

SETTLEMENT AGREEMENT

I. Introduction.

This Settlement Agreement (“Agreement”) is hereby entered by and between Defendants Newway Forming, Inc. (the “Company”), Ezio Bortolussi, and Salvatore Giantomaso (collectively, “Defendants”) and the named Plaintiff Domingo Garcia Pacheco (“Plaintiff”), who is acting both individually and in his capacity as the proposed class representative for the proposed settlement class defined herein and in the proposed class action entitled *Domingo Garcia Pacheco v. Newway Forming, Inc. et al.*, King County Superior Court, Case No. 22-2-05545-6 SEA (the “Case”).

II. Class Certification.

Solely for the purposes of this Settlement, Plaintiff and Defendants (hereafter, the “Parties”) agree that this Case should be certified and finally adjudicated as a class action on behalf of the Settlement Class defined herein.

III. Investigations and Due Diligence.

The Parties have conducted substantial formal and informal discovery and investigation of the facts and the law during their respective prosecution and defense of this Case. As part of this review and investigation, the Parties and their counsel have (a) interviewed witnesses; (b) collected and analyzed extensive electronic and paper time records, payroll data, and other information concerning the composition of the Settlement Class and the merits and possible extent of Plaintiff’s claims and Defendants’ defenses; and (c) amply considered and analyzed their respective claims and defenses.

IV. Settlement Negotiations.

The Parties engaged in settlement negotiations in late 2023, eventually entering into a CR2A Agreement/Memorandum of Understanding on or about April 24, 2024. All of the Parties’ settlement negotiations have been conducted in good faith and at arm’s length. Through the Parties’ investigations and communications, the Parties have reached a class action settlement of this Case that they believe to be fair, adequate, and reasonable, and that Plaintiff believes is in the best interest of the proposed Settlement Class based on the financial representations of Defendants and any estate of the Defendants. This Agreement memorializes the terms of the final Settlement agreed to by the Parties as the result of the negotiations just described and is a memorialization of the MOU entered into between the Parties on or about April 24, 2024.

V. Defendants’ Denials of Wrongdoing and Non-Admission of Allegations.

Defendants have denied and continue to deny each of the claims and contentions alleged by Plaintiff on his own behalf and on behalf of any members of the proposed class alleged by Plaintiff in the Case. Defendants have asserted, and continue to assert, defenses and objections to the proposed maintenance of this Case as a class action as if it were to proceed through litigation instead of settlement. Furthermore, Defendants have expressly denied, and continue to deny, any wrongdoing or legal liability arising out of any of the facts or conduct alleged in this Case. Neither the Settlement, this Agreement, or any document referred to or contemplated herein—nor any action taken to carry out this Agreement—is, may be construed as, or may be used as an admission,

concession or indication by or against Defendants of any fault, wrongdoing, or liability whatsoever. Defendants expressly deny any such fault, wrongdoing, or liability. If the Parties had not reached the Settlement, then Defendants would have continued to vigorously defend against Plaintiff's claims, including seeking denial of full or partial class certification and a full defense verdict at trial.

VI. Stipulated Settlement and Dismissal

NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, subject to the approval of the Superior Court, that this Case is hereby being compromised and settled on a class action basis pursuant to the terms and conditions outlined in this Agreement and that, if the Parties' Settlement is finally approved by the Superior Court, this Case shall be fully dismissed on the merits and with prejudice, subject to the following terms and conditions:

1. Definitions.

a. **"Effective Date"** means the date that is five (5) calendar days after when both (1) the Settlement has been finally approved by the Superior Court, and (2) the Superior Court's anticipated order approving the Settlement and dismissing this Case with prejudice (the "Final Judgment") becomes final. For purposes of this subsection, the Superior Court's Final Judgment "becomes final" upon the later of either (a) the expiration of the time for filing an appeal from the Final Judgment or for otherwise seeking appellate review; or (b) if an appeal is timely filed or other appellate review is sought, the date the Mandate or other final affirmance is issued by the appellate court affirming the Final Judgment.

b. **"Settlement"** means the settlement reached by the Parties through the negotiation process described in Paragraph IV above.

c. **"Settlement Administrator"** means CPT Group Class Action Administrators, subject to the Superior Court's approval.

d. **"Settlement Class Period"** means the period from September 16, 2018, through the date of preliminary approval.

e. **"Proposed Class"** or **"Proposed Class Members"** means Plaintiff and all other individuals who were employed by Newway Forming, Inc. in the State of Washington including but not limited to those employed at the 1120 Denny Way Seattle WA 98109, 707 Terry Avenue, Seattle, WA 98104 and 2014 Fairview Avenue, Seattle, WA 98121 construction sites and paid on an hourly basis at any time during the Settlement Class Period.

f. **"Settlement Class"** or **"Settlement Class Members"** means all Proposed Class Members, exclusive of any person who timely opts out of the Settlement pursuant to the procedures set forth below. All persons who timely opt out from the Settlement in conformity with this Agreement shall not be bound by the terms of this Agreement or any Final Judgment entered by the Superior Court, and shall retain the right to pursue (or not pursue) any alleged individual claim(s) against The Company in a separate action.

g. The **"Notice of Settlement"** means the form attached hereto as **Exhibit A**.

h. The “**Initial Mailing Date**” is the date the Settlement Administrator first mails the Notice of Settlement approved by the Superior Court to all Proposed Class Members.

i. The “**Notice Deadline**” is forty-five (45) calendar days after the Initial Mailing Date.

j. “**Class Counsel**” means Damien N. Villarreal and Gregory M. Skidmore at Skidmore & Fomina PLLC and Cindy Heidelberg at Breskin Johnson Townsend, PLLC, subject to the Superior Court’s approval.

