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11 Inc.

12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF LAKE**

15 DOMINIQUE MITCHELL, on behalf of
16 herself and all “aggrieved employees”
pursuant to Labor Code § 2698 *et seq.*,

17 Plaintiff,

18 v.

19 COLEMAN ENVIRONMENTAL
20 ENGINEERING, INC., a California
corporation, DOES 1 through 10, inclusive,

21 Defendants.
22

CASE NO: CV421915

Assigned to Hon. Michael S. Lunas, Department 1

CLASS ACTION

**SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

Complaint Filed: June 18, 2021

1 approval process, asserts class and PAGA representative action claims against Defendant for (a)
2 failure to pay all wages due (Labor Code §§ 510, 1194, 1197, 1720, 1771, 1772 and 1774); (b)
3 failure to provide compliant rest periods or compensation in lieu thereof (Labor Code §§ 226.7 and
4 558; IWC Wage Order 16-2001); (c) failure to provide compliant meal periods or compensation in
5 lieu thereof (Labor Code §§ 226.7, 510, 512, 558; IWC Wage Order 16-2001); (d) failure to
6 reimburse employee business expenses (Labor Code § 2802); (e) failure to comply with itemized
7 employee wage statement provisions (Labor Code §§ 226 and 226.3); (f) failure to timely pay
8 wages due at separation of employment (Labor Code §§ 201-203); (g) violation of Business and
9 Professions Code §§ 17200, *et seq.*; and (h) civil penalties pursuant to Labor Code §§ 2698, *et seq.*
10 for violations of Labor Code §§ 201, 202, 226, 226.3, 226.7, 510, 558, 1194, 1197, 1720, 1771,
11 1772, 1774 and 2802 (the “First Amended Complaint”).

12 3. Defendant denies any liability or wrongdoing of any kind associated with the claims
13 alleged in the Action, and further denies that the Action is appropriate for class treatment for any
14 purpose other than this settlement. Defendant contends that it has complied at all times with the
15 California Labor Code, Industrial Welfare Commission Wage Orders, and all other applicable
16 federal, state, and local laws and regulations. It is Defendant’s position that, if this case were to be
17 litigated, class certification would be inappropriate because Plaintiff is not an adequate class
18 representative, Plaintiff’s claims are not typical of putative class members, and individual issues
19 predominate over class issues. The Action, the negotiation and execution of this Settlement
20 Agreement, and all acts performed or documents executed pursuant to or in furtherance of the
21 Settlement Agreement (i) shall not be used as an admission or evidence of wrongdoing on behalf
22 of Defendant; (ii) shall not be an admission or evidence of fault on behalf of Defendant in any
23 action before a civil, criminal, or administrative agency; and (iii) shall not be deemed to be, and
24 may not be used as, an admission or evidence of the appropriateness of these or similar claims for
25 class certification in the Action or with respect to any other proceeding.

26 4. The Class Representative contends that Defendant violated the California Labor
27 Code and Industrial Welfare Commission Wage Order(s), and that this case is appropriate for class
28 certification.

1 5. Class Counsel represent that they have conducted a thorough investigation into the
2 facts and law during the prosecution of this class action case, including the exchange of extensive
3 formal and informal discovery and the review and verification of statistical data and other facts and
4 information provided by Defendant. Counsel for the Parties also represent that they have
5 investigated the applicable law as applied to the facts discovered regarding the alleged claims of
6 Plaintiff and potential defenses thereto, and the damages and other losses claimed by Plaintiff.

7 6. On January 10, 2022, following their exchange of information and documents
8 regarding the Settlement Class and the claims and defenses asserted by the Parties, the Parties
9 commenced arm's-length negotiations with the assistance of mediator Lisa Klerman, an
10 experienced mediator who has mediated numerous wage-hour class actions. Through continued
11 negotiations, the Parties reached the resolution of the Action set forth herein on or about March 24,
12 2022.

13 7. Based on their own independent investigation and evaluation, Class Counsel are of
14 the opinion (and will so represent to the Court) that settlement for the consideration and on the
15 terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best
16 interest of the Settlement Class in light of all known facts and circumstances, including the risk of
17 significant delay, the risk the Settlement Class will not be certified by the Court, and the defenses
18 asserted by Defendant. Defendant and its counsel also agree (and will so represent to the Court)
19 that this settlement is fair and in the best interest of the Settlement Class.

