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ALAMEDA COUNTY

MAY 03 2021

CLERK OF THE SUPERIOR COURT

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

DIRK SPENCER, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

v.

CONXTECH INC., a Delaware
corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO. RG19034467

[Assigned for all purposes to the Hon. Brad
Seligman, Dept. 23]

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Reservation ID: R-2233234

Date: March 30, 2021
Time: 3:00 p.m.
Dept. 23

1 On March 30, 2021, Plaintiff Dirk Spencer's ("Plaintiff") Motion for Preliminary
2 Approval of Class Action Settlement came on for hearing in this Department. The Parties sought
3 this Court's approval of the Joint Stipulation of Class Action Settlement ("Settlement Agreement"
4 or "Settlement").

5 NOW THEREFORE, having read and considered the Settlement Agreement and Exhibits
6 thereto, IT IS HEREBY ORDERED:

7 1. This Order hereby incorporates by reference the definitions in the Settlement
8 Agreement as though fully set forth herein, and all terms used herein shall have the same meaning
9 as set forth in the Settlement Agreement.

10 2. The Court conditionally certifies and approves, for settlement purposes only the
11 following Class:

12 All employees employed by Defendant in the State of California who
13 received a wage statement with the "SHIFT2" pay code at any time
14 during the Class Period (September 10, 2018, through October 23,
15 2020).

16 3. For the purposes of this Settlement, Polaris Law Group, LLP and Hyun Legal, APC
17 are hereby appointed as Class Counsel and shall represent the Class Members in this Class
18 Action. Any Class Member may enter an appearance in the Class Action, at their own expense,
19 either individually or through counsel of their own choice. However, if they do not enter an
20 appearance, they will be represented by Class Counsel.

21 4. For the purposes of this Settlement, Plaintiff is hereby appointed as Class
22 Representative.

23 5. The Court hereby preliminarily approves the proposed Settlement upon the terms,
24 conditions, and all release language set forth in the Settlement Agreement. The Court finds that
25 the Settlement appears to be within the range of reasonableness necessary for preliminary
26 approval by the Court. It appears to the Court that the Settlement's terms are fair, adequate, and
27 reasonable as to all potential Class Members when balanced against the probable outcome of
28 further litigation, given the risks relating to class certification, liability and damages. It further

1 appears that extensive investigation and research has been conducted such that counsel for the
2 Parties at this time are reasonably able to evaluate their respective positions. It further appears to
3 the Court that the Settlement at this time would avoid substantial additional costs by all Parties, as
4 well as the delay and risks that would be presented by the further prosecution of the Class Action.
5 It appears the Settlement has been reached as a result of intensive, arms-length negotiations
6 utilizing an experienced third party neutral.

7 6. The Court confirms Phoenix Settlement Administrators as the Settlement
8 Administrator and preliminarily approves that Settlement administrative costs shall be paid in
9 accordance with the Settlement Agreement and deducted from the Gross Settlement Amount. To
10 the extent the actual costs of administration of the Settlement are less than the amount anticipated
11 by the Settlement Agreement, the remainder shall become part of the Net Settlement Amount.
12 The cost of administration includes all tasks required of the Settlement Administrator by the
13 Settlement Agreement, including the issuance of the Notice of Proposed Class Action Settlement
14 (“Notice Packet”). Phoenix Settlement Administrators is directed to perform all other
15 responsibilities set forth for the Settlement Administrator as set forth in the Settlement
16 Agreement.

17 7. A Final Approval Hearing (the “Hearing”) shall be held before the Honorable Judge
18 Seligman in Department 23 of the Alameda Superior Court. The purpose of such Hearing will be
19 to: (a) determine whether the proposed Settlement should be finally approved by the Court as fair,
20 reasonable and adequate; (b) determine the reasonableness of Class Counsel’s request for
21 attorneys’ fees and costs; (c) determine the reasonableness of the Class Representative Incentive
22 Award requested for the Class Representative; and (d) order entry of Judgment in the Class
23 Action, which shall constitute a complete release and bar with respect the Released Claims
24 described in Paragraph 13, below.

25 8. The Court hereby approves, as to form and content, the Notice Packet attached as
26 Exhibit A to the Settlement Agreement. The Court finds the dates and procedure for mailing and
27 distributing the Notice Packet in the manner set forth in Paragraph 9 of this Order meets the
28 requirements of due process and are the best notice practicable under the circumstances and shall

1 constitute due and sufficient notice to all persons entitled thereto.

2 9. The Court directs the mailing of the Court approved Notice Packet via U.S. First
3 Class mail to the Class Members in accordance with the schedule and procedures set forth in the
4 Settlement. Attached hereto as Exhibits "A" and "B" are true and correct copies of the redlined
5 and clean versions of the Notice Packet, as revised pursuant to this Court's Order.

