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18
19 **UNITED STATES DISTRICT COURT**
20 **DISTRICT OF NEVADA**

21 DONALD WALDEN, JR., et al., etc.,
22 Plaintiffs,
23 v.
24 THE STATE OF NEVADA, EX REL. NEVADA
DEPARTMENT OF CORRECTIONS, and
25 DOES 1-50,
26 Defendants.

Case No.: 3:14-cv-00320-MMD-CSD

**JOINT STIPULATION OF COLLECTIVE
AND CLASS ACTION SETTLEMENT
AND RELEASE BETWEEN PLAINTIFFS
AND DEFENDANT**

1 This Joint Stipulation of Collective and Class Action Settlement and Release (the
2 "Settlement") is made and entered into by and between Plaintiffs DONALD WALDEN JR.,
3 NATHAN ECHEVERRIA, AARON DICUS, BRENT EVERIST, TRAVIS ZUFELT, TIMOTHY
4 RIDENOUR, and DANIEL TRACY on behalf of themselves and all other similarly situated
5 individuals ("Plaintiffs"), and Defendant STATE OF NEVADA, *EX REL.* ITS DEPARTMENT
6 OF CORRECTIONS ("Defendant" or "NDOC") (collectively referred to as "the Parties").

7 THE PARTIES STIPULATE AND AGREE as follows:

8 1. The following terms shall have the meanings ascribed to them below:

9 a. "Action" means the lawsuit captioned as DONALD WALDEN, JR., ET AL.
10 *v. THE STATE OF NEVADA, EX REL. NEVADA DEPARTMENT OF CORRECTIONS*, originally
11 filed on May 12, 2014, in the First Judicial District Court of Nevada, Carson City, Case No.
12 140C000891B, Dept. 2, and removed on June 17, 2014, to the United States District Court for the
13 District of Nevada, Case No. 3:14-cv-00320-MMD-CSD.

14 b. "Claims Administrator" means Phoenix Class Action Administration
15 Solutions, or such other claims administrator as may be mutually agreeable to the Parties.

16 c. "Class Counsel" means Thierman Buck, LLP of Reno, Nevada, and Gabroy
17 Messer of Henderson, Nevada.

18 d. "Class Counsel Payment" shall have the meaning ascribed to it in Paragraph
19 13 below.

20 e. "Class Members" means those individuals that are within the Settlement
21 Class, each of whom is a "Class Member."

22 f. "Class Period" means May 12, 2011, through the date of preliminary
23 approval of this Settlement.

24 g. "Class Representatives" mean Plaintiffs DONALD WALDEN JR.,
25 NATHAN ECHEVERRIA, AARON DICUS, BRENT EVERIST, TRAVIS ZUFELT, TIMOTHY
26 RIDENOUR, and DANIEL TRACY.

27 h. "Complaint" means the operative First Amended Class Action Complaint on
28 file in the Action that was filed on April 19, 2017.

i. "Court" means the United States District Court for the District of Nevada.

1 j. "Effective Date" shall have the meaning ascribed to it in Paragraph 11(b)
2 below.

3 k. "Final Order and Judgment" means the Final Order Approving Class Action
4 Settlement and Judgment, as more fully described in Paragraph 26 below, in substantially the form
5 attached hereto as Exhibit C, and as approved by the Court.

6 l. "Maximum Settlement Amount" shall be as defined in Paragraph 11(c)
7 below.

8 m. "Net Settlement Amount" shall be as defined in Paragraph 11(d) below.

9 n. "Notice" means the Notice of Collective and Class Action Settlement in
10 substantially the form attached hereto as Exhibit A, and as approved by the Court.

11 o. "Objection Deadline" means the date that is thirty (30) calendar days
12 following the initial mailing of the Notice by the Claims Administrator to Class Members.

13 p. "Opt-In Plaintiffs" means all persons who filed consents to join in the FLSA
14 portion of this Action as of May 23, 2022, a list of whom is attached hereto as Exhibit D.

15 q. "Participating Class Members" means all Class Members who do not file a
16 request to be excluded from the Settlement.

17 r. "Parties" means collectively the Plaintiffs and Defendant, each of whom is a
18 "Party."

19 s. "Preliminary Approval Order" means the preliminary order approving the
20 Settlement, as more fully described in Paragraph 22 below, and in substantially the form attached
21 hereto as Exhibit B, and approved by the Court.

22 t. "Released Claims" means the claims to be released by the Settlement Class
23 as fully set forth in Paragraph 20 of this Agreement.

24 u. "Released Parties" means Defendant THE STATE OF NEVADA, EX REL.
25 NEVADA DEPARTMENT OF CORRECTIONS, its present and former officers, political
26 subdivisions, employees, agents, attorneys, experts, affiliates, successors and/or assigns, insurers or
27 reinsurers, employee benefit plans (and the trustees, administrators, fiduciaries, agents,
28 representatives, insurers and reinsurers of such plans), and any individual or entity that could be
jointly liable with any of them

1 v. "Service Award" means, subject to approval by the Court, a maximum
2 payment of \$20,000.00 to each Class Representative from the "Maximum Settlement Amount"
3 (defined below), which is in addition to the Class Representative's individual "Settlement Award"
4 (defined below) pursuant to this Settlement.

5 w. "Settlement" or "Agreement" means this Collective and Class Action
6 Settlement and Release between Plaintiffs and Defendant.

7 x. "Settlement Awards" means Settlement amounts to be paid to eligible Class
8 Members according to a specified formula as further described herein.

9 y. "Settlement Class" means "All current and former non-exempt hourly paid
10 employees, including sergeants and lieutenants, who have been employed by Defendant as
11 correctional officers at any time during the Class Period."

12 2. Plaintiffs initiated this Action on May 12, 2014. (ECF No. 1.) Plaintiff filed the
13 operative First Amended Complaint on April 19, 2017, asserting that Defendants failed to (1) pay
14 wages for all hours worked in violation of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201,
15 et seq.; (2) pay overtime in violation of 29 U.S.C. § 207; (3) pay minimum wages in violation of the
16 Nevada Constitution; (4) pay overtime in violation of NRS 284.180; and (5) comply with the terms
17 of its contract with Plaintiffs to pay an agreed upon hourly wage for all hours worked. (ECF No.
18 95.) Defendant filed its operative Answer on April 19, 2018. (ECF No. 175.)

19 3. The Parties have heavily litigated this Action for more than eight (8) years with
20 intense discovery, two separate appellate proceedings (including a writ petition to the United States
21 Supreme Court), and numerous dispositive motions. The Parties had previously engaged in two (2)
22 failed prior private mediation sessions and were only able to finally resolve this Action after an all-
23 day mandatory settlement conference with the Honorable Magistrate Judge Craig S. Denney.

24 4. The Parties now enter into this Settlement for preliminary and final Court approval.

25 5. This Action has already been conditionally certified pursuant to the FLSA on behalf
26 of the following collective group: "[A]ll current and former non-exempt hourly paid employees,
27 including sergeants and lieutenants, who were employed by NDOC as correctional officers at any
28 time from May 12, 2011, to the present." (ECF No. 45.) Seven hundred and forty-eight (748)
individuals have affirmatively opted-in to this Action as of the date of the Court's May 23, 2022,

1 Order. (ECF No. 407.) For the purposes of this Settlement only, the Parties stipulate and agree to
2 class certification pursuant to Rule 23 of the Federal Rules of Civil Procedure (FRCP) for the same
3 group of persons: All current and former non-exempt hourly paid employees, including sergeants
4 and lieutenants, who were employed by NDOC as correctional officers during the Class Period.
5 Excluded from the Class are all persons who elect to exclude themselves timely and properly per
6 the provisions of this Agreement. If for any reason the Court does not approve this Settlement, or
7 does not enter a Final Order and Judgment, or if this Settlement is terminated pursuant to the terms
8 this agreement, the class certification shall become null and void, and the fact of certification shall
9 not be used, cited to or admissible in any other proceeding.

10 6. Nothing related to this Agreement, or any communications, papers or orders related
11 to the Settlement, shall be cited to as, construed to be, admissible as, or deemed an admission by
12 Defendant or Released Parties of any liability, culpability, negligence, or wrongdoing toward
13 Plaintiffs, the Class Members, or any other person, or that class or collective action certification is
14 appropriate in this matter. Furthermore, nothing in this Agreement shall be cited to as, construed to
15 be admissible as, or considered any form of waiver of any exhaustion of administrative remedies
16 requirement and/or argument under Nevada law, including any argument that NRS chapter 284
does not contain a private right of action.

17 7. It is the desire of the Parties to fully, finally and forever settle, compromise, and
18 discharge all Released Claims. To achieve a full and complete release of all Released Claims in
19 favor of Defendant, each Class Member acknowledges that this Settlement is intended to include in
20 its effect all claims reasonably arising out of the allegations made in the Action and all Released
21 Claims against Defendant as of the date of the Court's Final Order and Judgment.