20 8. The Parties agree that the Settlement Class described herein may be certified for
21 settlement purposes only and that any motion for approval seeking, *inter alia*, certification of the
22 Settlement Class is for purposes of the settlement only. If for any reason the settlement is not
23 approved, the certification will have no force or effect and will immediately be revoked. The
24 Parties further agree that certification for purposes of the settlement is in no way an admission that
25 class certification is proper under the more stringent standard applied for litigation and that
26 evidence of this limited stipulation for settlement purposes only will not be admissible for any
27 purpose in this or any other proceeding.

28

1 **C. Terms of Settlement.**

2 The financial terms of the settlement are as follows:

3 1. **Maximum Settlement Amount:** The Parties agree to settle this Action for a
4 Maximum Settlement Amount of Four Hundred Twenty-Five Thousand Dollars (\$425,000.00) (the
5 “Maximum Settlement Amount”), subject to any increase based on the escalator provision in
6 paragraph H(16) herein. The Maximum Settlement Amount includes the attorneys’ fees of Class
7 Counsel; litigation costs and expenses (which includes, without limitation, all such fees and costs
8 incurred to date, as well as such fees and costs to be incurred in documenting the settlement,
9 providing any notices required as part of the settlement, securing Court approval of the settlement,
10 and obtaining judgment in the Action); the Enhancement Payment to the Class Representative, as
11 approved by the Court; the payment to the California Labor and Workforce Development Agency
12 (“LWDA”); and all costs of administration, including, without limitation, settlement administration
13 fees and expenses. Defendant shall pay all employer payroll tax obligations due on wage payments
14 made from the Net Settlement Proceeds in addition to, and separate and apart from, the Maximum
15 Settlement Amount.

16 2. **Net Settlement Proceeds:** “Net Settlement Proceeds” is defined as the Maximum
17 Settlement Amount less the amounts approved and awarded by the Court for: attorneys’ fees and
18 documented litigation costs and expenses incurred or advanced by Class Counsel; the Enhancement
19 Payment to the Class Representative; the payment to the LWDA pursuant to PAGA; and the costs
20 of administering the settlement.

21 3. **Individual Payment Amounts:** “Individual Payment Amount” means the portion
22 of the Net Settlement Proceeds distributable to each Class Member who participates in the
23 Settlement (i.e., who does not submit a valid request for exclusion form). The Individual Payment
24 Amounts will be calculated by dividing the Net Settlement Proceeds by the total weeks worked by
25 all participating Class Members in California in a non-exempt position during the Class Period,
26 which will yield the applicable weekly rate. The weekly rate shall be multiplied by the number of
27 weeks each individual participating Class Member worked for Defendant in California in a non-
28 exempt position during the Class Period to yield their Individual Payment Amount. Each

1 Participating Settlement Class Member who does not opt out will receive an Individual Payment
2 Amount equal to their individual weeks worked in California in a non-exempt position during the
3 Class Period multiplied by the weekly rate.

4 For tax purposes, each Individual Payment Amount will be apportioned (a) 30% as wages
5 (reported on an IRS Form W-2 and subject to applicable withholdings); (b) 50% to penalties
6 (reported on an IRS Form 1099); (c) 10% to expense reimbursement; and (d) 10% to interest
7 (reported on an IRS Form 1099). All Individual Payment Amounts paid to Class Members will be
8 subject to any applicable wage garnishments, liens, or other legally mandated treatment as required
9 by law.

10 4. **PAGA Payment:** The Parties agree that Ten Thousand Dollars (\$10,000.00) shall
11 be allocated to settle Plaintiff's claims brought pursuant to PAGA. Of this amount, Seventy-Five
12 percent (75%), or Seven Thousand Five Hundred Dollars (\$7,500.00), shall be paid to the LWDA,
13 and the remaining Twenty-Five percent (25%), or Two Thousand Five Hundred Dollars
14 (\$2,500.00), shall be included in the Net Settlement Proceeds for payment to Class Members.

