

EXHIBIT 1

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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF SANTA CLARA**

15
16 FELIX AGUILAR, JOSE MARTINEZ, and
17 JOSE CAZARES, individually, and on behalf
of all others similarly situated,

18 Plaintiffs,

19 v.

20 ALL SEASONS ROOFING &
21 WATERPROOFING, INC., VLADISLAV N.
GORSHTEYN, and DOES 1 through 50,
22 inclusive,

23 Defendants.

Case No. 20CV364524

CLASS ACTION

**JOINT STIPULATION OF CLASS
SETTLEMENT**

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27 This Joint Stipulation of Settlement and Release (“Stipulation of Settlement” or
28 “Settlement”) is made and entered into by and between Plaintiffs Felix Aguilar, Jose Martinez, and

1 Jose Cazares (“Plaintiffs” or “Class Representatives”), individually and on behalf of all others
2 similarly situated and Defendants All Seasons Roofing & Waterproofing, Inc. and Vladislav N.
3 Gorshteyn (collectively “Defendants” or “All Seasons”). Subject to the terms and conditions hereof
4 and the approval of the Court, this Settlement shall be binding on the Class Representatives and
5 those persons they represent, and on Defendants and all other Released Parties, as defined in
6 Paragraph 34 of this Agreement.

7 **THE PARTIES STIPULATE AND AGREE** as follows:

8 1. Plaintiffs and Defendants are collectively referred to herein as “the Parties.”

9 2. On March 2, 2020, Felix Aguilar, Jose Martinez, and Jose Cazares filed a Class
10 Action Complaint (“the Action”) in Santa Clara County Superior Court, captioned *Aguilar et al. v.*
11 *All Seasons Roofing & Waterproofing, Inc., et al.*, Case No. 20CV364524, for several alleged wage
12 and hour violations.

13 a. The operative Complaint is the First Amended Complaint, which Plaintiffs filed on
14 May 11, 2020, to add a cause of action for penalties under the Private Attorney
15 Generals Act (“PAGA”) (the “Operative Complaint” or “FAC”) and alleges causes
16 of action for failure to pay minimum wages, breach of contract for failure to pay for
17 all hours worked, failure to pay overtime and double time wages, failure to provide
18 meal periods and rest periods, failure to pay earned wages upon discharge, failure to
19 provide accurate wage statements, penalties under the PAGA, unlawful and/or unfair
20 business practices, declaratory and injunctive relief, and attorney’s fees.

21 3. On February 4, 2021, the Parties and their counsel of record participated in a
22 mediation session with experienced employment law mediator Jeffrey A. Ross. The negotiation
23 discussion was vigorous and conducted at arm’s length, and after a lengthy mediation session that
24 extended into the evening, the Parties reached an agreement.

25 4. For Settlement purposes only, the Parties hereby stipulate and agree to the following:

26 a. “Class Members,” “Plaintiff Class,” and “Settlement Class” mean the following: “all
27 hourly, non-exempt, construction employees of All Seasons Roofing &
28 Waterproofing, Inc. performing roofing work in the state of California for All

1 Seasons Roofing & Waterproofing, Inc. at any time from March 2, 2016 to February
2 4, 2021 (“Liability Period”).” A list of Class Members, identified by their employee
3 identification number, and their dates of employment within the Liability Period is
4 attached hereto as **Exhibit 1**.

- 5 b. The Plaintiff Class is ascertainable and so numerous as to make it impracticable to
6 join all Class Members.
- 7 c. There are common questions of law and fact, including the following: whether All
8 Seasons complied with all applicable federal, state, and local laws affecting
9 Plaintiffs and the Plaintiff Class regarding unpaid wages, unpaid overtime, record-
10 keeping violations, meal and rest breaks, wage statements and as to all claims
11 alleged in the FAC, and whether Plaintiffs and the Plaintiff Class are entitled to the
12 alleged damages, and injunctive or declaratory relief.
- 13 d. Plaintiffs’ claims are typical of the claims of the members of the Plaintiff Class.
- 14 e. Plaintiffs and Class Counsel, as defined below, will fairly and adequately protect the
15 interests of the Plaintiff Class.
- 16 f. The prosecution of separate actions by individual members of the Plaintiff Class
17 would create the risk of inconsistent or varying adjudications, which would establish
18 incompatible standards of conduct.
- 19 g. With respect to the Plaintiff Class, questions of law and fact common to the Class
20 Members predominate over any questions affecting any individual member in such
21 Class, and a class action and/or representative action is superior to other available
22 means for the fair and efficient adjudication of the controversy.

23 5. Defendants deny any liability or wrongdoing of any kind whatsoever associated with
24 the claims alleged in the Operative Complaint and further deny that, for any purpose other than
25 settling this lawsuit, this Action is appropriate for class or representative treatment. With respect to
26 Plaintiffs’ claims, Defendants contend, among other things, that they have complied with all
27 applicable state, federal, and local laws affecting Plaintiffs and the Settlement Class regarding hours
28 worked, unpaid wages, unpaid overtime, unpaid minimum wages, meal and rest periods, record-

1 keeping violations, wage statements, and as to all claims alleged or could have been alleged in the
2 Action.

3 6. It is the intention of the Parties that this Stipulation of Settlement shall constitute a
4 full and complete settlement and release of all claims arising from or related to the allegations of this
5 class action case against Defendants, and all other Released Parties, as defined in Paragraph 34 of
6 this Agreement. The Parties acknowledge that this Stipulation of Settlement shall not be construed
7 as an admission of liability whatsoever by any Party, or by any officers, directors, agents, or
8 employees of Defendants.

9 7. Counsel for the Plaintiff Class has conducted a thorough investigation into the facts
10 of this Action, including a review of relevant documents and data, and have diligently pursued an
11 investigation of Class Members' claims against Defendants. In addition, counsel for the Plaintiff
12 Class has communicated with dozens of Class Members. Plaintiffs' written, informal discovery
13 requests led to the production of considerable evidence, including the policies and practices directly
14 at issue, as well as those policies and procedures that allegedly affected Defendants' ability to
15 comply with the Labor Code. Plaintiffs' Counsel analyzed thousands of pages of data and documents
16 produced by Defendants through informal discovery processes. Plaintiffs' Counsel sought and
17 obtained a sample of Class Members' time records and payroll data for public works projects, which
18 Plaintiffs' Counsel reviewed and analyzed in order to assess Defendants' liability for the claims
19 alleged.

20 8. Based on her own independent investigation and evaluation, Plaintiffs' Counsel is of
21 the opinion that the Settlement with Defendants for the consideration and on the terms set forth in
22 this Stipulation of Settlement is fair, reasonable and adequate and is in the best interest of the
23 Plaintiff Class in light of all known facts and circumstances, including the risk of significant delay,
24 the risk the Plaintiff Class will not be certified by the Court, defenses asserted by Defendants, and
25 numerous potential appellate issues. Defendants and Defendants' counsel also agree that the
26 Settlement is fair and reasonable.

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1 9. This Settlement shall remain confidential until a stipulation for preliminary approval
2 is filed with the Court (though the Parties may discuss the proposed settlement with signatories and
3 counsel.)

4 10. The Parties agree to cooperate and to take all steps necessary and appropriate to
5 consummate this Settlement and to enter a judgment in this Action after all Settlement sums have
6 been paid out in accordance with this Stipulation of Settlement.

7 11. This Stipulated Settlement Agreement has the following requirements:

8 a. Defendants will pay nine hundred ninety five thousand dollars (\$995,000) in a non-
9 reversionary settlement fund (the “Total Settlement Amount”). The Total Settlement
10 Amount will cover payments to the class; attorney’s fees, reasonable litigation
11 expenses; service payments for the Class Representatives, fees and expenses of the
12 Settlement Administrator, PAGA penalties; and the employees’ share of payroll
13 taxes. Defendants’ corporate payroll tax obligation shall be paid separately and in
14 addition to the Total Settlement Amount.

15 b. As described in further detail below, this amount will be paid through a
16 lump-sum payment of \$995,000, which shall be paid to the Settlement Administrator
17 within 30 days after final approval.

18 12. It is further understood and agreed that Defendants shall have no obligation to pay
19 any person, entity or organization more than the Total Settlement Amount, except as provided in
20 paragraph 14.c. and except for Defendants’ share of the employer payroll taxes, which shall be paid
21 separately and in addition to the Total Settlement Amount within 30 days after final approval.

22 13. This Settlement provides that a payment shall be made with a Settlement Check to
23 each Class Member. Settlement Checks will go directly to all Class Members without the need to
24 file a claim form. In other words, no Class Member will have to fill out and submit a claim form in
25 order to receive a payment under this Settlement. The amount in each Settlement Check will be
26 calculated using the specified workweek formula described in paragraph 14.f. (1), below.

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1 **TERMS OF THE SETTLEMENT**

2 14. NOW THEREFORE, in consideration of the mutual covenants, promises, and
3 agreements set forth herein, the Parties agree, subject to the Court’s approval, as follows:

4 a. It is agreed by and among Plaintiffs and Defendants that the Action, and any claims,
5 damages, or causes of action arising out of the facts, circumstances and disputes which are the
6 subject of this Action, be fully and finally settled and compromised as between Plaintiffs and
7 Defendants, subject to the terms and conditions set forth in this Stipulation of Settlement and the
8 approval of the Superior Court of California, Santa Clara County.

9 b. Effective Date: The Settlement embodied in this Stipulation of Settlement shall
10 become effective when all of the following events have occurred: (1) this Stipulation of Settlement
11 has been executed by all Parties and by counsel for the Plaintiff Class and Defendants; (2) the Court
12 has given preliminary approval to the Settlement; (3) notice has been given to the Class Members,
13 as provided herein; (4) the Court has held a Final Fairness Hearing and entered a final order
14 approving this Settlement Agreement, certifying the Class for settlement purposes only, entering a
15 non-monetary judgment which allows the Court to retain jurisdiction over the parties and the case
16 to enforce the terms of the Settlement Agreement, as necessary; (5) all payments are made to the
17 Settlement Fund by Defendants as described in paragraph 14.d., below; and (6) the following events
18 occur: (a) the order containing the Court’s Final Approval of this settlement (“Final Approval
19 Order”) is filed, if no objections by Class Members have been filed or if any objections by Class
20 Members have been withdrawn in writing prior to, or on the record at the Final Fairness Hearing;
21 (b) the time for appeal expires, if an objection has been filed and not withdrawn; or (c) the final
22 resolution of any appeal of objections occurs, if an appeal has been filed and not dismissed. In this
23 regard, it is the Parties’ intention that the Settlement shall not become effective until the Court
24 issues its Final Approval Order, and there is no further recourse by an appellant or objector who
25 seeks to contest the Settlement.

26 c. Total Settlement Amount: To implement the terms of this Settlement, Defendants
27 agree to pay nine hundred ninety five thousand dollars (\$995,000), the “Total Settlement Amount.”
28 Defendants represent that 587 persons worked for All Seasons Roofing & Waterproofing, Inc., as

1 hourly construction workers performing roofing work in the state of California from March 2, 2016,
2 2013 through February 4, 2021. Those persons worked 31,771.88 workweeks; however, for
3 settlement purposes, those workweeks will be considered 32,038 rounded workweeks. In addition,
4 if further information reveals that the number of Class Members exceeds 587 members or the
5 number of workweeks exceeds 32,038 rounded workweeks, the gross settlement amount will
6 increase \$31.05 per additional workweek for the newly uncovered information. However, for all
7 workweeks in excess of 32,038 rounded workweeks, if the workweek was worked between April 1,
8 2020 and February 4, 2021, that workweek will be calculated as $\frac{1}{4}$ of one workweek for purposes of
9 this pro rata calculation, consistent with the weighting of these workweeks as described in
10 paragraph 14.f.(1), below.

11 d. Settlement Consideration: Subject to the provisions hereof, within thirty (30) days
12 after the Final Approval Order is entered, Defendants will pay a lump sum of \$995,000, plus any
13 additional funds as contemplated in paragraph 14.c. and the employer's share of payroll taxes by
14 wire transfer to the Settlement Administrator using wire instructions provided by the Settlement
15 Administrator.

16 e. Net Settlement Amount and Settlement Payments: The Net Settlement Amount shall
17 be calculated by deducting from the Total Settlement Amount all attorney's fees and litigation
18 costs, as approved by the Court, the service awards to the Class Representatives, in an amount to be
19 approved by the Court but which shall not to exceed \$10,000 each, the PAGA payment described
20 below in subsection (k) and paragraph 33 (estimated to be \$49,750), and the fees and expenses of
21 the Settlement Administrator (estimated to be \$12,000) ("Net Settlement Amount"). Defendants'
22 share of the employer payroll taxes will be paid separately, according to the percentages set forth
23 below, and shall be paid in addition to the Total Settlement Amount.

24 f. The amounts paid to the Class Members shall be calculated by the Settlement
25 Administrator and paid out of the Net Settlement Amount, as set forth below. The payments to
26 each Class Member shall be made by the Settlement Administrator on a *pro rata* basis, based on the
27 number of weeks worked by the individual Class Member for Defendants during the class period.
28 Those workweeks will be calculated by dividing the Net Settlement Amount by the total number of

1 workweeks worked by all Class Members during the Class Period, which shall not exceed 32,038
2 rounded workweeks, and multiplied by the number of rounded workweeks worked by each Class
3 Member. However, workweeks between April 1, 2020 through February 4, 2021 will be worth 25
4 percent of the prior years, as described more specifically in paragraph 14.f.(1). In other words, each
5 Class Member's pro rata share of the Net Settlement Amount is a fraction, with the individual Class
6 Member's weeks worked as the numerator and the total number of weeks worked by all Class
7 Members as the denominator. If the total number of workweeks worked by all Class Members
8 during the Class Period exceeds 32,038 rounded workweeks, the Gross Settlement Amount will
9 increase as explained in paragraph 14.c. Sixty (60) days after the Settlement Checks have been
10 issued and dispersed, the Settlement Administrator will send a reminder postcard to all Class
11 Members who have not yet cashed their Settlement Checks, reminding them of the deadline for
12 doing so. Ninety (90) days after the Settlement Checks have been issued and dispersed, any
13 uncashed Settlement Checks will be cancelled, and the unclaimed sum will be distributed as
14 described below in paragraphs 29-32.

15 (1) Settlement Awards to Class Members: Settlement Awards to Class Members
16 will be disbursed by the Settlement Administrator on a *pro rata* basis based on the number of weeks
17 worked by the individual Class Member for Defendants as a nonexempt construction worker during
18 the Class Period. Because of All Seasons' change of employment practices during the class period,
19 the weeks worked by Class Members before 04/01/2020 will be valued at 1X and the workweeks
20 between 04/01/2020 and 02/04/2021 will be valued at 0.25X. The Settlement Awards shall be paid
21 from the "Net Settlement Amount" according to the following formula: a *pro rata* share of the Net
22 Settlement Amount shall be paid to each Class Member, based on the total number of work weeks
23 worked during the Class Period (multiplied by 0.25 or 1 as described above)) by each Class
24 Member divided by the total number of weeks worked during the Class Period (multiplied by 0.25
25 or 1, as described above) by all Class Members. In other words, each Class Member's *pro rata*
26 share of the Net Settlement Amount is a fraction, with the individual Class Member's total weeks
27 worked as the numerator and the total number of weeks worked by all Class Members as the
28 denominator. In instances in which a Class Members works a term of employment that is less than

1 one full work week, that Class Member's *pro rata* share of the Net Settlement Amount will be
2 calculated as if the Class Member worked a full week. Fractional workweeks shall not be used for
3 purposes of this Settlement Agreement.

4 The number of weeks actually worked by individual Class Members during the Class Period
5 will be calculated by reference to Defendants' records, which will be presumed to be correct unless
6 the Class Member timely disputes those records telephonically or in writing to the Settlement
7 Administrator, in which case the Settlement Administrator will make a decision regarding the
8 number of weeks worked by the Class Member based on the information provided to it. The
9 Settlement Administrator will determine both the number of weeks worked by the individual Class
10 Members and the estimated individual settlement awards to be paid to each Class Member. The
11 number of workweeks worked by the Class Member will be rounded up to the nearest workweek.
12 The Settlement Administrator will provide these initial estimates to the Class in the Class Member
13 Information Form ("Information Form"), which will be included as a part of the proposed Notice of
14 Pendency of Class Action, Proposed Settlement, and Final Fairness Hearing Date for Court
15 Approval ("Class Notice" or "Notice").