k. “**Class Fund**” means the aggregate, gross amount the Parties propose be paid to the Settlement Class as Settlement Awards pursuant to this Settlement. The Class Fund shall be calculated by subtracting the Court-approved Service Award and Attorney’s Fees and Costs Award from the Maximum Settlement Amount. Subject to approval by the Superior Court, the Parties anticipate the aggregate, gross amount paid to the Settlement Class as part of the Settlement of this Case is estimated to be no less than **\$105,666.67**.

l. “**Settlement Awards**” means the amounts the Parties propose be paid to members of the Settlement Class pursuant to this Agreement.

m. “**Service Award**” means the amount the Parties propose be paid to Plaintiff as a service award in recognition of his efforts in prosecuting the Case. Subject to approval by the Superior Court, the amount paid to Plaintiff for his Service Award shall be **\$15,000.00**. Defendants agree not to oppose this Award.

n. “**Settlement Administration Expenses**” means the amount the Parties propose be paid to the Settlement Administrator for the processing of the Settlement. Subject to approval by the Superior Court, the amount paid to the Settlement Administrator for the processing of the Settlement is estimated to be **\$10,000.00**. Defendants have agreed to pay the Settlement Administration Expenses separate and apart from the Maximum Settlement Amount.

o. “**Attorney’s Fees and Costs Award**” means the amounts the Parties propose be paid to Class Counsel as attorney’s fees and costs in connection with their prosecution and settlement of the Case. The proposed award for attorney’s fees is thirty three and one-third percent (33 1/3%) of the Maximum Settlement Amount, or **\$73,333.33**. The proposed award for costs incurred by Class Counsel is **\$26,000.00**. The proposed amounts the Parties propose be paid to Class Counsel as attorney’s fees and costs are subject to approval by the Superior Court. Defendants agree not to oppose this Award.

p. “**Maximum Settlement Amount**” means the maximum amount The Company may be required to pay pursuant to this Settlement, which is the sum of **\$220,000.00 plus Settlement Administration Expenses**, excluding only Newway Forming’s employer-side share of FICA, FUTA, and other similar, mandatory employer-side payroll taxes.

q. “**Released Claims**” means any and all claims, whether known or unknown, that were brought or that could have been brought based on any facts alleged in the Case with respect to (1) alleged missed or non-compliant meal periods; (2) alleged missed or non-compliant rest breaks; (3) alleged unpaid hours worked; (4) alleged failure to pay the required rate pursuant

to contract, and (5) alleged unpaid and/or incorrectly calculated overtime. The Released Claims specifically include, but are not limited to, any and all claims arising out of or relating to any of the foregoing, as well as any attendant claims for unpaid wages, overtime payments, premium payments, interest, exemplary damages, liquidated damages, and attorney's fees and costs arising out of or relating to the same.

r. **“Defendants”** as used in this Agreement, and as released through the Releases described in Section VI.2., below, includes: (1) Defendant Newway Forming, Inc., as well as any of its past, current, or future successors and assigns, together with each of their respective parent companies, subsidiaries, related or affiliated companies, members, shareholders, owners, officers, directors, employees, agents, attorneys, and insurers; (2) Defendant Ezio Bortolussi, as well as his estate; (3) Defendant Salvatore Giantomaso, (4) any other individual or entity who could be jointly or severally liable for any of the claims alleged in the Case or released by this Agreement.

2. Releases.

As of the Effective Date, the Settlement and this Agreement will constitute a full and final settlement, release, and waiver by Plaintiff and all members of the Settlement Class of all Released Claims.

3. Payment by the Company.

The Company agrees to deposit the Maximum Settlement Amount excluding the Settlement Administrator Expenses into a Qualified Settlement Fund (“QSF”) set up by the Settlement Administrator for purposes of processing the Settlement and paying the Service Award, the Attorney’s Fees and Costs Award, and the Settlement Awards. Other than paying the Settlement Administrator Expenses upon invoice or request from the Settlement Administrator, the Company will not be responsible for making any additional payments except as expressly set forth below, whether to the Settlement Class Members, to Plaintiff, to Class Counsel, to the Settlement Administrator, or otherwise (with the exception that the Company agrees to pay its share of FICA, FUTA, and other similar, mandatory employer-side payroll taxes). By funding the Qualified Settlement Fund and paying the Settlement Administrator Expenses, the Company will fully discharge Defendants’ financial obligations under this Agreement and Defendants shall have no further financial obligations under this Agreement, whether to the Settlement Class Members, to Plaintiff, to Class Counsel, to the Settlement Administrator, or otherwise (again with the exception that the Company agrees to pay its share of FICA, FUTA, and other similar, mandatory employer-side payroll taxes).

4. Calculation of Settlement Awards.

a. Subject to approval of the methodology by the Superior Court, the calculations of gross (pre-tax) Settlement Awards for Settlement Class Members will be based on records of hours worked during the Class Period. Defendants will provide a class list to the Settlement Administrator within twenty (20) business days after this Agreement is preliminarily approved by the Superior Court, which includes the most current contact information for each class member, as described in more detail in Section 7(b) below. Plaintiff will provide to the Settlement Administrator within thirty (30) business days after this Agreement is preliminarily approved by the Superior Court the pro-rata Settlement Awards for each Settlement Class Member. Any data

provided to the Settlement Administrator pursuant to this Agreement shall be used solely for the purposes of administering this Settlement and not for any other purpose. The Settlement Administrator shall maintain any data provided pursuant to this Agreement as private and confidential and shall not use or disclose such data to any persons or entities except as required by this Settlement, law or Court order.

b. The Class Fund will be allocated to individual Settlement Class Members pro rata based on hours worked during the Settlement Class Period, with the amounts being calculated by dividing each Settlement Class Member's total hours worked during the Settlement Class Period by the total aggregate hours worked by all Settlement Class Members during the Settlement Class Period and then multiplying the resulting ratio by the portion of the Class Fund allocated to these payments..

c. **Allocation of Settlement Awards Between Wages and Non-Wages.** Thirty-Three Percent (33%) of each Settlement Award will be treated as wages and subject to normal payroll tax withholdings and payments, and these amounts shall be reported to the taxing authorities and the Settlement Class Members on IRS Forms W-2. Sixty-Seven Percent (67%) of each Settlement Award will be treated as non-wages (penalties, enhancements, and prejudgment interest) on which there will be no tax withholding and for which IRS Forms 1099 (marked "Other Income") shall be issued to the taxing authorities and Eligible Settlement Class Members.

d. **Separate Payment of Employer-Side Payroll Taxes.** The Company will separately fund the payment of the required employer share of the payroll taxes associated with the W-2 payments made to Settlement Class Members (including, but not limited to, employer's share of FICA, Medicare, FUTA (if applicable), and any other employer-paid, federal, Washington state, or local requirements) as described in more detail in Section 8(i) below.

e. **Separate Payment for Settlement Administrator Expenses.** The Company will separately pay the Settlement Administrator Expenses upon invoice or request from the Settlement Administrator.