15 5. **Enhancement Payment to Class Representative:** The amount awarded to the
16 Class Representative as an Enhancement Payment will be set by the Court in its discretion, not to
17 exceed Twelve Thousand Dollars (\$12,000.00). This amount will be deducted from the Maximum
18 Settlement Amount. An IRS Form 1099 will be issued to the Class Representative for her
19 Enhancement Payment. Defendant agrees not to dispute or otherwise object to the Enhancement
20 Payment if Plaintiff requests \$12,000 or less.

21 6. **Attorneys' Fees:** An award to Class Counsel of attorneys' fees will be deducted
22 from the Maximum Settlement Amount in an amount to be set by the Court taking into account the
23 settlement award that has been made available for the Settlement Class by the efforts of Class
24 Counsel. The amount awarded shall not exceed 35% of the Maximum Settlement Amount (i.e.,
25 One Hundred Forty-Eight Thousand Seven Hundred Fifty Dollars (\$148,750.00)). An IRS Form
26 1099 will be issued to Class Counsel with respect to its award of attorneys' fees. Defendant agrees
27 not to dispute or otherwise object to the attorneys' fee award requested by Class Counsel so long
28 as the request does not exceed 35% of the Maximum Settlement Amount.

1 7. **Attorneys' Costs and Expenses:** Class Counsel will be reimbursed from the
2 Maximum Settlement Amount in an amount to be set by the Court for documented out-of-pocket
3 litigation costs and expenses, not to exceed Fifteen Thousand Dollars (\$15,000.00). An IRS Form
4 1099 will be issued to Class Counsel with respect to its award of costs and expenses. Defendant
5 agrees not to dispute or otherwise object to the attorneys' cost award requested by Class Counsel
6 so long as the request does not exceed \$15,000.

7 (a) **Settlement Administration Costs:** The fees and other charges of the
8 Settlement Administrator to administer the Settlement are expected to total no more than Twelve
9 Thousand Five Hundred Dollars (\$12,500.00) and will be paid from the Maximum Settlement
10 Amount. These fees shall include any costs associated with the required tax reporting on any
11 Individual Payment Amounts, and the issuing of any and all W-2 and 1099 forms. Subject to
12 approval of the Court, the Parties have agreed that Phoenix Class Action Administration Solutions
13 will serve as a neutral third-party claims' administrator ("Settlement Administrator") to perform all
14 acts related to providing notice to the Settlement Class. Settlement Administrator shall be
15 responsible for (a) printing and distributing the Court-approved Notice of Class Action Settlement
16 ("Class Notice") to all Class Members; (b) administering the settlement; (c) processing exclusions,
17 objections, and field inquiries from Class Members; (d) resolving disputes; (e) calculating the
18 Individual Payment Amount each Participating Class Members is eligible to receive; (f) distributing
19 the Maximum Settlement Amount as directed by the Court and set forth herein; (g) tax reporting;
20 (h) providing necessary weekly status reports; and (i) other duties and responsibilities set forth
21 herein.

22 8. **No Warranty by Defendant:** Plaintiff understands and agrees that Defendant is
23 not providing Plaintiff or Class Members with tax or legal advice and that Defendant makes no
24 representations regarding tax obligations or consequences, if any, related to this Settlement
25 Agreement.

26 **D. Release of Claims.**

27 1. Upon the Effective Date, and subject to Defendant's full payment of the Maximum
28 Settlement Amount, Plaintiff and all Settlement Class Members who do not timely opt-out will be

1 deemed to have fully released and discharged Defendant Coleman Environmental Engineering,
2 Inc. and each of its present and former officers, directors, members, owners, managers,
3 shareholders, agents, operators, partners, joint ventures, subsidiaries, parent companies, related
4 entities, consultants, attorneys, successors or assignees (collectively, “Released Parties”) from any
5 and all Released Claims which arose during their employment in a non-exempt position in
6 California during the Class Period.

