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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - CENTRAL DIVISION**

JOSE CUEVAS; individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

PHILLIPS FRACTOR & COMPANY,
LLC; CSRS; BAKERSFIELD MARKET
RESEARCH and, DOES 1 through 100,
Inclusive

Defendants.

Case No.: **BC656142**

- Complaint filed: 03/30/17

- Assigned to Hon. Amy D. Hogue Dept. 7, Spring Street
Courthouse

**THIRD AMENDED JOINT STIPULATION
OF SETTLEMENT AND RELEASE OF
CLASS ACTION BETWEEN PLAINTIFFS
AND DEFENDANTS PHILLIPS FRACTOR
& COMPANY AND CALIFORNIA
SURVEY RESEARCH SERVICES, INC.**

This THIRD Amended Joint Stipulation of Settlement and Release of Class Action
("Stipulation") is submitted pursuant to California Rules of Court, Rule 3.760(a). This
Stipulation is made and entered into by and between defendants PHILLIPS FRACTOR &
COMPANY, LLC, and CALIFORNIA SURVEY RESEARCH SERVICES, INC., and Plaintiff
JOSE CUEVAS (the "Representative Plaintiff"), on his own behalf and on behalf of the

1 Settlement Class (collectively, "Plaintiffs"), defined in paragraph 30 below, to be certified by the
2 Court. This Stipulation is subject to the terms and conditions hereof and to the approval of these
3 terms and conditions by the Court.

4 5 **DEFINITIONS**

6 The definitions set forth in paragraphs 1–32 below state the meaning of the defined words
7 and phrases as used in and for the purposes of this Stipulation, the exhibits to this Stipulation,
8 and the orders, notices, and other documents contemplated by this Stipulation:

9 1. **"Affiliate"** means any person or entity that is directly or indirectly under partial
10 or total common ownership or control with or of another person or entity.

11 2. **"The Complaint"** means the operative complaint filed in the Current Class
12 Action, attached as Exhibit A.

13 3. **"Court"** means the Superior Court of the County of Los Angeles.

14 4. **"Current Class Action"** means the action entitled *Jose Cuevas, individually and*
15 *on behalf of all others similarly situated v. Phillips Fractor & Company LLC, et al.*, Los Angeles
16 County Superior Court Case No. BC656142.

17 5. **"Proposed Class Counsel"** means the Law Office of Ball & Yorke.

18 6. **"Defendants"** means Defendant PHILLIPS FRACTOR & COMPANY, LLC.
19 ("PFC"), and Defendant CALIFORNIA SURVEY RESEARCH SERVICES, INC. ("CSRS").

20 7. **"Defense Counsel"** means and includes Wolf Wallenstein & Abrams, PC,
21 defense counsel for Defendant PHILIPS FRACTOR & COMPANY, LLC, and Bassi Edlin Huie
22 & Blum, LLP, defense counsel for Defendant CALIFORNIA SURVEY RESEARCH
23 SERVICES, INC.

24 8. **"Arredondo Action"** means the lawsuit currently entitled *SABAS ARREDONDO,*
25 *JOSE CUEVAS, HILARIO GOMEZ, IRMA LANDEROS AND ROSALBA LANDEROS,*
26 *individually and on behalf of all others similarly situated, v. DELANO FARMS COMPANY, a*
27 *Washington corporation; CAL-PACIFIC FARM MANAGEMENT, L.P.; T&R BANGI'S*
28 *AGRICULTURAL SERVICES, INC.; AND DOES 1 through 10, inclusive*, Case No. 1:09-cv-

01247-MJS, pending in the United States District Court, Eastern District of California (“Eastern District of California”).

9. “**Arredondo Complaint**” means the complaint filed in the *Arredondo* Action on July 17, 2009.

10. “**Arredondo Settlement Class**” means the settlement class certified by the Court in the *Arredondo* Action and defined as any and all individuals who are or were employed as non-exempt agricultural employees of Cal-Pacific Farm Management, LP, T&R Bangi’s Agricultural Services, Inc., Kern Ag Labor Management, Inc., La Vina Contracting, Inc., or Elite Ag Labor Services, Inc. and performed work at Delano Farms in California between July 17, 2005 and the date of entry of the [Proposed] Order of Certification and Preliminary Approval in the *Arredondo* Action who did not opt out, excluding those who worked only as irrigators, tractor drivers, or swampers or only in cold storage. This includes employees, without limitation, who previously opted out of the previously certified class in the *Arredondo* Action.

11. “**Claiming Class Member**” means, as set forth below in Paragraph 30, any member of the Settlement Class who participated in the Settlement in the *Arredondo* Action, either by submitting a claim or opting out of the Arredondo Settlement Class, who does not opt out of the Settlement Class.

12. “**Arredondo Action Class Counsel**” means Martinez Aguilaoscho & Lynch, APLC; Law Offices of Marcos Camacho; Law Office of Wilcoxon Callahan, LLP; and Law Office of Ball & Yorke.

13. “**Class Data List**” means the information about each Settlement Class Member provided to the Settlement Administrator as set forth in paragraph 76 below.

14. “**Settlement Class Member’s Share**” shall be the distributive share of each Claiming Class Member, expressed as a percentage, of the Net Settlement Fund calculated according to the Plan of Allocation set forth in paragraph 81 below.

15. “**Class Notice**” means the following documents, collectively, each of which shall be prepared in three languages, English, Spanish, and Tagalog (upon request):

1 a. The court-approved Notice of Proposed Class Action Settlement and
2 Certification of Settlement Class (substantially in the form of Exhibit B hereto), which
3 will advise Settlement Class Members of the certification of a provisional Settlement
4 Class and the scope of that class, the scope of the releases set forth at paragraphs 85 – 87
5 of this Stipulation, the compensation to which they may be entitled, their right to opt out
6 of the Settlement Class or object to the Settlement, and notice of the Fairness and
7 Approval Hearing. The Class Notice complies with the requirements of California Rules
8 of Court, Rule 3.766(d). KCC serves as the Settlement Administrator. The Class Notice
9 concisely explains the case, including Plaintiffs' contentions and Defendants' denial. It
10 contains a statement that the Court will exclude any Class Member who so requests by a
11 specified date. It explains how a Class Member may request exclusion. It states that the
12 judgment will bind all members who do not exclude themselves and that any member
13 who does not request exclusion may enter appearance through counsel.

14 **16. “Class Work”** has the same meaning given to it in paragraph 12 of the Joint
15 Stipulation of Settlement of Class Actions filed on November 18, 2016, in the *Arredondo* Action,
16 as follows: “all non-exempt agricultural work performed by [Arredondo] Settlement Class
17 Members (as defined in paragraph 31 [therein]) while employed by Cal-Pacific Farm
18 Management, LP, T&R Bangi's Agricultural Services, Inc., Kern Ag Labor Management, Inc.,
19 La Vina Contracting, Inc., or Elite Ag Labor Services, Inc. at Delano Farms during the Class
20 Period. Class Work includes without limitation all such agricultural work whether or not Delano
21 Farms Company or any of its parents, subsidiaries, or Affiliates are alleged to be or are or were
22 deemed joint employers of any or all such workers.”

23 **17. “Fairness and Approval Hearing”** means the hearing described in paragraph 92
24 (f) below, to occur no less than 210 days after entry of the [Proposed] Order of Certification and
25 Preliminary Approval.

26 **18. “Net Settlement Fund”** means the Settlement Amount less (i) any and all
27 payments due or amounts incurred in connection with or relating to the administration,
28 implementation, or execution of this Settlement, including without limitation the costs and/or

1 expenses incurred in connection with providing the Class Notice to the Settlement Class, in
2 paying out the Net Settlement Fund to Claiming Class Members, in making the other payments
3 required hereby, in compensating the Settlement Administrator, (ii) all attorney's fees up to 25%
4 of the final settlement amount (not to exceed \$191,750.00, or as approved by the Court and costs
5 (\$7,500) awarded to Proposed Class Counsel, if any, in connection with this Settlement; (iii) any
6 enhancement awards or other payments to the Representative Plaintiff in connection with this
7 Settlement, for his time and effort, which is not to exceed \$1,000; and (iv) any other portion of
8 the Settlement Amount that is not distributed to the Settlement Class pursuant to the Plan of
9 Allocation. The Net Settlement Fund is thus estimated to be \$511,887.00.

10 **19. "Notice of Anticipated Settlement Share"** means the notice to be provided to
11 each Settlement Class Member in his or her Notice by the Settlement Administrator pursuant to
12 paragraph 77 below, a statement of the total number of weeks that the Settlement Class Member
13 performed Class Work and a calculation of the Settlement Class Member's estimated payment
14 based on the Plan of Allocation. Such estimations shall be based on a reasonable estimate of the
15 Net Settlement Fund and shall assume: (i) that all Settlement Class Members elect to participate
16 in the Settlement, (ii) that attorney's fees, if any, costs, and an enhancement award to the
17 Representative Plaintiff, if any, are approved by the Court and awarded in full, and (iii) a
18 reasonable estimate of total administrative costs and other amounts to be paid from the
19 Settlement Amount,.

20 **20. "Opt-Out Form"** means the form attached hereto as Exhibit C, which will be
21 part of the Class Notice.

22 **21. "[Proposed] Final Order and Judgment"** means the proposed order to be
23 entered by the Court finally approving the Settlement and entering judgment in the Current Class
24 Action, as amended, in the form attached hereto as Exhibit D.

25 **22. "[Proposed] Order of Certification and Preliminary Approval"** means the
26 proposed order to be entered by the Court, in the form attached hereto as Exhibit E, preliminarily
27 approving the Settlement, certifying the provisional Settlement Class and directing notice thereof
28

1 to the provisional Settlement Class. This order shall include the content set forth and recited in
2 paragraph 92 below.

3 **23. “Plan of Allocation”** means the method for calculating each Settlement Class
4 Member’s Share as described in paragraph 81 below.

5 **24. “Qualified Settlement Fund”** means a fund set up by the Settlement
6 Administrator in compliance with Treasury Regulation 1.468B-1 through -5.

7 **25. “Released Claims”** means all claims within the scope of the releases described
8 and set forth in paragraphs 85 – 87 below.

9 **26. “Roberts”** means William Roberts, PhD, an independent contractor working for
10 PFC in connection with its engagement in the *Arredondo* Action.

11 **27. “Settlement”** means the settlement embodied by this Stipulation.

12 **28. “Settlement Administrator”** means Kurtzman Carson Consultants (“KCC”),
13 which shall serve, subject to the Court’s approval, and shall administer the Settlement in
14 accordance with this Stipulation of Settlement, any Orders of the Court, applicable state and
15 federal tax law and regulations, and the law and regulations protecting personally identifiable
16 information. The Settlement Administrator shall fulfill the tax compliance obligations of the
17 Qualified Settlement Fund and may engage licensed professionals to assist in doing so. Except as
18 otherwise provided herein, Defendants, the Released Parties, and Defense Counsel shall have no
19 responsibility or involvement with regard to administering the Settlement Fund, processing of
20 claims, or distribution of payments to class members. Plaintiffs and Proposed Class Counsel
21 shall communicate with the Settlement Administrator as necessary to achieve compliance with
22 the Settlement approved by the Court, provided that all communications concerning material
23 matters or requiring the approval of or notice to Defendants under this Stipulation are copied or
24 otherwise contemporaneously provided to Defense Counsel.

25 **29. “Settlement Amount”** means, as approved by the Court, the combined total of (i)
26 \$5,000.00 from Defendant CALIFORNIA SURVEY RESEARCH SERVICES, INC., (“CSRS”)
27 and (ii) the remaining policy limits of the \$1,000,000 Miscellaneous Professional Liability
28 Insurance Policy Hanover Insurance Company (whose address is: The Hanover Insurance

1 Company, c/o: Mary Gertsmeier, Esq., 440 Lincoln Street, Worcester, MA 01653) issued to
2 PHILLIPS FRACTOR & COMPANY, ("PFC") Policy No. LHF A134029-03, with effective
3 dates of October 27, 2016 through October 27, 2017 (the "Hanover Policy"). The Hanover
4 Policy is a "defense within limits" policy with claim expenses included within the limit of
5 liability and the remaining policy limits, which have been reduced by defense fees and costs
6 paid, and anticipated to be paid, by the insurer under the policy, constitutes the remaining policy
7 limits. The Settlement Amount shall be the total, complete and maximum amount payable
8 collectively, or individually, by Defendants and/or any or all of the Released Parties pursuant to,
9 and in consideration of, this Settlement. Approximately \$225,000 in defense fees and costs has
10 been paid under the Hanover Policy as of the date of this amended Stipulation. PFC estimates
11 that an additional \$13,000 may be paid under the Hanover Policy through the conclusion of this
12 matter. Accordingly, the Parties estimate that the final Settlement Amount will be approximately
13 \$767,000. PFC represents that the remaining policy limits, as defined above, constitute all
14 potentially applicable insurance coverage for the claims made in this action. Defendants agree
15 that, upon and after the Effective Date, they are liable for their respective portions of the
16 Settlement Amount subject to the terms and conditions of this Stipulation and to any subsequent
17 orders of the Court. No portion of the Settlement Amount will revert to the Defendants under
18 any circumstances.

19 **30. "Settlement Class" and/or the "Settlement Class Members"** means and
20 includes any and all individuals who are included in the Arredondo Settlement Class certified in
21 the *Arredondo* Action, whether or not they opted out of that class, who do not opt out of the
22 Settlement Class in accordance with paragraph 80 below. The number of employees who
23 participated in the Arredondo Settlement Class, included 5,758 employees who submitted claims
24 forms inclusive of 44 employees opted out ("Claiming Class Members"). Only Claiming Class
25 Members will recover a portion of the Settlement Amount.

26 **31. "Stipulation" or "Stipulation of Settlement"** means this Joint Stipulation of
27 Settlement and Release of the Current Class Action.
28

1 **32. “Taxes”** means any and all taxes, withholdings, payments, and/or remittances to
2 any governmental authority of whatever kind or type that arise from, relate in any manner to, or
3 are required or appropriate in connection with: (a) distributions or payments to or from the
4 Qualified Settlement Fund; (b) payments and distributions to the Settlement Class and to each
5 and any Settlement Class Member from the Settlement Amount, the Net Settlement Fund, the
6 Qualified Settlement Fund or otherwise in connection with this Settlement; (c) the administration
7 of this Settlement or this Stipulation, including without limitation any interest earned upon the
8 Settlement Amount or by the Qualified Settlement Fund; and/or (d) this Settlement or this
9 Stipulation or anything concerning this Settlement or this Stipulation or its performance,
10 execution or implementation. “Taxes” does not include any taxes that may be due from
11 Settlement Class Members in excess of amounts withheld or paid by the Qualified Settlement
12 Fund or Settlement Administrator. “Taxes” does not include any taxes owed by Proposed Class
13 Counsel in connection with any award of attorney’s fees made pursuant to this Settlement.

14 **PROCEDURAL BACKGROUND AND POSITIONS OF THE PARTIES**

15 **33. The underlying *Arredondo* Action.** On July 17, 2009, certain individuals and a
16 putative class initiated the *Arredondo* Action by filing the *Arredondo* Complaint in the Eastern
17 District of California. The *Arredondo* plaintiffs filed a motion for class certification, which was
18 granted on April 19, 2011, and which was subsequently modified by order of the Court on May
19 27, 2011. The matter settled and is currently before United States Magistrate Judge Michael J.
20 Seng for final resolution. In connection with the settlement of the *Arredondo* Action, the Court
21 preliminarily certified the *Arredondo* Settlement Class.

22 **34.** In or around September 2015, in order to facilitate the consulting and expert
23 witness services desired for the *Arredondo* Action by the *Arredondo* Action Class Counsel, and
24 in consultation with Roberts, plaintiffs in the *Arredondo* Action hired defendant CSRS to execute
25 and administer a door-to-door questionnaire designed by Roberts.

26 **35.** Plaintiffs allege CSRS then retained defendant BAKERSFIELD MARKET
27 RESEARCH (“BMR”) to conduct the field work for the door-to-door questionnaires.

1 **36.** Plaintiffs allege that BMR was undercapitalized, understaffed, and under-
2 experienced. Plaintiffs contend that neither BMR nor its principals had any significant prior
3 experience with surveys of this kind, and that defendants PFC and CSRS had no reasonable basis
4 upon which to believe that BMR had any such experience. PFC contends that irrespective of
5 BMR's experience, of which it has and had no personal knowledge, neither it nor Roberts had
6 any duty with respect to the engagement of, conduct of, or quality of the data obtained by, BMR
7 and that the obligation to ensure that BMR was sufficiently experienced and qualified and that it
8 obtained valid data lay with plaintiffs in the *Arredondo* Action, the Arredondo Action Class
9 Counsel, CSRS, and BMR.

10 **37.** In late October, 2015, the Arredondo Action Class Counsel authorized Roberts to
11 rely on CSRS to conduct the door-to-door questionnaire subject to the terms of a bid from CSRS
12 dated on or about October 1, 2015. According to the bid, CSRS would be "responsible for
13 overseeing the project management, Spanish language interviewing, training and quality control
14 of the door-to-door interviews." The Arredondo Action Class Counsel contend that they relied on
15 CSRS for training and selection of the interviewer personnel, as well as "quality control" of the
16 data collection and processing, as outlined in the CSRS bid.

17 **38.** Plaintiffs allege the following: (i) a training meeting with BMR in Bakersfield
18 was arranged by CSRS in or around November 2015; (ii) BMR met with CSRS in an office
19 space at the "Regus" in Bakersfield; (iii) BMR rented that space for the meeting; (iv) the meeting
20 was attended by persons held out to be BMR questionnaire interviewers, Maricella Arreola and
21 Guadalupe "Lupita" Estrada, as well as by Maricruz Estrada and Timothy Armwood, the owners
22 of BMR; (v) Margarita Rodriguez of CSRS was also present at the meeting; (vi) Ms. Rodriguez
23 delivered four (4) iPad tablets and provided BMR with an initial check for \$1,000.00; (vii) Ms.
24 Rodriguez demonstrated to BMR personnel how to use the tablets to conduct the survey and the
25 attendees became familiar with using the tablets; (viii) Ms. Rodriguez explained the need to
26 collect phone numbers to accomplish validation for the survey; (ix) Ms. Rodriguez stated that
27 validation would be done to ensure the numbers and everything matched, and that BMR would
28 need to collect the phone numbers from the survey; (x) CSRS instructed BMR to conduct door-

1 to-door questionnaire work in various cities in the local area; (xi) Timothy Armwood was
2 informed by CSRS that only persons who executed a "confidentiality" form could perform work
3 on the survey; (xii) confidentiality forms were executed by the attendees (and later by another
4 individual, Reyna Gutierrez) and were submitted by BMR to CSRS; (xiii) Timothy Armwood
5 was informed by CSRS that the questionnaire was for a legal case, and that CSRS should expect
6 a subpoena, so the survey would need to be handled with care and precision. PFC takes no
7 position on these allegations for purposes of this Settlement.

8 **39.** BMR began its questionnaire field work for the *Arredondo* Action under the
9 supervision of CSRS on November 13, 2015, and finished at the end of November, 2015, having
10 completed the minimum 300 questionnaires needed. Plaintiffs contend that three of the BMR
11 interviewers who had signed confidentiality papers for CSRS, however, never participated in the
12 field work, apparently due to concerns about when they would be paid. PFC takes no position on
13 this contention for purposes of this Settlement.

14 **40.** Plaintiffs contend that BMR decided to undertake the project using a single
15 bilingual interviewer, Maricruz Estrada. Plaintiffs contend that Maricruz Estrada and Timothy
16 Armwood conducted all of the questionnaire interviews. PFC takes no position on these
17 contentions for purposes of this Settlement.

18 **41.** Plaintiffs contend that Maricella Arreola, Reyna Gutierrez, and Guadalupe
19 "Lupita" Estrada had never worked for BMR prior to the *Arrendondo* Action questionnaire
20 project. PFC takes no position on these contentions for purposes of this Settlement.

21 **42.** Plaintiffs contend that, according to Maricruz Estrada, BMR never sought to find
22 replacement interviewers and did not inform CSRS, because there was no need to inform CSRS.
23 BMR never directly informed CSRS that Maricruz Estrada and Timothy Armwood performed all
24 of the questionnaire interviews. PFC takes no position on these contentions for purposes of this
25 Settlement.

26 **43.** BMR never had communications with Roberts or with PFC regarding the conduct
27 of the survey nor otherwise.
28

1 **44.** Plaintiffs contend that Timothy Armwood testified in his deposition in the
2 *Arredondo* Action that he understands only a few phrases in Spanish, which is not his second
3 language. He testified that he didn't conduct any interviews primarily in Spanish. According to
4 Mr. Armwood, when he came across people who spoke only Spanish during the survey work,
5 Maricruz Estrada would translate for him. Mr. Armwood testified that he and Maricruz Estrada
6 went to many of the survey addresses together. Maricruz Estrada testified in her deposition in the
7 *Arredondo* Action that she is Spanish speaking bilingual, but Timothy Armwood is not bilingual.
8 PFC takes no position on these contentions for purposes of this Settlement.

9 **45.** Plaintiffs contend that BMR knew the questionnaire design required visiting
10 identified persons door-to-door, with many Spanish-speaking workers. PFC takes no position on
11 these contentions for purposes of this Settlement.

12 **46.** Plaintiffs contend that Timothy Armwood testified that BMR conducted the
13 questionnaire interview work using a spreadsheet supplied by CSRS with street addresses and
14 respondent ID numbers, among other information. Maricruz Estrada testified that BMR
15 documented its progress with handwritten notes on the spreadsheets provided by CSRS, which
16 were returned with BMR's original notes to CSRS at the conclusion of the questionnaire field
17 work. Maricruz Estrada testified that BMR used the spreadsheets to organize the questionnaire
18 work at addresses in the same areas, allowing BMR to complete questionnaire interviews while
19 minimizing time traveling across town. PFC takes no position on these contentions for purposes
20 of this Settlement.

21 **47.** In her deposition, Maricruz Estrada estimated that the time it took to conduct each
22 interview was approximately 15 to 30 minutes. Timothy Armwood estimated that the work
23 required about 10 to 15 minutes to complete each interview.

24 **48.** Part of the questionnaire data collection process designed by CSRS was to
25 validate a percentage of the field interviews by reconfirming, in a subsequent telephone call to a
26 respondent, the information given in the original interview by that respondent. CSRS performed
27 the validation work. According to Maricruz Estrada, on November 30, 2015, CSRS notified
28

1 BMR that it was having a difficult time validating the interviews by phone. Estrada volunteered
2 at that time to go back out in the field and validate the interviews door to door.

3 **49.** In his deposition in the *Arredondo* Action, Al Noiwangmuang of CSRS testified
4 generally to the effect that the iPads it gave to BMR for the questionnaire field work transmitted
5 the responses collected in the field directly to CSRS's server, along with time/date stamps, GPS
6 coordinates at the location of the interview, length of interview, and other validating information.
7 PFC contends that this testimony was inaccurate, was not based on personal knowledge or
8 verification, and did not take into account variances in cell signal strength, lack of WiFi capacity,
9 file size, absence of available cell service at the location of the interview, and deficiencies and
10 anomalies in the GPS capabilities of the iPads, among other factors.

11 **50.** According to his deposition in the *Arredondo* Action, in or around early
12 December 2015, Roberts advised the Arredondo Action Class Counsel about the problems CSRS
13 was having validating by telephone the information given in the questionnaires. Roberts also
14 informed the Arredondo Action Class Counsel about BMR's offer to validate the information
15 through a follow-up field interview. At that time, Roberts indicated to the Arredondo Action
16 Class Counsel that there were other statistical hallmarks by which the data could be validated,
17 such as internal statistical correlation among answers given. Roberts also believed at that time
18 that CSRS was validating the location of the interviewers and was aware that signatures were
19 being obtained from each questionnaire respondent. According to Roberts, he and the
20 Arredondo Action Class Counsel determined collectively not to undertake additional field work
21 for validation purposes or to undertake any other further validation of the original interviews
22 given, among other things, the transient nature of the questionnaire population, the lack of
23 permanent phone numbers held by that population, and the existence of other validating
24 information. PFC contends, however, that the ultimate decision not to undertake further
25 validation efforts lay entirely with the Arredondo Action Class Counsel. Plaintiffs contend that
26 CSRS had misrepresented that it had validated data through spot-checking GPS locations and
27 other validating markers, when in fact, CSRS had failed to perform any "quality control" work,
28 or if it did perform any quality control work, it was performed so poorly that it was useless,

1 unreliable, and a failure. PFC takes no position on these contentions for purposes of this
2 Settlement.

3 **51.** Plaintiffs contend that, at the time of these alleged misrepresentations, Roberts
4 had no reasonable basis upon which to believe that the representations were true. Plaintiffs
5 contend that Roberts could have asked CSRS for data to itself perform spot-checks of the
6 interview work, that neither Roberts nor PFC did perform such work, and that they relied only on
7 CSRS to perform quality control, since Roberts believed CSRS would do so. Plaintiffs contend
8 that neither PFC nor CSRS had confirmed the reliability of any such data. CSRS disputes
9 Plaintiffs' contentions in this paragraph.