5. Attorney's Fees and Costs Award.

As part of seeking the Superior Court's final approval of this Settlement, Class Counsel will apply to the Superior Court for an Attorney's Fees and Costs Award of no more than thirty three and one-third percent (33 1/3%) of the Maximum Settlement Amount (i.e., **\$73,333.33**), plus up to an additional **\$26,000.00** for actual litigation costs. Defendants will not oppose this Award.

6. Service Award.

Subject to approval by the Superior Court, in addition to a Settlement Award computed as described above, Plaintiff Domingo Garcia Pacheco shall receive a separate Service Award, which monies will be treated as non-wages and on which there will be no payroll tax withholdings and for which an IRS Form 1099-MISC (marked "Other Income") shall be issued to the taxing authorities and Plaintiff. Subject to approval by the Superior Court, the amount paid to Plaintiff as a Service Award shall be **\$15,000**. Defendants will not oppose this Award.

7. Settlement Administration.

a. The Settlement Administrator shall be responsible for mailing the Notice of Settlement to the Proposed Class, tracing undeliverable mailings and emailings, recording and tracking responses to the mailings and emailings to the Proposed Class, tracking and responding to any inquiries made by any member of the Proposed Class, calculating the Settlement Awards, and any other related tasks mutually agreed to by the Parties. The Settlement Administrator shall also be responsible for establishing a Qualified Settlement Fund (“QSF”) pursuant to Section 468B(g) of the Internal Revenue Code for purposes of administering this Settlement, as well as issuing the necessary checks for all Settlement Awards, issuing all required tax documents (such as Forms W-2 and 1099-MISC), performing all related tax reporting to taxing authorities and to the Company, and issuing the Service Award and the Attorney’s Fees and Costs Award.

b. The Settlement Administrator will perform the foregoing duties based on data provided by Class Counsel and the Company, which data shall be presumed to be correct. In addition to the data described in Section VI.4., above, the Company shall, within twenty (20) business days after this Agreement is preliminarily approved by the Superior Court, provide the Settlement Administrator with an Excel spreadsheet containing the following information for each member of the Settlement Class: (i) name; (ii) last known mailing address; (iii) last known primary telephone number (if known and reasonably accessible); (iv) last known primary personal email address (if known and reasonably accessible). All such data shall be treated as private and confidential, and the Settlement Administrator shall not use or disclose any such data to any persons or entities except as required by this Settlement, law or Court order.

c. The Settlement Administrator shall also have the responsibility to determine any Proposed Class Member’s eligibility for a Settlement Award (i.e., to determine whether any Proposed Class Member is a Settlement Class Member). Each Proposed Class Member who does not submit a valid and timely letter requesting exclusion in conformity with this Agreement (“Exclusion Letter”) will automatically be a Settlement Class Member and eligible to receive a Settlement Award. Within five (5) calendar days after the Notice Deadline, the Settlement Administrator shall provide the Company and Class Counsel with (1) an electronic report setting forth the names of all Proposed Class Members who submitted a valid and timely Exclusion Letter; (2) an electronic report setting forth the names of all Proposed Class Members who did not submit a valid and timely Exclusion Letter; (3) copies of all Exclusion Letters returned or received; and (4) copies of all objections returned or received. Defendants and Class Counsel shall be entitled to review the eligibility determinations made by the Settlement Administrator for compliance with the terms of this Agreement. The Settlement Administrator shall retain the originals of all Exclusion Letters returned, along with their envelopes, and objections received. Defendants and Class Counsel shall have seven (7) calendar days after receiving the electronic report and related documentation from the Settlement Administrator to challenge any Exclusion Letter and/or eligibility determination in writing directed to the Settlement Administrator. Within five (5) calendar days after submitting such challenges to the Settlement Administrator, the Parties shall meet and confer in an attempt to resolve any disputes relating to the subject Exclusion Letters and/or eligibility determinations. In the event the Parties are unable to reach resolution on any disputes relating to the subject Exclusion Letters and/or eligibility determinations, the Parties shall submit their respective positions in writing to the Superior Court, which shall make the final decision regarding the subject Exclusion Letters and/or eligibility determinations. Thereafter, the

Settlement Administrator shall provide the final results of its eligibility determinations to Defendants and Class Counsel, which results will include the names of all Settlement Class Members and the names of all individuals who opted out of the Settlement.