6 A. Within fifteen (15) calendar days of this Court's Order, Defendant will provide the
7 Class List and Data to the Settlement Administrator. The Class List and Data shall
8 be formatted as a Microsoft Office Excel spreadsheet and shall include: each Class
9 Member's full name; employee number; most recent mailing address; Social
10 Security number; and the number of wage statements bearing the "SHIFT2" pay
11 code each Class Member received during the Class Period; and

12 B. The Settlement Administrator shall mail to Class Members' last known address the
13 Notice Packet within ten (10) calendar days of receiving the complete database
14 report from Defendant. If a mailing is returned as undeliverable to a Class
15 Member, then the Settlement Administrator will use reasonable efforts, as set forth
16 in the Settlement, to obtain a valid current address for that Settlement Class
17 member, and shall send, by first-class mail, a second copy of the mailing to the
18 Class Member. Class Members will have no more than forty-five days (45) after
19 the date of the original mailing of the Notice Packet to exercise their right to object
20 to or opt out of the Settlement.

21 10. Class Members may request exclusion from the Settlement Class by submitting a
22 Request for Exclusion as set forth in the Settlement Agreement. In order to be valid, the Request
23 for Exclusion must be postmarked no later than forty-five (45) calendar days after the date the
24 Notice Packet was first mailed. Any Class Member who submits a valid and timely request for
25 Exclusion will not be entitled to any recovery under the Settlement and will not be bound by the
26 Settlement or have any right to object, appeal or comment thereon. Class Members who fail to
27 submit valid and timely Request for Exclusion shall remain Class Members and shall be bound by
28 all terms of the Settlement and any Final Judgment.

1 11. Class Members who do not submit a Request for Exclusion may object to the
2 Settlement and appear at the Final Approval Hearing to show cause why the proposed Settlement
3 should not be approved, Judgment in the Class Action should not be entered, and to present any
4 opposition to the application of Class Counsel for attorneys' fees, costs and expenses. For the
5 Notice of Objection to be valid, it must include: (a) the objector's full name, signature, address,
6 and telephone number; (b) a written statement of basis for the objection; and (c) any copies of
7 papers, briefs, or documents upon which the objection is based. The Notice of Objection must be
8 returned by mail to the Settlement Administrator at the specified address indicated in the Notice
9 Packet, and be postmarked or by the Response Deadline. Nevertheless, even if the Plaintiff Class
10 Member does not file and serve any written objection, the Plaintiff Class Member may still
11 appear at the final approval hearing to object to the Settlement. Any Class Member who does not
12 make his or her objection in the manner provided for herein, or fails to appear and object at the
13 Final Approval Hearing shall be deemed to have waived such objection and shall forever be
14 foreclosed from making any objection to the fairness or adequacy of the proposed Settlement
15 Agreement or to the award of attorneys' fees and costs and expenses to Class Counsel unless
16 otherwise ordered by the Court.

17 12. In the event that Class Members have a dispute as to the data provided by the
18 Defendant, Class Members will have the opportunity to provide documentation and/or an
19 explanation. If there is a dispute, the Settlement Administrator will consult with the Parties to
20 determine whether an adjustment is warranted. The Settlement Administrator shall determine the
21 eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this
22 Agreement, and that determination shall be binding. Class Members shall have thirty (30)
23 calendar days from the mailing of the Notice Packet to submit any disputes regarding their
24 Individual Settlement Payments to the Settlement Administrator. The Settlement Administrator
25 shall have ten (10) calendar days to resolve the dispute. Any disputes not resolved by the
26 Settlement Administrator concerning the administration of the Settlement will be resolved by the
27 Court under the laws of the State of California. Prior to any such involvement of the Court,
28 counsel for Parties will confer in good faith to resolve the disputes without the necessity of

1 involving the Court.

2 13. The Court hereby preliminarily approves the definition and disposition of the Gross
3 Settlement Amount as that term is defined in the Settlement Agreement. The Court preliminarily
4 approves the distribution of the Gross Settlement Amount, all subject to the Court's final approval
5 of the Settlement at the Final Approval Hearing. Assuming the Settlement receives final
6 approval, Defendant shall be required to pay only the Gross Settlement Amount in the total
7 amount of One Hundred and Fifteen Thousand Dollars (\$115,000) per the payment schedule set
8 forth in the Agreement.

9 14. The following dates shall govern for the purposes of this Settlement.