10 **52.** PFC also disputes the foregoing contentions. PFC contends that it was the
11 province and responsibility of CSRS, BMR and the Arredondo Action Class counsel to ensure
12 the validity and reliability of the data collected in the questionnaires, that statistical indicators
13 within the data validated the information collected, and that there were other indicia of validity
14 which the Arredondo Action Class Counsel accepted as sufficient. PFC contends that the
15 Arredondo Action Class Counsel was fully informed about the validation process and the
16 potential deficiencies therein, elected not to pursue further validation, and is solely responsible
17 for that decision.

18 **53.** Plaintiffs contend that BMR never actually conducted the questionnaires they
19 claimed to have conducted; it did not have the personnel who were trained to perform the
20 interviews; and submitted false data. Plaintiffs believe that instead of conducting door-to-door
21 surveys of Delano Farms workers regarding their experience with alleged wage and hour
22 violations, BMR sat in public parking lots such as Starbucks, Wal-Mart and other stores, filling
23 in fake information, but passing it off as the questionnaire answers from Delano Farms workers.
24 Plaintiffs contend that, had CSRS performed basic spot-checking of GPS data captured by its
25 iPads, as it said it would, or had PFC performed basic spot checking of GPS data, either would
26 have confirmed that the survey information being collected was not being collected door-to-door
27 at workers' homes, but in public parking lots. They would have discovered the surveys were
28

1 lasting less time than reasonably needed to conduct a survey and they would have discovered
2 other markers of unreliability. CSRS disputes Plaintiffs' contentions in this paragraph.

3 **54.** PFC also disputes the foregoing contentions of Plaintiffs. PFC contends that
4 Plaintiffs' allegations are based on an unscientific analysis of the data performed by an
5 unqualified junior attorney then working for the Arredondo Action Class Counsel and without
6 seeking input or analysis from either Roberts or PFC. PFC contends that a proper investigation
7 of the underlying metadata captured by the iPads indicates that the GPS and time stamp data
8 captured by the iPads were greatly influenced by the location of cell towers, publicly available
9 Wi-Fi capacity, and other factors. PFC contends that, in many cases, the GPS location captured
10 for a large share of the interviews was associated not with the location of the interview itself, as
11 Plaintiffs incorrectly believe, but rather with the location of the public Wi-Fi capacity (such as is
12 available at the many McDonalds, Starbucks, and public library locations whose GPS
13 coordinates were captured by the iPads) or with the location of specific cell towers, through
14 which the data were transmitted to CSRS's servers when the iPads came within range of these
15 facilities. This led to metadata being recorded that did not reflect the actual location at which
16 many interviews were conducted by BMR. Still, many of the GPS coordinates captured by the
17 iPads corresponded closely with the location of the respective interviews. When subjected to
18 sophisticated statistical analysis by qualified individuals, the data do not indicate any systematic
19 or even isolated incidences of fraudulent acquisition or recording of questionnaire responses.
20 Likewise, PFC contends that even a cursory analysis of the signature files associated with each
21 of the questionnaire respondents suggests that signatures captured from the respondents were
22 unique to each questionnaire, match the name of the respondent, and do not suggest forgery or
23 duplication.

24 **55.** Plaintiffs contend that Roberts and CSRS relied on the allegedly falsified data as
25 the basis for PFC's expert witness report which was designed to prove liability and damages for
26 the class-wide wage and hour violations alleged in the *Arredondo* Action. Defendants dispute
27 these contentions.
28

1 **56.** The Arredondo Action Class Counsel suspected irregularities in the questionnaire
2 data in or around April and May 2016 and, conducted its own analysis of the questionnaire work.
3 Plaintiffs contend that the analysis performed by the Arredondo Action Class Counsel indicated
4 that numerous interviews did not occur at the address of the reported class member. Plaintiffs
5 contend that there were: a) 51 interviews at various McDonalds locations in McFarland, Wasco,
6 Shafter and Delano (not at employee homes); b) 19 interviews at or near libraries in Lamont and
7 Arvin; c) 31 interviews at or near a Starbucks in Delano; d) 31 interviews at parks or parking lots
8 in Kern County, including Hart Lake, Kern River Park, a church and a high school; e) 1
9 interview at a female correctional facility in McFarland; and f) 7 interviews off unnamed roads
10 between Gorman and Mojave (off Hwy 138). Additionally, Plaintiffs contend that the analysis
11 performed by the Arredondo Action Class Counsel indicated that 103 of the 305 complete
12 interviews (about 34%) had travel times greater than the length of the interview, indicating to
13 Plaintiffs that those 103 interviews could not have occurred at the address of the respondent.
14 Plaintiffs contend that the analysis also showed that 45% of the interviews (137) were completed
15 in less than five minutes, as contrasted with the testimony of BMR as to longer estimates of
16 interview duration, and that only about 30% (93 out of 305) completed surveys were signed on
17 Spanish-language signature under penalty of perjury page, even though it is likely that many of
18 the workers were Spanish speakers, not English speakers. Defendants dispute these contentions.

19 **57.** The Arredondo Action Class Counsel notified the defendants and the court in the
20 *Arredondo* Action of the suspected fraudulent questionnaire results in May 2016, and then
21 withdrew the Roberts expert report based on their belief that the data had been fraudulently
22 collected and/or fabricated. PFC contends that the expert report was withdrawn without notice to
23 Roberts or to PFC and without any request being made to Roberts or to PFC to confirm the
24 conclusions reached by the Arredondo Action Class Counsel regarding the validity and reliability
25 of the data. Plaintiffs dispute these contentions.

26 **58.** After withdrawing Roberts's expert witness report, the Arredondo Action Class
27 Counsel sought relief from the District Court to modify the scheduling order to permit the
28 plaintiffs in that case to conduct a new survey. The Court denied this relief. Plaintiffs contend

1 that the Court's action effectively left the plaintiffs in the *Arredondo* Action without an expert
2 witness and expert witness report for its claims. PFC contends that, even in the absence of the
3 Roberts expert report, which was prematurely withdrawn and without proper cause, the
4 *Arredondo* Action plaintiffs could have proceeded with their alternative trial plan, which had
5 previously been filed with the Court, and could have presented evidence that would have
6 supported all of their wage and hour claims, including the more than \$100,000,000 in penalties
7 about which Roberts was prepared to testify.

8 **59.** The *Arredondo* Action settled at private mediation on August 24, 2016, for
9 \$6,000,000, of which \$5.25 million was allocated by the parties therein to unpaid wages claims
10 and \$750,000 was allocated to the penalty claims alleged by the plaintiffs in that action. In his
11 expert report – which was withdrawn by the *Arredondo* Action Class Counsel – Roberts
12 calculated the damages owing to the *Arredondo* Action class members as follows:

13 a. Pre-Shift Work Class: Seven Million six hundred forty six thousand four
14 hundred thirty eight dollars (\$7,646,438);

15 b. Tools Class: Up to Seven million twenty-seven thousand two hundred
16 fifty dollars and thirty-five cents (\$7,027,250.35);

17 c. Wage Statement Class: Twenty-one million one hundred fifty-one
18 thousand five hundred fifty (\$21,151,550);

19 d. Waiting Time Penalty Class: One hundred thirteen million three hundred
20 sixty-seven thousand three hundred seventy-six dollars (\$113,367,376).

21 **60.** PFC contends that the decision by the *Arredondo* Action Class Counsel to
22 withdraw the Roberts expert report in the *Arredondo* Action was unilateral, was made without
23 consultation with Roberts or with PFC, was ill-advised, and was solely the responsibility of the
24 *Arredondo* Action Class counsel who bear all responsibility for any subsequent effects or results
25 of that decision. PFC further believes that even if plaintiffs in the *Arredondo* Action had
26 proceeded to trial without the Roberts expert report, the resulting judgment or settlement would
27 have been for much more than the amount those plaintiffs agreed to, particularly in light of the
28 penalty claims which did not require reliance on the questionnaire data. PFC further contends

1 that based on the representations of plaintiffs made to the Court in the *Arredondo* Action, the
2 settlement amount therein exceeded their own estimation of the value of the wage and hour
3 claims alleged in that action and that Plaintiffs herein have not been damaged in any way, shape,
4 or form by any conduct or act, or alleged omission to act, of PFC or Roberts. CSRS concurs
5 with PFC's contentions in this paragraph. Plaintiffs dispute these contentions.

6 **61. Arm's-Length Negotiations.** At all times, the negotiations leading to this
7 Settlement have been adversarial, non-collusive, and at arm's length.

8 **62. Proposed Class Counsel's Investigation Before Filing the Claims.** Before
9 filing the Complaint, Proposed Class Counsel investigated the administration of the survey that
10 was conducted by Defendants in the underlying *Arredondo* Action. To properly evaluate the
11 Class claims Proposed Class Counsel reviewed the following: (1) deposition of Dr. William
12 Roberts; (2) depositions of CSRS personnel; (3) depositions of BMR personnel; (4) data
13 recorded by CSRS; (5) websurvey software; (6) data processing files; (7) questionnaires; and, (8)
14 survey records. During the course of this litigation, the Parties have engaged in significant
15 factual investigation and legal research into the claims presented in the Complaint.

16 **63. Discovery and Defendant PFC's Investigation.** Informal discovery took place
17 between the Parties in which Defendants and Plaintiffs exchanged information and further
18 apprised each other of their respective factual contentions, legal theories, and defenses. During
19 the course of their information exchange, the Parties have engaged in extensive good faith, arms-
20 length negotiations, telephone conferences, and correspondence further aimed at settling their
21 disputes. PFC undertook substantial investigation into the merits, both factual and legal, of
22 Plaintiffs' claims. Among many other things, PFC reviewed a substantial portion of the record
23 in the underlying *Arredondo* Action, including all relevant depositions, pleadings, motions,
24 stipulations, declarations and other filings made by the parties therein. PFC researched the legal
25 claims and defenses raised by the Complaint and undertook substantial forensic analysis of the
26 questionnaire data.

27 **64. No Admission of Fault.** PFC and CSRS, individually and collectively, deny any
28 and all allegations of wrongdoing, fault, liability, or damage of any kind to Plaintiffs herein, or to

1 the certified class in the underlying *Arredondo* Action, or to the plaintiffs or the putative class in
2 the *Paniagua* Action, and/or to the Arredondo Settlement Class or to the Settlement Class herein
3 except as to their agreement to pay their respective portions of the Settlement Amount as set
4 forth herein. PFC and CSRS deny, individually and collectively, that they acted unlawfully or
5 improperly in any way. Nevertheless, in the interest of avoiding the costs, risks, and disruption
6 of litigation and to resolve the claims asserted against them in the Current Class Action,
7 Defendants have each concluded that it is desirable that this Action be fully and finally settled
8 upon the terms and conditions set forth in this Stipulation. Defendants stipulate to certification of
9 the Settlement Class solely for the purpose of effecting the Settlement as set forth in this
10 Stipulation. Neither this Stipulation nor Defendants' non-opposition to a motion by Plaintiffs that
11 requests approval of the Settlement (including certification of the Settlement Class for purposes
12 of effecting this Settlement), nor any other act reflects acknowledgment, assent, or agreement
13 that the Settlement Class could or should be certified in the absence of this Settlement. This
14 Stipulation and this Settlement (including certification of the Settlement Class) may not, in any
15 event, circumstance, or proceeding, be construed, deemed, or used as evidence, or as an
16 admission, of any liability or any wrongdoing, or of an infirmity in any defense to the Current
17 Class Action, procedural or substantive.

18 **65. Fair, Reasonable, and Adequate Compromise.** The Representative Plaintiff, by
19 and through Proposed Class Counsel, has conducted an investigation into the facts and law
20 relating to the matters alleged in the Complaint. Following their arm's length negotiations with
21 respect to a compromise and settlement of the Current Class Action, the Parties have concluded
22 that the Settlement is fair, reasonable and adequate.

23 a. Plaintiff's counsel obtained a \$767,000.00 non-reversionary settlement. This
24 includes 100% of all available insurance proceeds. Defendants have each conducted an
25 investigation into all insurance policies that could cover the liability alleged in the
26 Complaint and determined that there are no other available insurance policies that would,
27 or could, do so. Defendants have provided evidence to the Court demonstrating this lack
28 of additional insurance, as well as evidence of their respective financial conditions which

1 demonstrate that there are no significant assets available to satisfy any judgment that
2 might be obtained in the Current Class Action.

3 b. The settlement is reasonable in light of the relative strengths of Plaintiffs' case
4 and of Defendants' affirmative defenses, and balanced against the risk, expense,
5 complexity, and likely duration of further litigation. Plaintiffs' case is founded upon
6 what they believe to be significant evidence of the alleged failures, errors, and omissions
7 by Defendants to adequately assure reliability in the undertaken survey; allegations that
8 Defendants dispute. Defendants, after having conducted their own in-depth review, and
9 statistical analysis of the survey data, and having analyzed the litigation decisions of the
10 *Arredondo* Plaintiffs in the underlying *Arredondo* Action, concluded that there was little,
11 if any, evidence of wrongdoing in the collection of the survey data; that whatever
12 damages Plaintiffs' may have incurred occurred as a result of their own litigation
13 decisions and not of any act or omission of either Defendant, or of BMR; and that they
14 would ultimately prevail on the issues of liability, and lack of damages, in the *Cuevas*
15 Action. However, the complexity and technical nature of undertaking a new survey in
16 wage and hour litigation, significant investment in expert witnesses, additional discovery
17 and investigation and related motion practice would likely drag the litigation out for years
18 and expend enormous judicial resources as well as the financial resources of all Parties,
19 likely leaving little or no source of funds for recovery of any damages that may be
20 awarded. Furthermore, the Class Members in this case are migrant farmworkers – grape
21 pickers – a demographic group that generally changes residences and telephone numbers,
22 and moves out of the city, county, state, or even the country with significant regularity.
23 Thus, a delay of several years due to protracted litigation would likely result in contact
24 with many, if not most, of the migrant worker putative Class Members being lost entirely,
25 and result in many eligible Class Members receiving no recovery at all. The timely
26 resolution of this matter assures the greatest number of Class Members receiving some
27 remuneration for the losses allegedly caused by Defendants' alleged acts and failures to
28 act.

1 c. Plaintiffs' counsel has reviewed the arguments and evidence Defendants have
2 raised and believes there is a significant possibility that Defendants could defeat or
3 significantly lessen the recovery in this action on mitigation and other substantive and
4 procedural grounds. Plaintiffs' counsel also believes that recovery in this action could be
5 challenged on grounds that the damages the class suffered are speculative and/or
6 uncertain in nature.

7 d. Plaintiffs' counsel estimates that between 5 million (\$868.36 per class member for
8 the Cuevas Action) and 20 million (\$3,473.33 per class member for the Cuevas Action)
9 in value was lost in the *Arredondo* case due to the allegedly failed survey. Defendants,
10 for their part, contend that any loss was attributable to litigation and settlement decisions
11 made by Plaintiffs as a result of their own failures in connection with the survey, and not
12 with any act of omission of Defendants or of BMR. The settlement amount obtained in
13 this case of \$767,000 represents over 15% of Plaintiff's estimate of that minimum lost
14 value in the *Arredondo* Action. Although several millions in Pay Stub and Waiting Time
15 Penalties were calculated by Roberts in the *Arredondo* Action, which were not affected
16 by the survey data, Plaintiffs' counsel's experience in wage and hour litigation
17 demonstrates that awards for such Labor Code penalties are discretionary in some cases,
18 are not fully awarded, or that a smaller percentage is achieved through settlement in
19 similar wage and hour cases. More common is a settlement approximating the actual
20 damages of lost wages and/or tool expenditures, plus some value allocated to penalties in
21 light of the strength of the parties' respective positions at time of settlement. The tools
22 and Pre-Shift Work classes (above) had a combined actual damage estimate less Labor
23 Code penalties of approximately \$15 million. The Settlement in the *Arredondo* Action
24 achieved 9 million less than that amount.

25 e. The estimated \$767,000 settlement amount, after being reduced by the requested
26 deductions,¹ leaves approximately \$511,887 to be divided among approximately 5,758
27
28

¹ The policy is a "burning policy" in which coverage for indemnity is reduced by defense costs.

1 class members inclusive of the 44 *Arredondo* Action opt-outs. Assuming full
2 participation, the resulting payments will average \$89.04 per class member. In the
3 *Arredondo* Action, claiming class members' payments varied widely based on their work
4 history. Here Class Members are being compensated for the alleged loss of advantage
5 and bargaining power in achieving settlement in *Arredondo*, and the settlement may have
6 an additional deterrent effect in the industry regarding the types of alleged oversights,
7 errors and failures in the production of expert evidence for complex litigation.

8 f. Accordingly, it is the desire of the Parties to fully, finally, and forever settle,
9 compromise, and discharge all Released Claims (as defined below). The specific terms of
10 the Releases given by the Representative Plaintiff and by the Settlement Class Members
11 are set forth in paragraphs 85 - 87 below and are not limited by any language in this or
12 any other section of this Stipulation.

13 **TERMS OF PAYMENT AND DISTRIBUTION**

14 **66. Settlement Amount.** The portion of the Settlement Amount payable by
15 Defendant CSRS is \$5,000.00. The portion of the Settlement Amount payable by Defendant
16 PFC is the limits of a \$1,000,000.00 policy of insurance issued to PFC and applicable to this
17 matter, minus defense fees and costs paid, and anticipated to be paid, by the insurer under the
18 policy, subject to Court approval, as set forth above in Paragraph 29. Approximately \$225,000
19 has been paid under the Hanover Policy as of the date of this Second Amended Stipulation and
20 PFC estimates that an additional \$13,000 may be paid under the Hanover Policy through the
21 conclusion of this matter. The respective portions of the Settlement Amount set forth herein do
22 not reflect, and under no circumstances shall be construed either as a reflection of, an allocation
23 of, or an assumption of fault, liability, wrongdoing or responsibility as between PFC and CSRS.
24 All payments of any kind to the Settlement Class and/or to anyone else in connection with,
25 arising from, relating to, or in consideration of the Settlement or the resolution of Current Class
26 Action as it relates to Defendants shall come from this Settlement Amount, including without
27 limitation all payments and distributions to the Settlement Class from the Net Settlement Fund
28 described herein, all attorney's fees and costs, if any, awarded in connection with this Settlement,

1 all costs and expenses relating to the administration of the Settlement and Class Notice incurred
2 in connection with this Settlement, any enhancement award to the Representative Plaintiff made
3 in connection with this Settlement, and all Taxes,. Upon and after the Effective Date, no portion
4 of the Settlement Amount will revert to Defendants under any circumstances, and Defendants
5 and their counsel shall not seek an award of attorney's fees or costs from the Court.

6 **67. Payment to Qualified Settlement Fund by Defendant PFC.** Defendant PFC
7 shall deposit not less than \$40,000 into the Qualified Settlement Fund established by the
8 Settlement Administrator within 60 days after entry of the [Proposed] Order of Certification and
9 Preliminary Approval. PFC shall deposit the balance of its portion of the Settlement Amount
10 within 60 days of the Effective Date of the Settlement, or earlier at PFC's option. Full payment
11 by PFC of its portion of the Settlement Amount to the Qualified Settlement Fund shall fully
12 satisfy PFC's obligations hereunder; Plaintiffs, Proposed Class Counsel, and the Settlement
13 Class bear any and all risk of loss associated with amounts paid to the Qualified Settlement
14 Fund. PFC shall have no responsibility or liability for, relating to, or arising from or in
15 connection with the appointment of the Settlement Administrator, any actions or omissions by
16 the Settlement Administrator, its agents, or of Proposed Class Counsel or its agents, or any
17 obligation or liability of the Qualified Settlement Fund. Without limitation, PFC and the
18 Released Parties are not responsible and shall have no liability in connection with the distribution
19 of any unclaimed funds or any obligation to remit such funds to the State of California, the
20 failure to obtain or report accurate taxpayer information, the failure to withhold, remit, or pay
21 sufficient Taxes, or the calculation and distribution of payments to Settlement Class Members.

22 **68. Payment to Qualified Settlement Fund by Defendant CSRS.** Defendant CSRS
23 shall deposit \$5,000.00 into the Qualified Settlement Fund established by the Settlement
24 Administrator within 60 days after entry of the [Proposed] Order of Certification and Preliminary
25 Approval. Full payment by CSRS of its portion of the Settlement Amount to the Qualified
26 Settlement Fund shall fully satisfy CSRS's obligations hereunder; Plaintiffs, Proposed Class
27 Counsel, and the Settlement Class bear any and all risk of loss associated with amounts paid to
28 the Qualified Settlement Fund. CSRS shall have no responsibility or liability for, relating to, or

1 arising from or in connection with the appointment of the Settlement Administrator, any actions
2 or omissions by the Settlement Administrator, its agents, or of Proposed Class Counsel or its
3 agents, or any obligation or liability of the Qualified Settlement Fund. Without limitation, CSRS
4 and the Released Parties are not responsible and shall have no liability in connection with the
5 distribution of any unclaimed funds or any obligation to remit such funds to the State of
6 California, the failure to obtain or report accurate taxpayer information, the failure to withhold,
7 remit, or pay sufficient Taxes, or the calculation and distribution of payments to Settlement Class
8 Members.

9 **69. Attorney's Fees and Costs.**

10 a. Proposed Class Counsel may apply to the Court for an award of
11 attorney's fees not to exceed \$191,750 (or up to 25% of the final settlement amount,
12 whichever is less) and costs and expenses up to the amount of \$7,500 incurred in
13 connection with negotiating and obtaining this Settlement, that pro-rata portion of the
14 prosecution of this action as against Defendants PFC and CSRS, and for all of the work
15 remaining to be performed by Proposed Class Counsel in regard to this Settlement,
16 including without limitation documenting the Settlement, securing Court approval of the
17 Settlement, securing Court approval of certification of the Settlement Class, providing
18 Class Notice, making sure that the Settlement is administered and implemented in
19 accordance with its terms. Amounts awarded by the Court for Plaintiffs' attorney's fees,
20 costs, and expenses of whatever kind or type to Proposed Class Counsel, or to anyone
21 else, shall be paid exclusively from and out of the Settlement Amount, but in no event
22 shall such amounts be distributed prior to the full distribution of Settlement Class Shares.
23 Proposed Class Counsel shall provide the Settlement Administrator with valid Forms W-
24 9 prior to receiving payment.

25 b. In consideration for settling this matter and in exchange for the Releases
26 set forth herein and in the [Proposed] Final Order and Judgment by and from the
27 Settlement Class Members, and subject to final approval by the Court, Defendants will
28 not oppose Plaintiffs' motion for attorney's fees provided that (i) it does not request fees

1 in excess of 25% (or approximately \$191,750) of the final settlement amount, (ii) the
2 motion for attorney's fees provides for fees only to satisfy and compensate Proposed
3 Class Counsel, including but not limited to any individual or entity working on behalf of
4 Proposed Class Counsel in connection with this Settlement, and (iii) the [Proposed] Final
5 Order and Judgment expressly and effectively extinguishes any and all claims and
6 potential claims for attorney's fees, costs, and expenses of Proposed Class Counsel and of
7 anyone else. Defendants will not object to a request by Proposed Class Counsel for
8 reimbursement of actually-incurred costs and expenses associated with negotiating and
9 obtaining this Settlement, to be paid from the Settlement Amount. Proposed Class
10 Counsel shall advise the Settlement Administrator and Defendants of the total amount of
11 fees and costs it plans to request in time to allow for the calculation of amounts to be
12 included in the Notice of Anticipated Settlement Share.

13 c. Proposed Class Counsel on behalf of themselves and of the Arredondo
14 Action Class Counsel, as well as any others working on behalf of the plaintiffs in the
15 *Arredondo* Action or in the Current Class Action, agree to and hereby do release each and
16 all of the Released Parties (defined below in paragraph 85) of and from any and all claims
17 for attorney's fees, costs, expenses, and/or any monetary sums of any type connected
18 with or relating in any manner to the Current Class Action, to any of the claims released
19 as part of this Settlement, and/or to the Arredondo Class Action.

20 d. In the event that the Court does not approve the award of attorney's fees
21 and/or costs requested by Proposed Class Counsel, or the Court awards attorney's fees
22 and costs in an amount less than that requested by Proposed Class Counsel, such ruling or
23 award shall not be a basis for rendering the Settlement void or unenforceable in any
24 respect; the Settlement, including all Releases, shall remain in full force and effect.
25 Proposed Class Counsel retains its right to appeal any decision by the Court regarding the
26 Court's award of attorney's fees and costs made in connection with this Settlement.