7 2. The “Released Claims” include any and all claims, debts, liabilities, demands,
8 obligations, penalties, premium pay, guarantees, costs, expenses, attorney’s fees, damages, actions
9 or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued,
10 under any legal theory under state law for any alleged failure to pay all business expense
11 reimbursements, wages due (including minimum wage and overtime wages), failure to pay for all
12 hours worked (including off-the clock), failure to provide meal and authorize and permit rest
13 periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods,
14 failure to timely pay wages and final wages and waiting time penalties, and failure to furnish
15 accurate wage statements, including claims derivative and/or related to these claims, liquidated
16 damages, and conversion of wages. The Released Claims shall include, claims that were raised, or
17 that reasonably could have been raised based on the facts and allegations in the Complaint. This
18 Release shall include all claims and theories arising under the applicable regulations, Labor Code
19 section 2802, Wage Orders and Labor Code, state wage and hour law, as well as claims under
20 Business and Professions Code section 17200 et seq., and/or Labor Code section 2698 et seq.
21 based on violations of the above Labor Code provisions.

22 3. Upon the Effective Date, and subject to Defendant’s full payment of the Maximum
23 Settlement Amount, Plaintiff shall be bound by a complete and general release of all claims under
24 any and all applicable federal and state laws and/or regulations as to Released Parties, and shall
25 also be bound by a California Civil Code section 1542 release and waiver of all claims known and
26 unknown, without exception, except as may be prohibited by law, such as claims for workers’
27 compensation benefits. California Civil Code section 1542 reads as follows:
28

1 **“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
2 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**
3 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
4 **RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
5 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE**
6 **DEBTOR OR RELEASED PARTY.”**

7
8 **E. Notice and Exclusion Process.**

9 1. Within ten (10) calendar days after entry of the order granting preliminary approval
10 of this Settlement, Defendant shall provide to the Settlement Administrator a list of all Class
11 Members, including their last known addresses, telephone numbers, social security numbers, and
12 their dates of employment in a non-exempt position in California during the Class Period
13 (“Settlement Class Information”). The names, addresses, telephone numbers, and Social Security
14 numbers will only be disclosed to the Settlement Administrator and not to Plaintiff’s Counsel. All
15 information provided to the Settlement Administrator will be marked CONFIDENTIAL. This
16 information shall be kept confidential and shall not be disclosed, either in writing or orally, by the
17 Settlement Administrator. The Settlement Administrator shall use due care with respect to the
18 storage, custody, use, and/or dissemination of the confidential information. Such information must
19 be stored in a secure fashion and all persons who access the data must agree to keep it confidential.

20 2. A notice of pendency of class action, proposed settlement, and hearing date for
21 Court approval (“Class Notice”) in the form attached hereto as Exhibit 1, and as approved by the
22 Court, shall be sent by the Settlement Administrator to the Class Members, by first class mail,
23 within twenty (20) calendar days after entry of the order granting preliminary approval. Attached
24 to the Class Notice will be a request for exclusion form (“Request for Exclusion Form”) in the form
25 attached hereto as Exhibit 2.

26 3. The Settlement Administrator will make reasonable efforts to ensure that the Class
27 Notice and Request for Exclusion Form are sent to all Class Members. It will conclusively be
28 presumed that if an envelope has not been returned within thirty (30) days of the mailing that the

1 Class Member received the Class Notice. In the event of returned or non-deliverable notices, the
2 Settlement Administrator will make reasonable efforts to locate Class Members and re-send the
3 notices.

4 4. Each Class Member will be fully advised of the settlement, the ability to object to
5 the settlement, and the ability to submit a Request for Exclusion Form. The Class Notice will
6 inform the Class Members of the Court-established deadlines for filing objections and a Request
7 for Exclusion Form.

8 5. Each Class Notice will contain personalized information setting forth the number of
9 weeks each Class Member worked for Defendant in California in a non-exempt position during the
10 Class Period and their estimated Individual Payment Amount. To the extent a Class Member
11 disputes any of the information listed on his or her Class Notice, the Class Member may produce
12 evidence to the Settlement Administrator showing such information the Class Member contends
13 should be reflected in the Class Notice. Defendant's records will be presumed determinative,
14 however, and the Settlement Administrator's decision on these matters will be final. The Class
15 Notice will also set forth IRS W-9 information if required.

16 6. All Class Members who do not submit a Request for Exclusion Form will be eligible
17 to receive an Individual Payment Amount which shall be mailed to them if and when the Effective
18 Date occurs.

