

EXHIBIT A

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the Putative Class & Collective

17 **UNITED STATES DISTRICT COURT**
18 **EASTERN DISTRICT OF CALIFORNIA**

19
20 MARLIN MCCLURE, an individual, for himself
and those similarly situated,

21 Plaintiff,

22 v.

23 WAVELAND SERVICES, INC.,
24 a Louisiana corporation doing business in
California; and DOES 1 through 100,
25 inclusive,

26 Defendants.
27
28

Case No. 2:18-cv-01726-KJM-AC

Hon. Kimberly J. Mueller

**JOINT STIPULATION OF CLASS AND
COLLECTIVE ACTION SETTLEMENT,
PAGA SETTLEMENT AND RELEASE**

Complaint Filed: June 14, 2018

1 5. “California Class Notice” means the Court-approved form of notice to California Class
2 Members, substantially in the form as **Exhibit 2**, attached hereto.

3 6. “California Class Period” is the period beginning June 14, 2014 through the date of
4 Preliminary Approval.

5 7. “California Class Released Claims” means all claims, debts, liabilities, demands,
6 obligations, penalties, guarantees, costs, expenses, attorney’s fees, damages, action or causes of action
7 of whatever kind or nature, whether known or unknown, contingent or accrued, that were alleged or
8 that reasonably could have been alleged based on the facts alleged in the Lawsuit, as amended, against
9 the Released Parties or any of them, for violation of the California Labor Code, the California Business
10 & Professions Code, the Labor Code Private Attorneys General Act of 2004, the applicable Industrial
11 Welfare Commission Wage Orders or any similar state or local law, including, but not limited to, any
12 claims for unpaid overtime, claims for missed meal or rest breaks, claims for meal or rest break
13 premiums, claims for unreimbursed employee business expenses, claims for liquidated damages, claims
14 for unlawful deductions from wages, claims for conversion of wages, claims for record-keeping
15 violations, wage-statement penalties, “waiting time” penalties, claims for unpaid wages, claims for
16 failure to pay minimum wage, and any claims under California Labor Code sections 201, 202, 203,
17 204, 210, 218, 218.5, 218.6, 219, 226, 226.3, 226.7, 256, 510, 512, 558, 1174, 1174.5, 1194, 1194.2,
18 1197, 1197.1, 1198, 2802, 2802(c), 2810.5 and Labor Code section 2698 *et seq.* based on alleged
19 violations of these Labor Code provisions, as well as claims under California Code of Civil Procedure
20 section 1021.5, and California Civil Code sections 3288 and 3291, at any time during the California
21 Class Period. California Class Members releasing their claims under PAGA shall release the above
22 California Labor Code and other applicable California Class Released Claims from the period
23 beginning June 12, 2017 through the date of Preliminary Approval.

24 8. “California Notice Packet” means the California Class Form (**Exhibit 1**), California
25 Class Notice (**Exhibit 2**), and Exclusion Letter (**Exhibit 3**).

26 9. “California Percentage Share” means each California Class Member’s Individual Work
27 Weeks divided by the California Total Work Weeks, as applicable.

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1 10. “California Settlement Allocation” means the portion of the Net Settlement Value
2 allocated to the California Class.

3 11. “California Total Work Weeks” means the sum of all Individual Work Weeks for all
4 California Class Members.

5 12. “Claimants” means those California Class Members who do not submit an Exclusion
6 Letter and/or those FLSA Class Members who submit a timely FLSA Opt In Form, as applicable.

7 13. “Class” means collectively the California Class and FLSA Class. Members of the Class
8 are referred to herein as “Class Members.”

9 14. “Class Counsel” means Plaintiff’s counsel, Michael A. Strauss, Aris E. Karakalos, and
10 Andrew C. Ellison of Strauss & Strauss, APC.

11 15. “Complaint” means the Second Amended Complaint, which, prior to the filing of
12 Plaintiff’s motion for preliminary approval, the Parties agree to file through a joint stipulation and
13 proposed order for leave to file a Second Amended Complaint. The Settlement is conditioned upon the
14 Second Amended Complaint becoming the operative complaint on or before Preliminary Approval of
15 the Settlement.

16 16. “Court” means the United States District Court for the Eastern District of California.

17 17. “Defendant” means Defendant Waveland Services, Inc.

18 18. “Defendant’s Counsel” means the law firm of Ogletree, Deakins, Nash, Smoak &
19 Stewart, P.C.

20 19. “Exclusion Letter” means the Court-approved form, substantially in the form as **Exhibit**
21 **3**, attached hereto, which California Class Members who wish to opt-out must timely and fully
22 complete and send to the Settlement Administrator. The Exclusion Letter must be postmarked by the
23 Objection/Exclusion Deadline and it must include the California Class Member’s full name, the date,
24 address, telephone number, last four digits of his or her Social Security Number, and signature.

25 20. “Fee and Expense Award” means such award of fees and expenses as the Court may
26 authorize to be paid to Class Counsel for the services they have rendered and will render to Plaintiff
27 and the Class in the Lawsuit. The Fee and Expense Award will not exceed 33% of the Gross
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1 Settlement Value, which is Ninety-Five Thousand Seven Hundred Dollars (\$95,700.00), plus Class
2 Counsel’s actual out-of-pocket expenses in prosecuting this Lawsuit, which will not exceed Seven
3 Thousand Five Hundred Dollars (\$7,500.00). Expenses in excess of Seven Thousand Five Hundred
4 Dollars (\$7,500.00) shall be deducted be from Class Counsel’s Fee and Expense Award.

5 21. “Final Approval” means that the Final Approval Order and Judgment have been entered
6 by the Court.

7 22. “Final Approval Order” means the Order Granting Final Approval of Class Settlement,
8 which shall be submitted with the motion for final approval.

9 23. “FLSA Class” means all current and former hourly employees of Defendant, who
10 worked for Defendant over 40 hours in a single workweek on an oil platform off any coast of the
11 United States and, during such workweek, were furnished any meals and/or lodging in addition to other
12 wages during the FLSA Class Period. Members of the FLSA Class are referred to herein as “FLSA
13 Class Members.”

14 24. “FLSA Collective Form” means the form notifying FLSA Class Members of their
15 Individual Work Weeks and estimated Individual Settlement Payment in substantially the form as
16 **Exhibit 4**, attached hereto.

17 25. “FLSA Class Period” is the period beginning June 14, 2015 through the date of
18 Preliminary Approval.

19 26. “FLSA Class Released Claims” means all claims, debts, liabilities, demands,
20 obligations, penalties, guarantees, costs, expenses, attorney’s fees, damages, action or causes of action
21 of whatever kind or nature, whether known or unknown, contingent or accrued, that were alleged or
22 that reasonably could have been alleged based on the facts alleged in the Lawsuit, as amended, against
23 the Released Parties or any of them, for violations of the Fair Labor Standards Act, 29 U.S.C. section
24 201 *et seq.* and the corresponding Department of Labor Regulations, 29 C.F.R. section 785 *et seq.* and
25 778 *et seq.*, including, but not limited to, any claims for unpaid wages, economic damages, non-
26 economic damages, liquidated damages, punitive damages, restitution, penalties, other monies, or other
27 relief arising out of, relating to, or in connection with any facts and/or claims pled in the Lawsuit,
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1 which are or could be the basis of claims that Defendant failed to provide all wages and overtime wages
2 due, failed to pay the minimum wage and/or engaged in recordkeeping violations, at any time during
3 the FLSA Class Period.

4 27. “FLSA Collective Action Notice” means the Court-approved form of notice to FLSA
5 Class Members, substantially in the form as **Exhibit 5**, attached hereto.

6 28. “FLSA Notice Packet” means the FLSA Collective Form (**Exhibit 4**), FLSA Collective
7 Action Notice (**Exhibit 5**), and FLSA Opt In Form (**Exhibit 6**).

8 29. “FLSA Opt In Form” means a proof of claim and release, and consent to join in
9 substantially the form as **Exhibit 6**, attached hereto.

10 30. “FLSA Percentage Share” means each FLSA Class Member’s Individual Work Weeks
11 divided by the FLSA Total Work Weeks, as applicable.

12 31. “FLSA Settlement Allocation” means the portion of the Net Settlement Value allocated
13 to the FLSA Class.

14 32. “FLSA Total Work Weeks” means the sum of all Individual Work Weeks for all FLSA
15 Class Members.

16 33. “Gross Settlement Value” means the maximum amount of Two Hundred Ninety
17 Thousand Dollars (\$290,000.00) that Defendant shall pay as a result of this Stipulation of Settlement.
18 This amount will not, however, include the employer’s share of Payroll Taxes, as defined below.

19 34. “Individual Settlement Payment” means the portion of the Net Settlement Value
20 distributable to each Claimant.

21 35. “Individual Work Weeks” means weeks of employment for each Class Member as
22 reflected by Defendant’s corporate and business records, exclusive of leaves of absence, during the
23 applicable class period. Approximations and averages will be used to cover periods where data is
24 missing or otherwise not available.

25 36. “Judgment” means the form of judgment entered by the Court which shall be submitted
26 with the motion for final approval.

27 37. “Mediator” means Steven G. Pearl, Esq.

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1 38. “Net Settlement Value” means the Gross Settlement Value less the Fee and Expense
2 Award, the Service Award, the Private Attorneys General Act of 2004 (“PAGA”) Payment and
3 Administration Costs, as approved and awarded by the Court. At this time, the Net Settlement Value is
4 estimated to be \$162,700.00. 40% of the Net Settlement Value shall be allocated to the California
5 Class, and 60% of the Net Settlement Value shall be allocated to the FLSA Class.

6 39. “Notice Period” means the forty-five (45) day period following the date on which the
7 Settlement Administrator first mails the California Notice Packet and/or FLSA Notice Packet, as
8 applicable, to the Class Members.

9 40. “Objection/Exclusion Deadline” means the date forty five (45) days following the date
10 on which the Settlement Administrator first mails the California Notice Packet and/or FLSA Notice
11 Packet, as applicable, to the Class Members.

12 41. “Opt In Deadline” means the date forty five (45) days following the date on which the
13 Settlement Administrator first mails the FLSA Notice Packet to the FLSA Class Members.

14 42. “PAGA Payment” means the sum of Five Thousand Eight Hundred Dollars (\$5,800.00),
15 which shall be allocated from the Gross Settlement Value to pay all applicable penalties under PAGA
16 to the Labor and Workforce Development Agency (“LWDA”). 75% of the PAGA Payment shall be
17 paid to the LWDA (i.e., \$4,350.00), and 25% of the PAGA Payment (i.e., \$1,450.00) shall be paid to
18 the California Class Members who worked between June 12, 2017 and the date of preliminary
19 approval.

20 43. “Parties” means Plaintiff, the California Class, the FLSA Class and Defendant,
21 collectively.

22 44. “Payment Obligation and Class Release Date” means after all of the following events
23 have occurred: (i) the Court has finally approved the Settlement Agreement and has signed and entered
24 an Order so indicating; (ii) the Court has entered an Approval Order dismissing this Action on the
25 merits and with prejudice, with continuing jurisdiction limited to enforcing the Settlement Agreement;
26 and if any objections have been filed, (iii) the time for appeal of the Approval Order has either run
27 without an appeal being filed or any appeal filed (including any requests for rehearing *en banc*,
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1 petitions for certiorari, or appellate review) has been finally resolved and the Court’s Approval has
2 been upheld. Defendant will not pay any money until after the Settlement Agreement is finally
3 approved by the Court and the time for any appeal (other than related to fees-costs or enhancements,
4 which, as noted above, may be separately appealed) related to the Settlement has expired, if any timely
5 objections have been filed.

6 45. “Payroll Taxes” means the employer’s portion of FICA, FUTA, and all other state and
7 federal payroll taxes.

8 46. “Plaintiff” means Marlin McClure.

9 47. “Preliminary Approval” means that the Court has entered an order preliminarily
10 approving the terms and conditions of this Stipulation of Settlement, including the manner of providing
11 notice to Class Members.

12 48. “Released Parties” means Defendant Waveland Services, Inc., its past or present
13 successors, including Waveland, A BrandSafway Company, and predecessors in interest, subsidiaries,
14 affiliates, parents, officers, directors, shareholders, employees, agents, principals, heirs, representatives,
15 accountants, auditors, consultants, insurers and reinsurers, and their respective successors and
16 predecessors in interest, subsidiaries, affiliates, parents and attorneys.

17 49. “Service Award” means the sum paid to Plaintiff Marlin McClure in recognition of his
18 efforts in obtaining the benefits of the Settlement, which shall be allocated from the Gross Settlement
19 Value. The Service Award shall not exceed Five Thousand Eight Hundred Dollars (\$5,800.00).

20 50. “Settlement” means the terms and conditions set forth in this Stipulation of Settlement
21 or Settlement Agreement.

22 51. “Settlement Administrator” means Phoenix Settlement Administrators.

23 **II. THE INSTANT ACTION**

24 52. Plaintiff Marlin McClure commenced this Lawsuit by filing, on June 14, 2018, a
25 complaint against Defendant in *McClure v. Waveland Services, Inc.* (incorrectly named therein as
26 Brand Energy Services, LLC and Brand Energy Services of California, LLC), Case No. 2:18-cv-01726-
27 KJM-AC, the United States District Court for Eastern District of California, asserting claims under
28 California law for minimum wage violations, overtime wages, failure to provide lawful meal and rest

1 periods, unfair competition, violation of Labor Code section 203, and paystub violations. ECF No. 1.
2 Plaintiff filed a First Amended Complaint (“FAC”) on September 21, 2018, adding a claim for civil
3 penalties under PAGA. ECF No. 19. On September 16, 2019, Plaintiff filed a Motion to Amend his
4 FAC to file a Second Amended Complaint in which Plaintiff sought to drop his claims for minimum
5 and overtime wages under California law and add a nationwide collective action under the Fair Labor
6 Standards Act (“FLSA”) for failure to pay correct overtime wages. ECF No. 36. Before the Court
7 could rule on Plaintiff’s Motion, the Parties reached a settlement of the Lawsuit.

8 53. In connection with this Settlement, the Parties agreed to amend the FAC in the Lawsuit
9 to include additional state and federal overtime, minimum wage and nationwide Fair Labor Standards
10 Act (“FLSA”) claims. The Second Amended Complaint is the operative “Complaint” in the Lawsuit,
11 as defined in Paragraph 15 above, and it alleges the following claims for relief: (a) failure to pay all
12 wages due, including minimum, regular, and overtime wages under California and federal law;
13 (b) failure to provide meal periods; (c) failure to provide rest periods; (d) failure to provide complete
14 and accurate wage statements; (e) failure to pay all wages due in a timely manner upon termination of
15 employment, including claims for waiting time penalties; (f) unfair business practices premised on the
16 above claims; and (g) civil penalties under PAGA that could have been premised on the above claims.
17 Plaintiff asserts these claims on behalf of himself and other purportedly similarly situated current and
18 former Waveland Services, Inc. hourly employees in the United States for the applicable statute of
19 limitations period, either as a purported nationwide collective action pursuant to 29 U.S.C. § 216(b) or
20 purported class action pursuant to Fed. R. Civ. P. 23 for current and former employees who worked in
California.

