

## CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

I. Introduction. This Settlement Agreement (“Agreement” or “Settlement”) is hereby entered by and between Defendant Key Mechanical Co. of Washington (“Defendant”) and Audra Stafford (“Plaintiff”), who is acting both individually and in her capacity as class representatives in the case entitled *Stafford v. Key Mechanical Co. of Washington.*, Case No. 20-2-08973-2, filed in Pierce County Superior Court on December 23, 2020 (the “Lawsuit”).

II. Recitals.

A. Certification of Settlement Class. Plaintiff and Defendant (hereafter, the “Parties”) have stipulated that this Lawsuit should be certified as a class action for settlement purposes. Settlement Class Members are defined as: all non-managerial HVAC-R technicians based in Washington who, between December 23, 2017 and January 25, 2022, (1) performed work for Defendant on service calls; or (2) performed work for Defendant on construction projects in Washington and worked more than forty hours in a week without receiving overtime pay. The Settlement Subclass is defined as: all Settlement Class Members who performed work on service calls between December 23, 2017 and January 25, 2022.

B. Investigations and Due Diligence. The Parties have engaged in 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: (1) interviewed Class Members; (2) collected, reviewed, and analyzed extensive documents, timekeeping records, payroll data, GPS data, and other information concerning the composition of the Settlement Class, the merits of Plaintiff’s claims and Defendant’s defenses, and the potential damages; and (3) amply considered and analyzed their respective claims or defenses. The Parties have engaged in litigation in Pierce County Superior Court and the United States District Court for the Western District of Washington. The Parties reach this settlement after extensive investigation, discovery, litigation, and negotiation.

III. Settlement Negotiations. The Parties engaged in mediation before experienced mediator Teresa Wakeen (the “Mediator”) on January 25, 2022. In connection with the settlement negotiations at mediation, the Parties ultimately executed a CR 2A agreement outlining the terms of the Settlement, dated January 25, 2022. All of the Parties’ settlement negotiations have been conducted in good faith and at arm’s length. Through the Parties’ mediation conference, 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 interests of the proposed Settlement Class and Settlement Subclass. This Agreement memorializes the terms of the final Settlement agreed to by the Parties. Once this Agreement is executed by all Parties, this Agreement shall supersede the CR 2A Agreement.

IV. Agreements.

NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, subject to the approval of the Superior Court, that all claims asserted in this Lawsuit are hereby 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 approved by the Superior Court, then Plaintiff's claims shall be fully dismissed on the merits and with prejudice, subject to the following terms and conditions.

A. No Admission of Fault. Defendant expressly denies any wrongdoing or violation of state law or the Labor Management Agreement. The Agreement and Settlement are not a concession or admission, and shall not be used against Defendant as an admission with respect to any claim of any fault, concession, or omission by Defendant.

B. Definitions.

1. "Settlement" means the settlement reached by the Parties through the negotiation process described in Section III, above, as set forth in this Agreement.

2. "Settlement Class" or "Settlement Class Members" means all non-managerial HVAC-R technicians based in Washington who, between December 23, 2017 and January 25, 2022, (1) performed work for Defendant on service calls; or (2) performed work for Defendant on construction projects in Washington and worked more than forty hours in any week without receiving overtime premium pay.

3. "Settlement Subclass" or "Settlement Subclass Members" means all Settlement Class Members who performed work for Defendant on service calls between December 23, 2017 and January 25, 2022.

4. "Qualified Class Members" refers to those Settlement Class Members who do not opt out of the Settlement.

5. "Settlement Class Period" means the period from December 23, 2017 through January 25, 2022.

6. "Class Counsel" means Marc Cote and Anne Silver of Frank Freed Subit & Thomas LLP and James Pizl of Entente Law PLLC.

7. "Notice" or "Notice of Settlement" means the notice of this Settlement attached hereto as Exhibit 1 and which the parties intend to be mailed to Settlement Class Members following the Superior Court's entry of an order granting preliminary approval of the Settlement.

8. "Settlement Administrator" means CPT Group, whose appointment is subject to the Superior Court's approval.

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

10. The “Objection/Opt-Out Deadline” is thirty (30) days after the Initial Mailing Date.

11. “Valid Exclusion Request” means a request by a Settlement Class Member to opt out of the Settlement that meets the following criteria: (i) is in writing; (ii) states that individual’s current address; (iii) contains the following statement: “I request that I be excluded from the Settlement Class in the case of *Stafford v. Key Mechanical Co. of Washington*”; (iv) is signed; and (v) is mailed to the Settlement Administrator at the address provided in the Notice and postmarked within thirty (30) calendar days after the Initial Mailing Date.

12. “Objection” means a written objection to the Settlement by a Qualified Class Member that is both filed with the Superior Court and mailed to and received by counsel for all Parties, along with any supporting documentation that the person wishes the Court to consider, no later than thirty (30) days after the Initial Mailing Date.