16 Following receipt of the Class Notices and Information Forms, Class Members may review
17 the number of workweeks and Settlement Check amount estimates and send any proposed
18 corrections back to the Settlement Administrator. Class Members may either postmark their
19 corrected Information Forms and/or place a telephone call to the Settlement Administrator with
20 their proposed correction within forty-five (45) calendar days after the mailing of the Class Notices
21 and Information Forms. Class Members may—but are not required to—submit evidence to the
22 Settlement Administrator demonstrating that the Class Members' corrections are accurate. All
23 disputes regarding weeks worked will be resolved and decided by the Settlement Administrator, and
24 the Settlement Administrator's decision on all such disputes will be final, binding, and non-
25 appealable.

26 (2) Allocation of Settlement Awards: All Class Members will be paid a
27 settlement award based on the formula identified in the paragraph above. The individual Settlement
28 Awards payable to eligible Class Members will be allocated as follows: 34% of the Class

1 Members' settlement payments will be characterized as wages, for which IRS Forms W-2 will be
2 issued, 33% of the Class Members' settlement payments will be characterized as interest, for which
3 IRS Forms 1099 will be issued, and 33% of the Class Members' settlement payments will be
4 characterized as penalties, for which IRS Forms 1099 will be issued. Individual Settlement Checks
5 paid from the Net Settlement Amount allocated to wages will be reduced by applicable employer
6 and employee tax withholdings. The Parties stipulate and agree that Defendants will pay the
7 employer's share of payroll taxes related to these Settlement Awards in addition to, and separately
8 from, the amount specified as the Total Settlement Amount.

9 g. Attorney's Fees and Litigation Costs: Subject to Court approval and/or
10 modification, Defendants agree to pay out of the Total Settlement Amount Plaintiffs' attorneys'
11 fees, up to a maximum of thirty-three percent (33%) of the Total Settlement Amount, and costs up
12 to a maximum of twenty thousand dollars (\$20,000). Defendants further agree not to object to
13 Plaintiffs' request for fees in an amount not to exceed 33% of the Total Settlement Amount plus
14 approximately \$20,000 in costs. Should the Court approve attorney's fees and costs payments in an
15 amount less than that set forth above, the difference between the lesser amount approved by the
16 Court and the requested amounts shall be included within the Net Settlement Amount.

17 h. Class Representatives' Service Awards: Subject to Court approval, Defendants
18 further agree to pay the Class Representatives' service award ("Service Award") from the Total
19 Settlement Amount for their service as Class Representatives, up to a maximum of ten thousand
20 dollars (\$10,000) each. These service awards shall be paid from the Total Settlement Amount.
21 Defendants will not object to Class Counsel's application for Court approval of these Service
22 Awards. It is understood that the Service Award payments are in addition to any claimed Individual
23 Settlement Awards to which the Class Representatives are entitled as Class Member. The
24 Settlement Administrator will issue an IRS Form 1099 for the Service Award payments to the Class
25 Representatives for their service as Class Representatives. Should the Court approve Service
26 Award payments to the Class Representatives in an amount less than that set forth above, the
27 difference between the lesser amount approved by the Court and the service awards set forth above
28 shall be included within the Net Settlement Amount.

1 i. Settlement Administrator: The Parties stipulate that they will seek appointment of
2 Phoenix Class Action Administration Solutions as the Settlement Administrator. The fees of the
3 Settlement Administrator for work done shall be paid from the Total Settlement Amount, is
4 estimated to be \$12,000 (twelve thousand dollars) and shall not exceed that amount.

5 j. Right of Class Members to Object or Request Exclusion: Class Members will have
6 forty-five (45) calendar days from the mailing of the Class Notice and Information Form (the
7 “Response Deadline”) within which to postmark an objection to the Settlement or to request
8 exclusion (“opt out”) from the Class, unless the forty-fifth (45th) calendar day falls on a Sunday or
9 federal holiday, in which case, Class Members will have until the next day on which the U.S. Postal
10 Service is open. Only Class Members who have not opted out may object. To object, a Class
11 Member must mail a letter to the Settlement Administrator stating that he objects to the Settlement.
12 This letter must include the Class Member’s name, address, telephone number, signature, and the
13 reasons for the objection to the Settlement. To opt out, a Class Member must mail a letter to the
14 Settlement Administrator setting forth his name and stating that he wants to “opt out” or be
15 excluded from this lawsuit and does not wish to participate in the settlement. The Parties agree that
16 upon receipt of a letter objecting to the Settlement or a letter requesting exclusion or opt out from
17 the lawsuit or a letter stating a Class Member’s intent to appear at the Final Fairness Hearing, the
18 Settlement Administrator shall contact Plaintiffs’ and Defendants’ counsel and provide them with a
19 copy of the letter. The Settlement Administrator shall contact counsel within two (2) business days
20 of receipt of such a letter. If a Class Member submits both an objection and a request to opt out, the
21 Settlement Administrator shall contact the Class Member to clarify what the Class Member wishes
22 to do with regard to the Settlement.

23 k. PAGA: Plaintiffs’ First Amended Complaint alleges potential claims for penalties
24 pursuant to the Private Attorneys General Act (“PAGA”), California Labor Code sections 2698 *et*
25 *seq.* The Parties agree that all such claims for PAGA penalties have been settled in this Settlement
26 in the amount of 5% of the Total Settlement Amount, or \$49,750, subject to approval by the Court.
27 The PAGA penalties shall be allocated as follows: 75% (\$37,312.50) shall be paid to the Labor
28 Workforce Development Agency (“LWDA”), and the remaining 25% (\$12,437.50) shall be

1 distributed to the Settlement Class Members that worked for Defendants as construction employees
2 during the PAGA liability period.

3 1. No Reversion to Defendants: The Parties agree that no amount from any uncashed
4 Settlement Checks or any other portion of the Total Settlement Fund will revert to Defendants.

5 **SETTLEMENT ADMINISTRATION**

6 15. The Parties have mutually agreed to seek Court appointment of Phoenix Class
7 Action Administration Solutions as the Settlement Administrator to perform the customary duties of
8 the Settlement Administrator. The fees of the Settlement Administrator for work done shall be paid
9 from the Total Settlement Amount, is estimated to be between \$11,000 - \$12,000 and shall not
10 exceed \$12,000. The Settlement Administrator will send out to the Class Members the Notice and
11 the Information Form within twenty (20) calendar days after the date the Court issues its order
12 granting preliminary approval of the Settlement. The Settlement Administrator will independently
13 review Defendants' records and will calculate the number of weeks worked by the Class Members
14 and the amounts due to the Class Members in accordance with this Stipulation of Settlement. The
15 Settlement Administrator shall expressly agree to all of the terms and conditions of this Settlement
16 and shall maintain the confidentiality of the Class Members.

17 16. Provided that all required payments have been made to the Total Settlement Fund,
18 the Settlement Administrator will issue and send out Settlement Award Checks to Class Members
19 as described on paragraphs 29-32. The Settlement Administrator shall make all required tax
20 withholdings and deposits, and shall duly report all necessary information to Defendants, to allow it
21 to accurately and timely prepare and file all required payroll tax paperwork. Tax treatment of the
22 Settlement Awards will be as set forth herein and in accordance with state and federal tax laws. All
23 disputes relating to the Settlement Administrator's performance of its duties shall be referred to the
24 Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this
25 Stipulation of Settlement until all payments and obligations contemplated by this Stipulation of
26 Settlement have been fully carried out.

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1 **ATTORNEY'S FEES AND COSTS**

2 17. In consideration for settling this matter and in exchange for the release of all claims
3 by the Settlement Class, and subject to final approval and/or modification by the Court, as part of
4 and from the Total Settlement Amount, Defendants agree to pay Plaintiffs' Counsel's attorney's
5 fees up to thirty-three percent (33%) of the Total Settlement Amount, and litigation costs not to
6 exceed the total sum of twenty thousand dollars (\$20,000) from the Total Settlement Amount.
7 Defendants will not object to Plaintiffs' Counsel's application for attorney's fees and costs up to
8 33% of the Total Settlement Amount in fees plus approximately \$20,000 in costs. Attorney's fees
9 and costs approved by the Court will cover all work performed and all fees and costs incurred to
10 date, and all other work to be performed and all fees and costs to be incurred in connection with the
11 approval by the Court of this Stipulation of Settlement and Plaintiffs' Counsel's administration of
12 the Settlement.

13 18. Provided that all required payments have been made to the Total Settlement Fund,
14 the attorney's fees and costs approved by the Court shall be paid from the Total Settlement Fund by
15 the Settlement Administrator to Class Counsel within seven (7) calendar days after the Effective
16 Date, as described in paragraph 14.b. above.

17 **NOTICE TO THE SETTLEMENT CLASS**

18 19. Within fifteen (15) business days of preliminary approval of this Settlement by the
19 Court, Defendants shall provide to the Settlement Administrator all of the following information
20 about each Class Member in a format requested by the Settlement Administrator: (1) Class
21 Member's name, (2) last-known address, (3) last-known telephone number, (4) Social Security
22 Number, and (5) dates of employment with Defendants as non-exempt hourly construction
23 employees during the Class Period. This database shall be based on Defendants' payroll and other
24 business records. The Settlement Administrator will maintain this database and all data contained
25 within the database, as private and confidential and shall not disclose such data to any persons or
26 entities.

27 20. No later than five (5) days after the provision of the data as described in Paragraph
28 19 by Defendants to the Settlement Administrator, Defendants will file with the Court a declaration

1 attesting to the forwarding to the Settlement Administrator of an accurate class list according to the
2 terms of the Settlement Agreement.

3 21. Prior to any mailing, the Settlement Administrator will run a check of the Class
4 Members' addresses against those on file with the U.S. Postal Service's National Change of
5 Address List. Within twenty (20) calendar days of preliminary approval of this Settlement, the
6 Settlement Administrator will mail the Notice and the Information Form to the Class Members.

7 22. The Class Notice, as approved by the Court, shall be sent by the Settlement
8 Administrator to the Class Members by first class mail. The Class Notice will be in English and
9 Spanish. Accompanying the Notice will be an Information Form as approved by the Court.

10 23. As described above, any Notices and Information Forms ("Notice Packets") returned
11 to the Settlement Administrator as non-delivered during the Response Deadline shall be resent to
12 the forwarding address, if any, on the returned envelope. The Settlement Administrator shall use all
13 reasonably available means, such as NCOA searches and skip traces, to find Class Members within
14 two (2) business days of receiving returned Notices Packets. If a Class Member's Notice Packet is
15 re-mailed, the Class Member shall have fifteen (15) calendar days from the re-mailing, or sixty (60)
16 calendar days from the date of the initial mailing, whichever is later, in which to postmark
17 objections or requests for exclusion. If the last day for a Class Member to opt-out of the settlement
18 or to object to the settlement falls on a Sunday or federal holiday after the re-mailing, the last day
19 for the Class Member to do so will be extended to the next day on which the U.S. Postal Service is
20 open. It is the intent of the Parties that reasonable means be used to locate Class Members and that
21 the Settlement Administrator be given discretion to take steps in order to facilitate Notice of the
22 Settlement and delivery of the Settlement Payments to all Participating Class Members. If the
23 Notice Packet of a Class Member is re-mailed, the Settlement Administrator will note for its own
24 records and notify Plaintiffs' Counsel and Defense Counsel of the date of each such re-mailing as
25 part of a weekly status report provided to the Parties. Upon completion of these steps by the
26 Settlement Administrator, the Parties and the Settlement Administrator shall be deemed to have
27 satisfied their obligations to provide reasonable Notice to the members of the Class. The affected
28 members of the Class (that is, Class Members who do not validly request to be excluded from the

1 Class) shall remain members of the Class and shall be bound by all the terms of the Stipulation of
2 Settlement and the Court's Final Approval Order and Final Judgment.

3 24. Within twenty (20) calendar days of the Preliminary Approval Date, the Settlement
4 Administrator will also establish a website which shall make available all documents submitted to
5 the Court in connection with the proposed settlement and all orders relating to the settlement.

6 25. Class Members will have forty-five (45) days from the date the Settlement
7 Administrator mails the Notice to postmark objections, workweek disputes, and/or requests for
8 exclusion. The objections should be sent to the Settlement Administrator and may be filed with the
9 Court. Plaintiff's Counsel shall provide to the Court, at least sixteen (16) court days prior to the
10 Final Fairness Hearing, a declaration by the Settlement Administrator of due diligence and proof of
11 mailing with regard to the mailing of the Notice Packet.

12 26. If a Notice Packet so mailed has not been returned within the Response Deadline, it
13 will be presumed that the Class Member received the Class Notice.

14 27. The Settlement Administrator shall provide to the Parties no later than seven (7)
15 calendar days after the close of the opt-out period, a declaration specifying the due diligence it has
16 undertaken with regard to the mailing of the Notice, including any attempts to obtain valid mailing
17 addresses for and re-sending of any returned Notices, as well as the number of valid requests for
18 exclusion and objections that the Settlement Administrator received. That declaration should also
19 include (1) the total number of workweeks that are to be paid to the Class Members under this
20 Agreement and (2) the Total Settlement Amount to be paid by Defendants if any additional funds are
21 to be paid, in accordance to paragraph 14.c. above.

22 **SETTLEMENT AWARD PROCESS**

23 28. Within thirty (30) days of the Final Approval of Class Settlement, Defendants will
24 pay a lump sum of nine hundred and ninety five thousand dollars (\$995,000) to the Settlement
25 Administrator plus the employer's share of payroll taxes and any additional funds as indicated in
26 paragraph 14.c.

27 29. Provided that all required payments of the lump sum and the employer's share of
28 payroll taxes have been made to the Total Settlement Fund, the Settlement Administrator will then

1 be responsible for making appropriate deductions, reporting obligations, and issuing the Individual
2 Settlement Awards. Checks to Class Members will be mailed by the Settlement Administrator
3 within ten (10) calendar days after the Settlement becomes effective pursuant to paragraph 14 (b)
4 above. Settlement Checks shall remain valid and negotiable for ninety (90) calendar days from the
5 date of their issuance. If a Settlement Check has not been cashed by the Class Member within that
6 time, the Class Member's claims will remain released by the Settlement and the Settlement
7 Administrator will automatically cancel the check and tender the unclaimed sums to the State
8 Controller Unclaimed Property Fund, in accordance with this Stipulation, unless otherwise ordered
9 by the Court.

10 30. In the event that a Class Member's Notice Packet remains undeliverable sixty (60)
11 calendar days after the Notice Packet was initially mailed, the Settlement Administrator will not
12 mail the Class Member's Individual Settlement Check. The Settlement Administrator will hold the
13 Class Member's Individual Settlement Check during the check cashing period on behalf of the
14 Class Member. If at the conclusion of the check cashing period, the Class Member's Notice Packet
15 and Individual Settlement Check remain undeliverable and/or unclaimed and uncashed, the
16 Settlement Administrator will distribute the funds from unclaimed/uncashed checks in accordance
17 with the procedure set forth in the paragraph 31 below.

18 31. If a Settlement Check sent to a Class Member is returned with a forwarding address
19 provided by the United States Postal Service, it shall be re-mailed to the forwarding address
20 provided. Any Notice returned to the Settlement Administrator as undeliverable on or before the
21 Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding
22 address is provided, the Settlement Administrator shall promptly attempt to determine a correct
23 address by use of skip-tracing, or other search using the name, address and/or Social Security
24 number of the respective Class Member, and shall then perform a re-mailing, if another mailing
25 address is identified by the Settlement Administrator. If a Class Member's Notice is returned to the
26 Settlement Administrator more than once as non-deliverable on or before the Response Deadline,
27 then an additional Notice need not be re-mailed and the Class Member is deemed to have received
28 Notice. If a Settlement Check sent to a Class Member is returned as undeliverable by the United

1 States Postal Service or is otherwise designated by the United States Postal Service as having been
2 sent to an invalid address and the Class Member did not provide the Settlement Administrator with
3 additional address information after the mailing of the Settlement Check, the Settlement
4 Administrator shall use all reasonably available and accessible means, such as skip traces, to find
5 updated and current addresses.