21 54. Defendant denies the allegations in the Complaint and has asserted a number of
22 meritorious affirmative defenses. Defendant expressly denies any and all charges of wrongdoing or
23 liability arising out of any of the acts, omissions, facts, matters, transactions, or occurrences alleged, or
24 that could have been alleged, in the Action. Defendant contends that, in compliance with applicable
25 local, state and federal laws, current and former hourly employees of Waveland Services, Inc. have
26 been paid all wages due. Because Defendant contends that it has complied with its obligations under
27 federal and state laws, Defendant contends that Plaintiff’s claims for unpaid wages and related and
28 derivative claims, including overtime wages, are meritless. Defendant also denies that the asserted

1 claims are appropriate for collective action treatment or class treatment under Fed. R. Civ. P. 23, except
2 pursuant to a settlement, due to the intractable management problems and issues of individualized proof
3 that would have been associated with a collective action and class-wide trial.

4 55. Class Counsel has conducted an extensive investigation into the facts of the class action
5 and the Plaintiff and Class Members' claims, including through discovery, informal disclosures
6 between the Parties, and other investigations undertaken by counsel for Plaintiff. Furthermore, the
7 Parties engaged in extensive negotiations and exchange of data, documents, information and mediation
8 with the Mediator. As a result, Class Counsel has concluded that the Settlement Agreement, is fair,
9 reasonable, and adequate and is in the best interest of the Class in light of all known facts and
10 circumstances, including the likely damages, risk of significant delay, risk that the Action would not
11 proceed on a collective or class action basis, defenses asserted by Defendant, and numerous potential
12 appellate issues.

13 56. Defendant denies each and all of the claims in this Action. Nevertheless, Defendant has
14 concluded that further conduct of the Action would be protracted and expensive. Defendant, therefore,
15 has determined that it is desirable and beneficial that the Action be settled in the manner and upon the
16 terms and conditions set forth in the Settlement Agreement. Neither this Settlement Agreement, nor
17 any document referred to or contemplated herein, nor any action taken to carry out this Settlement
18 Agreement, is, may be construed as, or may be used as an admission, concession, or indication by or
19 against Defendant of any fault, wrongdoing or liability whatsoever.

20 **III. SETTLEMENT OF THE LAWSUIT AND ITS COMPONENTS**

21 57. Solely for settlement purposes, Plaintiff agrees to seek, and Defendant consents to,
22 certification by the Court of the FLSA Class as a collective action pursuant to 29 U.S.C. § 216(b) and
23 of the California Class as a class action pursuant to Fed. R. Civ. P. 23. Should, for whatever reason,
24 the Court not grant Final Approval, the Parties' stipulation to collective and class certification as part
25 of the Settlement shall become null and void *ab initio* and shall have no bearing on, and shall not be
26 admissible in connection with, the issue of whether or not certification would be appropriate in a non-
27 settlement context. Defendant expressly reserves its right and declares that it intends to oppose class
28 certification vigorously should this Settlement not be granted Final Approval.

1 58. The Settlement in this Lawsuit shall have five components: (1) the Individual Settlement
2 Payments; (2) the Service Award; (3) the Fee and Expense Award; (4) the Administration Costs; and
3 (5) the PAGA Payment. All of these components are included in the Gross Settlement Value and shall
4 be deducted prior to the California Settlement Allocation and FLSA Settlement Allocation.

5 a. **Payroll Taxes:** The Gross Settlement Value does not include the Payroll Taxes,
6 which shall be paid by Defendant separate and apart from the Gross Settlement Value. The Payroll
7 Taxes will be computed by the Settlement Administrator based on the amounts paid to the Claimants,
8 in the manner set forth in Paragraph 58(c). The Settlement Administrator shall be responsible for
9 making all necessary payments and government filings in connection with such payments.

10 b. **Calculation of the Individual Settlement Payments:** The Settlement
11 Administrator shall have the authority and obligation to calculate the amounts of Individual Settlement
12 Payments for each Class Member in accordance with the methodology set forth in this Stipulation of
13 Settlement and orders of the Court. The Parties recognize and agree that the claims for relief in the
14 Lawsuit are extremely difficult to determine with any certainty for any given year, or at all, and are
15 subject to myriad differing calculations and formulas. The Parties agree that the formula for allocating
16 the Individual Settlement Payments to Claimants provided herein is reasonable and that the payments
17 provided herein are designed to provide a fair settlement to such persons, in light of the uncertainties of
18 the compensation alleged to be owed to the Class and the calculation of such amounts.

19 It shall be the responsibility of the Settlement Administrator to timely and
20 properly withhold from Individual Settlement Payments payable to Claimants all applicable payroll and
21 employment taxes, but not federal, state, and local income taxes, and to prepare and deliver the
22 necessary tax documentation and, thereafter, to cause the appropriate deposits of withholding taxes and
23 informational and other tax return filing to occur. Each Claimant's share of all applicable payroll and
24 employment taxes withheld and deposited with the applicable governmental authorities in accordance
25 with this Stipulation of Settlement shall be a part of, and paid out of, the Individual Settlement Payment
26 to each Claimant. Each Claimant will be responsible for paying all applicable state, local, and federal
27 income taxes on all amounts the Claimant receives pursuant to this Stipulation of Settlement.

1 The Parties have agreed that the Individual Settlement Payments will be
2 calculated on the basis of the number of Individual Work Weeks, as applicable. The Settlement
3 Administrator shall have the authority and obligation to calculate the number Individual Work Weeks
4 for each Class Member in accordance with this Stipulation of Settlement and orders of the Court.
5 Defendant will supply the Settlement Administrator with dates of employment for each Class Member
6 to calculate the Individual Work Weeks for each Class Member. The Individual Settlement Payments
7 for the Claimants in the California Class will be calculated by multiplying 40% of the Net Settlement
8 Value by each California Class Member's California Percentage Share. The Individual Settlement
9 Payments for the Claimants in the FLSA Class will be calculated by multiplying 60% of the Net
10 Settlement Value by each FLSA Class Member's FLSA Percentage Share.

11 The Parties further agree to request that the Settlement Administrator agree to
12 indemnify Defendant for any security breach it suffers or causes relating to the personal information of
13 Defendant's employees contained in any of the data that Defendant's provide to the administrator for
14 purposes of settlement administration.

15 c. **Characterization of and Taxes on Individual Settlement Payments:** The
16 Individual Settlement Payments for the Claimants in the California Class will be allocated as follows:
17 20% to settlement of wage claims, which will be subject to required payroll tax withholdings; and 80%
18 to settlement of claims for penalties and interest, which will be paid without withholding any amount.
19 The portion allocated to wages shall be reported on an IRS Form W-2, and the portion allocated to
20 penalties and interest shall be reported on an IRS Form 1099.

21 The Individual Settlement Payments for the Claimants in the FLSA Class will be
22 allocated as follows: 50% to settlement of wage claims, which will be subject to required payroll tax
23 withholdings; and 50% to settlement of claims for liquidated damages, interest and/or statutory
24 penalties, which will be paid without withholding any amount. The portion allocated to wages shall be
25 reported on an IRS Form W-2, and the portion allocated to liquidated damages, interest and statutory
26 penalties shall be reported on an IRS Form 1099.

1 d. **Allocation of Unclaimed Funds:** If there are unclaimed funds due to California
2 Class Members submitting Exclusion Letters those unclaimed funds shall be distributed pro rata to the
3 California Class Members who did not submit Exclusion Letters at the time of settlement distribution.
4 If there are unclaimed funds due to FLSA Class Members not timely submitting FLSA Opt In Forms,
5 those unclaimed funds shall be distributed pro rata to the FLSA Class Members who did submit timely
6 FLSA Opt In Forms at the time of settlement distribution.

7 e. **Service Award:** Defendant agrees not to challenge Class Counsel's request for
8 the Service Award to the Plaintiff. The Service Award will be paid in addition to Plaintiff's Individual
9 Settlement Payment. Should the Service Award approved by the Court be less than the amount sought,
10 the difference shall be added to the Net Settlement Value prior to the allocations to the California Class
11 and FLSA Class. An IRS Form 1099 will be issued to Plaintiff in connection with the Service Award.
12 In the event that the Court reduces or does not approve the requested Service Award, Plaintiff shall not
13 have the right to revoke the Settlement, and it shall remain binding.

14 f. **Class Counsel's Fees and Costs:** Defendant agrees not to challenge Class
15 Counsel's request for its Fee and Expense Award, which Class Counsel shall seek by motion. Should
16 the Fee and Expense Award approved by the Court be less than the amount sought, the difference shall
17 be added to the Net Settlement Value prior to the allocations to the California Class and FLSA Class.
18 A Form 1099 will be issued to Class Counsel. Payment of the Fee and Expense Award to Class
19 Counsel shall constitute full satisfaction of any obligation to pay any amounts to any person, attorney
20 or law firm for attorneys' fees, expenses or costs in the Lawsuit incurred by any attorney on behalf of
21 Plaintiff or the Class, and shall relieve Defendant and Defendant's Counsel of any other claims or
22 liability to any other attorney or law firm for any attorneys' fees, expenses and/or costs to which any of
23 them may claim to be entitled on behalf of Plaintiff and/or the Class. Upon receipt of the Fee and
24 Expense Award, Class Counsel, Plaintiff and the Class will be deemed to have released Defendant from
25 any and all claims for fees and costs resulting from the Lawsuit. In the event that the Court reduces or
26 does not approve the requested Fee and Expense Award, Plaintiff and Class Counsel shall not have the
27 right to revoke the Settlement, and the Settlement will remain binding.

1 g. **Escalator Clause:** Defendant represents that as of January 20, 2020 there were
2 approximately 82 California Class Members, and 568 FLSA Class Members nationwide. If, at the time
3 of Preliminary Approval, the number of either class has increased by seven percent (7%) or more, then
4 Defendant shall increase the Gross Settlement Value on a pro-rata basis equal to the percentage
5 increase in class size (e.g., if the actual class size were 9% greater than the 82 California Class
6 Members, Defendant will increase the Gross Settlement Value allocated to the California Class by 9%).

7 **IV. LIMITED RELEASE BY THE CALIFORNIA CLASS**

8 59. As of the Payment Obligation and Class Release Date, the California Class Members
9 (other than those who submit an Exclusion Letter) will be deemed to have, and by operation of the
10 Final Approval Order and Judgment, will have, expressly waived and released the Released Parties of
11 the California Class Released Claims to the fullest extent permitted by the law. California Class
12 Members who do not opt out of the Settlement will be bound by a release of claims under California
13 Civil Code Section 1542, which provides: “*A general release does not extend to claims that the*
14 *creditor or releasing party does not know or suspect to exist in his or her favor at the time of*
15 *executing the release and that, if known by him or her, would have materially affected his or her*
16 *settlement with the debtor or released party.*” The Section 1542 waiver provided for herein releases
17 solely claims against the Released Parties within the definition of California Class Released Claims.
18 To be clear, the scope of the Section 1542 waiver is limited to the California Class Released Claims
19 only. The settlement checks will include an endorsement confirming that by cashing the check, the
20 California Class Members are releasing the claims covered by the California Class Released Claims
21 Released Claims. The Individual Settlement Payments shall be paid to California Class Claimants
22 specifically in exchange for the release of the Released Parties from the California Class Released
23 Claims and the covenant not to sue concerning the California Class Released Claims.

24 **V. RELEASE BY THE FLSA CLASS**

25 60. As of the Payment Obligation and Class Release Date, the FLSA Class Members who
26 submit a timely and valid FLSA Opt In Form will fully release the FLSA Class Released Claims and
27 agree not to sue or otherwise make a claim against any of the Released Parties for the FLSA Class
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1 Released Claims. The Individual Settlement Payments shall be paid to FLSA Class Claimants
2 specifically in exchange for the release of the Released Parties from the FLSA Class Released Claims
3 and the covenant not to sue concerning the FLSA Class Released Claims.

4 61. FLSA Class Released Claims include any unknown claims that FLSA Class Members
5 do not know or suspect to exist in his or her favor, which if known by him or her, might have affected
6 this Settlement Agreement with Defendant and release of Released Parties.

7 **VI. RELEASE OF ADDITIONAL CLAIMS & RIGHTS BY PLAINTIFF**

8 62. **General Release By Plaintiff.** As of the Payment Obligation and Class Release Date,
9 in consideration of the consideration set forth in this Settlement Agreement, and the mutual covenants
10 and promises set forth herein, Plaintiff, for himself and his heirs, successors, and assigns, waives,
11 releases, acquits, and forever discharges the Released Parties from any and all claims, actions, charges,
12 complaints, grievances, and causes of action, to the extent permitted by law, of whatever nature,
13 whether known or unknown, that exist or may exist on Plaintiff's behalf as of the date of full execution
14 of this Settlement Agreement (i.e., the date that this Settlement Agreement is signed by all of the
15 signatories hereto), including but not limited to any and all tort claims, contract claims, wage claims,
16 wrongful-termination claims, disability claims, benefit claims, public-policy claims, retaliation claims,
17 statutory claims, personal-injury claims, emotional-distress claims, invasion-of-privacy claims,
18 defamation claims, fraud claims, quantum meruit claims, and any and all claims arising under any
19 federal, state, local, or other governmental statute, law, regulation, or ordinance, including but not
20 limited to claims for violation of the Fair Labor Standards Act, the California Labor Code, the Wage
21 Orders of California's Industrial Welfare Commission, other state wage-and-hour laws, the Americans
22 with Disabilities Act, the Age Discrimination in Employment Act ("ADEA"), the Employee
23 Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the California Fair
24 Employment and Housing Act, the California Family Rights Act, the Family Medical Leave Act,
25 California's Whistleblower Protection Act, California Business & Professions Code section 17200 et
26 seq., and any and all claims arising under any federal, state, local, or other governmental statute, law,
27 regulation, or ordinance. Plaintiff hereby expressly waives and relinquishes any and all claims, rights,
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1 or benefits that he may have under California Civil Code section 1542, which section provides as
2 follows: “*A general release does not extend to claims that the creditor or releasing party does not*
3 *know or suspect to exist in his or her favor at the time of executing the release and that, if known by*
4 *him or her, would have materially affected his or her settlement with the debtor or released party.*”

5 Plaintiff may hereafter discover claims or facts in addition to, or different from, those which he now
6 knows or believes to exist, but he expressly agrees to fully and finally settle and release any and all
7 claims against the Released Parties, known or unknown, suspected or unsuspected, that exist or may
8 exist on behalf of, or against, the other at the time of full execution of this Settlement Agreement (i.e.,
9 the date that this Settlement Agreement is signed by all of the signatories hereto), including but not
10 limited to any and all claims relating to, or arising from, Plaintiff’s employment with Defendant. It is
11 Plaintiff’s intention to settle fully and release all of the claims he now has or may have against the
12 Released Parties, whether known or unknown, suspected or unsuspected, through the date of full
13 execution of this Settlement Agreement (i.e., the date that this Settlement Agreement is signed by all
14 of the signatories hereto). Plaintiff further covenants not to sue any of the Released Parties for any
15 claims covered by this general release. The Parties further acknowledge, understand, and agree that
16 this representation and commitment are essential to the Settlement Agreement and that this Settlement
17 Agreement would not have been entered were it not for this representation and commitment.

