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9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 JASON CRAIG and MICHAEL ROSS,
individually and on behalf of all similarly
14 situated current and former employees,

15 Plaintiffs,

16 v.

17 CORTEVA, INC., E.I. DU PONT DE
18 NEMOURS & COMPANY, DOW
AGROSCIENCES LLC, THE DOW
19 CHEMICAL CO., DOWDUPONT, INC.
n/k/a DUPONT DE NEMOURS, INC., DOW
20 INC., and DOES 1 through 10, inclusive,

21 Defendants.
22

Case No.: 3:19-cv-07923-JCS

**JOINT STIPULATION OF CLASS
ACTION SETTLEMENT AND
RELEASE**

Judge: Hon. Joseph C. Spero,
Chief Magistrate Judge

Complaint Filed: 12/03/2019
Trial Date: Not set

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15 THE DOW CHEMICAL CO.

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1 Plaintiffs Jason Craig and Michael Ross, individually and on behalf of all similarly situated
2 current and former employees (collectively “Plaintiffs”), and Defendants Dow Agrosociences, LLC
3 and The Dow Chemical Company (“Defendants”) (collectively, the “Parties”), subject to the terms
4 and conditions hereof and final approval by the Court, hereby enter into this Joint Stipulation of
5 Class Action Settlement and Release (“Settlement Agreement”). This Settlement Agreement is
6 intended to fully, finally, and forever compromise, release, resolve, discharge, and settle the
7 Released Claims subject to the terms and conditions set forth herein.

8 I. RECITALS

9 A. Background and Procedural History

10 1. Plaintiffs commenced the Class Action by filing a complaint against Defendants in
11 *Jason Craig and Michael Ross v. Corteva, Inc. et al.*, USDC Northern District of California, Case
12 No. 3:19-cv-07923-JCS, in the Northern District of California on December 3, 2019 (the
13 “Complaint”). Plaintiffs brought claims for (1) Failure to Authorize and Permit Rest Periods (Lab.
14 Code § 226.7; Wage Order 1-2001) ; (2) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512;
15 Wage Order 1-2001); (3) Private Attorneys General Act (Lab. Code § 2698 et seq.); and (4) Violation
16 of the Unfair Competition Law (Bus. & Profs. Code §17200 et seq.).

17 2. Defendants Corteva, Inc., E.I. Du Pont De Nemours & Company, DowDupont, Inc.
18 n/k/a Dupont de Nemours, Inc., and Dow Inc. were dismissed without prejudice by stipulation of the
19 Parties and court order dated March 2, 2020.

20 3. Plaintiffs allege that Defendants violated California’s wage and hour laws by failing to
21 provide the employees at their chemical manufacturing plant located in Pittsburg, California, with
22 duty-free meal periods and authorize and permit rest periods, as required by California Labor Code
23 sections 226.7 and Industrial Wage Commission (“IWC”) Wage Order 1-2001. Plaintiffs contend
24 that the Dow chemical plant operates continuously, 365 days a year and 24 hours per day. Plaintiffs
25 contend certain employees of Dow, principally Operators, who are scheduled to work 12-hour shifts
26 (“12-hour shift employees”), are required to monitor their units, are on-duty throughout their entire
27 shifts, and as a matter of policy are not allowed to take duty-free meal or rest periods. Plaintiffs
28 allege that during the shift, the workers are required to carry a radio, monitor equipment, respond to

1 calls, and are accountable for monitoring and operation of the production process throughout the shift
2 without a designated or uninterrupted meal or rest period. Plaintiffs allege that by failing to permit
3 and allow its 12-hour shift workers to take duty free meal and rest periods, Defendants have also
4 violated the Private Attorneys General Act, Labor Code 2698 et seq., and engaged in unfair business
5 practices pursuant to Business & Professions Code §17200 et seq. Plaintiffs have not filed a motion
6 for class certification in this action.

7 4. On August 17, 2020, the Parties participated in mediation with Steve Pearl. At the
8 conclusion of the Mediation, the Parties accepted the Mediators' Proposal. A Memorandum of
9 Understanding was executed by the Parties on August 18, 2020.

10 **B. Parties' Statements and Recognition of the Benefits of the Settlement**

11 5. Class Counsel has conducted extensive investigation into the facts of the Class Action,
12 including informal disclosures and other investigation undertaken by counsel for Plaintiffs.
13 Furthermore, the Parties engaged in extensive negotiations and the exchange of data, documents, and
14 information in this litigation. Based on a thorough investigation and evaluation of this case, Class
15 Counsel and Plaintiffs have concluded that the settlement with Defendants for the consideration and
16 on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best
17 interest of the class in light of all known facts and circumstances, including the risk of significant
18 delay, defenses asserted by Defendants, and numerous potential appellate issues.

19 6. Defendants deny each and all of the claims alleged by Plaintiffs in the Class Action.
20 Defendants expressly deny any liability or wrongdoing of any kind whatsoever associated with the
21 claims alleged in the Class Action, and further deny that, for any purpose other than settling this
22 Class Action, this Class Action is appropriate for class or representative treatment. With respect to
23 Plaintiffs' claims, Defendants contend, among other things, that they have complied with all
24 applicable state, federal and local laws affecting Plaintiff and the Settlement Class. Nevertheless,
25 Defendants have taken into account the uncertainty and risks inherent in any litigation and have also
26 concluded that further conduct of the instant action would be protracted and expensive. Defendants,
27 therefore, have determined that it is desirable and beneficial that the Class Action be settled in the
28 manner and upon the terms and conditions set forth in this Settlement Agreement. Neither this

1 Settlement Agreement, nor any document referred to or contemplated herein, nor any action taken to
2 carry out this Settlement Agreement, is, may be construed as, or may be used as an admission,
3 concession, or indication by or against Defendants of any fault, wrongdoing or liability whatsoever.

4 II. DEFINITIONS

5 1. “Administrative Costs” shall mean the Settlement Administrator’s fees, costs, and
6 expenses in connection with the claims administration services to be rendered pursuant to this
7 Settlement Agreement, including providing the Notice of Settlement, various efforts to locate Class
8 Members, and making settlement distributions to Class Members. The amount of those
9 Administrative Costs is subject to the Court’s approval.

10 2. “Attorneys’ Fees and Costs” shall mean the amount of attorneys’ fees and litigation
11 expenses and costs approved by the Court to be paid to Class Counsel.

12 3. “Class Action” shall mean the civil action captioned *JASON CRAIG and MICHAEL*
13 *ROSS, individually and on behalf of all similarly situated current and former employees, Plaintiffs, v.*
14 *CORTEVA, INC., E.I. DU PONT DE NEMOURS & COMPANY, DOW AGROSCIENCES LLC, THE*
15 *DOW CHEMICAL CO., DOWDUPONT, INC. n/k/a DUPONT DE NEMOURS, INC., DOW INC.,*
16 *and DOES 1 through 10, inclusive, Defendants,* filed in the USDC Northern District of California,
17 Case No. 3:19-cv-07923-JCS.

18 4. “Class Counsel” shall mean the attorneys representing Plaintiffs in the Class Action:
19 Randy Renick and Cornelia Dai of Hadsell Stormer Renick & Dai LLP and Jay Smith and Joshua F.
20 Young of Gilbert & Sackman, a Law Corporation.

21 5. “Class” or “Class Members” shall mean: all current and former hourly employees of
22 Defendants who worked a 12-hour rotating shift at the chemical manufacturing plant in Pittsburg,
23 California, for the period December 3, 2015 through preliminary approval of the Settlement, who do
24 not request to exclude themselves (i.e. opt out) from the settlement.

25 6. “Class Period” shall mean the period from December 3, 2015 through the date of
26 Preliminary Approval.

27 7. “Defense Counsel” shall mean the attorneys Carolyn G. Burnette, Nathan W. Austin,
28 and Sander van der Heide of Jackson Lewis P.C.

1 8. The “Effective Date” of this Settlement Agreement shall mean three (3) calendar days
2 after all of the following conditions have been satisfied:

- 3 (a) Execution of this Settlement Agreement by all Parties, Class Counsel, and
4 Defense Counsel;
- 5 (b) Submission of this Settlement Agreement to the Court, along with appropriate
6 motions and requests for approval of this Settlement Agreement by the Court;
- 7 (c) Preliminary Approval of the settlement by the Court;
- 8 (d) Mailing of the Notice of Settlement to the Class Members in accordance with
9 the Preliminary Approval Order;
- 10 (e) Expiration of the opt-out period as defined in the Notice of Settlement;
- 11 (f) Five percent (5%) or fewer of the Class Members submit timely and valid
12 requests to opt out of the Class (or if more than five percent (5%) opt out, and none of the
13 Defendants exercise their right to rescind and void the Settlement Agreement);
- 14 (g) A formal fairness hearing, Final Approval of the settlement by the Court, and
15 entry of a written final order by the Court approving this Settlement Agreement and entering
16 final judgment with respect to the Class Action. Provided, that in the event there are written
17 objections made prior to the formal fairness hearing, or an appeal of the Court’s approval of
18 the settlement taken, then the Effective Date shall be the later of the following events: when
19 the period for filing any appeal, writ, or other appellate proceeding opposing the settlement
20 has elapsed without any appeal, writ, or other appellate proceeding having been filed; or any
21 appeal, writ, or other appellate proceeding opposing the settlement has been dismissed finally
22 and conclusively with no right to pursue further remedies or relief; or any appeal, writ, or
23 other appellate proceeding has upheld the Court’s final order with no right to pursue further
24 remedies or relief.

25 The occurrence of the Effective Date is a prerequisite to any obligation to fund or make distributions
26 from the Settlement Fund.

27 9. “Final Approval Hearing” means the hearing to be conducted by the Court, or any
28 other court taking jurisdiction of this matter, to determine whether to finally approve the settlement.

1 In the event that the Court does not issue a Final Approval Order, or any such Final Approval Order
2 does not take effect for any reason, or is modified in any material respect, the Effective Date does not
3 occur, or that any of the conditions set forth above do not occur, this Settlement Agreement shall be
4 deemed null and void and shall be of no force or effect whatsoever, and shall not be referred to or
5 utilized for any purpose whatsoever.

6 10. "Final Approval Order" and "Final Approval" means an order that finally and
7 unconditionally grants final approval of this Settlement Agreement, enters final judgment with
8 respect to the Class Action, and authorizes payments to the Class Members, the Named Plaintiffs, the
9 Settlement Administrator, and Class Counsel as provided in this Settlement Agreement, substantially
10 in the same form as Exhibit C attached hereto.

11 11. "Named Plaintiffs" shall mean Jason Craig and Michael Ross.

12 12. The "Net Settlement Proceeds" shall equal the Settlement Fund minus the total of:
13 Court-approved Attorneys' Fees and Costs; Court-approved Service Awards to the Named Plaintiffs;
14 Court-approved Administrative Costs; and Payment to the LWDA for PAGA penalties.

15 13. "Notice of Settlement" refers to the official Notice of Settlement of Class Action,
16 attached hereto as Exhibit A.

17 14. "Notice Response Deadline" means 60 days from the initial date of mailing the Notice
18 Packet to Class Members, or such other date as set by the Court in the Preliminary Approval Order,
19 to postmark a timely objection, or request for exclusion.

20 15. "Preliminary Approval Order" and "Preliminary Approval" refers to the Court order or
21 statement of decision granting preliminary approval of this Settlement Agreement substantially in the
22 same form as Exhibit B attached hereto.

23 16. "Released Claims" shall include all claims under state, federal and local law that were
24 or could have been asserted based on the facts and allegations made in the Action, and any
25 amendments thereto, as to the Class Members, including without limitation, California Labor Code
26 sections 218.5, 226.7, 512, 558, and 2698, *et seq.*, California Industrial Commission Wage Orders,
27 and Business and Professions Code sections 17200, *et seq.*, and including all claims for or related to
28 meal periods and meal period premiums, rest periods and rest period premiums, on duty meal period

1 agreements, failure to pay additional 401(k) benefits and/or deferred compensation benefits and/or
2 matching benefits for payments received under the Settlement, unfair competition, unfair business
3 practices, unlawful business practices, fraudulent business practices, conversion, class actions,
4 representative actions, aggrieved party claims, injunctive relief, declaratory relief, accounting,
5 punitive damages, liquidated damages, penalties of any nature (including but not limited to civil
6 penalties, statutory penalties, and PAGA penalties), interest, fees, costs, as well as all other claims
7 and allegations alleged in the Action, during the Class Period.

8 17. “Released Parties” shall collectively mean: (i) Dow Agrosiences, LLC and The Dow
9 Chemical Company (“Defendants”); (ii) each of Defendants’ past, present, and future direct and
10 indirect parents, including, but not limited to, Dow, Inc., DowDuPont, Inc. n/k/a/ DuPont De
11 Nemours, Inc., E.I. Du Pont De Nemours & Company, and Corteva, Inc.; (iii) the respective past,
12 present, and future direct and indirect subsidiaries and affiliates of any of the foregoing; (iv) the past,
13 present, and future shareholders, directors, officers, agents, employees, attorneys, insurers, members,
14 partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries,
15 benefit plans, transferees, predecessors, successors and assigns of any of the foregoing; and (v) any
16 individual or entity which could be jointly liable with any of the foregoing.