19 7. In order to elect not to participate in the Settlement, a Class Member must submit a
20 Request for Exclusion Form, and mail it to the Settlement Administrator no later than forty-five
21 (45) calendar days after the initial mailing of the Class Notice and Request for Exclusion Form to
22 Class Members, unless the Court requires a longer period, in which case the Court ordered
23 exclusion period will apply. The date of the postmark shall be deemed the date of submission. The
24 timeliness of submitted Request for Exclusion Forms will be determined by valid postmark. If the
25 45th day falls on a Sunday or federal holiday, the time to request exclusion will be extended to the
26 next day on which the U.S. Postal Service is open.

27 8. The deadline for submission of Exclusion Forms shall be extended once by 30 days
28 for those Class Members whose Class Notice and Exclusion Form are returned as "undeliverable."

1 If the 30th day falls on a Sunday or federal holiday, this deadline will be extended to the next day
2 on which the U.S. Postal Service is open.

3 9. The Settlement Administrator will search for additional addresses on returned mail
4 and will re-mail the Class Notice and Exclusion Form to an updated address (if any) within 15 days
5 of receipt of the returned mail. The 30-day extended time limit will run from the date of the second
6 mailing for those Class Members. To the extent a Class Notice from the initial mailing is not
7 returned within 30 days, it shall be deemed to have been sent to a valid address even if it is thereafter
8 returned. It is the intent of the Parties that reasonable, but not extraordinary, efforts be used to
9 locate Class Members. If the initial Class Notice and Request for Exclusion Form is returned, the
10 Settlement Administrator will search using the social security number for a more current address.
11 If no address is found within 10 days, no further action is required.

12 10. The Settlement Administrator will notify the Parties of the total number of valid
13 Request for Exclusion Forms within ten (10) calendar days after the deadline for receipt of the
14 Request for Exclusion Forms (fifty-five (55) days following the initial mailing of the Class Notice
15 and Request for Exclusion Forms to Class Members).

16 11. In order to object to the settlement, a Class Member must mail his or her objection
17 to the Settlement Administrator no later than forty-five (45) calendar days after the mailing of the
18 Class Notice and Request for Exclusion Form to Class Members, unless the Court requires a longer
19 period, in which case the Court ordered objection period will apply. If the 45th day falls on a
20 Sunday or federal holiday, the time to object to the settlement will be extended to the next day on
21 which the U.S. Postal Service is open. Under no circumstances shall the objection deadline be
22 extended for any reason.

23 12. The Settlement Administrator shall provide to the Parties, at least twelve (12)
24 calendar days prior to the final approval hearing, or as otherwise ordered by the Court, a declaration
25 of due diligence and proof of mailing with regard to the mailing of the Class Notice and Request
26 for Exclusion Forms. The Settlement Administrator will also provide to the Parties, at least twelve
27 (12) calendar days prior to the final approval hearing, or as otherwise ordered by the Court, a report
28

1 listing the amount of all payments to be made to each Class Member without names or personal
2 identifying information.

3 13. Defendant shall deposit the Maximum Settlement Amount with the Settlement
4 Administrator on an installment plan, as follows: Three Hundred Thousand Dollars (\$300,000.00)
5 no later than the first day of the month after which final approval of this Settlement is granted;
6 Twenty-Five Thousand Dollars (\$25,000) no later than the first day of the following month; and
7 ten (10) subsequent monthly payments of Ten Thousand Dollars (\$10,000.00) each, payable n
8 later that the first day of each month thereafter (i.e. \$425,000 paid over 12 months). The
9 installment payments shall be held by the settlement administrator in a Qualified Settlement Fund.
10 No disbursements shall be made unless and until the Effective Date of the Settlement first occurs.
11 The effective date of this Settlement Agreement is the date of the later of: (a) final approval by the
12 Court; or (b) if there are objections to the settlement which are not withdrawn, and if an appeal,
13 review, or writ is not sought from the judgment, the sixty-first (61st) day after service of notice of
14 entry of judgment; or (c) the dismissal or denial of an appeal, review, or writ, if the Judgment is no
15 longer subject to judicial review (the "Effective Date").