18 Plaintiff understands that this Settlement Agreement does not prevent him from filing a
19 charge with or testifying, assisting or otherwise participating in any manner in any investigation,
20 hearing or proceeding conducted by the EEOC, a Fair Employment Practices Agency (“FEPA”) or any
21 federal, state, or local government agency, but Plaintiff gives up all rights to recover or receive
22 damages, money, personal injunctive relief, or other personal benefits as a result of such charge,
23 investigation, hearing, or proceeding.

24 63. **ADEA Waiver by Plaintiff.** Without limiting the scope of this Settlement Agreement,
25 Plaintiff agrees that this Settlement Agreement constitutes a knowing and voluntary waiver of any and
26 all rights or claims that exist or that Plaintiff may claim to have under the ADEA, as amended by the
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1 Older Workers' Benefit Protection Act of 1990 (29 U.S.C. § 621 *et seq.*). Plaintiff acknowledges all of
2 the following:

- 3 1. The consideration provided pursuant to this Settlement Agreement is in addition
4 to any consideration that he would otherwise be entitled to receive;
- 5 2. Plaintiff has been and is advised in writing to consult with an attorney prior to
6 signing this Settlement Agreement;
- 7 3. Plaintiff has been provided a full and ample opportunity to study this Settlement
8 Agreement, including a period of at least twenty-one (21) calendar days within
9 which to consider it;
- 10 4. To the extent that Plaintiff takes fewer than twenty-one (21) calendar days to
11 consider this Settlement Agreement prior to signing it, Plaintiff acknowledges
12 that he had sufficient time to consider this Settlement Agreement with legal
13 counsel and that he expressly, voluntarily, and knowingly waives the full
14 twenty-one (21) calendar-day period;
- 15 5. Plaintiff agrees that any changes made to the Settlement Agreement during the
16 twenty-one (21) calendar-day period (whether material or immaterial) do not
17 restart the running of the twenty-one (21) calendar-day period; and
- 18 6. Plaintiff is aware of his right to revoke this waiver of claims under the ADEA
19 any time within the seven (7) calendar-day period following the date of full
20 execution of this Settlement Agreement (*i.e.*, the date that this Settlement
21 Agreement is signed by all of the signatories hereto) and that the waiver of
22 claims under the ADEA shall not become effective or enforceable until the
23 seven (7) calendar-day revocation-period expires. Notwithstanding Plaintiff's
24 right to revoke the waiver of claims under the ADEA, the remainder of the
25 terms of this Settlement Agreement shall become effective and enforceable as of
26 the date of full execution of this Settlement Agreement (*i.e.*, the date that this
27 Settlement Agreement is signed by all of the signatories hereto).

1 7. To be effective, timely notice of revocation of the waiver of ADEA claims must
2 be made in writing and delivered to Defendant through its counsel, Douglas J.
3 Farmer, Esq., at Ogletree Deakins Nash Smoak & Stewart, P.C., One Market
4 Plaza, Steuart Tower, Suite 1300, San Francisco, California 94105, no later than
5 the seventh (7th) calendar day after the date of full execution of this Settlement
6 Agreement (*i.e.*, the date that this Settlement Agreement is signed by all of the
7 signatories hereto). Plaintiff agrees to keep written documentation proving that
8 Plaintiff revoked this Settlement Agreement as provided in this paragraph,
9 either by keeping the documents attesting to the delivery of the revocation, or
10 verification that the fax was, in fact, received.

11 **VII. PRELIMINARY APPROVAL**

12 64. Plaintiff will request that the Court set a hearing as soon as possible to consider
13 preliminary approval of the Settlement. In conjunction with such hearing, Class Counsel shall submit
14 this Stipulation of Settlement, together with the exhibits attached hereto, and any other documents
15 necessary to implement the Settlement.

16 65. Upon full execution of this Settlement Agreement, Class Counsel will draft and file an
17 unopposed motion for preliminary approval of a class and collective action settlement within 60
18 calendar days, and will share their draft for comments by Defendant's Counsel with reasonable notice
19 before filing (at least 7 calendar days).

20 **VIII. NOTICE AND CLAIM PROCESS**

21 66. Settlement Administrator. By accepting the role as Settlement Administrator, the
22 Settlement Administrator is bound to all of the terms, conditions and obligations described in this
23 Settlement Agreement. Among other things, the Settlement Administrator shall have sole and
24 exclusive responsibility for: (a) calculating Individual Work Weeks; (b) printing and mailing the
25 California and/or FLSA Notice Packets, as applicable, to the Class Members as directed by the Court;
26 (c) setting up a toll-free number for the purpose of handling inquiries from Class Members concerning
27 the California and/or FLSA Notice Packets; (d) receiving and reporting the objections, Exclusion
28 Letters, and FLSA Opt-In Forms; (e) deducting all legally required taxes from Individual Settlement

1 Payments; (f) processing and mailing the Individual Settlement Payments; the Service Award; the Fee
2 and Expense Award; and the PAGA Payment; (g) distributing tax forms; (h) processing and mailing tax
3 payments to the appropriate state and federal taxing authorities; (i) providing declaration(s) as
4 necessary in support of preliminary and/or final approval of this Settlement; and (j) other tasks as the
5 Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement
6 Administrator shall also be responsible for establishing a website (the address to which will be
7 provided on the Class Notice) where Class Members may review conformed copies of the Complaint,
8 Answer, Stipulation of Settlement, and any and all moving papers submitted in support of or in
9 conjunction with the Parties' efforts to obtain preliminary and final Court approval. The Settlement
10 Administrator shall remove the website no later than the earlier of (i) thirty (30) days after the final act
11 performed by the Settlement Administrator in connection with the Settlement, or (ii) the date on which
12 the Settlement Administrator is released by the Court.

13 67. Within fourteen (14) calendar days after entry of the order granting Preliminary
14 Approval, Defendant shall provide to the Settlement Administrator a list of all Class Members,
15 including their name, social security number, last known address, telephone number, email address (if
16 available), and employment date information to enable the Settlement Administrator to calculate each
17 Class Member's Individual Work Weeks.

18 68. Within twenty (20) calendar days after entry of the order granting Preliminary Approval,
19 the Settlement Administrator shall send the California and/or FLSA Notice Packets via first class mail
20 to all applicable Class Members. Prior to the initial mailing, the Settlement Administrator will check
21 the addresses provided by Defendant through the National Change of Address System.

22 69. If an original California and/or FLSA Notice Packet is returned as undeliverable with a
23 forwarding address provided by the United States Postal Service, the Settlement Administrator will
24 promptly resend the California and/or FLSA Notice Packet to that forwarding address, along with, if
25 applicable, a brief letter for FLSA Class Members stating that the recipient of the FLSA Notice Packet
26 has until the original deadline set forth on the California and/or FLSA Collective Action Notices or
27 seven (7) days after the re-mailing of the FLSA Notice Packet (whichever is later) to submit a FLSA
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1 Opt In Form. If an original California and/or FLSA Notice Packet is returned as undeliverable without
2 a forwarding address, the Settlement Administrator will make reasonable efforts to locate forwarding
3 addresses, including a skip trace, and if it obtains a more recent address, will resend a California and/or
4 FLSA Notice Packet, along with, if applicable, a brief letter for FLSA Class Members stating that the
5 recipient of the FLSA Notice Packet has until the original deadline set forth on the Notice or seven (7)
6 days after the re-mailing of the FLSA Notice Packet (whichever is later) to submit a FLSA Opt In
7 Form.

8 70. Every seven (7) days over the course of the forty-five (45) day Notice Period, the
9 Settlement Administrator shall send the following message to Class Members via email: “Waveland
10 Services, Inc. has agreed to settlement terms with the representative of a class of current and former
11 hourly employees who worked for Defendant on oil platforms off any coast of the United States
12 relating to allegations of unpaid wages. You have been identified as one of the potential members of
13 the Settlement and you may be one of those entitled to receive a monetary share of the settlement. For
14 more information, contact Phoenix Settlement Administrators at [appropriate telephone number will be
15 inserted].”

16 71. Within ten (10) days after the Settlement Administrator sends the California and/or
17 FLSA Notice Packets, the Settlement Administrator shall send a follow-up postcard, text message
18 and/or email to each Class Member containing a reminder of the applicable deadlines associated with
19 the Settlement, a brief statement of the actions each Class Member may take with respect to the
20 Settlement, and the contact information for the Settlement Administrator and Class Counsel if the Class
21 Members have any further questions about the Settlement.

22 72. Within ten (10) days after the Settlement Administrator sends the FLSA Collective
23 Action Notice, the Settlement Administrator shall conduct a telephonic phone call campaign directed to
24 each member of the FLSA Class who has not returned the FLSA Opt-In Form in order to confirm his or
25 her receipt of the FLSA Collective Action Notice to potential FLSA Class Members, to inform the
26 potential FLSA Class Member of the deadline to return the opt-in form, and to direct the FLSA Class
27 Member to contact Class Counsel with any questions he or she may have concerning the Settlement.
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1 Every seven (7) days thereafter until the deadlines for potential FLSA Class Members to opt in to the
2 Settlement, the Settlement Administrator shall revise its list of those potential FLSA Class Members
3 who have not returned the FLSA Opt-In Form and shall again contact such individuals telephonically to
4 provide them with the foregoing information. The Settlement Administrator shall provide copies of its
5 updated list of FLSA Class Members who have timely opted in the Settlement to Class Counsel and
6 Defendant's Counsel on a weekly basis. No later than fourteen (14) days after the Notice Period ends,
7 the Settlement Administrator shall file with the Court, and serve on Class Counsel and Defendant's
8 Counsel, the FLSA Opt-In Form returned by FLSA Class Members.

9 73. At least seven (7) calendar days prior to the final approval hearing, the Settlement
10 Administrator will provide a declaration of due diligence and proof of mailing with regard to the
11 mailing of the California and FLSA Notice Packets to counsel for all Parties.

12 74. If the Settlement Administrator receives a FLSA Opt In Form on or before the Opt In
13 Deadline but it is unsigned by the FLSA Class Member, then within five (5) calendar days of its receipt
14 of the defective form, the Settlement Administrator shall, after retaining a copy of the defective form,
15 mail the defective form back to the FLSA Class Member with instructions on how to cure the defect
16 and instructions that the corrected form must be received by the Settlement Administrator by the
17 original deadline set forth on the FLSA Collective Action Notice or seven (7) days after the mailing of
18 the defective form (whichever is later). If the FLSA Class Member's Opt In Form remains defective
19 after this opportunity to cure, unless the Parties agree otherwise, it shall be rejected by the Settlement
20 Administrator and the Settlement Administrator shall send that person a notice stating the reason the
21 claim was denied.

22 75. To the extent a Claimant disputes the Individual Work Weeks shown in his or her
23 California Class Form or FLSA Collective Form, the Claimant may produce evidence to the Settlement
24 Administrator establishing the dates he or she contends to have worked for Defendant as a Class
25 Member. Defendant's records will be presumed determinative. The Settlement Administrator shall
26 notify counsel for the Parties of any disputes. Defendant shall review its records and provide further
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1 information to the Settlement Administrator, as necessary. The Settlement Administrator shall resolve
2 any disputes and notify counsel for the Parties of its decision.

3 76. The Settlement Administrator's determination of eligibility for any Individual
4 Settlement Payments under the terms of this Stipulation of Settlement shall be conclusive, final and
5 binding on all Parties and all Class Members, so long as the Settlement Administrator has first
6 consulted with the Parties regarding any disputes or questions as to eligibility.

7 77. Exclusions. The California Class Notice shall provide that California Class Members
8 who wish to exclude themselves from the Settlement must timely submit an Exclusion Letter. Plaintiff
9 shall not be permitted to submit an Exclusion Letter to exclude himself from this Settlement
10 Agreement. Any California Class Member who properly requests exclusion using this procedure will
11 not be entitled to any payment from the Settlement and will not be bound by the Stipulation of
12 Settlement or have any right to object, appeal or comment thereon. California Class Members who fail
13 to submit an Exclusion Letter shall be bound by all terms of the Stipulation of Settlement and any
14 judgment entered in the Lawsuit if the Settlement is approved by the Court. Any disputes regarding the
15 timeliness, validity or effectiveness of an Exclusion Letter shall be decided by the Settlement
16 Administrator consistent with the terms of this Settlement Agreement, with the Parties' input, if
17 appropriate. The date of the postmark on the mailing envelope for any Exclusion Letter shall be the
18 exclusive means used to determine whether the Exclusion Letter has been timely submitted.

19 78. Objections by California Class Members. The California Class Notice shall inform the
20 California Class Members of their right to object to the Settlement. Only California Class Members
21 who do not exclude themselves from the California Class will be permitted to object. Any Class
22 Member who does not seek to be excluded from the Settlement, and who wishes to object to the
23 Settlement must file a written objection with the Court no later than the Objection/Exclusion Deadline,
24 or seven (7) days after the re-mailing of the California Notice Packet to that Class Member, whichever
25 is later. The postmark date of mailing shall be deemed the exclusive means for determining that an
26 objection was served timely. The objection must include: (a) the full name and signature of the
27 California Class Member; (b) the case name and number; (c) in clear and concise terms, a statement of
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1 the reasons why the objector believes that the Court should find that the Settlement is not in the best
2 interest of the California Class and the reasons why the Settlement should not be approved, including
3 the legal and factual arguments supporting the objection. California Class Members who submit a
4 timely objection will have the right to appear at the final approval hearing and may appear through their
5 own attorney at the California Class Member's expense, but such appearance shall not be a prerequisite
6 to the Court's consideration of any timely-filed objection. Unless otherwise ordered by the Court,
7 California Class Members shall not be entitled to object at the final approval hearing unless they have
8 submitted a timely written objection pursuant to this Section. In the event that a California Class
9 Member submits both an Exclusion Letter and an objection, the Exclusion Letter will be valid, while
10 the objection will be invalid.