22 8. It is the intention of the Parties that this Settlement shall constitute a full, final, and
23 complete settlement and release of Defendant and the Released Parties with respect to all Released
24 Claims.

25 9. Class Counsel has conducted a thorough investigation into the facts of the Action,
26 including a review of relevant documents and data, and have diligently pursued an investigation of
27 Class Members' claims against Defendant. Based on their independent investigation and evaluation,
28 Class Counsel are of the opinion that the Settlement is fair, reasonable and adequate and is in the

1 best interest of the Settlement Class in light of all known facts and circumstances. Defendant and
2 Defendant's counsel also agree that the Settlement is fair and in the best interest of the Settlement
3 Class.

4 10. The Parties agree to cooperate and take all steps necessary and appropriate to
5 consummate this Settlement and to have a final order entered and judgment issued after all
6 Settlement sums have been paid out in accordance with this Settlement.

7 TERMS OF SETTLEMENT

8 11. NOW THEREFORE, in consideration of the mutual covenants, promises and
9 agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

10 a. Settlement All-Inclusive: It is agreed by and among Plaintiffs and Defendant
11 that the Action and all Released Claims, damages or causes of action of any kind arising out of the
12 disputes that reasonably arise or could have arisen out of the facts alleged in the Action, be settled
13 and compromised as between the Settlement Class on the one hand and Defendant on the other
14 hand, subject to the terms and conditions set forth in this Settlement and the approval of the Court.
15 This Settlement shall bind the Class Members, Defendant, and their respective counsel, subject to
16 the terms and conditions hereof and the Court's approval.

17 b. Effective Date: The Settlement embodied in this Settlement shall become
18 effective when all of the following events have occurred ("Effective Date"): (i) this Settlement has
19 been executed by all Parties, Class Counsel and Defendant's counsel; (ii) the Maximum Settlement
20 Amount (defined below) required under this Settlement has been approved by the Board of
21 Examiners ("BOE") and the Interim Finance Committee ("IFC"); (iii) the Court has given
22 preliminary approval to the Settlement; (iv) the Notice has been sent to the Settlement Class,
23 providing them with an opportunity to opt out of the Settlement, or to object to the Settlement; (v)
24 the Court has held a formal fairness hearing and entered the Court's Final Order and Judgment
25 Dismissing this Action; and (iv) in the event there are written objections filed prior to the formal
26 fairness hearing which are not later withdrawn, the later of the following events: (A) when the
27 period for filing any appeal, writ or other appellate proceeding opposing the Settlement has elapsed
28 without any appeal, writ or other appellate proceeding having been filed; (B) when any appeal, writ
or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively

1 with no right to pursue further remedies or relief; or (C) when any appeal, writ or other appellate
2 proceeding has upheld the Court's Final Order and Judgment with no right to pursue further
3 remedies or relief. In this regard, it is the intention of the Parties that the Settlement shall not
4 become effective until the Court's Final Order and Judgment is completely final, and there is no
5 further recourse by any appellant or objector who seeks to contest the Settlement.

6 c. Maximum Settlement Amount: Defendant agrees to pay a maximum
7 settlement amount of Fifty-Five Million Dollars and Zero Cents (\$55,000,000.00) ("Maximum
8 Settlement Amount"), which includes all Settlement Awards to Class Members, the Service Awards
9 to the Class Representatives, the attorneys' fees and costs to Class Counsel, the claims
10 administration costs and expenses, and the employer share of employment taxes. Under no scenario
11 shall Defendant be required to pay any monies in excess of this Maximum Settlement Amount.

12 d. Net Settlement Amount: The net settlement amount ("Net Settlement
13 Amount") for distribution to Class Members pursuant to the distribution formula set for in
14 Paragraph 11(e) will be calculated by deducting from the Maximum Settlement Amount the
15 following: (a) Service Awards to the Class Representatives approved by the Court; (b) Class
16 Counsel Payment (for Class Counsel's attorneys' fees and expenses) approved by the Court; (c)
17 Claims Administrator's reasonable fees and expenses approved by the Court; and (d) Defendant's
18 share of employer taxes. If any portion of the Net Settlement Amount remains unpaid and/or
19 unused after the expiration of the check cashing period set forth in Paragraph 19 of this Agreement,
20 the Claims Administrator shall submit the uncashed funds to the State of Nevada's unclaimed
property fund.

21 e. Settlement Awards to Class Members: Subject to the terms and conditions of this
22 Settlement, the Claims Administrator will distribute a payment from the Net Settlement Amount to
23 each Class Member, according to a calculation of Settlement Awards to Class Members. Settlement
24 Awards to Class Members will be determined by the Claims Administrator based upon a pro rata
25 share of the number of workweeks worked by each Class Member in comparison to the total
26 number of workweeks worked by all Class Members. The number of workweeks worked by Class
27 Members during the Class Period will be determined by reference to Defendants' records, which
28 will be presumed to be correct unless credible written evidence to the contrary is timely submitted

1 to the Claims Administrator. Defendants will provide the Claims Administrator with an excel
2 spreadsheet calculation of the total number of workweeks worked. The Claims Administrator shall
3 assign to each Class Member a "Settlement Ratio," which shall be a percentage of the total amount
4 owed to all Class Members and the total amount to be recovered by each individual Class Member
5 based upon the number of workweeks worked. The Claims Administrator shall then assign to each
6 Class Member a "Settlement Award" which shall be calculated by multiplying that Class Member's
7 Settlement Ratio by the Net Settlement Amount, adjusted as follows:

8 **Opt-In Class Members:** Settlement Awards for Class Members who had opted-in
9 to this Action as of May 23, 2022. These Class Members will receive two (2) times
10 as much on a per-class member basis than Non Opt-In Class Members.

11 **Non Opt-In Class Members:** Settlement Awards for Class Members who had not
12 opted-in to this Action as of May 23, 2022. These Class Members will receive half
13 (1/2) as much on a per-class member basis than Opt-In Class Members.

14 The Claims Administrator will distribute a payment of a Settlement Award to each Class Member
15 who does not file a timely request to be excluded from the Settlement. The Claims Administrator
16 will include language on the back of each Settlement Award check, to be mutually agreed upon by
17 the Parties, which states that that by cashing the check the Class Member agrees to opt-in to the
18 Action and to be bound by the FLSA settlement and release of claims stated herein.

19 f. **Taxes, Withholdings, and Allocation:** Settlement Awards for each Class Member
20 will be allocated from the Net Settlement Amount and paid as follows: one-half (1/2) to alleged
21 unpaid wages for which IRS Forms W-2 will issue; and one-half (1/2) will be allocated to alleged
22 unpaid interest and penalties for which IRS Forms 1099-MISC will issue. The Claims
23 Administrator will calculate, withhold, remit and report each Class Member's share of applicable
24 payroll taxes (including, without limitation, federal income tax withholding, FICA, Medicare and
25 any local taxes) based on the wage portions of each person's Settlement Award. Payments treated
26 as unpaid wages shall be made net of all applicable employment taxes, and shall be reported to the
27 IRS and the payee under the payee's name and social security number on an IRS Form W-2.
28 Defendant shall cooperate with the Claims Administrator to timely arrive at an amount equal to the

1 employer's share of the FICA tax and any federal and/or state unemployment tax due by employers,
2 with respect to the amounts treated as wages, which amounts shall be paid from the Maximum
3 Settlement Amount. The Claims Administrator shall be responsible for making all reporting,
4 deposits, and withholdings with respect to all amounts payable to Class Members. In the event any
5 taxing agency or authority takes the position that some or all of the monies paid are taxable or
6 taxable in a different manner than set forth in this Agreement, Class Members shall be solely
7 responsible for any and all tax obligations that arise and this Agreement shall remain in full force
8 and effect. Class Members agree to indemnify, secure, and hold Defendant and Released Parties
9 harmless from any costs, penalties, damages, or any other sums arising from any tax obligations
10 imposed by any taxing authority as a result of the monies paid pursuant to this Agreement.

11 g. Settlement Awards Do Not Trigger Additional Benefits: It is expressly
12 understood and agreed that the receipt of a Settlement Award will not entitle any Class Member to
13 additional compensation or benefits under any company bonus, contest or other compensation or
14 benefit plan or agreement in place during the period covered by the Settlement, nor will it entitle
15 any Class Member to any increased retirement benefits or matching benefits, or deferred
16 compensation benefits. It is the intent of this Settlement that the Settlement Awards provided for in
17 this Agreement are the sole payments to be made by Defendant to the Class Members in connection
18 with this Settlement, and that the Class Members are not entitled to any new or additional
19 compensation or benefits as a result of having received the Settlement Awards (notwithstanding any
20 contrary language or agreement in any benefit or compensation plan document that might have been
21 in effect during the period covered by this Settlement).