16 14. The Settlement Administrator shall disburse pro rata shares of Individual Payment
17 Amount checks within ten (10) days after the second installment payment is deposited by Defendant
18 and within ten (10) days after the final installment payment is deposited by Defendant, such that
19 Class Members will be paid in two (2) installments. Plaintiff, Class Counsel, the Settlement
20 Administrator, and the LWDA shall each be paid their pro rata share of each installment payment
21 promptly after receipt. Class Members must cash each of their Individual Payment Amount checks
22 within one hundred eighty (180) calendar days after they are mailed by the Settlement
23 Administrator. The value of any checks uncashed more than one hundred eighty (180) days after
24 mailing shall be paid to the State of California State Controller's Office, to be held in the name of
25 the respective Class Member.

1 **F. Duties of the Parties Prior to Court Approval.**

2 1. Promptly after execution of this Settlement Agreement, Plaintiff shall move the
3 Court for preliminary approval of this settlement and entry of an order accomplishing the
4 following:

- 5 (a) scheduling a fairness hearing on the question of whether the proposed
6 settlement should be finally approved as fair, reasonable and adequate as to the Class Members;
7 (b) approving as to form and content the proposed Class Notice;
8 (c) approving as to form and content the proposed Request for Exclusion
9 Form;
10 (d) preliminarily certifying the Settlement Class for purposes of settlement;
11 (e) preliminarily approving the PAGA payment of \$7,500 to the LWDA;
12 (f) preliminarily setting attorneys' fees and costs payable to Class Counsel;
13 (g) preliminarily setting the enhancement payment to the Class Representative;
14 (h) preliminarily approving Phoenix Class Action Administration Solutions
15 as the Settlement Administrator and its estimated fees and costs of \$12,500; and
16 (i) permitting Plaintiff to file the First Amended Complaint.

17 The Parties shall submit this Settlement Agreement to the Court and the LWDA in support
18 of Plaintiff's unopposed motion for preliminary approval of the settlement.

19 **G. Duties of the Parties in Connection with and Following Final Court Approval.**

20 1. In connection with the hearing on final approval of the settlement provided for in
21 this Settlement Agreement, the Parties will submit a proposed final order no later than ten (10)
22 calendar days prior to the scheduled date of the hearing on final approval (unless otherwise ordered
23 by the Court):

- 24 (a) approving the settlement, adjudging the terms thereof to be fair, reasonable
25 and adequate, and directing consummation of its terms and provisions;
26 (b) approving Class Counsel's application for an award of attorneys' fees and
27 reimbursement of documented litigation costs and expenses, the Enhancement Payment to the
28

1 Class Representative, the PAGA payment to the LWDA, and the costs of administering the
2 settlement; and

3 (c) entering judgment in this Action in accordance with this Stipulation,
4 pursuant to Cal. Rules of Court, Rule 3.769(h).

5 2. Class Counsel shall file an application for attorneys' fees and reimbursement of
6 costs and expenses no later than ten (10) calendar days prior to the scheduled date of the hearing
7 on final approval (unless otherwise ordered by the Court).

8 **H. Miscellaneous Provisions:**

9 1. **Voiding the Agreement.**

10 A failure of the Court to approve any material condition of this Settlement Agreement which
11 effects "a fundamental change of the Parties' settlement," or if the settlement is reversed or
12 materially modified on appellate review, shall render the entire Stipulation of Settlement voidable
13 and unenforceable as to all Parties herein at the option of any Party.

14 2. **Parties' Authority.**

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

17 3. **Mutual Full Cooperation.**

18 The Parties agree to fully cooperate with each other to accomplish the terms of this
19 Stipulation of Settlement, including but not limited to, execution of such documents and such other
20 action as may reasonably be necessary to implement the terms of this Settlement Agreement. The
21 Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated
22 by this Settlement Agreement and any other efforts that may become necessary by order of the
23 Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As
24 soon as practicable after execution of this Settlement Agreement, Class Counsel shall, with the
25 assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the
26 Court's preliminary and final approval of the settlement.

27 ///

28 ///

1 4. **No Prior Assignments.**

2 The Parties hereto represent, covenant, and warrant that they have not directly or indirectly,
3 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or
4 entity any portion of any liability, claim, demand, action, cause of action or rights released and
5 discharged by this Stipulation of Settlement.