6 32. Settlement Checks issued to Class Members pursuant to this Settlement shall remain
7 valid and negotiable for a period of 90 calendar days from the date of the mailing of those Checks.
8 Class Members who fail to negotiate (*i.e.*, cash or deposit) their check(s) in timely fashion shall
9 remain subject to the terms of this Settlement. Thirty (30) days before the end of the 90-day period,
10 the Settlement Administrator will send a reminder postcard to those Class Members who have been
11 sent Settlement Checks but who have not cashed them, reminding them of the expiration of the 90-
12 day period. As noted above, uncashed Settlement Checks will be cancelled and those unclaimed
13 sums with Settlement payments not negotiated within the 90-day period shall be tendered to the
14 State Controller Unclaimed Property Fund in the name of the Class Member for whom the funds are
15 designated.

16 **PAGA PENALTIES**

17 33. Plaintiffs' Operative Complaint alleges potential claims for penalties pursuant to the
18 Private Attorneys' General Act ("PAGA"), Labor Code §§ 2698 *et seq.* The Parties agree that all
19 such claims for PAGA penalties have been settled in this Joint Stipulation in the amount of \$49,750
20 subject to approval by the Court. The PAGA penalties shall be allocated as follows: 75%
21 (\$37,312.50) shall be paid to the LWDA, and the remaining 25% (\$12,437.50) shall be included to
22 the Net Settlement Amount, to be distributed to the Settlement Class Members that worked for
23 Defendants as non-exempt construction employees during the PAGA liability period, *i.e.* from
24 March 2, 2019 to February 4, 2021. Within 14 days after the Settlement Administrator becomes
25 effective pursuant to paragraph 14.b. above, the Settlement Administrator will transfer the PAGA
26 penalty amount to the LWDA.

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1 **RELEASE BY THE CLASS**

2 34. Upon final approval by the Court of this Settlement, and except as to such rights or
3 claims as may be created by this Stipulation of Settlement, Plaintiffs, on their own behalf and as
4 Class Representatives, and all Class Members (“Releasing Parties”) shall fully and finally release
5 Defendants and their present and former owners, parent companies, subsidiaries, related or
6 affiliated companies, partners, shareholders, officers, directors, employees, agents, attorneys,
7 accountants, insurers, successors and assigns of Defendants, and any other person acting on their
8 behalf, and any individual or entity that could be jointly liable with Defendants based upon the facts
9 alleged in the First Amended Complaint, including temporary staffing agencies (“Released
10 Parties”), from any and all causes of action, claims, rights, damages, punitive or statutory damages,
11 penalties, liabilities, attorneys’ fees, expenses, unpaid costs, liquidated damages, interest, litigation
12 costs, restitution, equitable relief or other relief under Business & Professions Code §17200, et. seq
13 and losses and issues of any kind or nature whatsoever, that were alleged or which could have been
14 alleged, arising from facts in Plaintiffs’ original complaint or in the Operative Complaint, from
15 March 2, 2016 to February 4, 2021 (“Released Claims”).

16 35. In addition, each Class Representative understands and expressly agrees that in
17 exchange for receiving a service award of up to ten thousand dollars (\$10,000), as approved by the
18 Court, each Class Representative releases the Released Parties from any and all claims, demands,
19 rights, liability and causes of action of every nature and description whatsoever, known or
20 unknown, asserted or that might have been asserted, whether in tort, contract or for violation of any
21 state or federal statute, rule or regulation arising out of, relating to or in connection with any act or
22 omission by or on the party of any of the Released Parties committed or omitted within the Class
23 Period including a waiver of Civil Code § 1542. Such section reads as follows:

24 A general release does not extend to claims which the creditor does not know or
25 suspect to exist in his or her favor at the time of executing the release, which if
26 known by him or her must have materially affected his or her settlement with the
debtor.

27 36. Additionally, the Releasing Parties acknowledge that, pursuant to the terms of the
28 Settlement Agreement, they have released claims for failure to pay minimum wages, breach of

1 contract for failure to pay for all hours worked, failure to pay overtime and double time wages,
2 failure to provide meal periods and rest periods, failure to pay earned wages upon discharge, failure
3 to provide accurate wage statements, penalties under the PAGA, unlawful and/or unfair business
4 practices, declaratory and injunctive relief, and attorney's fees and interest in this Agreement.
5 Releasing Parties further acknowledge that Defendants contested these claims on a factual basis and
6 that the settlement reached herein is a compromised resolution of those disputed claims.

7 **DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL**

8 37. The Parties shall promptly submit this Stipulation of Settlement to the Santa Clara
9 County Superior Court of California in support of Plaintiffs' Motion for Preliminary Approval and
10 determination by the Court as to the Settlement's fairness, adequacy, and reasonableness. Promptly
11 upon execution of this Stipulation of Settlement, the Parties shall apply to the Court for the entry of
12 an Order Preliminarily Approving the Settlement, and the following:

- 13 a. Conditionally certifying the provisional settlement class of "all non-exempt, hourly
14 employees, who, at any time between March 2, 2016 and February 4, 2021, worked
15 as hourly, non-exempt construction employees for Defendants performing roofing
16 work in the state of California";
 - 17 b. Approving the Named Plaintiffs Felix Aguilar, Jose Martinez, and Jose Cazares, as
18 Class Representatives of the Settlement Class;
 - 19 c. Approving Cristina Molteni of Molteni Employment Law, as Class Counsel;
 - 20 d. Approving Phoenix Class Action Administration Solutions as Settlement
21 Administrator;
 - 22 e. Approving as to form and content the Class Notice;
 - 23 f. Approving as to form and content the Information Form;
 - 24 g. Approving the manner and method for Class Members to request exclusion from the
25 Settlement;
 - 26 h. Preliminarily approving the settlement subject only to the objections of Class
27 Members and final review by the Court;
- 28

- 1 i. Scheduling a Fairness Hearing on the question of whether the Settlement, including
2 payment of attorney's fees and costs and the Class Representatives' service awards
3 should be finally approved as fair, reasonable, and adequate as to the members of the
4 Class.

5 **DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL**

6 38. Following final approval by the Court of the Settlement provided for in this
7 Stipulation of Settlement, Counsel for the Class will submit a proposed Judgment on Final
8 Approval of Settlement and Retention of Jurisdiction:

- 9 a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable, and
10 adequate, and directing consummation of its terms and provisions;
11 b. Approving Class Counsel's application for an award of attorney's fees and costs;
12 c. Approving the service award payments to the Class Representatives; and
13 d. Retaining jurisdiction over the Parties to enforce the terms of the judgment, pursuant
14 to California Rules of Court, Rule 3.769 and California Code of Civil Procedure §
15 664.6.

16 **SETTLEMENT TERMINATION**

17 39. In the event that (a) the Court declines to enter final approval of the Settlement or to
18 enter the Judgment or any part thereof as provided for herein, or the Parties hereto fail to consent to
19 the entry of alternative forms of Judgment, in lieu thereof, or after such consent the Court declines
20 to enter such alternate form of Judgment; or (b) any conditions to the Settlement are not satisfied; or
21 (c) the Court disapproves this Settlement, or any term contained in this Settlement, including any
22 amendments hereto, and such disapproval becomes final by reason of being affirmed on appeal or
23 lapse of time or otherwise; or (d) the Court approves this Settlement, including any amendments
24 hereto, but any such judgment and approval is finally reversed on appeal; in any such event ((a)
25 through (d)), this Settlement shall be void, and the Preliminary Approval Order and the Final
26 Approval Order and Judgment, if any, shall be vacated upon application to the Court. In such
27 event, (a) this Stipulation and the Settlement shall be terminated and become void, (b) any actions
28 taken or to be taken in connection with this Stipulation and the Settlement shall become void and of

1 no effect; and (c) all pretrial proceedings, including discovery, shall resume 30 (thirty) days
2 thereafter as if this Settlement had not been proposed for approval of the Court.

3 40. In addition, in the sole event that five percent (5%) or more of the Class Members
4 timely elect to opt out of the Settlement Agreement, Defendants shall have the right, but not the
5 obligation, to terminate this Agreement. If Defendants, at their sole discretion, decide to exercise
6 this option, they shall be liable for administrative costs. Plaintiffs shall have no such right to
7 terminate this Agreement in the event that five percent (5%) or more of the Class Members timely
8 elect to opt out of the Settlement Agreement.

9 **PARTIES' AUTHORITY**

10 41. The signatories hereto hereby represent that they are fully authorized to enter into
11 this Stipulation of Settlement and bind the Parties hereto to the terms and conditions thereof.

12 **MUTUAL FULL COOPERATION**

13 42. The Parties agree to fully cooperate with each other to accomplish the terms of this
14 Stipulation of Settlement, including but not limited to, execution of such documents and taking
15 such other actions as reasonably may be necessary to implement the terms of this Stipulation of
16 Settlement. The Parties to this Stipulation of Settlement shall use their best efforts, including all
17 efforts contemplated by this Stipulation of Settlement and any other efforts that may become
18 necessary by order of the Court, or otherwise, to effectuate this Stipulation of Settlement and the
19 terms set forth herein. As soon as practicable after execution of this Stipulation of Settlement,
20 Plaintiffs' Counsel shall, with the assistance and cooperation of Defendants and their counsel, take
21 all necessary steps to secure the Court's final approval of this Stipulation of Settlement.

22 43. The Parties agree that they will not attempt to encourage or discourage Class
23 Members from submitting Requests for Exclusion and will not discourage Class Members from
24 participating in the Settlement.

25 **NO PRIOR ASSIGNMENTS**

26 44. The Parties represent, covenant, and warrant that they have not directly or indirectly
27 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or
28

1 entity any portion of any liability, claim, demand, action, cause of action or right herein released
2 and discharged except as set forth herein.

3 **ENFORCEMENT ACTIONS**

4 45. In the event that one or more of the Parties to this Stipulation of Settlement institutes
5 any legal action or other proceeding against any other Party or Parties to enforce the provisions of
6 this Stipulation of Settlement or to declare rights and/or obligations under this Stipulation of
7 Settlement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or
8 Parties reasonable attorney's fees and costs, including expert witness fees incurred in connection
9 with any enforcement actions.

10 **DEFAULT ON PAYMENT**

11 46. Defendants' failure to fund the Total Settlement Amount and the employer's share of
12 payroll taxes within forty (40) calendar days after the date that the Court grants final approval of the
13 Settlement shall be considered a default. In the event Defendants fail to timely fund the Total
14 Settlement Amount and the employer's share of payroll taxes, the Settlement Administrator will
15 provide notice to Class Counsel and Defendants' Counsel within three (3) business days of the
16 missed payment. Thereafter, Defendants will have seven (7) days to cure the default and tender
17 payment to the Settlement Administrator. In the event Defendants fail to cure the default within the
18 times set forth herein, Class Representatives may elect to enter judgment against Defendants, on an
19 *ex parte* basis, for the balance of the unpaid Total Settlement Amount to date, and Class
20 Representatives will be entitled to recover interest at ten percent (10%) per year from the due date
21 for such payment and reasonable attorney's fees and costs.

22 **CONSTRUCTION**

23 47. The Parties hereto agree that the terms and conditions of this Stipulation of
24 Settlement are the result of arm's-length negotiations between the Parties, and this Stipulation of
25 Settlement shall not be construed in favor of or against any Party by reason of the extent to which
26 any Party or their counsel participated in the drafting of this Stipulation of Settlement.

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CAPTIONS AND INTERPRETATIONS

48. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Stipulation of Settlement or any provision hereof. Each term of this Stipulation of Settlement is contractual and not merely a recital.

MODIFICATION

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

INTEGRATION CLAUSE

50. This Stipulation of Settlement 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.

BINDING ON ASSIGNS

51. This Stipulation of Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

CLASS MEMBER SIGNATORIES

52. It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each member of the Class execute this Stipulation of Settlement. The Class Notice will advise all Class Members of the binding nature of the release.

COUNTERPARTS

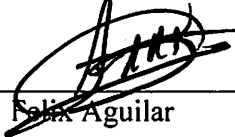
53. This Stipulation of Settlement may be executed in counterparts and by facsimile or electronically-scanned signatures, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Stipulation of Settlement, which shall be binding upon and

1 effective as to all Parties.


2 **IN WITNESS WHEREOF**, the Parties hereto knowingly and voluntarily executed this Joint
3 Stipulation of Settlement and Release as of the dates set forth below:

4
5 **Plaintiffs and Class Representatives:**

6 Dated: 11/4/2021 PLAINTIFF FELIX AGUILAR

7
8 By: 
9 Felix Aguilar

10 Dated: 11/04/2021 PLAINTIFF JOSE MARTINEZ

11
12 By: 
13 José Martinez

14 Dated: 11/04/2021 PLAINTIFF JOSE CAZARES

15 By: 
16 José Cazares

17
18 **Defendants:**

19 Dated: _____ ALL SEASONS ROOFING & WATERPROOFING, INC.

20 By: _____
21 Vladislav N. Gorshteyn, President
22 On behalf of All Seasons Roofing & Waterproofing, Inc.

23 Dated: _____ VLADISLAV N. GORSHTEYN.

24 By: _____
25 Vladislav N. Gorshteyn

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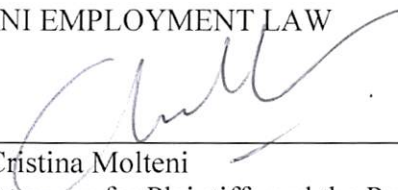
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APPROVED AS TO FORM.

Plaintiffs' Counsel and Class Counsel:

Dated: 11-5-21

MOLTENI EMPLOYMENT LAW

By:  _____

Cristina Molteni
Attorney for Plaintiffs and the Proposed Class

Defendants' Counsel:

Dated: 11/5/21

LIGHT GABLER

By:  _____

Jonathan F. Light
Jamie N. Stein
Jaclyn M. Joyce
Attorneys for Defendants

EXHIBIT 1

#	First Name	Last Name	ID	1st Term Start	1st Term Separation	2nd Term Start	2nd Term Separation
1			0008	11/6/2008			
2			0029	2/19/2004			
3			0030	11/7/2011			
4			0057	5/2/2005	12/13/2019		
5			0099	12/5/2008	2/4/2020		
6			0101	7/11/2005	7/7/2017		
7			0112	9/9/2005			
8			0116	10/5/2005	3/31/2017		
9			0117	10/12/2005	11/30/2018		
10			0121	11/8/2005	2/23/2017		
11			0134	12/12/2005	7/26/2017		
12			0154	2/6/2006	10/13/2020		
13			0173	6/5/2006	4/10/2020		
14			0202	6/15/2006			
15			0224	7/17/2006	9/4/2018		
16			0249	12/27/2006			
17			0260	6/25/2007			
18			0269	2/1/2011			
19			0288	11/26/2007	8/10/2018		
20			0290	4/4/2016			
21			0294	12/10/2007			
22			0320	2/9/2015	12/26/2019		
23			0330	10/28/2008	6/24/2019		
24			0331	10/28/2008	8/26/2020		
25			0345	1/5/2009	2/23/2018		
26			0346	1/5/2009	1/26/2020		
27			0352	2/23/2009			
28			0378	7/6/2009	5/27/2020		
29			0390	9/1/2009	10/9/2020		
30			0394	9/22/2009	4/3/2017		
31			0402	10/6/2009	7/5/2017		
32			0419	2/4/2010			
33			0430	4/7/2010	11/24/2017		
34			0441	6/21/2010	9/22/2017		
35			0474	1/1/2011	4/1/2020		
36			0496	7/18/2011	7/28/2017		
37			0497	11/4/2013	4/7/2017		
38			0498	7/18/2011	9/15/2017		
39			0514	5/10/2012	12/29/2017		
40			0516	5/9/2012	4/1/2020		
41			0521	5/10/2012	12/31/2020		
42			0523	5/14/2012			
43			0534	6/14/2012	3/10/2017		
44			0549	7/1/2012	5/5/2017		
45			0556	9/10/2012	4/1/2020		
46			0592	10/22/2012	2/16/2018		
47			0593	10/22/2012			
48			0608	1/14/2013	9/26/2018		
49			0630	4/8/2013			
50			0631	4/15/2013			
51			0640	5/14/2013			
52			0647	6/3/2013	5/5/2017		
53			0660	8/26/2013	8/21/2017		
54			0667	9/16/2013	10/22/2018		
55			0670	9/24/2013	2/25/2017		