11 79. FLSA Class Members must mail or deliver a completed FLSA Opt In Form, as
12 applicable, to the Settlement Administrator by the Opt In Deadline, or seven (7) days after the re-
13 mailing of the FLSA Notice Packet to that FLSA Class Member, whichever is later. The timeliness of
14 submitted FLSA Opt In Forms will be determined by valid postmark. In the event that the postmark is
15 illegible or missing, the FLSA Opt In Form shall be deemed timely if it is received within five (5) days
16 after the Opt In Deadline. Within seven (7) days after the expiration of the Opt In Deadline, or seven
17 (7) days after the re-mailing of the FLSA Notice Packet to that FLSA Class Member, whichever is
18 later, the Settlement Administrator shall, after making a copy, transmit all originals of the FLSA Opt In
19 Forms to Class Counsel. Class Counsel will file all FLSA Opt In Forms received from the Settlement
20 Administrator, with the Court ten (10) court days after receipt of the FLSA Opt In Forms from the
21 Settlement Administrator. Should the Settlement Agreement not receive Final Approval such consents
22 will be deemed immediately cancelled *ab initio*, as if they were never executed or filed.

23 80. Objections by FLSA Class Members. The FLSA Class Notice shall inform the FLSA
24 Class Members, who opt in to the FLSA Class, of their right to object to the Settlement. Only FLSA
25 Class Members who validly opt in to the FLSA Class will be permitted to object. Any FLSA Class
26 Member who opts in, and who wishes to object to the Settlement must file a written objection with the
27 Court no later than the Objection/Exclusion Deadline, or seven (7) days after the re-mailing of the
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1 FLSA Notice Packet to that Class Member, whichever is later. The postmark date of mailing shall be
2 deemed the exclusive means for determining that an objection was served timely. The objection must
3 include: (a) the full name and signature of the FLSA Class Member; (b) the case name and number;
4 (c) in clear and concise terms, a statement of the reasons why the objector believes that the Court
5 should find that the Settlement is not in the best interest of the FLSA Class and the reasons why the
6 Settlement should not be approved, including the legal and factual arguments supporting the objection.
7 FLSA Class Members who submit a timely objection will have the right to appear at the final approval
8 hearing and may appear through their own attorney at the FLSA Class Member's expense, but such
9 appearance shall not be a prerequisite to the Court's consideration of any timely-filed objection. Unless
10 otherwise ordered by the Court, FLSA Class Members shall not be entitled to object at the final
11 approval hearing unless they have submitted a timely written objection pursuant to this Section.

12 81. Defendant will provide the Settlement Administrator with sufficient funds to make all
13 payments due to Plaintiff, Class Counsel, the LWDA, the Settlement Administrator, and the Claimants,
14 plus any owed Payroll Taxes as soon as practicable, but no later than fifteen (15) calendar days after the
15 Payment Obligation and Class Release Date. The Settlement Administrator will mail or wire all
16 required payments no later than twenty (20) calendar days after the Payment Obligation and Class
17 Release Date. Class Members will receive a reminder postcard if they have not cashed their settlement
18 check in 30 days after issuance. If a Claimant's check is returned to the Settlement Administrator, the
19 Settlement Administrator will make all reasonable efforts to re-mail it to the Claimant at his or her
20 correct address. Any checks for the Individual Settlement Payments that remain uncashed after 90 days
21 will be voided and, if the total amount of such unclaimed funds exceeds \$20,000.00, their amounts will be
22 allocated pro rata in a second allocation to participating California Class members who cashed their initial
23 checks ("Second Distribution"). Any Second Distribution checks not negotiated after 90 days will be
24 voided— or any initially unclaimed funds, if the amount is \$20,000.00 or less — and the amount will be
25 allocated to the Legal Aid Foundation of Los Angeles (www.lafla.org). Upon completion of
26 administration of the Settlement, the Settlement Administrator shall provide written certification of
27 such completion to the Court, Class Counsel and Defendant's Counsel.

1 82. No person shall have any claim against Defendant, Defendant’s Counsel, Plaintiff, the
2 Class, Class Counsel or the Settlement Administrator based on mailings, distributions and payments
3 made in accordance with this Stipulation of Settlement.

4 **IX. MOTION FOR FINAL APPROVAL**

5 83. Plaintiff shall timely file the motion for final approval and request entry of the Final
6 Approval Order and Judgment. Seven (7) calendar days prior to filing the motion for final approval of
7 the Settlement, Class Counsel shall provide a draft of the motion to Defendant’s Counsel for review.

8 **X. NO EFFECT ON EMPLOYEE BENEFITS**

9 84. The Individual Settlement Payments and the Service Award shall not have any effect on
10 the eligibility for, or calculation of, any employee benefits (e.g. vacation, retirement plans, etc.) of
11 Claimants or Plaintiff. No benefit, including but not limited to 401K benefits, shall increase or accrue
12 as a result of any payment made as a result of this Settlement.

13 **XI. PUBLICITY**

14 85. Unless otherwise permitted or required by this Settlement Agreement, Plaintiff and
15 Class Counsel agree not to disclose or publicize this Settlement, including the fact of the Settlement,
16 its terms or contents, and the negotiations underlying the Settlement, in any manner or form, directly
17 or indirectly, to any person or entity, except potential Class Members and as shall be contractually
18 required to effectuate the terms of the Settlement. For the avoidance of doubt, this section means
19 Plaintiff and Class Counsel agree not to issue press releases, communicate with, or respond to any
20 media or publication entities, publish information in manner or form, whether printed or electronic, on
21 any medium or otherwise communicate, whether by print, video, recording or any other medium, with
22 any person or entity concerning the Settlement, including the fact of the settlement, its terms or
23 contents and the negotiations underlying the Settlement, except as shall be contractually required to
24 effectuate the terms of the Settlement. However, for the limited purpose of allowing Class Counsel to
25 prove adequacy as class counsel in other actions, Class Counsel may disclose the name of the Parties
26 in this action and the venue/case number of this action (but not any other settlement details) for such
27 purposes.

1 **XII. VOIDING THE AGREEMENT**

2 86. If seven percent (7%) or more of the California Class Members submit an Exclusion
3 Letter, Defendant may elect to reject this Settlement and the Stipulation of Settlement shall be null and
4 void *ab initio* and any order or judgment entered by the Court in furtherance of this Settlement shall be
5 treated as withdrawn or vacated by stipulation of the Parties. Class Members and Defendant shall be
6 returned to their respective statuses as of the date immediately prior to the execution of this Stipulation
7 of Settlement. In the event the Settlement is voided per this paragraph, Defendant will be responsible
8 for 100% of the then-accrued costs of the Settlement Administrator.

9 87. If the Court does not approve either preliminarily or finally (with prejudice) any material
10 term or condition of the Settlement Agreement, or if the Court effects a material change, then this entire
11 Agreement and the Settlement Agreement will be voidable and unenforceable, subject to the Parties'
12 agreement to the contrary, and the costs of administration shall be paid entirely and exclusively by
13 Defendant. A material change will not include the reallocation of funds or the creation of sub-classes.
14 In such a case, this Settlement and the Stipulation of Settlement shall be null and void *ab initio* and any
15 order or judgment entered by the Court in furtherance of this Settlement shall be treated as withdrawn
16 or vacated by stipulation of the Parties. Class Members and Defendant shall be returned to their
17 respective statuses as of the date immediately prior to the execution of this Stipulation of Settlement.
18 In the event an appeal is filed from the Final Approval Order and Judgment, or any other appellate
19 review is sought prior to the Payment Obligation and Class Release Date, administration of the
20 Settlement shall be stayed pending final resolution of the appeal or other appellate review.

21 **XIII. PARTIES' AUTHORITY**

22 88. The signatories hereto represent that they are fully authorized to enter into this
23 Stipulation of Settlement and bind the Parties to the terms and conditions hereof.

24 **XIV. NO UNALLEGED CLAIMS**

25 89. Plaintiff and Class Counsel represent that they, as of the date of execution of this
26 Settlement Agreement, are not currently aware of any: (a) unalleged claims in addition to, or different
27 from, those which are finally and forever settled and released against the Released Parties by this
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1 Settlement, (b) they have no current intention of asserting any other claims against Defendant or any of
2 the Released Parties in any judicial or administrative forum, and (c) that they do not currently know of
3 or represent any persons who have expressed any interest in pursuing litigation or seeking any recovery
4 against Defendant or any of the Released Parties. Nothing in this Paragraph will be construed as a
5 restraint on the right of any counsel to practice.

6 **XV. MUTUAL FULL COOPERATION**

7 90. The Parties and their counsel agree to fully cooperate with each other to accomplish the
8 terms of this Stipulation of Settlement, including but not limited to, execution of such documents and to
9 take such other action as may reasonably be necessary to implement the terms of this Stipulation of
10 Settlement. The Parties to this Stipulation of Settlement shall use their best efforts, including all efforts
11 contemplated by this Stipulation of Settlement and any other efforts that may become necessary by
12 order of the Court, or otherwise, to effectuate this Stipulation of Settlement and the terms set forth
13 herein. In the event the Parties are unable to reach agreement on the form or content of any document
14 needed to implement the Settlement, or on any supplemental provisions or actions that may become
15 necessary to effectuate the terms of this Stipulation of Settlement, the Parties shall seek the assistance
16 of the Court or the Mediator to resolve such disagreement.

17 **XVI. ADVICE OF COUNSEL**

18 91. The Parties to this Settlement Agreement are represented by competent counsel, and
19 they have had an opportunity to consult with counsel prior to its execution. The Parties and their
20 counsel are not giving any tax advice in connection with the Settlement or any payments to be made
21 pursuant to the Settlement Agreement. Each Class Member will agree to indemnify and hold harm-
22 less the Parties from any liability for taxes, fees, costs, or assessments resulting from the failure to
23 timely pay taxes, interest, fees, or penalties owed. Neither Class Counsel nor Defendant's Counsel
24 intend anything contained in this Settlement Agreement to constitute legal advice regarding the
25 taxability of any amount paid hereunder, nor shall anything in this Settlement Agreement be relied
26 upon as such.

27 92. **Circular 230 Disclaimer.** Each party to this Settlement Agreement including the Class
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1 Members (for purposes of this section, the “acknowledging party” and each party to this Agreement
2 other than the acknowledging party, an “other party”) acknowledges and agrees that: (1) no provision
3 of this Settlement Agreement, and no written communication or disclosure between or among the
4 Parties or their attorneys and other advisers, is or was intended to be, nor shall any such
5 communication or disclosure constitute or be construed or be relied upon as, tax advice within the
6 meaning of United States Treasury Department circular 230 (31 CFR part 10, as amended); (2) the
7 acknowledging party (a) has relied exclusively upon his, her or its own, independent legal and tax
8 counsel for advice (including tax advice) in connection with this Agreement, (b) has not entered into
9 this Settlement Agreement based upon the recommendation of any other party or any attorney or
10 advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by any
11 attorney or adviser to any other party to avoid any tax penalty that may be imposed on the
12 acknowledging party, and (3) no attorney or adviser to any other party has imposed any limitation that
13 protects the confidentiality of any such attorney’s or adviser’s tax strategies (regardless of whether
14 such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or
15 tax structure of any transaction, including any transaction contemplated by this Agreement.

16 **XVII. NO PRIOR ASSIGNMENTS**

17 93. The Parties hereto represent, covenant, and warrant that they have not directly or
18 indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
19 person or entity any portion of any liability, claim, demand, action, cause of action or rights released
20 and dis-charged by this Stipulation of Settlement.

21 **XVIII. NO ADMISSION**

22 94. Nothing contained herein, nor the consummation of this Stipulation of Settlement, is to
23 be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of
24 Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this
25 Stipulation of Settlement with the intention of avoiding further disputes and litigation with the attendant
26 risk, inconvenience and expenses. This Stipulation of Settlement is a settlement document and shall,
27 pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408 and/or any
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1 other similar law, be inadmissible as evidence in any proceeding, except an action or proceeding to
2 approve the settlement, and/or interpret or enforce this Stipulation of Settlement.

3 **XIX. CONSTRUCTION**

4 95. The Parties hereto agree that the terms and conditions of this Stipulation of Settlement
5 are the result of lengthy, intensive arms' length negotiations between the Parties and that this
6 Stipulation of Settlement shall not be construed in favor of or against any of the Parties by reason of the
7 extent to which any Party or his or its counsel participated in the drafting of this Stipulation of
8 Settlement.

9 **XX. JURISDICTION OF THE COURT**

10 96. Except for those matters to be resolved by the Mediator or the Settlement Administrator
11 as expressly stated, any dispute regarding the interpretation or validity of or otherwise arising out of
12 this Stipulation of Settlement, or relating to the Lawsuit or the California Class Released Claims or the
13 FLSA Class Released Claims, shall be subject to the exclusive jurisdiction of the Court, and the
14 Plaintiff, Class Members, and Defendant agree to submit to the personal and exclusive jurisdiction of
15 the Court. The Court shall retain jurisdiction solely with respect to the interpretation, implementation
16 and enforcement of the terms of this Stipulation of Settlement and all orders and judgments entered in
17 connection therewith, and the Parties and their counsel submit to the jurisdiction of the Court for
18 purposes of interpreting, implementing and enforcing the Settlement embodied in this Stipulation of
19 Settlement and all orders and judgments entered in connection therewith.

20 **XXI. CALIFORNIA LAW GOVERNS**

21 97. All terms of this Stipulation of Settlement and the exhibits hereto shall be governed by
22 and interpreted according to the laws of the State of California, regardless of its conflict of laws.

23 **XXII. INVALIDITY OF ANY PROVISION**

24 98. The Parties request that before declaring any provision of this Stipulation of Settlement
25 invalid, the Court shall first attempt to construe all provisions valid to the fullest extent possible
26 consistent with applicable precedents.

1 **XXIII. HEADINGS**

2 99. The headings contained herein are inserted as a matter of convenience and for reference,
3 and in no way define, limit, extend, or describe the scope of this Stipulation of Settlement or any
4 provision hereof.

5 **XXIV. EXHIBITS**

6 100. The terms of this Stipulation of Settlement include the terms set forth herein and the
7 attached Exhibits 1-6, which are incorporated by this reference as though fully set forth herein. Any
8 exhibits to this Stipulation of Settlement are an integral part of the Settlement.

