

1 CODY PAYNE, SBN 282342  
2 cody@paynellp.com  
3 KIM NGUYEN, SBN 293906  
4 kim@paynellp.com  
5 **PAYNE NGUYEN, LLP**  
6 4640 Admiralty Way, Suite 500  
7 Marina del Rey, CA 90292  
8 Telephone: (310) 360 – 9882  
9 Facsimile: (310) 928 – 7469

10 *Attorneys for Plaintiff*  
11 MIRNA NUNEZ

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

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

17 Plaintiff,

18 vs.

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

22 Defendants.

Case No.: 20STCV15787

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

**CLASS ACTION**

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

Hearing Date: May 11, 2021  
Hearing Time: 10:00 a.m.  
Department: 6

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



1 to Pay for All Time Worked at Correct Rates of Pay, Including Minimum  
2 Wages, Straight Time Wages, and Overtime Compensation; (2) Failure to  
3 Provide Meal Periods and Pay Meal Period Premiums; (3) Failure to  
4 Authorize and Permit Rest Periods and Pay Rest Period Premiums; (4)  
5 Failure to Timely Pay Wages During Employment; (5) Failure to Provide  
6 Accurate Wage Statements; (6) Failure to Maintain Accurate Records; and  
7 (7) Failure to Pay All Wages Upon Termination of Employment).”

8 **The Settlement Agreement Was Amended to Clearly Set Forth that the First Amended**  
9 **Complaint is the operative complaint.**

10 5. Pursuant to the Court’s request on February 18, 2021, the Parties made the  
11 following amendments to the Settlement Agreement:

- 12 a. The Parties revised Paragraph 2. to clearly indicate that Plaintiff’s First  
13 Amended Complaint, filed on December 23, 2020, is the operative  
14 complaint in this matter.

15 **Adequacy of Class Representative**

16 6. Pursuant to the Court’s request on February 18, 2021, Plaintiff Mirna Nunez,  
17 contemporaneous to this filing, provided a Declaration in Support of Plaintiff’s Motion for  
18 Preliminary Approval outlining her adequacy as the class representative.

19 **The Payment Formula was Amended to Include Participating Class Members, Not Just**  
20 **Class Members**

21 7. Pursuant to the Court’s request on February 18, 2021, the Parties made the  
22 following amendments to the Settlement Agreement:

- 23 a. The Parties revised Paragraph 13 to reflect that the payment formula is  
24 based upon participating Class Members, not just Class Members.

25 **The Notice was Revised to Include Participating Class Members, Not Just Class Members**

26 8. Pursuant to the Court’s request on February 18, 2021, the Parties made the  
27 following amendments to the Notice:  
28

1 a. The Parties revised Section C to reflect that the payment formula is based  
2 upon participating Class Members, not just Class Members. Attached hereto  
3 as **Exhibit C** is a true and correct copy of the Amended Notice. Attached  
4 hereto as **Exhibit D** is a true and correct redline copy of the Amended  
5 Notice.

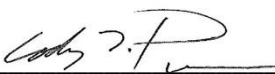
6 **The Notice was Revised to Indicate that the PAGA Claims Release is Limited to Claims Set**

7 **Forth in the PAGA Notice**

8 9. Pursuant to the Court's request on February 18, 2021, the Parties made the  
9 following amendments to the Settlement Agreement:

10 a. The Parties revised Section E of the Notice to include the following  
11 language: "(PAGA penalties only for those violations set forth in the  
12 Notice provided to Defendants and the LWDA on September 29, 2020,  
13 including (1) Failure to Pay for All Time Worked at Correct Rates of Pay,  
14 Including Minimum Wages, Straight Time Wages, and Overtime  
15 Compensation; (2) Failure to Provide Meal Periods and Pay Meal Period  
16 Premiums; (3) Failure to Authorize and Permit Rest Periods and Pay Rest  
17 Period Premiums; (4) Failure to Timely Pay Wages During Employment;  
18 (5) Failure to Provide Accurate Wage Statements; (6) Failure to Maintain  
19 Accurate Records; and (7) Failure to Pay All Wages Upon Termination of  
20 Employment)."

21 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
22 true and correct. Executed on March 18, 2021 at Manhattan Beach, California.

23  
24  
25   
26 \_\_\_\_\_  
27 Cody Payne, Esq.  
28

# **EXHIBIT A**

## SETTLEMENT AGREEMENT

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

### **I. NATURE OF THE CASE AND THE PARTIES’ SETTLEMENT**

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

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

3. **Plaintiff’s Contentions.** As alleged in the FAC, Plaintiff contends that Defendants violated various provisions of the Labor Code by their alleged: (1) failure to pay Class Members wages, minimum wages, and overtime for all work hours at the correct regular and premiums rates; (2) failure to provide Class Members with rest breaks or pay rest break premiums; (3) failure to provide Class Members with meal breaks or pay meal break premiums; (4) failure to provide Class Members with complete and accurate wage statements; (5) failure to maintain required records for Class Members; (6) failure to timely pay Class Members all wages due during their employment and at termination; (7) unfair business practices; and (8) civil penalties under PAGA based on the foregoing alleged violations by Defendants (PAGA penalties only for those violations set forth in the Notice provided to Defendants and the LWDA on September 29, 2020, including (1) Failure

to Pay for All Time Worked at Correct Rates of Pay, Including Minimum Wages, Straight Time Wages, and Overtime Compensation; (2) Failure to Provide Meal Periods and Pay Meal Period Premiums; (3) Failure to Authorize and Permit Rest Periods and Pay Rest Period Premiums; (4) Failure to Timely Pay Wages During Employment; (5) Failure to Provide Accurate Wage Statements; (6) Failure to Maintain Accurate Records; and (7) Failure to Pay All Wages Upon Termination of Employment). Plaintiff believes she filed a meritorious action, and that the requirements for class certification can be satisfied.