17 18. “Service Award” shall mean a court-approved sum to be paid to each Named Plaintiff
18 in accordance with Section III.B.

19 19. “Settlement Administrator” shall mean CAC Services Group, LLC of Eden Prairie
20 Minnesota. The Settlement Administrator is the entity that has been selected to provide notice of this
21 proposed class action settlement to the Class and to perform other related functions to administer the
22 settlement contemplated by this Settlement Agreement as described herein.

23 20. “Settlement Fund” refers to the gross settlement amount of Three Million and Eight
24 Hundred Thousand Dollars (\$3,800,000) which is the total and maximum amount Defendants will be
25 required to pay under this Settlement Agreement, except that Defendants will pay the employer’s
26 share of any payroll taxes (FICA and FUTA) for wages it pays hereunder. The Settlement Fund will
27 include the following elements: (i) payments to Class Members, as described herein; (ii) payment to
28 the State of California Labor and Workforce Development Agency (“LWDA”) under PAGA, as

1 described herein; (iii) Service Awards paid to the Named Plaintiffs, as described herein; (iv) Class
2 Counsel's Attorneys' Fees and Costs, as described herein; and (v) Administrative Costs, as described
3 herein.

4 21. "Workweeks" shall mean the number of weeks worked by a Class Member during the
5 Class Period while assigned a 12-hour rotating shift at the Pittsburg, California manufacturing plant.
6 The Settlement Administrator will calculate the number of workweeks, excluding leaves, worked by
7 the Class Members during the Class Period, by dividing the total days employed as a Class Member
8 during the Class Period by seven (7). Partial workweeks will not be counted; however, if a Class
9 Member worked less than one week as a Class Member, such Class Member will be credited with
10 having worked one workweek for purposes of the Settlement.

11 III. TERMS OF SETTLEMENT AGREEMENT

12 A. Distribution Of The Settlement Fund

13 22. IT IS HEREBY STIPULATED AND AGREED by and among the Plaintiffs (for
14 themselves and the Class) and Defendant, by and through their respective attorneys, that, subject to
15 the approval of the Court, the Class Action will be finally and fully compromised, released, resolved,
16 discharged, and settled, and will be dismissed with prejudice as to Defendants, subject to the terms
17 and conditions of this Settlement Agreement, as follows:

18 23. In consideration for settlement of the Class Action and the release of claims of the
19 Class, Defendants agree to pay the Settlement Fund, which is a total of Three Million and Eight
20 Hundred Thousand Dollars (\$3,800,000). Any Administrative Costs, Attorneys' Fees and Costs,
21 payment to the LWDA under PAGA, Service Awards for the Named Plaintiffs, and payments to
22 Class Members shall be paid from the Settlement Fund. The Settlement Fund is the maximum total
23 amount Defendants are required to pay for any and all purposes under this Settlement Agreement,
24 except that Defendants will pay the employer's share of any payroll taxes (FICA and FUTA) in
25 addition to the Settlement Fund.

26 24. This is a non-reversionary settlement in which Defendants are required to pay the
27 entire gross settlement amount. No portion of the Settlement Fund will revert to any Defendant.

1 25. The Parties have agreed to the appointment of CAC Services Group, LLC to serve as
2 the Settlement Administrator for the purpose of administering the settlement process.

3 **B. The Named Plaintiffs' Service Awards**

4 26. In addition to the amounts determined to be due to the Named Plaintiffs as Class
5 Members under this Settlement Agreement, Class Counsel and Named Plaintiffs intend to apply to
6 the Court for Service Awards for Named Plaintiffs, in the total amount of no more than Five
7 Thousand Dollars (\$5,000) per Named Plaintiff. Plaintiffs request an enhancement for the Named
8 Plaintiffs' roles in prosecuting the Class Action, taking the risks of serving as the named
9 representatives, providing factual information and documentation necessary to the prosecution of the
10 Class Action, attending the mediation, providing a general release of all claims, maintaining contact
11 with Class Counsel, and other participation necessary to the successful prosecution of the Class
12 Action and implementation of this Settlement Agreement. Any Service Award approved by the
13 Court in conjunction with the Settlement shall be paid from the Settlement Fund and shall reduce the
14 amount of the Net Settlement Fund payable to Class Members. Defendants will not oppose a request
15 for a Service Award of up to \$5,000 per Named Plaintiff.

16 27. In exchange for this Service Award, each Named Plaintiff agrees not to publicize the
17 settlement beyond what is required or expressly approved by the Court, agrees not to respond to any
18 media inquiry regarding the settlement and agrees to a general release as to any and all claims he
19 might have against any Defendant or Released Party, whether such claim is known or unknown. In
20 the event that Class Members seek to discuss the Settlement or ask questions regarding the Settlement
21 with either of the Named Plaintiffs, the Named Plaintiffs will respond only by directing the Class
22 members to contact the Settlement Administrator or Class Counsel.

23 28. In the event that the Court denies, modifies, or reduces any request for a Service
24 Award, Named Plaintiffs, Class Counsel, and the Class Members shall not: seek to modify, revoke,
25 cancel, terminate, or void this Settlement Agreement; seek, request, or demand an increase in the
26 Settlement.

27 29. If Plaintiffs appeal the Court's ruling on the request for a Service Award for Named
28 Plaintiffs, any ruling of any appellate court in such an appeal (regardless of its substance) shall not

1 constitute a material alteration of this Settlement Agreement, and shall not give Named Plaintiffs,
2 Class Counsel, or the Class Members the right to modify, revoke, cancel, terminate, or void this
3 Settlement Agreement.

4 30. Notwithstanding the above, each Named Plaintiff shall receive payment of his or her
5 Service Award only after executing and delivering to Defendants this Settlement Agreement, and
6 only after the Effective Date has passed.

7 **C. Attorneys' Fees And Costs**

8 31. Class Counsel may request a reasonable award of Attorneys' Fees and Costs from the
9 Court up to 25% of the Settlement Fund (i.e. \$950,000) as well as the reimbursement of costs up to
10 \$30,000 to compensate them for fees and costs incurred for work already performed in this Class
11 Action, and the work remaining to be performed in documenting the Settlement Agreement, securing
12 court approval of the Settlement Agreement, administering the Settlement Agreement, obtaining
13 dismissal of the Class Action with prejudice, and defending against any appeals, as well as all
14 associated expenses. The amount awarded to Class Counsel shall be left to the discretion of the
15 Court. Defendants will not oppose a reasonable request for attorneys' fees and costs.

16 32. Class Counsel will submit an application for Attorneys' Fees and Costs to the Court
17 for approval prior to the date of the Final Approval Hearing. The Parties agree that, over and above
18 the total amount of the court-approved Attorneys' Fees and Costs award in this Class Action, each of
19 the Parties, including all persons eligible to be Class Members, shall bear their own fees and costs
20 relative to the investigation, filing, prosecution or settlement of the Class Action, the negotiation,
21 execution, or implementation of this Settlement Agreement, and/or the process of obtaining,
22 administering or challenging a Preliminary Approval Order and/or Final Approval Order.

23 33. The Parties agree that Class Counsel shall be solely responsible for the division and
24 distribution of any and all Court-approved Attorneys' Fees and Costs awarded in the Class Action to
25 Class Counsel. Class Counsel agree to release Defendants and the Released Parties from any
26 responsibility for or liability arising out of or related to the division and distribution of any court-
27 approved Attorneys' Fees and Costs to Class Counsel.

1 34. In the event that the Court denies, modifies, or reduces Class Counsel’s request for
2 Attorneys’ Fees and Costs, then Plaintiffs, Class Counsel, and the Class Members shall not: seek to
3 modify, revoke, cancel, terminate, or void this Settlement Agreement; seek, request, or demand an
4 increase in the Settlement.

5 35. If Class Counsel appeal the Court’s ruling on their request for Attorneys’ Fees and
6 Costs, any ruling of any appellate court in such an appeal (regardless of its substance) shall not
7 constitute a material alteration of this Settlement Agreement, and shall not give Plaintiffs, Class
8 Counsel, or the Class Members the right to modify, revoke, cancel, terminate, or void this Settlement
9 Agreement.

10 36. All claims for attorneys’ fees or costs or expenses that Class Counsel, Plaintiffs, and
11 the Class Members may possess against Defendants have been compromised and resolved in this
12 Settlement Agreement and shall not be affected by any appeal that Class Counsel may file.

13 **D. Administrative Costs**

14 37. The court-approved Administrative Costs associated with administering the settlement
15 and claims process shall be subject to all Parties’ approval, and shall be deducted from the Settlement
16 Fund. The Administrative Costs are estimated to be no more than Ten Thousand Dollars (\$10,000).
17 No fewer than twenty-one (21) calendar days prior to the Final Approval Hearing, the Settlement
18 Administrator shall provide all counsel for the Parties with a statement detailing the Administrative
19 Costs incurred to date as well as any prospective costs. The Parties agree to cooperate in the
20 settlement administration process and to make all efforts to control and minimize the costs and
21 expenses incurred in the administration of this Settlement Agreement.

22 **E. PAGA Payment.**

23 38. The total amount of the Settlement Fund allocated to PAGA penalties shall be Forty
24 Thousand Dollars (\$40,000), with seventy-five percent (75%) of the PAGA penalties, Thirty
25 Thousand Dollars (\$30,000), being paid to the California Labor and Workforce Development Agency
26 (“LWDA”) and twenty-five percent (25%) of the PAGA penalties, Ten Thousand (\$10,000), being
27 paid to the aggrieved employees (the “Class Members”).

1 39. The amount of the Settlement Fund being paid to aggrieved employees for PAGA
2 penalties will be allocated in the manner of and as part of the Net Settlement Proceeds, as set forth in
3 Section III.G.

4 40. Pursuant to California Labor Code § 2699(1)(2), settlement of a PAGA action must be
5 approved by the Court and a copy of the proposed settlement will be provided to the LWDA at the
6 same time that it is submitted to the Court.

7 **F. No Effect On Benefits For Class Members**

8 41. Plaintiffs agree, on behalf of all Class Members, that this Settlement Agreement and
9 any payments under this Settlement Agreement shall not have any effect on the eligibility or
10 calculation of employee benefits with respect to the Class Members. This Settlement Agreement
11 does not represent any modification of any previously credited hours of service, income, or other
12 eligibility criteria under any employee pension benefit plan, employee welfare benefit plan, or other
13 program or policy.

14 42. Likewise, Plaintiffs agree, on behalf of all Class Members, that no payment provided
15 under this Settlement Agreement shall be considered “compensation” or “annual earnings for
16 benefits” in any year for purposes of determining eligibility for, or benefit accrual within, any
17 employee pension benefit plan, employee welfare benefit plan, or other program or policy. For
18 purposes of this Settlement Agreement, the term “employee benefit plan” means every “employee
19 benefit plan” as defined in the Employee Retirement and Income Security Act of 1974, 29 U.S.C. §
20 1002(3). The term also includes any 401(k) plan, bonus, pension, stock option, stock purchase, stock
21 appreciation, welfare, profit sharing, retirement, disability, vacation, severance, hospitalization,
22 insurance, incentive, deferred compensation, or any other similar benefit plan, practice, program, or
23 policy, regardless of whether any such plan is considered an employee benefit plan.

24 **G. Allocation**

25 43. The Net Settlement Proceeds shall be allocated as follows for each Class Member:

- 26 (a) “Workweeks” shall mean the number of weeks worked by a Class Member
27 during the Class Period while assigned a 12-hour rotating shift at the Pittsburg,
28 California manufacturing plant. The Settlement Administrator will calculate

1 the number of workweeks, excluding leaves, worked by the Class Members
2 during the Class Period, by dividing the total days employed as a Class
3 Member during the Class Period by seven (7). Partial workweeks will not be
4 counted; however, if a Class Member worked less than one week as a Class
5 Member, such Class Member will be credited with having worked one
6 workweek for purposes of the Settlement.

7 (b) The amount to be paid per workweek to Class Members will be calculated by
8 dividing the Net Settlement Proceeds by the total number of workweeks for all
9 Class Members; any person who opts out of the Settlement is not a Class
10 Member.

11 (c) Any disputes regarding the number of workweeks allocated to a Class Member
12 will be resolved and decided by the Settlement Administrator, whose decision
13 will be final and non-appealable.

14 44. The Settlement Administrator will pay out to all Class Members on a confidential
15 basis and issue IRS tax forms as provided below.

16 45. Each Class Member's Individual Settlement Award will be allocated as follows: 20%
17 to unpaid wages, 40% to interest; and 40% to penalties. The wage component of each Individual
18 Settlement Award will be reported on Form W-2 and the portion of each Individual Settlement
19 Award allocated to interest and/or penalties reported on IRS Form 1099, as required by law.