56		0713	1/13/2014	12/20/2018		
57		0718	1/27/2014	10/8/2018		
58		0721	2/19/2014			
59		0736	5/2/2014			
60		0742	4/28/2014	6/1/2018		
61		0745	4/28/2014	7/28/2017		
62		0747	6/9/2014	3/31/2017		
63		0799	11/3/2014	4/3/2017		
64		0800	11/3/2014	9/22/2017		
65		0804	12/3/2014			
66		0819	1/26/2015	3/31/2017		
67		0820	1/26/2015	12/10/2020		
68		0825	2/2/2015	3/31/2017		
69		0828	2/9/2015	2/15/2017		
70		0834	3/16/2015	1/12/2018		
71		0842	4/6/2015			
72		0847	6/8/2015	3/31/2017		
73		0848	6/8/2015			
74		0855	7/20/2015			
75		0862	8/24/2015	9/15/2017		
76		0866	10/19/2015	7/20/2018		
77		0867	10/19/2015	1/12/2018		
78		0875	11/9/2015			
79		0882	11/23/2015	9/22/2017		
80		0885	11/23/2015	8/7/2018		
81		0894	12/14/2015	4/13/2018		
82		0896	12/14/2015	3/31/2017		
83		0903	1/11/2016	10/7/2019		
84		0910	2/1/2016	4/7/2017		
85		0925	3/1/2016	3/31/2017		
86		0929	3/14/2016	7/28/2017		
87		0930	3/14/2016	5/6/2019		
88		0935	3/21/2016			
89		0946	3/28/2016			
90		0951	4/4/2016	6/30/2017		
91		0955	4/29/2016	5/15/2020		
92		0956	4/25/2016			
93		0957	4/25/2016	3/15/2017		
94		0958	5/2/2016	3/31/2017		
95		0960	5/2/2016	3/31/2017		
96		0963	5/2/2016	3/9/2020		
97		0964	5/2/2016	3/31/2017		
98		0966	5/9/2016	2/24/2017		
99		0968	5/11/2016	3/31/2017		
100		0969	5/6/2016	4/7/2017		
101		0970	5/6/2016	3/10/2017		
102		0971	5/6/2016	9/15/2017		
103		0972	5/11/2016	9/2/2017		
104		0973	5/12/2016	10/9/2020		
105		0976	5/11/2016	10/9/2020		
106		0979	5/11/2016	1/12/2018		
107		0984	5/20/2016	3/31/2017		
108		0990	5/25/2016	2/10/2017		
109		0991	6/9/2016	10/31/2019		
110		0993	6/15/2016	7/28/2017		
111		0995	6/13/2016			

112		0997	6/20/2016	4/1/2020		
113		0998	6/17/2016	4/3/2017		
114		1000	6/30/2016	9/15/2017		
115		1001	7/5/2016	1/1/2018		
116		1004	7/8/2016			
117		1005	7/7/2016			
118		1006	7/12/2016	8/13/2019		
119		1007	7/11/2016	2/4/2021		
120		1011	7/22/2016			
121		1012	7/29/2016	3/31/2017		
122		1013	8/1/2016	3/31/2017		
123		1015	8/9/2016	4/27/2018		
124		1016	8/9/2016	4/27/2018		
125		1017	8/17/2016	7/21/2017		
126		1019	8/9/2016			
127		1021	8/12/2016	1/1/2017		
128		1022	8/22/2016	1/14/2020		
129		1023	8/17/2016	8/30/2018		
130		1026	9/3/2016	2/15/2017		
131		1027	9/13/2016	4/13/2018		
132		1028	9/19/2016	4/7/2017		
133		1029	10/5/2016			
134		1030	10/3/2016	5/19/2017		
135		1031	10/1/2016	5/12/2017		
136		1032	10/20/2016	3/31/2017		
137		1035	10/26/2016	3/31/2017		
138		1036	11/4/2016	5/5/2017		
139		1038	11/11/2016	9/23/2019		
140		1041	11/14/2016	1/3/2017		
141		1042	11/14/2016	9/5/2018		
142		1043	11/14/2016	10/10/2018		
143		1044	11/16/2016	2/5/2017		
144		1046	11/16/2016	2/9/2017		
145		1049	11/16/2016	3/31/2017		
146		1050	11/30/2016	3/31/2017		
147		1051	11/29/2016			
148		1055	11/28/2016	6/20/2017		
149		1056	11/22/2016	9/29/2017		
150		1057	11/21/2016	7/1/2019		
151		1060	12/13/2016	6/9/2017		
152		1061	12/13/2016	4/1/2020		
153		1062	12/12/2016	3/31/2017		
154		1063	12/12/2016	3/31/2017		
155		1064	12/12/2016	2/18/2017		
156		1065	12/19/2016			
157		1067	12/21/2016	3/31/2017		
158		1068	12/28/2016			
159		1070	1/23/2017	3/31/2017		
160		1071	1/23/2017	9/15/2017		
161		1072	1/27/2017	5/25/2017		
162		1073	1/27/2017	6/2/2017		
163		1074	1/27/2017	6/2/2017		
164		1076	1/25/2017	3/31/2017		
165		1077	1/25/2017	3/31/2017		
166		1078	1/25/2017	3/31/2017		
167		1079	1/25/2017	3/31/2017		

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EXHIBIT 2

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County of Santa Clara,
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Case #20CV364524
Envelope: 4326280**

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8 *Attorney for Plaintiffs and the Proposed Class*

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

FELIX AGUILAR, JOSE MARTINEZ, and
JOSE CAZARES, individually, and on
behalf of all others similarly situated,

Plaintiffs,

v.

ALL SEASONS ROOFING &
WATERPROOFING, INC., VLADISLAV
N. GORSHTEYN, and DOES 1 through 50,
inclusive,

Defendants.

Case No. 20CV364524

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- (1) **FAILURE TO PAY MINIMUM WAGES;**
- (2) **BREACH OF CONTRACT FOR FAILURE TO PAY FOR ALL HOURS WORKED;**
- (3) **FAILURE TO PAY OVERTIME and DOUBLE TIME WAGES;**
- (4) **FAILURE TO PROVIDE MEAL PERIODS and REST PERIODS;**
- (5) **FAILURE TO PAY EARNED WAGES UPON DISCHARGE;**
- (6) **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS;**
- (7) **PRIVATE ATTORNEYS GENERAL ACT (“PAGA”) PENALTIES;**
- (8) **UNLAWFUL AND/OR UNFAIR BUSINESS PRACTICES;**
- (9) **DECLARATORY and INJUNCTIVE RELIEF; and**
- (10) **ATTORNEY’S FEES.**

DEMAND FOR JURY TRIAL

1 Plaintiffs Felix Aguilar, Jose Martinez, and Jose Cazares, suing on behalf of themselves
2 and others similarly situated (“Plaintiffs”), bring this action against All Seasons Roofing &
3 Waterproofing, Inc., Vladislav N. Gorshteyn, and DOES 1-50 (collectively “Defendants” or “All
4 Seasons”), claiming unfair business practices and violations of the California Labor Code
5 (“Labor Code”). Plaintiffs seek damages, restitution, statutory penalties, declaratory and
6 injunctive relief, including an equitable accounting, attorney’s fees and costs of suit.

7 **PARTIES**

8 1. Plaintiff Felix Aguilar is an individual who resides in California and who was
9 employed by All Seasons in California as a non-exempt, skilled roofer, from approximately 2009
10 to January 2020.

11 2. Plaintiff Jose Martinez is an individual who resides in California and who was
12 employed by All Seasons in California as a non-exempt, skilled roofer from approximately 2009
13 to June 2019.

14 3. Plaintiff Jose Cazares is an individual who resides in California and who was
15 employed by All Seasons in California as a non-exempt, skilled roofer from approximately 2016
16 to December 2019.

17 4. Defendant All Seasons Roofing & Waterproofing, Inc. (“ASRW”) is a California
18 corporation allegedly with locations in San Jose and Sacramento and its principal place of
19 business in San Jose, California. Defendant ASRW has a “B” license as general building
20 contractor and a “C-39” license as a roofing contractor and provides services on various
21 commercial and residential construction projects, mostly throughout the State of California. On
22 information and belief, Plaintiffs allege that the practices and policies that are complained of by
23 way of this Complaint were also present at all ASRW locations throughout the proposed Class
24 Period. ASRW is, and at all relevant times was, an employer subject to California’s wage-and-
25 hour laws.

26 5. Upon information and belief, Plaintiffs allege that Defendant Vladislav N.
27 Gorshteyn (“Gorshteyn”) is, and at all times relevant hereto was, a resident and citizen of the

1 State of California. Plaintiffs are informed and believe and on that basis allege that Gorshteyn
2 has, and at all relevant times herein had, an ownership interest in ASRW. Vladislav N.
3 Gorshteyn is a natural person, who acted and acts on behalf of ASRW and is an owner, director,
4 officer, or managing agent of ASRW, as defined by Labor Code § 558.1.

5 6. Plaintiffs are ignorant of the true names and capacities of Defendants sued herein
6 as DOES 1-50, inclusive, and therefore sue these Defendants by such fictitious names. Plaintiffs
7 will amend this Complaint to allege their true names and capacities when ascertained. Plaintiffs
8 are informed and believe and thereupon allege that each of the fictitiously-named Defendants is
9 responsible in some manner for the occurrences herein alleged and that Plaintiffs' damages as
10 herein alleged are proximately caused by such occurrences.

11 7. At all relevant times herein, Defendants were agents of each other and acting
12 within the course and scope of their agency.

13 **JURISDICTION AND VENUE**

14 8. This Court has jurisdiction over all causes of action asserted herein pursuant to
15 the California Constitution, Article VI, §10, which grants the Superior Court original jurisdiction
16 in all cases except those given to other trial courts. Plaintiffs seek damages in this case in an
17 amount exceeding the jurisdictional minimum of this Court. The Court also has jurisdiction over
18 certain causes of action pursuant to Business & Professions Code §§ 17203 and 17204, which
19 provide for exclusive jurisdiction for enforcement of this statute in any court of competent
20 jurisdiction.

21 9. Venue in County of Santa Clara is proper under Business & Professions Code §
22 17203 and California Code of Civil Procedure § 395.5 because a substantial part of All Seasons'
23 unlawful conduct occurred in this County, All Seasons had and has on-going projects in this
24 County, All Seasons conducts substantial business in this County, and All Seasons' liability
25 arose in this County. The relief requested is within the jurisdiction of this Court.

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27

1 **FACTUAL ALLEGATIONS**

2 10. All Seasons provides roofing services on various commercial and residential
3 construction projects, throughout the State of California. As part of its business, All Seasons
4 employed skilled roofers to perform services and to work on projects under its management and
5 control.

6 11. Plaintiffs were, at all relevant times herein, employed by All Seasons as non-
7 exempt employees who were paid hourly wages, in on-site construction occupations, as defined
8 by Industrial Welfare Commission Wage Order 16-2001, 8 CCR § 11160(2)(C) (“Wage Order
9 16”).

10 12. All Seasons has provided roofing services on projects located in San Jose,
11 Monterey, Emeryville, Santa Rosa, San Francisco, Oakland, Fremont, and Berkeley, among
12 other cities in California. In addition, All Seasons has provided roofing services on “public
13 works” construction projects as defined by Labor Code § 1720, including, but not limited to the
14 following projects in California: schools in Atherton, a care center in San Jose, and apartments in
15 San Mateo, among others.

16 13. Public works construction projects are regulated by the Department of Industrial
17 Relations, Office of Policy, Research, and Legislation which, pursuant to Labor Code §§ 1770,
18 1773, and 1773.1, determines the appropriate job classifications for different types of workers
19 and the required rate of pay for those classifications (“prevailing wage”).

20 14. For at least the past four years, All Seasons has had a policy and practice of
21 failing to pay its construction workers the correct minimum prevailing wage rate for all the hours
22 worked on public works jobs. Plaintiffs and Class Members work on public work projects, like
23 the ones mentioned above; however, All Seasons did not pay for all the hours worked on public
24 work jobs and did not pay the proper minimum wage rate for work performed on public work
25 jobs.

26 15. Additionally, All Seasons failed to pay Plaintiffs and other Class Members the
27 contracted wages for all hours worked, in violation of California state law and in breach of their

1 employment agreements with these employees. During the period Plaintiffs and the Class were
2 employed by All Seasons, Defendants had and still have a policy and practice of failing to pay
3 their construction workers for all hours worked by failing to pay them any wages, including
4 contractually-agreed wages, for compensable time in the yard and for compensable travel time.
5 All Seasons required Plaintiffs and Class Members to arrive at the yard between 5:00 a.m. to
6 6:00 a.m. each workday to receive the assignment for the day, load and unload material,
7 equipment, and tools and clean up trucks, but did not pay the workers for those hours worked. In
8 fact, since at least 2016, All Seasons used different time tracking systems that (1) did not allow
9 Plaintiffs and Class Members to claim time for all the hours worked, including shop time and
10 travel time to projects and in between projects; (2) allowed All Seasons' management to edit
11 hours, including travel time; (3) did not allow Plaintiffs and Class Members direct access to their
12 timecards; and (4) allowed All Seasons' management to avoid paying overtime for hours worked
13 over 8 hours on a day.

14 16. Since at least the last four years, All Seasons engaged in a pattern and practice of
15 under budgeting each of the projects that it provided services by (1) allocating fewer man/days
16 on a project and (2) pressuring Plaintiffs and Class Members to finish those projects in fewer
17 days than possible, all in order to increase the profits of the company. Furthermore, workers were
18 retaliated or even threatened that they would lose their jobs if they complained about these
19 practices to All Seasons; thus, Plaintiffs and Class Members had no other choice but to keep
20 working hard and beyond their hours so they would have work the following week.

21 17. Furthermore, All Seasons failed to pay for the time that Plaintiffs and Class
22 Members were driving in between different projects to provide roofing repairs and for the time
23 spent working on punch lists at the jobsite.

24 18. During the class period, All Seasons regularly required employees, including
25 Plaintiffs, to work overtime hours without providing overtime and double time pay as required
26 by both the Labor Code and Wage Order 16. For at least the past four years, All Seasons has also
27 refused to pay its construction workers overtime and double time pay for all overtime hours

1 worked. All Seasons regularly required Plaintiffs and the Class to work on the roof more than
2 eight hours in a day, but Defendants regularly did not pay Plaintiffs and the Class the proper
3 overtime and double time rates for their work over eight hours in a day or forty hours in a week.
4 In fact, All Seasons has an illegal policy and practice of “banking” the actual hours that Plaintiffs
5 and Class Members worked over eight hours in a day, in an unlawful attempt to avoid paying
6 overtime rates for overtime hours. The payment of those overtime hours was spread out in
7 different workweeks and eventually those hours were paid at a regular rate instead of overtime or
8 double time rate if they were paid at all.

9 19. During the respective periods in which Plaintiffs were employed by All Seasons,
10 they were required to work more than 10 hours in a day. When All Seasons required Plaintiffs
11 and Class Members to work more than 10 hours, it had a policy and practice of failing to provide
12 Plaintiffs and Class Members with a second meal period of at least 30 minutes as required by
13 Labor Code §§ 226.7 and 512 and Wage Order 16, § 10(B). Plaintiffs allege that they and, on
14 information and belief, other Class Members never waived their right to a second meal period.
15 Further, Plaintiffs and other Class Members often worked more than 12 hours in a day. Under
16 Labor Code § 512(a), second meal periods are not waivable for employees who work more than
17 12 hours a day.

18 20. Since at least 2016, All Seasons had a policy and practice of combining both rest
19 periods with a lunch break, providing a 50-minute break to Plaintiffs and Class Members, in
20 violation of the rest break requirements pursuant to Labor Code § 226.7 and Wage Order 16, §
21 11(A). In addition, on those occasions when All Seasons required Plaintiffs and Class Members
22 to work more than 10 hours, All Seasons had a policy and practice of failing to authorize a third
23 uninterrupted rest period of not less than 10 minutes, as required by Labor Code § 226.7 and
24 Wage Order 16, § 11(A).