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

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

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

delay, denial of a motion for class certification or decertification, the defenses asserted by Defendants, and potential appellate issues.

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

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

## II. TERMS OF SETTLEMENT

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

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

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

11. Gross Settlement Fund. In consideration for the release of the claims of the Settlement Class against Defendants, Defendants agree to create a “Gross Settlement Fund” of Two Hundred Sixty Five Thousand Dollars (\$265,000.00), as a full and complete settlement of all claims that were or could have been alleged in the Lawsuit. This Gross Settlement Fund constitutes a common fund for the payment of all claims hereunder, attorney’s fees and litigation costs to Class Counsel, settlement administration costs, the Class Representative’s Enhancement Award, and the agreed payment to the Labor Workforce Development Agency (“LWDA”) pursuant to PAGA. The Gross Settlement Fund includes the individual settlements previously paid by Defendants to Class Members which total approximately Sixty One Thousand Nine Hundred



Seventy Five Dollars (\$61,975.00). Defendants will make the signed individual settlement agreements available to Class Counsel for inspection upon request. Defendants stipulate and represent that the Lawsuit was a catalyst for the individual settlement payments previously paid by Defendants to Class Members and Defendants will provide a declaration if necessary or required by the Court in support of Plaintiff's settlement approval papers reflecting the same. The Gross Settlement Fund does not include Defendants' share of the employer-side payroll taxes on the amount of the settlement allocated to wages. The settlement is non-reversionary, and the entire Gross Settlement Fund will be paid by Defendants. The settlement is based on Defendants' representations that as of July 24, 2020, there are approximately eighteen thousand nine hundred seventeen (18,917) workweeks during the Class Period and approximately three hundred forty four (344) class members, and approximately two thousand eight hundred seventy one (2,871) pay periods and one hundred fifty two (152) aggrieved employees during the PAGA Period. Of which, Defendants secured individual settlement agreements from two hundred forty eight (248) class members representing approximately ninety four percent (94%) (approximately seventeen thousand eight hundred (17,800) workweeks) of the total workweeks.

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

13. Payments to Settlement Class Members from Net Settlement Fund. The Net Settlement Fund will be paid to Settlement Class Members calculated by a pro rata formula, based on the number of weeks worked by participating Class Members as a non-exempt hourly employee for Defendants in California during the Class Period. To determine a Class Member's potential claim, the Net Settlement Fund will be divided by the total number of weeks worked by all participating Class Members as non-exempt hourly employees in California during the Class Period, multiplied by the number of weeks worked by that Class Member as a non-exempt employee in California during the Class Period. If a Settlement Class Member previously received

an individual settlement payment from Defendants, that Settlement Class Member will be paid an additional Fifty Dollars (\$50.00) from the Net Settlement Fund, or the difference between their prior settlement payment and their pro rata amount calculated under the formula described in this Paragraph, whichever is greater.

14. Attorneys' Costs. Class Counsel will apply to the Court for, and Defendants will not oppose, payment of Class Counsel's litigation costs from the Gross Settlement Fund, in an amount up to Nine Thousand Dollars (\$9,000.00). Attorneys' Costs shall include, but are not limited to, all costs and expenses incurred by Plaintiff in the prosecution of this action, including filing fees, and expert fees. If the Court approves less than the amount requested by Class Counsel, the difference between the requested and awarded amounts will be included in the Net Settlement Fund and distributed pro rata to Settlement Class Members as set forth in Paragraph 13. In addition to the costs described in this Paragraph, Defendants separately reimbursed Class Counsel for Class Counsel's share of the mediation fee in the amount of Seven Thousand Dollars (\$7,000.00).

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

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

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

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

19. Taxes. The Settlement Administrator will make appropriate wage deductions and report payments on IRS Forms W-2 and 1099 as appropriate. The settlement payments to Settlement Class Members will be allocated as follows: twenty percent (20 %) to wages, and eighty percent (80 %) to non-wages, interest, and penalties. The employee and employer portion of payroll taxes will be based on the wage portion, only. The employee's portion of payroll taxes shall be paid from the individual settlement payments to Settlement Class Members. The employer's portion of payroll taxes will be paid by Defendants in addition to the Gross Settlement Fund. No taxes will be withheld from the Class Member's share of the PAGA settlement, or from any individual settlement payments previously received by Settlement Class Members. Settlement Class Members will be responsible for any other taxes associated with their settlement payments.

The Parties agree that it is the obligation of the Settlement Class Members to pay appropriate federal, state, and local income taxes on all payments they receive under this Settlement Agreement. Neither Class Counsel nor Defendants' Counsel intend anything contained in this Settlement to constitute legal advice regarding the taxability of any amount paid hereunder, nor shall anything in this Settlement be relied upon as such.

Circular 230 Disclaimer: Each Party to this Agreement acknowledges and agrees that: (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR part 10, as amended); (2) each Party (a) has relied exclusively upon his, her or its own independent legal and tax counsel for advice (including tax advice) in connection with this Agreement; (b) has not entered into this Agreement based upon the recommendation of any other Party or any attorney or advisor to any other Party; and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other Party to avoid any tax penalty that may be imposed; and (3) no attorney or adviser to any Party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by any other Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

### **III. SETTLEMENT ADMINISTRATOR**

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

other reports as requested by counsel for the Parties or the Court, including any required declarations in support of preliminary and final approval of the Settlement.

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

#### **IV. NOTICE TO THE SETTLEMENT CLASS**

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

Administrator shall also take reasonable steps including skip tracing to locate any Class Member whose Class Notice is returned as undeliverable.