8. Notice/Approval of Settlement Class Certification and Settlement Agreement.

As part of this Settlement, the Parties agree to the following procedures for obtaining preliminary Superior Court approval of the Settlement, certifying the Settlement Class, notifying the members of the Proposed Class, obtaining final Superior Court approval of the Settlement, and implementing payment of Settlement Awards to Settlement Class Members:

a. Class Counsel shall file a motion with the Superior Court to obtain preliminary approval of the Settlement in conformity with this Agreement and authorizing the issuance of the Notice of Settlement to members of the Proposed Class within 21 calendar days of the parties signing this Agreement.

b. For purposes of this Settlement, Class Counsel will ask the Superior Court to enter an order preliminarily certifying the Settlement Class, preliminarily approving the Settlement and this Agreement, approving Notice of Settlement to the Proposed Class, and setting a date for a Fairness Hearing to determine whether the Court will grant final approval of the Settlement and this Agreement (the "Preliminary Approval Order"). Class Counsel shall provide Defendants with a draft of the proposed motion for preliminary approval and Preliminary Approval Order for review and comment at least seven (7) calendar days before the motion is filed. Class Counsel agrees to consider in good faith all comments of Defendants on the draft. Defendants will not oppose Plaintiff's motion, so long as the motion for preliminary approval and Preliminary Approval Order are in conformity with this Agreement.

c. Subject to the Superior Court's approval, Notice of the Settlement shall be provided using the following procedures:

(1) Within thirty (30) calendar days of the date the Superior Court grants preliminary approval to the Settlement and issues its Preliminary Approval Order, the Settlement Administrator shall send the Notice of Settlement to all Proposed Class Members by mail and email where email addresses are available.

(2) The Notice of Settlement shall provide that Proposed Class Members who do not opt out (i.e., who wish to become Settlement Class Members) and who wish to object to the Settlement must submit to the Settlement Administrator a written statement objecting to the Settlement. Such written statement must be postmarked or delivered to the Settlement Administrator on or before the Notice Deadline.

(3) The Notice of Settlement shall also provide that Proposed Class Members who wish to exclude themselves (i.e., opt out) from the Settlement must mail an Exclusion Letter to the Settlement Administrator on or before the Notice Deadline. Proposed Class Members who fail to submit a valid and timely Exclusion Letter on or before the Notice Deadline shall be deemed Settlement Class Members and shall be bound by all terms of the Settlement and any Final Judgment entered in this Case if the Settlement is approved by the Superior Court, regardless of whether they have objected to the Settlement.

(4) The Notice of Settlement shall also advise Settlement Class Members that they need do nothing (other than not affirmatively opt out) in order to receive a Settlement Award.

d. The Parties agree that neither they nor their counsel will solicit or otherwise encourage any of the Proposed Class Members to opt out or object to the Settlement or to appeal from the Superior Court's Final Judgment approving the Settlement.

e. Should any Notice of Settlement be returned as undeliverable without a forwarding address, the Settlement Administrator will perform a reasonable "skiptrace" search using the National Change of Address database to obtain an updated address and, if located, shall make a second attempt at mailing the Notice of Settlement. If such Notice of Settlement is again returned as undeliverable, no further attempts at delivery of the Notice of Settlement are required to be made. Notwithstanding the foregoing, the Settlement Administrator or Class Counsel may mail or email a Notice of Settlement and/or Exclusion Form to a Proposed Class Member at an alternative address or email address upon the Proposed Class Member's request for the same.

f. Within the later of twenty one (21) calendar days after the Notice Deadline, or seven (7) calendar days following resolution of challenge as set forth in Section IV.7.c., above, Class Counsel must file with the Superior Court a supplemental memorandum in support of final approval of the Settlement to inform the Court of any Proposed Class Members who have opted out of the settlement, to provide the Court with copies of all written objections received from any Proposed Class member with copies of their envelopes, and to respond to any objections to the settlement.

g. Subject to the Superior Court's availability and direction but no sooner than thirty (30) calendar days after the Notice Deadline, a Fairness Hearing shall be held for the Superior Court to determine whether to grant final approval of the Settlement, including Class Counsel's Attorney's Fees and Costs Award, the Settlement Administration Expenses Award, and the Service Award to the Plaintiff. If the Superior Court finally approves the Settlement, the Parties will promptly and jointly ask the Superior Court to enter a Final Judgment dismissing the Case with prejudice and without an award of attorney's fees, expenses or costs to any Party except as provided herein.

h. After entry of the Final Judgment, and subject to Rule 7.2 of the Washington Rules of Appellate Procedure, the Superior Court shall have continuing jurisdiction solely for the purposes of enforcement of the Settlement Agreement and addressing (a) settlement administration matters, and (b) such post-Final Judgment matters as may be appropriate under Court rules.

i. The Company shall have already initiated a transfer of the Maximum Settlement Amount into the QSF within twenty-one (21) calendar days of signing the MOU and no later than May 14, 2024. The Company also will transfer into the QSF an amount equal to the employer share of the payroll taxes required on the W-2 payments made to Settlement Class Members (including employer's share of FICA, Medicare, FUTA (if applicable), and any other employer-paid, federal, Washington state, or local requirements) as calculated by the Settlement Administrator. Such payment shall be made by the Company within twenty (20) business days after the Settlement Administrator provides its estimate of the employer-side payroll taxes.

Thereafter, if there is any dispute relating to the amount needed for the employer share of required payroll taxes, the Parties and Settlement Administrator shall confer within five (5) business days in an attempt to resolve this dispute. In the event they are unable to reach resolution of any such dispute, the Parties shall submit their respective positions in writing to the Superior Court, which shall make the final decision regarding the amount required for the employer share of payroll taxes. The QSF will hold all funds transferred by the Company pending the issuance of the Settlement Awards to Settlement Class Members.

j. Within three (3) business days after the Effective Date, the Settlement Administrator shall issue and mail checks for the Service Award and the Attorney's Fees and Costs Award to the respective recipients thereof. Within ten (10) business days of the Effective Date, the Settlement Administrator shall issue and mail the Settlement Award checks. Settlement Award checks for each Settlement Class Member shall include an amount for wages and a separate amount for non-wages (penalties, enhancements, and prejudgment interest). The Settlement Administrator shall withhold and pay to the appropriate taxing authority(ies), all federal, Washington state, and local withholding taxes from each amount for wages, and shall issue appropriate IRS Forms W-2 for each amount for wages. The non-wages (penalties, enhancements, and prejudgment interest) amount shall not be subject to withholdings and shall be reported on an IRS Form 1099 (marked "Other Income") issued by the Settlement Administrator. Using the funds transferred into the QSF by the Company for the employer share of the payroll taxes required on the W-2 payments, the Settlement Administrator will also pay all of the required employer share of payroll taxes in connection with issuing the wage checks to Settlement Class Members, including the employer's share of FICA, Medicare, FUTA (if applicable), and any other employer-paid, federal, Washington state, and local requirements.