13. “Effective Date” means three days after the date of the Superior Court’s entry of the Final Approval Order, if there are no Objections. If there are Objections and a timely appeal is made to the Final Approval Order, the Effective Date shall be the later of either (1) 31 days following the Superior Court’s entry of the Final Approval Order, or (2) if a timely appeal is made, the date of the final resolution of that appeal and any subsequent appeals, resulting in final judicial approval of the Settlement.

14. “Final Approval Order” refers to an order by the Court that grants final approval of this Settlement.

C. Release. As of the Effective Date, the Settlement and this Agreement will constitute a full and final settlement and release of all “Qualified Class Member Released Claims.” “Qualified Class Member Released Claims” means all claims that were raised in Plaintiff’s Amended Class Action Complaint for Damages filed on July 15, 2021 (“Amended Complaint”) or based on the facts alleged in the Amended Complaint and that arose during the Settlement Class Period. The Parties acknowledge that neither Plaintiff nor Qualified Class Members release any other employment-related claims.

D. Conditions Precedent. This Agreement and Settlement are contingent upon, and will become final and effective upon the occurrence of the following events:

1. The Court enters an order granting preliminary approval of the Settlement;
2. The Court enters a Final Approval Order; and
3. The Effective Date occurs, and any challenge to the Settlement, whether by objection or appeal, is resolved in favor of enforcement of the Settlement.

E. Settlement Consideration. Defendant agrees to pay a total Settlement Sum of Two Million Dollars (\$2,000,000.00) (the “Common Fund Payment”) for a common fund settlement of the Lawsuit. The Common Fund Payment shall be used to satisfy all of the following: (1) the settlement awards to be paid to Qualified Class Members (hereafter, the “Settlement Awards”), (2) the service award to be paid to the Plaintiff (hereafter, the “Service Award”), (4) the award of attorneys’ fees and costs to Class Counsel (hereafter, the “Attorneys’ Fees Award” and “Costs Payment”), and (5) the settlement administration expenses (hereafter, the “Settlement Administration Expenses Award”) to be paid to the Settlement Administrator, all as approved by the Superior Court. The Common Fund Payment shall be delivered by Defendant to the Settlement Administrator by the later of either (1) July 25, 2022; or (2) three calendar days after the Effective Date. The Common Fund Payment does not include the employer’s share of any payroll taxes on the portion of the Common Fund Payment that is characterized as wages. The employer’s share of payroll taxes on the individual settlement allocations issued shall be calculated by the Settlement Administrator, and such amount shall additionally be paid by Defendant to the Settlement Administrator promptly upon request.

F. Distribution of the Settlement Amount. As part of Plaintiff’s motion for final approval, Class Counsel will submit an application for an Attorneys’ Fees Award not to exceed 30 percent of the Common Fund Payment, an application for a Costs Payment not to exceed \$10,000, an application for a Settlement Administration Expenses Award not to exceed \$10,000, and an application for Service Award of \$12,000 for the Class Representative. The amounts approved by the Court will be deducted from the \$2,000,000.00 Settlement Amount, and the remainder after these deductions (the “Net Settlement Fund”) shall be available to fund Settlement Awards to Qualified Class Members. If the Court approves the payments in each category described above, the Net Settlement Fund is expected to be no less than \$1,368,000, calculated as follows:

<b>\$2,000,000</b>	<b>Common Fund Payment</b>
\$600,000	Attorneys’ Fees Award (30 percent of Common Fund Payment)
\$10,000	Costs Payment
\$10,000	Settlement Administration Expenses Award
- \$12,000	Service Award
<b>\$1,368,000</b>	<b>Estimated Net Settlement Fund</b>

G. Calculation of Settlement Awards.

1. Subject to approval by the Superior Court, the calculations of gross (pre-tax) estimated Settlement Awards will be made by Class Counsel based on data submitted by Defendant, which is presumed to be accurate.

2. Defendant represents that it has or will provide Class Counsel with an Excel spreadsheet containing an accurate list of each Settlement Class Member’s name, social security number, phone number, address, and email address. Additionally, Defendant represents that it has or will provide Class Counsel with payroll data for all Settlement Class Members for the entire

Class Period, whether the Settlement Class Member is part of the Settlement Subclass, and what percentage of work performed by each Settlement Class Member during the Settlement Class Period constituted construction work. Upon request from the Settlement Administrator or Class Counsel, Defendant will provide other data as reasonably necessary to complete settlement administration duties under this Agreement.

3. Class Counsel shall be responsible for calculating the gross amounts of estimated Settlement Awards in conformity with this Agreement, using the data provided by Defendant.