Schedule for Execution of Settlement	
No later than fifteen (15) calendar days after the entry of this Order	Last day for Defendant to provide Class List and Data to Settlement Administrator
No more than ten (10) calendar days after receipt of Class List and Data by Settlement Administrator	Last day for Settlement Administrator to mail Notice to Class Members.
No more than forty-five (45) calendar days after mailing of Notice	Last day for Class Members to postmark their Request for Exclusion, or Notice of Objection.
16 Court days prior to hearing on Motion for Final Approval	Last day to file papers in support of the Settlement and any application for reimbursement of attorneys' fees and expenses, including any expenses associated with or incurred by the Settlement Administrator
August 31, 2021 at 2:00 p.m.	Final Approval Hearing.

21
22 15. The Court reserves the right to adjourn the date of the Hearing without further notice
23 to the Class Members, and retains jurisdiction to consider all further applications arising out of or
24 connected with the proposed Settlement.


25 16. In the event: (i) the Court does not finally approve the Settlement as contemplated by
26 the Settlement Agreement; (ii) the Court does not enter a Final Approval Order as contemplated
27 by the Settlement Agreement, which becomes final as a result of the occurrence of the Effective
28 Date (as that term is defined by in the Settlement); (iii) Defendant elects to void the Settlement as

1 provided under the terms of the Settlement Agreement; or (iv) the Settlement does not become
2 final for any other reason, the Settlement and related Class shall be null and void and any order or
3 judgment entered by this Court in furtherance of the Settlement shall be deemed as void from the
4 beginning. In such a case, the Parties and any funds to be awarded under this Settlement shall be
5 returned to their respective statuses as of the date and time immediately prior to the execution of
6 the Settlement, and the Parties shall proceed in all respects as if the Settlement Agreement had not
7 been executed.

8 17. If, for any reason, the Settlement Agreement is not finally approved or does not
9 become effective, this Order Granting Preliminary Approval shall be deemed vacated and shall
10 have no force or effect whatsoever, and the Action shall proceed as if no settlement had been
11 attempted.

12 **IT IS SO ORDERED.**

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14 Dated: 5/13/21



Honorable Judge of the Superior Court

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EXHIBIT "A"

NOTICE OF CLASS ACTION SETTLEMENT

If you were employed by Defendant Conxtech, Inc. (“Defendant”) in California and received a wage statement with the “SHIFT2” pay code at any time during the period of September 10, 2018, through October 23, 2020, then you will be entitled to get money from a Class Action Settlement.

A Court approved this notice. This is not an advertisement.

You are not being sued. Your legal rights are affected whether you act or not.

PLEASE READ THIS NOTICE.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
INCLUDE THE FOLLOWING:	
DO NOTHING	You will receive a payment from the Settlement. No action is required for you to get your share of this Settlement.
EXCLUDE YOURSELF	<u>Get no payment.</u> This is the only option that allows you to file your own lawsuit against Defendant for the claims released in this Settlement. For information on how to exclude yourself, see page 5. The deadline to exclude is [insert date].
OBJECT	If you choose, you may object to this Settlement. The Court may or may not agree with your objection. Objecting to the Settlement will not exclude you from the Settlement. For information on how to object to the Settlement, see page 5. The deadline to object is [insert date].

WHAT IS IN THIS NOTICE

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I. Why Should You Read This Notice?

You have received this Notice because records indicate that you are a Class Member of the settlement class settled in a class action, as defined below. The Settlement will resolve all class claims described below during the Class Period, which is between September 10, 2018, through October 23, 2020.

This Notice tells you of your rights to share in the Settlement. There was a hearing on March 29, 2021, at 3:00 p.m. in the Alameda Superior Court, State of California. Judge Seligman determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate and reasonable and that a final determination of the issues will be made at the final approval hearing. Judge Seligman also ordered that you receive this Notice.

“Class Members” includes all employees employed by Defendant Conxtech, Inc. (“Defendant”) in the State of California who received a wage statement with the “SHIFT2” pay code at any time from September 10, 2018, through October 23, 2020.

The Court will hold a Final Approval Hearing concerning the proposed Settlement on [date] at [time], in Department 23 of the Alameda Superior Court located at 1221 Oak Street, Oakland, CA 94612. The Final Approval Hearing may be continued to another date without further notice.

2. *What is the Class Action Settlement?*

A class action settlement is one where the named plaintiff and the company enter into an agreement to resolve claims on behalf of class members, which includes you. Here, Plaintiff Dirk Spencer and Conxtech have entered into such a class action settlement agreement. The Court must approve the terms of the Settlement described herein as fair, adequate, and reasonable to the Class Members. The Settlement will affect all Class Members. You may get money from the Class Action Settlement. This Notice will explain the terms of the Settlement and the amount of money you may receive under the Settlement.

3. *What Is the Case About?*

On or about September 10, 2019, Plaintiff filed a civil Complaint asserting individual, class action and PAGA claims for violation of Labor Code § 226(a). The Complaint asserted that Defendant did not accurately list the total hours worked and did not correctly list its address.