20 46. Defendants, each Plaintiff, and each Class Member will be responsible for his, her, or
21 its own tax obligations. Nothing in this Settlement Agreement is advice by Defense Counsel
22 regarding taxes or taxability, and no Party is relying on Defense Counsel for such advice. The
23 payment by Defendants pursuant to this Agreement is for alleged failure to pay compensation due,
24 interest on the compensation sum, penalties regarding the compensation sum, and all other claims as
25 set forth in the Complaint. In accordance with both state and federal tax laws, the Settlement
26 Administrator shall withhold such sums from each Class Member's Individual Settlement Award as
27 are required in order to comply with the same. Portions of any Individual Settlement Award not
28 subject to withholding will be issued with a 1099 Form. After appropriate tax withholding from

1 Individual Settlement Awards, the net payment to be received by each Class Member, reported as
2 required by law via a W-2 Form, the Settlement Administrator shall immediately pay over all such
3 withheld funds to the appropriate state and federal taxing authorities. The Settlement Administrator
4 shall provide each Class Member with appropriate documentation setting forth the amount of any tax,
5 or other payment withheld, and employer contribution made, in accordance with state and federal tax
6 requirements.

7 47. The Settlement Administrator will notify Defendants of the amount of the employer
8 share of FICA and FUTA due and owing as to each Class Member. Defendants will pay their share of
9 FICA and FUTA separately and in addition to the Settlement Fund. The Settlement Administrator
10 will also give Defendants an estimate of the employer's share of taxes within five (5) calendar days
11 of sending out the Notice of Settlement, as described in Paragraph 63.

12 **H. Released Claims**

13 48. Releases by the Class and the Class Members. In exchange for the payments by
14 Defendants as described herein, upon the Court's Final Approval of this Settlement Agreement, and
15 except as to such rights or claims as may be created by this Settlement Agreement, the Class and each
16 Class Member, including each Named Plaintiff (who shall not opt out of the Class), jointly, severally,
17 shall, and hereby do fully release and discharge Defendants and Released Parties from the Released
18 Claims.

19 49. The Parties intend that this Settlement Agreement shall be binding on all Class
20 Members, whether or not they actually receive a payment pursuant to this Settlement Agreement.
21 This Settlement Agreement shall constitute, and may be pleaded as, a complete and total defense to
22 any Released Claims if raised in the future.

23 50. A Named Plaintiff or Class Member may hereafter discover facts in addition to or
24 different from those they may now know or believe to be true with respect to the subject matter of the
25 Released Claims, but, upon the Effective Date, they, and each of them, shall be deemed to have, and
26 by operation of the Final Approval Order shall have, fully, finally, and forever settled and released
27 any and all of the Released Claims, whether known or unknown, suspected or unsuspected,
28 contingent or non-contingent, which now exist, or heretofore have existed, upon any theory of law or

1 equity now existing or coming into existence in the future, including, but not limited to, conduct that
2 is intentional, negligent, with or without malice, or a breach of any duty, law, or rule, without regard
3 to the subsequent discovery or existence of such different or additional facts.

4 51. Additional General Releases by Named Plaintiffs. In exchange for the consideration,
5 undertakings, and covenants undertaken by Defendants in this Settlement Agreement each Named
6 Plaintiff, for himself and on behalf of his spouse, heirs, assigns, and estates, further hereby generally
7 releases, discharges, and covenants not to sue Defendants and the Released Parties with respect to
8 any and all claims, charges, demands, liens, agreements, contracts, covenants, actions, suits, causes of
9 action, disputed wages, obligations, debts, expenses, attorneys' fees, damages, penalties, interest,
10 judgments, orders, and liabilities of whatever kind or nature in law, equity, or otherwise, whether
11 now known or unknown, suspected or unsuspected, and whether or not concealed or hidden, which
12 the Named Plaintiff now owns or holds or has at any time heretofore owned or held, arising out of or
13 in any way connected with the Named Plaintiff's employment, separation of employment, or any
14 other relationship with, any Defendant or Released Party, or any other transactions, occurrences, acts
15 or omissions or any loss, damage or injury whatever, known or unknown, suspected or unsuspected,
16 resulting from any act or omission by or on the part of said Defendant or Released Party, committed
17 or omitted prior to the Effective Date (collectively, the "Additional General Releases" of "Named
18 Plaintiffs' Claims"). The Parties intend the Named Plaintiffs' Additional General Releases to be
19 general and comprehensive in nature, and to release all Named Plaintiffs' Claims and potential
20 Named Plaintiffs' Claims against Defendants and the Released Parties to the maximum extent
21 permitted at law.

22 52. Waiver of California Civil Code Section 1542. Each Named Plaintiff intends and/or is
23 deemed to intend that this Settlement Agreement will be effective as a bar to any and all of the
24 Named Plaintiffs' Claims, as defined above. In furtherance of this intention, each Named Plaintiff
25 expressly waives any and all rights or benefits conferred on him by the provisions of Section 1542 of
26 the California Civil Code, which provides as follows:

27 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT**
28 **THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR**
SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF

1 EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR
2 HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
3 SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

4 53. Each Named Plaintiff has consulted with or had the opportunity to consult with
5 counsel of Plaintiff's choosing about this Settlement Agreement and specifically about the waiver of
6 section 1542, and that Each Named Plaintiff understands this Settlement Agreement and the section
7 1542 waiver, and so Each Named Plaintiff freely and knowingly assumes all risks of his Additional
8 General Release with respect to any Named Plaintiff's Claims that have already arisen or may in the
9 future arise, whether known or unknown, suspected or unsuspected, and specifically waives all rights
10 he may have under California Civil Code § 1542. Each Named Plaintiff understands that, if any of
11 the facts relating in any manner to the Class Action, or to the release and dismissal of claims as
12 provided in this Settlement Agreement, are hereafter found to be other than or different from the facts
13 now believed to be true, he has expressly accepted and assumed that risk and agrees that this
14 Settlement Agreement and the release of claims contained herein shall nevertheless remain effective.
15 Each Named Plaintiff desires and intends, or is deemed to desire and intend, that this Settlement
16 Agreement shall be given full force and effect according to each and all of its express terms and
17 provisions, including those relating to unknown and unsuspected claims, if any, as well as those
18 relating to the claims referred to above.

19 54. The Named Plaintiffs' Additional General Releases are not intended to expand the
20 nature of the claims released by the Class Members beyond the Released Claims set out in
21 Paragraphs 16 and 48 through 50.

22 **I. Schedule For Finalizing Settlement**

23 55. The Parties stipulate and agree to the following schedule and procedures for obtaining
24 the Court's approval of the settlement, including seeking certification of the Class for settlement
25 purposes only, notice to the Class, and processing all benefits provided under this Settlement
26 Agreement.

27 56. Upon the execution of this Settlement Agreement, Named Plaintiffs will file a Motion
28 for Preliminary Approval with the Court seeking:

- 1 (a) Certification of the Class as a settlement class under Federal Rule of Civil
2 Procedure Rule 23;
- 3 (b) Preliminary approval of the terms of this Settlement Agreement;
- 4 (c) Approval of the Notice of Settlement, settlement notice procedure, and
5 appointment of the Settlement Administrator; and
- 6 (d) The scheduling of a settlement fairness hearing on the question of whether the
7 terms of this Settlement Agreement should be finally approved as fair, reasonable, and
8 adequate as to the Named Plaintiffs and the Class.

9 As a part of this motion, Named Plaintiffs will submit (and attach a copy of) this Settlement
10 Agreement. Class Counsel shall provide Defendants with a reasonable opportunity to review, and
11 provide comments on the Motion for Preliminary Approval, before filing the motion and supporting
12 papers with the Court.

13 57. Solely for settlement purposes, Plaintiffs agree to seek, and each Defendant consents
14 to, certification by the Court of the Class as a Rule 23 settlement class.

15 58. The certification of the Class and appointment of Class Counsel by the Court shall be
16 binding only with respect to the settlement of this Class Action. In the event that this Settlement
17 Agreement is cancelled pursuant to its terms, the certification of the Class shall be vacated, the Class
18 Action shall proceed as though the Class had never been certified, and this Settlement Agreement
19 shall be of no force or effect.

20 59. Defendants shall not oppose the Motion for Preliminary Approval filed by Class
21 Counsel pursuant to this Settlement Agreement, so long as the motion and supporting papers are
22 consistent with the terms of this Settlement Agreement.

23 60. Within ten (10) calendar days after the filing of the Motion for Preliminary Approval,
24 Defendants shall comply with the "Notification of Settlement" requirements of the Class Action
25 Fairness Act (28 U.S.C. § 1715). Defendants shall provide Class Counsel with a copy of the notice
26 provided to the appropriate state officials, as defined under 28 U.S.C. § 1715. Prior to the date set for
27 the preliminary approval hearing, Defendants shall file a proof of service with the Court indicating
28 compliance with 28 U.S.C. § 1715.

1 **J. Providing Class Data To Settlement Administrator**

2 61. Within thirty (30) calendar days after the Preliminary Approval Order, Defendants
3 agree to provide to the Settlement Administrator a “class list” containing the following information
4 for each Class Member for the Class Period: (1) name; (2) last known address; (3) last-known
5 telephone number; (4) employment start date; (5) employment end date; (6) dates of leave, if any; and
6 (7) social security numbers. At the same time, Class Counsel shall be provided for each Class
7 Member for the Class Period: (1) first initial; (2) complete last name; (3) employment start date; (4)
8 employment end date; and (5) dates of leave, if any.

9 62. The Settlement Administrator will calculate the number of workweeks, excluding
10 leaves, worked by the Class Members during the Class Period, and the amount to be paid to Class
11 Members per workweek based on information to be provided by Defendants. The workweeks will be
12 calculated by the Settlement Administrator for each Class Member by dividing the total days
13 employed as a Class Member during the Class Period by seven (7). Partial workweeks will not be
14 counted; however, if a Class Member worked less than one week as a Class Member, such Class
15 Member will be credited with having worked one workweek for purposes of the Settlement. The
16 Settlement Administrator shall provide the Parties with first initial and last name of Class Members,
17 and the associated dates of hire, termination, leaves, and number of Workweeks. Class Counsel will
18 then have an opportunity to review the data provided to verify the accuracy of the information and to
19 calculate the number of Workweeks and projected individual payment as needed. If numerous and/or
20 substantial inconsistencies or inaccuracies are discovered at any point, the Parties agree to jointly
21 apply to the Court for an extension of the schedule provided herein to allow the Parties to resolve the
22 inconsistencies or inaccuracies. The above-described information will be provided to the Settlement
23 Administrator and Class Counsel on a confidential basis, and the Settlement Administrator and Class
24 Counsel shall take reasonable steps to protect the confidential and private information of the Class
25 Members. Class Counsel shall destroy all such information (including copies and data or information
26 derived therefrom) within sixty (60) days of the date the Court finally approves the Settlement, shall
27 not retain copies of such information, and shall not maintain or use such information for any purpose.

1 **K. Notice Of Settlement**

2 63. If the Court grants Preliminary Approval of the settlement terms described in this
3 Settlement Agreement, a Notice of Settlement shall be provided to the Class as follows:

4 (a) Within fifteen (15) calendar days after Defendants provide to the Settlement
5 Administrator the class list referenced in Paragraph 61 the Settlement Administrator shall
6 send a Notice of Settlement to all Class Members by regular U.S. Mail, postage prepaid. In
7 order to provide the best notice practicable, any Notice of Settlement returned as undelivered
8 shall be sent to the forwarding address affixed thereto, if any. The Settlement Administrator
9 will perform an NCOA check and will skip-trace return mail and re-mail the notices within
10 three (3) business days of receipt. If the procedures herein are followed, Defendants, Class
11 Counsel, and the Settlement Administrator shall be deemed to have satisfied their obligation
12 to provide the Notice of Settlement to the Class. A copy of the proposed Notice of Settlement
13 is attached hereto as Exhibit A.

14 (b) The Notice of Settlement shall, at a minimum, include the following: the
15 number of Workweeks worked by the Class Member during the Class Period, a preliminary
16 calculation of the amount the Class Member can expect to receive based on the number of
17 Workweeks she or he worked, the contact information for Class Counsel and Defense
18 Counsel, information informing Class Members of their right to opt out, a statement that the
19 Settlement Agreement may have preclusive effect and participation in the Settlement shall
20 result in a release of Released Claims, notification that Class Members are solely responsible
21 for determining the tax consequences of payments made pursuant to this Settlement
22 Agreement; and notification that any payments under this Settlement Agreement shall not
23 have any effect on the eligibility or calculation of employee benefits, nor will it be considered
24 compensation for determining eligibility in any employee pension benefit plan, as discussed
25 ante in Section III.F.

26 64. Class Member Request for Exclusion. The Notice of Settlement shall inform Class
27 Members of their right to opt out of the Class and be excluded from receiving any benefits under the
28 Settlement Agreement by completing and mailing a written request for exclusion to the Settlement

1 Administrator on or before the Notice Response Date. Any Class Member who submits a timely and
2 valid request for exclusion will receive no settlement payment, will not be entitled to object to the
3 reasonableness of the Settlement, will not be entitled to appear at the Final Approval hearing, and
4 will not be bound by the terms of the Settlement Agreement, nor have any right to contest, appeal, or
5 comment thereon. Late-submitted opt-out requests will not be accepted by the Settlement
6 Administrator and shall not be effective. The Settlement Administrator will certify jointly to Class
7 Counsel and Defense Counsel the number of requests for exclusion that were valid and timely
8 submitted.