22 h. Class Representatives: Subject to Court approval, lead Named-Plaintiffs will
23 receive Class Representative Service Awards of \$20,000.00 each (\$140,000.00, total) for their
24 dedication and service as lead Named-Plaintiffs and Class Representatives on behalf of Class
25 Members. The Service Awards shall be part of the Maximum Settlement Amount. Plaintiffs will
26 file a motion for approval of the Class Representative Service Awards no later than twenty-one (21)
27 days following the Court's order granting preliminary approval of this Settlement, to which
28 Defendant will not object. The outcome of the Court's ruling on the application for a Service

1 Award shall not terminate this Agreement or otherwise affect the Court's ruling on the Motion for
2 Final Order and Judgment. It is understood the Service Awards are in addition to any claimed
3 individual Settlement Award to which Plaintiffs are entitled along with other claiming Class
4 Members. The Claims Administrator will issue to Class Representatives an IRS Form 1099 for the
5 Service Awards, and the Class Representatives will be solely responsible for correctly
6 characterizing the Service Awards for tax purposes and for paying any taxes on the amounts
7 received, if any. The Service Awards approved by the Court shall be distributed to Class
8 Representatives by the Claims Administrator within ten (10) calendar days of receipt of all
9 settlement amounts in the Settlement Account pursuant to Paragraph 11(i).

10 i. Establishment of Settlement Account: The Claims Administrator shall
11 establish a settlement account for the purpose of safeguarding the Maximum Settlement Amount
12 and paying all payment amounts identified by this Settlement and approved by the Court
13 ("Settlement Account"). The Maximum Settlement Amount will be paid in two installments, the
14 first being a good faith deposit following preliminary Court approval and the second being the
15 remaining settlement funds following final Court approval. For the first payment, the good faith
16 deposit, Defendant shall deposit a total of Twenty-Five Million Dollars (\$25,000,000.00) in the
17 Settlement Account, by wire or check. Defendant shall deposit its portion of the \$25,000,000.00 no
18 later than ~~twentythree-one~~ (2130) days from the later of (i) the date that preliminary approval is
19 entered, or (ii) the date that the Maximum Settlement Amount is approved by the BOE and IFC.
20 Defendant's insurer, AIG, shall deposit its portion of the \$25,000,000.00 no later than forty-five
21 (45) days from the date that preliminary approval is entered. For the second payment, the
22 remaining settlement funds deposit, Defendant shall deposit a total of Thirty Million Dollars
23 (\$30,000,000.00) in the Settlement Account, by wire or check, no later than ninety (90) days from
24 the Effective Date of the Settlement, as set forth in Paragraph 11(b).

24 CLAIMS ADMINISTRATION

25 12. The Claims Administrator will send out to the Class Members the Notice by first
26 class United States mail. The Claims Administrator will calculate the Settlement Awards to Class
27 Members in accordance with this Settlement. The Claims Administrator shall report in writing the
28 substance of its findings to the Parties. The Claims Administrator shall be granted reasonable access

1 to Defendant's records to perform its duties. The Claims Administrator shall issue and mail the
2 Settlement Award checks to the Class Members within ten (10) calendar days of receipt of all
3 settlement amounts in the Settlement Account pursuant to Paragraph 11(i). Tax treatment of the
4 Settlement Awards will be as set forth herein, and in accordance with state and federal tax laws;
5 provided, however, Plaintiffs and other Class Members herein acknowledge that neither the
6 Released Parties nor Defendant's counsel has or is providing any tax advice. The Claims
7 Administrator shall provide periodic reports to counsel for the Parties with respect to the numbers
8 of individuals submitting Requests for Exclusion and Objections, and will respond to reasonable
9 requests for information concerning the status of the administration of the Settlement. All disputes
10 relating to the Claims Administrator's performance of its duties shall be referred to the Court, if
11 necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement
12 until all payments and obligations contemplated by this Settlement have been fully carried out.

13 ATTORNEYS' FEES AND COSTS

14 13. Subject to approval of the Court, Class Counsel will receive a payment of up to 1/3
15 of the Maximum Settlement Amount for all current and future attorneys' fees and for up to
16 \$200,000.00 in actual costs incurred in litigating this Action, defined as the "Class Counsel
17 Payment." The Class Counsel Payment will cover all work performed and all fees and costs
18 incurred prior to the enactment of this Settlement, and all work to be performed and all fees and
19 costs to be incurred in connection with the approval by the Court of this Settlement, administration
20 of the Settlement, obtaining judgment in the Action, and any challenges, writs or appeals to the
21 Settlement. Should Class Counsel request a lesser amount, or the Court approve a lesser amount for
22 the Class Counsel Payment, the difference between the lesser amount and the requested amount set
23 forth above shall be added to the Net Settlement Amount. The Class Counsel Payment approved by
24 the Court shall be distributed to Class Counsel by the Claims Administrator within ten (10) calendar
25 days of receipt of all settlement amounts in the Settlement Account pursuant to Paragraph 11(i).

26 14. Class Counsel shall file a motion for approval of the Class Counsel Payment no later
27 than twenty-one (21) days following the Court's order granting preliminary approval of this
28 Settlement.

NOTICE TO THE SETTLEMENT CLASS

1 15. Notice of this Settlement shall be sent via U.S. Mail. The Notice shall be sent by the
2 Claims Administrator to the Class Members by first class mail based on the following procedure.
3 Any returned envelopes from this mailing with forwarding addresses will be used by the Claims
4 Administrator to forward the Notice to Class Members.

5 a. Within seven (7) calendar days of preliminary approval of this Settlement by
6 the Court, Defendant shall provide to the Claims Administrator a spreadsheet, which will list for
7 each Class Member the Class Member's name, last-known address, social security number, and
8 number of qualifying hours worked during the Class Period. The spreadsheet shall be based on
9 payroll records and/or personnel records provided by Defendant and in a format reasonably
10 acceptable to the Claims Administrator.

11 b. The Claims Administrator will run a check of the Class Members' last-
12 known addresses against those on file with the U.S. Postal Service's National Change of Address
13 List. Within fourteen (14) calendar days of preliminary approval of this Settlement by the Court, the
14 Claims Administrator will mail the Notice to the Class Members. The Class Members will have
15 thirty (30) calendar days from the date of the Claims Administrator's initial mailing of the Notice in
16 which to postmark requests for exclusion, or to file objections to the Settlement.

17 c. Notices returned to the Claims Administrator as non-delivered shall be resent
18 to the forwarding address, if any, on the returned envelope. If there is no forwarding address, the
19 Claims Administrator will do a computer search for a new address using the Class Member's social
20 security number. Said search will be performed by the Claims Administrator one time per Class
21 Member for each Notice returned without a forwarding address. Upon completion of these steps by
22 the Claims Administrator, Defendant, Class Counsel, and the Claims Administrator shall be deemed
23 to have satisfied their obligations to provide the Notice to the affected Class Member and,
24 regardless of whether the affected Class Member actually receives the Notice, the affected Class
25 Member shall remain a member of the Settlement Class and shall be bound by all the terms of the
26 Settlement and the Court's Final Order and Judgment.

27 d. Class Counsel shall provide to the Court, at least seven (7) calendar days
28 before the final fairness hearing, a declaration by the Claims Administrator of due diligence and
proof of mailing with regarding to the mailing of the Notice.

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SETTLEMENT AWARD PROCESS

16. Settlement Awards to Class Members shall be distributed by the Claims Administrator within ten (10) calendar days of receipt of all settlement amounts in the Settlement Account pursuant to Paragraph 11(i). Settlement Award checks shall remain valid and negotiable for one hundred and eighty (180) calendar days from the date of their issuance and will automatically be cancelled by the Claims Administrator if not cashed by the Class Member within that time, at which point the Class Member's claim will be deemed void and of no further force or effect, and the Class Member's claims will remain released by the Settlement. The Settlement Award checks provided to Class Members shall prominently state the expiration date or a statement that the checks will expire in one hundred and eighty (180) days, or alternatively, such a statement may be made in a letter accompanying the checks. Expired Settlement Award checks will not be reissued, except for good cause and as mutually agreed upon by the Parties in writing. Upon completion of its calculation of payments, the Claims Administrator shall provide Class Counsel and Defendant's Counsel with a report listing the amount of all payments to be made to each Class Member. Proof of payment will be provided to Class Counsel and Defendant's Counsel within one hundred and eighty (180) calendar days of Settlement Award checks being issued.