9 **XXV. AMENDMENT OR MODIFICATION**

10 101. This Stipulation of Settlement may be amended or modified only by a written instrument
11 signed by counsel for all Parties or their successors-in-interest.

12 **XXVI. ENTIRE AGREEMENT**

13 102. This Stipulation of Settlement, including Exhibits 1-6 attached hereto, contains the
14 entire agreement between Plaintiff and Defendant relating to the Settlement and transactions
15 contemplated hereby, and all prior or contemporaneous agreements, understandings, representations,
16 and statements, whether oral or written and whether by a party or such party's legal counsel, are
17 superseded. No rights hereunder may be waived except in writing.

18 **XXVII. BINDING ON ASSIGNS**

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

21 **XXVIII. NO SOLICITATION REGARDING CLAIMS, OBJECTIONS, EXCLUSIONS OR**
22 **APPEALS**

23 104. The Parties and their counsel shall not solicit or otherwise encourage Class Members to
24 submit written objections to the Settlement, to request exclusion or to appeal from the Court's Final
25 Approval Order and Judgment.

1 **XXIX. INTERIM STAY OF PROCEEDINGS**

2 105. The Parties agree to hold in abeyance all proceedings in the Lawsuit, except such
3 proceedings necessary to implement and complete the Settlement, pending the final approval hearing to
4 be conducted by the Court.

5 **XXX. COUNTERPARTS**

6 106. This Stipulation of Settlement may be executed in counterparts, and when each of the
7 Parties has signed and delivered at least one such counterpart, each counterpart shall be deemed an
8 original, and, when taken together with other signed counterparts, shall constitute one fully-signed
9 Stipulation of Settlement, which shall be binding upon and effective as to all Parties.

10 **XXXI. PLAINTIFF'S AGREEMENT TO BE BOUND**

11 107. By signing this Stipulation of Settlement, Plaintiff agree to be bound by the terms
12 herein. If Plaintiff objects to or opt outs of the Settlement, Defendant will have the option at its
13 discretion of rejecting the Settlement in its entirety.

14 108. **Notice of Settlement to the LWDA.** Plaintiff shall submit this Settlement Agreement
15 and proposed settlement to the LWDA as required by Labor Code Section 2699(1)(2) at the same time
16 that it is submitted to the Court for preliminary approval.

17 IN WITNESS WHEREOF, this Stipulation of Settlement is executed by the Parties and their
18 duly authorized attorneys as of the day and year herein set forth.

19
20 DATED: May __, 2020

21 _____
Marlin McClure, Plaintiff
On behalf of himself and the California Class and FLSA Class

22
23
24 DATED: May 12, 2020

25 WAVELAND SERVICES, INC.
26 _____
By: Manish Shanbhag
27 Title: Vice President
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APPROVED AS TO FORM AND CONTENT ON BEHALF OF THE PLAINTIFF AND AS A
SUBSTANTIVE RECOMMENDATION TO THE COURT ON BEHALF OF THE CALIFORNIA
CLASS AND FLSA CLASS:

DATED: May __, 2020

STRAUSS & STRAUSS, APC

By: _____

Andrew C. Ellison
Attorneys for Plaintiff Marlin McClure

APPROVED AS TO FORM AND CONTENT:

DATED: May 13, 2020

**OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.**

By:  _____

DOUGLAS J. FARMER
CAROLYN B. HALL
SEAN M. KRAMER

Attorneys for Defendant
WAVELAND SERVICES, INC.

42789539.1

XXIX. INTERIM STAY OF PROCEEDINGS

105. The Parties agree to hold in abeyance all proceedings in the Lawsuit, except such proceedings necessary to implement and complete the Settlement, pending the final approval hearing to be conducted by the Court.

XXX. COUNTERPARTS

106. This Stipulation of Settlement may be executed in counterparts, and when each of the Parties has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully-signed Stipulation of Settlement, which shall be binding upon and effective as to all Parties.

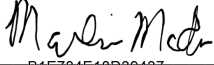
XXXI. PLAINTIFF'S AGREEMENT TO BE BOUND

107. By signing this Stipulation of Settlement, Plaintiff agree to be bound by the terms herein. If Plaintiff objects to or opt outs of the Settlement, Defendant will have the option at its discretion of rejecting the Settlement in its entirety.

108. **Notice of Settlement to the LWDA.** Plaintiff shall submit this Settlement Agreement and proposed settlement to the LWDA as required by Labor Code Section 2699(1)(2) at the same time that it is submitted to the Court for preliminary approval.

IN WITNESS WHEREOF, this Stipulation of Settlement is executed by the Parties and their duly authorized attorneys as of the day and year herein set forth.

DATED: May ¹¹ __, 2020

DocuSigned by:

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Marlin McClure, Plaintiff
On behalf of himself and the California Class and FLSA Class

DATED: May __, 2020

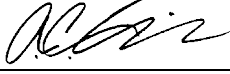
WAVELAND SERVICES, INC.

By: _____
Title: _____

1 APPROVED AS TO FORM AND CONTENT ON BEHALF OF THE PLAINTIFF AND AS A
2 SUBSTANTIVE RECOMMENDATION TO THE COURT ON BEHALF OF THE CALIFORNIA
CLASS AND FLSA CLASS:

3 DATED: May 11, 2020

STRAUSS & STRAUSS, APC

4 By:  _____

5 Andrew C. Ellison
6 Attorneys for Plaintiff Marlin McClure

7
8 APPROVED AS TO FORM AND CONTENT:

9 DATED: May __, 2020

10 OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

11 By: _____

12 DOUGLAS J. FARMER
13 CAROLYN B. HALL
SEAN M. KRAMER

14 Attorneys for Defendant
15 WAVELAND SERVICES, INC.

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EXHIBIT 1

**McClure v. Waveland Services, Inc., United States District Court, Eastern
District of California, Case No. 2:18-cv-01726-KJM-AC
("Lawsuit")**

YOUR ESTIMATED CALIFORNIA CLASS INDIVIDUAL SETTLEMENT PAYMENT:

\$_____.

This estimate is based on corporate and business records maintained by Waveland, which show the total number of weeks you were employed by Waveland as a California Class Member, excluding leaves of absence. Your Individual Work Weeks are:_____.

**Information regarding the Class, Settlement, and the Lawsuit is contained in the accompanying
Notice of California Class Action Settlement.**

I. CLAIMANT IDENTIFICATION Please Make any Name/Address Corrections Below:

«First» «Last» _____
«Address1» _____
«Address2» _____
«City» _____
«State» _____
«Zip» _____
«Phone Number» _____

II. IF YOU DISPUTE YOUR INDIVIDUAL WORK WEEKS

If you believe the number of Individual Work Weeks listed above is incorrect, check the box below, and send this California Class Form, a letter, and supporting documentation to the Settlement Administrator indicating what you believe are the correct number of Individual Work Weeks you worked for Waveland as an hourly employee on oil platforms off the California coast for shifts of 12 hours or more during the time period June 14, 2014 through [DATE OF PRELIMINARY APPROVAL].

The Settlement Administrator will resolve any dispute based upon Waveland's records and any documents and information you provide. Please be advised that the number of Individual Work Weeks is presumed to be correct unless the documents you submit are company records from Waveland.

I disagree with the Individual Work Week information listed above and have submitted supporting documentation.

EXHIBIT 2

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MARLIN MCCLURE, an individual, for himself
and those similarly situated,

Plaintiffs,

v.

WAVELAND SERVICES, INC.,
a Louisiana corporation doing business in
California; and DOES 1 through 100,
INCLUSIVE,

Defendants.

CASE NO. 2:18-cv-01726-KJM-AC

**NOTICE OF CALIFORNIA CLASS ACTION
SETTLEMENT**

The United States District Court for the Eastern District of California (“the Court”) authorized this Notice of California Class Action Settlement (“Notice”). This is not a solicitation from a lawyer. The Court has preliminarily approved a settlement of this lawsuit. If you were employed by Waveland Services, Inc. (“Waveland”) and worked for Waveland on oil platforms off the California coast for shifts of 12 hours or more during the time period June 14, 2014 until [INSERT DATE OF PRELIMINARY APPROVAL], you should read this Notice carefully because it will affect your rights.

CLASS SETTLEMENT OVERVIEW

Recently, Plaintiff Marlin McClure and Waveland (together, the “Parties”) reached an agreement on the terms of a class action settlement between Waveland Services, Inc. (“Waveland”) and all current and former hourly employees of Waveland, who worked for the Company on oil platforms off the California coast at any time between June 14, 2014 and [INSERT DATE OF PRELIMINARY APPROVAL]. In short, the lawsuit alleges that Waveland violated certain federal and California laws with respect to its hourly employees who worked for the Company on oil platforms, in terms of pay, including overtime, and breaks. Waveland denies these allegations in full.

The currently proposed settlement seeks to resolve alleged violations under both: 1) United States federal law; and 2) California state law. As a result, the settlement is split into two separate groups—a federal settlement group called the “FLSA Class” and a California settlement group called the “California Class.” The payments for each group, however, will be handled separately. You are receiving this Notice because you are a member of the California Class. For that reason, please carefully review this Notice, which describes your legal rights and options in this settlement. If you are also a member of the FLSA Class, you will receive a separate notice describing your rights and options for participating in that part of the settlement.

<u>“CALIFORNIA CLASS” SETTLEMENT: YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</u>	
OPTIONS	LEGAL RIGHTS RESULTING FROM OPTION
<u>OPTION 1:</u> DO NOTHING. PARTICIPATE IN THE SETTLEMENT AND RECEIVE A PAYMENT.	If you want to participate in the settlement and receive your settlement payment, you do not need to do anything. If the court grants final approval of the settlement, you will automatically receive a payment and you will release certain claims against Waveland under California law.
<u>OPTION 2:</u> EXCLUDE YOURSELF FROM THE CLASS. DO NOT PARTICIPATE IN THE SETTLEMENT AND DO NOT RECEIVE A PAYMENT.	If you do NOT want to participate in the California Class settlement and receive a payment, you must submit a written Exclusion Letter postmarked no later than [INSERT DATE] as explained below. If you timely submit a valid Exclusion Letter, you will NOT release your claims against Waveland under California law. A copy of a sample, written Exclusion Letter is included with this Notice.
<u>OPTION 3:</u> OBJECT.	If you disagree with the proposed settlement, you may submit a written objection or explain your objection at the Court’s Final Approval Hearing. If the Court agrees with your objection, the Parties can choose to withdraw the settlement or change its terms. If the Court rejects your objection, you will still be entitled to participate in the settlement unless you have excluded yourself by opting out of the settlement as explained below.

These rights and options—and the deadlines to exercise them—are explained in this Notice.

BASIC INFORMATION

1. WHY DID I RECEIVE THIS NOTICE AND WHAT IS THE CASE ABOUT?

You received this Notice because Waveland’s records show that you were employed by the Company as an hourly employee, who worked on oil platforms off the California coast at a time between June 14, 2014 and [INSERT DATE OF PRELIMINARY APPROVAL]. This Notice explains that the Court has granted preliminary approval of a proposed settlement of a class action lawsuit that may affect you. You have legal rights and options that you may exercise before the Court decides whether to grant final approval of the proposed settlement.

Plaintiff Marlin McClure filed this case against Waveland on behalf of himself and other similarly situated employees (“Lawsuit”). The Lawsuit alleges that Waveland: (1) failed to pay all wages due, including minimum, regular, and overtime wages under California and federal law; (b) failed to provide meal periods; (c) failed to provide rest periods; (d) failed to provide complete and accurate wage

statements; (e) failed to pay all wages due in a timely manner upon termination of employment; (f) engaged in unlawful business practices; and (g) is subject to civil penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”). The Lawsuit seeks damages for lost wages, interest, penalties, injunctive relief, attorneys’ fees and expenses.

The Lawsuit includes claims under the California Labor Code, related Wage Orders of the Industrial Welfare Commission, PAGA, California Business and Professions Code section 17200 *et seq.*, and the Federal Fair Labor Standards Act.

The Parties reached an agreement to settle all claims in the Lawsuit (“Settlement”), which was preliminarily approved by the Court on [INSERT DATE OF PRELIMINARY APPROVAL ORDER]. The Court has ordered that this Notice be sent to you to inform you of the Settlement and your legal rights under the Settlement.

2. WHAT IS A CLASS ACTION AND WHO IS INVOLVED?

In a class action, one or more persons, in this case Marlin McClure, files a lawsuit on behalf of people who allegedly have similar claims. These people together are called the “Class Members.” The company sued is called the Defendant, in this case, Waveland Services, Inc. The Class Members and Waveland are sometimes referred to in this Notice as the “Parties.”

In this case, there are two separate settlement groups: 1) those who worked for Waveland on oil platforms off the coast of California and allege claims under California law (the “California Class” or “California Class Members”); and 2) those who worked for Waveland on an oil platform off any coast of the United States and allege claims under federal law (the “FLSA Class” or “FLSA Class Members”) (together, “Class Members”). Waveland’s records show that you worked on an oil platform off the coast of California during the applicable time period, and for that reason, you are a potential member of the California Class. As noted above, if you are also part of the FLSA Class, you will receive a separate notice detailing your rights and options for participating in that part of the Settlement.

In a class action, one court resolves the issues for everyone in the class, except for those people who decide to exclude themselves from the class. The California Class Members who do not send a request for exclusion (i.e., an “Exclusion Letter”) postmarked no later than [INSERT DATE] as explained below in the section entitled “Excluding Yourself From The Settlement” are called “Claimants.”

In this case, the Parties have decided to settle the Lawsuit. Counsel for the Plaintiff (“Class Counsel”) has extensively investigated and researched the facts and law for the issues in the Lawsuit, and believe Plaintiff has asserted valid claims. Taking all factors into account, Class Counsel believes the proposed Settlement is fair, adequate, and reasonable and in the best interests of all of the Class Members.

Waveland denies any and all charges of wrongdoing or liability arising out of any of the acts, omissions, facts, matters, transactions, or occurrences alleged, or that could have been alleged, in the Lawsuit. Further, Waveland believes that, in compliance with applicable local, state and federal laws, current and former hourly employees of Waveland have been paid all wages due, including minimum, regular, and overtime wages under California and federal law; have been provided compliant meal and rest periods; have been provided complete and accurate wage statements; and have been paid all wages due in a timely manner upon termination of employment. Nothing about the Settlement may be used against Waveland as an admission or indication of any fault or liability.

The Parties both recognize that continuing to litigate the Lawsuit takes time and money and any outcome is uncertain. Therefore, the Parties have agreed to settle this Lawsuit on the terms set forth in the Settlement.

