taken by this Agreement, except such
20 action that is the prerogative of the Court.
21


22 Date: _____

22 By: _____
23 Plaintiff Angela Flores

24 Date: 11.13.2020

24 By: 
25 Defendant Dart Container Corporation

26 Date: 11.13.2020

26 By: 
27 Defendant Dart Container Corporation
28 of California

1 APPROVED AS TO FORM AND CONTENT:

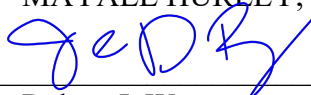
2

3 Date: 11-4-2020

4

5

6

MAYALL HURLEY, P.C.
By: 
Robert J. Wasserman
Jenny D. Baysinger
Attorneys for Plaintiff and the Class


MCDERMOTT WILL & EMORY LLP

7

8 Date: 11/13/2020

9

10

By: 
Yesenia Gallegos
Laurie Baddon
Attorneys for Defendants

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EXHIBIT 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANGELA FLORES, individually and on behalf
of other similarly situated current and former
employees,

Plaintiff,

v.

DART CONTAINER CORPORATION, a
Nevada corporation; DART CONTAINER
CORPORATION OF CALIFORNIA, a
Michigan corporation; and DOES 1-100,
inclusive,

Defendants.

CASE NO. 2:19-cv-00083-WBS-EFB

**NOTICE OF PENDENCY OF
CLASS ACTION, PRELIMINARY
APPROVAL OF SETTLEMENT,
AND HEARING FOR FINAL APPROVAL**

**IMPORTANT: THIS LEGAL NOTICE AFFECTS YOUR RIGHTS. PLEASE READ IT CAREFULLY.
YOU ARE NOT BEING SUED.**

**TO: ALL CURRENT AND FORMER HOURLY, NON-EXEMPT CALIFORNIA EMPLOYEES OF
DEFENDANTS WHO RECEIVED A WAGE STATEMENT BETWEEN JANUARY 11, 2018 AND
NOVEMBER 30, 2020, AND 1) WORKED AT LEAST ONE SHIFT DURING WHICH HE/SHE
BOTH WORKED OVERTIME AND EARNED A SHIFT DIFFERENTIAL AND 2) DID NOT
PARTICIPATE IN THE CLASS ACTION SETTLEMENT IN *ALVARADO V. DART CONTAINER
CORP.*, RIVERSIDE COUNTY SUPERIOR COURT CASE NO. RIC1211707, and**

**ALL CURRENT AND FORMER NON-EXEMPT CALIFORNIA EMPLOYEES OF
DEFENDANTS WHO WERE ELIGIBLE FOR AND USED PAID SICK LEAVE DURING A
WORKWEEK WHEN HE/SHE ALSO EARNED SHIFT DIFFERENTIALS, NON-
DISCRETIONARY BONUSES, COMMISSIONS, OR OTHER REMUNERATION BETWEEN
JANUARY 11, 2015 AND NOVEMBER 30, 2020**

**RE: Notice of settlement of a class action lawsuit for alleged Labor Code violations and
announcement of a court hearing that you may choose to attend. You are entitled to
receive a payment under the terms of this class action settlement.**

YOUR LEGAL RIGHTS AND OPTIONS UNDER THIS SETTLEMENT:	
DO NOTHING	If you do nothing, you will receive a payment under the terms of the Settlement.
EXCLUDE YOURSELF	If you wish to be excluded from the Settlement, you must submit a written election not to participate known as an “opt-out.” If you opt out, you will not be bound by the Settlement and will not receive a payment.
OBJECT	You may write to the Claims Administrator about why you do not like the Settlement. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement.

GO TO A HEARING	Write to the Claims Administer and ask to speak to the Court about why you do not like the Settlement.
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YOUR OPTIONS ARE MORE FULLY EXPLAINED BELOW.

THE DEADLINE TO OPT-OUT OR OBJECT TO THE SETTLEMENT IS _____, 2021.

1. WHY DID I RECEIVE THIS NOTICE?

Plaintiff Angela Flores (“Plaintiff”) and Defendants Dart Container Corporation and Dart Container Corporation of California (“Defendants” or “Dart”, collectively with Plaintiff, the “Parties”) have proposed to settle this class action lawsuit. Your employment records indicate that you are a member of the Settlement Class. If the Court approves the Settlement, your legal rights may be affected. This court-approved Notice of Pendency of Class Action, Preliminary Approval of Settlement, and Hearing for Final Approval (“Notice”), is only a summary. A more detailed document, called the “Joint Stipulation Regarding Class Action and PAGA Settlement Agreement and Release” (the “Settlement”), containing the complete terms is on file with the Court as part of the motion for preliminary approval, and is available for your review on the Court’s website and on the website relating to this Class Action that is maintained by the Settlement Administrator.

