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15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF ORANGE**

17 ANDRES ARCOS, individually and on behalf
18 of others similarly situated,

19 Plaintiff,

20 vs.

21 AXIOM MATERIALS, INC., a California
22 corporation; and DOES 1 through 50,
23 inclusive,

24 Defendants.

25 Lead Case No.: 30-2020-01144794-CU-OE-
26 CXC

27 (Consolidated Case Nos: 30-2020-01140945-
28 CU-OE-CXC; 30-2020-01155811-CU-OE-
CXC; and 30-2020-01168863-CU-OE-CXC)

*Assigned for all purposes to the Hon. Peter
Wilson, Dept. CX102*

**AMENDMENT TO CLASS ACTION
SETTLEMENT AGREEMENT**

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1 **AMENDMENT TO CLASS ACTION SETTLEMENT AGREEMENT**

2 Pursuant to Paragraph **X, B**, which states that this “Settlement Agreement may only be
3 modified or changed by a writing signed by the Parties or by their counsel,” Plaintiffs Steve
4 Valenzuela (“Valenzuela”), William Zelaya (“Zelaya”), Andres Arcos (“Arcos”) (collectively
5 “Plaintiffs”) and Defendant Axiom Materials, Inc. (“Defendant”) (Plaintiffs and Defendant
6 collectively the “Parties”), through their counsel of record, hereby amend the Class Action
7 Settlement Agreement as follows:

8 **Amendment No. 1**

9 Class Action Settlement Agreement, page 7, lines 15 to 28: Section II(BB), concerning the
10 definition of “Released Claims,” currently reads as follows: As determined by the Court, “Released
11 Claims” means any and all claims, liens, debts, penalties, liabilities, demands, obligations,
12 guarantees, costs, expenses, attorneys’ fees, damages, interest, equitable relief, or causes of action,
13 of any nature whatsoever, that either were or could have been asserted or sought either under state
14 or Federal law based on or arising from the facts alleged in the Complaints, (including, without
15 limitation, (1) failure to pay wages, including but not limited to overtime wages, (2) failure to
16 provide compliant meal and rest breaks and failure to pay premiums for alleged meal and rest
17 break violations, (3) inaccurate wage statements, (4) failure to pay unpaid wages at time of
18 separation, including accrued but unpaid vacation or paid time off, as well as any associated
19 waiting-time penalties, (5) violations of Business & Professions Code §§ 17200 et seq., (6)
20 statutory penalties recoverable under or pursuant to PAGA, and (7) all damages, penalties, attorney
21 fees, costs, interest, and other amounts recoverable pursuant to (1) through (6), above, to the extent
22 permissible under the California Labor Code, California Industrial Welfare Commission Order,
23 and the California Business and Professions Code.

24 Amendment to Class Action Settlement Agreement: The Parties amend the definition of
25 “Released Claims” contained in Section II(BB) to include both “Released Class Claims” and
26 “Released PAGA Claims,” which are defined as follows:

27 “Released Class Claims” means and includes all claims, rights, demands, liabilities, and
28 causes of action that either were or could have been asserted or sought under state or Federal law

1 based on or arising from the facts alleged in the operative Complaints during the Class Period
2 including, but not limited to, the following claims: (1) failure to pay wages, including but not
3 limited to overtime wages, (2) failure to provide compliant meal and rest breaks and failure to pay
4 premiums for alleged meal and rest break violations, (3) inaccurate wage statements, (4) failure to
5 pay unpaid wages at time of separation, including accrued but unpaid vacation or paid time off, as
6 well as any associated waiting-time penalties, (5) violations of Business & Professions Code §§
7 17200 et seq., (6) statutory penalties recoverable under or pursuant to PAGA, and (7) all damages,
8 penalties, attorney fees, costs, interest, and other amounts recoverable pursuant to (1) through (6),
9 above, to the extent permissible under the California Labor Code, California Industrial Welfare
10 Commission Order, and the California Business and Professions Code.

11 “Released PAGA Claims” means any and all claims for civil penalties under the California
12 Labor Code Private Attorneys General Act of 2004 alleged or that could have been alleged based
13 on the facts asserted in the operative Complaints including, but not limited to civil penalties arising
14 from allegation regarding Defendant’s alleged: (1) failure to pay wages, including but not limited
15 to overtime wages, (2) failure to provide compliant meal and rest breaks and failure to pay
16 premiums for alleged meal and rest break violations, (3) inaccurate wage statements, (4) failure to
17 pay unpaid wages at time of separation, including accrued but unpaid vacation or paid time off, as
18 well as any associated waiting-time penalties, and (5) violations of Business & Professions Code
19 §§ 17200 et seq., (6) all damages, penalties, attorney fees, costs, interest, and other amounts
20 recoverable pursuant to (1) through (6), above, to the extent permissible under the California Labor
21 Code, California Industrial Welfare Commission Order, and the California Business and
22 Professions Code. The Released PAGA Claims also includes a release from the State of California
23 (to the extent Plaintiff is permitted to provide such a release for the State of California for the
24 PAGA period) of all PAGA claims alleged in the operative Complaints during the PAGA Period.

25 **Amendment No. 2**


26 Class Action Settlement Agreement, page 18, lines 25 to 27: The last sentence of Section
27 IV(L)(4) of the Settlement Agreement currently reads as follows: “However, the Settlement
28 Administrator shall have the sole discretion to determine any such disputes.”