The Court has made no ruling on the merits of the claims or defenses in the Lawsuit and has determined only that certification of the California Class and FLSA Class for settlement purposes is appropriate under the law. However, the Court has made a preliminary determination that the Settlement appears fair, adequate, and reasonable. The Court will decide whether to finally approve the Settlement after the California Class Members are given a chance to exclude themselves from or object to the Settlement.

3. IS THERE ANY MONEY AVAILABLE NOW?

No money or benefits are available right now. If the Court gives final approval to the Settlement, then you will automatically be sent your portion of the California Class portion of the Settlement once the Court's order becomes final unless you exclude yourself.

4. I WANT TO RECEIVE MY SHARE OF THE SETTLEMENT. WHAT DO I DO?

To receive your share of the Settlement, you do not need to do anything. You will automatically receive your share of the California Class portion of the Settlement as long as you do not affirmatively request to be excluded from the California Class portion of the Settlement before [INSERT DATE].

THE SETTLEMENT BENEFITS—WHAT YOU RECEIVE

1. WHAT DOES THE SETTLEMENT PROVIDE?

The Settlement provides that Waveland will pay \$290,000.00 (the "Gross Settlement Value") to fully resolve the claims in the Lawsuit. Certain deductions will be made from the Gross Settlement Value:

- (1) The Court has tentatively approved a payment of up to \$[INSERT AMOUNT] to the Settlement Administrator, Phoenix Settlement Administrators, for the costs incurred in notifying the Class Members and processing their claims.
- (2) Class Counsel will, through a motion for attorneys' fees and costs, ask the Court at the Final Approval Hearing to approve a Fee and Expense Award of not to exceed 33 percent of the Gross Settlement Value, or \$95,700.00, plus reimbursement of the reasonable litigation expenses Class Counsel has incurred not to exceed \$7,500.00. Class Counsel has litigated the Lawsuit on behalf of the Class Members on a contingency fee basis (that is, without being paid to date) while advancing litigation costs and expenses. The Fee and Expense Award will fully compensate Class Counsel for all legal fees and expenses incurred in the Lawsuit, including any work they do in the future. Class Members are not personally responsible for any fees or expenses.
- (3) Class Counsel will also, through a motion for attorneys' fees and costs, ask the Court at the Final Approval Hearing to approve a Service Award in the amount of \$5,800.00 for the Named Plaintiff, Marlin McClure (who will be subject to a general release of known and unknown claims), for acting as the representative

on behalf of the Class Members and spending time assisting with the Lawsuit, which was not required of other Class Members.

- (4) \$5,800.00 shall be paid for all applicable penalties under the California Labor Code's Private Attorneys General Act (PAGA). 75% of this sum (i.e., \$4,350.00) shall be paid to the Labor and Workforce Development Agency to pay the government portion of penalties allocated under PAGA, and 25% of this sum (i.e., \$1,450.00) shall be paid to the California Class Members who worked between June 12, 2017 and [INSERT DATE OF PRELIMINARY APPROVAL].

The balance of the Gross Settlement Value after the deductions described above is the "Net Settlement Value." The Net Settlement Value is estimated to be \$162,700.00. 40% of the Net Settlement Value shall be allocated to the California Class, which is \$65,080.00 (the "California Settlement Allocation"). If you do not timely exclude yourself from the California Class, you will receive a check for your individual share of the California Settlement Allocation ("California Percentage Share").

This Notice only summarizes the proposed Settlement. For the precise terms and conditions of the settlement, please access the Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.caed.uscourts.gov/>, or by visiting the office of the Clerk of the Court for the United States District Court for the Eastern District of California, which is located in Room 4-200 on the 4th Floor of the Robert T. Matsui United States Courthouse, 501 I Street, Sacramento, California 95814, from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Court holidays. In addition, on the Court's docket, you may view the motion for attorneys' fees and costs and incentive award and you may object to that motion at the Final Approval Hearing, which is described on pages 8-9. You may also view certain settlement documents on the class website at [INSERT HTTP ADDRESS].

2. HOW ARE THE INDIVIDUAL SETTLEMENT PAYMENTS CALCULATED?

Your California Percentage Share is calculated on the basis of the number of weeks of employment as a California Class Member as reflected by Waveland's corporate and business records, not including leaves of absence. The Individual Settlement Payments for the Claimants in the California Class will be calculated by multiplying 40% of the Net Settlement Value by each California Class Member's Class Percentage Share. "California Percentage Share" means each California Class Member's Individual Work Weeks divided by the California Class Total Work Weeks.

3. WILL TAXES BE WITHHELD FROM MY SETTLEMENT PAYMENTS?

Your Individual Settlement Payment will include a wage portion (representing unpaid wages), and a non-wage portion (representing penalties and interest). Using each California Class Member's last-reported withholding status, Waveland will deduct the state and federal withholding taxes and other applicable payroll deductions owed as a result of the settlement payment from the wage portion of each Class Member's settlement. Individual Settlement Payments for the California Class will be allocated as follows: 20% to settlement of wage claims, which will be subject to required payroll tax withholdings; and 80% to settlement of claims for penalties and interest, which will be paid without withholding any amount. The portion allocated to wages shall be reported on an IRS Form W-2, and the portion allocated to penalties and interest shall be reported on an IRS Form 1099. You are not responsible for the employer's portion of FICA, FUTA, and all other state and federal payroll taxes, which shall be paid by Waveland separate and apart from the Gross Settlement Value. Other than the withholding and reporting requirements specifically set forth above, California Class Members are solely responsible for all taxes

due on payments made pursuant to the settlement. The Settlement Administrator will handle the distributions of these tax-related forms to the California Class Members.

You should consult with your tax advisors concerning the tax consequences of the payments you receive under the Settlement.

4. WHAT AM I GIVING UP IF I STAY IN THE CLASS?

If you choose to participate in the California Class, you will be bound by any judgment entered in this Lawsuit and will not be allowed to sue Waveland for any claims that were alleged or that reasonably could have been alleged based on the facts alleged in the Lawsuit, occurring between June 14, 2014 and [INSERT DATE OF PRELIMINARY APPROVAL]. It also means that you will be bound by the following Release:

“California Class Released Claims” means all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorney’s fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that were alleged or that reasonably could have been alleged based on the facts alleged in the Lawsuit, as amended, against the Released Parties or any of them, for violation of the California Labor Code, the California Business & Professions Code, the Labor Code Private Attorneys General Act of 2004, the applicable Industrial Welfare Commission Wage Orders or any similar state or local law, including, but not limited to, any claims for unpaid overtime, claims for missed meal or rest breaks, claims for meal or rest break premiums, claims for unreimbursed employee business expenses, claims for liquidated damages, claims for unlawful deductions from wages, claims for conversion of wages, claims for record-keeping violations, wage-statement penalties, “waiting time” penalties, claims for unpaid wages, claims for failure to pay minimum wage, and any claims under California Labor Code sections 201, 202, 203, 204, 210, 218, 218.5, 218.6, 219, 226, 226.3, 226.7, 256, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, 2802(c), 2810.5 and Labor Code section 2698 et seq. based on alleged violations of these Labor Code provisions, as well as claims under California Code of Civil Procedure section 1021.5, and California Civil Code sections 3288 and 3291, at any time during the California Class Period.

Upon the Payment Obligation and Class Release Date, the California Class Members (other than those who submit an Exclusion Letter) will be deemed to have, and by operation of the Final Approval Order and Judgment, will have, expressly waived and released the Released Parties of the California Class Released Claims to the fullest extent permitted by the law. The Individual Settlement Payments shall be paid to California Class Claimants specifically in exchange for the release of the Released Parties from the California Class Released Claims and the covenant not to sue concerning the California Class Released Claims.

California Class Members who do not opt out of the Settlement will be bound by a release of claims under California Civil Code Section 1542, which provides: “A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.” The Section 1542 waiver provided for herein releases solely claims against the Released Parties within the definition of California Class Released Claims.

To be clear, the scope of the Section 1542 waiver is limited to the California Class Released Claims only.

The term “Released Parties” means Defendant Waveland Services, Inc., its past or present successors, including Waveland, A BrandSafway Company, and predecessors in interest, subsidiaries, affiliates, parents, officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys.

HOW YOU STAY IN THE CLASS AND RECEIVE A PAYMENT

If this Notice was sent to you at your current address, you do not need to do anything further to receive payment. If this Notice was forwarded to you by the postal service, or if it was otherwise sent to you at an address that is not current, or if you have changed your address, then you should immediately notify the Settlement Administrator in writing stating your name and past and current addresses. A California Class Form has been included with this packet for you to notify the Settlement Administrator of your current address and contact information.

The Settlement Administrator’s address is:

[Address]

Otherwise, you do not need to do anything to receive your Individual Settlement Payment so long as you do not exclude yourself from the California Class by sending a request to opt-out of the California Class settlement. You will be bound by the terms of the Settlement as they relate to the California Class and you will have released your claims under California law against Waveland. For further information, or if you have any questions or concerns about this process, you can speak with Class Counsel in this case identified on page 8.

Any settlement checks that remain uncashed after 90 days will be voided and, if the total amount of such unclaimed funds exceeds \$20,000.00, their amounts will be allocated in a second allocation to participating California Class members who cashed their initial checks. Any second allocation checks not cashed after 90 days will be voided – or any initially unclaimed funds, if the amount is \$20,000.00 or less – will be allocated to the Legal Aid Foundation of Los Angeles (www.lafla.org).

EXCLUDING YOURSELF FROM THE CLASS AND SETTLEMENT

If you want to retain the right to pursue claims related to this Lawsuit against Waveland and/or you do not want a payment from this Settlement, then you must exclude yourself. Excluding yourself is also referred to as “opting out.” If you exclude yourself, you will not receive money from this Settlement.

1. HOW DO I REQUEST TO BE EXCLUDED FROM THE SETTLEMENT?

If you are a California Class Member and you wish to be excluded from the California Class portion of Settlement, you must submit an Exclusion Letter, which must be **postmarked no later than [INSERT]** to the Settlement Administrator at the following address: **[INSERT]**. California Class Members who wish to opt-out must timely and fully complete and send the Exclusion Letter provided with this Notice to the Settlement Administrator. Please be advised that any part of your Social Security number on any

document will be redacted before it is filed with the Court or becomes part of the public docket in this case. Your Social Security number will remain private. Exclusion Letters that do not include all required information, or that are not submitted timely, will be disregarded. If you submit an Exclusion Letter, you will not be bound by the Settlement and you will not receive any cash payment.

2. IF I DO NOT EXCLUDE MYSELF, CAN I SUE WAVELAND FOR THE SAME CLAIMS LATER?

No. If you decide to participate in the California Class, you will be bound by all terms of the Settlement and any final judgment entered in the Lawsuit if the Settlement is approved by the Court. The Settlement and final judgment will include a full release of claims in this Action, which will prevent you from suing Waveland or any related persons or entities for the claims released by the Settlement. You may review the full release of claims in the section “What am I giving up if I stay in the class?” on pages 5-6.

3. IF I EXCLUDE MYSELF, CAN I GET MONEY FROM THIS SETTLEMENT?

No. If you exclude yourself, you are asking not to be included in the Settlement or receive money from it.

WHO ARE THE ATTORNEYS REPRESENTING THE PLAINTIFF AND CALIFORNIA CLASS MEMBERS?

Plaintiff and the California Class Members are represented in this Lawsuit by attorneys at the law firm of STRAUSS & STRAUSS, APC, whose contact information appears below.

Michael A. Strauss (State Bar No. 246718)
mike@strausslawyers.com
Aris E. Karakalos (State Bar No. 240802)
aris@strausslawyers.com
Andrew C. Ellison (State Bar No. 283884)
andrew@strausslawyers.com
STRAUSS & STRAUSS, APC
121 N. Fir St., Suite F
Ventura, California 93001
Telephone: (805) 641.6600 / Facsimile: (805) 641.6607

OBJECTING TO THE SETTLEMENT

1. HOW DO I OBJECT?

If you are a California Class Member and wish to object and tell the Court why you do not like the California Class portion of the Settlement, you may submit a written objection or appear at the Final Approval Hearing to raise your objection. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement. If you submit a written objection, it should identify your name; this case name and number, *Marlin McClure v. Waveland Services, Inc.*, U.S. District Court for the Eastern District of California, Case No. 2:18-cv-01726-KJM-AC; be submitted to the Court either by mailing to the Office of the Clerk, Room 4-200, Robert T. Matsui United States Courthouse, 501 I Street, Sacramento, California 95814, or by filing it with the Court; state with particularity the legal and factual

basis for the objection; and be signed by you. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the Settlement. Written objections must be filed no later than [INSERT DATE]. If the Court denies approval, no settlement payments will be sent out, and the Lawsuit will continue. If you want, you may appear at the Final Approval Hearing scheduled for [TIME] on [DATE] in Courtroom 3, 15th floor of the United States District Court, Eastern District of California, located at 501 I Street, Suite 4-200 Sacramento, CA 95814, to have your objection heard by the Court. The Court will consider all objections in deciding whether to approve the Settlement. Any Class Member who does not object at or before the Final Approval Hearing will be deemed to have approved the Settlement and to have waived such objections and shall not be able to make any objections (by appeal or otherwise) to the Settlement.

2. WHAT IS THE DIFFERENCE BETWEEN OBJECTING AND EXCLUDING?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the California Class. Excluding yourself is telling the Court that you do not want to be part of the California Class. If you exclude yourself, you cannot object.

THE COURT'S FINAL APPROVAL HEARING

1. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at [TIME] on [DATE] in Courtroom 3, 15th Floor of the United States District Court, Eastern District of California, located at 501 I Street, Suite 4-200, Sacramento, CA 95814. The Court will consider any objections to the Settlement at this hearing. A written objection is not required for a California Class Member to appear at the hearing. If the Court approves the Settlement, it will enter an order granting final approval of the Settlement. The hearing date may be changed without further notice; however, you can check the Court's PACER site at <https://ecf.caed.uscourts.gov/> to find out if the hearing date has changed.

You are not required to attend the Final Approval Hearing, but you or your lawyer may attend if you so choose. If you are a Claimant and you wish to speak or have your lawyer speak for you, you may do so. Please visit <http://www.caed.uscourts.gov/caednew/> and select the court calendar for Judge Mueller to see whether the Final Approval Hearing will be held on [scheduled date] or has been rescheduled to a new hearing date.

ADDITIONAL INFORMATION

1. CAN WAVELAND RETALIATE AGAINST ME AS A RESULT OF WHAT I DO IN RESPONSE TO THIS NOTICE?

No. If you are a current employee of Waveland, your decision as to whether or not to participate in this Settlement will in no way affect your employment with Waveland. It is illegal for Waveland to take any adverse employment action against you as a result of your decision whether or not to participate in this Settlement.