k. No later than one hundred sixty (160) calendar days after the Settlement Administrator issues the Settlement Award checks, Class Counsel shall file a Satisfaction of Judgment confirming that the payments required by the Final Judgment have been made and that no further actions are needed to comply with the Final Judgment. This shall terminate the Court's jurisdiction over the Case.

l. Should any Settlement Award checks be returned as undeliverable without a forwarding address, the Settlement Administrator will perform a reasonable "skiptrace" search using the National Change of Address database to obtain an updated address and, if located, shall make a second attempt at mailing the Settlement Award Check. The Settlement Administrator shall mail any Settlement Class Member his or her Settlement Award check if he or she contacts the Settlement Administrator and provides a correct mailing address within ninety (90) calendar days after the initial distribution of the Settlement Award checks. If contacted by a Settlement Class member, Defendants shall instruct the member to contact the Settlement Administrator or Class Counsel. No later than one hundred twenty (120) calendar days after the initial distribution of the Settlement Award checks, the Settlement Administrator shall provide both Parties with an accounting indicating which funds have been distributed to Settlement Class Members and which, if any, checks to Settlement Class Members have not been negotiated by that time. At this same time, the Settlement Administrator shall also provide Defendants with copies of all IRS Forms W-2 and IRS Forms 1099 documents issued in connection with the payment of the Settlement Awards, and any other tax documentations reasonably required by Defendants. If any checks to Settlement Class Members have not been negotiated within one hundred twenty (120) calendar days after

distribution, the funds from those checks will be sent by the Settlement Administrator in the corresponding Settlement Class Member's name to the Unclaimed Property Fund for the State of Washington pursuant to the Unclaimed Property Act (RCW 63.29 et seq). Defendants will not receive funds from any uncashed checks.

m. If the Superior Court does not enter an Order preliminarily or finally approving the Settlement, or if the Settlement does not become final for any other reason, this Agreement shall be null and void. In such case, the parties shall proceed in all respects as if this Agreement had not been executed.

9. Miscellaneous Provisions.

a. The Parties agree to stay all further proceedings in this Case, except such proceedings as are necessary to implement and complete this Settlement and/or to implement this Agreement, pending the Fairness Hearing to be conducted by the Superior Court and the Effective Date of the Settlement.

b. This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

c. This Agreement constitutes the entire Agreement among these Parties. No representations, warranties or inducements have been made to any Party concerning this Agreement, other than the representations, warranties and covenants contained and memorialized in this Agreement and the documents it requires (such as the Notice of Settlement and Exclusion Form).

d. Counsel for all Parties warrant and represent that they are expressly authorized by the Parties whom they represent to enter into this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to implement this Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement this Settlement or this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement or this Agreement, then either Party may seek the Superior Court's assistance to resolve such disagreement.

e. This Agreement shall be binding upon, and shall inure to the benefit of, the successors of the Parties hereto, as previously defined.

f. All terms of this Agreement shall be governed by and interpreted according to the laws of the State of Washington.

g. Plaintiff and Defendants believe that this is a fair, reasonable and adequate settlement, and have arrived at this Settlement through arm's-length negotiations, taking into account all relevant factors, present and potential.

h. Class Counsel and/or the Settlement Administrator may create a notice website with information about this Settlement after preliminary approval of this Settlement is

obtained from the Superior Court, which notice website may include a copy of this Agreement and Plaintiff's motion for final approval of the settlement agreement, including Class Counsel's request for attorney's fees, costs, Settlement Administration Expenses, and a Service Award for the named Plaintiff filed with the Superior Court.

i. This Agreement may be executed in counterparts, and each executed counterpart will have the same force and effect as an original instrument as if all Parties to the counterparts had signed the same instrument. Counterpart signature pages to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" (.pdf) or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of that paper document bearing an original signature. Electronic signatures shall have the same force and effect as standard signatures.

IT IS SO AGREED.

**COUNSEL FOR PLAINTIFF
DOMINGO GARCIA PACHECO
AND PROPOSED CLASS
COUNSEL**

BRESKIN JOHNSON TOWNSEND PLLC



Cindy Heidelberg
Counsel for Named Plaintiff and Proposed
Class Counsel

Dated: 06 / 04 / 2024

SKIDMORE FOMINA PLLC

1/5/ Gregory M. Skidmore

**Gregory M. Skidmore
Damien N. Villarreal**
Counsel for Named Plaintiff and Proposed
Class Counsel

Dated: 06 / 04 / 2024

**PLAINTIFF AND PROPOSED CLASS
REPRESENTATIVE**

DOMINGO

Domingo Garcia Pacheco, individually and on
behalf of the Settlement Class

Dated: 06 / 04 / 2024

COUNSEL FOR DEFENDANTS

MORGAN LEWIS & BOCKIUS LLP

DocuSigned by:
Molly D. Terwilliger
MOLLY D. TERWILLIGER
Counsel for Defendants

Dated: June 3, 2024

NEWWAY OPERATING, INC.

DocuSigned by:
Sat Grantomaso
SAT GRANTOMASO
By: _____

Dated: June 3, 2024

SALVATORE GIANTOMASO

DocuSigned by:
Sat Grantomaso
SAT GRANTOMASO

Dated: June 3, 2024

EZIO BORTOLUSSI

DocuSigned by:
Eric Schroter
ERIC SCHROTER
By: Eric Schroter, Executor

Dated: June 3, 2024

EXHIBIT A
NOTICE OF
SETTLEMENT

SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

Domingo Garcia Pacheco v. Newway Forming, Inc., et al.
King County Superior Court, Case No. 22-2-05545-6 SEA

— NOTICE OF SETTLEMENT —

A court authorized this notice. This is not a solicitation from a lawyer. This is not a lawsuit against you and you are not being sued. However, your legal rights are affected whether you act or not. Please read this notice carefully.