23. Request for Exclusion. Class Members shall have forty-five (45) days from the mailing of the Notice to mail a signed, completed request to be excluded from the Settlement to the Settlement Administrator. The request to be excluded from the Settlement must include the Class Member's full name, address, and telephone number, and shall be signed by the Class Member. The request should state, in effect, the following: "I WISH TO BE EXCLUDED FROM THE SETTLEMENT IN THE CLASS ACTION LAWSUIT. I UNDERSTAND BY REQUESTING EXCLUSION FROM THE SETTLEMENT, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE LAWSUIT" or otherwise provide a clear a statement that the Class Member wishes to be excluded from the Settlement. Unsigned requests to be excluded from the Settlement, or those postmarked after the deadline will not be honored unless mutually agreed to by counsel for all Parties or ordered by the Court. The Settlement Administrator will provide counsel for the Parties with copies of any completed requests to be excluded from the Settlement. Neither the Parties nor their counsel will solicit or encourage Class Members to request to be excluded from the Settlement. Any Class Member who requests to be excluded from the Settlement will not be entitled to any recovery under the Settlement other than a pro rata portion of the amount allocated to PAGA as set forth in Paragraph 18 if eligible, and will not be bound by the terms of the Settlement except the release of PAGA claims if eligible, or have any right to object, appeal or comment thereon. Class Members who fail to submit a valid and timely Request for Exclusion shall be bound by all terms of the Settlement and any Final Judgment entered in this Action. The Settlement Administrator shall provide the Parties with weekly updates regarding the status of any Requests for Exclusion.

24. Objections. The Notice shall provide that Class Members who object to the Settlement must submit to the Settlement Administrator either a written statement objecting to the Settlement or a written notice of intention to appear at the Final Approval hearing and object, following the Court's current social distancing procedures for attendance at hearings and review

of court files. Such written statement or notice must be postmarked within forty-five (45) calendar days following the mailing of the Notice. The Settlement Administrator will notify all Parties of any objection within five (5) business days of receipt of the objection. Plaintiff will file any such objection(s) with the Court in advance of the Final Approval Hearing. The Notice of Objection must be signed by the Class Member, reference case number 20STCV15787, and state all of the following: (1) the full name of the Class Member; (2) the dates of employment of the Class Member; (3) the grounds for the objection; (4) if the Class Member intends to appear at the final approval hearing; and (5) any legal briefs, papers or memoranda the objecting Class Member proposes to submit to the Court. Class Members who fail to object in the manner specified above, still have the right to appear in Court at the Final Approval Hearing to state his or her objections. If the Class Member does not submit a written objection or appear in Court to object at the Final Approval Hearing, the Class Member shall be deemed to have waived his or her right to object, and shall be foreclosed from making any objections to the Settlement whether by appeal or otherwise. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to object to the Settlement. The Settlement Administrator shall provide the Parties with weekly updates regarding the status of any objections.

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

26. Settlement Processing. The date of the postmark on the return envelope shall be the exclusive means used to determine whether a Class Member has timely disputed the amount of the settlement payment, returned a request for exclusion from the settlement, or objected. Any Notice returned to the Settlement Administrator as non-delivered within forty-five (45) calendar days following the mailing of the Notice shall be re-mailed to the forwarding address affixed thereto within five (5) calendar days. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address by use of skip-tracing, or other search using the name, address and/or Social Security number of the Class Member involved, and shall then perform a re-mailing, if another mailing address is identified by the Settlement Administrator. Class Members who receive a re-mailed Notice of Class Settlement and Summary Sheet shall have twenty (20) calendar days from the postmark date of the re-mailed Notice to object or opt-out.

27. Funding of Settlement. Defendants will pay an initial minimum payment of Thirty Five Thousand Dollars (\$35,000.00) to the Settlement Administrator by wire transfer within ten (10) days of the date the Court grants final approval of the Settlement. The balance of the Gross Settlement Fund will be paid in twelve (12) equal monthly payments commencing thirty (30) days after the initial payment. Individual settlement payments shall be mailed by regular First Class U.S. Mail to Settlement Class Members' last known mailing address within fourteen (14) calendar days after Defendants' final payment or the Effective Date as defined in Paragraph 10, whichever is later. Settlement checks which are uncashed after One Hundred Eighty (180) days of issuance shall be voided. Within thirty days (30) days after the expiration date of the settlement checks, the Settlement Administrator shall provide to Class Counsel and Defendants' Counsel a verification/declaration signed under penalty of perjury that it has mailed the settlement checks to Participating Class Members, and if uncashed, that such amounts have been sent to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code Section 1500, et seq. for the benefit of those Class Members who did not cash their checks until such time as they claim their property in the name of the Class Member who did not cash



their checks until such time as they claim their property. No money from the Settlement will revert to the Defendants.

**V. RELEASE BY THE NAMED PLAINTIFF AND THE CLASS**

28. Scope of Release. Upon funding of the Gross Settlement Fund, and except as to such rights or claims as may be created by this Settlement Agreement, each Class Member who has not timely requested exclusion from the Settlement, fully releases and discharges Defendants, and all of their past, present, and future parent companies, subsidiaries, affiliates, divisions, joint ventures, agents, management companies, and all of their respective employees, members, officers, directors, partners, legal representatives, accountants, trustees, executors, administrators, real or alleged alter egos, predecessors, successors, transferees, assigns and insurers (collectively “Released Parties”), from and all claims, demands, rights, liabilities, actions, grievances, demands for arbitration, and causes of action, of every nature and description, that were or could have been asserted based on the facts alleged in the FAC, including but not limited to, any state or federal claims (including without limitation claims under the Fair Labor Standards Act (“FLSA”)), relating to the failure to pay wages, failure to pay minimum wages, failure to pay overtime, failure to provide meal or rest breaks, failure to provide accurate and complete wage statements, failure to keep records, unfair competition, PAGA penalties (PAGA penalties only for those violations set forth in the Notice provided to Defendants and the LWDA on September 29, 2020, including (1) Failure to Pay for All Time Worked at Correct Rates of Pay, Including Minimum Wages, Straight Time Wages, and Overtime Compensation; (2) Failure to Provide Meal Periods and Pay Meal Period Premiums; (3) Failure to Authorize and Permit Rest Periods and Pay Rest Period Premiums; (4) Failure to Timely Pay Wages During Employment; (5) Failure to Provide Accurate Wage Statements; (6) Failure to Maintain Accurate Records; and (7) Failure to Pay All Wages Upon Termination of Employment), waiting time penalties, interest, attorney’s fees, or any other alleged known or unknown wage and hour violations that were alleged or could reasonably have been alleged based on arising out of the acts, facts, transactions, occurrences, representations, or omissions that were asserted in the Lawsuit (“Released Claims”). The cashing of the settlement