4. Final Settlement Awards will be calculated after the Objection/Opt-Out Deadline to determine the appropriate award for each Settlement Class Member who does not opt out of the Settlement (“Qualified Class Member”). The Settlement Administrator shall provide counsel for the Parties with an electronic report setting forth the results of these calculations. If the Settlement Administrator and Parties are unable to resolve any disputes about calculating the gross Settlement Awards pursuant to this Agreement, they shall submit their respective positions to the Superior Court, who shall make the final decision regarding any disputed calculations of any Settlement Awards.

5. Calculation Formula. The Net Settlement Fund will be allocated between the Settlement Class and Settlement Subclass as follows: 25% will be allocated to the overtime claims brought by the Settlement Class (“Overtime Portion”) and 75% will be allocated to the unpaid time claims brought by the Settlement Subclass (“Unpaid Time Portion”). For the Settlement Class and Settlement Subclass, the Settlement Awards will be calculated as follows:

- a. For the Settlement Class, each Qualified Class Member will be allocated a proportional amount of the Net Settlement Fund based on their actual unpaid overtime damages as calculated by Class Counsel. Class Counsel will calculate unpaid overtime damages based on the number of hours each Settlement Class Member worked over 40 in a week without receiving the 1.5 overtime premium. For these calculations, Class Counsel will use each Settlement Class Member’s regular rate and a .5 premium for the unpaid overtime. The method for calculating the Overtime Portion of the Settlement Awards for the Settlement Class shall be as follows: The total amount of unpaid overtime damages for all Qualified Class Members in the Settlement Class will be the denominator, and each Qualified Class Member’s individual unpaid overtime damages will be the numerator. The resulting percentage will be multiplied by the Overtime Portion of the Net Settlement Fund to arrive at each Qualified Class Member’s Overtime Portion of his or her Settlement Award.
- b. For the Settlement Subclass, each Qualified Class Member will be allocated a proportional amount of the Net Settlement Fund based on their service shifts

worked during the Settlement Class Period. The method for calculating the Settlement Awards for the Settlement Subclass shall be as follows: The total number of all Qualified Class Member shifts worked by Settlement Subclass Members on service calls during the Settlement Class Period will be the denominator, and each Qualified Class Member's individual number of shifts worked on service calls during the Settlement Class Period will be the numerator. The resulting percentage will be multiplied by the Unpaid Time Portion of the Net Settlement Fund to arrive at each Settlement Subclass Member's individual Unpaid Time Portion of his or her Settlement Award.

- c. Each Qualified Class Member's Settlement Award will be the sum of that individual's Overtime Portion and Unpaid Time Portion, as described above.

6. Allocation of Settlement Awards Between Wages and Non-Wages. Fifty Percent (50%) of each Qualified Class Member's proportional share of the Net Settlement Fund will be allocated and characterized as W-2 wages (which shall be subject to applicable payroll taxes and withholdings), and the remaining fifty percent (50%) of each Qualified Class Member's proportional share of the Net Settlement Fund will be allocated and characterized as 1099 non-wages (prejudgment interest and exemplary damages).

- a. Qualified Class Members' employee portion of appropriate payroll taxes shall be deducted and withheld from the Qualified Class Member Settlement Awards by the Settlement Administrator. Defendant shall be responsible for separately paying the employer's portion of such payroll taxes in the amount calculated by the Settlement Administrator.

- b. By the later of either (1) July 25, 2022 or (2) within three calendar days of the Effective Date, Defendant shall pay the sum of \$2,000,000, plus the applicable employer's share of payroll taxes, to the Settlement Administrator. The Settlement Administrator shall create and maintain a Qualified Settlement Fund for these funds.

H. Attorneys' Fees Award and Costs Payment. As part of seeking the Superior Court's final approval of this Settlement, Class Counsel will apply to the Superior Court for an award of attorneys' fees of no more than 30 percent of the Common Fund Payment (\$600,000) and a Costs Payment of no more than \$10,000.

I. Service Award. Class Counsel will request that Plaintiff Audra Stafford be given a Service Award, 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, in the amount of \$12,000.

J. Settlement Administration.

1. The Settlement Administrator shall be responsible for notice mailings to the Settlement Class, tracing undeliverable mailings, recording and tracking responses to the mailings to the Settlement Class Members, tracking and responding to any inquiries made by Settlement Class Members, calculating Settlement Awards (using the information provided by Defendant), and any other related tasks mutually agreed to by the Parties.

2. Within seven (7) days after the Objection/Opt-Out Deadline, the Settlement Administrator shall provide the Parties with an electronic report setting forth the names and identities of any Settlement Class Members who submitted a Valid Exclusion Request in conformity with this Agreement and copies of any Exclusion Requests returned.