Conxtech denies the allegations raised in the Action and strongly believes it has no liability for any of Plaintiff’s or Class Members’ claims under any statute, wage order, common law, or equitable theory.

Despite both Parties’ positions and arguments, the Parties reached a Settlement subject to Court approval as represented in the Joint Stipulation of Class Action Settlement and Release (the “Settlement” or “Settlement Agreement”). Class Counsel believe that the Settlement is fair, reasonable, and adequate, and is in the best interests of Class Members. Likewise, Defendant decided that settlement is favorable because it avoids the time, risk, and expense of a lengthy lawsuit, and settlement immediately resolves, finally and completely, the pending and potential claims. Defendant does not admit, concede or imply that they have done anything wrong or legally actionable by settling this lawsuit.

4. *How Much Can I Expect to Receive?*

Defendant will pay a total sum of One Hundred Fifteen Thousand Dollars (\$115,000) ("Gross Settlement Amount"), which includes all settlement payments, attorneys' fees and litigation costs and expenses, costs of administering the Settlement, the Class Representatives Incentive Awards, and payment to the Labor Workforce and Development Agency ("LWDA"). Plaintiff's counsel is seeking attorneys' fees of up to 1/3 of the Gross Settlement Amount, or \$38,333.33, and costs up to \$7,500.00. Plaintiff is seeking up to \$5,000.00 as his Incentive Award. If there are no objections, or appeals, Defendant will pay the Gross Settlement Amount within thirty (30) calendar days of the date the Court enters an order of preliminary approval of the settlement into a Qualified Settlement Fund and you should expect to be paid approximately 50-60 days from the date of final approval.

After attorneys' fees, costs, costs of administering the Settlement, the Class Representative Incentive Awards, payment to the Labor Workforce and Development Agency, what remains (the "Net Settlement Amount") will be available to pay all Participating Class Members' Individual Settlement Payments based on the number of wage statements that they received during the Class Period which contained the "SHIFT2" pay code. Each Class Member shall be assigned an "Individual Wage Statement Number" by adding the total number of wage statements that he or she received during the Class Period containing the "SHIFT2" pay code. Then, each Class Member's total wage statements will be divided by the total number of wage statements containing "SHIFT2" wages received by all Class Members and multiplied against the Net Settlement Amount.

Defendant's records indicate that you received ___ wage statements containing the "SHIFT2" pay code during the Class Period. Based on this estimate and Defendant's records, your estimated payment as a Class Member would be \$ _____.

If you dispute your wage statement count, you must postmark a letter to the Settlement Administrator listed at the end of this Notice on or before _____. You should submit to the Settlement Administrator documentation to support your position. The Settlement Administrator's determination is conclusive, final and binding. The Settlement Administrator will make its determination within seven calendar days of receiving your dispute. If you are still dissatisfied with the assessment of your Individual Wage Statement Number, you may choose to opt out of the settlement as set forth below, provided you do so prior to the Response Deadline.

NOTE: EVEN IF YOU DISPUTE THE AMOUNT OF YOUR INDIVIDUAL SETTLEMENT PAYMENT, YOU WILL STILL RECEIVE MONEY FROM THE SETTLEMENT, BUT THE AMOUNT MAY BE DIFFERENT FROM YOUR ESTIMATED PAYMENT LISTED ABOVE. YOU WILL RECEIVE MONEY FROM THE SETTLEMENT BASED ON THE FORMULA SUMMARIZED ABOVE UNLESS YOU 1) DISPUTE YOUR INDIVIDUAL WAGE STATEMENT NUMBER LISTED ABOVE, OR 2) OPT OUT OF THE SETTLEMENT.

It is also your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your payment under the Settlement.

5. *Why Did Defendant Join in This Notice?*

Defendant does not admit any claim alleged in the lawsuit and denies that it owes money for any of the claims in this matter. Defendant is settling the lawsuit as a compromise. Defendant reserves the right to object to and defend themselves against any claim if, for any reason, the Settlement fails. The

Settlement Administrator's website contains all documents submitted to the Court regarding this Settlement, and may be accessed at [list claims administrator's website].

6. *Who Is the Plaintiff in This Class Action?*

Dirk Spencer is the Plaintiff and Class Representative in this class action lawsuit. He is acting on behalf of himself and on behalf of other Class Members.

7. *Who Are the Attorneys Representing the Plaintiff?*

William L. Marder, Cal Bar No. 170131
POLARIS LAW GROUP, LLP
501 San Benito Street, Suite 200
Hollister, California 95023
Telephone: 831.531.4214
Facsimile: 831.634.0333

Dennis S. Hyun (State Bar No. 224240)
HYUN LEGAL, APC
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

*Please contact Plaintiff's attorneys should you have any questions regarding this settlement.