25 21. Labor Code § 226 provides that every employer is required, “semimonthly or at
26 the time of each payment of wages,” to give each employee an itemized wage statement,
27 including, inter alia, the total hours worked by the employee (except for salaried employees), and

1 “all applicable hourly rates in effect during the pay period and the corresponding number of
2 hours worked at each hourly rate by the employee.” Lab. Code § 226(a). All Seasons had a
3 policy and practice of failing to provide proposed Class Members, including Plaintiffs, with a
4 properly itemized wage statement with each paycheck in compliance with California law.
5 Specifically, All Seasons’ wage statements did not indicate the total hours worked by the
6 employee—including roof time, yard time, or travel time—failed to indicate the rate for travel
7 time, failed to indicate the net wages earned, and incorrectly indicated the number of hours paid
8 and the applicable wage rate. Thus, Plaintiffs and Class Members often could not understand
9 what work they were being paid for and what rate they had been paid.

10 22. Labor Code § 204(a) provides that all wages must be paid at least twice during
11 each calendar month, on the days designated in advance as regular paydays. This requirement is
12 satisfied by the payment of wages biweekly, “if the wages are paid not more than seven calendar
13 days following the close of the payroll period.” Lab. Code § 204(d). All Seasons has had a policy
14 and practice of “banking” hours, i.e. putting hours aside and not paying those hours when their
15 payment was due. Most of the time, those hours either disappear and were not paid or were paid
16 as a regular rate, instead of overtime or double time when they were earned. Therefore, Plaintiffs
17 and Class Members did not receive their wages in timely manner during their employment with
18 All Seasons.

19 23. All Seasons had a policy and practice of failing to pay former employees all
20 wages due and owing at the time of discharge or voluntary quit, in violation of Labor Code §§
21 201, 201, and 203. Defendants have also violated California common and statutory law as
22 described with more particularity below.

23 NATURE OF ACTION

24 24. Plaintiffs bring this proposed class action on behalf of themselves and a proposed
25 plaintiff Class of all hourly, non-exempt, construction employees who worked for Defendants
26 performing roofing work at any time during the previous four years in the State of California up
27

1 through the present and until compliance with the law. Plaintiffs seek recovery of all allowable
2 compensation and other sums for the violations described below, including unpaid minimum
3 wages, unpaid contractually agreed wages, unpaid overtime and double time wages, liquidated
4 damages for failure to pay minimum and overtime wages, penalties/premium pay for missed
5 meal and rest periods, penalties, restitution and restoration of sums owed and property
6 unlawfully held, declaratory and injunctive relief, interest, attorney’s fees, and costs.

7 25. Plaintiffs’ action is brought under the Industrial Welfare Commission Wage
8 Orders and applicable California Code of Regulations, and Labor Code §§ 200, 201-203, 204,
9 218, 221, 226, 226.7, 510-512, 1194, 1194.2, 1197, 1197.1, 1199, 2699, and 2699.3. In
10 particular, Plaintiffs have complied with all Labor Code § 2699.3 requirements for commencing
11 a civil action under the California Private Attorneys General Act of 2004, Labor Code §§ 2698 et
12 seq. (“PAGA”).

13 26. Under California Business and Professions Code (“Bus. & Prof. Code”) §§ 17200
14 et seq., and pursuant to the class action procedures provided for in this statute, Plaintiffs, on
15 behalf of themselves and the proposed Class, also seek restitution of all benefits Defendants have
16 received from—including but not limited to—their failure to pay compensation due for all hours
17 worked, their failure to maintain proper records of hours worked, and their failure to permit
18 proper meal and rest breaks to their employees.

19 27. The “Class Period” is designated as the time from March 2016, through the trial
20 date, based upon the allegation that the violations of California’s wage-and-hour laws as
21 described more fully below, have been ongoing for at least the four years prior to the filing of the
22 complaint in this action.

23 28. During the Class Period, All Seasons has had a consistent policy of permitting,
24 encouraging, and/or requiring Plaintiffs and proposed Class Members to engage in the following
25 activities, among others, without compensating its construction employees for the time they
26 spent performing these activities as required by California’s wage-and-hours laws and common
27 law: (1) arriving at work between 5:00 to 6:00 a.m. to receive the assignment for the day, clean

1 the trucks, load the trucks with materials, equipment, and tools and wait for the assignment each
2 day; (2) travelling from the shop to the jobsite/s each day; (3) working through meal and rest
3 breaks; and (4) working on the roof without proper compensation for all hours worked, including
4 over 8 hours in a day.

5
6 **CLASS ACTION ALLEGATIONS**

7 29. Plaintiffs bring this action individually and as a class action on behalf of a
8 proposed class defined as follows:

9 All persons who, at any time from March 2016 to the present, worked for All
10 Seasons, in the State of California as non-exempt construction employees,
11 performing roofing work.

12 30. This action is brought, and may properly be maintained, as a class action pursuant
13 to California Code of Civil Procedure § 382 because there is a well-defined community of
14 interest in the litigation, and the proposed class is easily ascertainable. This action presents
15 questions of common interest and satisfies the numerosity, commonality, typicality, adequacy,
16 predominance, and superiority requirements of this provision.

17 31. Plaintiffs reserve the right under California Rules of Court, Rule 3.765(b), to
18 amend or modify the class description with greater specificity or further division into subclasses
19 or limitation to particular issues.

20 **Numerosity:**

21 32. The Class is so numerous that the individual joinder of all of its members is
22 impracticable. While the exact number and identities of Class Members are unknown to
23 Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs are
24 informed and believe that the Class includes more than 200 persons.

25 33. A class action is the only available method for the fair and efficient adjudication
26 of this controversy. The members of the Class are so numerous that joinder of all members is
27 impractical, if not impossible, insofar as the Plaintiffs are informed and believe and, on that
basis, allege that the total number of Class Members is more than 200 individuals. The identity

1 of Class Members can be determined upon analysis of, inter alia, employee and payroll records
2 maintained by All Seasons.

3 **Commonality:**

4 34. Common questions of fact and law exist as to all members of the Class that
5 predominate over any questions affecting only individual Class Members. These common legal
6 and factual questions, which do not vary from Class Member to Class Member and which may
7 be determined without reference to the individual circumstances of any Class Member include,
8 but are not limited to, the following:

9 (a) whether Defendants had a policy or practice of failing to pay Plaintiffs and
10 Class Members the statutory minimum prevailing wage for all hours worked on public works
11 projects, in violation of Labor Code § 1194, Cal. Code Regs., Title 8 §11160, and California
12 common law;

13 (b) whether Defendants had a policy or practice of failing to pay Plaintiffs and
14 Class Members for all hours worked, including their time spent on the yard and travelling to the
15 jobsites; in violation of Cal. Code Regs., Title 8 §11160 and California common law;

16 (c) whether Defendants had a policy or practice of failing to pay Plaintiffs and
17 Class Members overtime and double time pay for all the hours worked over 8 hours in a day and
18 40 in a week;

19 (d) whether Defendants had a policy or practice of violating Labor Code §
20 226.7, by failing to permit second meal breaks to Plaintiffs and Class Members as required under
21 Wage Order 16, §10;

22 (e) whether Defendants had a policy or practice of combining both rest
23 periods with a lunch break, in violation of Labor Code § 226.7 and Wage Order 16, § 11(A);

24 (f) whether Defendants had a policy or practice of failing to provide Plaintiffs
25 and Class Members who worked more than 10 hours in a day with their required third rest
26 periods as required under Wage Order 16, §11;

27

1 (g) whether Defendants had a policy or practice of failing to pay Plaintiffs and
2 Class Members all wages due at the time of discharge or voluntary quit, in violation of Labor
3 Code §§ 201-203;

4 (h) whether Defendants, in violation of Cal. Labor Code §§ 226 and 1174, had
5 a systematic policy or practice of failing to keep and provide timely and accurate wage
6 statements of all of the hours worked by Plaintiffs and Class Members and their applicable
7 hourly rates;

8 (i) whether members of the Class are entitled to equitable relief under Bus. &
9 Prof. Code §§ 17200 et seq.; and

10 (j) what amounts Plaintiffs and Class Members are entitled to receive in
11 interest on unpaid compensation due and owing to them.

12 **Typicality:**

13 35. Plaintiffs' claims are typical of the claims of the Class. Plaintiffs and all Class
14 Members sustained injuries and damages arising out of and caused by Defendants' policies,
15 practices, and common course of conduct in violation of law as alleged herein.

16 **Adequacy of Representation:**

17 36. Plaintiffs are adequate representatives of the Class, in that their claims are typical
18 of those of the Class. Plaintiffs have the same interests in the litigation of this case as the Class
19 Members; they are committed to vigorous prosecution of this case and have retained competent
20 counsel experienced in class action and wage-and-hour litigation of this nature. Plaintiffs are not
21 subject to any individual defenses unique from those conceivably applicable to the Class as a
22 whole and anticipate no management difficulties in this litigation.

23 **Predominance:**

24 37. Defendants have engaged in a common course of wage-and-hour abuse toward
25 Plaintiffs and Class Members. The common issues arising from this conduct that affect
26 Plaintiffs and Class Members predominate over any individual issues. Adjudication of these
27 common issues in a single action has important and desirable advantages of judicial economy.

1 **Superiority of Class Action:**

2 38. A class action is superior to other available methods for the fair and efficient
3 adjudication of this controversy because individual litigation of the claims of all Class Members
4 is impracticable. Even if every Class Member could afford individual litigation, the court system
5 could not. It would be unduly burdensome to the courts in which individual litigation of
6 numerous cases would proceed. Individualized litigation would also present the potential for
7 varying, inconsistent, or contradictory judgments and would magnify the delay and expense to
8 all parties and to the court system resulting from multiple trials of the same complex factual
9 issues. Moreover, individual actions by Class Members may establish inconsistent standards of
10 conduct for All Seasons. By contrast, the conduct of this action as a class action, with respect to
11 some or all of the issues presented herein, presents fewer management difficulties, conserves the
12 resources of the parties and the court system, and protects the rights of each Class Member.

13 39. Defendants have acted or refused to act in respects generally applicable to the
14 Class, thereby making appropriate relief with regard to the Members of the Class as a whole, as
15 requested herein.

16
17 **FIRST CAUSE OF ACTION**
18 **Failure to Pay Minimum Wages**
19 **(brought by Plaintiffs on behalf of themselves and all Class Members**
20 **against all Defendants)**

21 40. Plaintiffs, individually and on behalf of all employees similarly situated, refer to
22 and hereby incorporate by reference all preceding paragraphs, as though fully set forth herein.

23 41. Pursuant to Labor Code § 1194, “any employee receiving less than the legal
24 minimum wage or the legal overtime compensation applicable to the employee is entitled to
25 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
26 compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

27 42. As alleged in the foregoing paragraphs, throughout the Class Period, Plaintiffs
and Class Members were not paid the proper minimum prevailing wage rate for all the hours
worked on public works jobs.

1 43. Defendant Gorshteyn is liable for violations of Wage Order No. 16 and California
2 Code of Regulations Title 8 § 11160 because he is “other person acting on behalf of an
3 employer” pursuant to Labor Code § 558.1.

4 44. As a direct and proximate result of Defendants’ unlawful conduct, as set forth
5 herein, Plaintiffs and the Class Members have sustained damages, including but not limited to
6 loss of earnings. Plaintiffs seek to recover unpaid wages and penalties, attorney’s fees and costs
7 of suit under Labor Code §§ 1194, 1194.2, and 218, and further relief, as described below.

8 **SECOND CAUSE OF ACTION**
9 **Breach of Contract for Failure to Pay for All Hours Worked**
10 **(brought by Plaintiffs on behalf of themselves and all Class Members against all**
 Defendants)

11 45. Plaintiffs, individually and on behalf of all employees similarly situated, refer to
12 and hereby incorporate by reference all preceding paragraphs, as though fully set forth herein.

13 46. Throughout the Class Period, Plaintiffs and Class Members were required to
14 arrive at the yard (that is, the area adjacent to Defendants’ workshop) between 5:00 to 6:00 a.m.
15 to receive the assignment for the day, unload the trucks, and load the trucks with materials,
16 equipment, and tools—all without compensation for that time worked. In addition, after arriving
17 at the yards, Plaintiffs and Class Members were required to then travel to a particular jobsite
18 each day, including out-of-town locations, without compensation. All Seasons’ management did
19 not allow Plaintiffs and Class Members to claim the travel time or the yard time in the tracking
20 time systems that it used.

21 47. In addition, Defendants failed to pay for all the hours worked on the jobsite, even
22 though those hours were recorded in the time tracking systems. Indeed, All Seasons has had an
23 illegal policy and practice of “banking” the actual hours that Plaintiffs and Class Members
24 worked on the jobsite to be allegedly paid at a later date; however, most of the times were never
25 paid or they were paid as regular rates instead of overtime or double time rates.

26 //

1 48. At all times herein relevant, Wage Order No. 16 and California Code of Regulations
2 Title 8 § 11160 have applied and continue to apply to Plaintiffs and the Class Members’
3 employment with Defendants. Wage Order No. 16 and California Code of Regulations Title 8,
4 § 11160 state that “every employer shall pay to each employee wages [. . .] for all hours
5 worked.” Cal. Code Regs., Tit. 8, § 11160(4)(A).

6 49. “Hours worked” is defined at California Code of Regulations Title 8,
7 § 11160(2)(J) as “the time during which an employee is subject to the control of an employer,
8 and includes all the time the employee is suffered or permitted to work, whether or not required
9 to do so.” Under this definition of “hours worked,” the time spent by Defendants’ employees to
10 unload and load the trucks, clean the trucks, wait for the assignment, clean and pick up materials
11 at the jobsite, secure tools at the yard, and travel from the yard to the jobsite are “hours worked”
12 and must be compensated.

13 50. By the conduct alleged above, All Seasons breached an implied agreement with
14 Plaintiffs and Class Members to pay them their agreed-upon contract rate for all hours worked as
15 understood and required under California state laws. All Seasons’ failure to perform its part of
16 the contract by paying its employees for all of their hours worked is unjustified and constitutes a
17 breach of contract.

18 51. Defendant Gorshteyn is liable for violations of Wage Order No. 16 and California
19 Code of Regulations Title 8 § 11160 because he is “other person acting on behalf of an
20 employer” pursuant to Labor Code § 558.1.

21 52. As a direct and proximate result of Defendants’ unlawful conduct, as set forth
22 herein, Plaintiffs and the Class Members have sustained damages, including loss of earnings paid
23 at the agreed-upon rate for hours worked on behalf of All Seasons, in an amount to be
24 established at trial, plus prejudgment interest pursuant to statute.

25 //

26 //

27 //

1 **THIRD CAUSE OF ACTION**

2 **Failure to Pay Overtime and Double Time**
3 **(brought by Plaintiffs on behalf of themselves and all Class Members**
4 **against all Defendants)**

5 53. Plaintiffs, individually and on behalf of themselves and all employees similarly
6 situated, refer to and hereby incorporate by reference all preceding paragraphs as though fully set
7 forth herein.

8 54. As alleged in the foregoing paragraphs, throughout the Class Period, Plaintiffs
9 and Class Members were required to work more than the eight hours per day. Although
10 Defendants regularly required Plaintiffs and the Class to work more than 40 hours in a week,
11 including time worked off-the-clock, and often worked as much as 50 hours or more per week.
12 Defendants, however, did not pay Plaintiffs and Class Members overtime and double time
13 compensation for all the hours they worked over 8 hours in a day and 40 hours in a week.

14 55. At all times herein relevant, Labor Code § 510 and California Code of
15 Regulations Title 8 § 11160 applied to Plaintiffs' work with Defendants and continue to apply to
16 Class Members' employment with Defendants. Labor Code § 510 and California Code of
17 Regulations Title 8, § 11160 state that "employers must pay one and a half times an employee's
18 'regular rate' if he or she works more than 40 hours per week or more than eight hours per day."
19 Lab. Code § 510(a). In addition, Labor Code provides that "[a]ny work in excess of 12 hours in
20 one day shall be compensated at the rate of no less than twice the regular rate of pay for an
21 employee." Lab. Code § 510(a).

22 56. California Code of Regulations Title 8, § 11160(3)(a)(1) provides that
23 "employees shall not be employed more than eight (8) hours in any workday or more than 40
24 hours in any workweek unless the employee receives one and one-half (1 1/2) times such
25 employee's regular rate of pay for all hours worked over 40 hours in the workweek. Employment
26 beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible
27 provided the employee is compensated [...]: (a) One and one-half times regular rate of pay for all
hours worked in excess of eight (8) hours [...]; and (b) Double the employee's regular rate of

1 pay for all hours worked in excess of 12 hours in any workday [...]” All Seasons violated
2 California law by requiring its employees to arrive at work between 5:00 to 6:00 a.m., to receive
3 their assignment, clean the trucks and load the trucks with materials, equipment, and tools, and
4 not paying them overtime and double time wages for these overtime hours worked. In addition,
5 Plaintiffs and proposed Class Members were required to travel to the jobsite each day, without
6 compensation.