check by a Settlement Class Member will be considered a consent and opt-in to the settlement of all related federal wage-hour claims under the FLSA, and each Settlement Class Member who cashes a settlement check will waive his or her rights to bring related claims under the FLSA during the Class Period. Any Class Member who receives a payment under PAGA pursuant to Paragraph 18 and who opts out of the Settlement is only bound by the release of PAGA claims.

29. Individual Release by Plaintiff. In addition to the releases made by the Settlement Class Members, Plaintiff makes the additional general release of all claims, known or unknown, in exchange and consideration of the Enhancement Award described in Paragraph 16. Plaintiff agrees to a general release of the Released Parties from all claims, demands, rights, liabilities, actions, grievances, demands for arbitration, and causes of action of every nature and description whatsoever, known or unknown, pending or threatened, asserted or that might have been asserted, whether brought in tort or in contract, whether under state or federal or local law during the Class Period. Except as otherwise specifically provided under this Settlement Agreement, Plaintiff expressly waives and relinquishes all rights and benefits afforded by § 1542 of the Civil Code of the State of California, which states: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party." However, Plaintiff is not releasing any claims for workers' compensation benefits.

## **VI. JUDICIAL APPROVALS**

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

- (a) Scheduling a fairness hearing on the question of whether the proposed settlement should be finally approved as fair, reasonable and adequate as to

- the members of the class;
- (b) Approving Cody Payne and Kim Nguyen as Class Counsel, Plaintiff Mirna Nunez to serve as Class Representative, and Phoenix Class Action Administration Solutions to serve as the Settlement Administrator;
  - (c) Approving the form and content of the proposed Notice of Class Action Settlement (**Exhibit 1**);
  - (d) Directing the distribution of the Notice of Class Action Settlement;
  - (e) Preliminarily approving the settlement; and
  - (f) Provisionally certifying the Class for purposes of settlement.

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

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

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

to the other and to the Court. The Party voiding the settlement pursuant to this Paragraph shall be responsible for any costs of administration incurred up to that date.

## **VII. MISCELLANEOUS PROVISIONS**

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

34. Informed Consent. Prior to execution of this Settlement Agreement, each Party has read this entire Settlement Agreement and been given the opportunity to consult with independent counsel of their choosing and to have such independent counsel advise as to the meaning of this Agreement and its legal effect.

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

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

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

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

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

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

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

42. Modifications. This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the parties hereto, and approved by the Court. This

Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

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

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

45. No Prior Assignments. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

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

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

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

shall have the same force and effect as if this Settlement Agreement were executed by each Class Member.

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

Dated: 03/12/2021

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

Dated: March 9, 2021

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

Dated: March 12, 2021

By: *Cody Payne*  
Cody Payne  
Kim Nguyen  
Attorneys for Plaintiff and the Class

Dated: March 9, 2021

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

# **EXHIBIT B**



## SETTLEMENT AGREEMENT

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

### **I. NATURE OF THE CASE AND THE PARTIES’ SETTLEMENT**

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

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

3. Plaintiff’s Contentions. As alleged in the FAC, Plaintiff contends that Defendants violated various provisions of the Labor Code by their alleged: (1) failure to pay Class Members wages, minimum wages, and overtime for all work hours at the correct regular and premiums rates; (2) failure to provide Class Members with rest breaks or pay rest break premiums; (3) failure to provide Class Members with meal breaks or pay meal break premiums; (4) failure to provide Class Members with complete and accurate wage statements; (5) failure to maintain required records for Class Members; (6) failure to timely pay Class Members all wages due during their employment and at termination; (7) unfair business practices; and (8) civil penalties under PAGA based on the foregoing alleged violations by Defendants (PAGA penalties only for those violations set forth in the Notice provided to Defendants and the LWDA on September 29, 2020, including (1) Failure

to Pay for All Time Worked at Correct Rates of Pay, Including Minimum Wages, Straight Time Wages, and Overtime Compensation; (2) Failure to Provide Meal Periods and Pay Meal Period Premiums; (3) Failure to Authorize and Permit Rest Periods and Pay Rest Period Premiums; (4) Failure to Timely Pay Wages During Employment; (5) Failure to Provide Accurate Wage Statements; (6) Failure to Maintain Accurate Records; and (7) Failure to Pay All Wages Upon Termination of Employment). Plaintiff believes she filed a meritorious action, and that the requirements for class certification can be satisfied.

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

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

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

delay, denial of a motion for class certification or decertification, the defenses asserted by Defendants, and potential appellate issues.