2. WHAT IS THIS LAWSUIT ABOUT?

Plaintiff filed this lawsuit against Defendants on January 11, 2019, in the United States District Court, Eastern District of California. A First Amended Class Action Complaint was filed March 12, 2020. Through the operative complaint, Plaintiff alleges that, during her employment, Defendants had a policy, pattern, and practice of failing to properly calculate and pay redeemed sick leave to certain non-exempt employees, failing to pay all wages due at the time of separation, and failing to provide accurate, itemized wage statements that provide all of the information required by Labor Code section 226(a)(2). Plaintiff also had a separate lawsuit asserting individual claims for alleged violations of the California Fair Employment and Housing Act (Cal. Govt. Code §§ 12940, et al.) that was pending in the Superior Court of California, County of San Joaquin Case No. STK-CV-UOE-2019-0006564 (the “Individual FEHA Lawsuit”).

Defendants deny any liability or wrongdoing of any kind and maintain their practices were lawful. The Court has made no determination about the strengths and weaknesses of the claims or contentions of either Plaintiff or Defendants.

There is another ongoing case against Defendants captioned *Miguel Prado v. Dart Container Corporation of Cal., et al*, Santa Clara County Superior Court Case No. 18CV336217 (the “Prado Class Action”) where another plaintiff has alleged class claims against Defendants, some of which may overlap with the claims asserted in this Action and subject to the Settlement. To the extent claims in the Prado Class Action overlap with claims in this Action, they will be resolved along with the class claims in this Action upon the Court’s final approval of the Settlement.

3. WHO IS COVERED BY THE CLASS ACTION AND PROPOSED SETTLEMENT?

The Settlement covers the claims of a number of current and former employees of Defendants (referred to as the “Class Members” and collectively as the “Class”) and consists of three classes and sub-classes defined as follows:

i. The Sick Pay Class

All current and former non-exempt California employees of Defendants who were eligible for and used paid sick leave during a workweek when he/she also earned shift differentials, non-discretionary bonuses, commissions, or other remuneration between January 11, 2015 and November 30, 2020.

ii. The Former Employee Sub-Class.

All Sick Pay Class Members who separated from employment at any time between January 11, 2016 and November 30, 2020 **and** who did not participate in the class action settlement in *Alvarado v. Dart Container Corp.*, Riverside County Superior Court Case No. RIC1211707.

iii. The Non-Exempt Wage Statement Class.

All current and former hourly, non-exempt California employees of Defendants who received a wage statement between January 11, 2018 and November 30, 2020 and 1) worked at least one shift during which he/she both worked overtime and earned a shift differential and 2) did not participate in the class action settlement in *Alvarado v. Dart Container Corp.*, Riverside County Superior Court Case No. RIC1211707.

There are approximately 502 total Class Members, including approximately 502 Sick Pay/UCL Class Members; 131 Former Employee Sub-Class Members; and 423 Non-Exempt Wage Statement Class Members.

A. The Effect of Membership in the Settlement Class.

If you are a Class Member as defined above, you are automatically a “Participating Class Member” unless you opt-out (i.e., exclude yourself from the Settlement by following the procedures set forth in this Notice). Participating Class Members are entitled to a share of the “Net Settlement Amount” (or, “NSA”) and will be bound by the Settlement if it is approved by the Court. Individuals who opt-out will not be bound by the Settlement and will not be eligible to receive a payment.

4. WHAT ARE THE TERMS OF THE SETTLEMENT?

The proposed Settlement was agreed upon between Defendants and Class Counsel following extensive litigation including formal discovery, motion practice, informal information/data exchange, and months of negotiations. The Parties concluded, after taking into account the risks and costs attendant to further litigation and substantial benefits to be received pursuant to the Settlement, that the Settlement is fair, adequate, and in the best interest of the Class Members. The United States District Court, Eastern District of California, by and through the Honorable William B. Shubb, approved the Settlement on a preliminary basis on , 2020.

A. Overall Summary of the Settlement Terms.

Defendants will pay \$411,000 to settle this case (referred to as the “Maximum Settlement Amount” or “MSA”). The MSA includes payments to Participating Class Members, the fees and costs of the Claims Administrator, a service payment to Plaintiff, and Class Counsel’s attorneys’ fees and costs, as well as a payment to the State of California.