8. *What are my Rights? How will my Rights be Affected?*

Class Counsel, appointed and approved by the Court for Settlement only, will represent you.

Participating in the Settlement

Under the Settlement, you will **automatically** receive a settlement payment unless you opt out by following the opt-out procedure set forth below. Please be advised that you will have 180 days to cash your Individual Settlement Payment. If you do not cash your check within 180 days, your Individual Settlement Payment will be sent to Legal Aid at Work.

If you are a current employee of Defendant, your decision as to whether or not to participate in this Settlement will **not** affect or in any way impact your employment.

Objecting to the Settlement

If you wish to Object to the Settlement, you must submit your written Objection to the Settlement Administrator stating the basis of your objection to the Settlement. You may object to any of the terms in the agreement, including but not limited to the proposed attorneys' fees, Plaintiff's incentive awards, settlement administrator's payment, and Labor Workforce and Development Agency ("LWDA") payment. The Objection must be signed by you and include your full name, most current address, most current telephone number, dates of your employment with Defendant, and last four digits of your Social Security number. The Objection must be mailed to the Settlement Administrator (whose address is listed below) and must be postmarked no later than _____. Late Objections will not be considered. If you are represented by an attorney, your attorney must file and serve upon the Parties' counsel a notice of appearance.

If you wish, you may also appear at the Final Approval Hearing set for _____, at _____ a.m. in Dept. 23 of the Alameda Superior Court and discuss your objections with the Court and

the Parties. Note, you can still appear at the Final Approval Hearing and object even if you did not submit a written objection. ~~You are also advised that the Court will issue a tentative ruling the day before the Final Approval Hearing, which is available to the general public at <http://www.alameda.courts.ca.gov/pages.aspx/domainweb>. A tentative ruling means just that, i.e., the way the Court is inclined to rule unless someone at the hearing can persuade the Court to rule otherwise. If you disagree with the Court's tentative ruling, you must notify the Court and the Parties' attorneys at the contact information listed above and the Court's clerk by 4:00 p.m. on the court day before the Final Approval hearing.~~

The Final Approval Hearing may be continued to another date without further notice.

IF YOU OBJECT TO THE SETTLEMENT, YOU WILL STILL RECEIVE YOUR SHARE OF THE SETTLEMENT IF THE COURT APPROVES THE SETTLEMENT.

Opting Out of the Settlement

If you wish to be excluded from participating in the Settlement, you must mail a written Request for Exclusion to the Settlement Administrator at the address below requesting to be excluded from the Settlement. To be considered valid, your Request for Exclusion must be signed by you, and contain your name, address, telephone number, and the last four digits of your Social Security number. Your Request for Exclusion also must clearly indicate that you desire to be excluded from the Settlement. To be considered timely, your Request for Exclusion must be postmarked no later than . Late Requests for Exclusion will not be considered.

If you timely mail a complete and valid Request for Exclusion, you will no longer be a member of the Settlement Class, and you will not be eligible to receive money under the Settlement or object to the terms of the Settlement.

Effect of the Settlement on Your Rights

If the proposed Settlement is approved by the Court, a Judgment will be entered by the Court as to the Class Action, which will essentially end the case.

If the Settlement is approved and you do not exclude yourself from the Settlement, you will receive compensation and will fully and finally release and discharge Defendant, and any of its predecessors, if any, as well as each of its respective predecessors, successors, companies, divisions, subsidiaries, shareholders, and parents, and collectively, their respective former, current and future directors, officers, employees, assigns, heirs, executors, administrators, and beneficiaries (the "Released Parties") from:

- a. All claims based on the facts alleged in the operative Complaint that accrued at any time from September 10, 2018, through October 23, 2020, and specifically claims for Failure to Provide Inaccurate Wage Statements pursuant to Labor Code sections 226 and 226.3;
- b. All claims for penalties under the California Private Attorneys' General Act predicated on the violations of Labor Code sections 226, and 226.3, based on the facts as alleged in the operative Complaint that accrued at any time from September 10, 2018, through October 23, 2020.

9. How Will the Attorneys for the Class and Others Be Paid?

The attorneys for the Class Representative and the Settlement Class will be paid from the Gross Settlement Fund of \$115,000. The attorneys are seeking a fee of \$38,333.33 as well as reimbursement of their costs, up to \$7,500. Plaintiff is seeking an enhancement award of \$5,000 from the Settlement for his services as the Class Representative. The Settlement Administrator estimates that the cost of administration will be \$***. The Labor Workforce and Development Agency ("LWDA") will receive \$15,000 from the Settlement, which is allocated as required by California Labor Code § 2699. All of these amounts are to be deducted from the Gross Settlement Amount of \$115,000, with the remainder available for distributions to Participating Class Members. While the \$115,000 Gross Settlement Amount is fixed, the actual amounts awarded to Class Counsel, Plaintiff, the LWDA, and the Settlement Administrator, and deducted from the Gross Settlement Fund, will be determined by the Court at the Final Approval Hearing.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS

You may call Class Counsel, Dennis S. Hyun (213-488-6555), or call the Settlement Administrator at the telephone number listed below, toll free. Please direct your call to the Settlement Administrator.