TO: All persons who, at any time between September 16, 2018, and [PRELIMINARY APPROVAL], were employed by Newway Forming, Inc., and worked on an hourly basis in the State of Washington at various construction sites.

- A former employee brought claims against Newway Forming, Inc. (“The Company”) and its owner/operators Ezio Bortolussi and Salvatore Giantomaso (collectively, “Defendants”) alleging that the Company: (a) failed to provide compliant meal periods and rest breaks under Washington law; (b) failed to pay for all hours worked; (c) failed to pay for hours worked at the appropriate rate; and (d) failed to pay or improperly calculated overtime. Defendants strongly deny these claims. The parties have reached a proposed Class Action Settlement.
- Defendants strongly deny any fault, wrongdoing, or liability. If the Parties had not reached a Settlement, Defendants would have continued to vigorously defend against Plaintiff’s claims, including seeking a denial of class certification and a full defense verdict at trial. Defendants agreed to this Settlement to avoid the risk, burden, and expense of further litigation, and as a means of making its employees whole for even any arguable claims relating to the lawsuit.
- The Class Action Settlement includes a total maximum settlement payment by the Company of \$220,000.00.
- To qualify for a share of this payment: (A) you must have been employed by the Company and worked as an hourly employee in the State of Washington between September 16, 2018, and [PRELIMINARY APPROVAL] (the “Settlement Class Period”); and (B) you must not exclude yourself from the Class Action Settlement in the manner outlined below.
- **If you were employed by the Company and worked as an hourly employee in the State of Washington between September 16, 2018, and [PRELIMINARY APPROVAL], you do not have to do anything to be eligible to receive a share of the settlement payment.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	You will be eligible to get a payment for your share of the Class Action Settlement. (You may need to provide the Settlement Administrator any updated contact information to ensure you receive a payment). You will give up rights relating to the legal claims in this Case.

ASK TO BE EXCLUDED	Get no payment. This is the only option that allows you to ever be a part of any other lawsuit against the Company with respect to the legal claims in this Case.
OBJECT	Write to the Court if you do not like the settlement and explain why. If the Settlement is approved, you will still receive a payment and you will give up rights relating to the legal claims in this Case.
GO TO A HEARING	Ask to speak in Court about the fairness of the Class Action Settlement. If the Settlement is approved, you will still receive a payment and you will give up rights relating to the legal claims in this Case.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this Case still has to decide whether to finally approve the Settlement. If the Court approves the Settlement, payments will be made after any appeals are resolved. Please be patient.

BASIC INFORMATION

1. Why did I get this Notice?

The Company's records show that you were employed by the Company and worked as an hourly employee between September 16, 2018 and [PRELIMINARY APPROVAL]. The Court has allowed this Notice to be sent to you to inform you about a proposed settlement of a class action lawsuit, and about your options, before the Court decides whether to finally approve the Settlement. If the Court approves the Settlement, and after any appeals are resolved, payments will be made to Settlement Class Members who do not affirmatively request to be excluded from the Settlement.

This Notice explains the Case, the Class Action Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

2. What is the Case about?

The Plaintiff, former employee Domingo Garcia Pacheco, claims that the Company violated Washington State wage and hour laws by: (a) failing to provide compliant meal periods and rest breaks under Washington law; (b) failing to pay for all hours worked; (c) failing to pay for hours worked at the appropriate rate; and (d) failing to pay or improperly calculated overtime. Defendants strongly deny these claims.

The Honorable Jason Holloway, of the Superior Court for the State of Washington in and for King County, is overseeing this Class Action. The lawsuit is known as *Domingo Garcia Pacheco v. Newway Forming, Inc., et al.*, King County Superior Court Civil Case No. 22-2-05545-6 SEA (the "Case").

3. What is a class action and who is involved?

In a class action lawsuit, one or more people called a "Class Representative" sues on behalf of other people whom they believe have similar claims. The people together are a "Class" or "Class

Members.” The employee who sued, and who represents the Class, is called the plaintiff (in this case, Plaintiff Domingo Garcia Pacheco)

The person or people the plaintiff sues is/are called the defendant(s) (in this case, Defendants Newway Forming, Inc., Ezio Bortolussi, and Salvatore Giantomaso). In a class action, one court resolves the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

4. Why is there a Settlement?

The Court did not decide in favor of the Plaintiff or Defendants. Instead, both sides agreed to a Settlement. This allows the parties to avoid the cost of a trial, and the people affected will be entitled to compensation. The Class Representative and his attorneys think the Settlement is best for everyone in the Class.

WHO IS IN THE SETTLEMENT

5. How do I know whether I am part of the Settlement?

As part of the Settlement of the Case, the King County Superior Court has decided that everyone who fits the following description is a Class Member:

All individuals who were employed by Newway Forming, Inc. in the State of Washington including but not limited to those employed at the 1120 Denny Way Seattle WA 98109, 707 Terry Avenue, Seattle, WA 98104 and 2014 Fairview Avenue, Seattle, WA 98121 construction sites and paid on an hourly basis at any time during the Settlement Class Period (i.e. September 16, 2018 to [Preliminary Approval]).

If it is approved, the Settlement will cover all Settlement Class Members who have not timely and affirmatively excluded themselves from the Case. To be a part of and receive any money pursuant to the Settlement, Settlement Class Members need do nothing (other than refrain from affirmatively opting out of the Settlement).