27 **70. Enhancement Award.** Subject to approval by the Court, and in consideration of
28 this Settlement including the Releases set forth herein, Defendants will not object to the

Representative Plaintiff receiving an appropriate enhancement award in consideration for serving as a class representative, not to exceed \$1,000. The enhancement award, if any, will be in addition to the share to which the Representative Plaintiff is entitled from the Net Settlement Fund in accordance with the Plan of Allocation and will be deducted from the Settlement Amount. In the event that the Court does not approve the enhancement award, or the Court makes such an award in an amount less than that requested, such ruling or award shall not be a basis for rendering the Settlement null, void, or unenforceable in any respect, and such decision of the Court shall have no impact upon the validity or enforceability of the Settlement; the Settlement, including all Releases, shall remain in full force and effect. The Representative Plaintiff retains his right to appeal any decision by the Court regarding the Court's ruling on an enhancement award, provided that any such appeal and/or arguments made therein by the Representative Plaintiff are consistent with this Stipulation.

71. **Costs of Administration.** The Class will bear the costs of providing Class Notice under California Rules of Court Rule 3.766 to 5,758 Claiming Class Members inclusive of those who submitted claims in the *Arredondo* Action and the 44 who opted out. The estimated total cost of KCC's notice and administrator services is \$54,863, of which \$22,098 is delineated for Class Member legal notification procedures; \$2,180.00 for telephone support; \$6,634 for forms processing; \$9,720 for disbursements & tax reporting, \$8,464 for residual disbursement and, \$8,267 for postage. All costs and expenses for, or relating in any manner to, the administration of the Settlement, including without limitation the fees of the Settlement Administrator, will be paid from and out of the Settlement Amount. These administration costs shall not be considered part of Plaintiffs' attorney's fees and costs incurred in prosecuting the action.

ADMINISTRATION PROCEDURES

72. Settlement Data and Information. All data or information relating to the Settlement Class or to the administration of the Settlement that is collected, compiled, created, used, or possessed by the Settlement Administrator will be made available to counsel for the Parties only to the extent reasonably necessary for them to comply with their respective

1 obligations under this Stipulation of Settlement or as ordered by the Court upon good cause
2 shown. Requests by Defendants for data or information relating to the administration of the
3 Settlement that are directed to the Settlement Administrator shall be copied to Proposed Class
4 Counsel, who shall cooperate in good faith to facilitate prompt provision of the requested
5 information. Other than as may be set forth herein Defendants shall have no responsibility or
6 liability with regard to the administration of the Settlement or of the Net Settlement Fund.

7 **73. Responsibility for Administrative Costs.** The fees charged and the costs
8 incurred by the Settlement Administrator prior to the date on which the full Settlement Amount
9 is tendered to the Qualified Settlement Fund shall be paid from the \$45,000 deposited into the
10 Qualified Settlement Fund pursuant to paragraphs 67 and 68. Fees or costs charged or incurred
11 by the Settlement Administrator or by Proposed Class Counsel for administration shall be paid
12 directly by the Settlement Administrator from the Qualified Settlement Fund following
13 reasonable notice to the Parties of the amounts to be paid and the basis for them. All such fees
14 and costs shall be subtracted from the Settlement Amount as part of determining the Net
15 Settlement Fund. The Parties agree to provide valid Forms W-9 to the Settlement Administrator
16 as needed.

17 **74. Establishment of Qualified Settlement Fund.** As soon as practicable following
18 its appointment, and within 10 days of the date on which the [Proposed] Order of Certification
19 and Preliminary Approval is entered, the Settlement Administrator shall file a Form SS4 with the
20 IRS and obtain a taxpayer identification number for the Qualified Settlement Fund. All accounts
21 containing all or any part of the Settlement Amount shall bear the name and the taxpayer
22 identification number of the Qualified Settlement Fund. The Settlement Administrator shall open
23 such accounts as are necessary for the receipt, distribution, and administration of monies paid to
24 the Qualified Settlement Fund. The Settlement Administrator shall establish all state registration
25 accounts necessary to properly comply with the reporting obligations of the Qualified Settlement
26 Fund.

27 **75. Duties of Settlement Administrator.** Kurtzman Carson Consultants ("KCC")
28 serves as the administrator in the underlying *Arredondo* Action. KCC is in possession of the

1 identities of the 5,758 Claiming Class Members inclusive of the 44 opt-outs that participated in
2 the *Arredondo* Action. However, the work in this matter is not, in many respects, duplicative of
3 the work performed in the *Arredondo* Action. In fact, more work will be required of the
4 Settlement Administrator in that additional inquiries will be made by Class Members confused
5 with receiving Class Notice in this action and how it relates to the underlying *Arredondo* Action.
6 Without in any manner limiting any duty set forth in any other paragraph herein, the duties of the
7 Settlement Administrator shall include, without limitation, reviewing, updating, and verifying the
8 Class Data List, preparing and mailing the Class Notice in English, Tagalog (upon request), and
9 Spanish to each Settlement Class Member, collecting and verifying the taxpayer identification
10 information associated with the Settlement Class Members, calculating and establishing reserves
11 to cover Taxes and expenses and all costs of or relating to administration, submitting to the Court
12 any objections submitted by Settlement Class Members pursuant to paragraphs 89-91 below,
13 performing necessary skip traces on Class Notices returned as undeliverable, processing Opt-Out
14 Forms, preparing and mailing settlement checks, preparing appropriate tax forms in connection
15 with the settlement payments and remitting those forms to the appropriate governmental
16 agencies, undertaking reasonable efforts to re-notify or re-mail checks to Claiming Class
17 Members who have not cashed their checks within 180 days of the initial mailing, redistributing
18 pro rata to class members any unclaimed funds, and preparing a final accounting with regard to
19 the Qualified Settlement Fund and/or administration of the Settlement. The Settlement
20 Administrator shall hire any third parties necessary for completion of its tasks, but such hiring
21 shall not exceed the Administrator's quote for serving as Administrator in this case. The
22 Settlement Administrator, and any other person involved in the administration of this Settlement,
23 shall treat any and all documents, communications, and other information and materials received
24 in connection with the administration of the Settlement as confidential, will take appropriate
25 steps to protect confidential or private information, including the Class Data List, and shall not
26 disclose any such documents, communications, or other information to any person or entity
27 except as provided for in this Stipulation or by court order. KCC has provided the Class
28 Members with a courtesy discount of \$2,500 (\$57,363 - \$2,500 = \$54,863). The following is a

1 cost summary for the services: KCC will print and mail 5,758 notices which will consist of an 8-
2 page Notice in English, Spanish and Tagalog (upon request), 2 page opt-out form in Spanish,
3 Tagalog (upon request) and English, address searches and re-mails, Website set-up and
4 maintenance, opt-out processing & declaration of notice procedures); forms processing \$6,634;
5 telephone support \$2,180; notice procedures \$22,098; disbursement & tax reporting \$9,720;
6 residual disbursement \$8,464; and estimated postage costs \$8,267.

7 **76. Compilation of Class Data List.** In the underlying *Arredondo* Action the
8 following information as to each member of the proposed Settlement Class was provided to the
9 Settlement Administrator, to the extent it was available in the records of the defendants in the
10 *Arredondo* Action and in an electronic format such as Excel, as it was then reported, stated, or
11 recorded in such records: (i) name; (ii) last known home and mailing addresses (if different); (iii)
12 telephone number; (iv) Social Security Number or other taxpayer identification number; (v)
13 Alien Registration Number (if applicable); and (vi) number of weeks during the Class Period
14 defined in the *Arredondo* Action that each person performed Class Work for the defendants
15 therein. Plaintiff and Proposed Class Counsel will make good-faith efforts to obtain and provide
16 such other information as the Settlement Administrator may reasonably request to aid in
17 identification, location, or payment of any Settlement Class Member who performed Class
18 Work. This information shall collectively be referred to as the "Class Data List." The Settlement
19 Administrator will perform address updates and verifications as appropriate prior to the first
20 mailing to the Settlement Class and will, consistent with outreach efforts such as those outlined
21 in paragraph 78 below, undertake reasonable efforts to obtain the information necessary to
22 administer the Settlement and perform its duties hereunder, including all taxpayer information
23 necessary to meet its obligations under this Stipulation.

24 **77. Calculation of Anticipated Settlement Share.** The Settlement Administrator
25 will calculate the amount to be included in each Claiming Class Member's Notice of Anticipated
26 Settlement Share and the Plan of Allocation. The Notice of Anticipated Settlement Share shall be
27 provided on each Settlement Class Member's Notice. In the settlement of the *Arredondo* Action,
28 Settlement Class Members had an opportunity to challenge the number of work weeks he or she

1 performed Class Work, and he or she was asked to provide the basis for any challenge and was
2 informed that he or she must provide any records or documentation supporting his or her
3 position. In response to such a dispute, the Settlement Administrator first verified the
4 information contained in the Class Data List and, if it deemed appropriate, also requested
5 additional information reasonably and readily available from the defendants in the *Arredondo*
6 Action regarding the Class Work performed by that person. Unless such person could establish a
7 different number of qualifying Class Work weeks based on documentary evidence, the total
8 number of Class Work weeks established by records in the possession of the Settlement
9 Administrator controlled. Any such challenges either have been or shall be resolved by the
10 Settlement Administrator, who shall examine the records available. The Settlement
11 Administrator's determination regarding any dispute concerning any Anticipated Settlement
12 Share shall be final. The Settlement Administrator must mail written notice of its determination
13 and, if applicable, a revised Notice of Anticipated Settlement Share to the challenging Settlement
14 Class Member no later than 160 days after entry of the [Proposed] Order of Certification and
15 Preliminary Approval.

16 **78. Dissemination of the Class Notice.**

17 a. Within 90 days of entry of the [Proposed] Order of Certification and
18 Preliminary Approval, the Settlement Administrator will send Settlement Class Members,
19 by first-class mail to their last known address (after performing address updates and
20 verifications as appropriate prior to this first mailing), the Class Notice (which includes
21 the Notice of Proposed Class Action Settlement, and the Opt-Out Form as set forth in
22 paragraph 15 above ("First Mailing")).

23 b. The Settlement Administrator will establish and maintain a Court
24 approved website in English, Spanish and Tagalog the content of which shall be subject
25 to the prior approval by all Parties (or, if the Parties cannot agree, the approval of the
26 Court). The website shall include the Class Notice materials and information about how
27 Settlement Class Members can contact the Settlement Administrator
28

1 c. Proposed Class Counsel shall seek agreement from Defense Counsel as to
2 the content, placement, and timing of the announcements, advertisements, and other steps
3 referenced in subparagraph (b). If the Parties are unable to agree, they will promptly seek
4 resolution from the Settlement Administrator, and if they are still unable to agree, they
5 will promptly seek resolution from the Court through a joint motion setting forth their
6 respective positions.

7 d. Upon receipt of information that a Settlement Class Member did not, in
8 fact, receive the Class Notice in the First Mailing (*e.g.*, by the post office's return to the
9 Settlement Administrator of the First Mailing sent to that individual), the Settlement
10 Administrator shall undertake reasonable efforts to determine the correct address for
11 those Settlement Class Members who did not receive the First Mailing. Then, within 115
12 days after entry of the [Proposed] Order of Certification and Preliminary Approval the
13 Settlement Administrator will execute a second mailing of Class Notice to those
14 Settlement Class Members whose previous Class Notices were undeliverable and for
15 whom the Settlement Administrator has located an alternative address through skip
16 tracing or other means ("Second Mailing").

17 e. Upon reasonable request, the Settlement Administrator shall provide
18 periodic reports to all counsel identifying the efforts taken to provide actual notice to
19 Settlement Class Members, such reports to include without limitation the number of
20 mailings sent out, the number of notices returned undeliverable, the number of persons
21 who have responded to the PSAs, the number of phone calls received, and the efforts
22 taken to identify proper addresses for the Settlement Class Members.

23 f. The Parties agree that the plan for dissemination of Class Notice as
24 described in this paragraph is valid and effective, that it provides reasonable notice to the
25 Settlement Class, and that it represents the best practicable notice under the
26 circumstances.

27 **79. Challenges by Settlement Class Members to Calculation of Anticipated**
28 **Settlement Share.** Whether or not he or she submits an objection to all or part of the Settlement

1 pursuant to paragraphs 89-91 below, a Settlement Class Member may dispute his or her
2 Anticipated Settlement Share, or the data used to calculate his/her Notice of Anticipated
3 Settlement Share, by sending a written notice to the Settlement Administrator within 45 days
4 after the mailing of the Notice to the Class Member.

5 **80. Opt-Out Procedures.** As indicated in paragraph 15 above, the Class Notice shall
6 include an Opt-Out Form advising Settlement Class Members that they may opt out of the
7 Settlement Class by indicating on the Opt-Out Form that they wish to be excluded from the
8 Settlement Class and returning the Opt-Out Form via first class mail or by personally delivering
9 it to the Settlement Administrator no later than the date stated on the Opt-Out Form, which will
10 be 45 days after the mailing of the Notice to the Class Member.

11 a. All Opt-Out Forms must be completed in full, be legible, and be
12 postmarked or delivered on or before the deadlines provided in this sub-paragraph.

13 b. Any Settlement Class Member who timely and properly submits an Opt-
14 Out Form will not be entitled to receive any portion of the Net Settlement Fund,
15 including without limitation his or her Settlement Class Member's Share, and will not be
16 bound by the Settlement or have any right to object, appeal, or comment thereon.

17 c. Any Settlement Class Member who does not timely and properly submit
18 an Opt-Out Form shall be bound by all terms of the Settlement and the entered
19 [Proposed] Final Order and Judgment, including without limitation the releases set forth
20 in paragraphs 85-87 below.

21 d. Within 185 days after entry of the [Proposed] Order of Certification and
22 Preliminary Approval, the Settlement Administrator shall provide all counsel with a
23 complete list of all Settlement Class Members who have timely and properly submitted
24 Opt-Out Forms and a copy of such forms and other materials received from members of
25 the Settlement Class requesting exclusion. If the Settlement Administrator receives any
26 Opt-Out Forms after that date, the Settlement Administrator shall promptly provide all
27 counsel with copies thereof.
28

1 e. Defendants each shall have the absolute right, in the exercise of their
2 respective sole discretion, to terminate in its entirety this Stipulation of Settlement *ab*
3 *initio* in the event that ¼ of 1% or more of the Settlement Class Members submit an Opt-
4 Out Form. If one or both of the Defendants so elect, it or they will notify Proposed Class
5 Counsel and the Court of its or their election within 20 days of receipt of the list
6 identified in the preceding subparagraph (d), and upon the giving of such notification the
7 Settlement shall be terminated and the terms and conditions of paragraph 97 below shall
8 apply.

9 **81. Plan of Allocation.** Each Claiming Class Member shall be entitled to a share of
10 the Net Settlement Fund determined pursuant to the following Plan of Allocation that was
11 accepted by the Court and adopted in the underlying *Arredondo* Action:

12 a. The payment made to each Claiming Class Member shall be determined
13 pro rata based on the total number of weeks that each Claiming Class Member performed
14 Class Work relative to the total number of weeks that all Claiming Class Members
15 performed Class Work. Work weeks after April 8, 2012 will be valued at 50% of the
16 value of work weeks occurring prior to April 8, 2012. This is intended to account for
17 changes in the practices of the defendants in the *Arredondo* Action that appear to have
18 taken place, reducing both the likelihood and the frequency of the alleged violations.

19 b. Each Claiming Class Member shall be entitled to a payment that is the
20 product of the total amount of the Net Settlement Fund multiplied by the fraction
21 determined by the total number of weeks, and weighted according to the formula set forth
22 in paragraph 81(a), that such Claiming Class Member performed Class Work divided by
23 the total number of weeks that all Claiming Class Members collectively performed Class
24 Work.

25 c. For purposes of this Plan of Allocation, the term “week” shall be defined
26 as seven consecutive days beginning on Monday and ending on Sunday. If a Settlement
27 Class Member performs any amount of Class Work during a given week, that week shall
28 be counted as a week during which the Settlement Class Member performed Class Work.

1 **82. Review of Calculations of Settlement Class Members' Shares.** Upon the
2 Effective Date of Settlement, the Settlement Administrator shall calculate each Claiming Class
3 Member's Share in accordance with the above Plan of Allocation. Such calculations shall be
4 provided to Proposed Class Counsel and to Defense Counsel within ten 10 business days after
5 finalization thereof and not less than 10 business days before any Claiming Class Member's
6 Share is distributed.

7 **83. Payment Procedures.**

8 a. As soon as practical following both the Effective Date and the deposit to
9 the Qualified Settlement Fund of the full Settlement Amount, the Settlement
10 Administrator shall pay from the Qualified Settlement Fund any enhancement award to
11 the Representative Plaintiff that may be approved in the [Proposed] Final Order and
12 Judgment.

13 b. As soon as practical following both the Effective Date and the deposit to
14 the Qualified Settlement Fund of the full Settlement Amount, but before any Settlement
15 Class Member's Share is distributed, the Settlement Administrator shall: (i) determine the
16 amounts (payable from the Net Settlement Fund) due to the Claiming Class Members in
17 accordance with the Plan of Allocation; and (ii) establish a reserve sufficient to cover all
18 Taxes due (if any,) and to cover all potential further administration and other expenses
19 and any other further payments, other than distributions to the Settlement Class, related to
20 the Settlement or its administration (the "Reserve").

21 c. As soon as practical following the disbursement of the payment identified
22 in paragraph 83(a) above and the establishment of the reserve required by paragraph
23 83(b) above, the Settlement Administrator shall issue and mail checks to the Claiming
24 Class Members and shall remit appropriate payment for, or related to, Taxes to the
25 appropriate governmental authorities.

26 d. If any portion of the Reserve remains in the Qualified Settlement Fund
27 after the ultimate payment of all Taxes, expenses, and any other payments to anyone
28 other than distributions to the Settlement Class, the amount so remaining shall be

1 distributed to the Claiming Class Members pro rata according to the Plan of Allocation as
2 a supplemental payment.

3 e. The Settlement Administrator shall make reasonable efforts to re-notify or
4 re-mail checks to Claiming Class Members who have not cashed their checks within 180
5 days of the initial mailing of such checks, including additional efforts to obtain a correct
6 address for such Claiming Class Members.

7 f. If, upon the expiration of 90 days after re-mailing of undeliverable checks
8 or re-notification to Claiming Class Members whose checks remained uncashed, such
9 checks still remain uncashed, the Settlement Administrator shall cause stop-payment
10 notices to be issued against the checks not cashed. The Settlement Administrator will
11 then distribute and deliver the total amount of the uncashed checks to the remaining
12 Claiming Class Members pro rata according to the Plan of Allocation as a supplemental
13 payment. Defendants shall have no liability, either individually or collectively, based on
14 any claim by any Party, Settlement Class Member, or third party that the funds related to
15 the uncashed checks should have been treated as unclaimed property of the original payee
16 or otherwise distributed in a different way to a different person.

17 g. No payment of Attorney's Fees or Costs that may be awarded to Proposed
18 Class Counsel may be made by the Settlement Administrator until checks to all Claiming
19 Class Members have been distributed. As soon as practical following the issuance and
20 mailing of checks to the Claiming Class Members, the Settlement Administrator shall pay
21 to Class Counsel from the Qualified Settlement Fund any costs, expenses and Attorneys'
22 Fees that may be approved in the [Proposed] Final Order and Judgment.

23 **84. Tax Treatment of Settlement Payments.**

24 Each recipient of any monies paid in accordance with this Settlement, including without
25 limitation Settlement Class Members, is responsible for the proper and timely payment of any
26 Taxes associated with the monies received by each recipient.
27
28

RELEASES

85. Releases by Settlement Class Members. Effective upon each Defendant's deposit of its respective portion of the Settlement Amount into the Qualified Settlement Fund, and provided that no Party terminates this Settlement in accordance with Paragraph 96 below, each Settlement Class Member and the Representative Plaintiff, and each of his or her predecessors, successors, assigns, heirs, executors, administrators, attorneys, and agents, and any other person acting on his, her, or their behalf, releases each of CSRS, its owners, Affiliates, shareholders, general and limited partners, predecessors, insurers, agents, employees, independent contractors, heirs, executors, successors, transferees, officers, officials, directors, members, managers, attorneys, beneficiaries, trustees, personal representatives, or other representatives and each of PFC, its owners, Affiliates, shareholders, general and limited partners, predecessors, insurers, agents, employees, independent contractors, heirs, executors, successors, transferees, officers, officials, directors, members, managers, attorneys, beneficiaries, trustees, personal representatives, or other representatives (collectively the "Released Parties") of and from any and all claims, actions, rights, demands, charges, debts, liens, obligations, costs, expenses, wages, restitution, compensation, disgorgement, benefit(s) of any type, equitable relief, contract obligations, liquidated damages, statutory damages, damages, penalties of whatever type or description, attorney's fees, interest, complaints, causes of action, obligations, or liability of any and every kind, known or unknown, at law or in equity, contingent or otherwise (i) that were asserted or that could have been asserted in the Current Class Action including without limitation in the Complaint, or (ii) that are, were, or could be based on, that arose or could arise out of, or that in any way relate to the same or substantially similar facts, transactions, events, policies, acts, or omissions as alleged in the Current Class Action or otherwise related to Defendants' respective work in the *Arredondo* Action on behalf of the Settlement Class Members, including the Representative Plaintiff (collectively the "Released Claims"). The Released Claims do not include claims that could otherwise be brought by Settlement Class Members against the defendants in the *Arredondo* Action or against any other employer of the Settlement Class Members for unpaid wages, or other claims arising out of their

1 employment. Subject to the preceding sentence, the Parties agree and, upon approval of the
2 Settlement, the Court will order that the Released Claims include but are not limited to any and
3 all claims against each and all of the Released Parties as described herein.

4 **86. Mutual Additional Releases by the Parties.** In addition to the releases set forth
5 in the preceding paragraph, the Parties, including the Settlement Class Members, mutually
6 specifically acknowledge that they each release, each from the other, not only the Released
7 Claims set forth above but any and all claims arising from, and/or related in any way to, the same
8 or substantially similar facts, transactions, events, policies, acts, or omissions as alleged in the
9 Current Class Action or otherwise related to Defendants' work in the *Arredondo* Action on
10 behalf of the Settlement Class Members, including the Representative Plaintiff, whether known
11 or unknown, as of the date of entry of the [Proposed] Order of Certification and Preliminary
12 Approval. Such additional releases shall not include claims that could otherwise be brought by
13 Settlement Class Members against the defendants in the *Arredondo* Action or against any other
14 employer of the Settlement Class Members for unpaid wages, or other claims arising out of their
15 employment. Subject to the preceding sentence, this additional release shall have the effect of
16 resolving all claims which may currently exist between and/or among the Parties.

17 **87. California Civil Code Section 1542.** In connection with the Released Claims
18 identified in paragraph 85, and the mutual releases identified in Paragraph 86, and with the
19 exception of any claims that could otherwise be brought by Settlement Class Members against
20 the defendants in the *Arredondo* Action or against any other employer of the Settlement Class
21 Members for unpaid wages, or other claims arising out of their employment, all parties mutually,
22 including the Settlement Class Members and the named Parties each for himself, herself, or itself
23 waives the provisions of California Civil Code Section 1542, which states:

24 **A GENERAL RELEASE DOES NOT EXTEND TO**
25 **CLAIMS WHICH THE CREDITOR DOES NOT**
26 **KNOW OR SUSPECT TO EXIST IN HIS OR HER**
27 **FAVOR AT THE TIME OF EXECUTING THE**
28 **RELEASE, WHICH IF KNOWN BY HIM OR HER**
MUST HAVE MATERIALLY AFFECTED HIS OR
HER SETTLEMENT WITH THE DEBTOR

These releases apply, as of the effective date of the Releases, to the named Parties and to the Settlement Class Members but are not intended to release claims that cannot be released as a matter of law. The named Parties expressly acknowledge that they have been advised by their respective counsel of the terms of this Paragraph and of the meaning and consequences of waiving the provisions of Civil Code section 1542.

88. [Paragraph Intentionally Left Blank]

RIGHT OF OBJECTION TO SETTLEMENT

89. **Objections to Settlement.** The Class Notice will advise the Settlement Class that each Settlement Class Member who does not opt out of the Settlement has the right to object to all or any part of the Settlement, including without limitation the Plan of Allocation or the scope of the Releases. The Objection must contain the full name, current home (or mailing) address, and telephone number of the objector and the Control Number located on the upper right of the Settlement Class Member's Notice and Opt-Out Form., and must state the grounds for the objection. **Failure to Timely and Properly Submit Objections.** Members of the Settlement Class who fail to file written objections shall be deemed to have waived all objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement.

90. Objections Submitted to Settlement Administrator. Notwithstanding the preceding paragraph, in the event that any Settlement Class Member submits an objection otherwise meeting all of the requirements set forth in paragraph 89 above to the Settlement Administrator, the Settlement Administrator shall promptly send such objection to the Court and provide it to the Parties. Such objections will be considered timely if received by the Settlement Administrator within 45 days after the mailing of the Notice to the Class Member.