6 5. **No Admission.**

7 This Stipulation of Settlement is entered into solely for the purpose of compromising
8 highly disputed claims. Nothing contained herein, nor the consummation of this Stipulation of
9 Settlement, is to be construed or deemed an admission of liability, culpability, negligence, or
10 wrongdoing on the part of Defendant or any of the other Released Parties or that the Action was
11 not barred in its entirety by the ministerial exception. Defendant makes no admission of liability
12 or wrongdoing by virtue of entering into this Stipulation of Settlement. Additionally, Defendant
13 reserves the right to contest any issues relating to class certification and liability if this Stipulation
14 of Settlement is not approved. Defendant denies that it has engaged in any unlawful activity, has
15 failed to comply with the law in any respect, has any liability to anyone under the claims asserted
16 in the Action, or that but for this Stipulation of Settlement, a Class should be certified in the Action.
17 This Stipulation of Settlement, and Plaintiff's and Defendant's willingness to settle the Action will
18 have no bearing on, and will not be admissible in connection with, any litigation between the parties
19 (other than in connection with this Stipulation of Settlement). Each of the Parties hereto has entered
20 into this Settlement Agreement with the intention of avoiding further disputes and litigation with
21 the attendant inconvenience and expenses. This Settlement Agreement is a settlement document
22 and shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408
23 and/or any other similar law, be inadmissible in evidence in any proceeding, except an action or
24 proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement.

25 6. **Construction.**

26 The Parties hereto agree that the terms and conditions of this Settlement Agreement are the
27 result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement
28

1 Agreement shall not be construed in favor of or against any Party by reason of the extent to which
2 any Party or her or its counsel participated in the drafting of this Settlement Agreement.

3 **7. Captions and Interpretations.**

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

8 **8. Modification.**

9 This Settlement Agreement may not be changed, altered, or modified, except in writing and
10 signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be
11 discharged except by performance in accordance with its terms or by a writing signed by each of
12 the Parties hereto on their attorneys.

13 **9. Integration Clause.**

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

19 **10. Binding on Assigns.**

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

22 **11. Governing Law.**

23 All terms of this Settlement Agreement and its exhibits shall be governed by and interpreted
24 according to the laws of the State of California, without giving effect to any conflict of law
25 principles or choice of law principles.

26 **12. Signatures of All Class Members Unnecessary to be Binding.**

27 It is agreed that, because the members of the Settlement Class are numerous, it is impossible
28 or impractical to have each Class Member execute this Settlement Agreement. The Class Notice,

1 attached hereto as Exhibit 1, will advise all Class Members of the binding nature of the release
2 provided herein and such shall have the same force and effect as if this Settlement Agreement was
3 executed by each Class Member.

4 **13. Counterparts.**

5 This Settlement Agreement may be executed in counterparts, and when each Party has
6 signed and delivered at least one such counterpart, each counterpart shall be deemed an original,
7 and when taken together with other signed counterparts, shall constitute one fully-signed Settlement
8 Agreement, which shall be binding upon and effective as to all Parties. The Parties may transmit a
9 signed copy of this Settlement Agreement and any mutually agreed upon modification via a
10 facsimile or digital (i.e., DocuSign, HelloSign, pdf, tiff or jpeg) signature to the other party, and the
11 Parties hereby agree that each may accept and rely upon signatures as if they bore an original
12 signature of a party. If a party fails to provide the other with documents bearing an original
13 signature a facsimile or digital signature version shall be treated at the original for any and all
14 purposes.

15 **14. Confidentiality**

16 Until Plaintiff files her motion for preliminary approval of the class action settlement, the
17 Parties and their Counsel agree to maintain confidentiality as to the Settlement, including the
18 amount and terms of the Settlement, except as to spouses, tax or financial advisors, attorneys, taxing
19 agencies, or as otherwise required by law.

20 **15. No Publicity**

21 Plaintiff and her Counsel will not contact the media about the settlement or respond to any
22 inquiries by the media regarding the Settlement, other than to state that the matter was amicably
23 settled, and the Court did not find Defendant liable. Plaintiff and her Counsel also will not post
24 any information about the settlement on social media or their firms' websites.