7 57. Employees, therefore, regularly worked more than 8 hours in a day, but All
8 Seasons failed to compensate them with premium wages for the overtime and double time hours
9 they worked.

10 58. Defendant Gorshteyn is liable for violations of Wage Order No. 16 and California
11 Code of Regulations Title 8 § 11160 because he is “other person acting on behalf of an
12 employer” pursuant to Labor Code § 558.1.

13 59. As a direct and proximate result of Defendants’ unlawful conduct, as set forth
14 herein, Plaintiffs and the Class Members have sustained damages, including but not limited to
15 loss of earnings. Plaintiffs seek to recover unpaid wages and penalties, attorney’s fees and costs
16 of suit under Labor Code §§ 1194, 1194.2, and 218, and further relief, as described below.

17 **FOURTH CAUSE OF ACTION**

18 **Failure to Provide Meal and Rest Breaks**

19 **(brought by Plaintiffs on behalf of themselves and all Class Members
20 against all Defendants)**

21 60. Plaintiffs, individually and on behalf of all employees similarly situated, refer to
22 and hereby incorporate by reference all preceding paragraphs, as though fully set forth herein.

23 61. As alleged in the foregoing paragraphs, throughout the Class Period, All Seasons
24 had a policy and practice of requiring Plaintiffs and Class Members to work more than 10 hours
25 in a single day. Often, Plaintiffs and Class Members worked 12 hours or more. On those
26 occasions, when Plaintiffs and Class members worked more than 10 hours on a single day, All
27 Seasons has had a policy and practice of refusing and/or failing to provide employees a second
meal period of not less than 30 minutes as required by Labor Code § 512 (a) and Wage Order 16,

1 § 10(B). In addition, All Seasons has had an policy and practice of combining two ten-minute
2 rest periods with a lunch break, providing a 50-minute break to Plaintiffs and Class Members, in
3 violation of the rest break requirements pursuant to Labor Code § 226.7 and Wage Order 16, §
4 11(A). In addition, on those occasions when All Seasons required Plaintiffs and Class Members
5 to work more than 10 hours, All Seasons had a policy and practice of failing to authorize a third
6 uninterrupted rest period of not less than 10 minutes, as required by Labor Code § 226.7 and
7 Wage Order 16, § 11(A). In addition, on those occasions, Plaintiffs allege that they and, on
8 information and belief, other Class Members did not waive their rights to a second meal period
9 or a third rest period.

10 62. At all times herein relevant, Labor Code § 226.7 and California Code of
11 Regulations Title 8 § 11160 have applied and continue to apply to Plaintiffs and the Class
12 Members' employment with Defendants. Labor Code § 226.7 states "No employer shall require
13 any employee to work during any meal or rest period mandated by an applicable order of the
14 Industrial Welfare Commission." Lab. Code § 226.7(a). In addition, Wage Order 16, § 10(B)
15 provides that an employer may not employ an employee for a work period of more than ten (10)
16 hours per day without providing the employee with a second meal period of not less than 30
17 minutes"

18 63. Section 11 of Wage Order No. 16 provides in relevant part that:

19
20 (A) Every employer shall authorize and permit all employees to
21 take rest periods, which insofar as practicable shall be in the
22 middle of each work period. The authorized rest period time shall
23 be based on the total hours worked daily at the rate of ten (10)
24 minutes net rest time per four (4) hours or major fraction thereof.
25 However, a rest period need not be authorized for employees
26 whose total daily work time is less than three and one-half (3 ½)
27 hours. Authorized rest period time shall be counted, as hours
worked, for which there shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in
accordance with the applicable provisions of this order, the
employer shall pay the employee one (1) hour of pay at the

1 employee's regular rate of compensation for each work day that
2 the rest period is not provided.

3 64. Defendants failed to permit Plaintiffs and Class Members to take adequate meal
4 periods as required by law, and failed to authorize and permit Plaintiffs and Class Members to
5 take adequate rest periods as required by law. Plaintiffs and the Class Members are therefore
6 entitled to payment of additional wages as provided by law.

7 65. Defendant Gorshteyn is liable for violations of Labor Code § 226.7, Wage Order
8 No. 16, and California Code of Regulations Title 8 § 11160 because he is "other person acting on
9 behalf of an employer" pursuant to Labor Code § 558.1.

10 66. As a direct and proximate result of Defendants' unlawful conduct, as set forth
11 herein, Plaintiffs and the Class Members have sustained damages, in an amount to be established
12 at trial, plus prejudgment interest pursuant to statute.

13 **FIFTH CAUSE OF ACTION**

14 **Failure to Pay Earned Wages Upon Discharge (Waiting Time Penalties)**
15 **(Brought by Plaintiffs on behalf of themselves and Class Members who are no longer**
16 **employed by Defendants against all Defendants)**

17 67. Plaintiffs incorporate by reference in this cause of action each allegation of all
18 preceding paragraphs, as though fully set forth herein.

19 68. Labor Code § 201 requires All Seasons to pay its discharged employees all wages
20 due immediately upon discharge.

21 69. Labor Code § 202 requires that if an employee quits his or her employment, "his
22 or her wages shall become due and payable not later than 72 hours thereafter, unless the
23 employee has given 72 hours previous notice of his or her intention to quit, in which case the
24 employee is entitled to his or her wages at the time of quitting. Notwithstanding any other
25 provision of law, an employee who quits without providing a 72-hour notice shall be entitled to
26 receive payment by mail if he or she so requests and designates a mailing address."

27 70. Labor Code § 203 provides that if an employer willfully fails to timely pay any
wages that are due to an employee who quits or is discharged, the employer must, as a penalty,

1 continue to pay the employee's wages until the back wages are paid in full or an action is
2 commenced. The penalty cannot exceed 30 days of wages.

3 71. Plaintiffs and Class Members who have been discharged or who have quit are
4 entitled to all unpaid compensation, pursuant to Labor Code § 203, but, as alleged above, to date
5 have not received such compensation.

6 72. Defendant Gorshteyn liable for violations of Labor Code § 203, Wage Order No.
7 16, and California Code of Regulations Title 8 § 11160 because he is "other person acting on
8 behalf of an employer" pursuant to Labor Code § 558.1.

9 73. As a consequence of Defendants' willful conduct in not paying compensation for
10 all hours worked, Plaintiffs and many members of the proposed Class are entitled to up to
11 30 days' wages as a penalty under Labor Code § 203, together with interest thereon.

12 **SIXTH CAUSE OF ACTION**

13 **Failure to Provide Accurate Wage Statements**
14 **(brought by Plaintiffs on behalf of themselves and all Class Members**
15 **against all Defendants)**

16 74. Plaintiffs incorporate by reference in this cause of action each allegation of all
17 preceding paragraphs, as though fully set forth herein.

18 75. Labor Code § 226 (a) provides that, at the time of each payment of wages, an
19 employer shall provide each employee with a wage statement itemizing, among other things, the
20 total hours worked by the employee in the pay period.

21 76. Labor Code § 226 (e) provides that an employee suffering injury as a result of a
22 knowing and intentional failure by an employer to comply with Labor Code § 226 (a) is entitled
23 to recover the greater of his or her actual damages or a penalty of \$50 for the initial pay period in
24 which a violation occurs and \$100 per employee for each violation in a subsequent pay period
(up to a maximum of \$4,000), in addition to attorney's fees and costs.

25 77. All Seasons has banked the hours worked by Plaintiffs and Class Members
26 recorded on time cards. In addition, the wage statements of Plaintiffs and proposed Class
27 Members did not reflect hours they worked before and after their scheduled shifts, including

1 travel time, and did not reflect the overtime pay that they were entitled to as a result of working
2 more than eight hours in a day and forty hours in a week.

3 78. Defendant Gorshteyn is liable for violations of Labor Code § 226 because he is
4 “other person acting on behalf of an employer” pursuant to Labor Code § 558.1.

5 79. Defendants knowingly and intentionally failed to provide timely, accurate, and
6 itemized wage statements to Plaintiffs and Class Members in accordance with Labor Code § 226.
7 The statements provided to Plaintiffs and Class Members have not accurately reflected actual
8 hours worked, actual gross wages earned, the total hours worked by employees, including yard
9 time and travel time, and the net wages earned. Plaintiffs and the Class are therefore entitled to
10 the damages and penalties provided for under Labor Code § 226 (e).

11 **SEVENTH CAUSE OF ACTION**

12 **Civil Penalties under Private Attorneys General Act**
13 **(brought by Plaintiffs on behalf of themselves and all Class Members**
14 **against all Defendants)**

15 80. Plaintiffs reallege and incorporate in this cause of action each and every allegation
16 of all preceding paragraphs, as though fully set forth herein.

17 81. Plaintiffs, as aggrieved employees, bring this claim under Labor Code §§ 2698-
18 2699 in a representative capacity on behalf of current and former employees of Defendants
19 subjected to the alleged unlawful practices.

20 82. The Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code
21 section 2698 et seq., grants California employees the right to bring a civil action for violation of
22 any provision of the Labor Code on behalf of themselves and other current or former employees
23 in order to recover civil penalties. In passing PAGA, the California Legislature “declared that
24 adequate financing of labor law enforcement was necessary to achieve maximum compliance
25 with state labor laws, that staffing levels for labor law enforcement agencies had declined and
26 were unlikely to keep pace with the future growth of the labor market, and that it was therefore
27 in the public interest to allow aggrieved employees, acting as private attorneys general, to

1 recover civil penalties for Labor Code violations.” *Arias v. Sup. Ct.* (2009) 46 Cal.4th 969, 980.
2 Because PAGA deputizes employees to act as private attorneys general, class action
3 requirements do not apply to representative actions brought under PAGA. *Id.*

4 83. PAGA permits an aggrieved employee to collect the civil penalty authorized by law
5 and normally collectible by the California Labor and Workforce Development Agency. To
6 address violations for which no penalty had been established, section 2699(f) creates a private
7 right of action for aggrieved employees and default penalty in the amount of \$100 for each
8 aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved
9 employee per pay period for each subsequent violation. Labor Code § 2699(f).

10 84. Plaintiffs hereby seek to collect these civil penalties for the above-described Labor
11 Code violations, including (1) the penalties provided for unpaid overtime and failure to provide
12 meal periods, authorized under Labor Code section 558; (2) the penalties provided for unlawfully
13 receiving and withholding earned wages, authorized under Labor Code section 225.5; (3) the
14 penalties provided for failure to provide accurate itemized wage statements, authorized under
15 Labor Code section 226.3; and (4) the penalties provided for payment of a wage less than the
16 minimum, authorized under Labor Code section 1197.1. In addition, Plaintiffs seek to collect
17 civil penalties for violations of Labor Code §§ 201, 202, 203, 204, 226 (a), 226.7, 510, 512,
18 1174, 1197, 1770-1777.5, 1810, 1811, 1812, and 1815, as authorized by Labor Code sections
19 2699(a) and 2699.3.

20 85. Labor Code § 2699(g) further provides that any employee who prevails in an action
21 for civil penalties is entitled to an award of reasonable attorney's fees and costs. Plaintiffs hereby
22 seek to recover their attorney's fees and costs under this one-way fee and cost shifting statute.

23 86. On March 2, 2020, pursuant to Labor Code § 2699.3, Plaintiffs filed notice with the
24 Labor and Workforce Development Agency, with a copy sent by certified mail to All Seasons
25 Roofing & Waterproofing, Inc., and Vladislav N. Gorshteyn of the specific provisions of the
26 Labor Code that have been violated, including the facts and theories to support the violations.
27 Plaintiffs have complied with the Private Attorneys General Act notice requirement because the

1 60-day time limit for the Labor and Workforce Development Agency's response has passed with
2 no response.

3
4 **EIGHTH CAUSE OF ACTION**

5 **Unlawful Business Practices under California Unfair Competition Act**
6 **(brought by Plaintiffs on behalf of themselves and all Class Members**
7 **against Defendant ASRW and DOES 1-50)**

8 87. Plaintiffs incorporate in this cause of action each and every allegation of all
9 preceding paragraphs, as though fully set forth herein.

10 88. Plaintiffs further bring this cause of action on behalf of the proposed Class,
11 seeking statutory relief to stop the misconduct of Defendants, as complained herein, and to
12 compel restitution and disgorgement of all profits obtained by Defendants through the unfair and
13 unlawful business practices described herein.

14 89. Beginning at an exact date unknown to Plaintiffs, but at least since 2016,
15 Defendants have committed unlawful acts as defined by Business & Professions Code § 17200.
16 Defendants have engaged in unlawful, unfair and deceptive business practices including, but not
17 limited to, the following:

- 18 (a) Failure to pay for all hours worked;
- 19 (b) Failure to pay the proper wage rate for all hours worked;
- 20 (c) Violations of Labor Code § 204.3 (Failure to pay overtime);
- 21 (d) Failure to provide, authorize, and permit uninterrupted meal and rest
22 breaks;
- 23 (e) Violations of Labor Code §§ 201, 202 (Failure to pay accrued wages at
24 termination or resignation);
- 25 (f) Violations of Labor Code § 226 (Failure to provide accurate itemized
26 wage statements).
- 27 (g) Violations of Labor Code §§ 1174 and 1174.5 (failure to maintain accurate
records);

1 (h) Violations of Labor Code §1773 (prevailing wage rate benefits);

2 (i) Violations of Labor Code §1194 (minimum and overtime wages).

3 90. The conduct of Defendants, as alleged herein, constitutes unlawful practices as set
4 forth in Business & Professions Code §§ 17200, et seq. Specifically, Defendants conduct
5 business activities while failing to comply with California's wage-and-hour laws and the
6 California common law and statutory law as described herein.

7 91. Section 17200 of the Business & Professions Code prohibits unfair competition
8 by prohibiting unlawful, unfair, or fraudulent business practices or acts.

9 92. Defendants' failure to adopt policies in accordance with and/or adhere to these
10 laws, all of which are binding upon and burdensome to Defendants' competitors, engenders an
11 unfair competitive advantage for Defendants, thereby constituting an unfair business practice, as
12 set forth in Business & Professions Code §§ 17200, et seq.

13 93. Defendants' conduct as herein alleged has damaged Plaintiffs and members of the
14 proposed Class by wrongfully denying to them earned wages, overtime pay, and meal and rest
15 breaks and therefore was substantially injurious to Plaintiffs and the Class.

16 94. Under the circumstances alleged, it would be inequitable and result in a
17 miscarriage of justice for Plaintiffs and Class Members if Defendants were to retain the property
18 of Plaintiffs and Class Members, entitling Plaintiffs and the proposed Class to restitution of the
19 unfair benefits obtained and disgorgement of Defendants' ill-gotten gains.

20 95. As a result of Defendants' unlawful and unfair business practices, Plaintiffs and
21 Class Members are entitled to and seek restitution and disgorgement, and other appropriate relief
22 available under Bus. & Prof. Code §§ 17200 et. seq.