9 65. Class Member Dispute. If a Class Member disagrees with the number of Workweeks
10 on the Notice of Settlement, she or he must complete and send a notice of dispute to the Settlement
11 Administrator, together with any supporting written documentation. Such documentation may
12 consist of official records, pay stubs, weekly schedules, or personal logs. To be considered, the
13 notice of dispute and supporting written documentation must be received by the Settlement
14 Administrator no later than forty-five (45) calendar days after the postmark date of the Notice of
15 Settlement.

16 66. The Settlement Administrator shall immediately notify both Class Counsel and
17 Defense Counsel of any disputes submitted by Class Members. The Settlement Administrator shall
18 share with both Class Counsel and Defense Counsel the notice of dispute and any documentation
19 submitted by a Class Member in support of his or her dispute. In the event there is a dispute
20 regarding the number of Workweeks allocated to a Class Member, Defendants will reasonably and
21 promptly cooperate with the Settlement Administrator's requests for information to resolve any such
22 disputes. The Settlement Administrator shall make the final determination regarding the dispute
23 based on the written documentation submitted by the Class Member and any materials submitted by
24 Defense Counsel. The Settlement Administrator shall inform each Class Member of the final
25 determination in writing.

26 67. Website. The Settlement Administrator shall create and maintain a webpage, which
27 will include links to the Settlement Agreement, Class Notice, Motions for Preliminary and Final
28 Approval, and Motion for Attorneys' Fees as they become available, until the Effective Date. The

1 website shall also include links to any other documents or information the Settlement Administrator
2 deems necessary to perform its duties. The Motion for Attorneys' Fees and any related filings shall
3 be available on the website for a reasonable period of time and no later than fourteen (14) calendar
4 days prior to the deadline for class members to file an objection to the Settlement Agreement.

5 68. At least twenty-one (21) calendar days before the Final Approval Hearing, the
6 Settlement Administrator shall prepare a declaration of due diligence and proof of mailing with
7 regard to the mailing of the Notice of Settlement, and any attempts by the Settlement Administrator
8 to locate the Class Members ("Due Diligence Declaration"), and provide it to Class Counsel and
9 Defense Counsel for presentation to the Court. Class Counsel shall be responsible for filing the Due
10 Diligence Declaration with the Court.

11 69. If at any point the Settlement Administrator determines that it needs additional time,
12 the Settlement Administrator shall inform the Parties regarding the situation, and the Parties will seek
13 from the Court a modification of the schedules contained in this Settlement Agreement or any court
14 order, to be consistent with the recommendations and requests of the Settlement Administrator.

15 **L. Objections To Settlement Agreement After Preliminary Approval**

16 70. Any Class Member who intends to object to the settlement or this Settlement
17 Agreement must submit a written objection, along with any supporting documents, to the Court, on or
18 before the Notice Response Date by mailing it to or filing it in person with the Court and send copies
19 to the Settlement Administrator. The written objection must set forth, in clear and concise terms, the
20 legal and factual arguments supporting the objection.

21 71. Class Members who fail to make objections in the manner specified in Paragraph 70
22 shall be deemed to have waived any and all objections and shall be foreclosed from making any
23 objection, whether by appeal or otherwise, to the settlement or this Settlement Agreement.

24 72. Class Members who timely submit a written objection have the option to appear at the
25 Final Approval Hearing, either in person or through their own counsel. To appear, Class Members
26 must include a statement about the intent to appear at the Final Approval Hearing ("Notice of
27 Intention to Appear") in the objection. No Class Member shall be entitled to be heard at the Final
28 Approval Hearing unless the Class Member includes the Notice of Intention to Appear, absent

1 permission of the Court. The Notice of Intention to Appear must include copies of any papers,
2 exhibits, or other evidence that the objecting Class Member will present to the Court in connection
3 with the Final Approval Hearing.

4 73. The filing of an objection allows Class Counsel or Defense Counsel, upon reasonable
5 notice, to take the deposition of the objecting Class Member, and to seek any documentary evidence
6 or other tangible things that are relevant to the objection. Failure by the Class Member to make
7 himself or herself available for a deposition or comply with expedited discovery requests may result
8 in the Court striking the Class Member's objection and otherwise denying him or her the opportunity
9 to make an objection or be further heard.

10 **M. Duties Of The Parties In Connection With Final Court Approval**

11 74. In connection with the Court's final approval of this Settlement Agreement, Class
12 Counsel and Defense Counsel will submit a proposed Judgment and a proposed Final Approval
13 Order: approving the settlement, adjudicating the terms thereof to be fair, reasonable, and adequate,
14 and directing consummation of all terms and provisions as provided in this Settlement Agreement.

15 **N. Timing And Manner Of Payments**

16 75. Within fourteen (14) days of the Effective Date, the Settlement Administrator will
17 provide Defendants' distribution calculations and funding instructions. Within seven (7) days after
18 Defendants' receipt of distribution calculations and funding instructions from the Settlement
19 Administrator, Defendants will fund the Settlement Fund. The Settlement Fund shall be placed in a
20 Qualified Settlement Fund (QSF) under the exclusive control of the Settlement Administrator, and
21 shall be used solely for the purpose of fulfilling the terms of this Settlement Agreement.

22 76. All interest with respect to the gross settlement amount shall accrue to the benefit of
23 the Class. The monetary relief to the Class, all fees and expenses of the Settlement Administrator,
24 and any and all taxes arising out of any interest or other income derived from the Settlement Fund
25 shall be paid from the gross settlement amount. Within fourteen (14) days of the Effective Date, the
26 Settlement Administrator shall advise Defendants of the exact amount of the employer's share of
27 payroll taxes due.

1 77. Within five (5) calendar days after receipt of the Settlement Fund, the Settlement
2 Administrator shall pay to Class Counsel any Court-approved attorneys' fees and litigation costs, pay
3 to the Class Representatives any Court-approved Service Awards, and pay the LWDA seventy-five
4 percent (75%) of the Court-approved amount allocated for PAGA penalties. The Settlement
5 Administrator will be responsible for making appropriate deductions, calculating and reporting the
6 employer payroll taxes on the Individual Settlement Awards, and meeting tax reporting obligations.

7 78. The Settlement Administrator shall take all reasonable efforts to make payments to
8 Class Members from the Settlement Fund within five (5) calendar days after receipt of the Settlement
9 Fund. The Settlement Administrator will send an individual check to each Class Member by regular
10 U.S. Mail to the address used by the Settlement Administrator for mailing of the Notice of
11 Settlement. Each Class Member who is entitled to a payment under this Settlement Agreement will
12 receive a single check for the total of his or her Individual Settlement Award (less applicable payroll
13 deductions required by federal and state law for the wage portion of the payment, as described
14 below).

15 79. Checks sent to Class Members under this Settlement Agreement shall remain valid
16 and negotiable for one hundred eighty (180) calendar days from the date of their mailing, and
17 thereafter may be automatically canceled if not cashed by the payee within that time. The Settlement
18 Administrator will provide notice to Class Counsel of any uncashed checks. Uncashed settlement
19 check(s) will be awarded *cy pres* to the University of California Hastings Law School Clinical
20 Programs. Defendants will not be responsible for the employer's share of taxes for any uncashed
21 settlement checks and shall be returned the proportional amount of the employer's share of taxes
22 from any uncashed settlement checks. No person shall have any claim against Defendants, Released
23 Parties, Defense Counsel, the Named Plaintiffs, any Class Member, Class Counsel, or the Settlement
24 Administrator based on distributions and payments made in accordance with this Settlement
25 Agreement.

26 80. Within fourteen (14) calendar days after the distribution of the settlement funds and
27 payment of attorneys' fees, the Settlement Administrator will prepare and provide to the parties a
28 Post-Distribution Accounting, with an easy-to-read chart which sets forth the total settlement fund,

1 the total number of class members, the total number of class members to whom notice was sent and
2 not returned as undeliverable, the number and percentage of claim forms submitted, the number and
3 percentage of opt-outs, the number and percentage of objections, the average and median recovery
4 per claimant, the largest and smallest amounts paid to class members, the method(s) of notice and the
5 method(s) of payment to class members, the number and value of checks not cashed, the amounts
6 distributed to each cy pres recipient, the administrative costs, the attorneys' fees and costs, the
7 attorneys' fees in terms of percentage of the settlement fund, and the multiplier, if any. Within
8 twenty-one (21) calendar days after the distribution of the settlement funds and payment of attorneys'
9 fees, Class Counsel shall be responsible for filing the Post-Distribution Accounting with the Court
10 and the Settlement Administrator shall be responsible for posting the Post-Distribution Accounting
11 on the settlement website.

12 **O. Payroll Deductions And Taxes**

13 81. For each Class Member who receives an Individual Settlement Award under this
14 Settlement Agreement, the Settlement Administrator will issue:

15 (a) A W-2 Form on which the wage portion of the Individual Settlement Award
16 shall be reported, and which will reflect all payroll deductions required by state and federal
17 law; and

18 (b) A 1099 Form on which the penalties and interest of portion of the Individual
19 Settlement Award shall be reported.

20 82. The Parties agree and understand that Defendants have not made any representations
21 regarding the tax obligations or consequences, if any, related to this Settlement Agreement. The
22 Parties agree that Defendants and each Class Member are solely responsible for determining the tax
23 consequences of payments made pursuant to this Settlement Agreement and for paying taxes, if any,
24 which are determined to be owed by each of them on such payments (including penalties and interest
25 related thereto) by any taxing authority, whether state, local, or federal.

26 **P. Other Provisions**

27 83. Voiding the Settlement Agreement. A failure of the Court to approve any material
28 condition of this Settlement Agreement which effects a fundamental change of the terms of the

1 settlement shall render the entire Settlement Agreement voidable and unenforceable as to Plaintiffs
2 and Defendants, at the option of any Party; however, the Parties understand and agree that this
3 provision does not apply to the Court's final decision following an appeal, if any, for Administrative
4 Costs to the Settlement Administrator, Service Awards to the Named Plaintiffs, or Attorneys' Fees
5 and Costs to Class Counsel. Any Party may exercise its option to void this Settlement Agreement as
6 provided above by giving notice, in writing, to all other Parties and to the Court at any time prior to
7 Final Approval.

8 84. At the sole discretion of Defendants, if more than five percent (5%) of the Class
9 submits timely and valid requests for exclusion pursuant to the terms and procedures of the Notice of
10 Settlement, this entire Settlement Agreement shall become voidable and unenforceable as to Plaintiffs
11 and Defendants, if Defendants provide notice under this provision. The Settlement Administrator
12 shall report the number and percentage of Class Members who submit timely and valid requests for
13 exclusion within seven (7) calendar days following the opt-out deadline. Defendants may exercise
14 such option to void the Settlement Agreement by giving notice, in writing, to Class Counsel not more
15 than fourteen (14) calendar days following the opt-out deadline. In the event Defendants choose to
16 exercise this option, they are required to pay all settlement administration costs incurred through such
17 date.

18 85. This Settlement Agreement is contingent on approval of class certification under Rule
19 23 of the Federal Rules of Civil Procedure for settlement purposes only. Defendants expressly reserve
20 their rights to challenge the propriety of class certification or representative treatment for any other
21 purpose should the Court not approve the Settlement.

22 **Q. Notices**

23 86. Except for Class Member notices, which are required herein to be made to or by the
24 Settlement Administrator, all notices, requests, demands and other communications related to or in
25 connection with this Settlement Agreement shall be in writing, and shall be provided by appropriate
26 method depending on the urgency (e.g., personal delivery, facsimile, overnight delivery, or first-class
27 U.S. mail) to:

1 **TO PLAINTIFFS AND THE CLASS: TO DEFENDANTS:**

2 Jay Smith
3 Joshua F. Young
4 GILBERT & SACKMAN
5 A Law Corporation
6 3699 Wilshire Boulevard, Suite 1200
7 Los Angeles, California 90010
8 Telephone: (323) 938-3000
9 Fax: (323) 937-9139

Carolyn Burnette
Nathan W. Austin
Sander van der Heide
JACKSON LEWIS P.C.
400 Capital Mall, Suite 1600
Sacramento, CA 95814
Telephone: (916) 341-0404
Fax: (916) 341-0141

6 Randy Renick
7 Cornelia Dai
8 HADSELL STORMER RENICK &
9 DAI, LLP
10 128 N. Fair Oaks Avenue
11 Pasadena, California 91103
12 Tel: (626) 585-9600
13 Fax: (626) 577-7079

11 **R. Mutual And Full Cooperation**

12 87. Plaintiffs, Defendants, Class Counsel, and Defense Counsel agree to fully cooperate
13 with each other to accomplish the approval by the Court of the terms of this Settlement Agreement,
14 including, but not limited to, execution of such documents and to take such other action as may
15 reasonably be necessary to implement the terms herein. The Parties agree to use their best efforts,
16 including all efforts contemplated by this Settlement Agreement, and any other efforts that may
17 become necessary by Order of the Court, or otherwise, to effectuate this Settlement Agreement.