91. Deadline to File Responses to Objections. The Parties will file their responses to any Settlement Class Member objections not later than 45 days after the mailing of the Notice to the Class Member.

DUTIES OF THE PARTIES, COURT APPROVAL, AND EFFECTIVE DATE

92. Dismissal of Bakersfield Market Research With Prejudice and Motion for Order of Certification and Preliminary Approval. Plaintiffs dismissed defendant BMR with

1 prejudice prior to the execution of this Stipulation by the Parties. After execution of the original
2 Stipulation by all the remaining named Parties, the Plaintiffs filed a Motion for Certification of
3 the Settlement Class and Preliminary Approval of the Settlement, which included as an exhibit,
4 and relied upon, the original Stipulation (including all of its exhibits), and which requested entry
5 of, and included as its proposed order, the [Proposed] Order of Certification and Preliminary
6 Approval. Defendants' non-opposition to certification of the Settlement Class is for settlement
7 purposes only and is made without prejudice to Defendants' ability to contest certification of a
8 class on any grounds in the event that the Settlement is not approved or is terminated for any
9 reason. This Second Amended Stipulation addresses certain issues raised by the Court to be
10 considered at the continued hearing on the Motion. The [Proposed] Order of Certification and
11 Preliminary Approval, in the form of Exhibit F hereto, shall:

12 a. Approve, as to both form and content, Class Notice as defined in
13 Paragraph 15 above;

14 b. Direct the Settlement Administrator to mail Class Notice by first class
15 mail to the Settlement Class Members and to make it available, if a website is used, on
16 the website;

17 c. Preliminarily approve the Settlement and the certification of the
18 Settlement Class, including appointment of the Representative Plaintiff as the
19 representative of the Settlement Class and Proposed Class Counsel as counsel for the
20 Settlement Class, subject only to the objections of Settlement Class Members and final
21 review by the Court;

22 d. Appoint the Settlement Administrator identified in paragraph 28 above,
23 and approve payment of the reasonable charges of the Settlement Administrator;

24 e. Preliminarily approve Proposed Class Counsel's request that the
25 Representative Plaintiff receives an enhancement award;

26 f. Schedule a Fairness and Approval Hearing, to occur no less than 210 days
27 after entry of the [Proposed] Order of Certification and Preliminary Approval to consider
28 any objections to the Settlement timely submitted to the Court, address whether the

1 Settlement—including the certification of the Settlement Class, the request for payment
2 of attorney’s fees and costs, and the Representative Plaintiff’s enhancement award—
3 should be finally approved as fair, reasonable, and adequate as to the Settlement Class
4 Members, and, if so, enter the [Proposed] Final Order and Judgment;

5 g. Preliminarily approve the [Proposed] Final Order and Judgment;

6 h. Modify the existing case schedules as appropriate; and

7 i. Direct that the Parties shall proceed to implement the Settlement in
8 accordance with the terms of this Stipulation.

9 **93. Final Order and Judgment.** In connection with seeking final approval from the
10 Court of the Settlement set forth in this Stipulation, the Plaintiffs will submit the [Proposed]
11 Final Order and Judgment in the form of Exhibit E hereto. The deadline to file papers in support
12 of entry of the Final Order and Judgment will be 15 days before the date of the Fairness and
13 Approval Hearing. The [Proposed] Final Order and Judgment includes provisions:

14 a. Approving the Settlement, including the certification of the Settlement
15 Class, and adjudging the terms thereof to be fair, reasonable, and adequate, and directing
16 consummation of its terms and provisions;

17 b. Approving the enhancement award to the Representative Plaintiff, if any;

18 c. Approving the fees and costs to be paid to Proposed Class Counsel in
19 connection with this Settlement, if any;

20 d. Discharging and releasing the claims, rights, duties and obligations within
21 the scope of the releases set forth herein; and

22 e. Barring and enjoining all Settlement Class Members, excepting only
23 those, if any, who timely and properly submitted an Opt-Out Form, from initiating,
24 asserting, or prosecuting against Defendant or any Released Party in any forum any and
25 all individual or class claims within the scope of the releases set forth in paragraphs
26 85–87 above.

27 **94. Effective Date.** The Effective Date of this Settlement shall be the date on which
28 all the following have occurred:

1 a. Entry by the Court of the [Proposed] Order of Certification and
2 Preliminary Approval in the form attached hereto as Exhibit F;

3 b. Approval by the Court of the Settlement, following notice to the
4 Settlement Class and the Fairness and Approval Hearing;

5 c. Entry by the Court of the [Proposed] Final Order and Judgment in the
6 form set forth in Exhibit E; and

7 d. The expiration of the later of: (i) any time for appeal or review of such
8 Final Order and Judgment; (ii) if any appeal is filed and not dismissed with prejudice,
9 after such Final Order and Judgment is upheld on appeal in all material respects and is no
10 longer subject to review upon appeal or review by writ of certiorari to any Court; or (iii)
11 in the event that the Court enters a final order and judgment in a form other than that
12 provided above ("Alternative Judgment"), and none of the Parties hereto elect to
13 terminate this Settlement, the date on which such Alternative Judgment becomes final
14 and no longer subject to appeal or review by any court or tribunal.

15 e. Notice of Final Judgment shall be given by posting the Final Judgment on
16 the Claims Administrator's website.

17 **95. Court to Retain Jurisdiction.** This Court shall retain jurisdiction over the Parties
18 to this Stipulation of Settlement with respect to the performance and implementation of its terms.
19 In the event that any applications for relief are made, such applications shall be made to the
20 Court herein.

21 **96. Right to Terminate.** Any Party to this Settlement, by and through his, her or its
22 counsel of record, shall have the right, but not the obligation, to terminate the Settlement and this
23 Stipulation by providing written notice of election to do so ("Termination Notice") to all other
24 Parties hereto within 20 days of the date upon which any of the following conditions may occur:

25 a. The Court declines to enter the [Proposed] Order of Certification and
26 Preliminary Approval in substantially the form of Exhibit F hereto and granting entirely
27 the relief requested (provided, however, that the failure to award fees in the precise
28

1 amount requested, or in any amount, shall not be a basis for terminating the Settlement,
2 consistent with paragraph 69(d));

3 b. The Court declines to approve this Stipulation of Settlement in its entirety;

4 c. The Court declines to certify the Settlement Class exactly as defined in
5 paragraph 30 above;

6 d. The Court declines to enter the [Proposed] Final Order and Judgment in
7 substantially the form of Exhibit E and granting entirely the relief requested (provided,
8 however, that the failure to award fees in the precise amount requested, or in any amount,
9 shall not be a basis for terminating the Settlement, consistent with paragraph 69(d));

10 e. The Final Order and Judgment is modified or reversed in any material
11 respect by the Court, a Court of Appeal, the California Supreme Court, or the United
12 States Supreme Court.

13 Before issuing such Termination Notice, however, the Parties shall meet and confer and
14 make reasonable efforts to address changes that might allow a revised settlement to be reached
15 that would then be submitted for approval. The 20-day period for providing the Termination
16 Notice set forth above shall be tolled during the pendency of such meet and confer process.
17 Termination is effective upon delivery of the Termination Notice.

18 **97. Effect of Termination.** Except as otherwise provided herein, in the event the
19 Settlement is terminated or fails to become effective for any reason, the Parties to this Stipulation
20 shall be deemed to have reverted to their respective litigation positions as of the date of
21 execution of this Stipulation and without regard to Defendants' prior acceptance of the general
22 terms of Plaintiff's settlement proposal on which this Settlement is based, except as otherwise
23 expressly provided, the Parties shall proceed in all respects as if this Stipulation and any related
24 orders had not been entered. In such event:

25 a. The Settlement shall have no force and effect, no Party shall be bound by
26 any of its terms, and nothing in it may be used against any Party in this or in any other
27 proceeding (except that any Party may enforce the provisions of this Stipulation
28 regarding termination of the Settlement or the effect of such termination);

1 b. No pleading, brief, motion, or other submission to the Court relating to the
2 Settlement, including without limitation the Motion for Certification of the Settlement
3 Class and Preliminary Approval of the Settlement and any proposed order (the
4 "Settlement Submissions"), shall constitute an admission of any Party of any kind or shall
5 limit any claim, defense or argument in any way, whether substantive or procedural; and
6 nothing in any Settlement Submission may be used against any Party in this or in any
7 other proceeding (except that any Party may enforce the provisions of this Stipulation
8 regarding termination of the Settlement or the effect of such termination);

9 c. Defendants and the Released Parties shall have no obligation to make any
10 payments;

11 d. If this Settlement is terminated by Plaintiff, any payment made by, or on
12 behalf of, Defendants under the terms of this Settlement prior to the effective date of
13 termination hereof shall be refunded in full, together with interest thereon at an annual
14 rate of 7% simple, and such amount, to the extent originally paid by The Hanover
15 Insurance Company (plus applicable interest), remitted to Hanover at the address set forth
16 in paragraph 29 above, within 10 days of the effective date of the termination. If this
17 Settlement is terminated by mutual consent of the Parties, the amount remitted to The
18 Hanover Insurance Company in accordance with the preceding sentence shall be reduced
19 in an amount equal to one half of the costs of administration and notice actually and
20 reasonably incurred by the Settlement Administrator ("Administrative Costs"). If this
21 Settlement is terminated by PFC, the amount remitted to The Hanover Insurance
22 Company under this subparagraph shall be reduced in an amount equal to the
23 Administrative costs. In no event shall the reduction for Administrative Costs exceed the
24 amount of any such payment previously made by, or on behalf of, PFC under the terms of
25 this Settlement prior to the effective date of termination. To the extent that any portion of
26 any payment already made by, or on behalf of any Defendant is not returned in
27 accordance with the preceding sentence, PFC and The Hanover Insurance Company shall
28 receive credit for that unreturned amount as to the remaining policy limits such that any

1 judgment or other settlement ultimately obtained by the Plaintiffs or by any class certified
2 in this action against PFC and determined to be covered under the Hanover Insurance
3 Policy shall be reduced by an identical amount.

4 e. If entered before termination, the [Proposed] Order of Certification and
5 Preliminary Approval and/or the [Proposed] Final Order and Judgment, or any similar
6 orders and related findings or conclusions, shall be vacated, shall be of no effect
7 whatsoever, and may not be used against any Party in this or in any other proceeding; and

8 f. The Settlement, Settlement Submissions, and all negotiations, statements,
9 documents, and proceedings relating thereto shall be deemed confidential and not subject
10 to disclosure by the Parties for any purpose in any proceeding.

11 **MISCELLANEOUS PROVISIONS**

12 **98. Integration.** All of the exhibits attached hereto are material and integral parts
13 hereof and are hereby incorporated by reference as though fully set forth herein. This Stipulation
14 and the attached exhibits state and contain the entire agreement and the entirety of the
15 understandings between the Parties relating to the Settlement and transactions contemplated
16 thereby. All prior or contemporaneous agreements, understandings, representations, and
17 statements, whether oral or written and whether by a Party or such Party's legal counsel, are
18 merged herein. No rights hereunder may be waived except in writing.

19 **99. No Admission.** This Stipulation, the Settlement, and all negotiations, statements,
20 and proceedings in connection herewith shall not, in any event, be construed or deemed to be
21 evidence of an admission or concession on the part of Plaintiffs, Defendants, any Released Party,
22 any Settlement Class Member, or any other person or entity, of any liability or wrongdoing by
23 them, or any of them, and shall not be offered or received in evidence in any action or
24 proceeding (except an action to enforce this Stipulation and the Settlement contemplated
25 hereby), or be used in any way as an admission, concession, or evidence of any liability or
26 wrongdoing of any nature, and shall not be construed as, or deemed to be evidence of, an
27 admission or concession that any person or entity has or has not suffered any damage or agrees
28 to any theory or argument, except that the Released Parties may file this Stipulation and/or the

1 Final Order and Judgment in any action that may be brought against them in order to support a
2 defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good
3 faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue
4 preclusion or similar defense or counterclaim.

5 **100. Authority.** The signatories hereto hereby represent that they are fully authorized
6 to enter into this Stipulation and bind the respective Parties to its terms.

7 **101. Cooperation in Execution.** The Parties agree to fully cooperate with each other
8 to obtain Court approval of this Settlement, including without limitation execution of such
9 documents and taking such other action as may reasonably be necessary to implement the terms
10 of this Settlement. Nothing (including any order of the Court), however, shall require any party
11 hereto to accept any terms, provisions, or conditions different from those stated in this
12 Stipulation.

13 **102. No Prior Assignments.** The Parties hereto represent, covenant, and warrant that
14 they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
15 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
16 cause of action, or rights herein released and discharged.

17 **103. Construction.** The Parties hereto represent that the terms and conditions of this
18 Settlement are the result of arms-length negotiations between the Parties and that this Stipulation
19 has been prepared by Proposed Class Counsel and by Defense Counsel. To the extent that there
20 is any ambiguity or uncertainty in this Stipulation, no Party will be deemed to have caused it.
21 Accordingly, the Parties agree that this Stipulation shall not be construed in favor of, or against,
22 any Party by reason of the extent to which any Party or its counsel participated in the drafting of
23 this Stipulation and that California Civil Code § 1654 and common-law principles of construing
24 ambiguities against the drafter shall have no application.

25 **104. Advice of Counsel.** The undersigned Parties warrant and represent that they are
26 agreeing to the terms of this Stipulation after having received the advice of their respective
27 counsel, that they have had a full and unfettered opportunity to discuss the contents of this
28

1 Stipulation with their counsel, and that they fully understand and voluntarily accept the terms
2 and conditions of this Stipulation.

3 **105. No Waiver.** The waiver by any Party of a breach of any term of this Stipulation
4 shall not operate or be construed as a waiver of any subsequent breach by any Party. The failure
5 of a Party to insist on strict adherence to any provision of the Stipulation shall not constitute a
6 waiver or thereafter deprive such Party of the right to insist upon strict adherence.

7 **106. Third Party Beneficiaries.** Non-party persons and entities who are recipients of
8 the releases set forth herein are third party beneficiaries of this Stipulation.

9 **107. Headings and Recitals.** Paragraph or section headings contained herein are
10 inserted as a matter of convenience and for reference and in no way define, limit, extend, or
11 modify the scope of this Settlement or any provision hereof. Each term of this Settlement is
12 contractual and not merely a recital.

13 **108. Amendment.** This Settlement may not be changed, altered, or modified except in
14 a writing signed by the Parties hereto and approved by the Court. This Settlement may not be
15 discharged except by performance in accordance with its terms or by a writing signed by the
16 Parties hereto.

17 **109. Binding on Successors.** This Settlement shall be binding upon and inure to the
18 benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
19 successors, and assigns.

20 **110. Releases Binding on Absent Settlement Class Members.** It is acknowledged
21 and agreed that, because of the large number of Settlement Class Members, it is impossible or
22 impractical to have each Settlement Class Member execute this Stipulation. The Class Notice
23 will advise Settlement Class Members of the precise terms and provisions, and the binding
24 nature of, the releases described in paragraphs 85-87 above to the extent permitted by law, and
25 such releases shall have the same force and effect as if this Settlement and this Stipulation was
26 executed by each Settlement Class Member.

27 **111. Counterparts.** This Stipulation may be executed in counterparts by scanned or
28 facsimiled signature, and when each party has signed and delivered at least one such counterpart,

1 each counterpart shall be deemed an original and, when taken together with other signed
2 counterparts, shall constitute one Stipulation, which shall be binding upon and effective as to all
3 Parties.

4 **112. Applicable Law.** The Parties agree that California law governs the interpretation
5 and application of this Settlement.

6 **113. Non-Disparagement.** The Parties, including their respective counsel of record
7 agree that no statements or remarks shall be made by either Party, or by any agent of either
8 Party, which in any manner shall disparage or damage the reputation of any other Party, or any
9 agent of any Party, within the community.

10
11 SO STIPULATED AND AGREED:

12 Date: _____, 2019

Jose Cuevas,
Plaintiff and Class Representative,

13
14
15 Date: October 10, 2019


Authorized Representative,
Phillips Fractor & Co., LLC

16
17
18 Date: _____, 2019

Authorized Representative,
California Survey Research Services, Inc.

19
20
21 Approved as to form and content.

22 Date: _____, 2019

Law Office of Ball & Yorke

23
24
25 _____
Allen R. Ball
For Plaintiffs and the Class

1 each counterpart shall be deemed an original and, when taken together with other signed
2 counterparts, shall constitute one Stipulation, which shall be binding upon and effective as to all
3 Parties.

4 **112. Applicable Law.** The Parties agree that California law governs the interpretation
5 and application of this Settlement.

6 **113. Non-Disparagement.** The Parties, including their respective counsel of record
7 agree than no statements or remarks shall be made by either Party, or by any agent of either
8 Party, which in any manner shall disparage or damage the reputation of any other Party, or any
9 agent of any Party, within the community.

10
11 SO STIPULATED AND AGREED:

12 Date: October 10, 2019

JOSE CUEVAS
Jose Cuevas,
Plaintiff and Class Representative,

13
14
15 Date: _____, 2019

Authorized Representative,
Phillips Fractor & Co., LLC

16
17
18 Date: _____, 2019

Authorized Representative,
California Survey Research Services, Inc.

19
20
21 Approved as to form and content.

22 Date: _____, 2019

Law Office of Ball & Yorke

23
24
25 _____
Allen R. Ball
For Plaintiffs and the Class

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Plaintiff and Class Representative,

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Phillips Fractor & Co., LLC

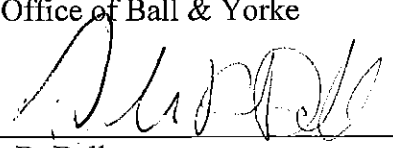
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California Survey Research Services, Inc.

21 Approved as to form and content.

22 Date: _____, 2019

23 Law Office of Ball & Yorke

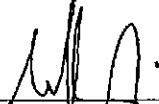
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25 Allen R. Ball
26 For Plaintiffs and the Class
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Date: 10/10/19, 2019

Wolf Wallenstein & Abrams



Michael H. Wallenstein,
For Defendant Phillips Fractor & Co., LLC

Date: _____, 2019

Bassi, Edlin, Huie & Blum LLP

Farheena A. Habib,
For Defendant California Survey Research
Services, Inc.

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Date: _____, 2019

Wolf Wallenstein & Abrams

Michael H. Wallenstein,
For Defendant Phillips Fractor & Co., LLC

Date: October 11 _____, 2019

Bassi, Edlin, Huie & Blum LLP

farheena Habib
Farheena A. Habib,
For Defendant California Survey Research
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Jose Cuevas,
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Authorized Representative,
Phillips Fractor & Co., LLC

16
17
18 Date: October 10, 2019


Authorized Representative,
California Survey Research Services, Inc.

19
20
21 Approved as to form and content.

22 Date: _____, 2019

Law Office of Ball & Yorke

Allen R. Ball
For Plaintiffs and the Class

EXHIBIT A

COPY

1 Allen R. Ball, Esq. (SBN 124088)
2 LAW OFFICE OF BALL & YORKE
3 1001 Partridge Drive, Suite 330
4 Ventura, California 93003
5 Telephone (805) 642-5177
6 Facsimile (805) 642-4622

7 Attorneys for Plaintiffs,

8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES, CENTRAL DIVISION

10 JOSE CUEVAS; individually and on
11 behalf of all others similarly situated,

12 Plaintiffs,

13 vs.

14 PHILLIPS FRACTOR & COMPANY,
15 LLC; CSRS; BAKERSFIELD MARKET
16 RESEARCH and, DOBS 1 through 100,
Inclusive

17 Defendants.

Case No.:

BC 6 5 6 1 4 2

CLASS ACTION

PLAINTIFF'S COMPLAINT FOR
DAMAGES:

1. PROFESSIONAL NEGLIGENCE
2. BREACH OF CONTRACT
3. MALPRACTICE
4. BREACH OF FIDUCIARY DUTIES

DEMAND FOR JURY TRIAL

19 Plaintiff JOSE CUEVAS, individually and on behalf of all others similarly situated, by
20 and through their attorneys of record LAW OFFICE OF BALL & YORKE hereby state and
21 allege as follows:

22 I.

23 CLASS ACTION ALLEGATIONS

24 1. Plaintiff JOSE CUEVAS, individually and on behalf of all others similarly
25 situated. The Class is defined as follows:

26 All certified members of the class previously certified by the United States
27 District Court for the Eastern District of California in the matter of
28 SABAS ARREDONDO, et al v. DELANO FARMS COMPANY, et al,
Case Number 1:09-cv-01247-MJS.

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County Of Los Angeles

MAR 30 2017

Sherril R. Carter, Executive Officer/Clerk
By: Charita L. Coleman, Deputy

FAXED

1 2. The persons in the Class are so numerous that the joinder of all such persons is
2 impracticable and that the disposition of their claims in a class action rather than in individual
3 actions will benefit the parties and the court.

4 3. The class period shall begin four years from the filing date of this complaint and
5 continue up until the present.

6 4. There is a well-defined community of interest in the questions of law and fact
7 involved affecting Plaintiffs and the Class. These questions of law and fact predominate over
8 questions that affect only individual members of the Class. Proof of a common or single state of
9 facts will establish the right of each member of the Class to recover. The claims of the plaintiffs
10 are typical of those of the Class and plaintiffs will fairly and adequately represent the interests of
11 the class. Among the questions of law and fact common to the Class are:

- 12 a. Whether the Class is entitled to recover damages from their former expert
13 as a result of breach of contract, breach of fiduciary duties, and fraud.
- 14 b. Whether the Class is entitled to recover damages from a survey company
15 as a result of breach of contract, breach of fiduciary duties, and fraud.
- 16 c. The nature and amount of the damages the Class is entitled to recover.

17 5. There is no plain, speedy, or adequate remedy other than by maintenance of this
18 class action since Plaintiff is informed and believes that the damage to plaintiff and each putative
19 class member is or may be relatively small, making it economically unfeasible to pursue
20 remedies other than a class action. Consequently, there would be a failure of justice but for the
21 maintenance of the present class action.

22 6. The prosecution of individual remedies by members of the Class may tend to
23 establish inconsistent standards of conduct for the Defendants and to result in the impairment of
24 Class members' rights and the disposition of their interests through actions to which they were
25 not parties.

26 7. Plaintiffs' claim is typical of the claims of the Class, because Plaintiffs and all
27 Class members sustained damages which arise out of the Defendants' wrongful conduct as
28 alleged herein.

8. Plaintiff is a representative party who can willfully and adequately protect the interests of the Class members, and has retained Class counsel who are experienced, and competent in class action litigation and breach of contract litigation. Plaintiff has no interests which are contrary to or in conflict with those of the Class he seeks to represent. The number and identity of the members of the Class are determinable from the records of the Defendants and/or their employer(s). Class members may be notified of the pendency of this Class action by mail.

9. Plaintiffs know of no difficulty to be encountered in management of this action which would preclude its maintenance as a Class action. Relief concerning Plaintiffs' rights under the laws alleged herein, and with respect to the Class as a whole, would be appropriate.

II.

THE PARTIES

10. Plaintiff is and at all relevant times an individual over the age of twenty one (21) years. Plaintiff is a resident of the Kern County, State of California. Plaintiff is a Class representative.

11. Plaintiff is informed and believes and thereon alleges that Defendant PHILLIPS FRACTOR & COMPANY, LLC ("PHILLIPS") is a California Professional Corporation with a principal place of business located at Pasadena, California, and doing business in Los Angeles County, California.

12. Plaintiff is informed and believes and thereon alleges that Defendant California Survey Research Services, Inc. ("CSRS") is a California Professional Corporation with a principal place of business located at Van Nuys, California, and doing business in Los Angeles County, California.

13. Venue within this County and division is appropriate as all times relevant hereto, Defendants were conducting business as an expert witness consulting firm in Los Angeles County and/or were performing survey services, and/or were agents of said Defendants, or contracted to perform work on behalf of, and for the benefit of Plaintiffs and the class.

1 14. Plaintiff does not know the true names, capacities, or organizational forms,
2 whether individual, associate, corporate, or otherwise of Defendants named herein as DOES 1
3 through 100. Plaintiff will request leave of Court to amend this Complaint to reflect the true
4 names and capacities of said Defendants when that information is so ascertained by the
5 Plaintiffs.

6 15. Plaintiff is informed and believes and thereon alleges that each Defendant named
7 herein by the fictitious names "DOES" was and is in some way responsible for and proximately
8 caused the injuries and damages complained of herein.