EXCLUSION PROCESS

17. A Class Member may request to be excluded from the effect of this Agreement, and any payment of amounts under this Agreement, by submitting a Request for Exclusion to the Claims Administrator stating that the Class Member wants to be excluded from this Action. Class Members will have thirty (30) calendar days from the initial mailing date of the Notice within which to postmark their Requests for Exclusion to the Claims Administrator. The Claims Administrator will not send any reminder notices to Class Members about the exclusion process. No Request for Exclusion will be honored if postmarked after the thirty (30) calendar-day period. Class Members are responsible for maintaining a photocopy of the Request for Exclusion and record of proof of mailing. Unless a timely and valid Request for Exclusion is filed consistent with the terms of this Settlement, the Class Member shall be bound by this Settlement and the Settlement Class releases stated herein. The Parties agree to meet and confer if the intent of a particular Request for

1 Exclusion is ambiguous, and may mutually agree to accept such Request for Exclusion for good
2 cause shown; ambiguous does not mean untimely Requests for Exclusion.

3 18. Defendant has the right in its sole and exclusive discretion to terminate and withdraw
4 from the Settlement at any time prior to a Final Order and Judgment of the Court if ten percent
5 (10%) or more of all Class Members timely and validly opt out of the Settlement.

6 OBJECTION PROCESS

7 19. A Class Member may object to this Settlement. For a Class Member to object to the
8 Settlement, a Class Member must file with the Court no later than the Objection Deadline a notice
9 of objection, signed by the Class Member or his or her counsel, stating the Class Member's: (i)
10 name; (ii) current address; (iii) telephone number; (iv) last 4-digits of his or her social security
11 number; and (v) basis of the objection. The Objection Deadline applies notwithstanding any
12 argument regarding non-receipt of the Notice. The Class Member objecting to the settlement must
13 also serve a copy of his or her notice of objection on counsel for the Parties and the Claims
14 Administrator by the Objection Deadline. The postmark date of the filing and service shall be
15 deemed the exclusive means for determining that the notice of objection is timely. The Claims
16 Administrator will not send any reminder notices to Class Members about the objection process.
17 Class Members who fail to make objections in the manner specified above shall be deemed to have
18 waived any objections, and shall be foreclosed from making any objections (whether by appeal or
19 otherwise) to the Settlement. Class Members who file and serve timely notices of objection will
20 have a right to appear at the Court's hearing to provide final approval of the Settlement in order to
21 have their objections heard by the Court. At no time shall any of the Parties or their counsel seek to
22 solicit or otherwise encourage Class Members to submit written objections to the Settlement or
23 appeal from the Court's Final Order and Judgment. Class Counsel shall not represent any Class
24 Members with respect to any such objections to this Settlement. If the Court rejects the Class
25 Member's objection, the Class Member will still be bound by the terms of this Agreement.

26 RELEASE OF CLAIMS

27 20. Upon final approval by the Court of this Settlement, and except as to such rights or
28 claims as may be created by this Settlement, each Class Member who has not submitted a timely
and valid Request for Exclusion and without the need to manually sign a release document, in

1 exchange for the consideration recited in this Agreement, on behalf of himself/herself and on behalf
2 of his/her current, former, and future heirs, executors, administrators, attorneys, agents, and assigns,
3 shall and does hereby fully and finally release the Defendant and Released Parties from any and all
4 state, federal and local claims arising from his/her employment including statutory claims, whether
5 known or unknown, in law or in equity, including but not limited to claims under any legal theory
6 for failure to pay minimum wage, failure to pay overtime compensation, failure to properly
7 calculate overtime compensation, failure to pay for all hours worked, failure to provide meals and
8 rest periods, failure to timely pay wages or compensation or final wages or compensation, failure to
9 reimburse for business expenses, making illegal deductions from wages or compensation, failure to
10 furnish accurate wage statements or other notices, failure to keep accurate records, and any and all
11 claims for recovery of compensation, overtime pay, minimum wage, premium pay, interest and/or
12 penalties of any kind whatsoever, whether known or unknown, whether based on common law,
13 regulations, statute, or a constitutional provision, under state, federal or local law, arising out of the
14 allegations made in the Action and that reasonably arise or could have arisen out of the facts alleged
15 in the Action. Notwithstanding the foregoing, nothing in this Agreement releases any claims that
16 cannot be released as a matter of law. The Notice mailed to the Settlement Class will specifically
set forth the claims being released.

17 DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

18 21. Defendant shall promptly seek approval from the BOE and the IFC for approval of
19 this Settlement. Defendant shall present this Settlement to the BOE for approval on or before the
20 November 15, 2022, meeting. Defendant shall present this Settlement to the IFC at the earliest IFC
21 meeting following BOE approval. Defendant shall promptly notify Class Counsel of all
22 developments from the BOE and IFC meetings.

23 22. On or before November 11, 2022, Plaintiff's Counsel shall file a Motion for
24 Preliminary Approval of Collective and Class Action Settlement, submit this Settlement, and
25 request a determination by the Court as to the Settlement's fairness, adequacy, and reasonableness.
26 In so doing, Class Counsel shall apply to the Court for the entry of the Preliminary Approval Order
27 substantially in the following form and as attached hereto as Exhibit B:
28

1 a. Scheduling a fairness hearing on the question of whether the proposed
2 Settlement, including payment of attorneys' fees and costs, costs of administration, and the Service
3 Awards, should be finally approved as fair, reasonable, and adequate as to the members of the
4 Settlement Class;

5 b. Certifying the Settlement Class under Rule 23 of the FRCP, affirming
6 Named-Plaintiffs as Class Representatives, and affirming Thierman Buck, LLP and Gabroy Messer
7 Law Offices as Class Counsel;

8 c. Approving as to form and content the proposed Notice attached hereto as
9 Exhibit A;

10 d. Directing the mailing of the Notice by first class mail to the Class Members;

11 e. Preliminarily approving the Settlement subject only to the objections of Class
12 Members and final review by the Court; and

13 23. To effectuate the Settlement, the Parties agree that all Court deadlines be continued
14 pending approval of the Settlement.

15 24. If for any reason the Settlement is not approved by the governmental bodies as set
16 forth in Paragraph 21 or the Court as set forth in Paragraph 22, or if Defendant terminates and
17 withdraws from the Settlement pursuant to this Paragraph 18, this Settlement Agreement and any
18 related settlement documents shall be null and void. In such an event, neither the Settlement
19 Agreement, nor the settlement documents, nor the negotiations leading to the Settlement may be
20 used as evidence for any purpose. The Parties will promptly notify the Court in the event that the
21 Settlement is not approved or is terminated and will seek to reinstate all pending case deadlines.

22 DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL

23 25. Following final approval by the Court of the Settlement provided for in this
24 Settlement, Class Counsel will submit a proposed Court's Final Order and Judgment in
25 substantially the form attached hereto as Exhibit C:

26 a. Approving the Settlement, adjusting the terms thereof to be fair, reasonable
27 and adequate, and directing consummation of its terms and provisions;

1 b. Approving the Class Counsel Payment, not to exceed the maximum amount
2 set forth herein;

3 c. Approving the Service Award to the Class Representative, not to exceed the
4 maximum amount set forth herein;

5 d. Approving the Claims Administration fees and costs; and

6 e. Entering a final order of the Action, and permanently barring and enjoining
7 all members of the Settlement Class from prosecuting against the Released Parties any individual or
8 class or collective claims released herein, upon satisfaction of all payments and obligations
9 hereunder.

10 PARTIES' AUTHORITY

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

13 MUTUAL FULL COOPERATION

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

22 NO PRIOR ASSIGNMENTS

23 28. The Parties and their respective counsel represent, covenant and warrant that they
24 have not directly or indirectly, assigned, transferred, encumbered or purported to assign, transfer or
25 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action
26 or right herein released and discharged.

27 NO ADMISSION

28 29. Nothing contained herein, nor the consummation of this Settlement, is to be
construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of

1 any Defendant. Each of the Parties hereto has entered into this Settlement solely with the intention
2 to avoid further disputes and litigation with the attendant inconvenience and expenses.

3 ENFORCEMENT ACTIONS

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

9 NOTICES

10 31. Unless otherwise specifically provided herein, all notices, demands or other
11 communications given hereunder shall be in writing and shall be deemed to have been duly given as
12 of the first business day after mailing by overnight courier with confirmed delivery, addressed as
13 follows:

14 To Plaintiff and the Settlement Class:

15 Mark R. Thierman, Esq.
mark@thiermanbuck.com
16 Joshua D. Buck, Esq.
josh@thiermanbuck.com
17 Leah L. Jones, Esq.
leah@thiermanbuck.com
18 Joshua R. Hendrickson, Esq.
joshh@thiermanbuck.com
19 THIERMAN BUCK LLP
20 7287 Lakeside Drive
Reno, Nevada 89511

21 To Defendant:

22 Sheri M. Thome, Esq.
Sheri.Thome@wilsonelser.com
23 WILSON ELSER MOSKOWITZ EDELMAN & DICKER LLP
24 6689 Las Vegas Blvd. South, Suite 200
25 Las Vegas, NV 89119

26 CONSTRUCTION

1 32. The Parties agree that the terms and conditions of this Settlement are the result of
2 lengthy, intensive arms-length negotiations between the Parties, and this Settlement shall not be
3 construed in favor of or against any Party by reason of the extent to which any Party or his, her or
4 its counsel participated in the drafting of this Settlement.