23 **RELIEF SOUGHT**

24 **WHEREFORE**, Plaintiffs, on behalf of themselves and the proposed Class, prays for
25 judgment and the following specific relief against Defendants as follows:
26

27 //

1 A. That the Court determine that this action may be maintained as a class action
2 under California Code of Civil Procedure §382;

3 B. That Defendants are found to have violated the provisions of the California Labor
4 Code and Wage Order 16 by failing to pay Plaintiffs and the Class minimum wages;

5 C. That Defendants are found to have breached their implied contracts with Plaintiffs
6 and the Class by failing to pay them at the agreed-upon contract rate for all of their hours
7 worked;

8 D. That Defendants are found to have violated the provisions of the Labor Code §
9 510, as to the Plaintiffs and the Class by failing to pay Plaintiffs and the Class for overtime and
10 double time hours worked;

11 E. That Defendants are found to have violated Labor Code § 226 by not authorizing
12 and permitting adequate meal and rest breaks to Plaintiffs and the Class;

13 F. That Defendants are found to have violated Labor Code § 203 for failing to pay
14 wages upon termination or voluntary quit;

15 G. That Defendants are found to have violated the record-keeping provisions of
16 Labor Code §§ 1174(d) and 226 as to Plaintiffs and the Class Members;

17 H. That Defendants are found to have violated Labor Code § 226 for failing to
18 provide accurate wage statements to Plaintiffs and the Class Members;

19 I. That Defendants are found to have violated Business and Professions Code
20 § 17200 as to Plaintiffs and the Class by failing to pay Plaintiffs and Members of the Class for all
21 hours worked and failing to keep timely, accurate, itemized records of all hours worked and
22 failing to permit and authorize adequate meal and rest breaks to Plaintiffs and the Class;

23 J. That Plaintiffs and the Class be awarded damages for the amount of unpaid
24 compensation, including interest thereon, liquidated damages, and penalties subject to proof at
25 trial;

26 K. That Plaintiffs and the Class be awarded civil penalties as specified by Labor
27 Code § 2699(f) for Plaintiffs and each current and former aggrieved employee for each violation

1 of the Labor Code as explained herein during the applicable limitations period preceding the
2 filing of the Complaint and up to and including the present and until the date of compliance with
3 the law;

4 L. That Plaintiffs and the Class be awarded reasonable attorney's fees and costs
5 pursuant to Labor Code §§ 226, and 1194, and California Code of Civil Procedure § 1021.5;

6 M. That Defendants be ordered and enjoined to pay restitution to Plaintiffs and the
7 Class due to Defendants' unlawful activities, pursuant to Business and Professions Code
8 §§ 17200 et seq.; and

9 N. An award of such other and further relief as this Court may deem appropriate.

10 Dated: May 4, 2020

MOLTENI EMPLOYMENT LAW

11
12
13 By: 

Cristina Molteni
Attorney for Plaintiffs FELIX AGUILAR, JOSE
MARTINEZ, and JOSE CAZARES,
individually, and on behalf of all others
similarly situated

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs, on behalf of themselves and all others similarly situated, hereby request a jury
3 trial on the claims so triable.

4 Dated: May 4, 2020

MOLTENI EMPLOYMENT LAW

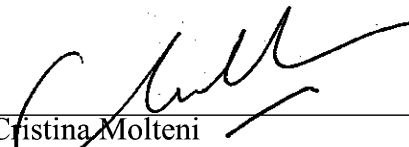
5
6
7 By: 
8 Cristina Molteni
9 Attorney for Plaintiffs FELIX AGUILAR,
10 JOSE MARTINEZ, and JOSE CAZARES,
11 individually, and on behalf of all others
12 similarly situated
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EXHIBIT 3

[Jeffrey A. Ross](#)

- [Home](#)
- [Biography](#)
- [Mediation Information](#)
- [Contact](#)
-

Biography



Mr. Ross is a full-time mediator specializing exclusively in the mediation of employment matters. He mediates both individual and class action cases. Mr. Ross has mediated more than 2,500 cases involving virtually every type of employment claim including: discrimination based on gender, age, race, religion, disability, sexual orientation, national origin, and pregnancy; sexual harassment; wage and hour violations; whistleblower/retaliation; wrongful termination; invasion of privacy; violations of the California Family Rights Act, the Family Medical Leave Act and the Equal Pay Act; and employment-related defamation. He has also mediated many disability access cases and other non-employment civil rights matters.

Education

Mr. Ross received his J.D. in 1984 from the University of California, Boalt Hall, where he graduated Order of the Coif (top 10%). Following law school, he served for one year as law clerk to the Honorable Joseph R. Grodin, Associate Justice of the California Supreme Court, and for one year as law clerk to the Honorable Marilyn Hall Patel, United States District Court Judge for the Northern District of California.

Litigation and Mediation Experience

From 1986 to 2007, Mr. Ross specialized in the litigation of employment cases in state and federal court, arbitrations, and informal negotiations. He litigated both individual and class action cases. Mr. Ross began mediating employment cases on a part-time basis in 2003 and became a full-time mediator in 2007. He was recognized as a Northern California "Super Lawyer" (Employment Litigation) each year from 2006 to 2008, and a Northern California "Super Lawyer" (Alternative Dispute Resolution) each year from 2009 to 2020; he was named one of the top 100 Northern California "Super Lawyers" (all categories) each year from 2008 to 2013; and he was selected for inclusion in "The Best Lawyers In America" each year from 2007 to 2020. In 2016, Mr. Ross was named Distinguished Mediator of the Year by the San Francisco Trial Lawyers Association.

Related Experience

Mr. Ross is a frequent speaker at state and national conferences on employment discrimination law, the settlement of employment cases, and legal ethics. His presentations on the mediation of employment cases have included:

- **"How Settlements Happen: Positioning A Case For Early Settlement"**

American Bar Association, Section of Labor and Employment Law, Mid-Winter Conference

- **"The Good, the Bad and the Ugly of Mediating Employment Cases"**

Bar Association of San Francisco, Labor and Employment Law Section

- **"Mediating Employment Cases"**

California Employment Lawyers Association

- **"The ABC's of Alternative Dispute Resolution in Employment Cases: Advanced Topics In Getting to Settlement"**

National Employment Lawyers Association, ADR Seminar

- **"The Top Ten Reasons Employment Mediations Fail – And What You Can Do About It"**

Bar Association of San Francisco, Labor and Employment Law Section

- **"Hot Button Issues In Mediation"**

Alameda County Bar Association, Labor & Employment Section

- **"The Road to Resolution: Mediation of Disability Discrimination Cases"**

California Employment Lawyers Association, Annual Conference

- **"Mediation of Employment Cases"**

Association of Defense Counsel of Northern California and Nevada

- **"The Psychology of Negotiation"**

California Employment Lawyers Association, Annual Conference

- **"Employment Mediation In The 10's: What Has Time Wrought?"**

State Bar of California, Labor and Employment Section, Annual Meeting

Mr. Ross served as a Chapter Co-Editor of the Second and Third Supplements to Employment Discrimination Law (BNA 3d Ed.), and authored Commentaries for a chapter of California Torts (Matthew Bender & Co.) on employment discrimination and harassment. He is an active member of many state and national professional associations concerned with the practice of employment law and the settlement of employment cases, including the American Bar Association Section of Labor and Employment Law, the Labor and Employment Section of the California State Bar, the National Employment Lawyers Association, the California Employment Lawyers Association, and the Mediation Society.

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EXHIBIT 4

LEGAL NOTICE

SUPERIOR COURT OF CALIFORNIA – COUNTY OF SANTA CLARA

*The Santa Clara County Superior Court authorized this Notice. This is **not** a solicitation from a lawyer.*

If you were employed by All Seasons Roofing & Waterproofing, Inc., as an hourly construction employee, from March 2, 2016 to February 4, 2021, you may be eligible to receive a Settlement Check in the mail.

Your Legal Rights Are Affected Even If You Do Not Act. Read This Notice Carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

You May:	Summary:
Do Nothing	<p>If you do nothing and the Court approves the settlement, a Settlement Check will be mailed to the address on this Notice.</p> <p>If your address has changed, you should follow the directions in Section 9 to provide an updated address so that you can receive a Settlement Check.</p> <p>All Class Members who do not “opt out” will receive a Settlement Check. There is no need to file anything in order to receive a Settlement Check.</p>
Exclude Yourself (“Opt Out”)	<p>If you “opt out” of the lawsuit, you will not be mailed a Settlement Check, and will retain any rights to sue for the Released Claims against Defendants. Go to Section 12 for directions on how to “opt out.”</p>
Object	<p>Any employee who does not opt out may object to the Settlement. You may object to the settlement but will still participate in the settlement regardless of how the Court rules on your objection. To object, you will tell the Court why you don’t agree with the settlement terms. The Court may or may not agree with your objection. However, if the Court does not agree with your objection, you will still be paid your Individual Settlement Payment. Go to Section 14 for directions on how to object.</p>
Speak at the Final Approval Hearing	<p>Class Members may be permitted to appear and speak to the Court if they submit either a Notice of Intent to Appear or a written objection. Go to Section 16 for directions on how to submit a Notice of Intent to Appear and to Section 14 for how to object</p>

The deadline for making this decision is: _____, 2022

All Seasons will not retaliate against you for participating in this settlement

BASIC INFORMATION

1. Why did I get this Notice?

The Court is providing this Notice to inform you and other Class Members about the proposed Settlement of this class action lawsuit before the Court decides whether to give Final Approval to the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, your options, who is eligible to receive the Settlement Checks and other benefits under the Settlement, and how to get them. If the Settlement is ultimately approved by the Court, the Settlement Checks will then be mailed to Class Members.

Judge Sunil R. Kulkarni, of the Superior Court of California, County of Santa Clara is overseeing this class action. The lawsuit is known as *Aguilar et al. v. All Seasons Roofing & Waterproofing, Inc. et al.*, Civil Case No. 20CV364524.

2. What is this lawsuit about?

This lawsuit alleges that All Seasons Roofing & Waterproofing (“All Seasons”) violated the California Labor Code as well as Industrial Welfare Commission, Wage Order Number 16-2001 (“Wage Order 16”) and California’s Unfair Competition Law by failing to pay minimum wages, failing to pay for all hours worked, failing to pay overtime and double time wages, failing to provide meal periods and rest periods, failing to pay earned wages upon discharge, and failing to provide accurate wage statements. All Seasons has denied all of these claims.

3. What is a class action and who is involved?

In a class action lawsuit, the “Class Representatives” (in this case, Felix Aguilar, Jose Martinez, and Jose Cazares) sue on behalf of other people who have similar claims. The people together are a “Class” or “Class Members.” The people who sue are called the “Plaintiffs.” The company or persons they sued (in this case, All Seasons Roofing & Waterproofing, Inc., and Vladislav N. Gorshteyn) are called the “Defendants.” One court resolves the issues for everyone in the Class. All decisions that this Court makes concerning the Settlement will affect all Class Members.

4. Why is there a Settlement?

Instead of going to trial, the Plaintiffs and the Defendants attended a mediation (or negotiation session), and both sides agreed to this Settlement. That way, both sides can avoid the costs, risk and uncertainty of trial, and the Class Members will get compensation. The Class Representatives and Class Counsel think it is in the best interest of the Class to settle this case on the terms described below. The Court has **not** decided whether Plaintiffs’ position or Defendants’ position is the correct one.

5. How do I know if I am part of the Settlement?

If you were an hourly construction employee who worked for All Seasons Roofing & Waterproofing, Inc., in the state of California at any time from March 2, 2016 to February 4, 2021, you are a Class Member and you will receive a Settlement Check if the Settlement is approved, as long as you do not “opt out” of the Settlement. Your Settlement Check will be based on the number of weeks that you were paid hourly for All Seasons. If you received this Notice, All Seasons’s records indicate that you are a Class Member.

TERMS OF THE SETTLEMENT

6. What does the Settlement provide?

All Seasons has settled for a gross Total Settlement Amount of \$995,000. All the participating Class Members that can be found by the Settlement Administrator and who do not opt out of the Settlement are entitled to Settlement Checks, as explained below. Assuming that the Court grants fees and costs, of this Amount:

- If the Court approves the Settlement and all requests for attorneys’ fees and service payments described below **\$554,900** (or approximately 55.8 percent of the Total Settlement Amount) will be divided among all Class Members. **Settlement Checks will be mailed to each Class Member.** Go to Section 9 for directions on how to update your address.
- **\$328,350** (or 33 percent of the Total Settlement Amount) will be paid to the Class Counsel as attorneys’ fees, subject to the Court’s approval. Go to Section 19 for more information.
- **\$30,000** (or approximately 3 percent of the Total Settlement Amount) will go to the three Class Representatives (\$10,000 each) for their service to the Class and the general release of their own claims, subject to the Court’s approval. Go to Section 20 for more information.
- **\$20,000** (or approximately 2 percent of the Total Settlement Amount) will go Class Counsel to pay for the costs in this lawsuit, subject to the Court’s approval. Go to Section 19 for more information.
- **\$12,000** (or about 1.2 percent of the Total Settlement Amount) will go to the Settlement Administrator to pay for the costs of administrating this Settlement, subject to the Court’s approval. The Settlement Administrator is a third party and not affiliated with All Seasons.
- **\$49,750** (or 5 percent of the Total Settlement Amount) will be allocated as penalties under the Labor Code Private Attorneys General Act of 2004, with \$37,312.50 (75%) being awarded to the State of California and \$12,437.50 (25%) being allocated to the Net Settlement Fund and awarded to the Class Members that worked during the PAGA period, subject to the Court’s approval.

7. How much will my Settlement Check be?

Your share of the Settlement money will depend on how long you worked for All Seasons between March 2, 2016 and February 4, 2021. These are called your “Workweeks.” Because of All Seasons’s change of employment policies during the class period, the weeks worked by Class Members between April 1, 2020 to February 4, 2021 will be valued 25% of the prior years (i.e. apply a negative multiplier of 0.25). For example, if you worked for All Seasons for six (6) weeks before April 1, 2020, you would be entitled to **\$_____**. If you worked for six (6) weeks on or after April 1, 2020, you would be entitled to **\$_____**. Go to Section 9 for directions on how to check your workweeks number.

8. When will I get my Settlement Check?

Settlement Checks will be mailed out ten (10) days after All Seasons makes the payments to the Settlement Fund and all objections and appeals have been resolved in the case. However, if no objections and appeals are submitted or if all objections and appeals are resolved before or at the Final Approval Hearing, Defendant will fund the Settlement Fund thirty (30) days after the order containing the Court's Final Approval of this settlement ("Final Approval Order") is filed and then Settlement Checks will be mailed ten (10) days after Defendant's payment. This Final Approval Hearing is currently scheduled for [REDACTED]. Please be patient.

9. How do I help make sure my Settlement Check has the correct amount of money and is sent to the correct address?

You should review the information on your Class Member Information Form, to make sure it is accurate. If it is accurate, you do not have to send in any response in order to participate in the Settlement and receive a Settlement Check. If it is not accurate, you should fully fill out the Information Form, indicating all corrections by [REDACTED] to:

**ALL SEASONS ROOFING & WATERPROOFING, INC. Settlement
Settlement Administrator
c/o Phoenix Class Action Administration
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX**

You may also call 1-800-XXX-XXXX to provide your corrections via telephone.

You should make a copy of your Information Form for your records. You may want to send it via certified or registered mail, and keep the receipt, in case there is a problem with your Form. If you send in documents with your Information Form, you should send copies and keep your originals.

If you move, you must send or call in your new address. You should keep a current address in file with the Settlement Administrator at all times. Call 1-800-XXX-XXXX if you have a new address.

10. What am I giving up if I take the Settlement Check?

All Class Members who stay in the Class give up or "release" their legal claims against All Seasons Roofing & Waterproofing, Inc. and Vladislav N. Gorshteyn, in this lawsuit. ***To be clear, if you do not "opt out" of the Class, you give up or "release" your legal claims in this lawsuit, regardless of whether you cash your Settlement Check or receive any money in this Settlement.*** The following is the full text of your legal release. Please read it carefully:

"Upon final approval by the Court of this Settlement, and except as to such rights or claims as may be created by this Stipulation of Settlement, Plaintiffs, on their own behalf and as Class Representatives ("Releasing Parties") shall fully and finally release Defendants [All Seasons Roofing & Waterproofing, Inc. and Vladislav N. Gorshteyn] and their present and former owners, parent companies, subsidiaries, related or affiliated companies, partners, shareholders, officers, directors, employees, agents, attorneys, accountants, insurers, successors and assigns of Defendant, and any other person acting on their behalf, and any individual or entity that could be jointly liable with Defendants based upon the facts alleged in the First Amended Complaint, including temporary staffing agencies. ("Released Parties"), from any and all causes of action, claims, right, damages, punitive or statutory

damages, penalties, liabilities, attorneys' fees, expenses, unpaid costs, liquidated damages, interest, litigation costs, restitution, equitable relief or other relief under Business & Professions Code § 17200, et seq. and losses and issues of any kind or nature whatsoever, that were alleged which could have been alleged, arising from facts in Plaintiffs' original complaint or in the Operative Complaint, from March 2, 2016 to February 4, 2021 ("Released Claims")."

Please call Class Counsel at 415-762-0270, if you have questions about this release.

EXCLUDING YOURSELF ("OPTING OUT")

11. What is "opting out"?

You have a right to exclude yourself ("opt out") from the Settlement Class, but if you choose to do so, you will not receive any payment from this proposed Settlement, and you will not be bound by a judgment in this case.