1 Court may enter judgment pursuant to the terms of this Settlement and the Court will retain
2 jurisdiction over the Parties to enforce the Settlement until performance in full of the terms of the
3 Settlement, and to adjudicate any claimed breaches of this Agreement. The Court shall award
4 reasonable attorneys' fees and costs to the prevailing party in any motion or action taken and based
5 on an alleged violation of any material term of the Settlement Agreement."

6 Amendment Class Action Settlement Agreement: The Parties amend Section X(H) to read
7 as follows: "The Parties agree that upon the Settlement of this case, the Court may enter judgment
8 pursuant to the terms of this Settlement and the Court will retain jurisdiction over the Parties to
9 enforce the Settlement until performance in full of the terms of the Settlement, pursuant to
10 California Code of Civil Procedure section 664.6, and to adjudicate any claimed breaches of this
11 Agreement. The Court shall award reasonable attorneys' fees and costs to the prevailing party in
12 any motion or action taken and based on an alleged violation of any material term of the Settlement
13 Agreement."


14 Dated: 7/25/2022

PROTECTION LAW GROUP, LLP

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18 Heather Davis
19 Amir Nayebdadash
20 Carlos Jimenez
21 *Attorneys for Plaintiff*
22 STEVE VALENZUELA

23 Dated: July 25, 2022

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26 Jonathan Melmed
27 Laura Supanich
28 *Attorneys for Plaintiff*
WILLIAM ZELAYA


1 Dated: _____

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4 Kashif Haque
5 Samuel A. Wong
6 Jessica L. Campbell,
7 Fawn F. Bekam
8 *Attorneys for Plaintiff*
9 **ANDRES ARCOS**

10 Dated: July 26, 2022

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13 Matthew D. Disbrow
14 Matthew E. Radler
15 *Attorneys for Defendant*
16 **AXION MATERIALS, INC.**

1 Dated: 7/25/2022

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15 **AXION MATERIALS, INC.**

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12 Attorneys for Plaintiff
13 STEVE VALENZUELA

14 *[Additional counsel listed on next page]*

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF ORANGE**

17 ANDRES ARCOS, individually and on behalf
18 of others similarly situated,

19 Plaintiff,

20 vs.

21 AXIOM MATERIALS, INC., a California
22 corporation; and DOES 1 through 50,
23 inclusive,

24 Defendants.

25 Lead Case No.: 30-2020-01144794-CU-OE-
26 CXC

27 (Consolidated Case Nos: 30-2020-01140945-
28 CU-OE-CXC; 30-2020-01155811-CU-OE-
CXC; and 30-2020-01168863-CU-OE-CXC)

*Assigned for all purposes to the Hon. Peter
Wilson, Dept. CX102*

**SECOND AMENDMENT TO CLASS
ACTION SETTLEMENT AGREEMENT**

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1 **SECOND AMENDMENT TO CLASS ACTION SETTLEMENT AGREEMENT**

2 Pursuant to Paragraph **X, B**, which states that this “Settlement Agreement may only be
3 modified or changed by a writing signed by the Parties or by their counsel,” Plaintiffs Steve
4 Valenzuela (“Valenzuela”), William Zelaya (“Zelaya”), Andres Arcos (“Arcos”) (collectively
5 “Plaintiffs”) and Defendant Axiom Materials, Inc. (“Defendant”) (Plaintiffs and Defendant
6 collectively the “Parties”), through their counsel of record, hereby amend the Class Action
7 Settlement Agreement as follows:

8 **Amendment No. 5**

9 Class Action Settlement Agreement, page 19, lines 1 to 5: Section IV(L)(5), concerning
10 the “Allocation of Settlement Payments,” currently reads as follows: Payment to each Settlement
11 Class Member shall be allocated as follows: twenty (20) percent shall be attributed to wages, to be
12 reported on a W-2 form; and forty (40) percent as penalties; and forty (40) percent as interest. The
13 amount of interest and penalties will be reported on an IRS Form 1099.

14 Second Amendment to Class Action Settlement Agreement: The Parties amend the
15 “Allocation of Settlement Payments,” contained in Section IV(L)(5) as follows:

16 Payment to each Class Member shall be allocated as follows: twenty (20) percent shall be
17 attributed to wages, to be reported on a W-2 form; and forty (40) percent as penalties; and forty
18 (40) percent as interest. The amount of interest and penalties will be reported on an IRS Form
19 1099. (“Individual Class Payment”).

20 Payment to each PAGA Member shall be allocated as follows: one hundred (100) percent
21 shall be attributed to penalties. The amount of penalties will be reported on an IRS Form 1099.
22 (“Individual PAGA Payment”).

23 Dated: August 11, 2022

24 **PROTECTION LAW GROUP, LLP**

25 

26 Heather Davis
27 Amir Nayebdadash
28 Carlos Jimenez
Attorneys for Plaintiff
STEVE VALENZUELA

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Dated: _____

MELMED LAW GROUP, P.C.

Jonathan Melmed
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Dated: _____

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Kashif Haque
Samuel A. Wong
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Dated: 8/10/2022 _____

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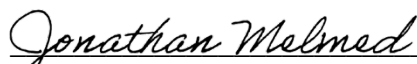


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AXION MATERIALS, INC.

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Dated: 8/8/2022


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Jonathan Melmed
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WILLIAM ZELAYA

Dated: 8/9/2022

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