***** Settlement Administrator
c/o *****
[ADDRESS]
[Toll Free Telephone Number]

All documents submitted to the Court regarding this Settlement, including the operative complaint, may be accessed at (list claims administrator's website). The pleadings and other records in this litigation may also be examined online on the Alameda County Superior Court's website, known as "Domain Web," at <https://publicrecords.alameda.courts.ca.gov/PRS/>. After arriving at the website, click the "Search By Case Number" link, then enter RG19034467, as the case number and click "SEARCH." Images of every document filed in the case may be viewed through the 'Register of Actions' at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings. If your address has changed, please contact the Settlement Administrator.

DO NOT TELEPHONE THE COURT FOR LEGAL ADVICE OR FOR INFORMATION ABOUT THIS SETTLEMENT.

EXHIBIT "B"

NOTICE OF CLASS ACTION SETTLEMENT

If you were employed by Defendant Conxtech, Inc. (“Defendant”) in California and received a wage statement with the “SHIFT2” pay code at any time during the period of September 10, 2018, through October 23, 2020, then you will be entitled to get money from a Class Action Settlement.

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You are not being sued. Your legal rights are affected whether you act or not.

PLEASE READ THIS NOTICE.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
INCLUDE THE FOLLOWING:	
DO NOTHING	You will receive a payment from the Settlement. No action is required for you to get your share of this Settlement.
EXCLUDE YOURSELF	<u>Get no payment.</u> This is the only option that allows you to file your own lawsuit against Defendant for the claims released in this Settlement. For information on how to exclude yourself, see page 5. The deadline to exclude is [insert date].
OBJECT	If you choose, you may object to this Settlement. The Court may or may not agree with your objection. Objecting to the Settlement will not exclude you from the Settlement. For information on how to object to the Settlement, see page 5. The deadline to object is [insert date].

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I. *Why Should You Read This Notice?*

You have received this Notice because records indicate that you are a Class Member of the settlement class settled in a class action, as defined below. The Settlement will resolve all class claims described below during the Class Period, which is between September 10, 2018, through October 23, 2020.

This Notice tells you of your rights to share in the Settlement. There was a hearing on March 29, 2021, at 3:00 p.m. in the Alameda Superior Court, State of California. Judge Seligman determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate and reasonable and that a final determination of the issues will be made at the final approval hearing. Judge Seligman also ordered that you receive this Notice.

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The Court will hold a Final Approval Hearing concerning the proposed Settlement on [date] at [time], in Department 23 of the Alameda Superior Court located at 1221 Oak Street, Oakland, CA 94612. The Final Approval Hearing may be continued to another date without further notice.

2. *What is the Class Action Settlement?*

A class action settlement is one where the named plaintiff and the company enter into an agreement to resolve claims on behalf of class members, which includes you. Here, Plaintiff Dirk Spencer and Conxtech have entered into such a class action settlement agreement. The Court must approve the terms of the Settlement described herein as fair, adequate, and reasonable to the Class Members. The Settlement will affect all Class Members. You may get money from the Class Action Settlement. This Notice will explain the terms of the Settlement and the amount of money you may receive under the Settlement.

3. *What Is the Case About?*

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Conxtech denies the allegations raised in the Action and strongly believes it has no liability for any of Plaintiff’s or Class Members’ claims under any statute, wage order, common law, or equitable theory.

Despite both Parties’ positions and arguments, the Parties reached a Settlement subject to Court approval as represented in the Joint Stipulation of Class Action Settlement and Release (the “Settlement” or “Settlement Agreement”). Class Counsel believe that the Settlement is fair, reasonable, and adequate, and is in the best interests of Class Members. Likewise, Defendant decided that settlement is favorable because it avoids the time, risk, and expense of a lengthy lawsuit, and settlement immediately resolves, finally and completely, the pending and potential claims. Defendant does not admit, concede or imply that they have done anything wrong or legally actionable by settling this lawsuit.

4. *How Much Can I Expect to Receive?*

Defendant will pay a total sum of One Hundred Fifteen Thousand Dollars (\$115,000) ("Gross Settlement Amount"), which includes all settlement payments, attorneys' fees and litigation costs and expenses, costs of administering the Settlement, the Class Representative Incentive Award, and payment to the Labor Workforce and Development Agency ("LWDA"). Plaintiff's counsel is seeking attorneys' fees of up to 1/3 of the Gross Settlement Amount, or \$38,333.33, and costs up to \$7,500.00. Plaintiff is seeking up to \$5,000.00 as his Incentive Award. If there are no objections, or appeals, Defendant will pay the Gross Settlement Amount within thirty (30) calendar days of the date the Court enters an order of preliminary approval of the settlement into a Qualified Settlement Fund and you should expect to be paid approximately 50-60 days from the date of final approval.