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

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

## **II. TERMS OF SETTLEMENT**

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

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

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

11. Gross Settlement Fund. In consideration for the release of the claims of the Settlement Class against Defendants, Defendants agree to create a “Gross Settlement Fund” of Two Hundred Sixty Five Thousand Dollars (\$265,000.00), as a full and complete settlement of all claims that were or could have been alleged in the Lawsuit. This Gross Settlement Fund constitutes a common fund for the payment of all claims hereunder, attorney’s fees and litigation costs to Class Counsel, settlement administration costs, the Class Representative’s Enhancement Award, and the agreed payment to the Labor Workforce Development Agency (“LWDA”) pursuant to PAGA. The Gross Settlement Fund includes the individual settlements previously paid by Defendants to Class Members which total approximately Sixty One Thousand Nine Hundred

Seventy Five Dollars (\$61,975.00). Defendants will make the signed individual settlement agreements available to Class Counsel for inspection upon request. Defendants stipulate and represent that the Lawsuit was a catalyst for the individual settlement payments previously paid by Defendants to Class Members and Defendants will provide a declaration if necessary or required by the Court in support of Plaintiff's settlement approval papers reflecting the same. The Gross Settlement Fund does not include Defendants' share of the employer-side payroll taxes on the amount of the settlement allocated to wages. The settlement is non-reversionary, and the entire Gross Settlement Fund will be paid by Defendants. The settlement is based on Defendants' representations that as of July 24, 2020, there are approximately eighteen thousand nine hundred seventeen (18,917) workweeks during the Class Period and approximately three hundred forty four (344) class members, and approximately two thousand eight hundred seventy one (2,871) pay periods and one hundred fifty two (152) aggrieved employees during the PAGA Period. Of which, Defendants secured individual settlement agreements from two hundred forty eight (248) class members representing approximately ninety four percent (94%) (approximately seventeen thousand eight hundred (17,800) workweeks) of the total workweeks.

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

13. Payments to Settlement Class Members from Net Settlement Fund. The Net Settlement Fund will be paid to Settlement Class Members calculated by a pro rata formula, based on the number of weeks worked by participating Class Members as a non-exempt hourly employee for Defendants in California during the Class Period. To determine a Class Member's potential claim, the Net Settlement Fund will be divided by the total number of weeks worked by all participating Class Members as non-exempt hourly employees in California during the Class Period, multiplied by the number of weeks worked by that Class Member as a non-exempt employee in California during the Class Period. If a Settlement Class Member previously received

an individual settlement payment from Defendants, that Settlement Class Member will be paid an additional Fifty Dollars (\$50.00) from the Net Settlement Fund, or the difference between their prior settlement payment and their pro rata amount calculated under the formula described in this Paragraph, whichever is greater.

14. Attorneys' Costs. Class Counsel will apply to the Court for, and Defendants will not oppose, payment of Class Counsel's litigation costs from the Gross Settlement Fund, in an amount up to Nine Thousand Dollars (\$9,000.00). Attorneys' Costs shall include, but are not limited to, all costs and expenses incurred by Plaintiff in the prosecution of this action, including filing fees, and expert fees. If the Court approves less than the amount requested by Class Counsel, the difference between the requested and awarded amounts will be included in the Net Settlement Fund and distributed pro rata to Settlement Class Members as set forth in Paragraph 13. In addition to the costs described in this Paragraph, Defendants separately reimbursed Class Counsel for Class Counsel's share of the mediation fee in the amount of Seven Thousand Dollars (\$7,000.00).

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

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

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

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

19. Taxes. The Settlement Administrator will make appropriate wage deductions and report payments on IRS Forms W-2 and 1099 as appropriate. The settlement payments to Settlement Class Members will be allocated as follows: twenty percent (20 %) to wages, and eighty percent (80 %) to non-wages, interest, and penalties. The employee and employer portion of payroll taxes will be based on the wage portion, only. The employee's portion of payroll taxes shall be paid from the individual settlement payments to Settlement Class Members. The employer's portion of payroll taxes will be paid by Defendants in addition to the Gross Settlement Fund. No taxes will be withheld from the Class Member's share of the PAGA settlement, or from any individual settlement payments previously received by Settlement Class Members. Settlement Class Members will be responsible for any other taxes associated with their settlement payments.

The Parties agree that it is the obligation of the Settlement Class Members to pay appropriate federal, state, and local income taxes on all payments they receive under this Settlement Agreement. Neither Class Counsel nor Defendants' Counsel intend anything contained in this Settlement to constitute legal advice regarding the taxability of any amount paid hereunder, nor shall anything in this Settlement be relied upon as such.

Circular 230 Disclaimer: Each Party to this Agreement acknowledges and agrees that: (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR part 10, as amended); (2) each Party (a) has relied exclusively upon his, her or its own independent legal and tax counsel for advice (including tax advice) in connection with this Agreement; (b) has not entered into this Agreement based upon the recommendation of any other Party or any attorney or advisor to any other Party; and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other Party to avoid any tax penalty that may be imposed; and (3) no attorney or adviser to any Party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by any other Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

### **III. SETTLEMENT ADMINISTRATOR**

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

other reports as requested by counsel for the Parties or the Court, including any required declarations in support of preliminary and final approval of the Settlement.

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

#### **IV. NOTICE TO THE SETTLEMENT CLASS**

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



Administrator shall also take reasonable steps including skip tracing to locate any Class Member whose Class Notice is returned as undeliverable.

23. Request for Exclusion. Class Members shall have forty-five (45) days from the mailing of the Notice to mail a signed, completed request to be excluded from the Settlement to the Settlement Administrator. The request to be excluded from the Settlement must include the Class Member's full name, address, and telephone number, and shall be signed by the Class Member. The request should state, in effect, the following: "I WISH TO BE EXCLUDED FROM THE SETTLEMENT IN THE CLASS ACTION LAWSUIT. I UNDERSTAND BY REQUESTING EXCLUSION FROM THE SETTLEMENT, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE LAWSUIT" or otherwise provide a clear a statement that the Class Member wishes to be excluded from the Settlement. Unsigned requests to be excluded from the Settlement, or those postmarked after the deadline will not be honored unless mutually agreed to by counsel for all Parties or ordered by the Court. The Settlement Administrator will provide counsel for the Parties with copies of any completed requests to be excluded from the Settlement. Neither the Parties nor their counsel will solicit or encourage Class Members to request to be excluded from the Settlement. Any Class Member who requests to be excluded from the Settlement will not be entitled to any recovery under the Settlement other than a pro rata portion of the amount allocated to PAGA as set forth in Paragraph 18 if eligible, and will not be bound by the terms of the Settlement except the release of PAGA claims if eligible, or have any right to object, appeal or comment thereon. Class Members who fail to submit a valid and timely Request for Exclusion shall be bound by all terms of the Settlement and any Final Judgment entered in this Action. The Settlement Administrator shall provide the Parties with weekly updates regarding the status of any Requests for Exclusion.