THE TERMS OF THE SETTLEMENT

6. What claims are covered by the Settlement?

The Settlement will resolve all of the claims Settlement Class Members could have brought against the Company during the Settlement Class Period regarding: (A) alleged missed or non-compliant meal periods; (B) alleged missed or non-compliant rest breaks; (C) alleged unpaid hours worked; (D) alleged improper rate of pay; and (E) alleged unpaid and/or incorrectly calculated overtime. (collectively, the “Released Claims”). The Released Claims include any and all claims, whether known or unknown, that were brought or that could have been brought based on any facts alleged in the Case with respect to the foregoing allegations, as well as any attendant claims for unpaid wages, overtime payments, premium payments, interest, exemplary damages, liquidated damages, and attorney's fees and costs arising out of or relating to the same.

7. What are the basic terms of the Settlement?

Subject to Court approval, the essential terms of the Settlement are as follows:

The Company will pay a total of \$220,000 plus Settlement Administration Expenses as part of the Settlement, apportioned as follows:

- **Class Fund:** The Company will pay \$105,666.67, which will be available for the payment of Settlement Awards to Settlement Class Members who do not timely opt out of this Settlement.
- **Service Award:** The Company will pay up to \$15,000.00 to Plaintiff and Class Representative Domingo Garcia Pacheco as a service award in recognition of his efforts in prosecuting the Case.
- **Settlement Administration Expenses Award:** The Company will pay up to \$10,000.00 to the Settlement Administrator for the processing of the Settlement, including the expenses of providing notice of the Settlement to Settlement Class Members, handling the claims administration process, processing payments to Settlement Class Members, and handling tax reporting requirements. This amount is in addition to the \$220,000 payment referenced above.
- **Attorney's Fees and Costs Award:** The Company will pay up to \$73,333.33 to Plaintiff's attorneys for the attorneys' fees award and up to \$26,000 for the actual litigation costs they have incurred and will incur through final judgment in representing Plaintiff and the Settlement Class.

Monetary Relief: The amount available to the Settlement Class is intended to compensate Settlement Class Members for the wages and other compensation they allegedly lost and damages they are allegedly owed as a result of the practices alleged in the Case.

Distribution of Settlement Fund: Each Settlement Class Member who does not submit a valid and timely request for exclusion will automatically receive a settlement payment. Each Settlement Class Member who does not request exclusion shall receive a minimum settlement payment of \$500.00. The remaining monies from the \$105,666.67 class fund will be allocated to individual Settlement Class Members on a pro rata basis, based on the wages paid during the Settlement Class Period, with the amounts being calculated by dividing each Settlement Class Member's total wages during the Settlement Class Period by the total aggregate wages earned by all Settlement Class Members during the Settlement Class Period and then multiplying the resulting ratio by the portion of the class fund allocated to these payments. Checks will be mailed to Settlement Class Members by the Settlement Administrator. If any checks have not been negotiated within one hundred twenty (120) calendar days after distribution, the funds from those checks will be sent in the corresponding Settlement Class Member's name to the Unclaimed Property Fund for the State of Washington pursuant to the Unclaimed Property Act (RCW 63.29 et seq). Defendants will not receive funds from any uncashed checks.

Tax Treatment of Settlement Awards: Thirty-Three Percent (33%) of each Settlement Class Member's settlement award will be treated as wages and subject to normal tax withholding and shall be reported to the taxing authorities and the Settlement Class Member on an IRS Form W-2. Sixty-Seven (67%) of each Settlement Class Member's settlement award will be treated as non-wages (a combination of penalties, enhancements, and prejudgment interest) on which there will be no tax withholding and for which an IRS Form 1099-MISC (marked "Other Income") shall be issued to the taxing authorities and the Settlement Class Member. In addition to the monies it is

contributing to the Settlement Fund described above, the Company is also paying all required employer-paid taxes incurred as part of the Settlement to the Settlement Administrator. The Company's payment of these employer-paid taxes will not decrease the funds available to Settlement Class Members.

Release of Claims: Upon final approval by the Court, the Settlement Class and each Settlement Class Member who has not submitted a valid and timely written request to be excluded from the Settlement will irrevocably release all of the Released Claims against the Company relating to the period from September 16, 2018, to [PRELIMINARY APPROVAL]. This Release specifically includes any claims arising out of or relating to (1) any alleged missed, interrupted, shortened, untimely, unpaid, and/or non-compliant rest breaks and/or meal periods, any alleged unpaid hours worked, any hours paid at the wrong rate, and any alleged unpaid or improperly calculated overtime; and (2) any attendant claims for unpaid wages, overtime payments, premium payments, interest, exemplary damages, liquidated damages, and attorney's fees and costs arising out of or relating to any of the foregoing. This Release requires you to waive and precludes you from bringing any Released Claims against: (a) Defendant Newway Forming, Inc., as well as any of its past, current, or future successors and assigns, together with each of their respective parent companies, subsidiaries, related or affiliated companies, members, shareholders, owners, officers, directors, employees, agents, attorneys, and insurers; (b) Defendant Ezio Bortolussi, as well as his estate; (c) Defendant Salvatore Giantomaso, ; and (d) any other individual or entity who could be jointly or severally liable for any of the claims alleged in the Case or released by this Agreement.

Dismissal of Action: Upon final approval, the Court will enter a judgment of dismissal of the Case with prejudice, but shall retain jurisdiction to enforce the terms of the settlement.

HOW YOU CAN GET PAYMENT

8. How can I get a payment?

To get a payment, you need do nothing. As long as you do not submit a written request to be excluded from the Settlement, you will be a Settlement Class Member and will be entitled to payment.

9. When would I get my payment?

The Court will hold a hearing on [HEARING DATE] to decide whether to finally approve the settlement. If the King County Superior Court approves the settlement, the parties will then have to wait to see whether there is an appeal. This will take at least thirty (30) calendar days and, if there is an appeal, can take up to a year of more to resolve. In the event of an appeal, information regarding the appeal's progress will be made available at [WEBSITE]. If there is no appeal, we expect payments will go out soon after the Court's final approval of the Settlement. Please be patient.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in this case?