9 16. Plaintiff is informed and believe and thereon allege that at all times herein
10 Defendants PHILLIPS, CSRS and DOES 1 through 100, inclusive, and each of them, acted by
11 and through their servants, employees, agents, associates, and/or any and all other individuals
12 and/or entities working for or on behalf of the Defendants and/or for the benefits of Defendants,
13 and/or for the benefit of Plaintiff and the Class, and that each of said employees, agents,
14 associates, and any and all individuals and/or entities working for or on behalf of said
15 Defendants, and/or for the benefits of said Defendants and/or Plaintiff and the Class who did
16 and/or failed to do the things complained of herein were duly authorized agents of said
17 Defendants, and each of them, and at all times herein mentioned, were acting within the course
18 and scope of said employment, and their acts and omissions as herein alleged were ratified by
19 and/or authorized by and/or done with the prior knowledge and consent of the Defendants, and
20 each of them.

21 17. Plaintiff is informed and believes and thereon allege that Defendants PHILLIPS,
22 CSRS and DOES 1 through 100, inclusive, and each of them, were at all times herein
23 mentioned, the servants, employees, agents, and/or associated of all other Defendants, and at all
24 times herein mentioned were acting within the course and scope of said agency and/or
25 employment, and at all times herein mentioned their conduct as herein alleged was ratified by
26 and/or authorized by and/or done with the prior knowledge and consent of the other Defendants,
27 and each of them.

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III.

FACTUAL HISTORY

18. The Class filed a class action lawsuit in July, 2009 against Delano Farms Company and other defendants alleging a number of employment related claims, including but not limited to failure to pay for wages for "off-the-clock-" claims, failure to reimburse for necessary tool purchased, and penalties, fees, and costs. The lawsuit was filed in the Eastern District of California (Fresno Division), under the name *Sabas Arredondo et al v. Delano Farms, Co. et al.* (Case Number 1:09-cv-01247-MJS (hereafter "*Delano Farms* matter" or action).

19. The Class hired Defendant PHILLIPS FRACTOR & COMPANY, LLC ("PHILLIPS") to act as consultants and expert witnesses on behalf of the class. A true and correct copy of the retainer agreement is attached as Exhibit A.

20. William Roberts, Ph.D was the principal expert witness and agent of PHILLIPS.

21. In or around September 2015, in order to conduct the consultation and expert witness services required, and in consultation with, and based on recommendation of, Roberts, Plaintiffs in the *Delano Farms* matter hired Defendant CALIFORNIA SURVEY RESEARCH SERVICE ("CSRS") to execute a door-to-door survey according to Roberts' design. Roberts recommended CSRS, represented that he had a strong-working relationship with it, had past experience with it, and that CSRS could handle the door-to-door survey project.

22. Defendant CSRS then retained Defendants BAKERSFIELD MARKET RESEARCH ("BMR"), concealing from Plaintiffs and their counsel that CSRS had never worked with BMR before. Margarita Rodriguez of California Survey Research Services (CSRS) made initial contact with BMR by telephone on September 22, 2015, speaking with Maricruz Estrada of BMR. When asked if BMR had experience doing door-to-door survey work, Maricruz of BMR replied "yes." That representation was false.

23. From the beginning, BMR knew the project required "door-to-door" survey work and determined it's pricing to CSRS based on a door-to-door survey.

1 24. BMR, however, was undercapitalized, understaffed, and under experienced. It
2 made a number of misrepresentations on its webpages, such as the identities of its employees
3 and its experience. In fact, neither BMR nor its principals had any significant prior experience
4 with surveys of this kind, and, Defendants PHILLIPS, CSRS and DOES 1 through 100,
5 inclusive, and each of them, had no reasonable basis upon which to believe that BMR had any
6 such experience.

7 25. In late October, 2015, Plaintiffs' Counsel in the *Delano Farms* matter authorized
8 Dr. Roberts to move forward with CSRS to conduct the door-to-door survey according to the
9 terms of the bid received on October 1, 2015. CSRS would be "responsible for overseeing the
10 project management, Spanish language interviewing, training and quality control of the door-to-
11 door interviews." Plaintiffs' Counsel relied on CSRS for training and selection of the
12 interviewer personnel, as well as "quality control" of the data collection and processing, as
13 outlined in the CSRS bid.

14 26. A training meeting with BMR in Bakersfield was arranged by CSRS in or around
15 November 2015. BMR met with CSRS in an office space at the "Regus" in Bakersfield. BMR
16 rented that space for the meeting. The meeting was attended by persons held out to be BMR
17 survey interviewers, Maricella Arreola and Guadalupe "Lupita" Estrada, as well as Maricruz
18 Estrada and Timothy Arnwood. Margarita Rodriguez of CSRS was also present. At the
19 meeting, Ms. Rodriguez delivered four (4) (iPad) tablets and provided BMR with an initial
20 check for \$1,000.00. Ms. Rodriguez demonstrated to BMR personnel how to use the tablets to
21 conduct the survey and the attendees became familiar with using the tablets. Ms. Rodriguez
22 explained the need to collect phone numbers to accomplish validation for the survey. Ms.
23 Rodriguez stated that validation would be done to ensure the numbers and everything matched,
24 and that BMR would need to collect the phone numbers from the survey. CSRS instructed
25 BMR to conduct door-to-door survey work in various cities in the local area. Timothy
26 Arnwood was informed by CSRS that only persons who executed a "confidentiality" form
27 could perform work on the survey. Confidentiality forms were executed by the attendees (and
28 later by Reyna Gutierrez) and were submitted by BMR to CSRS. Timothy Arnwood was

1 informed by CSRS that the survey was for a legal case, and that CSRS would expect a
2 subpoena; so the survey would need to be handled with care and precision.

3 27. The *Delano Farms* project survey work started on November 13, 2015, and
4 finished at the end of November, 2015. Three of the BMR interviewers who had signed
5 confidentiality papers for CSRS, however, quit before performing any work for BMR -- a fact
6 concealed by BMR through March 2016. Mr. Armwood informed these interviewers BMR
7 couldn't afford to pay until after the project was completed. When the interviewers objected,
8 BMR communicated through Maricruz Estrada that BMR did not want them working on the
9 *Delano Farms* project.

10 28. BMR decided to undertake the project using a single bilingual interviewer,
11 Maricru Estrada. Mr. Armwood testified that BMR did not try to find replacement interviewers
12 because BMR didn't want to hassle with CSRS about procuring additional confidentiality
13 agreements. In fact, none of the three BMR interviewers who quit did any of the work on the
14 survey; Maricruz Estrada and Timothy Armwood conducted all of the survey interviews. The
15 BMR interviewers only showed up for the initial meeting with CSRS on November 9, 2015.

16 29. Maricella Arreola, Reyna Gutierrez, and Guadalupe "Lupita" Estrada never
17 worked for BMR prior to the *Delano Farms* survey project.

18 30. According to Maricruz Estrada, BMR never sought to find replacement
19 interviewers and did not inform CSRS, because there was no need to inform CSRS. BMR never
20 informed CSRS that Maricruz Estrada and Timothy Armwood performed all of the survey
21 interviews.

22 31. BMR has never had communications with Dr. Roberts or PHILLIPS FACTOR
23 regarding the conduct of the survey.

24 32. Timothy Armwood testified that he understands only a few phrases in Spanish,
25 which is not his second language. He testified that he didn't conduct any interviews in Spanish.
26 According to Mr. Armwood, when he came across people who spoke only Spanish during the
27 survey work Maricruz Estrada would translate for him. Mr. Armwood testified that he and
28 Maricruz Estrada went to the majority of the survey addresses together. Maricruz Estrada

1 confirmed that she is Spanish speaking, bilingual, but Timothy Armwood is not bilingual and
2 speaks only English.

3 33. BMR knew the survey design required visiting identified persons door-to-door,
4 with mostly Spanish-speaking workers.

5 34. Timothy Armwood testified that BMR conducted the survey interview work
6 using a CSRS supplied list (often referred to as a "spreadsheet") with street addresses and
7 respondent ID numbers for hand written notation of door to door interview results. Maricruz
8 Estrada testified that BMR documented the work by handwritten notes on the spreadsheets
9 provided by CSRS, which were returned with BMR's original notes to CSRS at the end of the
10 survey. Maricruz Estrada testified that BMR used the spreadsheets to organize the survey work
11 at addresses in the same areas. BMR claimed to select addresses around each other within the
12 same block or a minute away from each other, allowing BMR to complete survey interviews
13 without wasting time traveling across town.

14 35. According to Maricruz Estrada, the time it took to conduct each interview for the
15 survey was approximately 15 to 30 minutes. According to Timothy Armwood, the survey work
16 required about 10 to 15 minutes to complete each interview.

17 36. Maricruz Estrada testified that she and Mr. Armwood used Google or Map Quest
18 to drive to an address on the spreadsheet. She testified that steps generally followed in
19 conducting the survey were to look at the spreadsheet address and use Map Quest to find the
20 address; drive to the address; input the ID number of the resident; and, knock on the door to try
21 to talk to that person. She testified that they had to enter a person's ID number on the
22 spreadsheet order to open the iPad. She testified she would generally open the iPad while in the
23 vehicle before she knew if the identified person at the address was at home, and that if there was
24 no answer at the door, she'd then "click on not home." She testified that, sometimes, she would
25 just walk back to wait in the car to close the iPad - not by pushing the button directly - but by
26 shutting the iPad case to close it down. She testified that they would also make a handwritten
27 note on the spreadsheet once back in the car.

28

1 37. Timothy Armwood testified in detail, describing how he would open and close
2 the survey at or near each house listed on the spreadsheet for BMR to visit while conducting
3 house-by-house interviews. He testified that he would place the code in the tablet "at the door"
4 of the house regardless of whether the door was opened "because everything had to have a
5 disposition." Maricruz Estrada testified that handwritten notes were made on the spreadsheets to
6 track who had been visited and also to track interviews that were actually completed. She
7 testified that she and Timothy Armwood entered the handwritten notes on the spreadsheets
8 document. She testified that, if the spreadsheet has a handwritten note, then BMR visited that
9 address. She testified that their spreadsheet notes provide more detail the information than what
10 was recorded in the tablet. She testified that the notes on the spreadsheet were entered
11 accurately and to the best of their ability.

12 38. According to Maricruz Estrada, on November 30, 2015, CSRS notified BMR
13 that it was having a difficult time validating the interviews by phone. Mr. Noiwangmuang of
14 CSRS testified that CSRS's survey software transmitted the responses collected in the field
15 directly to CSRS's sever, along with time/ date stamps, GPS, length of interview, and other
16 validating information.

17 39. In or around December 2015, PHILLIPS, through Roberts, advised Plaintiff's
18 counsel that although there was difficulty reaching alleged survey participants by phone, there
19 were other hallmarks that that the data was reliable, such as spot-checking GPS information,
20 internal statistical correlation with some answers, and the training of the interviewers CSRS
21 had misrepresented that it had validated data through spot-checking GPS locations and other
22 validating markers, when in fact, CSRS had failed to perform any "quality control" work, or if it
23 did perform any quality control work, it has performed so poorly that it was useless, unreliable,
24 and a failure.

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1 40. But at the time of these representations, PHILLIPS had no reasonable basis upon
2 which to believe that the representations were true. For its part, although PHILLIPS could have
3 asked CSRS for data to itself perform spot-checks of the interview work, PHILLIPS did not
4 perform such work and relied only on CSRS to perform quality control, since PHILLIPS
5 believed CSRS would do so. In fact, neither PHILLIPS nor CSRS had confirmed the reliability
6 of any such data.

7 41. Moreover, BMR never actually conducted the surveys they claimed to conduct; it
8 did not have the personnel who were trained to do with the interviewers perform the interviews;
9 and submitted false data. Instead of conducting door-to-door surveys of Delano Farm workers
10 regarding their experience with alleged wage and hour violations, BMR sat in public parking
11 lots such as Starbucks, Wal-Mart and other stores, filling in fake information, but passing it off
12 as the survey answers from Delano Farms workers. Had CSRS performed basic spot-checking
13 of GPS data captured by its iPads, as it said it would, or had PHILLIPS performed basic spot
14 checking of GPS data, either would have confirmed that the survey information being collected
15 was not being collected door-to-door at workers' homes, but in public parking lots. They would
16 have discovered the surveys were lasting less time than reasonably needed to conduct a survey
17 and they would have discovered other markers or unreliability.

18 42. Roberts and CSRS purportedly relied on this falsified data as the basis for
19 PHILLIPS' expert witness report which was designed to prove liability and damages for the
20 *Delano Farms* Class wide wage and hour violations.

21 43 The *Delano Farms* Class counsel suspected irregularities in the data in or around
22 April and May 2016 and, conducted its own analysis of the survey work, after discovering the
23 meaning of highly technical code and information in the deposition of CSRS programmer Al
24 Noiwangmuang. It indicated that numerous interviews did not occur at the address of the
25 reported class member. In fact, there were: a) 51 interviews at various McDonalds locations in
26 McFarland, Wasco, Shafter and Delano; (not at employee homes) b) 19 interviews at or near
27 libraries in Lamont and Arvin; c) 31 interviews at or near a Starbucks in Delano; d) 31
28 interviews at parks or parking lots in Kern County, including Hart Lake, Kern River Park, a

1 church and a high school; e) 1 interview at a female correctional facility in McFarland; and, f) 7
2 interviews off unnamed roads between Gorman and Mojave (off Hwy 138). Additionally, 103
3 of the 305 complete interviews (about 34%) had travel times greater than the length of the
4 interview, indicating that those 103 interviews could not have occurred at the address of the
5 respondent. Analysis also showed that 45% of the interviews (137) were completed in less than
6 five minutes, even though Roberts and CSRS understood the interview was quite lengthy and
7 should have taken approximately 30 minutes or longer, and only about 30% (93 out of 305)
8 completed surveys were signed on Spanish-language signature under penalty of perjury page,
9 even though Roberts and CSRS knew a vast majority of the workers were Spanish speakers, not
10 English speakers.

11 44. The *Delano Farms* Class counsel notified the Delano Farms defendants and the
12 court of the fraudulent survey results in May 2016, and then withdrew the expert report because
13 it was based on fraudulently collected -- i.e. fabricated -- data.

14 45. After withdrawing Roberts's expert witness report. The *Delano Farms* Class
15 counsel sought relief from the District Court to modify the scheduling order to permit Plaintiffs
16 in that case to conduct a new, valid survey. The Court denied relief, effectively leaving the
17 Class without an expert witness and expert witness report for its claims.

18 46. The *Delano Farms* case settled at private mediation on August 24, 2016, for
19 \$6,000,000.00. In ROBERTS; expert report -- which was withdrawn- Roberts calculated the
20 damages owing to the *Delano Farms* class members as following:

21 a. Pre-Shift Work Class: Seven Million six hundred forty six thousand four
22 hundred thirty eight dollars (\$7,646,438);

23 b. Tools Class: up to Seven million twenty-seven thousand two hundred fifty
24 dollars and thirty-five cents (\$7,027,250.35)

25 c. Wage Statement Class: Twenty-one million one hundred fifty-one thousand five
26 hundred fifty (\$21,151,550);

27 d. Waiting Time Penalty Class: One hundred thirteen million three hundred sixty-
28 seven thousand three hundred seventy-six dollars (\$113,367,376).

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III.

FIRST CAUSE OF ACTION

PROFESSIONAL NEGLIGENCE

As to and against Defendants PHILLIPS and CSRS

47. Plaintiff restates and incorporates by reference paragraphs 1 through 46 of this Complaint as though fully set forth herein.

48. At all times relevant hereto, Defendants PHILLIPS and CSRS owed a duty of care to the Class to conduct a scientific survey using reliable principles reliably applied, and, to hire competent professionals to perform this work in accordance with relevant standards of care within the industry. Defendants also owed a duty of care to the Class to properly oversee and conduct quality control work of the door-to-door survey to ensure the survey was valid and could withstand challenged by Defense counsel.

49. Defendants breached the relevant duty of care as follows: Defendant PHILLIPS retained CSRS and Defendant CSRS retained BMR when they knew or should have known that each entity was not competent to perform the services requires; failed to supervise and monitor the performance of each entity; and otherwise failed to perform competently.

50. As an actual and proximate result of Defendants' acts or omissions they were the actual and proximate cause of substantial loss to the Class were harmed in the amount of Fifty million dollars (\$50,000,000) or according to proof at trial.

IV.

SECOND CAUSE OF ACTION

BREACH OF CONTRACT

(As to and against Defendants PHILLIPS and CSRS)

51. Plaintiffs incorporate paragraphs 1 through 50 of this complaint as if fully alleged herein.

52. Defendants PHILLIPS and CSRS entered into written contracts with the Class's attorneys to conduct expert witness evaluation and consultation, and to perform a random statistical survey of Class members using reliable principles reliably applied.

53. The Class were at all relevant times third-party beneficiaries of this contract.

54. Defendants PHILLIPS and CSRS breached this contract by failing to conduct and oversee the gathering of a valid (i.e. not fraudulent) random statistical survey of Class members using reliable principles reliably applied, and instead, by failing to properly gather, and/or supervise the gathering, of a valid survey, and, falsifying that a survey had been "spot-checked" and audited for accuracy, when in fact no valid spot-checking took place, and attempting to conceal this information from the Class.

55. As a direct and proximate result, the Class has suffered damages including fees in an amount to be proven at trial paid to Defendants PHILLIPS and CSRS and/or Fifty million dollars (\$50,000,000.), the settlement value of *Delano Farms* case that was lost as a result of the fraudulent and negligent survey analysis that, effectively, disqualified their expert opinion. These damages were reasonably foreseeable at the time the contract was entered.

Y.

THIRD CASE OF ACTION

FRAUD

As to and against all Defendants

56. The Class restates and incorporate by reference paragraphs 1 through 55 of this Complaint as though fully set forth herein.

57. As herein alleged, Defendants PHILLIPS, CSRS, BMR, and DOES 1 through 100, inclusive, and each of them, made false representations of material facts, to wit, that it would conduct a full and honest statistical surveys of class members and monitor the results thereof.

58. As set forth herein, at the times those representations were made, they were false and Defendants, and each of them, knew they were false.

59. Plaintiffs and the Class acted in reliance on these false representations and material omissions as herein alleged.

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60. As a direct and proximate result thereof, Plaintiffs and the Class suffered damages including fees paid to Defendants PHILLIPS and CSRS and/or Fifty million dollars (\$50,000,000.), the settlement value of *Delano Farms* case that was lost as a result of the fraudulent survey analysis, and expert report that, effectively, disqualified their expert opinion.

61. Defendants PHILLIPS, CSRS, BMR, and DOES 1 through 100, inclusive, and each of them, acted with malice, oppression, and fraud, such as to justify an award of punitive damages, according to proof.

PRAYER

WHEREFORE, Plaintiff and the Class pray for judgment against Defendants and DOES 1 through 100, inclusive, and each of them, as follows:


1. For damages in an amount of Fifty million dollars (\$50,000,000) plus fees paid or according to proof at trial;
2. For punitive and exemplary damages in an amount to be proven at trial;
3. For costs of suit herein incurred; and,
4. For such further and other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs and the Class hereby demand a trial by jury.

DATED: March 30, 2017

LAW OFFICE OF BALL & YORKE


Allen R. Ball, Esq.
Attorneys for Plaintiffs

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EXHIBIT B

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DIVISION**

Jose Cuevas, et al. v. Phillips Fractor & Company, LLC et al., Case Number BC656142

**NOTICE OF CERTIFICATION OF SETTLEMENT CLASS AND
CLASS ACTION SETTLEMENT AND YOUR RIGHTS**

A Court authorized this notice. This is not a solicitation from a lawyer.

Your legal rights are affected whether you act or don't act. Read this entire Notice carefully.

[In Tagalog] If you would like a copy of these notices in Tagalog, please call the Settlement Administrator [] at XXX-XXX-XXXX. They have Tagalog-speaking staff who can assist you and who can send Tagalog notices to you. Please be advised that your legal rights are affected whether you act or don't act.

**IF YOU WORKED WITH GRAPES AS AN AGRICULTURAL WORKER
AT DELANO FARMS IN CALIFORNIA FROM JULY 17, 2005 THROUGH
FEBRUARY 15, 2017 YOU MIGHT BE ENTITLED TO MONEY FROM A
CLASS-ACTION SETTLEMENT.**

To: Individuals who are or were employed as non-exempt agricultural employees of Cal-Pacific Farm Management, L.P., T&R Bangi's Agricultural Services, Inc., Kern Ag Labor Management Inc., La Vina Contracting, Inc., or Elite Ag Labor Services, Inc. (the "Contractors") and performed work at Delano Farms in California at any time between July 17, 2005 and February 15, 2017, excluding those who worked only as irrigators, tractor drivers, or swampers or only in cold storage.

Former and current agricultural grape workers sued Delano Farms and several labor contractors (the "Delano & Co") that employed them in a class action lawsuit entitled *Arredondo et al. v. Delano Farms Company et al* (the "Arredondo Action"). During the course of the Arredondo Action, the plaintiffs in that case (the "Arredondo Plaintiffs"), who are the same persons, subject to certain limitations, as the plaintiffs in the Cuevas Action, referenced above (the "Cuevas Plaintiffs") hired California Survey Research Service ("CSRS") to administer a door-to-door questionnaire of Delano Farms workers regarding their experience with alleged wage and hour violations. CSRS retained Bakersfield Market Research ("BMR") to conduct the field work for the door-to-door questionnaires. The Arredondo Plaintiffs' expert witness, Mr. Roberts, relied on the data for part of his expert report which was exchanged with the Defendants in the Arredondo Action and filed with the Court to help demonstrate damages for the wage and hour violations asserted in the Arredondo Action.

The Arredondo Plaintiffs later came to believe that BMR never actually conducted the survey, did not have sufficient or trained personnel to perform the interviews, submitted false data and lied about their actions. The Arredondo Plaintiffs then withdrew the expert report based on their belief that the data had been fraudulently collected and/or fabricated. The Arredondo Plaintiffs sought relief from the District Court to permit them to conduct a new survey. However, the Court

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denied this request and the Arredondo Plaintiffs thereafter settled the case for an amount that they believe was less than what they believed they would have received otherwise.

The Cuevas Plaintiffs then filed a lawsuit against Phillips Fractor & Co., LLC ("PFC"), for whom Mr. Roberts performed work as an independent contractor, and against CSRS and BMR. A proposed settlement (the "Settlement") has been reached in the *Cuevas* Action between the Cuevas Plaintiffs, on the one hand, and CSRS and PFC (the "Defendants") on the other, as the Parties wish to fully and finally settle the *Cuevas* Action as against the Defendants. The *Cuevas* Plaintiffs dismissed BMR from the *Cuevas* Action and BMR is no longer a party. The Court has preliminarily approved the Settlement and provisionally certified a Settlement Class for purposes of settlement only. You have received this Notice because the Contractors' records indicate that you are a member of the Settlement Class who participated in the *Arredondo* Settlement either by submitting a claim in that Action or by opting out. The purpose of this Notice is to inform you of how you can receive money from the Settlement, object to the Settlement, or exclude yourself from the Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS PROPOSED SETTLEMENT	
<i>You have the following options:</i>	
EXCLUDE YOURSELF FROM THE SETTLEMENT/OPT-OUT	If you "opt-out" and exclude yourself from the Settlement, you will not get any money from this Settlement. Any money that would have gone to you will go to other qualified Settlement Class Members. If you opt-out, you keep your right to sue the Defendants for any claim you may have related to the settlement in the <i>Arredondo</i> Action, but you will have to do this on your own. To exclude yourself from this Settlement, the enclosed Opt-Out Form must be postmarked on or before [DATE 45 days after the mailing of the Notice].
OBJECT	If you wish to object to the Settlement but still want to participate in it if the Court approves it, then file an objection with the Administrator stating why you don't like the Settlement. If you wish to be heard at the Fairness and Approval Hearing, you must say so in your objection. If the Court does not agree with your objection, you will still be entitled to participate in the Settlement. Written objections to the Settlement must be filed with the Court on or before [DATE].
DO NOTHING	To get money from the settlement, you do not need to do anything. If you are a Settlement Class Member who participated in the Arredondo Settlement either by submitting a claim form or opting out, and you do not exclude yourself from the Settlement Class in this Action, your share of the Settlement Amount will be mailed to you. You will be bound by the Settlement. A judgment, whether in favor of Plaintiff or not, will bind all class members who do not request exclusion.

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BASIC INFORMATION

1. WHY DID I GET THIS NOTICE?

Records from Cal-Pacific Farm Management, L.P., T&R Bangi's Agricultural Services, Inc., Kern Ag Labor Management Inc., La Vina Contracting, Inc., and/or Elite Ag Labor Services, Inc. (the "Contractors") indicate that you performed non-exempt agricultural work at Delano Farms while employed by one of the Contractors during some time from July 17, 2005 to February 15, 2017. Thus, you may be a Settlement Class Member.

The Court has preliminarily approved a Settlement and certification of a Settlement Class in the lawsuit that may affect you. This Notice explains the terms of the Settlement, your legal rights (some of which must be exercised by the deadlines in this Notice or else be lost), what benefits are available, who is eligible for them, how to get them, and what happens if you choose to exclude yourself from the Settlement Class..