24. Objections. The Notice shall provide that Class Members who object to the Settlement must submit to the Settlement Administrator either a written statement objecting to the Settlement or a written notice of intention to appear at the Final Approval hearing and object, following the Court's current social distancing procedures for attendance at hearings and review

of court files. Such written statement or notice must be postmarked within forty-five (45) calendar days following the mailing of the Notice. The Settlement Administrator will notify all Parties of any objection within five (5) business days of receipt of the objection. Plaintiff will file any such objection(s) with the Court in advance of the Final Approval Hearing. The Notice of Objection must be signed by the Class Member, reference case number 20STCV15787, and state all of the following: (1) the full name of the Class Member; (2) the dates of employment of the Class Member; (3) the grounds for the objection; (4) if the Class Member intends to appear at the final approval hearing; and (5) any legal briefs, papers or memoranda the objecting Class Member proposes to submit to the Court. Class Members who fail to object in the manner specified above, still have the right to appear in Court at the Final Approval Hearing to state his or her objections. If the Class Member does not submit a written objection or appear in Court to object at the Final Approval Hearing, the Class Member shall be deemed to have waived his or her right to object, and shall be foreclosed from making any objections to the Settlement whether by appeal or otherwise. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to object to the Settlement. The Settlement Administrator shall provide the Parties with weekly updates regarding the status of any objections.

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

26. Settlement Processing. The date of the postmark on the return envelope shall be the exclusive means used to determine whether a Class Member has timely disputed the amount of the settlement payment, returned a request for exclusion from the settlement, or objected. Any Notice returned to the Settlement Administrator as non-delivered within forty-five (45) calendar days following the mailing of the Notice shall be re-mailed to the forwarding address affixed thereto within five (5) calendar days. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address by use of skip-tracing, or other search using the name, address and/or Social Security number of the Class Member involved, and shall then perform a re-mailing, if another mailing address is identified by the Settlement Administrator. Class Members who receive a re-mailed Notice of Class Settlement and Summary Sheet shall have twenty (20) calendar days from the postmark date of the re-mailed Notice to object or opt-out.

27. Funding of Settlement. Defendants will pay an initial minimum payment of Thirty Five Thousand Dollars (\$35,000.00) to the Settlement Administrator by wire transfer within ten (10) days of the date the Court grants final approval of the Settlement. The balance of the Gross Settlement Fund will be paid in twelve (12) equal monthly payments commencing thirty (30) days after the initial payment. Individual settlement payments shall be mailed by regular First Class U.S. Mail to Settlement Class Members' last known mailing address within fourteen (14) calendar days after Defendants' final payment or the Effective Date as defined in Paragraph 10, whichever is later. Settlement checks which are uncashed after One Hundred Eighty (180) days of issuance shall be voided. Within thirty days (30) days after the expiration date of the settlement checks, the Settlement Administrator shall provide to Class Counsel and Defendants' Counsel a verification/declaration signed under penalty of perjury that it has mailed the settlement checks to Participating Class Members, and if uncashed, that such amounts have been sent to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code Section 1500, et seq. for the benefit of those Class Members who did not cash their checks until such time as they claim their property in the name of the Class Member who did not cash

their checks until such time as they claim their property. No money from the Settlement will revert to the Defendants.

**V. RELEASE BY THE NAMED PLAINTIFF AND THE CLASS**

28. Scope of Release. Upon ~~the final approval by the Court of this Settlement Agreement~~funding of the Gross Settlement Fund, and except as to such rights or claims as may be created by this Settlement Agreement, each Class Member who has not timely requested exclusion from the Settlement, fully releases and discharges Defendants, and all of their past, present, and future parent companies, subsidiaries, affiliates, divisions, joint ventures, agents, management companies, and all of their respective employees, members, officers, directors, partners, legal representatives, accountants, trustees, executors, administrators, real or alleged alter egos, predecessors, successors, transferees, assigns and insurers (collectively “Released Parties”), from and all claims, demands, rights, liabilities, actions, grievances, demands for arbitration, and causes of action, of every nature and description, that were or could have been asserted based on the facts alleged in the FAC, including but not limited to, any state or federal claims (including without limitation claims under the Fair Labor Standards Act (“FLSA”)), relating to the failure to pay wages, failure to pay minimum wages, failure to pay overtime, failure to provide meal or rest breaks, failure to provide accurate and complete wage statements, failure to keep records, unfair competition, PAGA penalties (PAGA penalties only for those violations set forth in the Notice provided to Defendants and the LWDA on September 29, 2020, including (1) Failure to Pay for All Time Worked at Correct Rates of Pay, Including Minimum Wages, Straight Time Wages, and Overtime Compensation; (2) Failure to Provide Meal Periods and Pay Meal Period Premiums; (3) Failure to Authorize and Permit Rest Periods and Pay Rest Period Premiums; (4) Failure to Timely Pay Wages During Employment; (5) Failure to Provide Accurate Wage Statements; (6) Failure to Maintain Accurate Records; and (7) Failure to Pay All Wages Upon Termination of Employment), waiting time penalties, interest, attorney’s fees, or any other alleged known or unknown wage and hour violations that were alleged or could reasonably have been alleged based on arising out of the acts, facts, transactions, occurrences, representations, or omissions that were asserted in the

Lawsuit (“Released Claims”). The cashing of the settlement check by a Settlement Class Member will be considered a consent and opt-in to the settlement of all related federal wage-hour claims under the FLSA, and each Settlement Class Member who cashes a settlement check will waive his or her rights to bring related claims under the FLSA during the Class Period. Any Class Member who receives a payment under PAGA pursuant to Paragraph 18 and who opts out of the Settlement is only bound by the release of PAGA claims.