5 CAPTIONS AND INTERPRETATIONS

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

9 MODIFICATION

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

13 INTEGRATION CLAUSE

14 35. This Settlement contains the entire agreement between the Parties relating to the
15 settlement and transaction 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 BINDING ON ASSIGNS

20 36. This Settlement shall be binding upon and inure to the benefit of the Parties and their
21 respective heirs, trustees, executors, administrators, successors, and assigns; provided, however,
22 that a Party’s rights and obligations hereunder may not be assigned or delegated without the express
23 prior written consent of the other Parties.

24 CLASS MEMBER SIGNATORIES

25 37. It is agreed that because the Class Members are so numerous, it is impossible or
26 impractical to have each Class Member execute this Settlement. The Notice will advise all Class
27 Members of the binding nature of the release, and the release shall have the same force and effect as
28 if this Settlement were executed by each Class Member.

COUNTERPARTS

1 38. This Settlement may be executed in counterparts and by facsimile and digital
2 signatures, and when each party has signed and delivered at least one such counterpart, each
3 counterpart, including email and PDF versions, shall be deemed an original and, when taken
4 together with other signed counterparts, shall constitute one Settlement binding upon and effective
5 as to all Parties.

6 NO ADVERSE OR RETALIATORY ACTION

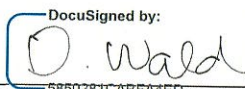
7 39. Defendant will not take any adverse or retaliatory action against the Class
8 Representative.

9 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this
10 Settlement as of the date(s) set forth below:

11 Plaintiff and Class Representative

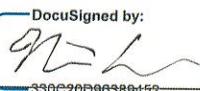
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13 DATED: 10/14/2022 _____

PLAINTIFF DONALD WALDEN JR.

14 By:  _____
15 Donald Walden, Jr.

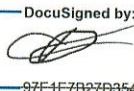
16 DATED: 10/16/2022 _____

PLAINTIFF NATHAN ECHEVERRIA

17 By:  _____
18 Nathan Echeverria

19 DATED: 10/13/2022 _____

PLAINTIFF AARON DICUS

20 By:  _____
21 Aaron Dicus

22 DATED: 10/15/2022 _____

PLAINTIFF BRENT EVERIST

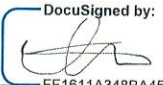
23 By:  _____
24 Brent Everist

25 DATED: 10/14/2022 _____

PLAINTIFF TRAVIS ZUFELT

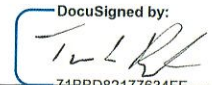
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DATED: 10/14/2022

DocuSigned by:

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Travis Zufelt

PLAINTIFF TIMOTHY RIDENOUR

DATED: 10/17/2022

DocuSigned by:

74BBD82177634FE...
Timothy Ridenour


PLAINTIFF DANIEL TRACY

DocuSigned by:
Daniel Tracy
4D9AC86AC7BC40E...
Daniel Tracy

Class Counsel


DATED: 10/13/2022

THIERMAN BUCK, LLP

DocuSigned by:

C20E777BC5444AC...
Mark R. Thierman
Joshua D. Buck
Leah L. Jones
Joshua R. Hendrickson

DATED: 10/13/2022


GABROY MESSER

DocuSigned by:

AE101A9DE15A106...
Christian Gabroy
Kaine Messer

Defendant

DATED: 10.17.2022

THE STATE OF NEVADA, EX REL. NEVADA
DEPARTMENT OF CORRECTIONS

By: 

Print: W. A. "Bill" Gittere

Title: Acting Director

Defendant's Counsel

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DATED: 10/14/2022

STATE OF NEVADA,
OFFICE OF THE ATTORNEY GENERAL

DocuSigned by:
By: Steve Shevovski
Steve Shevovski

DATED: 10/13/2022

WILSON ELSER MOSKOWITZ EDELMAN
& DICKER LLP

DocuSigned by:
By: Sheri Thome
Sheri Thome

EXHIBIT A

Class Notice

EXHIBIT A

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 DONALD WALDEN, JR., et al., etc.,

Case No.: 3:14-cv-00320-MMD-CSD

4 Plaintiffs,

5 v.

6 THE STATE OF NEVADA, EX REL. NEVADA
7 DEPARTMENT OF CORRECTIONS, and DOES
8 1-50,

9 Defendants.

10
11 NOTICE OF PENDENCY OF COLLECTIVE AND CLASS ACTION SETTLEMENT
12 AND FINAL HEARING DATE

13 YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT.
14 PLEASE READ THIS NOTICE CAREFULLY.

15 SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

16 Do Nothing and 17 Remain Eligible to 18 Receive a Payment	19 To be eligible to receive a cash payment from the Settlement, you do not have 20 to do anything. 21 Your potential Settlement Share is based upon the number of workweeks that 22 you worked for as a correctional officer with Defendant the State of Nevada, 23 ex rel. Nevada Department of Corrections, from May 12, 2011 to [insert date 24 of preliminary approval]. 25 Your estimated Settlement Share is [insert Settlement Share]. 26 In exchange for participating in the Settlement, you will release your claims 27 against the Defendant, as detailed below.
23 Exclude Yourself	24 If you wish to exclude yourself from the Settlement and <i>not</i> release your 25 claims, you must send a written request for exclusion to the Settlement 26 Administrator, as provided below. If you request exclusion, you will not be 27 eligible to receive any cash payment from the Settlement, but you will retain 28 all your legal claims. 29 If you have previously filed a consent to join in this action and decide to 30 exclude yourself from this action, you will be required to retain your own legal 31 counsel or proceed on your own behalf.
28 Object	You may write to the Court about why you do not like the Settlement.

1 **I. WHY DID I GET THIS NOTICE?**

2 A proposed collective and class action settlement (the "Settlement") of this lawsuit pending in the United
3 States District Court, District of Nevada (the "Court"), has been reached between Plaintiffs Donald Walden
4 Jr., Nathan Echeverria, Aaron Dicus, Brent Everist, Travis Zufelt, Timothy Ridenour, and Daniel Tracy
("Plaintiffs") and Defendant the State of Nevada, Ex. Rel. Department of Nevada Corrections
("Defendant" or "NDOC"). The Court granted preliminary approval of this Settlement on [insert date].

5 **You have received this Class Notice because you have been identified as a member of the Class,**
6 **which is defined as:**

7 All current and former non-exempt hourly paid employees, including
8 sergeants and lieutenants, who have been employed by Defendant as
9 correctional officers at any time from May 12, 2011 to [insert date of
preliminary approval] ("Class Period").

10 This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read
11 this Notice carefully as your rights may be affected by the Settlement.

12 **II. WHAT IS THIS COLLECTIVE AND CLASS ACTION LAWSUIT ABOUT?**

13 On May 12, 2014, a collective and class action lawsuit was filed by Plaintiffs, on behalf of themselves and
14 all other similarly situated employees, for the recovery of unpaid wages under federal and state law (the
15 "Action"). The Action alleged that Defendant violated federal and state wage-hour laws by failing to
16 compensate correctional officers (COs) for time spent performing pre and post shift work activities. The
17 Action asserted five (5) separate causes of action: (1) Failure to pay wages for all hours worked in violation
of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, et seq.; (2) Failure to pay overtime in violation
of the FLSA, 29 U.S.C. § 207; (3) Failure to pay minimum wages in violation of the Nevada Constitution;
(4) Failure to pay overtime in violation of NRS 284.180; and (5) Failure to comply with the terms of its
contract with Plaintiffs to pay an agreed upon hourly wage for all hours worked.

18 The Court granted conditional certification in this Action under the FLSA and seven hundred and forty-
19 eight (748) of you previously filed consents to join with the Court on or before May 23, 2022. The Court
20 granted Plaintiffs' motion for summary judgment on the compensability of the pre and post shift work
21 activities at issue in this case under the FLSA but did not rule how much, if any, damages could be
22 recovered. Plaintiffs sought to re-assert the previously alleged state law claims that had previously been
dismissed by the Court. Defendant continues to dispute the allegations asserted in the Action, both under
the FLSA and under state law, and disputes that amount of potential damages that could be recovered, if
at all.

23 **III. WHAT DOES THE SETTLEMENT PROVIDE?**

24 A. **Maximum Settlement Amount.** The total amount of the Settlement is \$55,000,000.00
25 ("Maximum Settlement Amount"). The Maximum Settlement Amount includes the payment of
26 all Settlement Shares to Participating Class Members, the Class Representative Service Payments
to the Plaintiffs, Class Counsels' attorneys' fees and costs, the expenses of the Settlement
Administrator, and the employer's share of employment taxes.