B. Costs of Claims Administrator.

The Parties have agreed to employ Phoenix Class Action Administration Solutions to serve as Claims Administrator. The Claims Administrator's fees and costs for administering the Settlement, estimated to be no more than \$8,850, if approved by the Court, will be paid out of the MSA.

C. Payment to the State.

The Parties have allocated \$15,000 of the MSA to any civil penalties that could be awarded pursuant to the California Labor Code Private Attorneys General Act (the "PAGA"). Of that amount, \$11,250 will be paid to the California Labor and Workforce Development Agency, and the remaining amount (\$3,750) will be included in the amounts paid to the Participating Class Members.

D. Service Payment to Class Representative.

Plaintiff has been approved by the Court to serve as "Class Representative." As Class Representative, Plaintiff is entitled to a payment for her services to the Class. The Parties have agreed, and the Court has preliminarily approved a payment of \$2,500, or 0.608% of the MSA, for Plaintiff's services to the Class.

E. Class Counsel's Fees and Costs.

Class Counsel is entitled to attorney's fees and costs for representing the Class Members. Class Counsel will request attorneys' fees of one-third of the MSA, or \$137,000, and reimbursement of litigation costs of up to \$7,500. Defendants do not object to Class Counsel's request. The Court has preliminarily approved payment to Class Counsel in the amounts set forth above.

F. Individual Settlement Payment to Plaintiff.

Separate and apart from the Class claims, Plaintiff also agreed to settle her Individual FEHA Claims for a separate, confidential amount. Plaintiff will provide Defendants with a complete release broader than that impacting the Settlement Class, including a section 1542 waiver, of her individual claims as well as all other claims, known or unknown which she may have against Defendants.

G. Allocation of the Net Settlement Amount ("NSA")

The NSA shall be allocated as follows, subject to the Court's approval of these amounts: \$25,000 shall be distributed to the Sick Pay Class, 50% of the NSA, less the \$25,000 allocated to the Sick Pay Class, or no less than \$109,450, shall be distributed to the Former Employee Sub-Class, and 50% of the NSA, less the \$25,000 allocated to the Sick Pay Class, or no less than \$109,450, shall be distributed to the Non-Exempt Wage Statement Class.

H. What Can I Expect to Receive?

The payments to Participating Class Members (those who do not opt out) will be calculated as follows:

i. For Sick Pay Class Members -

The Settlement Share for each Participating Sick Pay Class Member will be determined by dividing the number of pay periods worked by the Participating Sick Pay Class Member during

the Sick Pay Class Period by the total pay periods worked by all Participating Sick Pay Class Members and multiplying the result by the portion of the Net Settlement allocated to the Sick Pay Class, i.e., \$25,000.

The Parties estimate that the *average* payment to each Participating Sick Pay Class Member will be approximately \$_____.

ii. For Former Employee Sub-Class Members –

Each Participating Former Employee Sub-Class Member will receive an equal share of the portion of the Net Settlement Amount allocated to the Former Employee Sub-Class, i.e. 50% of the NSA, less the \$25,000 allocated to the Sick Pay Class, which is expected to equal \$109,450.

The Parties estimate that the payment to each Former Employee Sub-Class Member will be approximately \$835.49.

iii. For Non-Exempt Wage Statement Class Members -

The Settlement Share for each Participating Non-Exempt Wage Statement Class Member will be determined by dividing the number of pay periods worked by the Participating Non-Exempt Wage Statement Class Member during the Non-Exempt Wage Statement Class Period by the total pay periods worked by all Participating Non-Exempt Wage Statement Class Members and multiplying the result by the portion of the Net Settlement Amount allocated to the Non-Exempt Wage Statement Class,

The Parties estimate that the payment to each Former Employee Sub-Class Member will be approximately \$_____.

Defendants' records indicate that you are a member of the _____ Class and/or the _____ Class. The records also indicate that you worked: (a) _____ workweeks during the Sick Pay Class Period; and/or (b) _____ workweeks during the Non-Exempt Wage Statement Class Period. It is estimated that your payment will be \$_____. It will not be possible to know the exact amount of your payment until the response deadline has passed and the Settlement Administrator knows the number of Participating Class Members.

One-third of the payments to the Sick Pay Class Members will be treated as wages and reported on a W-2 Form, and the remaining two-thirds will be treated as penalties and interest and reported on a Form 1099. The payments to the Former Employee Sub-Class and the Non-Exempt Wage Statement Class will be treated 100% as penalties and will be reported on a Form 1099, with no tax withholding.

Any and all Employer-side Taxes that Defendants would normally be responsible for paying will be paid by Defendants in addition to the Maximum Settlement Amount. Participating Class Members are responsible for any other taxes owing on their settlement payment(s).