After attorneys' fees, costs, costs of administering the Settlement, the Class Representative Incentive Awards, payment to the Labor Workforce and Development Agency, what remains (the "Net Settlement Amount") will be available to pay all Participating Class Members' Individual Settlement Payments based on the number of wage statements that they received during the Class Period which contained the "SHIFT2" pay code. Each Class Member shall be assigned an "Individual Wage Statement Number" by adding the total number of wage statements that he or she received during the Class Period containing the "SHIFT2" pay code. Then, each Class Member's total wage statements will be divided by the total number of wage statements containing "SHIFT2" wages received by all Class Members and multiplied against the Net Settlement Amount.

Defendant's records indicate that you received _____ wage statements containing the "SHIFT2" pay code during the Class Period. Based on this estimate and Defendant's records, your estimated payment as a Class Member would be \$_____.

If you dispute your wage statement count, you must postmark a letter to the Settlement Administrator listed at the end of this Notice on or before _____. You should submit to the Settlement Administrator documentation to support your position. The Settlement Administrator's determination is conclusive, final and binding. The Settlement Administrator will make its determination within seven calendar days of receiving your dispute. If you are still dissatisfied with the assessment of your Individual Wage Statement Number, you may choose to opt out of the settlement as set forth below, provided you do so prior to the Response Deadline.

NOTE: EVEN IF YOU DISPUTE THE AMOUNT OF YOUR INDIVIDUAL SETTLEMENT PAYMENT, YOU WILL STILL RECEIVE MONEY FROM THE SETTLEMENT, BUT THE AMOUNT MAY BE DIFFERENT FROM YOUR ESTIMATED PAYMENT LISTED ABOVE. YOU WILL RECEIVE MONEY FROM THE SETTLEMENT BASED ON THE FORMULA SUMMARIZED ABOVE UNLESS YOU 1) DISPUTE YOUR INDIVIDUAL WAGE STATEMENT NUMBER LISTED ABOVE, OR 2) OPT OUT OF THE SETTLEMENT.

It is also your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your payment under the Settlement.

5. *Why Did Defendant Join in This Notice?*

Defendant does not admit any claim alleged in the lawsuit and denies that it owes money for any of the claims in this matter. Defendant is settling the lawsuit as a compromise. Defendant reserves the right to object to and defend themselves against any claim if, for any reason, the Settlement fails. The

Settlement Administrator's website contains all documents submitted to the Court regarding this Settlement, and may be accessed at [list claims administrator's website].

6. Who Is the Plaintiff in This Class Action?

Dirk Spencer is the Plaintiff and Class Representative in this class action lawsuit. He is acting on behalf of himself and on behalf of other Class Members.

7. Who Are the Attorneys Representing the Plaintiff?

William L. Marder, Cal Bar No. 170131
POLARIS LAW GROUP, LLP
501 San Benito Street, Suite 200
Hollister, California 95023
Telephone: 831.531.4214
Facsimile: 831.634.0333

Dennis S. Hyun (State Bar No. 224240)
HYUN LEGAL, APC
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

*Please contact Plaintiff's attorneys should you have any questions regarding this settlement.

8. What are my Rights? How will my Rights be Affected?

Class Counsel, appointed and approved by the Court for Settlement only, will represent you.

Participating in the Settlement

Under the Settlement, you will **automatically** receive a settlement payment unless you opt out by following the opt-out procedure set forth below. Please be advised that you will have 180 days to cash your Individual Settlement Payment. If you do not cash your check within 180 days, your Individual Settlement Payment will be sent to Legal Aid at Work.

If you are a current employee of Defendant, your decision as to whether or not to participate in this Settlement will not affect or in any way impact your employment.

Objecting to the Settlement

If you wish to **Object to the Settlement**, you must submit your written Objection to the Settlement Administrator stating the basis of your objection to the Settlement. You may object to any of the terms in the agreement, including but not limited to the proposed attorneys' fees, Plaintiff's incentive awards, settlement administrator's payment, and Labor Workforce and Development Agency ("LWDA") payment. The Objection must be signed by you and include your full name, most current address, most current telephone number, dates of your employment with Defendant, and last four digits of your Social Security number. The Objection must be mailed to the Settlement Administrator (whose address is listed below) and must be postmarked no later than _____. Late Objections will not be considered. If you are represented by an attorney, your attorney must file and serve upon the Parties' counsel a notice of appearance.