27 B. **Net Settlement Amount.** The net amount of the Settlement is the amount to be paid out to
28 Participating Class Members after deducting the court approved payments of the Service Awards
to the Class Representatives, Class Counsels' attorneys' fees and costs, the expenses of the

1 Settlement Administrator, and the employer's share of employment taxes ("Net Settlement
2 Amount"). The Net Settlement Amount shall be distributed to class members who do not request
3 exclusion ("Participating Class Members").

4 C. **Settlement Share Calculations.** The Settlement Share for each Participating Class Member will
5 be calculated on a pro rata basis depending on the total number of workweeks worked by each
6 Participating Class Member in comparison with the hours worked by all Participating Class
7 Members. The Settlement Share ratio for each Participating Class Member will then be adjusted
8 depending on whether the Participating Class Member had previously filed a consent to join in
9 this action on or before May 23, 2022, as follows:

10 i. **Opt-In Class Members:** Settlement Awards for Class Members who had opted-in to this
11 Action as of May 23, 2022. These Class Members will receive two (2) times as much on
12 a per-class member basis than Non Opt-In Class Members.

13 ii. **Non Opt-In Class Members:** Settlement Awards for Class Members who had not opted-
14 in to this Action as of May 23, 2022. These Class Members will receive half (1/2) as
15 much on a per-class member basis than Opt-In Class Members.

16 C. **Class Representative Service Payment.** A Service Award to the Class Representatives of up to
17 \$20,000 to each Named-Plaintiff, or such lesser amount as may be approved by the Court, to
18 compensate them for services on behalf of the Class in initiating and prosecuting the Action, and
19 for the risks they undertook, subject to Court approval.

20 D. **Attorneys' Fees and Costs.** Payment to Class Counsel of no more than \$18,333,333.33 (1/3 of
21 the Maximum Settlement Amount) for all past and future legal fees, and up to \$200,000 for all
22 litigation expenses incurred, both subject to Court approval. Class Counsel has been prosecuting
23 the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being
24 paid any money to date) and has been paying all litigation costs and expenses out of pocket. Class
25 Counsel's attorney-client agreement with Plaintiffs provides for Class Counsel to recover up to
26 35% of any potential recovery.

27 E. **Settlement Administration Expenses.** Payment to the Settlement Administrator, estimated not
28 to exceed \$50,000, for expenses, including expenses of establishing a settlement account,
preparing and sending out this Class Notice, processing opt-outs, and distributing settlement
payments.

F. **Tax Matters.** Neither Class Counsel nor Defendant's counsel intend anything contained in this
Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor
concerning the tax consequences of the payments received under the Settlement.

G. **Court Approval Required.** This Settlement is conditioned upon the Court entering an order
granting final approval of the Settlement and entering judgment.

I. **Detailed Terms of Settlement.** This notice summarizes the Settlement. For the precise terms and
conditions of the Settlement, please see the settlement agreement available at <Settlement
Administrator's website>, by contacting class counsel at info@thiermanbuck.com or (775) 284-
1500, by accessing the Court docket in this case, through the Court's online records at [insert
PACER] or by visiting the office of the Clerk of the Court for the United States District Court,
District of Nevada, located at 400 S. Virginia St., Reno, NV 89501, between 9:00 a.m. and 4:00
p.m., Monday through Friday, excluding Court holidays. **PLEASE DO NOT TELEPHONE**

1 **THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS**
2 **SETTLEMENT.**

3 **IV. WHAT AM I GIVING UP IN EXCHANGE FOR THE SETTLEMENT?**

4 By participating in the Action and accepting the settlement payment, you will not be able to make a claim
5 or file a lawsuit for the claims that were alleged in this Action—i.e., that Defendant owes you any unpaid
6 wages for not compensating you for the unpaid pre and post shift activities that you performed during the
7 Class Period. Specifically, the “Release of Claims” set forth in the Settlement states as follows:

8 Upon final approval by the Court of this Settlement, and except as to such
9 rights or claims as may be created by this Settlement, each Class Member
10 who has not submitted a timely and valid Request for Exclusion and
11 without the need to manually sign a release document, in exchange for
12 the consideration recited in this Agreement, on behalf of himself/herself
13 and on behalf of his/her current, former, and future heirs, executors,
14 administrators, attorneys, agents, and assigns, shall and does hereby fully
15 and finally release the Defendant and Released Parties from any and all
16 state, federal and local claims arising from his/her employment including
17 statutory claims, whether known or unknown, in law or in equity,
18 including but not limited to claims under any legal theory for failure to
19 pay minimum wage, failure to pay overtime compensation, failure to
20 properly calculate overtime compensation, failure to pay for all hours
21 worked, failure to provide meals and rest periods, failure to timely pay
22 wages or compensation or final wages or compensation, failure to
23 reimburse for business expenses, making illegal deductions from wages
24 or compensation, failure to furnish accurate wage statements or other
25 notices, failure to keep accurate records, and any and all claims for
26 recovery of compensation, overtime pay, minimum wage, premium pay,
27 interest and/or penalties of any kind whatsoever, whether known or
28 unknown, whether based on common law, regulations, statute, or a
 constitutional provision, under state, federal or local law, arising out of
 the allegations made in the Action and that reasonably arise or could have
 arisen out of the facts alleged in the Action. Notwithstanding the
 foregoing, nothing in this Agreement releases any claims that cannot be
 released as a matter of law.

21 **V. HOW MUCH WILL MY PAYMENT BE?**

22 Your Settlement Share will be based on the number of workweeks that you worked as a non-exempt hourly
23 paid CO during the Class Period and whether you previously opted-in to the federal portion of the Action.

24 Defendant’s records reflect that you worked [insert number] of workweeks during the Class Period. You
25 [did/did not] file a consent to join in the federal portion of this action on or before May 23, 2022.

26 Your estimated Settlement Share is [insert Settlement Share]

27 If you wish to challenge the information set forth above, then you must submit a written, signed dispute
28 challenging the information along with supporting documents, to the Settlement Administrator at the
 address provided in this Class Notice no later than <date 30 days after mailing of class notice>.

1 **VI. HOW CAN I BE ELIGIBLE TO RECEIVE A PAYMENT?**

2 **To be eligible to receive money from the Settlement, you do not have to do anything.** A check for
3 your settlement payment will be mailed automatically to the same address as this Class Notice. If your
4 address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement
5 Administrator is: [insert Settlement Administrator information]

6 **VII. WHAT IF I DON'T WANT TO BE A PART OF THE SETTLEMENT?**

7 If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or “opt
8 out.” **If you opt out, you will not be eligible to receive any money from the Settlement, but you will
9 not be bound by its terms. If you previously filed a consent to join in the federal portion of this
10 Action but wish to opt-out, you will be required to retain your own legal counsel or proceed on your
11 own behalf.**

12 To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and
13 dated request for exclusion postmarked no later than <30 days after mailing of class notice>. The address
14 for the Settlement Administrator is *Walden, et. al. v. State of Nevada, Ex. Rel. Nevada Department of
15 Corrections, c/o* [insert Settlement Administrator name and information]. The request for exclusion must
16 state in substance: “I have read the Class Notice and I wish to opt out of the class action and settlement of
17 the case *Walden, et. al. v. State of Nevada, Ex. Rel. Nevada Department of Corrections, Case No.: 3:14-
18 cv-00320-MMD-CSD.*” The request for exclusion must contain your name, address, signature and the last
19 four digits of your Social Security Number for verification purposes. The request for exclusion must be
20 signed by you. No other person may opt out for a member of the Class.

21 **VIII. HOW DO I TELL THE COURT THAT I DON'T LIKE THE SETTLEMENT?**

22 Any Class Member, who has not opted out and believes that the Settlement should not be finally approved
23 by the Court for any reason, may object to the proposed Settlement. Objections must be in writing and
24 state the Class Member’s name, current address, telephone number, and describe why you believe the
25 Settlement is unfair and whether you intend to appear at the final approval hearing. All objections or other
26 correspondence must also state the name and number of the case, which is *Walden, et. al. v. State of
27 Nevada, Ex. Rel. Nevada Department of Corrections, Case No.: 3:14-cv-00320-MMD-CSD.*

28 To object to the Settlement, you must not opt out. If the Court approves the Settlement, you will be bound
by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member
who does not object in the manner provided in this Class Notice shall have waived any objection to the
Settlement, whether by appeal or otherwise.

If you file a timely written objection, you may, but are not required to, appear at the Final Approval
Hearing, either in person or through your own attorney. If you appear through your own attorney, you are
responsible for hiring and paying that attorney. All written objections and supporting papers must (a)
clearly identify the case name and number (*Walden, et. al. v. State of Nevada, Ex. Rel. Nevada Department
of Corrections, Case No.: 3:14-cv-00320-MMD-CSD*), (b) be submitted to the Court either by mailing
them or by filing them in person with the Clerk of the Court for the Clerk of the Court for the United States
District Court, District of Nevada, located at 400 S. Virginia St., Reno, NV 89501, and (c) be filed or
postmarked on or before <30 days following mailing of the Class Notice>.