This action is pending before Judge Amy D. Hogue of the Superior Court of the State of California, County of Los Angeles, Central Division. It is called *Jose Cuevas, et al. v. Phillips Fractor & Company, et al.*, Case Number BC656142 (the "Cuevas Action"). The Cuevas Action evolved from the *Arredondo* Action and encompasses, with certain limited exceptions, the same class, although the class representatives are different. The people who sued are called "Plaintiffs," and the companies they sued are called "Defendants." In a class action, one or more people, called "Class Representatives" or "Plaintiffs," sue on behalf of other people who have similar claims, the class. This case and the Court will resolve the issues for all class members, except for those who exclude themselves from the Settlement Class by submitting the Opt-Out Form.

2. WHAT IS THE LAWSUIT ABOUT?

In the *Arredondo* Action, Plaintiffs did agricultural work while employed at Delano Farms, at some time from July 17, 2005 to February 15, 2017. During the course of the *Arredondo* Action the Arredondo Plaintiffs' hired Bakersfield Market Research ("BMR") to conduct door-to-door questionnaires of Delano Farms workers regarding their experience with alleged wage and hour violations. The Cuevas Plaintiffs allege that BMR did not adequately perform the survey and provided falsified data, which was then relied on by the Arredondo Plaintiffs' expert for part of his report on damages for the wage and hour violations at issue in the *Arredondo* Action. The expert was an independent contractor working for PFC. BMR was hired by CSRS to conduct the questionnaire process. The Cuevas Plaintiffs and the Defendants have proposed this Settlement to resolve Plaintiffs' claims that they could have received more in the settlement in the *Arredondo* Action but for the alleged survey issue. The Court previously certified a class in the *Arredondo* action, and you may have already received a notice informing you about that certification. Plaintiffs and the Defendants have reached a settlement in the *Cuevas* Action and are now seeking court approval of the settlement. The Defendants deny the allegations made by

the Plaintiffs in the *Cuevas* Action and deny it infringed on any rights of, or caused any damages to, the Arredondo Plaintiffs or to the Cuevas Plaintiffs.

3. HAS THE COURT DECIDED WHO IS RIGHT?

No. The Court has not decided either whether Plaintiffs' claims or whether the Defendants' defenses are correct, or whether Plaintiffs' allegations are true or not. And by approving this Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this case if it went to trial. Plaintiffs and the Defendants have decided to settle this case. Both sides have recognized the risk of the Court deciding against them at trial and determined that the Proposed Settlement is a better option for resolving the disputed claims.

4. WHAT DO QUALIFIED SETTLEMENT CLASS MEMBERS RECEIVE FROM THE SETTLEMENT (PLAN OF ALLOCATION)?

Your enclosed Notice contains an estimated calculation of your recovery. If you request to exclude yourself from the Settlement by submitting the **Opt-Out Form**, **you will not** receive any money from this Settlement.

In the Settlement, the Defendants have agreed to pay a total amount equal to \$1,005,000, less the fees and costs PFC incurred in defending this action and in preparing and finalizing the Settlement (the net amount is the "Settlement Amount"), to resolve this class action as to the Defendants, and to secure the releases set forth in the Settlement. The following items will be paid from the Settlement Amount: Fees and costs owed to the attorneys representing the Plaintiffs and class ("Class Counsel"); as may be approved by the Court an enhancement payment to the named Class Representative; costs incurred to administer the Settlement; and any taxes, or other payments made to any governmental authority in connection with the Settlement. After the aforementioned items are paid, the money that remains (the "Net Settlement Fund") will be distributed to those qualified members of the Settlement Class who do not opt out.

The Notice of Anticipated Settlement Share represents your total share of the Net Settlement Fund. It assumes that all Settlement Class Members will cash their Settlement checks. Your Anticipated Settlement Share is based on the total number of weeks you performed non-exempt agricultural work for a contractor at Delano Farms between July 17, 2005 and February 15, 2017, ("Class Work") divided by the total number of weeks that the qualified members of the Settlement Class performed Class Work. Weeks worked by class members after April 8, 2012 will be valued at 50% of the weeks performed prior to that date. Weeks after April 8, 2012 are being valued less because it appears some changes were made by the Defendants in the *Arredondo* Action after that lawsuit was filed that corrected some of the alleged prior violations.

The actual amount of money you will receive as part of the Settlement could be more or less than this estimate.

WHO IS IN THE SETTLEMENT CLASS

5. AM I PART OF THE SETTLEMENT CLASS?

“Settlement Class” and/or the “Settlement Class Members” means and includes any and all individuals who are included in the Arredondo Settlement Class certified in the *Arredondo* Action, whether or not they opted out of that class, who do not opt out of the Settlement Class in the *Cuevas* Action. The number of employees who participated in the Arredondo Settlement Class, include 5,758 employees who submitted claims forms inclusive of 44 employees who opted out (“Claiming Class Members”.) Only Claiming Class Members will recover a portion of the Settlement Amount.

If this Notice is addressed to you, you are a Claiming Class member: (i) because the Contractors’ records indicate that you performed non-exempt agricultural work at Delano Farms while employed by at least one of the Contractors at Delano Farms at some time between July 17, 2005 and February 15, 2017 and are therefore part of the Settlement Class, and (ii) because you participated in the *Arredondo* Settlement either by submitting a claim or by opting out of that Settlement. The Settlement Class covers current and former employees, excluding those who worked only as irrigators, tractor drivers, or swamper, or only in cold storage.

6. WHAT IF I PREVIOUSLY COMPLETED AN OPT-OUT FORM IN THE *ARREDONDO* ACTION?

If you previously requested to be excluded from the *Arredondo* Action litigation class that was certified in April of 2011, or from the *Arredondo* Action Settlement Class that was approved on February 15, 2017, you are still part of the Settlement Class in the *Cuevas* Action. If you wish to exclude yourself from the Settlement Class in the *Cuevas* Action, you will need to complete and return the enclosed Opt-Out Form by the deadline.

7. WHAT IF I USED A DIFFERENT NAME WHILE WORKING AT DELANO FARMS?

If you used a different name or names while performing Class Work (non-exempt agricultural work performed for a Contractor at Delano Farms between July 17, 2005 and February 15, 2017), and there are records verifying your work, you are still a Settlement Class Member and you still have a right to the benefits of the Settlement if you are a Claiming Class Member. If the name or names you used do not appear on your Notice, you will need to follow the procedures for challenging your Anticipated Settlement Share as described in the answer to Question 9, below. If you decide to exclude yourself by completing the Opt-Out Form, please list all of the names you used while performing Class Work.

YOUR RIGHTS AND OPTIONS

8. HOW DO I RECEIVE MONEY FROM THE SETTLEMENT?

TO GET MONEY FROM THE SETTLEMENT, YOU DO NOT NEED TO DO ANYTHING.

If you are a Settlement Class Member and do not exclude yourself from the Settlement Class, you will be bound by the settlement. The judgment will bind all members of the Settlement Class who do not request exclusion. By participating in the settlement, you receive payment and will release Defendants for all claims asserted in the Complaint on file in the case, and any other claims arising from the same factual allegations.

If the Court gives final approval to the settlement, the Claims Administrator will send you a check at a later date to the address it has on file for you.

9. CAN I GET MONEY NOW?

No. The Court will hold a Fairness and Final Approval Hearing on [____], 2020, to decide whether to give the Settlement final approval. No checks will be mailed to Settlement Class Members until after the Court has given final approval to the Settlement and all appeals have been exhausted, which can sometimes take more than a year.

10. WHAT IF MY ANTICIPATED SETTLEMENT SHARE ON MY CLAIM FORM IS WRONG?

If you believe that the information about your anticipated settlement share on this Notice is incorrect, you must provide a written explanation of the basis for your challenge and submit any documents that support your position to the Settlement Administrator. You must deliver these documents postmarked on or before [____]:

By mail, to:

[Settlement Administrator]

Please be sure to include your name, your address, your phone number, and the Control Number found on the upper-right-hand corner of your Notice.

If you submit a timely challenge to your anticipated settlement share, the Settlement Administrator will review and verify the basis for your anticipated settlement share. Unless you can establish a different number of qualifying work weeks based on documentary evidence, the total number of work weeks established by records in the possession of the Settlement Administrator will control. Any such challenges shall be resolved by the Settlement Administrator, who shall examine the records available. The Settlement Administrator's determination shall be final and will be mailed to you no later than [_____].

Depending on how a challenge to your anticipated settlement share is resolved, you may receive a new Claim Notice from the Settlement Administrator.

Alternatively, the Settlement Administrator may inform you that it is not making any changes to the Notice of Anticipated Settlement Share on your Notice. In that case, you will need to decide if you want to participate in the Settlement and/or file an objection, or opt-out. You must deliver your Objection or Opt-Out Form postmarked on or before [_____]. Objections must be filed with the Settlement Administrator no later than [_____].

11. WHAT IF I DON'T WANT TO PARTICIPATE IN THE SETTLEMENT?

If you wish to be excluded from the Settlement, the enclosed Opt-Out Form must be postmarked on or before [_____]. If you do not submit the Opt-Out Form on or before the due date, you will be bound by the Settlement and its terms.

Anyone who submits a timely and complete Opt-Out Form will no longer be a member of the Settlement Class, cannot file an objection, and will not receive any money from the Settlement. Any such person, at his or her own expense, may pursue any claims she or he may have against the Defendants as set forth below.

12. HOW ARE MY RIGHTS AFFECTED IF I OPT-OUT OF THE SETTLEMENT?

Completing and submitting the Opt-Out Form means that you **do not** get a share of the Settlement money but you will retain the right to bring your own individual lawsuit for any claims you may have against the Defendants.

13. RELEASE OF CLAIMS

The Settlement Class Members (other than those who file timely Opt-Out Forms) and each of their predecessors, successors, assigns, heirs, executors, administrators, attorneys, and agents, and any other person acting on his or her behalf release the Defendants and each of their subsidiaries, parents, affiliates, owners, shareholders, general and limited partners, predecessors, insurers, agents, employees, independent contractors, heirs, executors, successors, assigns, transferees, officers, officials, directors, members, managers, attorneys, beneficiaries, trustees, personal representatives, or other representatives (collectively the "Released Parties") of any and all claims, actions, rights, demands, charges, debts, liens, obligations, costs, expenses, wages, restitution, compensation, disgorgement, benefit(s) of any type, equitable relief, contract obligations, liquidated damages, statutory damages, damages, penalties of whatever type or description, attorneys' fees, interest, complaints, causes of action, obligations, or liability of any and every kind, known or unknown, at law or inequity, contingent or otherwise (i) that were asserted or that could have been asserted in the *Cuevas* Action or (ii) that are, were, or could be based on, that arose or could arise out of, or that in any way relate to the same or substantially similar facts, transactions, events, policies, acts, or omissions as alleged in the *Cuevas* Action or {00095457.DOCX/2}

otherwise related to Defendants' respective work in the *Arredondo* Action on behalf of the Settlement Class Members (collectively, the "Released Claims"). The Released Claims do not include claims that could otherwise be brought by Settlement Class Members against the defendants in the *Arredondo* Action or against any other employer of the Settlement Class Members for unpaid wages, or other claims arising out of their employment. Subject to the preceding sentence, the Parties agree and, upon approval of the Settlement, the Court will order that the Released Claims include but are not limited to any and all claims against each and all of the Released Parties.

In addition to the releases set forth in the preceding paragraph, the Plaintiffs and the Defendants mutually specifically acknowledge that they each release, each from the other, not only the Released Claims set forth above but any and all claims arising from, and/or related in any way to, the same or substantially similar facts, transactions, events, policies, acts, or omissions as alleged in the *Cuevas* Action or otherwise related to Defendants' work in the *Arredondo* Action, on behalf of the Settlement Class Members, whether known or unknown, as of the date of entry of the [Proposed] Order of Certification and Preliminary Approval. Such additional releases shall not include claims that could otherwise be brought by Settlement Class Members against the defendants in the *Arredondo* Action or against any other employer of the Settlement Class Members for unpaid wages, or other claims arising out of their employment. Subject to the preceding sentence, this additional release shall have the effect of resolving all claims which may currently exist between the Parties.

In connection with the Released Claims and the mutual releases set forth above, and with the exception of any claims that could otherwise be brought by Settlement Class Members against the defendants in the *Arredondo* Action or against any other employer of the Settlement Class Members for unpaid wages, or other claims arising out of their employment, all parties mutually, including the Settlement Class Members and the named Parties each for himself, herself, or itself waives the provisions of California Civil Code Section 1542, which states:

**A GENERAL RELEASE DOES NOT EXTEND TO
CLAIMS WHICH THE CREDITOR DOES NOT
KNOW OR SUSPECT TO EXIST IN HIS OR HER
FAVOR AT THE TIME OF EXECUTING THE
RELEASE, WHICH IF KNOWN BY HIM OR HER
MUST HAVE MATERIALLY AFFECTED HIS OR
HER SETTLEMENT WITH THE DEBTOR**

These releases apply, as of the effective date of the Releases, to the named Parties and to the Settlement Class Members but are not intended to release claims that cannot be released as a matter of law. Settlement Class Members are advised that they may contact Class Counsel about the terms of this Paragraph and of the meaning and consequences of waiving the provisions of Civil Code section 1542.

THE PROPOSED SETTLEMENT

14. HOW MUCH IS THE PROPOSED SETTLEMENT?

The Defendants have agreed to pay a total amount equal to \$1,005,000 less the fees and costs PFC incurred in defending this action and in preparing and finalizing the settlement (the "Settlement Amount") to resolve the *Cuevas* Action.

As described in this Notice, the amount of the Settlement available for distribution to the Settlement Class from the Settlement Amount is called the Net Settlement Fund. The Net Settlement Fund is estimated at \$[_____]. It has been calculated by subtracting the following from the Settlement Amount: Proposed attorneys' fees for lawyers representing Plaintiffs, known as Class Counsel; Class Counsel's estimated litigation costs; Proposed Class Representative's enhancement fee; settlement administration costs and the estimated payments for taxes, withholdings, or other payments made to any governmental authority on Plaintiffs' behalf in connection with the Settlement. The calculation of the Net Settlement Fund has been provided on the Notice. The total Net Settlement Fund available to the Settlement Class will vary if the Court does not approve the requested amounts listed in the Notice.

15. CLASS REPRESENTATIVE ENHANCEMENT PAYMENT?

In addition to their share of the Net Settlement Fund, the Representative Class Member, Plaintiff Jose Cuevas, will be paid an amount not to exceed \$1,000. This award is subject to approval by the Court. It is being made to compensate the Representative Class Member for his work in representing the class in the lawsuit. This payment of an amount not to exceed \$1,000 will be deducted from the Settlement Amount.

16. PLAINTIFFS' ATTORNEYS' FEES AND COSTS

Class Counsel, the lawyers representing the Plaintiffs and Settlement Class, will seek approval from the Court for payment of fees in the maximum amount of 25% of the Settlement Amount, but not to exceed \$191,750, which is in the percentage range for class actions of this type. They will also seek an amount not to exceed \$7,500 in litigation costs. These are expenses that were paid for by the attorneys during the litigation of this case. If approved by the Court, these fees and costs will be deducted from the Settlement Amount. Defendants have agreed not to oppose Class Counsel's fees, but you may object to the request for fees and/or costs.

17. COSTS OF ADMINISTRATION

The cost of administering the Settlement will be deducted from the Settlement Amount. Kurtzman Carson Consultants ("KCC") has been appointed as the Settlement Administrator. Its duties include preparing and mailing this Class Notice, attempting to find correct addresses and to re-deliver the Class Notice to those that are returned when initially mailed, establishing and

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maintaining a toll-free telephone information line [and WEBSITE], and processing Opt-Out Forms. You can reach them by phone at [(800) ###-####] [or by visiting their website at [www._ ____]].

It is estimated that it will cost an amount not to exceed \$54,863 for KCC to complete its work. When possible, KCC will try to minimize its costs and any savings will remain as funds for distribution to those Settlement Class Members.

THE LAWYERS REPRESENTING YOU

18. DO I HAVE A LAWYER IN THIS CASE?

The Court has appointed the Law Office of Ball & Yorke of Ventura, California, and Martinez, Aguilasochó & Lynch of Bakersfield, California to represent the Settlement Class. These lawyers are called "Class Counsel." You will not be charged for these lawyers' services or work. Any Class Member that does not request exclusion may, if the Class Member so desires, enter an appearance through Class Counsel. You may contact Class Counsel, Law Office of Ball & Yorke at 805-642-5177 and Class Counsel, Martinez, Aguilasochó & Lynch at 661-859-1174 to answer your questions regarding the Settlement.

19. PLAINTIFFS AND CLASS COUNSEL SUPPORT THE SETTLEMENT

Jose Cuevas, as Class Representative, and Class Counsel support this Settlement. Their reasons include the risk of trial on the merits and the inherent delays and uncertainties associated with further litigation. Based on their experience in this case and in litigating similar cases, Class Counsel believes that further proceedings in this case, including trial and probable appeals, would be very expensive and take a long time. No one can confidently predict how the Courts would ultimately resolve the various legal questions at issue, including the amount of damages. Therefore, upon careful consideration of all of the facts and circumstances of this case, Class Counsel believes that the proposed Settlement is fair, reasonable, and adequate. The Representative Plaintiff and Class Counsel support the claims process to ensure that the majority of the settlement proceeds are distributed to the Settlement Class.

20. SHOULD I GET MY OWN LAWYER?

You do not need to hire your own lawyer because Class Counsel is working on behalf of the Settlement Class. However, if you want someone other than Class Counsel to appear in Court or represent you, you will need to hire and pay that lawyer yourself.

FAIRNESS AND FINAL APPROVAL HEARING

21. WHEN AND WHERE IS THE FAIRNESS AND FINAL APPROVAL HEARING?

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The Fairness and Final Approval Hearing will be held before the Honorable Judge Amy D. Hogue on [DATE] at [TIME] in Department 7 of the Spring Street Courthouse located at 312 North Spring Street, Los Angeles, California, 90012. Judge Hogue will determine whether the proposed Settlement is fair, reasonable and adequate and should be finally approved by the Court, and whether to grant Class Counsel's motion for attorneys' fees and costs and an enhancement award to the Representative Plaintiff.

22. HOW DO I OBJECT TO THE SETTLEMENT?

You may object to the terms of the Settlement before the Final Approval Hearing by filing a written objection with the Claims Administrator by [_____]. The objection must contain your full name, current mailing address, and telephone number, the Control Number located on the upper right Notice and Opt-Out Form, the grounds for your objection, and whether you intend to appear at the Fairness and Approval Hearing either with or without separate counsel. Only those Settlement Class Members who file timely objections indicating their intent to appear at the hearing will be entitled to be heard. If the Court rejects your objection, you will still be bound by the terms of the Settlement and will still be paid your share of the Settlement. If you want to avoid being bound by the Settlement, you must submit an Opt-Out Form. You cannot make a written objection if you decide to opt out.

DO NOT ATTEMPT TO OBJECT BY TELEPHONE

23. Do I Have To Come To The Fairness And Final Approval Hearing?

No, Settlement Class Members do not need appear at the Fairness and Final Approval Hearing. However, if you filed an objection to the Settlement with the Court, it will be considered at the Fairness and Final Approval Hearing.

GETTING MORE INFORMATION

24. HOW CAN I GET MORE DETAILED INFORMATION ABOUT THE SETTLEMENT?

This Notice contains a summary of the terms of the Settlement intended to inform you of your legal rights and options with respect to the Settlement. For the exact terms and conditions of the Settlement, you can contact the Settlement Administrator at [NUMBER] [or see the Stipulation of Settlement Agreement available on the Settlement Administrator's website at [WEBSITE]]. The pleadings and other records in the *Arredondo* Action may be examined at any time during regular business hours of the Office of the Clerk, United States District Court, Eastern District of

California, 2500 Tulare Street, Fresno, California 93721. The pleadings and other records in the *Cuevas* Action may be examined at any time during regular business hours of the Office of the Clerk, Spring Street Courthouse, 312 North Spring Street, in Los Angeles, California 90012.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may also call the Settlement Administrator at (800) ###-#### [or by visiting their website at [WEBSITE]]. You may also contact Class Counsel at (805) 642-5177 to answer your questions regarding the Settlement.

PLEASE DO NOT CONTACT THE COURT OR DEFENSE COUNSEL ABOUT THIS NOTICE.

REMINDER OF IMPORTANT DATES AND DEADLINES

- To challenge your anticipated settlement share, you must provide a written explanation of the basis for your challenge and submit any documents that support your position to the Settlement Administrator. You must deliver these documents postmarked on or before [DATE]. The Settlement Administrator will mail you its determination by [DATE] and you will need to meet the deadlines noted below for filing an objection, or submitting an Opt-Out Form.
- To object to the Settlement, objections must be filed with the Court on or before [DATE]. If you wish to object to the Settlement but still want to participate in it if the Court approves it, then file an objection with the Administrator on or before [DATE] stating why you don't like the Settlement and also submit a timely Claim Form.
- To exclude yourself from this Settlement, the enclosed Opt-Out Form must be postmarked on or before [DATE].
- Fairness and Final Approval Hearing and hearing on Class Counsel's Motion for Attorneys' Fees, Costs, and Enhancement Award to Representative Plaintiff: [_____].
- Notice of the Final Judgment shall be given by posting the Final Judgment on the Claims Administrator's website.

EXHIBIT C

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DIVISION

OPT-OUT FORM

**Request for Exclusion from the Settlement Class and
Settlement**

Jose Cuevas, et al. v. Phillips Fractor & Company LLC et al., Case Number BC656142

This form EXCLUDES you from the Settlement in the above Class Action and you will NOT be able to receive any money from the Settlement. DO NOT use this Form if you wish to receive money from the Settlement.

PLEASE TYPE OR PRINT LEGIBLY AND USE BLUE OR BLACK INK.

1. Your full name or name(s) you used while working at Delano Farms:

First Name

Middle Name

Last Name

2. Your mailing address:

Number and Street or P.O. Box: _____

City: _____

State: _____

Zip Code: _____

Foreign Province and Postal Code: _____

Foreign Country: _____

3. Your phone number: () _____

4. Your email address (optional): _____

I understand that opting out of the Settlement in the above Class Action means that I am choosing to be excluded from the Settlement Class. I understand that this means I will not be eligible to receive any money that may result from the pending proposed Settlement that has been filed with the Court. I also understand that this means I will not be legally bound by anything in the Settlement of the above lawsuit.

☐ By checking this box I certify that I am the Settlement Class Member identified on this Opt-Out Form, and that I want to opt-out (be excluded) from the Settlement Class.

Signature of Settlement Class Member

Date Signed

If you wish to opt-out of the Settlement Class and thus be excluded from the Settlement Class and Settlement, you must complete this form, sign it, and deliver, postmarked on or before [_____
_____].

By mail, to:

KCC
3301 Kerner Boulevard

San Rafael, CA 94901

EXHIBIT D

1 Allen R. Ball, Esq. (State Bar #124088)
2 **LAW OFFICE OF BALL & YORKE**
3 1001 Partridge Drive, Suite 330
4 Ventura, California 93003
5 (805) 642-5177; (805) 642-4622 Fax

6 Michael H. Wallenstein (SBN 213018)
7 **WOLF WALLENSTEIN & ABRAMS, PC**
8 11400 West Olympic Blvd., Suite 700
9 Los Angeles, CA 90064
10 (310) 622-1000; (213) 457-9087 Fax

11 Farheena A. Habib (SBN 243405)
12 **Bassi Edlin Huie & Blum LLP**
13 500 Washington Street, Suite 700
14 San Francisco, California 94111
15 (415) 397-9006; (415) 397-1339 Fax

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **COUNTY OF LOS ANGELES - CENTRAL DIVISION**

18 JOSE CUEVAS; individually and
19 on behalf of all others similarly
20 situated,

21 Plaintiff,

22 vs.

23 PHILLIPS FRACTOR & COMPANY,
24 LLC; CSRS; BAKERSFIELD MARKET
25 RESEARCH and, DOES 1 through 100,
26 Inclusive

27 Defendants.

) Case No.: **BC656142**

) **[PROPOSED] FINAL ORDER AND**
) **JUDGMENT**

) The Honorable Amy D. Hogue

28 On _____, 2019, this Court preliminarily approved the Joint Stipulation of Settlement
and Release of Class Actions (the "Settlement Agreement") resolving all claims against
defendants Phillips Fractor & Company, LLC ("PFC"), and California Survey Research
Services, Inc. ("CSRS" and, collectively, "Defendants") in this action (the "*Cuevas* Action").

1 The Court's Order of Certification and Preliminary Approval also (1) provisionally
2 certified the Settlement Class; (2) directed distribution of the Class Notice and of the provisional
3 certification of the Settlement Class; and (3) set up the Fairness and Approval Hearing. The
4 Court further ordered Plaintiffs to timely submit a motion for attorneys' fees and costs and an
5 enhancement award to the Representative Plaintiff, Jose Cuevas, ("Fee and Enhancement Award
6 Motion") so that the Court could consider the Fee and Enhancement Award Motion at the
7 Fairness and Approval Hearing simultaneously with Court's consideration of final approval of
8 the Settlement Agreement. On _____, 2019, Plaintiffs filed their motion seeking final
9 approval of the Settlement Agreement, and the Court held the Fairness and Approval Hearing on
10 _____, 2019.