5. WHAT AM I GIVING UP IF I DO NOT OPT OUT OF THE SETTLEMENT?

Each Participating Class Member shall forever and completely release and discharge Defendants and Released Parties from the Released Claims,.

“Released Parties” means Defendants, their respective parents, subsidiaries and related entities, and their respective officers, shareholders, directors, agents, employees, and insurers.

“Released Claims” means, 1) for Participating Non-Exempt Wage Statement Class Members, any and all claims for failure to furnish accurate itemized wage statements in violation of Labor Code section 226(e), which arose at any point between January 11, 2018 and November 30, 2020 that are or could have been pled based on the facts asserted in the FAC on behalf of the Non-Exempt Wage Statement Class, 2) for Participating Sick Pay Class Members any and all claims for failure to pay sick pay under Labor Code section 218.5 and all claims for restitution and other equitable relief, liquidated damages, or penalties for unfair business practices in violation of Business and Professions Code section 17200 et. seq., which arose at any point between January 11, 2015 and November 30, 2020 that are or could have been pled based on the facts asserted in the FAC on behalf of the Sick Pay Class, and 3) for Participating Former Employee Sub-Class Members, any and all claims for failure to timely pay all wages due and owing at the end of their employment in violation of Labor Code section 201-203 which arose at any point between January 11, 2016 and November 30, 2020 that are or could have been pled based on the facts asserted in the FAC on behalf of the Former Employee Sub-Class.

“Released PAGA Claims” means any and all PAGA Claims based upon Defendant’s alleged violation of Labor Code sections 201 – 203, 226, and 226.3, between January 11, 2018 and November 30, 2020.

If you do NOT exclude yourself by following the procedures set forth in this Notice and the Court approves the proposed Settlement, you will be deemed to have released these claims.

6. HOW DO I RECEIVE A PAYMENT?

All Class Members will receive a payment under this Settlement unless they opt-out. If you are a Class Member and you move or change your address, and you want to receive your settlement benefits at your new address, you must send a notice of your change of address to the Settlement Administrator, Phoenix Class Action Administration Solutions, [ADDRESS].

7. WHAT ARE THE REASONS FOR THE SETTLEMENT?

Class Counsel and Plaintiff agreed to enter into the proposed Settlement after weighing the risks and benefits of the Settlement when compared with those of continuing the litigation. The factors that Class Counsel and Plaintiff considered included the strength of the Class Members’ claims, the uncertainty and delay associated with continued litigation, a trial, and appeals, and the uncertainty of particular legal issues yet to be determined, including whether the Class would be certified. Class Counsel and Plaintiff balanced these and other substantial risks in determining that the proposed Settlement is fair, reasonable, and adequate in light of all circumstances and in the best interest of Class Members.

Although Defendants deny any liability or wrongdoing of any kind, they have agreed to the Settlement in order to avoid risks, costs, and disruption of business associated with protracted litigation.

8. WHAT ARE MY RIGHTS AND OPTIONS?

If you are a Class Member as defined above, you have the following rights and options under the proposed Settlement:

A. Participate in the Settlement, be represented by Class Counsel, and take no action.

If you take no further action, you will be a Participating Class Member, will be represented by Class Counsel, and will have the right to a share of the NSA. If the Settlement is approved by the Court, you will be bound by the terms of the Settlement and, as set forth above, will be deemed to have released your claims against

Defendants and the other Released Parties. As a Participating Class Member, you will not be charged for the services of Class Counsel.

B. Participate in the Settlement, but elect to hire your own attorney.

If you do not wish to be represented by Class Counsel, you may hire your own attorney. Your attorney must send a Notice of Appearance to the Claims Administrator at the address listed below, so that it is received no later than _____, _____ 2021. You will be responsible for any attorneys' fees and costs charged by your attorney.

C. Exclude yourself from the Settlement by opting out.

If you are a Class Member but **do not** want to participate in the settlement, you may exclude yourself by opting out. If you choose to opt-out, you will lose any right to participate in the Settlement and you will not be eligible to claim a share of the Settlement. You will be free to pursue any claims you may have against Defendants on your own behalf, but Class Counsel will not represent you.

In order to opt-out, you must notify the Claims Administrator in writing, at the address listed below. In order to be effective, your opt-out must be postmarked or delivered to the Claims Administrator no later than [45 days from the mailing of the Class Notice], and must be signed, contain your full name, current home (or mailing) address, the last four digits of your Social Security number, and written affirmation of your desire to opt-out containing the following or substantially similar language:

“I elect to opt-out of the *Flores v. Dart Container Corporation. et al.*, class action settlement. I understand that by doing so, I will not be able to participate in the settlement and will not receive a share of the settlement proceeds.”