1 The addresses for the Parties' Counsel are as follows:

2 **Class Counsel:**

3 Mark R. Thierman
4 mark@thiermanbuck.com
5 Joshua D. Buck
6 josh@thiermanbuck.com
7 Leah L. Jones
8 leah@thiermanbuck.com
9 Joshua R. Hendrickson
10 joshh@thiermanbuck.com
11 THIERMAN BUCK LLP
12 7287 Lakeside Drive
13 Reno, Nevada 89511

Counsel for Defendant:

Sheri M. Thome, Esq.
Sheri.Thome@wilsonelser.com
WILSON ELSER MOSKOWITZ
EDELMAN & DICKER LLP
6689 Las Vegas Blvd. South,
Suite 200
Las Vegas, NV 89119

9 Christian Gabroy
10 christian@gabroy.com
11 Kaine Messer
12 kmesser@gabroy.com
13 GABROY MESSER
14 170 S. Green Valley Pkwy., Suite 280
15 Henderson, Nevada 89012

16 **IX. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?**

17 The Court will hold a Final Approval Hearing at <time> a.m. on <date>, in Courtroom <#> before Chief
18 Judge Miranda Du at the United States District Court, District of Nevada, located at 400 S. Virginia St.,
19 Reno, NV 89501. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and
20 adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the
21 Settlement. If there are objections, the Court will consider them. The Court will listen to people who have
22 made a timely written request to speak at the hearing. This hearing may be rescheduled by the Court
23 without further notice to you. You may check the settlement website identified in Section III above to
24 confirm that the date has not been changed. **You are not required to attend** the Final Approval Hearing,
25 although any Class Member is welcome to attend the hearing.

26 **X. HOW DO I GET MORE INFORMATION ABOUT THE SETTLEMENT?**

27 You may call the Settlement Administrator at <phone> or write to *Walden, et. al. v. State of Nevada, Ex.*
28 *Rel. Nevada Department of Corrections*, Settlement Administrator, c/o [insert Settlement Administrator
name and information]; or contact Class Counsel at 775-284-1500 or email at info@thiermanbuck.com

This notice summarizes the Settlement. More details are in the Settlement Agreement. You may receive a
copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to Class
Counsel, or by going to the Settlement Administrator's website at <website>.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

EXHIBIT B

Order Granting Preliminary Approval of Class Action Settlement

EXHIBIT B

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*Attorneys for Defendant The State of Nevada,
ex rel. its Department of Corrections*

20 **UNITED STATES DISTRICT COURT**

21 **DISTRICT OF NEVADA**

22 DONALD WALDEN, JR., et al., etc.,

23 Plaintiffs,

24 v.

25 THE STATE OF NEVADA, EX REL. NEVADA
26 DEPARTMENT OF CORRECTIONS, and
27 DOES 1-50,

28 Defendants.

Case No.: 3:14-cv-00320-MMD-WGC

**ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 Plaintiffs' Motion for Preliminary Approval of Collective and Class Action Settlement came
3 before this Court, the Honorable Chief Judge Miranda M. Du presiding, on December 1, 2022, at
4 2:30 p.m.. This Court, having considered the papers submitted in support of the Motion, HEREBY
5 ORDERS THE FOLLOWING:

6 1. This Court grants preliminary approval of the Settlement and the Settlement Classes
7 based upon the terms set forth in the Collective and Class Action Settlement and Release between
8 Plaintiffs Donald Walden, Jr., et. al. and Defendant the State of Nevada, Ex. Rel. Nevada
9 Department of Corrections ("Settlement"). The Settlement preliminarily appears to be fair,
10 adequate, and reasonable to the Class. The Joint Motion for Preliminary Approval is GRANTED.

11 2. The Settlement falls within the range of reasonableness and appears to be
12 presumptively valid, subject only to any objections that may be raised at the final fairness hearing
13 and final approval by this Court.

14 3. A final fairness hearing on the question of whether the proposed Settlement should
15 be finally approved as fair, reasonable, and adequate as to the members of the Class is scheduled in
16 accordance with the Implementation Schedule set forth below.

17 4. This Court approves, as to form and content, the Notice of Pendency of Collective
18 and Class Action Settlement and Final Hearing Date ("Class Notice of Settlement"), in substantially
19 the form attached to the Settlement as Exhibit A. This Court approves the procedure for Class
20 Members to (i) participate (i.e., do nothing), (ii) opt out, or (iii) object, to the Settlement as set forth
21 in the Class Notice of Settlement.

22 5. The Court directs the mailing of Class Notice of Settlement by first class mail to the
23 Class Members in accordance with the Implementation Schedule set forth below. This Court finds
24 the dates selected for the mailing and distribution of the Class Notice of Settlement, as set forth in
25 the Implementation Schedule, meet the requirements of due process and provide the best notice
26 practicable under the circumstances and shall constitute due and sufficient notice to all persons
27 entitled thereto.

28 6. This Court has already conditionally certified the opt-in collective group pursuant to
the Fair Labor Standards Act (FLSA) and that decision is not disturbed. It is further ordered that a

1 Settlement Class, as defined in the Settlement, is preliminarily certified pursuant to Rule 23 of the
2 Federal Rules of Civil Procedure for settlement purposes only.

3 7. This Court re-affirms Plaintiffs DONALD WALDEN JR., NATHAN ECHEVERRIA,
4 AARON DICUS, BRENT EVERIST, TRAVIS ZUFELT, TIMOTHY RIDENOUR, and DANIEL TRACY
5 as Class Representatives.

6 8. This Court re-affirms Mark Thierman, Esq., Joshua Buck, Esq., Leah Jones, Esq.,
7 and Joshua R. Hendrickson, Esq. of Thierman Buck, LLP of Reno, Nevada and Christian Gabroy,
8 Esq. and Kaine Messer, Esq. of Gabroy Messer of Henderson, Nevada as Class Counsel.

9 9. This Court confirms [insert Settlement Administrator] as the Settlement
10 Administrator.

11 10. This Court orders the following Implementation Schedule for further proceedings:

12 a.	Deadline for Defendant to Submit Class Member Information to Claims Administrator	_____, 2022 [7 calendar days after Order granting Preliminary Approval]
13 b.	Deadline for Claims Administrator to Mail the Notice to Class Members	_____, 2022 [14 calendar days after Order granting Preliminary Approval]
14 c.	Deadline for Defendant to Make Good Faith Deposit To Settlement Account maintained by Claims Administrator	_____, 202__ [21 calendar days after Order granting Preliminary Approval or 30 calendar days from date of approval by the BOE and IFC, whichever is later]
15 d.	Deadline for Defendant's Insurer to Make Good Faith Deposit To Settlement Account maintained by Claims Administrator	_____, 2023 [45 calendar days after Order granting Preliminary Approval]
16 e.	Deadline for Class Counsel to File Motion for Final Approval of Fees, Costs, and Service Awards	_____, 2022 [21 calendar days after Order granting Preliminary Approval]
17 f.	Deadline for Class Members to Postmark Requests for Exclusions	_____, 2023 [30 calendar days after initial mailing of the Notice to Class Members]

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g.	Deadline for Receipt by Court and Counsel of any Objections to Settlement	_____, 2023 [30 calendar days after initial mailing of the Notice to Class Members]
h.	Deadline for Class Counsel to file Motion for Final Approval of Settlement, Attorneys' Fees, Costs, and Enhancement Award	_____, 2023 [7 calendar days prior to Final Approval Hearing]
i.	Deadline for Class Counsel to File Declaration from Claims Administrator of Due Diligence and Proof of Mailing	_____, 2023 [7 calendar days prior to Final Approval Hearing]
j.	Final Fairness Hearing and Final Approval	_____, 2023
k.	Deadline for Defendant to Deposit Remaining Settlement Fund To Settlement Account maintained by Claims Administrator	_____, 2023 [90 days after Effective Date]
l.	Deadline for Claims Administrator to wire transfer the Attorneys' Fees and Costs to Class Counsel (if Settlement is Effective)	_____, 2023 [10 days after receipt of Settlement Funds]
m.	Deadline for Claims Administrator to mail the Settlement Awards to Class Members and the Enhancement Awards to Class Representatives (if Settlement is Effective)	_____, 2023 [10 days after receipt of Settlement Funds]
n.	Claims Administrator to File Proof of Payment of Settlement Awards, Enhancement Award, Attorneys' Fees and Costs (if Settlement is Effective)	_____, 2023 [180 days after Settlement Awards being issued]
o.	Uncashed Checks to be Voided and Monies Remitted	_____, 2023 [180 days after Settlement Awards being

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	To State of Nevada Unclaimed Property Fund	issued]
p.	Unclaimed Settlement Monies Revert to the State of Nevada	_____, 2024 [1 year following Settlement Awards being remitted to State of Nevada unclaimed property fund]

IT IS SO ORDERED.