11 The Court has considered the following:

- 12 1. The points and authorities, declarations, and exhibits submitted in support of, and
13 in opposition to (if any), the motion for final approval of the Settlement Agreement ("Final
14 Approval Motion");
- 15 2. The points and authorities, declarations, and exhibits submitted in support of, and
16 in opposition to (if any), the Fee and Enhancement Award Motion;
- 17 3. The Settlement Agreement, including the exhibits thereto;
- 18 4. The record in the *Cuevas* Action and in the underlying *Arredondo* Action,
19 including but not limited to the points and authorities, declarations, and exhibits submitted in
20 support of, and in opposition to (if any), preliminary approval of the Settlement Agreement, filed
21 [DATE];
- 22 5. The fact that only a small percentage (____%) of Settlement Class Members
23 requested exclusion pursuant to their right to do so in response to the Class Notice;
- 24 6. The fact that the Class Notice provided to the Settlement Class Members provided
25 adequate notice of the proposed Settlement Agreement, their respective Anticipated Settlement
26 Shares, Certification of the Settlement Class, the Fairness and Approval Hearing, and the
27 Settlement Class Members' rights with respect to the Settlement Agreement and their respective
28 Anticipated Settlement Shares;

1 7. The fact that there were ____ objectors to the Settlement Agreement, out of ____
2 Settlement Class Members;

3 8. The written objections filed by _____ and the arguments
4 advanced by objectors _____ at the Fairness and Approval Hearing;

5 9. The oral presentations of Class Counsel and Counsel for Defendants at the
6 Fairness and Approval Hearing;

7 10. This Court's experiences and observations while presiding over the *Cuevas*
8 Action;

9 11. And all other facts pertinent to the entry of this Final Order and Judgment.

10 Based on these considerations, the Court's findings and conclusions as set forth in
11 the Order of Certification and Preliminary Approval, and in this Final Order and Judgment, and
12 good cause appearing therefor:

13 IT IS HEREBY ORDERED AS FOLLOWS:

14 **1. Definitions.** The capitalized terms used in this Final Order and Judgment shall
15 have the meanings and/or definitions given to them in the Joint Stipulation of Settlement and
16 Release of Class Actions ("Settlement Agreement"), or if not defined therein, the meaning and/or
17 definitions given to them in this Final Order and Judgment.

18 **2. Incorporation of Documents.** This Final Order and Judgment incorporates and
19 makes a part hereof:

- 20 a. The Settlement Agreement (including the exhibits thereto);
21 b. The Court's findings and conclusions contained in its Order of Certification
22 and Preliminary Approval, dated _____, 2019; and
23 c. The Court's findings and conclusions contained in its order [granting/denying]
24 the Fee and Enhancement Award Motion.

25 **3. Jurisdiction and Venue.** The Court has personal jurisdiction over the Parties and
26 over the Settlement Class Members, including objectors [insert names of any objectors]. All
27 Settlement Class Members, by failing to exclude themselves, have consented to the jurisdiction
28 of this Court for purposes of the *Cuevas* action and the Settlement of this action. The Court has

1 subject-matter jurisdiction over this action, including, without limitation, jurisdiction to approve
2 the Settlement Agreement and to issue this Final Order and Judgment and order the relief set
3 forth herein, and to adjudicate the objections submitted to the proposed Settlement Agreement by
4 Settlement Class Members. Venue in this Division is appropriate.

5 **4. Definition of the Settlement Class.** The Settlement Class is defined as follows:

6 All individuals who are included in the Arredondo Settlement
7 Class Certified in the Arredondo Action, whether or not they opted
8 out of that class, who have not opted out of the Settlement Class.
9 The Arredondo Settlement Class was comprised of any and all
10 individuals were employed as non-exempt agricultural employees
11 of Cal-Pacific Farm Management, LP, T&R Bangi's Agricultural
12 Services, Inc., Kern Ag Labor Management, Inc., La Vina
13 Contracting, Inc., or Elite Ag Labor
14 Services, Inc. and performed work at Delano Farms in California
15 between July 17, 2005 and the date of entry of the Order of
16 Certification and Preliminary Approval in the *Arredondo* Action
17 who did not opt out, excluding those who worked only as
18 irrigators, tractor drivers, or swamper or only in cold storage.

14 The Court incorporates by reference its prior determination in its Order of Certification and
15 Preliminary Approval that the Settlement Class meets the requirements of Code of Civil
16 Procedure section 382 and California Rules of Court, Rule 3.760 et seq. and should be certified
17 for Settlement purposes only. All Settlement Class Members who have not opted out are subject
18 to this Final Order and Judgment.

19 **5. Findings and Conclusions.** Based on its familiarity with the *Cuevas* Action and
20 with the underlying facts in the *Arredondo* Action, the record herein, the procedural history
21 herein, the parties and the work of their counsel, the Court finds that the Settlement Agreement
22 was not the product of collusion and is without any indicia of unfairness. The Court finds the
23 Settlement Agreement is fair, reasonable, and adequate to the Settlement Class in light of the
24 complexity, expense, and duration of the *Arredondo* Action and the likely complexity expense
25 and duration of the *Cuevas* Action (including the risk of appellate proceedings), and the risks
26 involved in establishing liability and damages and in maintaining the *Cuevas* Action as a class
27 action through trial and appeal (including the risk of non-certification or decertification of the
28 class). The Court finds that the Settlement Agreement represents a fair and complete resolution

1 of all claims asserted on behalf of the Settlement Class as against Defendants and will fully and
2 finally resolve all such claims. In support of these findings and conclusions, the Court further
3 specifically finds:

4 a. There is no evidence of collusion. The proposed Settlement, as set forth in
5 the Settlement Agreement, follows both substantial litigation and arm's-length negotiation in the
6 *Cuevas* Action. Furthermore, the *Cuevas* Action stems from the *Arredondo* Action which was
7 vigorously litigated for years before the Settlement Agreement was reached. Subclasses in the
8 *Arredondo* Action had been certified and partially decertified following significant class
9 discovery, joint employment had been tried, Plaintiffs had submitted a trial plan, and the Court
10 was on the verge of determining whether a trial on liability and damages could proceed on that
11 trial plan in light of the Court's ruling that no additional time would be provided for survey work
12 and no survey would be allowed.

13 b. The Settlement Agreement provides for significant cash payments to
14 Settlement Class Members who choose to submit Claim Forms. No portion of the \$
15 Settlement Amount will revert back to Defendants. The portion of the Settlement Amount to be
16 allocated to attorneys' fees and costs, Settlement administration expenses, an enhancement award
17 to the Representative Plaintiff, and Taxes or other payments due as a result of making payments
18 to the Settlement Class is reasonable. The resulting Net Settlement Fund to be distributed to
19 Claiming Class Members provides a substantial benefit. The Court has considered the realistic
20 range of outcomes in the *Cuevas* Action, including the amount Settlement Class Members might
21 receive if they prevailed at trial, the strength and weaknesses of the case, the strengths and
22 weaknesses of Defendants' defenses, the novelty and number of the complex legal issues
23 involved, the risk that Settlement Class Members would receive less than the Settlement Amount
24 or take nothing at trial or otherwise, and the risk of a reversal of any judgment. The value of the
25 Settlement Agreement to Settlement Class Members is fair, reasonable, and adequate in view of
26 these factors and is well within a range of reasonableness.

27 c. Before reaching the Settlement Agreement, Plaintiffs vigorously litigated
28 their claims and defenses in the *Arredondo* Action in extensive proceedings before the Court in

1 that action, including without limitation: (i) Plaintiffs' motion for class certification; (ii) the
2 defendants' motion for summary judgment on joint employment and the subsequent bench trial
3 on the same issue; (iii) the defendants' motions to decertify and to require Plaintiffs to submit a
4 trial plan; (iv) at least a dozen discovery motions filed by the Parties; (v) Plaintiffs' motion for
5 leave to amend the complaint; and (vi) Plaintiffs' motions to modify the case schedule and
6 related trial plans. Over the seven-year life of the *Arredondo* litigation, the Court held numerous
7 hearings, status conferences, and a bench trial. Plaintiffs' deadline for filing a trial plan, expert
8 disclosure and survey had passed, and the Court had set a briefing schedule to determine whether
9 the case ought to proceed to trial based on Plaintiffs' operative plan.

10 d. Before reaching the Settlement Agreement in the *Arredondo* Action,
11 Plaintiffs also conducted extensive discovery on class certification, joint-employer status, and
12 trying liability and damages on a class-wide basis in the *Arredondo* action.

13 e. During the course of the *Arredondo* Action, Plaintiffs obtained discovery
14 on subject matter beyond the specific allegations in the amended *Arredondo* Complaint.
15 Plaintiffs' investigations, contentions, and allegations encompassed virtually all factual
16 circumstances surrounding the wage-and-hour claims of the Settlement Class against the
17 defendants in the *Arredondo* Action.

18 f. Based upon the legal issues relevant to the *Cuevas* and *Arredondo* Actions
19 and the extensive investigation of the underlying facts in both cases, Plaintiffs and Defendants
20 were fully informed of the legal and factual bases for the claims and defenses herein and capable
21 of balancing the risks of continued litigation (both before this Court and on appeal) and the
22 benefits of the proposed Settlement Agreement.

23 g. The Settlement Class is and was at all times adequately represented by the
24 Representative Plaintiff and Class Counsel and satisfies the requirements of Code of Civil
25 Procedure section 382 and rule 3.760 et seq., and other applicable law. Class Counsel submit that
26 they have fully and competently prosecuted all causes of action, claims, theories of liability, and
27 remedies reasonably available to the Settlement Class Members as against Defendants. Further,
28 both Class Counsel and Defendants' counsel are highly experienced trial lawyers with

1 experience in complex litigation. Class Counsel and Defendants' counsel are capable of properly
2 assessing the risks, expenses, and duration of continued litigation, including at trial and on
3 appeal. Class Counsel submits that the Settlement Agreement is fair, reasonable and adequate for
4 the Settlement Class Members.

5 h. Defendants, individually and collectively, deny all allegations of
6 wrongdoing and disclaim any liability with respect to any and all claims alleged by Plaintiff and
7 the Settlement Class, including the propriety of class certification. Defendants contend that the
8 allegations in the *Cuevas* Action, with respect to the validity of the data collected on behalf of
9 CSRS and relied upon by PFC in the *Arredondo* Action, are untrue and that any alleged damage
10 caused to Plaintiffs in the *Arredondo* Action in the form of a reduced settlement in that action is
11 not attributable to any act or omission of either PFC or CSRS or both of them. Defendants
12 further contend that, regardless of the validity of the data collected on behalf of CSRS and relied
13 upon by PFC for its work in the *Arredondo* Action, Plaintiffs could have recovered substantial
14 additional amounts in that Action, whether in settlement or trial, based on claims that did not rely
15 on the disputed data for their proof. Accordingly, Defendants contend that far less, if any
16 amount, would be recovered by Plaintiffs in the *Cuevas* Action than is afforded under the
17 Settlement Agreement. Thus, Defendants agree that the proposed Settlement Agreement will
18 provide substantial benefits to Settlement Class Members. Defendants consider it desirable to
19 resolve the *Cuevas* Action to fully and finally put Plaintiff's and the Settlement Class's claims
20 against Defendants to rest and avoid, among other things, the risks of continued litigation, the
21 expenditure of time and resources necessary to proceed through trial and any subsequent appeals,
22 and interference with ongoing business operations.

23 i. The selection and retention of the Settlement Administrator was
24 reasonable and appropriate.

25 j. As further addressed below and in this Court's earlier Order of
26 Certification and Preliminary Approval, through the distribution of the Class Notice in the form
27 and manner ordered by this Court, the Settlement Class has received the best practicable notice
28 of the certification of the Settlement Class, the Settlement Agreement, the respective Anticipated

1 Settlement Shares, the Fairness and Approval Hearing, and Settlement Class Members' rights
2 and options, including their rights to opt out, object to the Settlement, object to their Settlement
3 Share, and/or appear at the Fairness and Approval Hearing, and of the binding effect of the
4 orders and Judgment in the *Cuevas* Action on all Settlement Class Members. Said Class Notice
5 has fully satisfied all notice requirements under the law, including the California Code of Civil
6 Procedure and the due-process requirements of the United States Constitution and the California
7 Constitution.

8 k. The response of the Settlement Class to the Settlement Agreement,
9 including the definition of the Settlement Class, the scope of the Releases, and Class Counsel's
10 Fee and Enhancement Award Motion after full, fair, and effective notice thereof strongly favors
11 final approval of the Settlement Agreement. Out of over _____ Settlement Class members, ____
12 submitted valid Opt-Out Forms. In response to the Class Notice mailed to the Class, only ____
13 Settlement Class Members filed objections to the Settlement Agreement. These objections have
14 been filed, considered by the Court, and are addressed below.

15 1. As set forth in the Settlement Agreement, Defendants have denied, and
16 continue to deny, any wrongdoing or liability relating to the *Cuevas* and *Arredondo* Actions.
17 Defendants have filed a joint statement of non-opposition to Plaintiffs' Final Approval Motion
18 and request final approval of the Settlement Agreement, and entry of the judgment in this action
19 on the terms and conditions set forth in the Settlement Agreement.

20 **6. Class Notice.** Based upon the declarations of Class Counsel and the Settlement
21 Administrator, the Court finds and concludes that:

22 a. The First Mailing of the Class Notice was made on _____, 2019 and
23 the Second Mailing on _____, 2020. Both mailings were performed in the form and
24 manner agreed to under the Settlement Agreement and approved by the Court in the Order of
25 Certification and Preliminary Approval. A toll-free information line began on _____,
26 2019[, and a website disseminating the Class Notice was established by the Settlement
27 Administrator on _____, 2019]. In addition, [] assisted with notifying Settlement Class
28 Members of the Settlement Agreement, completing and submitting Claim Forms, answering

1 questions about the Settlement Agreement, and updating addresses and contact information for
2 Settlement Class Members.

3 b. The Class Notice and the procedure for its dissemination was the best
4 notice practicable of the certification of the Settlement Class, was reasonably calculated under
5 the circumstances to apprise the Settlement Class Members of their rights, including their right to
6 opt out of the Settlement Class, and satisfied the requirements of due process and all other
7 applicable provisions of law.

8 c. The Class Notice also provided fair and effective notice to the Settlement
9 Class of the proposed Settlement Agreement and the terms thereof, including but not limited to
10 those terms related to the determination of the Net Settlement Fund, Plan of Allocation, and
11 Claim Form process, the claims and parties released, the binding effect of the Settlement
12 Agreement (if approved) on all Settlement Class Members, the provisions for payment of Class
13 Counsel attorneys' fees and costs, the Representative Plaintiff's enhancement award, Settlement
14 Administration costs, Taxes or other payments due in connection with payments to the
15 Settlement Class, and Class Counsel's intention to petition the Court for approval of the same,
16 the date, time, and place of the Fairness and Approval Hearing, the process for Settlement Class
17 Members to file Claim Forms and/or challenge their Notice of Anticipated Settlement Shares,
18 and Settlement Class Members' rights to object to the Settlement Agreement and to appear at the
19 Fairness and Approval Hearing (on their own or through counsel of their own selection, at their
20 own expense) in support of any timely and validly filed objection, all as set forth in the Class
21 Notice.

22 d. The form and manner of giving notice as described herein and in the
23 Settlement Agreement, including the steps taken for creating and updating the Class Data List,
24 researching alternate mailing data, mailing of supplemental notices, re-mailing returned notices,
25 and receiving and responding to Settlement Class Member inquiries (including the support
26 services provided by the Settlement Administrator and Class Counsel constitute the best notice
27 practicable, and were reasonably calculated under the circumstances to apprise the Settlement
28 Class of their rights thereunder. The Court further finds that the Settlement Class Members were

1 afforded a reasonable period of time to exercise any rights they may have had pursuant to the
2 Settlement Agreement and the Class Notice.

3 e. The Class Notice, in the form and manner approved by the Court, satisfies
4 the requirements of due process, the United States Constitution and the California Constitution,
5 the California Code of Civil Procedure, and other applicable provisions of law.

6 **7. Requests for Exclusion.** A list of those persons who have timely and validly
7 requested exclusion from the Settlement Class by submitting the Opt-Out Form pursuant to the
8 terms of the Class Notice and Settlement Agreement was filed with the Court in support of final
9 Settlement approval as Exhibit ____ to the _____, 2020 Declaration of Allen R. Ball, and is
10 incorporated herein. The persons on this list are excluded from the Settlement Class and
11 therefore are not Settlement Class Members, shall not be bound by the Settlement Agreement or
12 the Final Order and Judgment in the *Cuevas* Action, and shall not receive any portion of the
13 Settlement Amount. All other Settlement Class Members, regardless of whether they received
14 actual notice of certification or the Settlement Agreement through the mailing or publication of
15 the Class Notice documents, are included in the Settlement Class and shall be bound by all
16 proceedings, orders, and judgments in the *Cuevas* Action.

17 **8.** Based on the requirements of the Settlement Agreement and the declarations
18 submitted in support of final approval, the Court finds that all notices and requirements have
19 been satisfied. The Settlement Agreement was filed on _____, 2019. On _____, 2019,
20 Plaintiffs served the notices. On _____ 2020, Plaintiffs served a supplement to their original
21 notice.

22 **9. Settlement Class Member Objections.** Full and fair notice of Settlement Class
23 Members' right to object to the Settlement Agreement and to appear at the Fairness and Approval
24 Hearing in support of such an objection has been provided in the form and manner required by
25 the Settlement Agreement, the Court's Order of Certification and Preliminary Approval, the
26 requirements of due process, and other applicable law. [ADDRESS OBJECTIONS, IF ANY]

27 **10. Final Settlement Approval and Binding Effect.** The terms and provisions of
28 the Settlement Agreement have been entered into in good faith, are fair, reasonable, and adequate

1 as to, and in the best interests of, the Settlement Class Members, and are in full compliance with
2 all applicable requirements of the California Code of Civil Procedure, State and Local Rules of
3 Court, the United States Constitution (including the Due Process Clause), the California
4 Constitution, and any other applicable law. Therefore, the Settlement Agreement is approved.
5 The Settlement Agreement (including its Releases), this Final Order and the Judgment shall be
6 forever binding on the Representative Plaintiff and all other Settlement Class Members, as well
7 as their predecessors, successors, assigns, heirs, executors, administrators, attorneys, and agents,
8 and shall have *res judicata* and other preclusive effect in all pending and future claims, lawsuits,
9 or other proceedings maintained by or on behalf of any such persons to the fullest extent allowed
10 by law.

11 **11. Implementation of Settlement.** The Parties and Settlement Administrator are
12 directed to implement the Settlement Agreement according to its terms. Except as otherwise
13 provided for in the Settlement Agreement, Defendants, the Released Parties, and Defense
14 Counsel shall have no responsibility, liability, or involvement with regard to administering the
15 Settlement Fund, processing of claims, or distribution of payments to class members. Plaintiffs
16 and their counsel shall communicate with the Settlement Administrator as necessary to achieve
17 compliance with the Settlement Agreement approved by the Court, provided that all
18 communications concerning material matters or requiring the approval of or notice to Defendants
19 under the Settlement Agreement are copied or otherwise contemporaneously provided to
20 Defense Counsel.

21 **12. Appeal and Implementation.** Any Settlement Class Member who failed to
22 timely and validly submit his or her objection to the Settlement Agreement in the manner
23 required by the Settlement Agreement, the Class Notice, and this Court's Order of Certification
24 and Preliminary Approval has waived any objection. Any Settlement Class Member seeking to
25 appeal from the Court's rulings approving the Settlement Agreement must: (a) request a stay of
26 implementation of the Settlement Agreement; and (b) post such bond as deemed appropriate by
27 the Court. Absent satisfaction of these requirements, the Parties and Settlement Administrator
28

1 are authorized to proceed with the implementation of the Settlement Agreement, even if such
2 implementation would moot any appeal.

3 **13. Releases.**

4 a. The Court hereby orders that the following releases by the Settlement
5 Class Members are and shall be, as of the date of each Defendant's desposit of its respective
6 portion of the Settlement Amount into the Qualified Settlement Fund, fully effective:

7 Each Settlement Class Member and the Representative Plaintiff,
8 and each of his or her predecessors, successors, assigns, heirs,
9 executors, administrators, attorneys, and agents, and any other
10 person acting on his, her, or their behalf, releases each of CSRS, its
11 owners, Affiliates, shareholders, general and limited partners,
12 predecessors, insurers, agents, employees, independent contractors,
13 heirs, executors, successors, transferees, officers, officials,
14 directors, members, managers, attorneys, beneficiaries, trustees,
15 personal representatives, or other representatives and each of PFC,
16 its owners, Affiliates, shareholders, general and limited partners,
17 predecessors, insurers, agents, employees, independent contractors,
18 heirs, executors, successors, transferees, officers, officials,
19 directors, members, managers, attorneys, beneficiaries, trustees,
20 personal representatives, or other representatives (collectively the
21 "Released Parties") of and from any and all claims, actions, rights,
22 demands, charges, debts, liens, obligations, costs, expenses, wages,
23 restitution, compensation, disgorgement, benefit(s) of any type,
24 equitable relief, contract obligations, liquidated damages, statutory
25 damages, damages, penalties of whatever type or description,
26 attorney's fees, interest, complaints, causes of action, obligations,
27 or liability of any and every kind, known or unknown, at law or in
28 equity, contingent or otherwise (i) that were asserted or that could
have been asserted in the Current Class Action including without
limitation in the Complaint, or (ii) that are, were, or could be based
on, that arose or could arise out of, or that in any way relate to the
same or substantially similar facts, transactions, events, policies,
acts, or omissions as alleged in the Current Class Action or
otherwise related to Defendants' respective work in the *Arredondo*
Action on behalf of the Settlement Class Members, including the
Representative Plaintiff (collectively the "Released Claims"). The
Released Claims do not include claims that could otherwise be
brought by Settlement Class Members against the defendants in the
Arredondo Action or against any other employer of the Settlement
Class Members for unpaid wages, or other claims arising out of
their employment. The Released Claims include but are not limited
to any and all claims against each and all of the Released Parties as
described herein.

1
2 b. In addition to the releases set forth in the preceding paragraph, the Parties,
3 including the Settlement Class Members, mutually specifically acknowledge that they each
4 release, each from the other, not only the Released Claims set forth above but any and all claims
5 arising from, and/or related in any way to, the same or substantially similar facts, transactions,
6 events, policies, acts, or omissions as alleged in the Current Class Action or otherwise related to
7 Defendants' work in the *Arredondo* Action on behalf of the Settlement Class Members,
8 including the Representative Plaintiff, whether known or unknown, effective as of the date of
9 entry of the Order of Certification and Preliminary Approval. Such additional releases shall not
10 include claims that could otherwise be brought by Settlement Class Members against the
11 defendants in the *Arredondo* Action or against any other employer of the Settlement Class
12 Members for unpaid wages, or other claims arising out of their employment. Subject to the
13 preceding sentence, this additional release shall have the effect of resolving all claims which may
14 currently exist between and/or among the Parties.. The Court hereby orders that such additional
15 releases are effective.

16 **14. Enforcement of Settlement.** Nothing in this Final Order and Judgment shall
17 preclude any action to enforce the Settlement Agreement. Any action or other proceeding
18 seeking to enforce or interpret the terms of the Settlement Agreement, or which seeks to interpret
19 or avoid in any way any legal consequences of or the effect of the Settlement Agreement, the
20 Order of Certification and Preliminary Approval, this Final Order and Judgment, or the Releases
21 in the Settlement Agreement shall be brought solely in this Court, which shall, and hereby does,
22 retain jurisdiction over the Parties to enforce the Settlement Agreement.

23 **15. Class Counsel's Attorneys' Fees and Class Counsel Costs.** Having fully
24 assessed Class Counsel's Motion for Fees and Enhancement Award and issued an Order
25 [granting/denying] the motion, the Court awards Class Counsel fees and costs as follows:

26 a. The payment of attorneys' fees in the amount of \$ _____ and an award of
27 costs in the amount of \$ _____ to Class Counsel as approved and directed in that order shall be
28 the sole award of fees and expenses to which Class Counsel or any other counsel for the
Settlement Class Members or the Settlement Class are entitled with respect to the *Cuevas* Action

1 or the Settlement Agreement, or Class Counsel's administration of the Settlement Agreement.
2 This Final Order and Judgment expressly extinguishes any and all claims and potential claims for
3 attorneys' fees, costs, and expenses of and by any and all Class Counsel and anyone else. Current
4 Class Counsel, and each of them, by and through the Settlement Agreement, have released each
5 and all of the Released Parties of and from any and all claims for attorneys' fees, costs, expenses,
6 or any monetary sums of any type connected with or relating in any manner to the *Cuevas*
7 Action, the *Arredondo* Action, or any of the claims released as part of the Settlement Agreement.
8 Any claims that former Class Counsel, including but not limited to the Arredondo Action Class
9 Counsel, may have against the Released Parties are hereby extinguished by this Final Order and
10 Judgment.