If you do not comply with these procedures, you will lose any opportunity to exclude yourself from the Settlement, will be a Participating Class Member, will be represented by Class Counsel, and will receive a share of the NSA. If the Settlement is approved by the Court, you will be bound by the terms of the Settlement and, as set forth above, will be deemed to have released your claims against Defendants and the other Released Parties.

D. Object to the terms of the Settlement.

If you are dissatisfied with the terms of the Settlement, you may, but are not required to, object to the Settlement. All objections and supporting papers must (a) clearly identify the case name and number (*Flores v. Dart Container Corporation, et al.*, United States District Court, Eastern District of California, Case No. 2:19-cv-00083-WBS-EFB); (b) include your full name, address, telephone number, and the last four digits of your Social Security Number; (c) concisely state the grounds for your objection; (d) state whether you would like to appear at the Final Approval Hearing; and (e) be filed in writing with the Claims Administrator at the address listed below. To be timely, your objection must be postmarked or delivered to the Claims Administrator on or before [45 days following the mailing of the Class Notice].

If you have filed a timely and proper objection, you also may, but are not required to, appear and present argument at the Final Approval Hearing. Objections not timely postmarked or delivered to the Claims Administrator by [45 days after the mailing of the Notice Packet] will not be considered by the Court. If you file an objection that is not timely, or that does not include the information specified above, you will have no right to appear and present any argument at the final approval hearing.

You may be represented by an attorney at the final approval hearing. Any attorney who will represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before [45 days after the mailing of the Notice Packet]. All objections or other correspondence must state the name and number of the case – *Flores v. Dart Container Corporation, et al.*, United States District Court, Eastern District of California, Case No. 2:19-cv-00083-WBS-EFB.

9. WHEN IS THE COURT HEARING AND WHAT IS IT FOR?

The Court will hold the Final Approval Hearing in the Robert T. Matsui Federal Courthouse, 501 I Street, Sacramento, California 95814, on _____, ___ 20__, at 1:30 p.m. in Courtroom 5 (14th Floor), to determine whether the Settlement should be finally approved as fair, reasonable and adequate. The Court will also be asked to approve the fees and costs of the Claims Administrator, the payment to the State of California, the service payment to the Class Representative, and the fees and costs of Class Counsel. **It is not necessary for you to appear at this hearing to participate in the Settlement.** If you want to be heard orally in support of or in opposition to the Settlement, either personally or through counsel, you must comply with the procedures set forth above.

10. HOW CAN I GET MORE INFORMATION?

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the Joint Stipulation Regarding Class Action and PAGA Settlement and Release. The Settlement, as well as the pleadings and other records in this litigation, including Motion for Preliminary Approval, Motion for Final Approval, and Motion for Attorneys’ Fees, Costs and Service Payment, are available by accessing the Court docket in this case through the Court’s Public Access to Electronic Records (Pacer) system at <https://ecf.caed.uscourts.gov>, or by visiting the Clerk Court at any time between 9:00 a.m. and 4:00 p.m., Monday through Friday, in the Clerk’s Office located at 501 I Street, Room 4-200, Sacramento, California 95814. You may also view the Court’s Order of Preliminary Approval and, once they are filed, the Motion for Attorneys’ Fees, Costs and Service Payment, Motion for Final Approval, and Order Granting Final Approval, online at www._____settlement.com. The Motion for Attorneys’ Fees, Costs and Service Payment will appear online on or before [28 days before the Final Approval Hearing]. The Motion for Final approval will appear online on or before [28 days before the Final Approval Hearing].

If you have questions about the Settlement, you may contact Class Counsel or the Claims Administrator as follows:

Class Counsel	Claims Administrator
Jenny D. Baysinger, Esq. Robert J. Wasserman, Esq. Mayall Hurley P.C. 2453 Grand Canal Blvd. Stockton, CA 95242 Telephone: (209) 477-3833	Flores v. Dart Container Corporation, et al. c/o Phoenix Class Action Administration Solutions ADDRESS CITY, STATE ZIP Telephone: (209) 867-5309

PLEASE DO NOT WRITE OR TELEPHONE THE COURT, DEFENDANTS, OR DEFENDANTS’ ATTORNEYS FOR INFORMATION ABOUT THE PROPOSED SETTLEMENT OR THIS LAWSUIT.

THE COURT HAS APPROVED THIS NOTICE.