18 88. The Parties agree that they will not attempt to encourage any Class Members to object
19 to the proposed settlement or to opt out. Plaintiffs and Class Counsel will make every reasonable
20 effort to accurately explain the benefits of this Settlement Agreement in response to any questions
21 from any Class Member.

22 **S. No Admission Of Liability**

23 89. Nothing herein shall constitute any admission by any of the Defendants of wrongdoing
24 or liability or of the truth of any factual allegations in the Class Action. Nothing herein shall
25 constitute an admission by any of the Defendants that the Class Action was properly brought as a
26 class or representative action other than for settlement purposes. To the contrary, Defendants, and
27 each of them, have denied and continue to deny each and every material factual, procedural, and/or
28 legal allegation and alleged claim asserted in the Class Action. To this end, the settlement of the

1 Class Action, the negotiation and execution of this Settlement Agreement, and all acts performed or
2 documents executed pursuant to or in furtherance of this Settlement Agreement or the settlement are
3 not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing
4 or liability on the part of Defendants, or any of them, or of the truth of any of the factual allegations
5 in the operative complaints, and are not, shall not be deemed to be, and may not be used as, an
6 admission or evidence of any fault or omission on the part of Defendants, or any of them, in any civil,
7 criminal or administrative proceeding in any court, administrative agency or other tribunal.

8 **T. Binding Nature Of Settlement Agreement**

9 90. This Settlement Agreement shall be binding upon, and inure to the benefit of, the
10 successors or assigns of the Released Parties. The Named Plaintiffs and the Class Members
11 represent, covenant, and warrant that they have not, directly or indirectly, assigned, transferred, or
12 encumbered any claim, demand, action, cause of action, or rights released in this Settlement
13 Agreement. This Settlement Agreement may be pleaded as a full and complete defense to any action,
14 suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of or contrary to
15 this Settlement Agreement.

16 91. This Settlement Agreement may be amended or modified only by a written instrument
17 specifically referencing this Settlement Agreement signed by Class Counsel and the Named
18 Plaintiffs, as well as Defense Counsel and Defendants. No rights under this Settlement Agreement
19 may be waived except in writing.

20 92. This Settlement Agreement and any attached exhibits constitute the entire Settlement
21 Agreement between the Named Plaintiffs, Class Members, and Defendants relating to the terms
22 contained herein. All prior or contemporaneous settlement agreements, understandings, and
23 statements, whether oral or written, whether express or implied, and whether by a Party or its
24 counsel, are merged herein. No oral or written representations, warranties, or inducements have been
25 made to any Party concerning this Settlement Agreement or its exhibits other than the
26 representations, warranties, and covenants contained and memorialized in such documents.

27 93. Paragraph titles or captions contained herein are inserted as a matter of convenience
28 and for reference, and in no way define, limit, extend, or describe the scope of this Settlement

1 Agreement or any of its provisions. Each term of this Settlement Agreement is intended to be
2 contractual and not merely a recital.

3 **U. Invalid Provisions**

4 94. If any provision of this Agreement is determined to be invalid or unenforceable, all of
5 the other provisions shall remain valid and enforceable notwithstanding, unless the provision found to
6 be unenforceable is of such material effect that the Agreement cannot be performed in accordance
7 with the intent of the Parties in the absence thereof.

8 **V. Dispute Resolution**

9 95. Except as authorized herein, all disputes concerning the interpretation,
10 implementation, calculation, or payment of the Settlement Amount or other disputes regarding
11 compliance with this Settlement Agreement will be resolved by the Court.

12 **W. Restriction On Publicity**

13 96. Class Counsel and Plaintiffs agree that they will not issue any press release or press
14 statement, initiate media coverage, or respond to any media inquiries regarding any of the Released
15 Claims against Defendants or the Released Parties, or this Settlement Agreement. Class Counsel
16 agrees to limit its communications with Class Members to issues related to the lawsuit and its
17 resolution.

18 **X. Governing Law And Joint Drafting Of Settlement Documents**

19 97. All terms of this Settlement Agreement and related documents shall be governed by
20 and interpreted according to the laws of the State of California, without respect to choice of law
21 provisions of any state.

22 98. Class Counsel and Defense Counsel have arrived at this Settlement Agreement as a
23 result of a series of arm's-length negotiations, taking into account all relevant factors, present and
24 potential.

25 99. This Settlement Agreement has been drafted jointly by Class Counsel and Defense
26 Counsel and, therefore, in any construction or interpretation of this Settlement Agreement, the same
27 shall not be construed against any of the Parties.

1 100. The Named Plaintiffs, Class Members, and Class Counsel agree that none of the
2 documents marked confidential and provided to them by Defendants shall be used for any purpose
3 other than the prosecution and settlement of the Class Action. Specifically, none of the documents
4 marked confidential shall be used to pursue any subsequent claims or litigation against Defendants or
5 the Released Parties. Class Counsel will destroy all confidential information and documents provided
6 by Defendant or the Settlement Administrator within sixty (60) days after the Effective Date.

7 **Y. Counterparts**

8 101. This Agreement may be executed in one or more counterparts and by scanned copies
9 or facsimile. All executed counterparts, and each of them, shall be deemed to be one and the same
10 instrument. Once available, a complete set of executed counterparts shall be filed with the Court. All
11 executed copies of this Settlement Agreement and photocopies thereof (including facsimile and/or
12 emailed copies of the signature pages) shall have the same force and effect and shall be as legally
13 binding and enforceable as the original.

14 **Z. Parties' Authority**

15 102. The signatories hereto represent that they are fully authorized to enter into this
16 Settlement Agreement and are fully authorized to bind the Named Plaintiffs, Class Members, and
17 Defendants to all terms stated herein.

18 Dated: 3/9/2021

DocuSigned by:
Jason Craig
0C40FF38C1224FA
Plaintiff Jason Craig

20 Dated: 3/9/2021

DocuSigned by:
Michael Ross
00017792298A4486
Plaintiff Michael Ross

23 Dated: _____

24 By: _____

25 Title: _____
26 Authorized Signatory for Dow Agrosiences LLC

1 100. The Named Plaintiffs, Class Members, and Class Counsel agree that none of the
2 documents marked confidential and provided to them by Defendants shall be used for any purpose
3 other than the prosecution and settlement of the Class Action. Specifically, none of the documents
4 marked confidential shall be used to pursue any subsequent claims or litigation against Defendants or
5 the Released Parties. Class Counsel will destroy all confidential information and documents provided
6 by Defendant or the Settlement Administrator within sixty (60) days after the Effective Date.

7 **Y. Counterparts**

8 101. This Agreement may be executed in one or more counterparts and by scanned copies
9 or facsimile. All executed counterparts, and each of them, shall be deemed to be one and the same
10 instrument. Once available, a complete set of executed counterparts shall be filed with the Court. All
11 executed copies of this Settlement Agreement and photocopies thereof (including facsimile and/or
12 emailed copies of the signature pages) shall have the same force and effect and shall be as legally
13 binding and enforceable as the original.

14 **Z. Parties' Authority**

15 102. The signatories hereto represent that they are fully authorized to enter into this
16 Settlement Agreement and are fully authorized to bind the Named Plaintiffs, Class Members, and
17 Defendants to all terms stated herein.

18 Dated:

19 _____
Plaintiff Jason Craig

20 Dated:

21 _____
Plaintiff Michael Ross

22
23 Dated:

24 
25 _____
26 Cornel Fuerer (Mar 16, 2021 15:31 EDT)

27 By: Cornel Fuerer

28 Title: SVP, General Counsel & Secretary

Authorized Signatory for Corteva
Agriscience LLC f/k/a Dow Agrosiences LLC

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Hadsell Stormer Renick & Dai LLP



Dated:
3/11/2021

Randy Renick
Counsel for Plaintiffs Jason Craig and Michael Ross

Gilbert & Sackman, A Law Corporation

Dated:

Joshua F. Young
Counsel for Plaintiffs Jason Craig and Michael Ross

Jackson Lewis P.C.

Dated:

Carolyn G. Burnette
Nathan W. Austin
Sander van der Heide
Counsel for Defendants Dow Agrosiences LLC and The Dow
Chemical Company

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Hadsell Stormer Renick & Dai LLP

Dated:

Randy Renick
Counsel for Plaintiffs Jason Craig and Michael Ross

Gilbert & Sackman, A Law Corporation

Dated: March 9, 2021



Joshua F. Young
Counsel for Plaintiffs Jason Craig and Michael Ross

Jackson Lewis P.C.

Dated:

Carolyn G. Burnette
Nathan W. Austin
Sander van der Heide
Counsel for Defendants Dow Agrosciences LLC and The Dow
Chemical Company

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Hadsell Stormer Renick & Dai LLP

Dated:

Randy Renick
Counsel for Plaintiffs Jason Craig and Michael Ross

Gilbert & Sackman, A Law Corporation

Dated:

Joshua F. Young
Counsel for Plaintiffs Jason Craig and Michael Ross

Jackson Lewis P.C.

Dated: 3/16/21



Carolyn G. Burnette
Nathan W. Austin
Sander van der Heide
Counsel for Defendants Dow Agrosiences LLC and The Dow
Chemical Company

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

Plaintiffs Jason Craig and Michael Ross, individually and on behalf of all similarly situated current and former employees (collectively “Plaintiffs”), v. Defendants Dow Agrosociences, LLC and The Dow Chemical Co. (“Defendants”)

United States District Court
Northern District of California
No. 3:19-cv-07923-JCS

TO: All current and former hourly employees of Defendants who worked a 12-hour rotating shift at the chemical manufacturing plant in Pittsburg, California from December 3, 2015 to [INSERT DATE OF PRELIMINARY APPROVAL ORDER]:

**YOUR RIGHTS MIGHT BE AFFECTED BY PROCEEDINGS IN THE ABOVE CASE.
PLEASE READ THIS NOTICE CAREFULLY.**

WHY SHOULD YOU READ THIS NOTICE?

A proposed settlement (the “Settlement”) has been reached in the class action lawsuit currently pending in the United States District Court for the Northern District of California, entitled *Jason Craig et al., v. Corteva, Inc., E.I. Du Pont De Nemours & Company, Dow Agrosociences LLC, The Dow Chemical Co., Dowdupont, Inc. n/k/a Dupont De Nemours, Inc., Dow Inc.*, Case No. 3:19-cv-07923-JCS (the “Class Action”). If the court approves the Settlement, the Settlement will resolve all claims in the Class Action.

The purpose of this Notice is to inform you about the proposed Settlement and to explain your rights and options with respect to the Class Action and the Settlement.

HOW MUCH IS MY SHARE OF THE SETTLEMENT?

Defendants’ records indicate you worked the following number of Workweeks from December 3, 2015 to [INSERT DATE OF PRELIMINARY APPROVAL ORDER]: [insert]

“Workweeks” shall mean the number of weeks worked by a Class Member during the Class Period while assigned a 12-hour rotating shift at the Pittsburg, California manufacturing plant.

Your share of the Settlement before the deduction for taxes and other withholdings is currently estimated to be: [\$insert], based on your having worked [] Workweeks during the period covered by the Settlement.

WHAT IS THE CURRENT STATUS OF THE SETTLEMENT?

A hearing concerning the fairness of the Settlement will be held before the Hon. Joseph C. Spero, on [DATE OF FINAL APPROVAL HEARING] at [Time] at the following address: United States District Court, Northern District of California, San Francisco Courthouse, Courtroom F – 15th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102, to determine whether the case should be settled under the Settlement’s terms.

BECAUSE YOU HAVE BEEN IDENTIFIED AS A MEMBER OF THE CLASS, YOU DO NOT NEED TO DO ANYTHING TO BE ELIGIBLE TO RECEIVE A PAYMENT UNDER THE SETTLEMENT.

WHO IS AFFECTED BY THIS PROPOSED SETTLEMENT?

The Court has certified, for settlement purposes, the following class (the “Class”):

All current and former hourly employees of Defendants who worked a 12-hour rotating shift at the chemical manufacturing plant in Pittsburg, California, for the period December 3, 2015 through preliminary approval of the Settlement.

According to Defendants’ records, you are a member of the Class (“Class Member”).

WHAT IS THIS CASE ABOUT?

Plaintiffs allege that Defendants violated California’s wage and hour laws by failing to provide the employees at their chemical manufacturing plant located in Pittsburg, California, (the “Pittsburg Plant”) with duty-free meal periods and not authorizing and permitting rest periods, as required by California Labor Code section 226.7 and Industrial Wage Commission (“IWC”) Wage Order 1-2001. Plaintiffs contend that the Pittsburg Plant operates continuously, 365 days a year and 24 hours per day.

Plaintiffs contend certain employees, principally Operators, who are scheduled to work 12-hour shifts (“12-hour shift employees”), are required to monitor their units, are on-duty throughout their entire shifts, and as a matter of policy are not allowed to take duty-free meal or rest periods. Plaintiffs allege that during the shift, the workers are required to carry a radio, monitor equipment, respond to calls, and are accountable for monitoring and operation of the production process throughout the shift without a designated or uninterrupted meal or rest period.