11 b. No payment of Attorney's Fees or Costs that may be awarded to Proposed
12 Counsel may be made by the Settlement Administrator until checks to all Claiming Class
13 Members have been distributed. As soon as practical following the issuance and mailing of
14 checks to the Claiming Class Members, the Settlement Administrator shall pay to Class Counsel
15 from the Qualified Settlement Fund any costs, expenses and Attorneys' Fees that may be
16 approved in this Final Order and Judgment. .

17 c. Defendants and the Released Parties shall have no obligation to pay
18 attorneys' fees or costs or litigation expenses with respect to the *Cuevas* action, the Settlement
19 Agreement, or the administration of the Settlement Agreement to any other person, firm, or
20 entity. No Plaintiff or other Settlement Class Member shall have any obligation to pay Class
21 Counsel any further amounts for attorneys' fees, costs, or litigation expenses in the *Cuevas*
22 action.

23 d. The Court finds that the terms of the Settlement Agreement are the
24 product of non-collusive, arm's-length negotiation conducted among the Parties and their
25 counsel. The Court notes in particular that approval of the Settlement Agreement was not
26 conditioned on the award of any attorneys' fees and costs, and that the terms of the Settlement
27 Agreement were reached through extensive negotiation.
28

1 e. **Enhancement Award to Representative Plaintiff.** The Court has fully
2 assessed Class Counsel's Motion for Fees and Enhancement Award and issued an Order on the
3 motion. The payment of an enhancement awards in the amount of \$ _____ as approved and
4 directed in that order shall be paid by the Settlement Administrator from the Qualified Settlement
5 Fund as soon as practicable following both the Effective Date and the deposit to the Qualified
6 Settlement Fund of the full Settlement Amount but before any Settlement Class Member's Share
7 is distributed.

8 **16. Payment to the Settlement Administrator.** Based upon the declarations of
9 counsel and the Settlement Administrator, the Court finds that \$ 40,000 has been paid by PFC,
10 and that \$5,000 has been paid by CSRS to the Qualified Settlement Fund. PFC shall deposit the
11 balance of its portion of the Settlement Amount within 60 days of the Effective Date of the
12 Settlement Agreement, or earlier at Defendants' option. Full payment by Defendants of their
13 respective portions of the Settlement Amount to the Qualified Settlement Fund shall fully satisfy
14 Defendants' respective obligations hereunder; Plaintiffs, Class Counsel, and the Settlement Class
15 bear any and all risk of loss associated with amounts paid to the Qualified Settlement Fund.
16 Defendants and the Released Parties shall have no responsibility or liability for, relating to, or
17 arising from or in connection with the appointment of the Settlement Administrator, any actions
18 or omissions by the Settlement Administrator, its agents, or the agents of Class Counsel, or any
19 obligation or liability of the Qualified Settlement Fund. Without limitation, Defendants and the
20 Released Parties are not responsible and shall have no liability in connection with the distribution
21 of any unclaimed funds or any obligation to remit such funds to the State of California, the
22 failure to obtain or report accurate taxpayer information, the failure to withhold, remit, or pay
23 sufficient Taxes, or the calculation and distribution of payments to Settlement Class Members.
24 Settlement Class Members are responsible for and may owe taxes to the extent their respective
25 tax obligations have not been fully withheld.

26 **17. Payments from Settlement Amount.** The Settlement Amount, and the
27 respective portions paid thereof by Defendants, shall be the total, complete, and maximum
28 amount payable collectively, or individually by Defendants and/or any of the Released Parties

1 pursuant to, and in consideration of, the Settlement Agreement, which amount cannot, may not,
2 and shall not increase under any circumstances. All payments to the Settlement Class and or to
3 anyone else in connection with, arising from, relating to, or in consideration of the Settlement
4 Agreement or the resolution of the *Cuevas* Action shall come from the Settlement Amount,
5 including without limitation all payments and distributions to the Settlement Class, all attorneys'
6 fees and costs awarded in connection with the *Cuevas* Action or the Settlement Agreement, all
7 costs and expenses relating to the administration of the Settlement Agreement and Class Notice,
8 any enhancement award to the Representative Plaintiff, and all Taxes, including without
9 limitation employer-side payments such as FICA, SUTA, and FUTA payments and all wage or
10 other withholdings.

11 **18. Reserve for Administrative Expenses and Taxes** As soon as practicable
12 following both the Effective Date and the deposit to the Qualified Settlement Fund of the
13 Settlement Amount but before any Class Member's Share is distributed, the Settlement
14 Administrator shall establish a reserve sufficient to cover fees and costs incurred by the
15 Settlement Administrator that become due after the Settlement Amount is deposited in the
16 Qualified Settlement Fund (the "Reserve") in the amount of \$_____. Based upon the
17 declarations of counsel and the Settlement Administrator, the Court finds that the Settlement
18 Administrator shall add \$_____ to the Reserve to cover all Taxes due as soon as practicable
19 following both the Effective Date and the deposit to the Qualified Settlement Fund of the
20 Settlement Amount but before any Class Member's Share is distributed, making the total Reserve
21 amount \$_____. If any portion of the Reserve remains in the Qualified Settlement Fund
22 after the ultimate payment of all Taxes, Settlement Administrator expenses, and any other
23 payments to anyone other than distributions to the Settlement Class, the amount so remaining
24 shall be distributed to the Claiming Class Members pro rata according to the Plan of Allocation
25 as a supplemental payment.

26 **19. Payment to the Claiming Class Members.** As soon as practicable following the
27 disbursement of the payments identified in paragraph 17 and the establishment of the Reserve
28 required by paragraph 18, the Settlement Administrator shall issue and mail checks to the

1 Claiming Class Members pursuant to the Plan of Allocation and shall remit appropriate payment
2 for or related to Taxes to the appropriate governmental authorities. No person shall have any
3 claim against PFC, CSRS, the Released Parties, Plaintiffs, Class Counsel, Defense Counsel, the
4 Settlement Class, and/or the Settlement Administrator based on any determinations,
5 distributions, or other awards made in accordance with the Settlement Agreement or in
6 furtherance of its implementation.

7 **20. Allocation of Payments.** The Court recognizes that it is impractical if not
8 impossible to precisely allocate the Net Settlement Fund among the various claims asserted by
9 the Representative Plaintiff and the Settlement Class. The Court also recognizes that
10 disbursement of the Net Settlement Fund may trigger certain reporting and tax obligations.
11 Because of the uncertainties involved, and in order to facilitate compliance with all applicable
12 reporting and tax requirements, the Parties have agreed that the following allocation is
13 reasonably related to the claims asserted by the Representative Plaintiff and the Settlement Class:
14 the Net Settlement Funds distributed to each Claiming Class Members shall be determined pro
15 rata based on the total number of weeks that each Claiming Class Member performed Class
16 Work relative to the number of weeks that all Claiming Class Members performed Class Work.
17 This allocation was negotiated at arm's length, in good faith, and in an adversarial setting and is
18 consistent with the underlying facts and circumstances of the case, and the Court hereby orders
19 that this allocation is appropriate and adequate.

20 **21. Uncashed Settlement Checks.** The Settlement Administrator shall make
21 reasonable efforts to re-notify or re-mail checks to Claiming Class Members who have not
22 cashed their checks within 60 days of the initial mailing of such checks, including additional
23 efforts to obtain a correct address for such Claiming Class Members. If, upon the expiration of
24 60 days after re-mailing of undeliverable checks or re-notification to Claiming Class Members
25 whose checks remained uncashed, such checks still remain uncashed, the Settlement
26 Administrator shall cause stop-payment notices to be issued against the checks not cashed. The
27 Settlement Administrator will then distribute and deliver the amount of the total uncashed checks
28

1 to the remaining Claiming Class Members pro rata according to the Plan of Allocation as a
2 supplemental payment.

3 **22. Retention of Jurisdiction.** The Court has jurisdiction to enter this Final Order
4 and Judgment. Without in any way affecting the finality of this Final Order and Judgment, for
5 the benefit of the Settlement Class, Defendants, and Released Parties, the Court expressly retains
6 continuing jurisdiction as to all matters relating to the Settlement Agreement, including but not
7 limited to any modification, interpretation, administration, implementation, effectuation, or
8 enforcement of the Settlement Agreement; the administration of the Settlement Agreement,
9 including payments thereunder; the Class Notice and sufficiency thereof; any objection to the
10 Settlement Agreement; any request for exclusion from the Settlement Class; the adequacy of
11 representation by Class Counsel and/or the Representative Plaintiff; the amount of attorneys' fees
12 and litigation costs paid to Class Counsel; the amount of the enhancement award to be paid to the
13 Representative Plaintiff; any claim by any person or entity relating to the representation of the
14 Settlement Class by Class Counsel; enforcement of the Releases and injunction provisions of the
15 Settlement Agreement and of this Final Order and Judgment; any proceedings on remand after
16 appeal or denial of any appellate challenge; any collateral challenge made regarding any matter
17 related to the *Arredondo* action, the *Cuevas* Action, or the Settlement Agreement or the conduct
18 of any party or counsel relating to this litigation or to the Settlement Agreement; and all other
19 issues related to this Action or to the Settlement Agreement.

20 **23. No Admission.** Nothing in this Final Order and Judgment, the Settlement
21 Agreement, or any related documents, pleadings, court papers, or other documents, and no
22 actions taken or statements made to effectuate or implement this Final Order and Judgment or
23 the Settlement Agreement, shall be construed as, offered as, received as, used as, or deemed to
24 be evidence of any kind or for any purpose in any judicial, administrative, regulatory, or other
25 action or proceeding (including in the *Arredondo* or *Cuevas* Actions), except for purposes of
26 obtaining approval of the Settlement Agreement or entry of judgment in this Action, enforcement
27 or implementation of the Settlement Agreement, or to support any defense by Defendants or the
28 Released Parties based on principles of res judicata, collateral estoppel, release, waiver, good-

1 faith Settlement, judgment bar or reduction, full faith and credit, setoff, or any other theory of
2 claim preclusion, issue preclusion, release, injunction, or similar defense or counterclaim to the
3 extent allowed by law. Without limiting the foregoing, neither the Settlement Agreement nor any
4 related negotiations, statements, mediation positions, notes, drafts, outlines, memoranda of
5 understanding, or court filings or proceedings relating to the Settlement Agreement or its
6 approval shall be construed as, offered as, received as, used as, or deemed to be evidence of or an
7 admission or concession by any person of any liability or wrongdoing on the part of PFC, CSRS
8 or the Released Parties, or as a waiver by PFC, CSRS or the Released Parties of any defense,
9 including without limitation any applicable statute of limitation.

10 **24. Right to Terminate** Any Party to the Settlement Agreement, by and through his,
11 her, or its counsel of record, shall have the right to terminate the Settlement Agreement as
12 provided in Paragraph 96 therein.

13 **25. Effect of Termination or Failure of Settlement Agreement to Become**
14 **Effective.** In the event the Settlement Agreement is terminated or fails to become effective for
15 any reason, the Parties to the Settlement Agreement shall be deemed to have reverted to their
16 respective litigation positions as of the date of execution of the Settlement Agreement and
17 without regard to PFC's prior acceptance of the general terms of Plaintiff's settlement proposal
18 and to the agreement by CSRS and Plaintiffs to settle this action, on both of which the Settlement
19 Agreement is based , and shall proceed in all respects as if this Final Order and Judgment, any
20 related orders, and the previous orders of the Court with regard to or relating to the Settlement
21 Agreement had not been entered. In such event:

- 22 a. The Settlement Agreement shall have no force and effect, no party shall be
23 bound by any of its terms, and nothing in it may be used against any party in the *Cuevas* Action
24 or in any other proceeding (except that any Party may enforce the provisions of the Settlement
25 Agreement regarding termination of the Settlement Agreement or the effect of such termination);
26 b. No pleading, brief, motion, or other submission to the Court relating to the
27 Settlement Agreement (the "Settlement Submissions"), including without limitation the
28 Settlement Agreement, the Motion for Certification of the Settlement Class and Preliminary

1 Approval of the Settlement Agreement shall constitute an admission of any party of any kind or
2 shall limit any claim, defense or argument in any way, whether substantive or procedural; and
3 nothing in any Settlement Submission may be used against any party in the *Cuevas* Action or in
4 any other proceeding (except that any party may enforce the provisions of the Settlement
5 Agreement regarding termination of the Settlement Agreement or the effect of such termination);

6 c. Defendants and the Released Parties shall have no obligation to make any
7 payments;

8 d. The Order of Certification and Preliminary Approval, this Final Order and
9 Judgment, the Order [granting/denying] Class Counsel's Motion for Attorneys' Fees and Costs
10 and Enhancement Award to the Representative Plaintiff, and any other orders approving,
11 implementing, or otherwise relating to the Settlement Agreement shall be vacated, shall be of no
12 effect whatsoever, and may not be used against any party in the *Cuevas* action or in any other
13 proceeding;

14 e. The Parties will proceed to litigate the *Cuevas* action with respect to the
15 pleadings on file as of the time of execution of the Settlement Agreement;

16 g. Except as submitted to this Court, all negotiations, statements, documents,
17 and proceedings relating to the Settlement Agreement shall be deemed confidential and not
18 subject to disclosure for any purpose in any proceeding; and

19 h. Any portion of the Settlement Amount previously paid or caused to be
20 paid by Defendants to the Qualified Settlement Fund, together with any interest earned thereon,
21 less any Taxes required to be withheld with respect to such interest, shall be returned in
22 accordance with the provisions of Paragraph 97(d) of the Settlement Agreement.

23
24 IT IS SO ORDERED.

25
26 Dated: _____

SUPERIOR COURT JUDGE

EXHIBIT E

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - CENTRAL DIVISION

JOSE CUEVAS; individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

PHILLIPS FRACTOR & COMPANY,
LLC; CSRS; BAKERSFIELD MARKET
RESEARCH and, DOES 1 through 100,
Inclusive

Defendants.

Case No.: **BC656142**
- Complaint filed: 03/30/17
- Assigned to Hon. Amy D. Hogue

[PROPOSED] ORDER

**1. CERTIFICATION OF SETTLEMENT
CLASS**

**2. PRELIMINARY APPROVAL OF JOINT
STIPULATION OF SETTLEMENT OF
CLASS ACTIONS AND;**

3. SCHEDULING ORDER

Plaintiff JOSE CUEVAS (the "Representative Plaintiff") individually and on behalf of
the proposed Settlement Class (collectively, "Plaintiffs") has filed a motion asking the Court to

1 certify the Settlement Class and grant preliminary approval of the Joint Stipulation of Settlement
2 and Release of Class Action ("Settlement Agreement") between Plaintiffs and Defendants
3 Phillips Fractor & Company, LLC ("PFC") and California Survey Research Services, Inc.,
4 ("CSRS"). The Settlement Agreement is dated October 11, 2019 and has been entered into by
5 PFC, CSRS and the Representative Plaintiff, on his own behalf and on behalf of the Settlement
6 Class, certified by this Order.

7 The parties have stipulated and the Court has ordered that the Motion may be submitted
8 upon the record and briefs on file and without the need for a hearing. Having considered the
9 Settlement Agreement along with other documents filed in this action, the Court finds good
10 cause for issuing an order certifying the settlement class and preliminarily approving the
11 Settlement Agreement.

12 IT IS HEREBY ORDERED THAT:

13 1. The Court grants the request for preliminary approval of the Settlement Agreement.
14 All defined terms contained in this order shall have the same meaning as set forth in the
15 Settlement Agreement.

16 a. The Court finds that the Settlement Agreement is within the range of what is
17 fair, adequate, and reasonable as set forth in Code of Civil Procedure section 382 and California
18 Rules of Court 3.760 et seq., and applicable law. The Court further finds that the Settlement
19 Agreement appears to be the product of serious, informed, non-collusive negotiations, has no
20 obvious deficiencies, and does not improperly grant preferential treatment to the Representative
21 Plaintiff or to any segments of the Settlement Class.

22 b. The Settlement Agreement is the result of extensive, well-informed, good-faith,
23 and arm's-length negotiations.

24 c. Both class counsel, CSRS's and PFC's counsel are experienced and capable
25 litigators and have assessed the claims' strengths and weaknesses and the benefits of the partial
26 settlement.

27 d. The Settlement Agreement confers a substantial benefit on the Settlement
28 Class, because there is a significant risk to them with continued litigation of this Action.

1 e. The Court preliminarily approves Settlement Amount as the combined total of
2 (i) \$5,000.00 from Defendant CSRS and the remaining limits of a \$1,000,000.00 policy of
3 insurance issued to PFC, after deductions for defense fees and costs paid by the insurer under the
4 policy.

5 2. The Court approves the Settlement Agreement's plan for providing notice to the
6 Settlement Class of the (i) certification of the Settlement Class, (ii) the Settlement Agreement,
7 and (iii) the Fairness and Final Approval hearing. Notice is being provided in a form most likely
8 to reach the Settlement Class under the circumstances and constitutes valid, due, and sufficient
9 notice to the Settlement Class in compliance with the requirements of applicable law, including
10 Code of Civil Procedure section 382 and California Rules of Court 3.760 et seq., the due-process
11 requirements of the United States Constitution and California Constitution, and other applicable
12 law. The Settlement Agreement shall be binding on all Settlement Class Members who do not
13 opt out of the Settlement, regardless of whether they actually receive the Class Notice.

14 3. The Court has reviewed and approves, as to form and content, the Class Notice, which
15 consists of: the Notice of Proposed Class Action Settlement which will include an individualized
16 Notice of Anticipated Settlement Share and Certification of the Settlement Class (attached to the
17 Settlement Agreement as Exhibit B); and the Opt-Out Form (substantially in the form of Exhibit
18 C to the Settlement Agreement). The Class Notice is deemed sufficient to inform the Settlement
19 Class Members of the terms of the Settlement Agreement, their rights, and the process for
20 exercising their rights under the Settlement Agreement, including their rights to object, receive a
21 share of the Net Settlement Amount or exclude themselves, and the date and location of the Final
22 Approval Hearing.

23 4. The Court appoints and designates KCC as the Settlement Administrator. The duties of
24 the Settlement Administrator shall include, reviewing, updating, and verifying the Class Data
25 List, preparing and mailing the Class Notice in English, Spanish, and Tagalog (upon request), to
26 each Settlement Class Member, collecting and verifying the taxpayer identification information
27 associated with the Settlement Class Members. Answering questions about the Settlement, and
28 updating addresses and contact information for Settlement Class Members. All costs and

1 expenses for, or relating in any manner to, the administration of the Settlement, including
2 without limitation the fees of the Settlement Administrator will be paid from and out of the
3 Settlement Amount. The Court directs the Settlement Administrator to notify the Settlement
4 Class in accordance with the procedures set forth in the Settlement Agreement, including mailing
5 the approved Class Notice documents to the Settlement Class Members.

6 5. Except as otherwise indicated in the Settlement Agreement, PFC, CSRS, the Released
7 Parties, and Defense Counsel shall have no responsibility or involvement with regard to
8 administering the Settlement Fund, processing of claims, or distribution of payments to
9 Settlement Class Members. Plaintiffs and their counsel shall communicate with the Settlement
10 Administrator as necessary to achieve compliance with the Settlement approved by the Court.
11 Nor shall PFC, CSRS and the Released Parties have any responsibility or liability for, relating to,
12 or arising from or in connection with the appointment of the Settlement Administrator, any
13 actions or omissions by the Settlement Administrator, its agents, or the agents of Proposed Class
14 Counsel, or any obligation or liability of the Qualified Settlement Fund. Without limitation, PFC,
15 CSRS and the Released Parties are not responsible and shall have no liability in connection with
16 the distribution of any unclaimed funds or any obligation to remit such funds to the State of
17 California, the failure to obtain or report accurate taxpayer information, the failure to withhold,
18 remit, or pay sufficient Taxes, or the calculation and distribution of payments to Settlement Class
19 Members. Settlement Class Members are responsible for and may owe taxes to the extent their
20 obligations have not been fully withheld.

21 6. The Settlement Administrator shall send Settlement Class Members, by first class mail
22 to their last known address (after performing address updates and verifications as appropriate
23 prior to the first mailing), the Class Notice ("First Mailing") within 90 days of entry of this order.
24 Upon receipt of information that a Settlement Class Member did not, in fact, receive the Class
25 Notice in the First Mailing (e.g., by the post office's return to the Settlement Administrator of the
26 First Mailing sent to that individual), the Settlement Administrator shall undertake reasonable
27 efforts to determine the correct address for those Settlement Class Members who did not receive
28 the First Mailing. Then, within 115 days after entry of this order, the Settlement Administrator

1 will execute a second mailing of Class Notice to those Settlement Class Members whose
2 previous Class Notices were undeliverable and for whom the Settlement Administrator has
3 located an alternative address through skip-tracing or other means ("Second Mailing").

4 7. No later than the date of the First Mailing, if the Settlement Administrator deems it a
5 reasonable basis for disseminating Class Notice and collecting forms from the Settlement Class,
6 the Settlement Administrator shall establish and maintain a website, in each of English, Spanish,
7 and Tagalog, the content of which shall be subject to the prior approval by all Parties to the
8 Settlement Agreement (or, if the Parties cannot agree, the approval of the Court). The website (if
9 any) shall include the Class Notice materials and information about how Settlement Class
10 Members can contact the Settlement Administrator.

11 8. Upon reasonable request, the Settlement Administrator shall provide periodic reports
12 to all counsel identifying the efforts taken to provide actual notice to Settlement Class Members,
13 such reports to include without limitation the number of mailings sent out, the number of notices
14 returned undeliverable, the number of persons who have responded to the PSAs, the number of
15 phone calls received, and the efforts taken to identify proper addresses for the Settlement Class
16 Members.

17 9. Settlement Class Members as provided in the Settlement Agreement and Class Notice
18 will be entitled to receive a share of the Net Settlement Fund as set forth in the Plan of
19 Allocation. Settlement Class Members will be bound, by all terms of the Settlement Agreement,
20 including the releases, as well as the terms of the Order and Final Judgment to be entered and
21 will be barred from bringing any action against any of the Released Parties concerning any of the
22 Released Claims.

23 10. As part of the Class Notice documents, Settlement Class Members will be provided
24 their Notice of Anticipated Settlement Share. Whether or not he or she submits an objection to
25 all or part of the Settlement, a Settlement Class Member may dispute his or her Anticipated
26 Settlement Share, or the data used to calculate the Notice of Anticipated Settlement Share, within
27 135 days after entry of this order.

1 11. Any Settlement Class Member may choose to opt out and be excluded from the
2 Settlement as provided in the Settlement Agreement and Class Notice by timely submitting an
3 Opt-Out Form. Any person who opts out will not be bound by the Settlement Agreement and
4 will have no right to receive a share of the Settlement or to object to the Settlement Agreement.
5 Settlement Class Members who do not opt out shall be bound by all determinations of the Court,
6 the terms of the Settlement Agreement, and the Final Order and Judgment. The Settlement
7 Administrator shall provide the parties with a list of opt-outs sixty (60) days after the second
8 mailing.

9 12. Pursuant to the Code of Civil Procedure section 382 and California Rules of Court
10 3.760 et seq., and other applicable law, Settlement Class Members may object to the terms of the
11 Settlement Agreement by filing a timely and complete objection with the Court. Those who
12 object may present their objections at the Fairness and Final Approval Hearing in person or by
13 counsel, provided that they include a statement of their intention to appear in the objection that
14 they file with the Court. Settlement Class Members shall be permitted to withdraw their
15 objections in writing by filing a withdrawal statement not later than five business days prior to
16 the Court's Fairness and Final Approval Hearing.

17 13. For the sole purpose of effectuating the Settlement Agreement and with no other
18 effect on this or any other litigation should the Settlement Agreement not ultimately become both
19 effective and final, the Court has found the requirements of Code of Civil Procedure section 382
20 and California Rules of Court 3.760 et seq., and other applicable law satisfied for the proposed
21 Settlement Class. Certification of the Settlement Class pursuant to this order is for settlement
22 purposes only and shall not be construed as an admission by PFC or CSRS that this action is
23 appropriate for class treatment for litigation or any other purposes. Entry of this order is without
24 prejudice to PFC and CSRS's rights to oppose certification of a litigation class in this action
25 should the Settlement Agreement not be finally approved or not become effective. The Court
26 grants Plaintiffs' request to certify the following Settlement Class:

27 [A]ny and all individuals who are or were employed as non-
28 exempt agricultural employees of Cal-Pacific Farm Management,
 LP, T&R Bangi's Agricultural Services, Inc., Kern Ag Labor