3. As part of seeking the Superior Court's final approval of this Settlement, Class Counsel will apply to the Superior Court for a Settlement Administration Expenses Award to be paid to the Settlement Administrator. The costs, fees, and expenses incurred by the Settlement Administrator in administering this Settlement shall be paid from the Settlement Administration Expenses Award approved by the Court, and will not exceed \$10,000.

K. Notice/Approval of 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 Settlement Class Members, obtaining final Superior Court approval of the Settlement, and implementing payment of Settlement Awards to Qualified Class Members:

1. Plaintiff shall file a motion with the Superior Court to obtain preliminary approval of the Settlement in conformity with this Agreement.

2. For purposes of this Settlement, the Parties will ask the Superior Court to enter an order certifying the Settlement Class, finding Plaintiff to be an adequate and typical class representative for the Settlement Class and Settlement Subclass for purposes of settlement, finding that there are common issues that predominate over individualized issues for purposes of settlement, certifying Plaintiff's attorneys as adequate Class Counsel for the Settlement Class and Settlement Subclass, preliminarily approving the Settlement and this Agreement, approving the form of the Notice and its mailing to the Settlement 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").

3. Defendant will cooperate with the Settlement Administrator and Class Counsel to provide current or last known contact information for all Settlement Class Members for notice purposes, including assisting the Settlement Administrator and Class Counsel in finding addresses for those Settlement Class Members whose last known addresses are incorrect or no longer valid.

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

- a. Within fourteen (14) days of the date the Superior Court issues the Preliminary Approval Order, the Settlement Administrator shall mail and email the Notice to all Settlement Class Members ("Initial Mailing Date") in the form attached as Exhibit 1 hereto, and shall provide counsel for the Parties with a copy of the mail-merge spreadsheet used for the Notice mailings, which will include the estimated settlement award for each Settlement Class Member.
- b. The Notice shall provide that Settlement Class Members who do not opt out and who wish to object to the Settlement must file with the Court and submit to counsel for the Parties a written statement objecting to the Settlement on or before the Objection/Opt-Out Deadline ("Objection"). If a person wishes to have the Court consider the written statement objecting to the Settlement, the person (i) must not exclude himself or herself from the Settlement Class and (ii) must file with the Court and mail to counsel for the Parties the written objection, along with any supporting documentation that the person wishes the Court to consider, no later than thirty (30) days after the Initial Mailing Date. If such Objection is submitted and overruled by the Court, the objecting member of the Settlement Class shall remain fully bound by the terms of the Settlement, including the release of all Qualified Class Member Released Claims, so long as the Settlement is granted final approval by the Court. The Parties shall submit any responses to objections no later than forty-four (44) days after the Initial Mailing Date. Any Settlement Class Member who does not appear individually or through counsel and who does not challenge or comment upon the fairness and adequacy of the Settlement or Class Counsel's request for attorneys' fees and costs shall waive and forfeit any and all rights to appear separately or object. All Qualified Class Members shall be bound by the Settlement and by all proceedings, orders and judgments in this Action.
- c. The Notice shall also provide that Settlement Class Members who wish to exclude themselves (*i.e.*, opt out) from the Settlement Class must mail a letter to the Settlement Administrator requesting exclusion from the Settlement Class on or before the Objection/Opt-Out Deadline. An exclusion request must: (i) be in writing; (ii) state that individual's current address; (iii) contain the following statement: "I request that I be excluded from the Settlement Class in the case of *Stafford v. Key*



*Mechanical Co. of Washington*”; (iv) be signed; and (v) be mailed to the Settlement Administrator at the address provided in the Notice and postmarked within thirty (30) calendar days after the Initial Mailing Date. Each individual who properly files a timely written request for exclusion shall be excluded from the Settlement Class and shall have no rights under the Settlement Agreement. Settlement Class Members who fail to submit a valid and timely request for exclusion on or before the Objection/Opt-Out Deadline 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. An exclusion request shall be deemed timely if it is postmarked no later than thirty (30) calendar days after the Initial Mailing Date.

- d. Any supplemental correspondence or other written communications to Settlement Class Members concerning the Notice, the exclusion process, and/or other aspects of settlement administration shall be coordinated in advance and agreed to by counsel for the Parties. Notwithstanding the foregoing, Class Counsel or Settlement Administrator may answer inquiries about the case or Settlement from individual Settlement Class Members without advance coordination with counsel for Defendant. All responses the Settlement Administrator or Class Counsel provide will be consistent with the terms of this Agreement and the Notice.

5. The Parties agree that neither they nor their counsel will solicit or otherwise encourage any of the Settlement Class Members to opt out or object to the Settlement. Defendant is entitled to encourage Settlement Class Members not to opt out of the Settlement. Within three days of the Initial Mailing Date, Defendant further agrees to release to Settlement Class Members who are current employees the statement attached hereto as Exhibit 2.