Plaintiffs allege that by failing to permit and allow their 12-hour shift workers to take duty free meal and rest periods, Defendants have also violated the Private Attorneys General Act, Labor Code 2698 et seq., and engaged in unfair business practices pursuant to Business & Professions Code §17200 et seq. Plaintiffs have not filed a motion for class certification in this action.

Defendants expressly deny any liability or wrongdoing of any kind whatsoever associated with the case and Defendants contend that they have complied with all applicable state, federal and local laws affecting Plaintiff and the Class. Defendants are confident they have strong legal and factual defenses to these claims, but all Parties recognize the risks and expenses associated with continued litigation.

This Settlement is the result of good faith, arm’s length negotiations between Plaintiffs, who are the Class Representatives, and Defendants, through their respective attorneys. All Parties agree that in light of the risks and expenses associated with continued litigation, the Settlement is fair and appropriate under the circumstances, and in the best interests of the Class Members.

The Court has not yet ruled on the merits of the Class Representatives’ claims or Defendants’ defenses. The Settlement is a compromise and is not an admission of liability on the part of Defendants.

WHO ARE THE ATTORNEYS REPRESENTING THE PARTIES?

The lead attorneys for the Class Representatives in the Class Action (“Class Counsel”) are:

Jay Smith Joshua F. Young GILBERT & SACKMAN A Law Corporation 3699 Wilshire Boulevard, Suite 1200 Los Angeles, California 90010 Telephone: (323) 938-3000 Fax: (323) 937-9139	Randy Renick Cornelia Dai HADSELL STORMER RENICK & DAI LLP 128 N. Fair Oaks Avenue Pasadena, California 91103 Tel: (626) 585-9600 Fax: (626) 577-7079
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The attorneys for Defendants are:

Carolyn G. Burnette Nathan W. Austin Sander van der Heide JACKSON LEWIS 400 Capitol Mall, Suite 1600 Sacramento, California 95814 Telephone: (916) 341-0404 Fax: (916) 341-0141 Attorneys for Defendants DOW AGROSCIENCES, LLC and THE DOW CHEMICAL CO.

WHAT ARE THE SETTLEMENT TERMS?

Subject to final Court approval, Defendants will pay a total of \$3,800,000 (the “Settlement Amount”) for: (a) Class Members’ claims, to be allocated based on the number of Workweeks worked as 12-hour shift employees during the Class Period; (b) PAGA penalties of \$40,000, seventy-five percent (75%) of which (\$30,000) will be paid to the California Labor and Workforce Development Agency (“LWDA”), and the remaining twenty-five percent (25%) of which (\$10,000) will be distributed among Class Members who do not opt out of the Class in proportion to their share of the settlement; (c) Court-approved Service Awards to the Class Representatives; (d) Court-approved Class Counsel’s fees and costs; and (e) Court-approved costs of administering the Settlement.

CLASS MEMBERS’ CLAIMS.

The portion of the Settlement Amount available for distribution to Class Members (the “Net Settlement Proceeds”) will be calculated by deducting from the Settlement Amount: (a) Payment to the LWDA for PAGA penalties; (b) the Class Representatives’ Court-approved Service Awards; (c) Court-approved Class Counsel’s fees and costs; and (d) Court-approved costs of administering the Settlement. Each Class Member who does not timely request to opt out of the Settlement will receive his or her share of the Net Settlement Proceeds (“Individual Settlement Award”) based on the number of Workweeks they worked during the Class Period. The Class Period began December 3, 2015 and ended on [date of Preliminary Approval].

The amount of each Class Member’s Individual Settlement Award will be determined as follows:

The Settlement Administrator will calculate the number of Workweeks, excluding leaves, worked by the Class Members during the Class Period, by dividing the total days employed as a Class Member during the Class Period by seven (7). Partial Workweeks will not be counted; however, if a Class Member worked less than one week as a Class Member, such Class Member will be credited with having worked one Workweek for purposes of the Settlement.

The amount to be paid per Workweek to Class Members will be calculated by dividing the Net Settlement Amount by the total number of Workweeks for all Class Members. Class Members will be paid their pro rata share based on the number of Workweeks credited to them.

For income and payroll tax purposes, each Class Member's Individual Settlement Award will be allocated as follows: twenty percent (20%) to unpaid wages, forty percent (40%) to penalties, and forty percent (40%) to interest. The portions allocated to penalties and to interest will be subject to tax but will not be subject to required withholdings and deductions, and will be reported as non-wage income, as required by law.

In addition to the Settlement Amount, Defendants will pay the employer's share of payroll taxes.

Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member. None of the Parties or Parties' attorneys make any representations concerning the tax consequences of the Settlement or your participation in it. Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Members are solely responsible for determining the tax consequences of payments made pursuant to the Settlement and for paying taxes, if any, which are determined to be owed by each of them on such payments (including penalties and interest related thereto) by any taxing authority, whether state, local, or federal.

Class Counsel's Attorneys' Fees and Costs, Class Representative Service Award, and Administrative Costs. Plaintiffs will seek an award of attorney's fees up to 25% (\$950,000) of the \$3,800,000 Settlement Amount, as well as the reimbursement of costs of approximately \$30,000.

In addition, Class Counsel will ask the Court to authorize Service Awards of up to \$5,000 to each of the two Class Representatives, in addition to the Individual Settlement Awards they will receive as Class Members, for their services in representing the Class in the Class Action.

The Parties estimate the cost of administrating the Settlement, including but not limited to giving notice to the Class, calculating the Individual Settlement Awards, and making the payments authorized under the Settlement, will be less than \$10,000. Class Counsel will ask the Court to authorize those costs to be paid to the Settlement Administrator.

Plaintiffs' Motion for Attorneys' Fees and Reimbursement of Costs will be available for review at least fourteen days prior to the deadlines for Class Members to opt out or object to the Settlement.

WHAT CLAIMS ARE BEING RELEASED BY THE PROPOSED SETTLEMENT?

Upon Final Approval of the Settlement by the Court, the Class and each Class Member, including each Plaintiff jointly, severally, shall fully release and discharge Defendants and Released Parties from the Released Claims.

“Released Parties” shall collectively mean: (i) Dow Agrosiences, LLC and The Dow Chemical Company (“Defendants”); (ii) each of Defendants’ past, present, and future direct and indirect parents, including, but not limited to, Dow, Inc., DowDuPont, Inc. n/k/a/ DuPont De Nemours, Inc., E.I. Du Pont De Nemours & Company, and Corteva, Inc.; (iii) the respective past, present, and future direct and indirect subsidiaries and affiliates of any of the foregoing; (iv) the past, present, and future shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors and assigns of any of the foregoing; and (v) any individual or entity which could be jointly liable with any of the foregoing.

“Released Claims” shall include all claims under state, federal and local law that were or could have been asserted based on the facts and allegations made in the Action, and any amendments thereto, as to the Class Members, including without limitation, California Labor Code sections 218.5, 226.7, 512, 558, and 2698, *et seq.*, California Industrial Commission Wage Orders, and Business and Professions Code sections 17200, *et seq.*, and including all claims for or related to meal periods and meal period premiums, rest periods and rest period premiums, on duty meal period agreements, failure to pay additional 401(k) benefits and/or deferred compensation benefits and/or matching benefits for payments received under the Settlement, unfair competition, unfair business practices, unlawful business practices, fraudulent business practices, conversion, class actions, representative actions, aggrieved party claims, injunctive relief, declaratory relief, accounting, punitive damages, liquidated damages, penalties of any nature (including but not limited to civil penalties, statutory penalties, and PAGA penalties), interest, fees, costs, as well as all other claims and allegations alleged in the Action, during the Class Period.

WHAT ARE MY OPTIONS IN THIS MATTER?

You have three options under this Settlement, each of which is discussed below. You may: (A) do nothing, remain in the Class, and receive your share of the Settlement; (B) challenge the number of Workweeks indicated on the first page of this Notice while remaining in the Class so that you can receive your share of the Settlement; or (C) exclude yourself from the Class and from the Settlement. If you choose option (A) or (B), you may also object to the Settlement as explained below.

If you remain in the Class, you will be represented at no cost by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the Settlement. If you do not timely exclude yourself from the Settlement (Option C), you will be subject to any Judgment that will be entered in the Class Action, including the release of the Released Claims as described above—whether or not you cash your share of the Settlement.

OPTION A. If you agree with the number of Workweeks indicated at the top of this Notice, and you wish to participate in the Settlement, you need not take any further action. If you wish to remain in the Class and be eligible to receive a payment under the Settlement, you do not need to take any action. If this settlement receives the Court’s final approval, a check will be sent to you at the address on this Notice.

OPTION B. If you DO NOT agree with the number of Workweeks indicated at the top of this Notice, but you DO wish to participate in the Settlement, you must take the following action: Complete and send a letter entitled “Notice of Dispute” to the Settlement Administrator at the address listed below explaining that you dispute the total, together with any supporting written documentation.

Such documentation may consist of official records, pay stubs, weekly schedules, or personal logs. To be considered, the Notice of Dispute and supporting written documentation must be received by the Settlement Administrator no later than [45 DAYS AFTER THE POSTMARK DATE OF THE SETTLEMENT NOTICE]. The Settlement Administrator will make a final and binding determination regarding any disputes. The Settlement Administrator will inform you of the final determination in writing. If the Settlement receives the Court's final approval, your Settlement payment check will be sent to you at the address on this Notice.

OPTION C. If You Do Not Want to Be Bound by The Settlement. If you do not want to be part of the Settlement, you must submit a signed written request to be excluded from the Settlement entitled ("Opt Out Request") to the Settlement Administrator, at the address listed below. If the Opt Out Request is sent from within the United States, it must be sent through the United States Postal Service by First-Class U.S. Mail, or the equivalent. In order to be valid, your Opt Out Request must be postmarked on or before [60 DAYS AFTER THE POSTMARK DATE OF THE SETTLEMENT NOTICE].

If you do not timely submit an executed Opt Out Request (as evidenced by the postmark), your Opt Out Request will be rejected, you will be deemed a Class Member, and you will be bound by all Settlement terms, including but not limited to the release of Released Claims as described in the "What Claims are Being Released by the Proposed Settlement?" section above.

If you timely submit an executed Opt Out Request, you will have no further role in the Class Action, and for all purposes, you will be regarded as if you never were either a party to the Action or a Class Member, and thus you will not be entitled to any benefit as a result of the Class Action and will not be entitled to or permitted to assert an objection to the Settlement.

Who is the Settlement Administrator?

The Settlement Administrator is:

[CAC Services Group, LLC of Eden Prairie Minnesota
INSERT AND ADDRESS AND CASE ASSIGNED TELEPHONE NUMBER]

Objecting to the Settlement: If you believe the Settlement is unfair or inadequate in any respect, you can ask the Court to deny approval by filing a timely objection. You cannot ask the Court to order a larger or different settlement; the Court can only approve or disapprove the Settlement. If the Court denies approval, no settlement payments will be made, and the Class Action will continue. **You cannot object to the Settlement if you request exclusion from the Settlement** as provided under Option C, above.

All written objections and supporting papers must:

- (a) Clearly identify the case name and number (Jason Craig et al., v. Corteva, Inc., E.I. Du Pont De Nemours & Company, Dow Agrosciences LLC, The Dow Chemical Co., Dowdupont, Inc. n/k/a Dupont De Nemours, Inc., Dow Inc., Case No. 3:19-cv-07923-JCS) and your name;
- (b) Be submitted to the Court either by mailing them to the Clerk, United States District Court for the Northern District of California, San Francisco Courthouse, Courtroom F – 15th Floor 450 Golden Gate Avenue, San Francisco, CA 94102, or by filing them in person at any

location of the United States District Court for the Northern District of California; and

(c) Be filed or postmarked on or before [60 DAYS AFTER THE POSTMARK DATE OF THE SETTLEMENT NOTICE].

Any objection to the proposed settlement must be in writing. If you submit a timely 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.

Your objection must clearly state: 1) a statement of reasons why you believe the Court should find that the Settlement is not in the best interest of the Class; and 2) the reasons why the Court should not approve the Settlement.

Any Class Member who does not object to the Settlement in the manner described above shall be deemed to have waived any objections and shall be foreclosed from objecting to the fairness or adequacy of the Settlement, the payment of attorneys' fees and costs, the Service Awards to the Class Representatives, the claims process, and any and all other aspects of the Settlement.

Likewise, even if you file an objection, you will be bound by the terms of the Settlement, including applicable releases as set forth above, unless the Court does not finally approve the Settlement.

WHAT IS THE NEXT STEP IN THE APPROVAL OF THE SETTLEMENT?

The Court will hold a Final Approval Hearing on the fairness and adequacy of the Settlement, the plan of distribution, Class Counsel's request for attorneys' fees and costs, the settlement administration costs, and the Service Awards to the Class Representatives on [DATE OF FINAL APPROVAL HEARING] at [] .m. in the United States District Court, Northern District of California, San Francisco Courthouse, Courtroom F – 15th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102.