2. HOW CAN I GET MORE INFORMATION ABOUT THE SETTLEMENT?

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at the address and telephone number listed below, toll free.

[INSERT ADDRESS]

Alternatively, you can contact the attorneys representing the California Class Members at:

Michael A. Strauss (State Bar No. 246718)
mike@strausslawyers.com
Aris E. Karakalos (State Bar No. 240802)
aris@strausslawyers.com
Andrew C. Ellison (State Bar No. 283884)
andrew@strausslawyers.com
STRAUSS & STRAUSS, APC
121 N. Fir St., Suite F
Ventura, California 93001
Telephone: (805) 641.6600 / Facsimile: (805) 641.6607

This Notice only summarizes the Lawsuit, the Settlement and related matters. For more information, you may inspect the Court files at the Office of the Clerk, in Room 4-200 on the 4th Floor of the Robert T. Matsui United States Courthouse, 501 I Street, Sacramento, California 95814, from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Court holidays. You may also view certain settlement documents on the class website at **[INSERT HTTP ADDRESS].**

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

42626470.4

42626470.4

EXHIBIT 3

CALIFORNIA EXCLUSION LETTER

McClure v. Waveland Services, Inc., United States District Court, Eastern District of California, Case No. 2:18-cv-01726-KJM-AC (“Lawsuit”)

«First» «Last»
«Address1»
«Address2»
«City»
«State»
«Zip»
«Phone Number»

SUBMIT THIS FORM POSTMARKED NO LATER THAN [INSERT DATE] TO OPT-OUT AND EXCLUDE YOURSELF FROM ANY JUDGMENT UNDER CALIFORNIA LAW THAT MAY BE ENTERED IN THIS CASE. YOU WILL NOT RECEIVE MONEY FROM THE CALIFORNIA CLASS PORTION OF THE SETTLEMENT.

I have reviewed the accompanying Notice of California Class Action Settlement (“Notice”) and understand that I was employed as an hourly employee by Waveland Services, Inc. during all or part of the time from June 14, 2014 to [INSERT DATE]. I understand that I am a potential California Class Member in the Lawsuit. I understand that this settlement is intended to compensate such California Class Members.

I understand that by timely submitting this form, I am excluding myself from the settlement as a member of the California Class and will not receive a payment from the California Class portion of the settlement if the settlement is approved by the Court. I understand that, by timely submitting this form, I will be choosing not to release the claims that are described in the accompanying Notice or be bound by any judgment under California law that the court may enter in this Lawsuit. No one has coerced or forced me to opt out; it is my own decision.

Printed Name

Signature

Date (mm/dd/yyyy)

Telephone

Mailing Address (including City, State, and Zip Code)

Last Four Digits of Social Security Number (For Identity Verification Purposes Only)

THIS FORM MUST BE POSTMARKED BY [INSERT DATE] AND SENT TO THE FOLLOWING ADDRESS:

By U.S. Mail:

[ADDRESS]

NOTE THAT YOUR SOCIAL SECURITY NUMBER WILL BE REDACTED BEFORE THIS DOCUMENT IS FILED ON THE PUBLIC DOCKET AND WILL REMAIN PRIVATE.

42627822.4

EXHIBIT 4

FLSA COLLECTIVE FORM

McClure v. Waveland Services, Inc., United States District Court, Eastern District of California, Case No. 2:18-cv-01726-KJM-AC (“Lawsuit”)

YOUR ESTIMATED FLSA COLLECTIVE INDIVIDUAL SETTLEMENT PAYMENT:

\$_____.

This estimate is based on corporate and business records maintained by Waveland, which show the total number of weeks you were employed by Waveland as a FLSA Class Member, excluding leaves of absence. Your Individual Work Weeks are:_____.

Information regarding the Class, Settlement, and the Lawsuit is contained in the accompanying Notice of FLSA Collective Action Settlement.

I. CLAIMANT IDENTIFICATION Please Make any Name/Address Corrections Below:

«First» «Last» _____
«Address1» _____
«Address2» _____
«City» _____
«State» _____
«Zip» _____
«Phone Number» _____

II. YOUR RIGHT TO JOIN AND OBTAIN MONEY FROM THIS LAWSUIT

As an FLSA Class Member, you may join this Lawsuit and obtain your FLSA Class Individual Settlement Payment by completing and mailing the FLSA Opt-In Form on the following page, by first-class mail, **postmarked no later than [INSERT DATE]** to the Settlement Administrator.

If you fail to complete and timely mail the FLSA Opt-In Form on the following page, by [DATE], you will NOT be able to participate in the FLSA portion of the Lawsuit and you will not receive any money in connection with the FLSA Class settlement.

III. IF YOU DISPUTE YOUR INDIVIDUAL WORK WEEKS

If you believe the number of Individual Work Weeks listed above is incorrect, check the box below, and send this FLSA Opt-In Form, a letter, and supporting documentation to the Settlement Administrator indicating what you believe are the correct number of Individual Work Weeks you worked for Waveland as an hourly employee, over 40 hours in a single workweek, on an oil platform off any coast of the United States and, during such workweek, were furnished any meals and/or lodging in addition to other wages during the time period June 14, 2015 through [**DATE OF PRELIMINARY APPROVAL**].

The Settlement Administrator will resolve any dispute based upon Waveland’s records and any documents and information you provide. Please be advised that the number of Individual Work Weeks is presumed to be correct unless the documents you submit are company records from Waveland.

I disagree with the Individual Work Week information listed above and have submitted supporting documentation

EXHIBIT 5

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MARLIN MCCLURE, an individual, for himself
and those similarly situated,

Plaintiffs,

v.

WAVELAND SERVICES, INC.,
a Louisiana corporation doing business in
California; and DOES 1 through 100,
INCLUSIVE,

Defendants.

CASE NO. 2:18-cv-01726-KJM-AC

**NOTICE OF FLSA COLLECTIVE ACTION
SETTLEMENT**

The United States District Court for the Eastern District of California (“the Court”) authorized this Notice of FLSA Collective Action Settlement (“Notice”). This is not a solicitation from a lawyer. The Court has preliminarily approved a settlement of this lawsuit. If you were employed by Waveland Services, Inc. (“Waveland”) and performed over 40 hours of work in a single workweek on an oil platform off any coast of the United States and, during such workweek, were furnished any meals and/or lodging in addition to other wages during the time period June 14, 2015 until [INSERT DATE OF PRELIMINARY APPROVAL], you should read this Notice carefully because it will affect your rights.

COLLECTIVE ACTION SETTLEMENT OVERVIEW

Recently, Plaintiff Marlin McClure and Waveland (together, the “Parties”) reached an agreement on the terms of a collective action settlement between Waveland Services, Inc. (“Waveland”) and all current and former hourly employees of Waveland who worked for the Company on an oil platform off any coast of the United States between June 14, 2015 and [INSERT DATE OF PRELIMINARY APPROVAL]. In short, the lawsuit alleges that Waveland violated certain laws with respect to its hourly employees who worked for the Company on oil platforms, in terms of pay, including overtime. Waveland denies these allegations in full.

The currently proposed settlement seeks to resolve alleged violations under both: 1) United States federal law; and 2) California state law. As a result, the settlement is split into two separate groups—a federal settlement group called the “FLSA Class” and a California settlement group called the “California Class.” The payments for each group, however, will be handled separately. You are receiving this Notice because you are a member of the FLSA Class or “FLSA Collective”. For that reason, please carefully review this Notice, which describes your legal rights and options in this settlement. If you are also a member of the California Class, you will receive a separate notice describing your rights and options for participating in that part of the settlement.

<u>“FLSA CLASS” SETTLEMENT: YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</u>	
OPTIONS	LEGAL RIGHTS RESULTING FROM OPTION
<p><u>OPTION 1:</u> RETURN THE ENCLOSED OPT-IN FORM. PARTICIPATE IN THE SETTLEMENT AND RECEIVE A PAYMENT.</p>	<p>By fully completing and signing the enclosed opt-in form and submitting the form postmarked no later than [INSERT DATE], you will be choosing to participate in the FLSA Class settlement, which means that you will receive a payment and that you will release certain claims against Waveland under federal law.</p>
<p><u>OPTION 2:</u> DO NOT RETURN THE ENCLOSED OPT-IN FORM. DO NOT PARTICIPATE IN THE SETTLEMENT AND DO NOT RECEIVE A PAYMENT.</p>	<p>If you do NOT return the enclosed opt-in form postmarked no later than [INSERT DATE], you will be choosing to NOT participate in the FLSA Class settlement, which means that you will NOT receive a payment and that you will NOT release any claims against Waveland under federal law.</p>
<p><u>OPTION 3:</u> RETURN THE ENCLOSED OPT-IN FORM AND OBJECT.</p>	<p>If you disagree with the proposed settlement, you may submit a written objection or explain your objection at the Court’s Final Approval Hearing. If the Court agrees with your objection, the Parties can choose to withdraw the settlement or change its terms. If the Court rejects your objection, you will still be entitled to participate in the settlement unless you have excluded yourself by opting out of the settlement as explained below.</p>

These rights and options—and the deadlines to exercise them—are explained in this Notice.

BASIC INFORMATION

1. WHY DID I RECEIVE THIS NOTICE AND WHAT IS THE CASE ABOUT?

You received this Notice because Waveland’s records show that you were employed by the Company as an hourly employee, who worked for the Company over 40 hours in a single workweek on an oil platform off any coast of the United States and, during such workweek, were furnished any meals and/or lodging in addition to other wages at a time between June 14, 2015 and [INSERT DATE OF PRELIMINARY APPROVAL]. This Notice explains that the Court has granted preliminary approval of a proposed settlement of a collective action lawsuit that may affect you. You have legal rights and options that you may exercise before the Court decides whether to grant final approval of the proposed settlement.

Plaintiff Marlin McClure filed this case against Waveland on behalf of himself and other similarly situated employees (“Lawsuit”). The Lawsuit alleges that Waveland: (1) failed to pay all wages due, including minimum, regular, and overtime wages under California and federal law; (b) failed to provide meal periods; (c) failed to provide rest periods; (d) failed to provide complete and accurate wage

statements; (e) failed to pay all wages due in a timely manner upon termination of employment; (f) engaged in unlawful business practices; and (g) is subject to civil penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”). The Lawsuit seeks damages for lost wages, interest, penalties, injunctive relief, attorneys’ fees and expenses.

The Lawsuit includes claims under the California Labor Code, related Wage Orders of the Industrial Welfare Commission, PAGA, California Business and Professions Code section 17200 *et seq.*, and the Federal Fair Labor Standards Act.

The Parties reached an agreement to settle all claims in the Lawsuit (“Settlement”), which was preliminarily approved by the Court on [INSERT DATE OF PRELIMINARY APPROVAL ORDER]. The Court has ordered that this Notice be sent to you to inform you of the Settlement and your legal rights under the Settlement.

2. WHAT IS A COLLECTIVE ACTION AND WHO IS INVOLVED?

In a collective action, one or more persons, in this case Marlin McClure, files a lawsuit on behalf of people who allegedly have similar claims. These people together are called the “Class Members.” The company sued is called the Defendant, in this case, Waveland Services, Inc. The Class Members and Waveland are sometimes referred to in this Notice as the “Parties.”

In this case, there are two separate settlement groups: 1) those who worked for Waveland on oil platforms off the coast of California and allege claims under California law (the “California Class” or “California Class Members”); and 2) those who worked for Waveland on an oil platform off any coast of the United States and allege claims under federal law (the “FLSA Class” or “FLSA Class Members”) (together, “Class Members”). Waveland’s records show that you worked on an oil platform for Waveland off one or more coasts of the United States during the applicable time period, and for that reason, you are a potential member of the FLSA Class. As noted above, if you are also part of the California Class, you will receive a separate notice detailing your rights and options for participating in that part of the Settlement.

In an FLSA collective action, one court resolves the issues for everyone in the FLSA class or collective who submits a timely opt-in form. The FLSA Class Members who submit an opt-in form postmarked no later than [INSERT DATE] as explained below in the section entitled “I want to receive my share of the settlement. What do I do?” are called “Claimants.”

In this case, the Parties have decided to settle the Lawsuit. Counsel for the Plaintiff (“Class Counsel”) has extensively investigated and researched the facts and law for the issues in the Lawsuit, and believe Plaintiff has asserted valid claims. Taking all factors into account, Class Counsel believes the proposed Settlement is fair, adequate, and reasonable and in the best interests of all of the Class Members.

Waveland denies any and all charges of wrongdoing or liability arising out of any of the acts, omissions, facts, matters, transactions, or occurrences alleged, or that could have been alleged, in the Lawsuit. Further, Waveland believes that, in compliance with applicable local, state and federal laws, current and former hourly employees of Waveland have been paid all wages due, including minimum, regular, and overtime wages under California and federal law; have been provided compliant meal and rest periods; have been provided complete and accurate wage statements; and have been paid all wages due in a timely manner upon termination of employment.. Nothing about the Settlement may be used against Waveland as an admission or indication of any fault or liability.

The Parties both recognize that continuing to litigate the Lawsuit takes time and money and any outcome is uncertain. Therefore, the Parties have agreed to settle this Lawsuit on the terms set forth in the Settlement.

The Court has made no ruling on the merits of the claims or defenses in the Lawsuit and has determined only that certification of the California Class and FLSA Class for settlement purposes is appropriate under the law. However, the Court has made a preliminary determination that the Settlement appears fair, adequate, and reasonable. The Court will decide whether to finally approve the Settlement after the FLSA Class Members are given a chance to a chance to join, object to, or decline to join the proposed settlement.

3. IS THERE ANY MONEY AVAILABLE NOW?

No money or benefits are available right now. If you timely submit the opt-in form attached to this Notice postmarked no later than [INSERT DATE] in the manner described in this Notice, and if the Court gives final approval to the Settlement, then you will automatically be sent your portion of the FLSA Class portion of the Settlement once the Court's order becomes final.

4. I WANT TO RECEIVE MY SHARE OF THE SETTLEMENT. WHAT DO I DO?

To receive your share of the FLSA Class portion of the Settlement, you must complete and submit the attached opt-in form and it must be postmarked no later than [INSERT DATE].