6. Should any Notice be returned as undeliverable, the Settlement Administrator shall attempt one trace to locate a good address and, if located, shall make a second attempt at mailing the Notice. If such Notice is again returned as undeliverable, no further attempts at delivery of the Notice are required to be made. Notwithstanding the foregoing, the Settlement Administrator may mail a Notice to a Settlement Class Member at an address obtained by other means if the Settlement Class Member’s Notice is returned as undeliverable or upon the Settlement Class Member’s request for the same (*e.g.*, if Plaintiff, Class Counsel, Defendant, or another Settlement Class Member provides the Settlement Administrator an address for a Settlement Class Member not previously provided by Defendant or obtained through a trace).

7. No later than fourteen (14) calendar days before the Objection/Opt-Out Deadline (or sixteen (16) days after the Initial Mailing Date), Class Counsel shall file a motion requesting that the Court grant final approval of the Settlement, including payment of attorneys' fees and costs. No later than fourteen (14) calendar days after the Objection/Opt-Out Deadline (or forty-four (44) days after the Initial Mailing Date), Class Counsel will file a supplemental memorandum in support of final approval of the Settlement to inform the Court of any Settlement Class Members who have opted out of the Settlement and to respond to any Objections to the Settlement.

8. Subject to the Superior Court's availability and direction and no earlier than twenty-eight (28) days after the Objection/Opt-Out Deadline, a Fairness Hearing shall be held for the Superior Court to determine whether to enter a Final Approval Order that grants final approval of the Settlement, including Class Counsel's Attorneys' Fees and Costs Award, the Settlement Administration Expenses Award, and the Service Award to the Named Plaintiff, and to enter final judgment dismissing Plaintiff's claims with prejudice and without costs (except as specifically provided in this Agreement).

9. After entry of the Final Approval Order, the Superior Court shall have continuing jurisdiction vis-à-vis Plaintiff's claims for the purposes of enforcement of the Settlement, including addressing settlement administration matters and other related matters as may be appropriate under Court rules.

10. Within seven (7) calendar days following receipt of Defendant's Common Fund Payment, the Settlement Administrator shall pay the Attorneys' Fees and Costs Award and Service Awards approved by the Court. These payments will not be subject to any withholdings, and each of the payments will be reported on separate IRS Forms 1099-MISC (marked "Other Income"). Within fourteen (14) calendar days following the Effective Date, or as soon thereafter as practicable, the Settlement Administrator shall mail Settlement Award checks to Qualified Class Members.

11. Any Qualified Class Member whose Settlement Award check is returned as undeliverable shall receive his/her Settlement Award from the Settlement Administrator if he/she contacts the Class Counsel or the Settlement Administrator and provides a correct mailing address within ninety (90) days after the mailing of the Settlement Award checks.

12. Defendant will receive no reversion from the Settlement Amount. If, after ninety (90) days following issuance of checks to Qualified Class Members, a Settlement Award check remains uncashed without the Qualified Class Member having provided an updated mailing address within the ninety (90) day period, the Settlement Administrator will stop payment on the check. The Qualified Class Member who has not cashed the check will have no interest in the Settlement Award and funds from the uncashed check will be considered residual funds. In

addition, the Settlement Administrator will amend the payments reported to the IRS if any Settlement Award checks are not cashed.

13. Of the residual funds, the Settlement Administrator will maintain a reserve fund to pay any claims for which the Defendant did not provide accurate Settlement Class Member data or for any Settlement Class Members who were inadvertently left off the initial list produced by Defendant (or for any other purposes agreed by the parties to ensure all Qualified Class Members receive appropriate payments). The Settlement Administrator will make payments from the reserve fund at the direction of Class Counsel and Defendant's counsel no later than one-hundred and twenty (120) days following the initial issuance of checks to Qualified Class Members.

14. If, after one-hundred and twenty (120) days following the initial issuance of checks, any funds remain, the Settlement Administrator will pay any remaining amount from uncashed checks ("residual funds") equally to *cy pres* beneficiaries the Legal Foundation of Washington (50%) and the Fair Work Center (50%).

15. 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. In the event an appeal is filed from the Superior Court's Final Approval Order, funding and administration of the Settlement shall be stayed pending final resolution of the appeal or any other form of appellate review.

L. Opt-out Threshold. The parties agree that Defendant has the option to terminate this Settlement if more than 17.5% of Settlement Class Members request exclusion from the Settlement Class.

M. Wage and Hour Rights Training. Defendant agrees to provide wage and hour rights training for all supervisors and managers in Washington.

N. Miscellaneous Provisions.

1. This Agreement may be amended or modified only by a written instrument signed by counsel for the Parties.

2. 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, the Notice (Exhibit 1), and the statement to Defendant's current employees (Exhibit 2).