The Final Approval Hearing may be continued without further notice to Class Members. You are advised to check the Settlement website at [INSERT LINK TO WEBSITE PROVIDED BY ADMINISTRATOR] or the Court's Public Access to Court Electronic Records (PACER) website at <https://www.cand.uscourts.gov/cm-ecf> site to confirm that the Final Approval Hearing date and/or time has not been changed. You are not required to attend the Final Approval Hearing to receive your share of the Settlement.

HOW CAN I GET ADDITIONAL INFORMATION?

This Notice only summarizes the Class Action, the basic terms of the Settlement, and other related matters. For the precise terms and conditions of the Settlement, please see the Joint Stipulation of Class Action Settlement and Release, available at [INSERT LINK TO WEBSITE PROVIDED BY CAC Services Group, LLC], by contacting class counsel, at the address and telephone number listed above, by accessing the Court docket in this case through PACER at <https://ecf.cand.uscourts.gov>, or by visiting the Clerk of the United States District Court, Northern District of California, San Francisco Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding court holidays.

The Joint Stipulation of Class Action Settlement and Plaintiffs' Motion for Attorneys' Fees and Reimbursement of Costs will be available for review after [15 days prior to Objection/Opt-Out Deadline at [\[INSERT LINK TO WEBSITE PROVIDED\]](#)].

Any questions regarding this Notice should be directed to the Settlement Administrator or to Class Counsel at the above addresses and telephone numbers.

WHAT HAPPENS IF MY ADDRESS HAS CHANGED OR CHANGES?

Your payment will be sent to the address on this Notice. Therefore, if your address changes or is different from the one this Notice was sent to, you must correct it by notifying the Settlement Administrator in writing, by First-Class U.S. Mail.

**PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE,
BY ORDER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA.**

EXHIBIT B

1 RANDY RENICK (SBN 179652)
(Email: rrr@hadsellstormer.com)
2 CORNELIA DAI (SBN 207435)
(Email: cdai@hadsellstormer.com)
3 ELIZABETH SONG (SBN 326616)
(Email: esong@hadsellstormer.com)
4 HADSELL STORMER RENICK & DAI LLP
128 North Fair Oaks Avenue, Suite 204
5 Pasadena, California 91103-3645
Telephone: (626) 585-9600
6 Fax: (626) 577-7079

7 Attorneys for Plaintiffs
8 JASON CRAIG and MICHAEL ROSS

9 *[Additional Counsel on next page]*

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

13 JASON CRAIG and MICHAEL ROSS,
14 individually and on behalf of all similarly
situated current and former employees,

15 Plaintiffs,

16 v.

17 CORTEVA, INC., E.I. DU PONT DE
18 NEMOURS & COMPANY, DOW
19 AGROSCIENCES LLC, THE DOW
CHEMICAL CO., DOWDUPONT, INC.
20 n/k/a DUPONT DE NEMOURS, INC., DOW
INC., and DOES 1 through 10, inclusive,

21 Defendants.
22

Case No.: 3:19-cv-07923-JCS

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
SETTLEMENT AGREEMENT**

Judge: Hon. Joseph C. Spero,
Chief Magistrate Judge

Complaint Filed: 12/03/2019

Trial Date: Not set

Date;

Time:

Courtroom:

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JAY SMITH (SBN 166105)
(Email: js@gslaw.org)
JOSHUA F. YOUNG (SBN 232995)
(Email: jyoung@gslaw.org)
GILBERT & SACKMAN
A LAW CORPORATION
3699 Wilshire Boulevard, Suite 1200
Los Angeles, California 90010
Telephone: (323) 938-3000
Fax: (323) 937-9139

Attorneys for Plaintiffs
JASON CRAIG and MICHAEL ROSS

1 **[PROPOSED] ORDER**

2 On December 3, 2019, Plaintiffs filed their complaint against Defendants in *Jason*
3 *Craig et al., v. Corteva, Inc., E.I. Du Pont De Nemours & Company, Dow Agrosciences*
4 *LLC, The Dow Chemical Co., DowDupont, Inc. n/k/a Dupont De Nemours, Inc., Dow*
5 *Inc.*, Case No. 3:19-cv-07923-JCS, in the United States District Court for the Northern
6 District of California (the “Complaint” in the “Class Action”). The Complaint alleges
7 the following causes of action: (1) failure to authorize and permit duty-free rest periods;
8 (2) failure to provide meal periods; (3) the California Private Attorneys General Act;
9 and (4) unfair competition. Plaintiffs seek unpaid wages, statutory penalties, restitution,
10 attorneys’ fees and costs, interest, and injunctive and declaratory relief for the time
11 period from December 3, 2015 to the present.

12 Following an extensive investigation and arm’s-length and good-faith
13 negotiations during a mediation with Steve Pearl on August 17, 2020, Plaintiffs and
14 Defendants (collectively, “the Parties”) reached a tentative settlement agreement, which
15 was subsequently reduced to writing and has been filed with this Court.

16 Plaintiffs move for this Court to:

- 17 1. Preliminarily approve the class action settlement for \$3,800,000;
- 18 2. Preliminarily and conditionally certify the class for purposes of settlement;
- 19 3. Preliminarily appoint Plaintiffs Jason Craig and Michael Ross as class
20 representatives for purposes of settlement;
- 21 4. Preliminarily appoint Hadsell Stormer Renick & Dai LLP and Gilbert &
22 Sackman, A Law Corporation, as class counsel for purposes of settlement;
- 23 5. Preliminarily approve the application for payment to class counsel of
24 reasonable attorneys’ fees of up to \$950,000 (25% of the common fund) and reasonable
25 costs up to \$30,000;
- 26 6. Preliminarily approve the payment of a “service award” in the amount of
27 \$5,000 to each of the two class representatives;
- 28 7. Approve as to form and content the Proposed Notice of Class Action

1 Settlement;

2 8. Direct that the Notice of Class Action Settlement be mailed to the
3 Settlement Class members; and

4 9. Schedule a fairness hearing on the question of whether the proposed
5 settlement should be finally approved as fair, reasonable, and adequate as to the
6 members of the Settlement Class.

7 That motion came on regularly for hearing before this Court on _____, at
8 _____ a.m., in the United States District Court, Northern District of California, San
9 Francisco Courthouse, Courtroom F – 15th Floor.

10 The Court, having received and fully considered Plaintiffs’ notice, motion and
11 memorandum of points and authorities, the Settlement, the proposed Settlement
12 Documents, which includes the Notice of Class Action Settlement and exhibits thereto,
13 and the oral argument presented to the Court, and in recognition of the Court’s duty to
14 make a preliminary determination as to the reasonableness of any proposed class-action
15 settlement and to conduct a fairness hearing as to the good faith, fairness, adequacy and
16 reasonableness of any proposed settlement, **HEREBY ORDERS and MAKES**
17 **DETERMINATIONS** as follows:

18 1. All defined terms contained herein shall have the same meaning as set forth
19 in the Joint Stipulation of Class Action Settlement and Release (hereinafter
20 “Stipulation” or “Settlement”) executed by the Parties and filed with this Court.

21 2. The Court finds that certification of the following class for purposes of
22 settlement is appropriate: All current and former hourly employees of Defendants who
23 worked a 12-hour rotating shift at the chemical manufacturing plant in Pittsburg,
24 California, for the period December 3, 2015 through preliminary approval of the
25 Settlement.

26 3. The Court appoints Plaintiffs Jason Craig and Michael Ross as class
27 representatives for purposes of settlement.

28 4. The Court appoints Hadsell Stormer Renick & Dai LLP and Gilbert &

1 Sackman, A Law Corporation, as class counsel for purposes of settlement.

2 5. Federal Rule of Civil Procedure 23(e) requires court approval of a class
3 action settlement. Approval is a two-step process under Rule 23(e). “[T]he Court first
4 determines whether a proposed class action settlement deserves preliminary approval
5 and then, after notice is given to class members, whether final approval is warranted.”
6 *Noll v. eBay, Inc.*, 309 F.R.D. 593, 602 (N.D. Cal. 2015)(internal citations omitted); *see*
7 *also* Manual for Complex Litigation (Fourth) § 21.632 (courts “must make a
8 preliminary determination on the fairness, reasonableness, and adequacy of the
9 settlement terms and must direct the preparation of notice of the certification, proposed
10 settlement, and date of the final fairness hearing.”).

11 Preliminary approval of a settlement is appropriate when the settlement: (1) falls
12 within the range of possible approval; (2) appears to be the product of serious, informed,
13 non-collusive negotiations; (3) does not improperly grant preferential treatment to class
14 representatives or segments of the class; and (4) has no obvious deficiencies. *In re*
15 *Tableware Antitrust Litig.*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007). “Closer
16 scrutiny is reserved for the final approval hearing.” *Harris v. Vector Mktg. Corp.*, No.
17 C-08-5198 EMC, 2011 U.S. Dist. LEXIS 48878, at *24 (N.D. Cal. Apr. 29, 2011).

18 6. The Court has reviewed the Settlement and the proposed Settlement
19 Documents, which were separately lodged and are incorporated herein by reference.
20 The Court finds on a preliminary basis that the Settlement appears to be within the range
21 of reasonableness of a settlement which could ultimately be given final approval by this
22 Court. It appears to the Court on a preliminary basis that the settlement amount is fair
23 and reasonable to all potential class members when balanced against the probable
24 outcome of further litigation relating to liability and damages issues. Plaintiffs have
25 asserted violations of California labor and unfair competition laws. Defendant agrees to
26 a class settlement in the interest of compromising and resolving the Class Action. The
27 Parties recognize the risk involved in prosecuting and defending the Class Action
28 including significant delay, defenses asserted by Defendants, and further potential

1 appellate issues.

2 7. It further appears that the proposed Settlement has been reached as the
3 result of intensive, serious and non-collusive arm's-length negotiations. It further
4 appears that extensive investigation and research has been conducted such that counsel
5 for the Parties at this time are able to reasonably evaluate their respective positions.
6 Class Counsel have significant experience in wage and hour class actions. The
7 proposed Settlement was reached through extensive negotiations and with the
8 involvement of an experienced mediator, Steve Pearl.

9 8. It further appears that the proposed Settlement does not improperly grant
10 preferential treatment to class representatives and has no obvious deficiencies.

11 9. In connection with its preliminary approval of the Settlement, the Court
12 preliminarily approves the application for payment to class counsel of reasonable
13 attorneys' fees of up to \$950,000 (25% of the common fund) and reasonable costs up to
14 \$30,000.

15 10. In connection with its preliminary approval of the Settlement, the Court
16 preliminarily approves the payment of a "service award" in the amount of \$5,000 to
17 each of the two class representatives.

18 11. In connection with its preliminary approval of the Settlement, the Court
19 appoints CAC Services Group, LLC of Eden Prairie Minnesota, to act as the Settlement
20 Administrator who will administer the Settlement according to the terms of the
21 Stipulation, as approved by this Court.

22 **APPROVAL OF DISTRIBUTION OF THE NOTICE OF SETTLEMENT**

23 12. Rule 23(e) provides that a court "must direct notice in a reasonable manner
24 to all class members who would be bound by" a proposed class action settlement. Fed.
25 R. Civ. Pro. 23(e)(1). This Court finds the proposed Notice of Class Action Settlement,
26 which is attached hereto as Exhibit 1, fairly and adequately advises the potential class
27 members of the terms of the proposed Settlement, as well as the right of class members
28 to opt out of the class, to challenge the number of Workweeks reported by Defendants

1 from their records, to file documentation in objection to the proposed Settlement, and to
2 appear at the Final Approval Hearing to be conducted at the date set forth below. The
3 Court further finds that Notice of Class Action Settlement and proposed distribution of
4 such notice by first-class mail to each identified class member at his or her last known
5 address comports with all constitutional requirements, including those of due process.

6 13. Accordingly, good cause appearing, the Court hereby approves the
7 proposed Notice of Class Action Settlement and orders the Settlement Administrator to
8 distribute the Settlement Documents, in the manner and pursuant to the procedures
9 described in the Settlement.

10 14. If more than five percent (5%) of the Settlement Class submits timely and
11 valid requests for exclusion pursuant to the terms and procedures of the Notice of Class
12 Action Settlement, this entire Settlement Agreement shall become voidable and
13 unenforceable as to Plaintiffs and Defendants, at Defendants' sole discretion.
14 Defendants may exercise such option by giving notice, in writing, to Class Counsel and
15 to the Court at any time prior to final approval of this Settlement Agreement by the
16 Court.

17 **FINAL APPROVAL/FAIRNESS HEARING AND SCHEDULE**

18 15. The Court hereby grants the Plaintiffs' motion to set a fairness hearing for
19 final approval of the Settlement ("Final Approval/Fairness Hearing") and orders the
20 following schedule of dates for further proceedings:

- 21 a. Mailing of Settlement Documents to the class shall be completed on or
22 before [DATE] (15 calendar days after Defendants provide Class List to the
23 Settlement Administrator);
- 24 b. Posting of Plaintiffs' Motion for Attorney's Fees and Costs on the
25 Settlement Administrator's website 14 calendar days prior to the
26 Objection/Opt-Out deadline; and
- 27 c. The deadline for class members to file and submit objections and requests
28 for exclusion shall be [DATE] (60 calendar days from the mailing of the

1 Settlement Documents). The deadline for class members to file a dispute of
2 workweeks shall be [DATE] (45 Calendar days from the mailing of the
3 Settlement Documents).