THE SETTLEMENT BENEFITS—WHAT YOU RECEIVE

1. WHAT DOES THE SETTLEMENT PROVIDE?

The Settlement provides that Waveland will pay \$290,000.00 (the "Gross Settlement Value") to fully resolve the claims in the Lawsuit. Certain deductions will be made from the Gross Settlement Value:

- (1) The Court has tentatively approved a payment of up to \$[INSERT AMOUNT] to the Settlement Administrator, Phoenix Settlement Administrators, for the costs incurred in notifying the Class Members and processing their claims.
- (2) Class Counsel will, through a motion for attorneys' fees and costs, ask the Court at the Final Approval Hearing to approve a Fee and Expense Award of not to exceed 33 percent of the Gross Settlement Value, or \$95,700.00, plus reimbursement of the reasonable litigation expenses Class Counsel has incurred not to exceed \$7,500.00. Class Counsel has litigated the Lawsuit on behalf of the Class Members on a contingency fee basis (that is, without being paid to date) while advancing litigation costs and expenses. The Fee and Expense Award will fully compensate Class Counsel for all legal fees and expenses incurred in the Lawsuit, including any work they do in the future. Class Members are not personally responsible for any fees or expenses.
- (3) Class Counsel will also, through a motion for attorneys' fees and costs, ask the Court at the Final Approval Hearing to approve a Service Award in the amount of \$5,800.00 for the Named Plaintiff, Marlin McClure (who will be subject to a general release of known and unknown claims), for acting as the representative

on behalf of the Class Members and spending time assisting with the Lawsuit, which was not required of other Class Members.

- (4) \$5,800.00 shall be paid for all applicable penalties under the California Labor Code's Private Attorneys General Act (PAGA). 75% of this sum (i.e., \$4,350.00) shall be paid to the Labor and Workforce Development Agency to pay the government portion of penalties allocated under PAGA, and 25% of this sum (i.e., \$1,450.00) shall be paid to the California Class Members who worked between June 12, 2017 and [INSERT DATE OF PRELIMINARY APPROVAL].

The balance of the Gross Settlement Value after the deductions described above is the "Net Settlement Value." The Net Settlement Value is estimated to be \$162,700.00. 60% of the Net Settlement Value shall be allocated to the FLSA Class, which is \$97,620.00 (the "FLSA Settlement Allocation"). If you timely submit the enclosed opt-in form for the FLSA Class postmarked no later than [INSERT DATE], you will receive a check for your individual share of the Net Settlement Amount allocated to the FLSA Class ("FLSA Percentage Share").

This Notice only summarizes the proposed Settlement. For the precise terms and conditions of the settlement, please access the Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.caed.uscourts.gov/>, or by visiting the office of the Clerk of the Court for the United States District Court for the Eastern District of California, which is located in Room 4-200 on the 4th Floor of the Robert T. Matsui United States Courthouse, 501 I Street, Sacramento, California 95814, from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Court holidays. In addition, on the Court's docket, you may view the motion for attorneys' fees and costs and incentive award and you may object to that motion at the Final Approval Hearing, which is described on pages 7-8. You may also view certain settlement documents on the class website at [INSERT HTTP ADDRESS].

2. HOW ARE THE INDIVIDUAL SETTLEMENT PAYMENTS CALCULATED?

Your FLSA Percentage Share is calculated on the basis of the number of weeks of employment as a FLSA Class Member as reflected by Waveland's corporate and business records, not including leaves of absence. The Individual Settlement Payments for the Claimants in the FLSA Class will be calculated by multiplying 60% of the Net Settlement Value by each FLSA Class Member's FLSA Percentage Share. "FLSA Percentage Share" means each FLSA Class Member's Individual Work Weeks divided by the FLSA Class Total Work Weeks.

3. WILL TAXES BE WITHHELD FROM MY SETTLEMENT PAYMENTS?

Your Individual Settlement Payment will include a wage portion (representing unpaid wages), and a non-wage portion (representing penalties and interest). Using each FLSA Class Member's last-reported withholding status, Waveland will deduct the state and federal withholding taxes and other applicable payroll deductions owed as a result of the settlement payment from the wage portion of each member's settlement. The Individual Settlement Payments for the FLSA Class will be allocated as follows: 50% to settlement of wage claims, which will be subject to required payroll tax withholdings; and 50% to settlement of claims for liquidated damages, interest and/or statutory penalties, which will be paid without withholding any amount. The portion allocated to wages shall be reported on an IRS Form W-2, and the portion allocated to liquidated damages, interest and statutory penalties shall be reported on an IRS Form 1099. You are not responsible for the employer's portion of FICA, FUTA, and all other state and federal payroll taxes, which shall be paid by Waveland separate and apart from the Gross Settlement Value.

Other than the withholding and reporting requirements specifically set forth above, California Class Members are solely responsible for all taxes due on payments made pursuant to the settlement. The Settlement Administrator will handle the distributions of these tax-related forms to the California Class Members.

You should consult with your tax advisors concerning the tax consequences of the payments you receive under the Settlement.

4. WHAT AM I GIVING UP IF I STAY IN THE CLASS?

If you choose to participate in the FLSA Class, you will be bound by any judgment entered in this Lawsuit and will not be allowed to sue Waveland for any claims that were alleged or that reasonably could have been alleged based on the facts alleged in the Lawsuit, occurring between June 14, 2015 and [INSERT DATE OF PRELIMINARY APPROVAL]. It also means that you will be bound by the following Release:

“FLSA Class Released Claims” means all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorney’s fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that were alleged or that reasonably could have been alleged based on the facts alleged in the Lawsuit, as amended, against the Released Parties or any of them, for violations of the Fair Labor Standards Act, 29 U.S.C. section 201 *et seq.* and the corresponding Department of Labor Regulations, 29 C.F.R. section 785 *et seq.* and 778 *et seq.*, including, but not limited to, any claims for unpaid wages, economic damages, non-economic damages, liquidated damages, punitive damages, restitution, penalties, other monies, or other relief arising out of, relating to, or in connection with any facts and/or claims pled in the Lawsuit, which are or could be the basis of claims that Defendant failed to provide all wages and overtime wages due, failed to pay the minimum wage and/or engaged in recordkeeping violations, at any time during the FLSA Class Period.

Upon the Payment Obligation and Class Release Date, the FLSA Class Members who submit a timely and valid FLSA Opt in Form will fully release the FLSA Class Released Claims and agree not to sue or otherwise make a claim against any of the Released Parties for the FLSA Class Released Claims. The Individual Settlement Payments shall be paid to FLSA Class Claimants specifically in exchange for the release of the Released Parties from the FLSA Class Released Claims and the covenant not to sue concerning the FLSA Class Released Claims.

FLSA Class Released Claims include any unknown claims that FLSA Class Members do not know or suspect to exist in his or her favor, which if known by him or her, might have affected this Settlement Agreement with Defendant and release of Released Parties.

The term “Released Parties” means Defendant Waveland Services, Inc., its past or present successors, including Waveland, A BrandSafway Company, and predecessors in interest, subsidiaries, affiliates, parents, officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys.

HOW YOU RECEIVE A PAYMENT

In order to receive a payment as a member of the FLSA Class, you must complete and mail the attached opt-in form postmarked no later than [INSERT DATE]. If this Notice was forwarded by the postal service, or if it was otherwise sent to you at an address that is not current, or if you have changed your address, then you should immediately notify the Settlement Administrator in writing or by telephone stating your name and past and current addresses. An FLSA Collective Form has been included with this packet for you to notify the Settlement Administrator of your current address and contact information.

The Settlement Administrator's address is:

[Address]

If you do nothing at all (i.e., you do NOT submit the attached opt-in form postmarked no later than [INSERT DATE]) then you will have chosen to NOT participate in the portion of the Settlement allocated to the FLSA Class and you will NOT receive a check for your Individual Settlement Payment for the FLSA Class portion of the Settlement. Also, you will not be bound by any judgment entered in this Lawsuit to the extent it applies to claims under federal law and you will not have released your claims under federal law against Waveland. If there are unclaimed funds due to FLSA Class Members not timely submitting opt-in forms, those unclaimed funds shall be distributed on an equal basis to the FLSA Class Members who did submit timely opt in forms at the time of the settlement is distributed. For further information, or if you have any questions or concerns about this process, you can speak with Class Counsel in this case identified in the section immediately below.

Any settlement checks that remain uncashed after 90 days will be voided and, if the total amount of such unclaimed funds exceeds \$20,000.00, their amounts will be allocated in a second allocation to participating California Class members who cashed their initial checks. Any second allocation checks not cashed after 90 days will be voided – or any initially unclaimed funds, if the amount is \$20,000.00 or less – will be allocated to the Legal Aid Foundation of Los Angeles (www.lafla.org).

WHO ARE THE ATTORNEYS REPRESENTING THE PLAINTIFF AND FLSA CLASS MEMBERS?

Plaintiff and the FLSA Class Members are represented in this Lawsuit by attorneys at the law firm of STRAUSS & STRAUSS, APC, whose contact information appears below.

Michael A. Strauss (State Bar No. 246718)
mike@strausslawyers.com
Aris E. Karakalos (State Bar No. 240802)
aris@strausslawyers.com
Andrew C. Ellison (State Bar No. 283884)
andrew@strausslawyers.com
STRAUSS & STRAUSS, APC
121 N. Fir St., Suite F
Ventura, California 93001
Telephone: (805) 641.6600 / Facsimile: (805) 641.6607

OBJECTING TO THE SETTLEMENT

1. HOW DO I OBJECT?

If you are an FLSA Class Member and wish to object and tell the Court why you do not like the FLSA Class portion of the Settlement, you may submit a written objection or appear at the Final Approval Hearing to raise your objection. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement. If you submit a written objection, it should identify your name; this case name and number, *Marlin McClure v. Waveland Services, Inc.*, U.S. District Court for the Eastern District of California, Case No. 2:18-cv-01726-KJM-AC; be submitted to the Court either by mailing to the Office of the Clerk, Room 4-200, Robert T. Matsui United States Courthouse, 501 I Street, Sacramento, California 95814, or by filing it with the Court; state with particularity the legal and factual basis for the objection; and be signed by . You cannot ask the Court to order a larger settlement; the Court can only approve or deny the Settlement. Written objections must be filed no later than [INSERT DATE]. If the Court denies approval, no settlement payments will be sent out, and the Lawsuit will continue. If you want, you may appear at the Final Approval Hearing scheduled for [TIME] on [DATE] in Courtroom 3, 15th floor of the United States District Court, Eastern District of California, located at 501 I Street, Suite 4-200 Sacramento, CA 95814, to have your objection heard by the Court. The Court will consider all objections in deciding whether to approve the Settlement. Any Class Member who does not object at or before the Final Approval Hearing will be deemed to have approved the Settlement and to have waived such objections and shall not be able to make any objections (by appeal or otherwise) to the Settlement.

THE COURT'S FINAL APPROVAL HEARING

1. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at [TIME] on [DATE] in Courtroom 3, 15th Floor of the United States District Court, Eastern District of California, located at 501 I Street, Suite 4-200, Sacramento, CA 95814. The Court will consider any objections to the Settlement at this hearing. A written objection is not required for an FLSA Class Member to appear at the hearing. If the Court approves the Settlement, it will enter an order granting final approval of the Settlement. The hearing date may be changed without further notice; however, you can check the Court's PACER site at <https://ecf.caed.uscourts.gov/> to find out if the hearing date has changed.

You are not required to attend the Final Approval Hearing, but you or your lawyer may attend if you so choose. If you are a Claimant and you wish to speak or have your lawyer speak for you, you may do so. Please visit <http://www.caed.uscourts.gov/caednew/> and select the court calendar for Judge Mueller to see whether the Final Approval Hearing will be held on [scheduled date] or has been rescheduled to a new hearing date.

ADDITIONAL INFORMATION

1. CAN WAVELAND RETALIATE AGAINST ME AS A RESULT OF WHAT I DO IN RESPONSE TO THIS NOTICE?

No. If you are a current employee of Waveland, your decision as to whether or not to participate in this Settlement will in no way affect your employment with Waveland. It is illegal for Waveland to take any adverse employment action against you as a result of your decision whether or not to participate in this Settlement.

2. HOW CAN I GET MORE INFORMATION ABOUT THE SETTLEMENT?

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at the address and telephone number listed below, toll free.

[INSERT ADDRESS]

Alternatively, you can contact the attorneys representing the FLSA Class Members at:

Michael A. Strauss (State Bar No. 246718)
mike@strausslawyers.com
Aris E. Karakalos (State Bar No. 240802)
aris@strausslawyers.com
Andrew C. Ellison (State Bar No. 283884)
andrew@strausslawyers.com
STRAUSS & STRAUSS, APC
121 N. Fir St., Suite F
Ventura, California 93001
Telephone: (805) 641.6600 / Facsimile: (805) 641.6607

This Notice only summarizes the Lawsuit, the Settlement and related matters. For more information, you may inspect the Court files at the Office of the Clerk, in Room 4-200 on the 4th Floor of the Robert T. Matsui United States Courthouse, 501 I Street, Sacramento, California 95814, from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Court holidays. You may also view certain settlement documents on the class website at **[INSERT HTTP ADDRESS].**

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

42627966.4

EXHIBIT 6

FLSA OPT-IN FORM

McClure v. Waveland Services, Inc., United States District Court, Eastern District of California, Case No. 2:18-cv-01726-KJM-AC (“Lawsuit”)

SUBMIT THIS FORM POSTMARKED NO LATER THAN [INSERT DATE] TO OPT-IN AND RECEIVE MONEY FROM THE FLSA CLASS PORTION OF THE SETTLEMENT.

I have reviewed the accompanying Notice of FLSA Collective Action Settlement (“Notice”) and understand that I was employed as an hourly employee by Waveland Services, Inc. during all or part of the time from June 14, 2015 to [INSERT DATE]. I understand that I am a potential FLSA Class Member in the Lawsuit. I understand that this settlement is intended to compensate such FLSA Class Members.

By my signature below, I acknowledge that I have received the Notice and hereby consent to join as a party plaintiff in the Lawsuit entitled McClure v. Waveland Services, Inc., Case No. 2:18-cv-01726-KJM-AC, pending in the United States District Court for the Eastern District of California, in order to participate in the settlement regarding Waveland’s alleged violations of the Fair Labor Standards Act (29 U.S.C. § 201, et seq.). I understand that by filing this FLSA Opt-In Form, I will be bound by the judgment of the Court on all issues in the case, whether favorable to me or not. No one has coerced or forced me to opt in; it is my own decision.

Printed Name

Signature

Date (mm/dd/yyyy)

Telephone

Mailing Address (including City, State, and Zip Code)

Last Four Digits of Social Security Number (For Identity Verification Purposes Only)

THIS FORM MUST BE POSTMARKED BY [INSERT DATE] AND SENT TO THE FOLLOWING ADDRESS:

By U.S. Mail:

[ADDRESS]

NOTE THAT YOUR SOCIAL SECURITY NUMBER WILL BE REDACTED BEFORE THIS DOCUMENT IS FILED ON THE PUBLIC DOCKET AND WILL REMAIN PRIVATE.