If you wish, you may also appear at the Final Approval Hearing set for _____, at _____ a.m. in Dept. 23 of the Alameda Superior Court and discuss your objections with the Court and

the Parties. Note, you can still appear at the Final Approval Hearing and object even if you did not submit a written objection. The Final Approval Hearing may be continued to another date without further notice.

IF YOU OBJECT TO THE SETTLEMENT, YOU WILL STILL RECEIVE YOUR SHARE OF THE SETTLEMENT IF THE COURT APPROVES THE SETTLEMENT.

Opting Out of the Settlement

If you wish to be excluded from participating in the Settlement, you must mail a written Request for Exclusion to the Settlement Administrator at the address below requesting to be excluded from the Settlement. To be considered valid, your Request for Exclusion must be signed by you, and contain your name, address, telephone number, and the last four digits of your Social Security number. Your Request for Exclusion also must clearly indicate that you desire to be excluded from the Settlement. To be considered timely, your Request for Exclusion must be postmarked no later than . Late Requests for Exclusion will not be considered.

If you timely mail a complete and valid Request for Exclusion, you will no longer be a member of the Settlement Class, and you will not be eligible to receive money under the Settlement or object to the terms of the Settlement.

Effect of the Settlement on Your Rights

If the proposed Settlement is approved by the Court, a Judgment will be entered by the Court as to the Class Action, which will essentially end the case.

If the Settlement is approved and you do not exclude yourself from the Settlement, you will receive compensation and will fully and finally release and discharge Defendant, and any of its predecessors, if any, as well as each of its respective predecessors, successors, companies, divisions, subsidiaries, shareholders, and parents, and collectively, their respective former, current and future directors, officers, employees, assigns, heirs, executors, administrators, and beneficiaries (the "Released Parties") from:

- a. All claims based on the facts alleged in the operative Complaint that accrued at any time from September 10, 2018, through October 23, 2020, and specifically claims for Failure to Provide Inaccurate Wage Statements pursuant to Labor Code sections 226 and 226.3;
- b. All claims for penalties under the California Private Attorneys' General Act predicated on the violations of Labor Code sections 226, and 226.3, based on the facts as alleged in the operative Complaint that accrued at any time from September 10, 2018, through October 23, 2020.

9. How Will the Attorneys for the Class and Others Be Paid?

The attorneys for the Class Representative and the Settlement Class will be paid from the Gross Settlement Fund of \$115,000. The attorneys are seeking a fee of \$38,333.33 as well as reimbursement of their costs, up to \$7,500. Plaintiff is seeking an enhancement award of \$5,000 from the Settlement for his services as the Class Representative. The Settlement Administrator estimates that the cost of

administration will be \$***. The Labor Workforce and Development Agency ("LWDA") will receive \$15,000 from the Settlement, which is allocated as required by California Labor Code § 2699. All of these amounts are to be deducted from the Gross Settlement Amount of \$115,000, with the remainder available for distributions to Participating Class Members. While the \$115,000 Gross Settlement Amount is fixed, the actual amounts awarded to Class Counsel, Plaintiff, the LWDA, and the Settlement Administrator, and deducted from the Gross Settlement Fund, will be determined by the Court at the Final Approval Hearing.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS

You may call Class Counsel, Dennis S. Hyun (213-488-6555), or call the Settlement Administrator at the telephone number listed below, toll free. Please direct your call to the Settlement Administrator.

***** Settlement Administrator
c/o *****
[ADDRESS]
[Toll Free Telephone Number]

All documents submitted to the Court regarding this Settlement, including the operative complaint, may be accessed at (list claims administrator's website). The pleadings and other records in this litigation may also be examined online on the Alameda County Superior Court's website, known as "Domain Web," at <https://publicrecords.alameda.courts.ca.gov/PRS/>. After arriving at the website, click the "Search By Case Number" link, then enter RG19034467, as the case number and click "SEARCH." Images of every document filed in the case may be viewed through the 'Register of Actions' at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings. If your address has changed, please contact the Settlement Administrator.

DO NOT TELEPHONE THE COURT FOR LEGAL ADVICE OR FOR INFORMATION ABOUT THIS SETTLEMENT.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

Case Number: RG19034467
Case Name: Spencer v. Conxtech, Inc.

RE: ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT

CLERK'S CERTIFICATE OF SERVICE

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, and that the mailing of the foregoing and execution of this certificate occurred at 1225 Fallon Street, Oakland, California.

Executed: 05/04/2021

Jhalisa Castaneda
Courtroom Clerk, Dept. 23

William L. Marder POLARIS LAW GROUP, LLP 501 San Benito Street, Suite 200 Hollister, CA 95023	<i>Attorneys for Plaintiff and the Class</i>
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