29. Individual Release by Plaintiff. In addition to the releases made by the Settlement Class Members, Plaintiff makes the additional general release of all claims, known or unknown, in exchange and consideration of the Enhancement Award described in Paragraph 16. Plaintiff agrees to a general release of the Released Parties from all claims, demands, rights, liabilities, actions, grievances, demands for arbitration, and causes of action of every nature and description whatsoever, known or unknown, pending or threatened, asserted or that might have been asserted, whether brought in tort or in contract, whether under state or federal or local law during the Class Period. Except as otherwise specifically provided under this Settlement Agreement, Plaintiff expressly waives and relinquishes all rights and benefits afforded by § 1542 of the Civil Code of the State of California, which states: “A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.” However, Plaintiff is not releasing any claims for workers' compensation benefits.

## **VI. JUDICIAL APPROVALS**

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

- (a) Scheduling a fairness hearing on the question of whether the proposed

settlement should be finally approved as fair, reasonable and adequate as to the members of the class;

- (b) Approving Cody Payne and Kim Nguyen as Class Counsel, Plaintiff Mirna Nunez to serve as Class Representative, and Phoenix Class Action Administration Solutions to serve as the Settlement Administrator;
- (c) Approving the form and content of the proposed Notice of Class Action Settlement (**Exhibit 1**);
- (d) Directing the distribution of the Notice of Class Action Settlement;
- (e) Preliminarily approving the settlement; and
- (f) Provisionally certifying the Class for purposes of settlement.

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

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

32. Voiding Settlement. If the Court declines to approve any material term or condition of this Settlement Agreement, then this entire Settlement Agreement shall be void and unenforceable as to all Parties herein at the option of any Party, within thirty (30) days of receiving notice of the Court's action. Further, Defendants have the option of voiding this Settlement Agreement within thirty (30) days of receiving notice that more than ten percent (10 %) of the Class Members have timely completed valid requests to be excluded from the settlement. Each

Party may exercise its option to void this settlement as provided above by giving notice, in writing, to the other and to the Court. The Party voiding the settlement pursuant to this Paragraph shall be responsible for any costs of administration incurred up to that date.

## **VII. MISCELLANEOUS PROVISIONS**

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

34. Informed Consent. Prior to execution of this Settlement Agreement, each Party has read this entire Settlement Agreement and been given the opportunity to consult with independent counsel of their choosing and to have such independent counsel advise as to the meaning of this Agreement and its legal effect.

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

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

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

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

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

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

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



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

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

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

45. No Prior Assignments. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

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

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

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

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

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Mirna Nunez  
Plaintiff and Class Representative

Dated: \_\_\_\_\_

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

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Cody Payne  
Kim Nguyen  
Attorneys for Plaintiff and the Class

Dated: \_\_\_\_\_

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

# **EXHIBIT C**

## **NOTICE OF CLASS ACTION SETTLEMENT**

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

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

#### **A. Summary of the Claims**

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

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

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

#### **B. Why You Are Receiving This Notice**

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

### **C. The Terms of the Settlement**

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

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

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

### **D. Your Options**

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

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

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

**1. Participate in the Settlement**

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

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

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

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

Creative Dry Process Class Action Settlement Administrator  
c/o \_\_\_\_\_  
P.O. Box \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_  
(\_\_\_\_) \_\_\_\_-\_\_\_\_

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

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

**2. Object to the Settlement**

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

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

### **3. Exclude Yourself from the Settlement**

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

## **E. Release of Claims**

Upon the final approval by the Court of this Settlement Agreement, and except as to such rights or claims as may be created by the Settlement Agreement, each Class Member who has not timely requested exclusion from the Settlement, fully releases and discharges Defendants, and all of their past, present, and future parent companies, subsidiaries, affiliates, divisions, joint ventures, agents, management companies, and all of their respective employees, members, officers, directors, partners, legal representatives, accountants, trustees, executors, administrators, real or alleged alter egos, predecessors, successors, transferees, assigns and insurers (collectively “Released Parties”), from and all claims, demands, rights, liabilities, actions, grievances, demands for arbitration, and causes of action, of every nature and description, that were or could have been asserted based on the facts alleged in the FAC, including but not limited to, any state or federal claims (including without limitation claims under the Fair Labor Standards Act (“FLSA”)), relating to the failure to pay wages, failure to pay minimum wages, failure to pay overtime, failure to provide meal or rest breaks, failure to provide accurate and complete wage statements, failure to keep records, unfair competition, PAGA penalties (PAGA penalties only for those violations set forth in the Notice provided to Defendants and the LWDA on September 29, 2020, including (1) Failure to Pay for All Time Worked at Correct Rates of Pay, Including Minimum Wages, Straight Time Wages, and Overtime Compensation; (2) Failure to Provide Meal Periods and Pay Meal Period Premiums; (3) Failure to Authorize and Permit Rest Periods and Pay Rest Period Premiums; (4) Failure to Timely Pay Wages During Employment; (5) Failure to Provide Accurate Wage Statements; (6) Failure to Maintain Accurate Records; and (7) Failure to Pay All Wages Upon Termination of Employment), waiting time penalties, interest, attorney’s fees, or any other alleged known or unknown wage and hour violations that were alleged or could reasonably have been alleged based on arising out of the acts, facts, transactions, occurrences, representations, or omissions that were asserted in the Lawsuit (“Released Claims”). The cashing of the settlement check by a Settlement Class Member will be considered a consent and opt-in to the settlement of all related federal wage-hour claims under the FLSA, and each Settlement Class Member who cashes a settlement check will waive his or her rights to bring related claims under the FLSA during the Class Period. Any Class Member who receives a payment under PAGA pursuant to Paragraph 18 and who opts out of the Settlement is only bound by the release of PAGA claims.