Dated: _____

DISTRICT COURT JUDGE

EXHIBIT C

[Proposed] Order Granting Final
Approval of Class Action Settlement

EXHIBIT C

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ex rel. its Department of Corrections*

20 **UNITED STATES DISTRICT COURT**
21 **DISTRICT OF NEVADA**

22 DONALD WALDEN, JR., et al., etc.,

23 Plaintiffs,

24 v.

25 THE STATE OF NEVADA, EX REL. NEVADA
26 DEPARTMENT OF CORRECTIONS, and
27 DOES 1-50,

28 Defendants.

Case No.: 3:14-cv-00320-MMD-WGC

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The above-referenced putative class action (“Action”) having come before the Court on
3 _____, for a hearing and this Final Order Approving Class Action Settlement and
4 Judgment (“Court’s Final Order and Judgment”), consistent with the Court’s Preliminary Approval
5 Order (“Preliminary Approval Order”), filed and entered _____, and as set forth in the
6 Joint Stipulation of Collective and Class Action Settlement and Release between Plaintiffs and
7 Defendant (“Settlement”) in the Action, and due and adequate notice having been given to all Class
8 Members as required in the Preliminary Approval Order, and the Court having considered all
9 papers filed and proceedings had herein and otherwise being fully informed and good cause
10 appearing therefore, it is hereby ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

11 1. All terms used herein shall have the same meaning as defined in the Settlement
12 unless an alternate meaning is specifically given within this Order. Consistent with the definitions
13 provided in the Settlement,

14 a. the term “Class Member” means those individuals that are within the
15 Settlement Class which includes all current and former non-exempt hourly paid employees,
16 including sergeants and lieutenants, who have been employed by Defendant as correctional officers
17 at any time during the Class Period;

18 b. the term “Class Period” means May 12, 2011, through [insert date of
19 preliminary approval of this Settlement];

20 c. the term “Released Claims” collectively means those claims to be released by
21 the Settlement Class identified in Paragraph 20 of the Settlement;

22 d. the term “Class Representatives” shall mean Plaintiffs DONALD WALDEN
23 JR., NATHAN ECHEVERRIA, AARON DICUS, BRENT EVERIST, TRAVIS ZUFELT,
24 TIMOTHY RIDENOUR, and DANIEL TRACY.

25 e. the term “Class Counsel” shall mean Mark R. Thierman, Esq., Joshua D.
26 Buck, Esq., Leah L. Jones, Esq., and Joshua R. Hendrickson, Esq. of Thierman Buck LLP of Reno,
27 Nevada and Christian Gabroy, Esq. and Kaine Messer, Esq. of Gabroy Messer of Henderson,
28 Nevada.

1 2. This Court has jurisdiction over the subject matter of this Action and over all Parties
2 to this Action, including all Class Members.

3 3. Distribution of the Notice directed to the Class Members as set forth in the
4 Settlement and the other matters set forth therein have been completed in conformity with the
5 Preliminary Approval Order, including individual notice to all Class Members who could be
6 identified through reasonable effort, and as otherwise set forth in the Settlement. The Notice
7 provided due and adequate notice of the proceedings and of the matters set forth therein, including
8 the proposed Settlement set forth in the Settlement, to all persons entitled to such Notice, and the
9 Notice fully satisfied the requirements of due process. All Class Members and all Released Claims
10 are covered by and included within the Settlement and the Court's Final Order and Judgment.

11 4. The Court hereby finds the Settlement was entered into in good faith. The Court
12 further finds that Plaintiff has satisfied the standards and applicable requirements for final approval
13 of this class action settlement.

14 5. The Court hereby approves the Settlement set forth in the Settlement and finds the
15 Settlement is, in all respects, fair, adequate and reasonable, and directs the Parties to effectuate the
16 Settlement according to its terms. The Court finds that the Settlement has been reached as a result
17 of intensive, serious and non-collusive, arm's-length negotiations. The Court further finds the
18 Parties have conducted extensive and costly investigation and research, and counsel for the Parties
19 are able to reasonably evaluate their respective positions. The Court also finds the Settlement at
20 this time will avoid additional substantial costs, as well as avoid the delay and risks that would be
21 presented by the further prosecution of the Action. The Court has reviewed the benefits that are
22 being granted as part of the Settlement and recognizes the significant value to the Class Members.
23 The Court also finds the Class is properly certified as a settlement class. The Court also hereby
24 finds there were no objections to the Settlement filed prior to or raised by any person on the record
25 at the Final Approval Hearing that change the Court's decision to approve the Settlement; there
26 were only [insert] of persons who opted-out of the settlement.

27 6. As of the date of the Court's Final Order and Judgment, each and every Class
28 Member is and shall be deemed to have conclusively released the Released Claims as against the
Defendant and Released Parties. In addition, as of the date of the Court's Final Order and

1 Judgment, each Class Member who has not submitted a valid Request for Exclusion is forever
2 barred and enjoined from instituting or accepting damages or obtaining relief against the Defendant
3 and Released Parties relating to the Released Claims.

4 7. The Court hereby finds the Maximum Settlement Amount of \$55,000,000.00
5 provided for under the Settlement to be fair and reasonable in light of all the circumstances.
6 Defendant made a good faith deposit in the amount of \$25,000,000.00 to the settlement account
7 safeguarded and maintained by the Settlement Administrator ("Settlement Account"). The Court
8 hereby orders Defendant to make the remaining settlement fund deposit in the amount of
9 \$30,000,000.00 to the Settlement Account, as set forth in the Settlement. The Court further orders
10 the calculations and the payments of the Net Settlement Amount (Maximum Settlement Amount
11 minus attorneys fees, costs, enhancement payment, and third party administrator fees) to be made
12 and administered to Class Members under the Settlement in accordance with the pro rata
13 distribution as set forth in the Settlement.

14 8. The Court hereby re-affirms Mark R. Thierman, Esq., Joshua D. Buck, Esq., Leah L.
15 Jones, Esq., and Joshua R. Hendrickson, Esq. of Thierman Buck, LLP and Christian Gabroy, Esq.
16 and Kaine Messer, Esq. of Gabroy Messer Law Offices as Class Counsel. Pursuant to the terms of
17 the Settlement, and the authorities, evidence and argument submitted by Class Counsel, the Court
18 hereby awards Class Counsel attorneys' fees in the amount of \$18,333,333.33, and the attorney
19 costs in the amount of \$200,000.00, to be deducted and paid from the Maximum Settlement
20 Amount, as final payment for and complete satisfaction of any and all attorneys' fees and costs
21 incurred by and/or owed to Class Counsel and any other person or entity related to the Action. The
22 Court further orders that the award of attorneys' fees and costs set forth in this Paragraph shall be
23 administered pursuant to the terms of the Settlement, and transferred and/or made payable to Class
24 Counsel in the Action.

25 9. The Court hereby re-affirms Plaintiffs DONALD WALDEN JR., NATHAN
26 ECHEVERRIA, AARON DICUS, BRENT EVERIST, TRAVIS ZUFELT, TIMOTHY
27 RIDENOUR, and DANIEL TRACY as Class Representatives of the Settlement Class and approves
28 and orders a Service Award to each Class Representative in the amount of \$20,000.00 to be paid
from the Maximum Settlement Amount as set forth in the Settlement.

1 10. The Court hereby re-affirms [insert Settlement Administrator] as the Claims
2 Administrator and approves and orders payment for actual claims administration expenses incurred
3 by the Claims Administrator in the amount of \$50,000.00 to be paid from the Maximum Settlement
4 Amount as set forth in the Settlement.

5 11. The Court finally finds and orders that the Settlement is and constitutes a fair,
6 reasonable, and adequate compromise of the Released Claims against the Released Party.

7 12. The Court hereby enters judgment in the Action, as of the date of entry of the
8 Court's Final Order and Judgment, pursuant to the terms set forth in the Settlement.

9 13. Should the Settlement Account not be fully funded by Defendant for whatever
10 reason pursuant to the terms of the Settlement, post-judgment interest shall accrue as of the date of
11 this Order until the Settlement Account is fully funded, pursuant to 28 U.S.C. § 1961.

12 14. Without affecting the finality of the Court's Final Order and Judgment in any way,
13 the Court hereby retains continuing jurisdiction over the interpretation, implementation, and
14 enforcement of the Settlement, and all orders entered in connection therewith.

15 15. Finally, the Court hereby orders that the Parties file a "Settlement Status Report"
16 with respect to the status of Settlement payments not later than 180-days following this Order.

17 **IT IS SO ORDERED.**

18
19 Dated: _____

DISTRICT COURT JUDGE

EXHIBIT D

List of Opt-in Plaintiffs

EXHIBIT D

List of Opt-in Plaintiffs to be provided at a later date.