3. The parties and their counsel will cooperate with each other and use their best efforts to implement this Settlement.

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

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

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

Dated: Mar 1, 2022

  
Audra Stafford (Mar 1, 2022 17:02 MST)

**Audra Stafford, Individually and  
on Behalf of Settlement Class**

Dated: 3/1/2022



**Marc Cote  
Counsel for Named Plaintiff and  
Class Counsel**

Dated: Mar 1, 2022

  
JAmES B. Pizl (Mar 1, 2022 16:45 PST)

**James Pizl  
Counsel for Named Plaintiff and  
Class Counsel**

Dated: \_\_\_\_\_

**Key Mechanical Co. of Washington**

\_\_\_\_\_, as \_\_\_\_\_  
**Name Title**

Dated: \_\_\_\_\_

**Darren Feider  
Counsel for Defendant**

# **EXHIBIT 1**

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

*Stafford v. Key Mechanical Co. of Washington*

Case No. 20-2-08973

**NOTICE OF CLASS ACTION SETTLEMENT**

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

**TO: All non-managerial HVAC-R technicians based in Washington who, between December 23, 2017 and January 25, 2022, (1) performed work for Key Mechanical Co. of Washington on service calls; or (2) performed work for Key Mechanical Co. of Washington on construction projects in Washington and worked more than forty hours in a week without receiving overtime premium pay.**

**PLEASE READ THIS NOTICE. A settlement in a class action may affect your rights. You may be entitled to a payment from the settlement. You do not need to do anything to receive a payment so long as your contact information is current.**

- An employee of Key Mechanical Co. of Washington (hereinafter “Key Mechanical”) brought claims against the company for allegedly engaging in unlawful overtime pay practices and failing to pay for certain travel time and at-home work time. The parties to the Case have reached settlement of all claims.
- The settlement will include a total settlement payment by Key Mechanical of \$2,000,000.
- To receive a share of the settlement payment, you must not exclude yourself from the Settlement.
- Listed below is the estimated gross amount of your share of the Settlement before taxes if you do not exclude yourself. This is based on calculations of your unpaid overtime wages and, for HVAC-R service technicians, the number of service shifts you worked during the Settlement Class Period. (The final amount may be different. This is only an estimate.)

<b>Your Estimated Gross Settlement Recovery Before Taxes</b>
<b>\$*,***.**</b>

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>DO NOTHING</b>	You will be eligible to get a payment for your share of the Settlement. (You may need to provide the Settlement Administrator any updated contact information to ensure you receive your payment.)
<b>OPT OUT</b>	You will not receive any payment from this Settlement. You will be free to pursue, or not pursue, any claims for unpaid overtime or unpaid work time against Key Mechanical that are not barred by the statute of limitations.
<b>OBJECT</b>	Write to the Court if you do not like the Settlement and explain why.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the Settlement.

- 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 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?

Key Mechanical's records show that you worked as an HVAC-R technician based in Washington at some point between December 23, 2017 and January 25, 2022 and either (1) performed work on service calls; or (2) performed work on construction projects in Washington and worked more than forty hours in a week without receiving overtime pay. The Court has allowed this Notice to be sent to you to inform you about a settlement of a class action lawsuit, and about your options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after any appeals are resolved, payments will be made to Settlement Class Members who have not opted out of the Settlement.

This Notice explains the Case, the 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 lawsuit claims that Key Mechanical violated Washington State wage and hour laws from December 17, 2017 to January 25, 2022. More specifically, the lawsuit claims that Key Mechanical did not always pay all overtime wages owed under Washington law when employees worked over forty hours in a week. For HVAC-R technicians performing service work, the lawsuit claims that Key Mechanical did not always pay for all hours worked in violation of Washington law because the company did not pay for time spent driving from home to the first job site of the day, from the last job site of the day to home, and for any digital paperwork performed at home. Key Mechanical denies these claims and denies that the drive time at issue is compensable under Washington law. Nonetheless, the parties have reached a settlement.

Pierce County Superior Court is overseeing this Class Action. The Case is known as *Stafford v. Key Mechanical Co. of Washington*, Case No. 20-2-08973 (the "Case").

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

In a class action lawsuit, "Class Representative" (in this case Audra Stafford) sue on behalf of other people who 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. The attorneys who represent the Plaintiff and the Class are called "Class Counsel." The entity the Plaintiff sues is called the Defendant. In this case, the Defendant is Key Mechanical Co. of Washington, otherwise known as "Key Mechanical." 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 the Defendant. 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 Representatives and Class Counsel think the Settlement is best for everyone affected in the Settlement 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 judge has decided that everyone who fits the following description is a Settlement Class Member:

*All non-managerial HVAC-R technicians based in Washington who, between December 23, 2017 and January 25, 2022, (1) performed work for Defendant on service calls; or (2) performed work for*

*Defendant on construction projects in Washington and worked more than forty hours in a week without receiving overtime premium pay.*

If approved, the Settlement will cover all Settlement Class Members who have not excluded themselves from the Case (“Qualified Class Members”). If you are a Settlement Class Member, you do not exclude yourself from the Settlement by [date], and the Settlement Administrator has your correct address, you will receive money pursuant to the Settlement.