## **F. Final Approval Hearing**

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

## **G. Where to Get More Information**

If you want more information about the lawsuit or the settlement, you can contact Class Counsel or any other advisor of your choice. You can also view and obtain copies of lawsuit and related documents in the Court’s file by going to the Clerk’s office. **DO NOT CONTACT THE**



JUDGE OR JUDGE'S COURTROOM CLERK. Below is the contact information for the lawyers representing the Parties and for the Clerk of the Court.

Class Counsel

Cody Payne  
Kim Nguyen  
Payne Nguyen LLP  
4640 Admiralty Way, Suite 500  
Marina del Rey, CA 90292  
Tele: (310) 360-9882  
Fax: (310) 928-7469  
[cody@paynellp.com](mailto:cody@paynellp.com)

Defendants' Counsel

Jeffrey Fuchsman  
Ballard Rosenberg Golper &  
Savitt, LLP  
15760 Ventura Blvd., 18<sup>th</sup> Floor  
Encino, CA 91436  
Tele: (818) 508-3700  
Fax: (818) 506-4827  
[jfuchsman@brgslaw.com](mailto:jfuchsman@brgslaw.com)

The Court

Superior Court of California  
County of Los Angeles  
312 N. Spring Street, Los  
Angeles, CA 90012  
[www.lacourt.org](http://www.lacourt.org)

BY ORDER OF THE COURT ENTERED ON \_\_\_\_\_ 202\_\_.

# **EXHIBIT D**

## **NOTICE OF CLASS ACTION SETTLEMENT**

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

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

#### **A. Summary of the Claims**

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

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

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

#### **B. Why You Are Receiving This Notice**

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

### **C. The Terms of the Settlement**

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

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

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

### **D. Your Options**

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

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

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

**1. Participate in the Settlement**

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

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

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

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

Creative Dry Process Class Action Settlement Administrator  
c/o \_\_\_\_\_  
P.O. Box \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_  
(\_\_\_\_) \_\_\_\_-\_\_\_\_

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

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

**2. Object to the Settlement**

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

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

### **3. Exclude Yourself from the Settlement**

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

## **E. Release of Claims**

Upon the final approval by the Court of this Settlement Agreement, and except as to such rights or claims as may be created by the Settlement Agreement, each Class Member who has not timely requested exclusion from the Settlement, fully releases and discharges Defendants, and all of their past, present, and future parent companies, subsidiaries, affiliates, divisions, joint ventures, agents, management companies, and all of their respective employees, members, officers, directors, partners, legal representatives, accountants, trustees, executors, administrators, real or alleged alter egos, predecessors, successors, transferees, assigns and insurers (collectively “Released Parties”), from and all claims, demands, rights, liabilities, actions, grievances, demands for arbitration, and causes of action, of every nature and description, that were or could have been asserted based on the facts alleged in the FAC, including but not limited to, any state or federal claims (including without limitation claims under the Fair Labor Standards Act (“FLSA”)), relating to the failure to pay wages, failure to pay minimum wages, failure to pay overtime, failure to provide meal or rest breaks, failure to provide accurate and complete wage statements, failure to keep records, unfair competition, PAGA penalties ([PAGA penalties only for those violations set forth in the Notice provided to Defendants and the LWDA on September 29, 2020, including \(1\) Failure to Pay for All Time Worked at Correct Rates of Pay, Including Minimum Wages, Straight Time Wages, and Overtime Compensation; \(2\) Failure to Provide Meal Periods and Pay Meal Period Premiums; \(3\) Failure to Authorize and Permit Rest Periods and Pay Rest Period Premiums; \(4\) Failure to Timely Pay Wages During Employment; \(5\) Failure to Provide Accurate Wage Statements; \(6\) Failure to Maintain Accurate Records; and \(7\) Failure to Pay All Wages Upon Termination of Employment](#)), waiting time penalties, interest, attorney’s fees, or any other alleged known or unknown wage and hour violations that were alleged or could reasonably have been alleged based on arising out of the acts, facts, transactions, occurrences, representations, or omissions that were asserted in the Lawsuit (“Released Claims”). The cashing of the settlement check by a Settlement Class Member will be considered a consent and opt-in to the settlement of all related federal wage-hour claims under the FLSA, and each Settlement Class Member who cashes a settlement check will waive his or her rights to bring related claims under the FLSA during the Class Period. Any Class Member who receives a payment under PAGA pursuant to Paragraph 18 and who opts out of the Settlement is only bound by the release of PAGA claims.

## **F. Final Approval Hearing**

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

## **G. Where to Get More Information**

If you want more information about the lawsuit or the settlement, you can contact Class Counsel or any other advisor of your choice. You can also view and obtain copies of lawsuit and related documents in the Court’s file by going to the Clerk’s office. **DO NOT CONTACT THE**

JUDGE OR JUDGE'S COURTROOM CLERK. Below is the contact information for the lawyers representing the Parties and for the Clerk of the Court.

Class Counsel

Cody Payne  
Kim Nguyen  
Payne Nguyen LLP  
4640 Admiralty Way, Suite 500  
Marina del Rey, CA 90292  
Tele: (310) 360-9882  
Fax: (310) 928-7469  
[cody@paynellp.com](mailto:cody@paynellp.com)

Defendants' Counsel

Jeffrey Fuchsman  
Ballard Rosenberg Golper &  
Savitt, LLP  
15760 Ventura Blvd., 18<sup>th</sup> Floor  
Encino, CA 91436  
Tele: (818) 508-3700  
Fax: (818) 506-4827  
[jfuchsman@brgslaw.com](mailto:jfuchsman@brgslaw.com)

The Court

Superior Court of California  
County of Los Angeles  
312 N. Spring Street, Los  
Angeles, CA 90012  
[www.lacourt.org](http://www.lacourt.org)

BY ORDER OF THE COURT ENTERED ON \_\_\_\_\_ 202\_\_.