25 **16. Non-Disparagement.**

26 Released Parties agree that all inquiries about Plaintiff shall be referred to Human
27 Resources, who will confirm the Plaintiff's dates of employment and last position held. No other
28 information concerning Plaintiff will be provided by Human Resources without authorization from

1 Plaintiff. Plaintiff agrees not to make any statements, written or verbal, or cause or encourage
2 others to make any statements, written or verbal, that defame, disparage or in any way criticize the
3 personal or business reputation, practices, or conduct of Defendant, its employees, directors, and
4 officers. Plaintiff acknowledges and agrees that this prohibition extends to statements, written or
5 verbal, made to anyone, including but not limited to, the news media, investors, potential investors,
6 any board of directors or advisory board or directors, industry analysts, competitors, strategic
7 partners, vendors, employees (past and present), and clients. Plaintiff understands and agrees that
8 this Paragraph is a material provision of this Settlement Agreement and that any breach of this
9 Paragraph shall be a material breach of this Settlement Agreement, and that Defendant would be
10 irreparably harmed by violation of this provision

11 **17. Representation Regarding Class Size.**

12 Defendant has represented that there are no more than 659 Class Members who worked no
13 more than 19,364 aggregate pay periods during the Class Period. Should either of these number
14 increase, the Maximum Settlement Amount will increase proportionately based on the larger
15 percentage increase. For example, if there are 660 Class Members but 19,364 pay periods, the
16 Maximum Settlement Amount will increase by one percent (1.0%) (i.e. \$3,000).

17 **18. Default; Notice; Cure; Acceleration; Time is of the Essence.**


18 Time is of the essence with respect to all provisions of this Agreement. If Defendant fails
19 to timely make any payment within five (5) business days of the due date hereunder, it shall be in
20 default of its obligations. Plaintiff shall thereafter give notice of default and Defendant must cure
21 said default within five (5) business days thereof. In the event of an uncured default, all unpaid
22 amounts shall be accelerated and be all due and payable together with interest at the legal rate
23 from the date of default.

24 **19. Continuing Jurisdiction.**

25 The Parties agree that upon the occurrence of the entry of judgment in this case pursuant to
26 the terms of this Agreement, this Agreement shall be enforceable by the Court pursuant to Code of
27 Civil Procedure Section 664.6 and all other applicable law, and the Court shall retain exclusive and
28

1 continuing equity jurisdiction of this Action over all Parties and Class Members to interpret and
2 enforce the terms, conditions and obligation of the Agreement.

3
4 Dated: ^{06 / 07 / 2022} May _____, 2022

By: 

DOMINIQUE MITCHELL
Plaintiff and Class Representative

5
6
7 Dated: ^{June 3} May _____, 2022

COLEMAN ENVIRONMENTAL
ENGINEERING, INC.

8
9 By: 

Its: General Manager

10 **APPROVED AS TO FORM AND CONTENT:**

11
12 Dated: May _____, 2022

GAINES & GAINES, APLC

13 By: _____
Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
Counsel for Plaintiff and Class
Representative

14
15
16 Dated: ^{June 3} May _____, 2022

LEECH TISHMAN FUSCALDO & LAMPL,
INC.

17
18 By: _____
Christopher Gonzalez, Esq.
Counsel for Defendant

19 [END OF PLEADING]
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27
28

1 continuing equity jurisdiction of this Action over all Parties and Class Members to interpret and
2 enforce the terms, conditions and obligation of the Agreement.

3
4 Dated: May _____, 2022

By: _____
DOMINIQUE MITCHELL
Plaintiff and Class Representative

5
6 *June 3*
7 Dated: May _____, 2022

8 COLEMAN ENVIRONMENTAL
ENGINEERING, INC.
9 By: _____
10 Its: General Manager

11 **APPROVED AS TO FORM AND CONTENT:**

12 Dated: June 6, 2022

13 GAINES & GAINES, APLC
By: *Daniel F. Gaines*
Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
Counsel for Plaintiff and Class
Representative

14
15 *June 3*
16 Dated: May _____, 2022

17 LEECH TISHMAN FUSCALDO & LAMPL,
INC.
18 By: *Christopher Gonzalez*
Christopher Gonzalez, Esq.
19 Counsel for Defendant

20 [END OF PLEADING]

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