The Settlement provides additional compensation for a sub-group of employees (which is called the “Settlement Subclass”), namely:

*All Settlement Class Members who performed work for Defendant on service calls between December 23, 2017 and January 25, 2022.*

## **THE TERMS OF THE SETTLEMENT**

### **6. What are the basic terms of the Settlement?**

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

**Settlement Fund:** Key Mechanical will pay \$2,000,000 (“Settlement Amount”) to resolve the overtime and unpaid time claims alleged in this lawsuit. Following the Court-approved deductions set forth below, the remaining amount, the “Net Settlement Fund,” will fund all settlement payments to Qualified Class Members. From the Settlement Amount, if approved by the judge, (a) \$12,000 will be used to compensate the named Plaintiff who brought the Case for her service and assistance in prosecuting the claims (“Service Award”); (b) no more than 30 percent of the Settlement Amount will be used to compensate Class Counsel for the attorneys’ fees they have incurred in representing the Settlement Class on the overtime and unpaid work claims; (c) no more than \$10,000 will be used to compensate Class Counsel for the litigation costs they have incurred in representing the Settlement Class; and (d) no more than \$10,000 will be used to pay for the expenses of providing notice of the Settlement to Settlement Class Members and handling the settlement administration process (“Settlement Administration Expenses”).

**Monetary Relief:** The Net Settlement Fund is estimated to be no less than \$1,368,000. The Net Settlement Fund will compensate Qualified Class Members for wages allegedly lost and damages purportedly owed as a result of the practices alleged in the Case. Based on the relative amount of damages for each claim, 75% of the Net Settlement Fund will be allocated to the claims alleging unpaid work time and will be distributed to the Qualified Subclass Members (“Unpaid Time Portion”). The remaining 25% of the Net Settlement Fund will be allocated to the claims alleging overtime violations and will be distributed to the Qualified Class Members (“Overtime Portion”).

**Distribution of Net Settlement Fund:** Each Settlement Class Member who does not submit a valid and timely request for exclusion will become a Qualified Class Member and will be eligible to receive a settlement payment. Your settlement payment will be calculated based on a detailed analysis of your Key Mechanical payroll records during the Settlement Class Period. For the overtime claims, your payment will consist of a proportional amount of the Overtime Portion of the Net Settlement Fund based on the amount of unpaid overtime wages you are owed for the period between December 23, 2017 and January 25, 2022 in relation to the total amount of unpaid overtime wages owed to all Qualified Class Members for the same period. Qualified Class Members who performed work on service calls will receive an additional payment from the Unpaid Time Portion. This payment will consist of a proportional amount of the Unpaid Time Portion of the Net Settlement Fund based on the number of service shifts worked for Key Mechanical between December 23, 2017 and January 25, 2022 in relation to the total number of service shifts worked by all Qualified Subclass Members during the same period.



Checks will be mailed to the last known address of all Settlement Class Members who do not submit a valid and timely request for exclusion. If you have friends or relatives who qualify but may not have a current address on-file with Key Mechanical, please feel free to have them contact the Settlement Administrator with their current mailing address.

Key Mechanical will receive no reversion from the settlement funds. This means that if you opt out of the Settlement, the money that would have been paid to you will not be returned to Key Mechanical. Instead, it will be paid to the other Qualified Class Members. Also, if you do not cash your settlement check, that check amount will not be returned to Key Mechanical. You will have 90 days to cash your settlement check. After that date, if you have not cashed your settlement check, you will have no interest in the settlement funds. After 120 days following the initial issuance of checks to Qualified Class Members, the Settlement Administrator will pay any remaining amount to the Legal Foundation of Washington and the Fair Work Center.

Tax Treatment of Settlement Awards: 50% your settlement award is for wages and will be reported on an IRS Form W-2. The Settlement Administrator will calculate and deduct payroll tax amounts from this wage allocation. The remaining 50% of your settlement award will be treated as non-wages (prejudgment interest and exemplary damages) on which there will be no tax withholding and for which an IRS Form 1099 (marked "Other Income") will be issued.

Release of Claims: As part of the Settlement, 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 release all claims or causes of action against the Defendant which were raised in Plaintiff's Amended Class Action Complaint or are based on the facts alleged in the Amended Complaint and which arose between December 23, 2017 and January 25, 2022. This includes a release of claims for unpaid overtime and unpaid hours worked.