The Court has decided that lawyers from the law firms of Skidmore & Fomina PLLC and Breskin Johnson Townsend PLLC are qualified to represent you and all Settlement Class Members. These

lawyers are called “Class Counsel.” You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

11. How will the lawyers be paid?

As indicated above, Class Counsel will seek payment of their attorney’s fees in the amount of \$73,333.33, and their litigation costs in an amount of up to \$26,000.00, each of which must be approved by the Court as part of the final approval of this Settlement. Class Counsel have been working on this case since approximately August 2022, and have not received any fees or reimbursements for the costs of the lawsuit.

EXCLUDING YOURSELF FROM THE SETTLEMENT

12. How do I exclude myself from the Settlement?

If you fit the definition of a Settlement Class Member and want to exclude yourself from the Settlement, you must request exclusion in writing by [NOTICE DEADLINE]. You may be excluded as a member of the class by submitting a written request stating, “I request that I be excluded from the Class in the case of Domingo Garcia Pacheco v. Newway Forming, Inc., et al.” The request must include your name, mailing address, and signature. You must mail a copy of the letter to the Settlement Administrator at the following address postmarked no later than [NOTICE DEADLINE]:

If you exclude yourself from the Settlement (i.e., opt out), you will not receive any payment from the Settlement. You will also not be entitled to object to the Settlement. If you exclude yourself, you will not be bound by the terms of the Settlement, including the Release described in Sections 6 and 7, above. This means you will retain the right at your own expense to pursue (or not pursue) any claims you may have against The Company.

OBJECTING TO THE SETTLEMENT

13. If I don’t like the Settlement, how do I tell the Court?

If you are a Settlement Class Member, have not excluded yourself from the Settlement, and do not like the Settlement or the fee request, you can object. You must do so in writing and you must state the reasons why you think the Court should not approve the Settlement. If you object, be sure to include your name, mailing address, and telephone number, the name of the Case (*Domingo Garcia Pacheco v. Newway Forming, Inc., et al., King County Superior Court, Civil Case No. 22-2-05545-6 SEA*), the reasons you object to the Settlement, and a signature. You must mail a copy of the objection to the following address **postmarked no later than [OBJECTION DEADLINE]**:

THE COURT'S FAIRNESS HEARING

14. When and where will the Court decide to approve the Settlement?

The Court will hold a Fairness Hearing at [HEARING TIME] on [HEARING DATE], at the King County Superior Court, Department 44, 516 3rd Avenue, Seattle, WA 98104.

If there are objections, the Court will consider them. Judge Jason Holloway will listen to people who have asked to speak at the hearing (*see* Section 16). After the hearing, the Court will decide whether to finally approve the Settlement, including Class Counsel's request for attorney's fees, costs, Settlement Administration Expenses, and the Service Award for the named Plaintiff. We do not know how long that decision will take.

15. Do I have to come to the hearing?

No. Class Counsel will answer any questions Judge Jason Holloway may have, but you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but that is not necessary.

16. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying it is your "Notice of Intention to Appear in *Domingo Garcia Pacheco v. Newway Forming, Inc., et al., King County Superior Court Civil Case No. 22-2-05545-6 SEA.*" Be sure to include your name, address, phone number, and your signature. Your Notice of Intention to Appear must be **postmarked no later than [NOTICE DEADLINE]**, and be sent to the Court, Class Counsel, and Defense Counsel at the addresses set forth below:

COURT	CLASS COUNSEL	DEFENSE COUNSEL
Hon. Jason Holloway King County Superior Court Department 44 516 3rd Avenue Seattle, WA 98104	Gregory M. Skidmore Damien N. Villarreal Skidmore Fomina PLLC 14205 SE 36 th Street, Suite 100 Bellevue, WA 98006 Cindy Heidelberg Breskin Johnson Townsend PLLC 1000 Second Avenue, Suite 3670 Seattle, WA 98104	Molly A. Terwilliger Patricia A. Eakes Morgan Lewis & Bockius LLP 1301 Second Avenue, Suite 3000 Seattle, WA 98101

IF YOU DO NOTHING

17. What happens if I do nothing at all?

If you do nothing—that is, if you do not mail or deliver a timely written request to exclude yourself from the Settlement—you will be part of the Settlement Class and will be entitled to a share of the

Settlement. You will also be bound by the terms of the Settlement, including the Release described in Sections 6 and 7, above.

GETTING MORE INFORMATION

18. Are there more details about the Settlement?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by visiting the website [**WEBSITE**], which has a copy of the Settlement Agreement posted. Plaintiff's motion for final approval of the settlement agreement, including Class Counsel's request for attorney's fees, costs, Settlement Administration Expenses, and a Service Award for the named Plaintiff will be available for you to review on [**DATE**] at [**WEBSITE URL**].

Title	Final Settlement Agreement (Defense signed).PDF
File name	Final%20Settlemen...e%20signed%29.PDF
Document ID	d261e3083f9d738e9bd07ff0fb66ab7b20a025cc
Audit trail date format	MM / DD / YYYY
Status	● Signed

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Document History



SENT

06 / 04 / 2024

19:40:42 UTC

Sent for signature to Domingo Garcia (domingo.garcia2324@gmail.com) and Cindy Heidelberg (cheidelberg@bjtlegal.com) from gskidmore@skidmorefomina.com
IP: 73.225.94.32



VIEWED

06 / 04 / 2024

19:46:58 UTC

Viewed by Domingo Garcia (domingo.garcia2324@gmail.com)
IP: 174.215.121.254



SIGNED

06 / 04 / 2024

19:51:36 UTC

Signed by Domingo Garcia (domingo.garcia2324@gmail.com)
IP: 174.215.121.254



VIEWED

06 / 05 / 2024

01:58:28 UTC

Viewed by Cindy Heidelberg (cheidelberg@bjtlegal.com)
IP: 75.172.7.194



SIGNED

06 / 05 / 2024

01:58:42 UTC

Signed by Cindy Heidelberg (cheidelberg@bjtlegal.com)
IP: 75.172.7.194



COMPLETED

06 / 05 / 2024

01:58:42 UTC

The document has been completed.