4 16. The Final Approval/Fairness Hearing will be held on [date], at [time] a.m.
5 in the Courtroom of Chief Magistrate Judge Joseph C. Spero, United States District
6 Court, Northern District of California, San Francisco Courthouse, Courtroom F – 15th
7 Floor, 450 Golden Gate Avenue, San Francisco, CA 94102. Members of the class who
8 timely object to the proposed Settlement and gave notice of their intent to appear may
9 appear and present such objections at the Final Approval/Fairness Hearing in person or
10 by counsel. All written objections and supporting papers must be filed or postmarked
11 no later than the deadline set forth above.

12 17. Plaintiffs shall file a memorandum of points and authorities in support of
13 final approval of the Settlement two weeks prior to the hearing.

14 18. The Court expressly reserves the right to adjourn or to continue the Final
15 Approval/Fairness Hearing without further notice to class members, except that notice
16 of a continuance shall be provided to all class members who submit a proper objection.

17 19. IT IS FURTHER ORDERED that, if for any reason the Court does not
18 grant final approval of the Settlement, or the Settlement otherwise does not become
19 effective in accordance with the terms of the Stipulation, this Order shall be rendered
20 null and void and shall be vacated, and the Parties shall revert to their respective
21 positions as of before entering into the Stipulation and all evidence and proceedings
22 held in connection with the Settlement shall be without prejudice to the status quo ante
23 rights of the Parties to the Class Action as more specifically set forth in the Settlement.

24
25 **IT IS SO ORDERED.**

26
27 DATED: _____

28 _____
HON. JOSEPH C. SPERO
United States District Judge

EXHIBIT C

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7 Attorneys for Plaintiffs
8 JASON CRAIG and MICHAEL ROSS

9 *[Additional Counsel on next page]*

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

13 JASON CRAIG and MICHAEL ROSS,
14 individually and on behalf of all similarly
situated current and former employees,

15 Plaintiffs,

16 v.

17 CORTEVA, INC., E.I. DU PONT DE
18 NEMOURS & COMPANY, DOW
19 AGROSCIENCES LLC, THE DOW
CHEMICAL CO., DOWDUPONT, INC.
20 n/k/a DUPONT DE NEMOURS, INC., DOW
INC., and DOES 1 through 10, inclusive,

21 Defendants.

Case No.: 3:19-cv-07923-JCS

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF SETTLEMENT
AGREEMENT**

Judge: Hon. Joseph C. Spero,
Chief Magistrate Judge

Complaint Filed: 12/03/2019

Trial Date: Not set

Date:

Time:

Courtroom:

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1 **[PROPOSED] ORDER**

2 Plaintiffs’ Motion for Final Approval of Settlement Agreement came on for
3 hearing on [DATE]. The Court, having considered whether to order final approval of
4 the class action settlement in the above-captioned action pursuant to the Joint
5 Stipulation of Class Action Settlement and Release (“Settlement” or “Stipulation”),
6 having read and considered all of the papers and argument of the parties and their
7 counsel, having granted preliminary approval on [DATE], having directed that notice be
8 given to all Class Members of preliminary approval of the Settlement, the final approval
9 and fairness hearing, and the right to be excluded from the Settlement, and having
10 received no objections and good cause appearing,

11 IT IS HEREBY ORDERED AS FOLLOWS:

- 12 1. All defined terms contained herein shall have the same meaning as set
13 forth in the Stipulation executed by the Parties and filed with this Court.
14 2. The Court finds that certification of the following Class is appropriate for
15 settlement purposes:

16 All current and former hourly employees of Defendants who worked a 12-
17 hour rotating shift at the chemical manufacturing plant in Pittsburg,
18 California, for the period December 3, 2015 through [DATE OF
19 PRELIMINARY APPROVAL].

- 20
21 3. The Court hereby finds that the Notice of Settlement, as mailed to all Class
22 Members on [DATE], fairly and adequately described the proposed Settlement, the
23 manner in which Class Members could object to or participate in the Settlement, and
24 the manner in which Class Members could opt out of the Settlement; was the best
25 notice practicable under the circumstances; was valid, due and sufficient notice to all
26 Class Members; and complied fully with the Federal Rules of Civil Procedure, due
27 process, and all other applicable laws.
28

1 4. The Court further finds that a full and fair opportunity has been afforded to
2 Class Members to participate in the proceedings convened to determine whether the
3 proposed Settlement should be given final approval. Accordingly, the Court hereby
4 determines that all Class Members who did not file a timely and proper request to be
5 excluded from the Settlement are bound by this Order of Final Approval and the
6 Judgment.

7 5. The Court hereby finds that the Settlement, including the Settlement
8 Amount, is fair, reasonable, and adequate as to the Class, Plaintiffs and Defendants, and
9 is the product of good faith, arm's-length negotiations between the Parties, and further,
10 that the Settlement is consistent with public policy, and fully complies with all
11 applicable provisions of law. The Court makes this finding based on a weighing of the
12 strength of Plaintiffs' claims and Defendants' defenses with the risk, expense,
13 complexity, and duration of further litigation.

14 6. The Court also finds that the Settlement is the result of non-collusive arms-
15 length negotiations between experienced counsel representing the interests of the Class
16 and Defendants, after thorough factual and legal investigations. In granting final
17 approval of the Settlement, the Court considered the nature of the claims, the amounts
18 paid in settlement, the allocation of the Settlement Fund among the Class Members, and
19 the fact that the Settlement represents a compromise of the Parties' respective positions
20 rather than the result of a finding of liability after appeal. Additionally, the Court finds
21 that the terms of the Settlement do not improperly grant preferential treatment to any
22 individual Class Member.

23 7. The Court further finds that the response of the Class to the Settlement
24 supports final approval of the Settlement. Specifically, no Class Member has objected
25 to the Settlement, and none have opted out. Accordingly, pursuant to Rule 23(e), the
26 Court finds that the terms of the Settlement are fair, reasonable, and adequate to the
27 Class and to each Class Member. *Staton v. Boeing*, 327 F.3d 938, 960 (9th Cir. 2003).

1 8. The Court also hereby finds that Plaintiffs have satisfied the standards and
2 applicable requirements for final approval of this class action settlement under Fed. R.
3 Civ. P. 23, for the reasons stated in the Motion for Final Approval.

4 9. The Court orders the Parties to implement, and comply with, the terms of
5 the Settlement.

6 10. The Court approves the plan of allocation as set forth in the Stipulation.

7 11. The Court approves the settlement of the Released Claims as defined in the
8 Settlement. As of the Effective Date of the Settlement, as defined in the Settlement, all
9 of the Released Claims of each Class Member who did not timely opt out, as well as the
10 Class Representatives' Released Claims, are and shall be deemed to be conclusively
11 released as against the Defendants and other Released Parties. Except as to such rights
12 or claims that may be created by the Settlement, all Class Members as of the date of the
13 Order of Final Approval and Judgment who did not timely opt out are hereby forever
14 barred and enjoined from commencing or prosecuting any of the Released Claims,
15 either directly, representatively or in any other capacity, against Defendants and other
16 Released Parties.

17 12. As of the Effective Date of the Settlement, as defined in the Settlement,
18 Plaintiffs generally release all claims against Defendants and other Released Parties as
19 set forth in the Stipulation.

20 13. Class Counsel, Hadsell Stormer Renick & Dai LLP and Gilbert &
21 Sackman, are confirmed and shall continue to serve as Class Counsel and shall oversee
22 and perform the duties necessary to effectuate the Settlement, including the submission
23 to the Court of the Claims Administrator's final distribution report, as well as all papers
24 necessary to allow this Court to evaluate the claims process and distribution of the
25 Settlement Fund to Class Members.

26 14. Plaintiffs' Counsel is awarded attorney's fees in the amount of \$950,000.
27 The foregoing award is 25% of the Settlement Fund of \$3,800,000. Plaintiff's Counsel
28 is further awarded reimbursement of reasonable costs and expenses necessarily incurred

1 in order to advance the litigation for the benefit the class in this matter in the amount of
2 \$[COSTS]. These awards shall be paid from the Settlement Fund.

3 15. In determining an award of attorney’s fees where the class action
4 settlement establishes a common fund for the benefit of the class out of which the
5 attorney’s fee is awarded, courts have adopted the percentage of fee calculation.
6 *Laffitte v. Robert Half Internat., Inc.*, 1 Cal. 5th 480, 493-94 (2016). The Court finds
7 that a fee award at the Ninth Circuit 25% of the fund benchmark is reasonable in light
8 of the factors to be considered, including: (1) the results achieved; (2) the risk of
9 litigation; (3) the skill required; (4) the quality of work performed; (5) the contingent
10 nature of the fee and the financial burden; and (6) the awards made in similar cases. *See*
11 *Barbosa v. Cargill Meat Solutions Corp.*, 297 F.R.D. 431, 449 (E.D. Cal. 2013)(citing
12 *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002).

13 16. In addition, the Court finds the fee award reasonable under the lodestar
14 cross-check method. *Laffitte*, 1 Cal. 5th at. at 506; *Vizcaino*, 290 F.3d at 1043. In so
15 finding, the Court has considered a variety of factors, including “the quality of the
16 representation, the novelty and complexity of the issues, the results obtained, and the
17 contingent risk presented.” *Lealao v. Beneficial Cal., Inc.*, 82 Cal. App. 4th 19, 26
18 (2000); *see Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998).

19 17. Plaintiffs Jason Craig and Michael Ross are confirmed as Class
20 Representatives. The Class Representatives are each awarded a service award in the
21 amount of \$5,000. This payment shall be made from the Settlement Fund and is in
22 addition to their share as a Class Member.

23 18. Administrative Costs in the amount of \$[] from the Settlement
24 Fund to be paid to the Settlement Administrator CAC Services Group, LLC of Eden
25 Prairie Minnesota are approved.

26 19. The Court allocates Forty Thousand Dollars (\$40,000) of the Settlement
27 Fund to penalties under the Private Attorneys General Act (“PAGA”), with seventy-five
28 percent (75%) of the PAGA penalties, Thirty Thousand Dollars (\$30,000), to be paid to

1 the California Labor and Workforce Development Agency (“LWDA”) and twenty-five
2 percent (25%) of the PAGA penalties, Ten Thousand Dollars (\$10,000), to be paid to
3 the Class Members.

4 20. Defendants shall have no further liability for costs, expenses, interest,
5 attorneys’ fees, or for any other charge, expense, or liability, in connection with the
6 above-captioned action except as provided in the Settlement.

7 21. The Settlement is not an admission by Defendants, nor is this Final
8 Approval Order and Judgment a finding, of the validity of any claims in the Action or
9 of any wrongdoing by Defendants or that this Action is appropriate for class treatment
10 (other than for settlement purposes). Neither this Final Approval Order and Judgment,
11 the Settlement Agreement, nor any document referred to herein, nor any action taken to
12 carry out the Settlement Agreement is, may be construed as, or may be used as an
13 admission by or against Defendants of any fault, wrongdoing or liability whatsoever.
14 The entering into or carrying out of the Settlement, and any negotiations or proceedings
15 related thereto, shall not in any event be construed as, or deemed to be evidence of, an
16 admission or concession with regard to the denials or defenses by Defendants.
17 Notwithstanding these restrictions, Defendants and other Released Parties may file in
18 the Action or in any other proceeding this Final Approval Order and Judgment, the
19 Settlement Agreement, or any other papers and records on file in the Action as evidence
20 of the Settlement to support a defense of res judicata, collateral estoppel, release, or
21 other theory of claim or issue preclusion or similar defense as to the Released Claims.

22 22. Notice of entry of this Final Approval Order and Judgment shall be given
23 to all Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final
24 Approval Order and Judgment shall be posted on the Settlement Administrator’s
25 website. It shall not be necessary to send notice of entry of this Final Approval Order
26 and Judgment to individual Class Members.

27 23. If the Settlement does not become final and effective in accordance with
28 the terms of the Stipulation, then this Final Approval Order and Judgment, and all

1 orders entered in connection herewith, shall be rendered null and void and shall be
2 vacated, and the Parties shall revert to their respective positions as of before entering
3 into the Settlement, and expressly reserve their respective rights regarding the
4 prosecution and defense of this Action, including all available defenses and affirmative
5 defenses, and arguments that any claim in the Action could not be certified as a class
6 action and/or managed as a representative action.

7 24. The Court hereby enters judgment in the entire Action as of the filing date
8 of this order, pursuant to the terms set forth in the Settlement. Without affecting the
9 finality of the Order of Final Approval or the Judgment, the Court retains exclusive and
10 continuing jurisdiction over the case, Plaintiffs, all Class Members and Defendants for
11 purposes of supervising, implementing, interpreting and enforcing the Order of Final
12 Approval and Judgment and the Settlement. Nothing in the Order of Final Approval
13 precludes any action to enforce the Parties' obligations under the Settlement or under
14 this Order of Final Approval.

15
16 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO**
17 **ORDERED.**

18
19
20
21 DATED: _____

Judge Joseph C. Spero
United States Magistrate Judge