12. How do I "opt out" of this Settlement?

If you want to "opt out" of the Settlement, you must send a letter by mail that includes your name and a statement that you request exclusion from the class in the *Aguilar et al. v. All Seasons Roofing & Waterproofing, Inc.* case and do not wish to participate in the Settlement. Be sure to include your name and your signature. You must mail your letter no later than [REDACTED] to:

ALL SEASONS ROOFING & WATERPROOFING, INC. Settlement
Settlement Administrator
c/o Phoenix Class Action Administration
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX

You should make a copy of your letter for your records. You may want to send it via certified or registered mail, and keep the receipt, in case there is a problem with your letter.

If you ask to "opt out," you will not get a Settlement Check or any benefits under the Settlement. You also **cannot** object to the Settlement. You will not be legally bound by anything that happens in this case.

OBJECTING TO THE SETTLEMENT

13. What's the difference between "opting out" and objecting?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object **only if** you stay in the Class. "Opting out" is telling the Court that you don't want to be part of the Class. If you "opt out," you may not object to the Settlement because the case no longer affects you.

14. How do I object to the Settlement?

You can object to the entire Settlement or any part of it. You must give reasons why you think the Court should not approve it. The Court will consider your views. But you will still be bound by all the Court’s orders, even if your objection is rejected. If you file an objection, you will still receive a settlement payment. You may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing at your own expense, either in person, telephonically, or through an attorney, provided you notify the Court of your intention to do so. All written objections, supporting papers and/or Notices of Intent to Appear at the Final Approval Hearing must (a) clearly identify the case name and number (*Aguilar et al. v. All Seasons Roofing & Waterproofing, Inc., et al.*, Case Number 2020-CV-364524), (b) be submitted to the Court either by mailing the objection to: Clerk of the Court, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, or by filing in person at the same location; (c) also be mailed to the law firms identified (Molteni Employment Law, 100 Pine Street, Suite 1250, San Francisco, California 94111; and LightGabler, 760 Paseo Camarillo, Suite 300, Camarillo, California 93010) and (d) be filed or postmarked on or before _____, 2022.

You should make a copy of your letter for your records. You may want to send it via certified or registered mail, and keep the receipt, in case there is a problem with your letter.

THE COURT’S FINAL APPROVAL HEARING

15. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at _____ on _____, at the Superior Court of California, County of Santa Clara, located at 191 North First Street, Second Floor, San Jose, California 95113, in Department 1. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Kulkarni will also listen to people who have asked to speak at the hearing. You are welcome to come at your own expense. If you have submitted a written objection, you don’t have to come to the Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it’s not necessary. After the hearing, the Court will decide whether to approve the Settlement.

16. May I speak at the Final Approval Hearing?

If you have not “opted out,” you may ask for permission to speak at the Final Approval Hearing. You can speak regardless of whether you submitted a written objection as described above. To speak at the Hearing, you must send a letter stating your “Notice of Intent to Appear in *Aguilar v. All Seasons Roofing & Waterproofing, Inc.*” as explained in the paragraph 14 above. Be sure to include your name, address, telephone number, and your signature. Also include some information about what you intend to say and whether you will be represented by a lawyer. Your “Notice of Intent to Appear” must be postmarked no later than _____ and mailed to:

ALL SEASONS ROOFING & WATERPROOFING, INC. Settlement
Settlement Administrator
c/o Phoenix Class Action Administration
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX

You should make a copy of your letter for your records. You may want to send it via certified or registered mail, and keep the receipt, in case there is a problem with your letter.

IF YOU DO NOTHING

17. What happens if I do nothing at all?

If you do nothing, a Settlement Check will be mailed to you automatically at the same address to which this Notice was sent. You give up your right to bring claims against All Seasons Roofing & Waterproofing, Inc. and Vladislav N. Gorshteyn, on your own regarding all claims that are part of this Settlement. Unless you “opt out” or object to the Settlement, you won’t be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against All Seasons Roofing & Waterproofing, Inc., and Vladislav N. Gorshteyn, about the legal issues in this case.

THE LAWYERS AND CLASS REPRESENTATIVES REPRESENTING YOU

18. Do I have lawyers in this lawsuit?

Cristina Molteni of Molteni Employment Law represents you and other Class Members. These lawyers are called “Class Counsel.” These lawyers are being paid out of the Settlement Fund, and you will not be charged separately for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

19. How will the lawyers be paid?

Class Counsel will ask the Court to approve payment of up to \$328,350 (or 33% of the settlement fund) for attorneys’ fees and \$20,000 in costs and expenses associated with investigating the facts, litigating the case, and negotiating the Settlement. This amount is to be deducted from the \$995,000 Total Settlement Sum.

20. What are the Class Representatives getting?

Class Counsel will also ask the Court to approve an award of up to \$10,000 for each of the Class Representatives, for a total of \$30,000 for the Class Representatives. This proposed award for the Class Representatives is for the risk that they undertake when they filed this lawsuit and the time and effort they spent on your behalf in bringing this lawsuit against All Seasons, and their own individual claims against All Seasons.

GETTING MORE INFORMATION

21. What if I still have questions?

This Notice summarizes the proposed Settlement. More details are in the Joint Stipulation of Settlement Agreement and other important documents such as the First Amended Complaint. Visit the website www.xxxxxxx.com, where you will find the Court’s Order Certifying the Class, the First Amended Complaint that the Plaintiffs submitted, as well as all the papers regarding the approval of this class action settlement.

You may also speak to, write to, or email one of the lawyers by contacting them at the phone numbers and addresses below:

Cristina Molteni (speaks fluent Spanish)
Molteni Employment Law
100 Pine Street, Suite 1250
San Francisco, CA 94111
Telephone: (415) 762-0270
Facsimile: (415) 762-0271
Email address: cmolteni@moltenilaw.com

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Settlement Agreement, which is on file with the Clerk of the Court. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined (a) online on the Superior court of California, County of Santa Clara's Electronic Filing and Service Website at www.scefiling.org , or (b) in person at Records, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures, or you may contact Class Counsel or the Settlement Administrator.

PLEASE DO NOT TELEPHONE THE COURT OR DEFENDANT'S COUNSEL FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS.

**CLASS MEMBER INFORMATION FORM/
FORMULARIO DE INFORMACIÓN PARA EL MIEMBRO DEL GRUPO**

Aguilar et al. v. All Seasons Roofing & Waterproofing, Inc. et al.

DIRECTIONS/INSTRUCCIONES:

Please review carefully the information on the other side of this Form to make sure it is accurate.

If it is accurate, you do not have to send in any response in order to participate in the Settlement and receive a Settlement Check.

If it is **NOT accurate**, you should fully fill out this Form, indicating all corrections, and either send it by **[DATE]** to:

**ALL SEASONS ROOFING & WATERPROOFING, INC. Settlement
Settlement Administrator
c/o Phoenix Class Action Administration
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX**

OR call 1-800-XXX-XXXX to provide your corrections by telephone.

If you move before the Court's Final Approval Hearing on **[DATE]**, you must mail or call in your new address.

Por favor, revise cuidadosamente la información en el otro lado de este formulario para asegurarse que este correcta. Si está correcta, Ud. no tiene que mandar ninguna respuesta para participar en el Acuerdo y recibir un Cheque del Acuerdo.

*Si NO está correcta, Ud. debe llenar completamente este Formulario, indicando todas las correcciones y enviarlo antes del **[DATE]** a:*

**ALL SEASONS ROOFING & WATERPROOFING, INC. Settlement
Settlement Administrator
c/o Phoenix Class Action Administration
XXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXX**

O SI NO llamar al 1-800-XXX-XXXX para proveer las correcciones por teléfono.

*Si Ud. se muda antes de la Audiencia de Aprobación Final de la Corte en **[DATE]**, Ud. debe llamar o enviar una carta con su nueva dirección.*

**Questions? Call 1-800-xxx-xxxx
Preguntas? Llame al 1-800-xxx-xxxx**

Go to the Reverse Side of this Form to Review Your Information
Vea el Reverso de este Formulario para Revisar Su Información

IMPORTANT! If you disagree with the number of workweeks shown on the back of this page, you must submit this information now. Do not wait until later. See the reverse side for the telephone number and address to use. The Settlement Administrator will contact you to resolve your correction.

¡IMPORTANTE! Si Ud. está en desacuerdo con el número de semanas trabajadas que aparecen en el reverso de esta página, Ud. debe presentar este formulario ahora. No espere hasta más tarde. Vea el reverso de la página por el número de teléfono y dirección para usar. El Administrador del Acuerdo se comunicará con Ud. para resolver su corrección.

NAME, PHONE NUMBER, AND MAILING ADDRESS/ NOMBRE, TELEFONO Y DOMICILIO

Please review your information in the left-hand column, and make any necessary changes in the right-hand column: *Por favor, revise su información en la columna de la izquierda y haga cambios necesarios en la columna de la derecha:*

IDENTIFICATION/IDENTIFICACION #

Name (First, Middle, Last)/
Nombre (Nombres, Apellido): XXXX
c/o / para entregar a:

Street Address/*Domicilio:* XXX

City, State, Zip Code/
*Ciudad, Estado, Código Postal*XXX

Phone/*Telefono:* XXX

NAME/ADDRESS CHANGES (IF ANY)/CAMBIOS DE NOMBRE/DOMICILIO (SI HUBIERA):

_____(_____)_____

Best Telephone Number (please include area code)
Mejor Número de Teléfono (por favor incluya código de área)

_____(_____)_____

Alternate Telephone Number (please include area code)
Número de Teléfono Alternativo (por favor incluya código de área)

IMPORTANT! ; IMPORTANTE!

If you move, please call the Settlement Administrator with your new mailing address at 1-800-000-0000. You should keep a current mailing address and telephone number on file at all times, as this will be the address to which your Settlement Payments will be sent.

Si Ud. se muda, por favor llame al Administrador del Acuerdo con su nuevo domicilio al 1-800-000-0000. Ud. debe mantener un domicilio para recibir correspondencia y un número de teléfono actualizados con nosotros a todo momento, porque este será el domicilio al cual se le enviarán los Pagos del Acuerdo.

YOUR WORKWEEKS/SUS SEMANAS TRABAJADAS

All Seasons Roofing & Waterproofing, Inc. has records that indicate that you were employed as an employee in California, for _____ **WORKWEEKS** between March 2, 2016 and March 31, 2020 and _____ **WORKWEEKS** between April 1, 2020 and February 4, 2021. Based on this information, **YOUR ESTIMATED SHARE OF THE SETTLEMENT will be** \$_____.

If you disagree with the number of workweeks that All Seasons states you worked above, you can challenge that number. To do this, tell us, below, why you think the number is incorrect. Add additional pages, if necessary. If you have documents that support your position, you can attach a copy of those documents to this Information Form. (You should keep your original documents.) You should make a copy of this Information Form for your records.

*All Seasons Roofing & Waterproofing, Inc. tiene registros que indican que Ud. fue empleado como trabajador en California por _____ **SEMANAS TRABAJADAS** desde el 2 de marzo de 2016 hasta el 31 de marzo de 2020 y _____ **SEMANAS TRABAJADAS** desde el 1 de abril de 2020 hasta el 4 de febrero de 2021. Con base en esta información, **SU PARTE ESTIMADA DEL ACUERDO** será \$_____.*

Si Ud. está en desacuerdo con el número de semanas trabajadas arriba que All Seasons afirma que Ud. trabajó, Ud. puede disputar ese número. Para eso, díganos abajo porque Ud. piensa que ese número es incorrecto. Agregue más hojas, si es necesario. Si Ud. tiene documentos apoyando su posición, Ud. puede anexar una copia de esos documentos a este Formulario de Información. (Ud. debe mantener los documentos originales). Ud. debe hacer una copia de este Formulario de Información para su constancia.

(1) EXPLAIN why you believe your Workweeks number is incorrect/**EXPLIQUE** porque Ud. cree que el número de semanas trabajadas es incorrecto: _____

(2) The BEST TELEPHONE NUMBER to call you/**El MEJOR NUMERO DE TELEFONO** para llamarlo: _____
Area Code/**Código de Área** _____ Best Telephone Number/**Mejor Número de Teléfono** _____

EXHIBIT 5



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

1411 N. Batavia Street, Suite 105, Orange, CA 92867

800.523.5773

www.phoenixclassaction.com

CURRICULUM VITAE

Phoenix, Class Action Administrators, PSA Overview

Phoenix Settlement Administrators, PSA, is an emerging, National, Class Action Notification and Claims Administration firm, located in Orange County, California. PSA's core competencies ensure delivery of the highest quality and accuracy to its Clients and Class members. With a combined 22 years of expert experience, PSA's Managing Partners, Case Supervisors, Managers and Associates, Data Programming, and Certified Secure Strategic Partners possess all the qualities that our Clients expect throughout the Noticing and Administration process to Final Approval. It is our Value Pricing, Efficiency, Experience, Consultative Expertise and Delivery, that has perpetuated PSA, as an emerging leader in Class Action Settlement Administration. Expert PSA staff members are currently managing, Consumer and Product Liability, TCPA, Complex Labor & Employment, FLSA, ERISA and PAGA cases.

PSA has over 100 Attorney & Law Firm Clients, which have entrusted us with the management of their claims administration, because of the "Boutique" attention every case receives. PSA is value driven on all size cases. Large or small, cases receive expert management, secure data custody, neutral communication and a dedicated team. This seamless process maintains superior case continuity to ensure our clients receive timely final approval and conclusion to their actions. Phoenix Settlement Administrators implements its successful C.A.S.E. solutions on all our class action matters.

With tens of Millions of dollars in award distributions currently under management since our inception, PSA has the ability and strengths to manage all levels of Complex Cases. PSA's Staff "Synergy" is our greatest attribute. It allows our people to work closely together and solve our client's case issues. PSA prides itself as a true "Third Party Administrator" and holds Neutrality and Service as a mantra. Because of this approach, both Defense and Plaintiff Clients, experience fairness, trust and confidence in us, and allows for continued business from both parties. PSA has been appointed Third Party Administrator in State and Federal Courts.

We look forward to working with you on your next Class Action Noticing Campaign or Claims Administration. Let us design a C.A.S.E. solution, which will allow us to showcase the difference you'll experience. Superior Service, Class Savings Value Pricing and Timely Outcomes is why our clients come back to PSA.



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Expert Core Services

Initial Planning and Consultative Service on Class Action Cases and Noticing Plans.

State/Nationwide Noticing Expertise: Privacy, Media, Publication, Internet & Email Campaigns.

Attorney General(s) CAFA Notification

Claims Programming, Administration, Processing and Reporting.

24/7/365 Multi-Lingual Call Center Support and Claims Processing

Secure Data Management Environment, Individual Firewalls, Encrypted Data and Storage

Settlement Fund Calculations, Solutions, Award Distribution, Award Reconciliation

Tax Filings: State, Federal, EDD, ETT, FUTA, PAGA Payments

Partial PSA Client List, Defense and Plaintiff

**Fisher & Phillips
Gordon & Rees
Paul Plevin Sullivan & Connaughton
Call & Jensen
Seyfarth Shaw
McKenna Long & Aldridge
Greenberg Traurig
Manning & Kass
Littler Mendelson
Perkins Coie
Orrick Herrington & Sutcliffe
Ogletree Deakins Nash Smoak & Stewart
Perkins Coie
Ulwelling Siddiqui
Winston & Strawn
Sheppard Mullins
Lewis Brisbois Bisgaard & Smith
Morgan Lewis & Bockius
Paul Hastings
Snell & Wilmer
Sidley Austin
Higgs Fletcher & Mack
Jackson Lewis
Norton Rose Fulbright**

**The Arns Law Firm
The Nourmand Law Firm
Mahoney Law Group
Law Office of Thomas Rutledge
Lawyers for Justice PC
Remedy Law Group
Rastegar Law Group
Diversity Law Group
Righetti & Glugoski
Cohelan, Khoury & Singer
Moon & Yang, APC
Moss & Moss
The Spivak Law Firm
Law Offices of Kenneth Yoon
Paul Haines Law Group
Kearney Littlefield, LLP
Markham Law Firm
Molteni Employment Law
David Yeremian & Associates
Aegis Law Firm
Lauby, Mankin & Lauby, APC
Jones Law Firm
Short Legal, APC
Levine Law Group, APC**