## HOW YOU CAN GET PAYMENT

### 7. How can I get a payment?

**To get a payment, you must not submit a request for exclusion.** If your address on this notice is correct and you do not request exclusion, you will receive a payment. If you need to update your address, please call **\*\*\*\_\*\*\*\_\*\*\***.

### 8. When would I get my payment?

The Pierce County Superior Court will hold a hearing on **[DATE]** to decide whether to finally approve the Settlement. If there is an appeal, it may take up to a year or more to resolve. If there is no appeal, we expect payments will go out in late July 2022. Please be patient.

## THE LAWYERS REPRESENTING YOU

### 9. Do I have a lawyer in this case?

The Court has decided that Marc Cote and Anne Silver from the law firm of Frank Freed Subit & Thomas LLP and James Pizl from the law firm of Entente Law PLLC are qualified to represent you and all Settlement Class Members as to the Settlement. These lawyers are called "Class Counsel." You will not be charged separately for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### 10. How will the lawyers be paid?

As indicated above, Class Counsel will seek payment of their attorneys' fees in the amount of no more than 30 percent of the total settlement amount, which must be approved by the Court as part of the final approval of this Settlement. Class Counsel will also seek reimbursement of litigation costs incurred up to \$10,000.

### EXCLUDING YOURSELF FROM THE SETTLEMENT

#### 11. 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 **[DATE]**. You may be excluded as a member of the class by submitting a written request stating, "I request that I be excluded from the Settlement Class in the case of *Stafford v. Key Mechanical*." The request must include your name, your address, and your signature. You must mail a copy of the letter postmarked no later than **[DATE]** to the Settlement Administrator at **[ADDRESS]**.

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 Section 6, above. This means you will retain the right, at your own expense, to pursue any overtime or unpaid time claims you may have against Key Mechanical.

### OBJECTING TO THE SETTLEMENT

#### 12. 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 any aspect of it, 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, address, telephone number, the name of the Case (*Stafford v. Key Mechanical Co. of Washington*, Case No. 20-2-08973), the reasons you object to the Settlement (along with any supporting documentation that you wish the Court to consider), and a signature. You must file your objection with the Pierce County Superior Court and mail a copy of the objection to the following addresses **postmarked no later than [DATE]**:

Marc Cote  
Frank Freed Subit & Thomas LLP  
Counsel for Plaintiff and Settlement Class  
705 Second Avenue, Suite 1200  
Seattle, Washington 98104

Darren Feider  
Sebris Busto James  
Counsel for Defendant  
15375 SE 30th Pl., Suite 310  
Bellevue, Washington 98007

### THE COURT'S FAIRNESS HEARING

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

The Court will hold a Fairness Hearing at **[TIME AND DATE]**, at the Pierce County Superior Court, 930 Tacoma Ave S #334, Tacoma, WA 98402, or via the Court's Live Courtroom Feed (<https://www.piercecountywa.gov/6807/Live-Courtroom-Feed>). If there are objections, the judge will consider them. The judge will listen to people who have asked to speak at the hearing. At the hearing, the Court will decide whether to approve the Settlement, including Class Counsel's request for attorneys' fees,

costs, Settlement Administration Expenses, and Service Award for the named Plaintiff. We do not know how long that decision will take.

**14. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the judge 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 filed and 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.

**IF YOU DO NOTHING**

**15. What happens if I do nothing at all?**

If you do nothing – that is, if you do not mail or deliver a timely request for exclusion – you will be entitled to a share of the Settlement if it is approved by the Court. Please contact the Settlement Administrator, CPT Group, at (\*\*\*) \*\*\*\_\*\*\*\* if you need to update your address.

**GETTING MORE INFORMATION**

**16. Are there more details about the Settlement?**

This Notice summarizes the Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by writing to Anne Silver, Frank Freed Subit & Thomas LLP, 705 Second Avenue, Suite 1200, Seattle, Washington 98104. Plaintiff's motion for final approval of the settlement agreement, including Class Counsel's request for attorneys' fees, costs, Settlement Administration Expenses, and Service Awards for the named Plaintiff will also be available for you to review on [DATE] if you contact Class Counsel and request a copy. All other documents filed in the case are available in the Pierce County Superior Court file for *Stafford v. Key Mechanical Co. of Washington*, Case No. 20-2-08973.

# **EXHIBIT 2**

To: Key Mechanical Employees

You may have received a notice from CPT Group regarding a settlement in the class action case *Stafford v. Key Mechanical Co. of Washington*. This notice, which was approved by Pierce County Superior Court, is being distributed in relation to a lawsuit that was filed against Key Mechanical relating to our compensation practices. Although we disputed the claims asserted in the case, the parties have now reached a settlement that includes a financial benefit for each of you. If the settlement is approved by the judge, the lawsuit will end.

I want to encourage all of you to accept your settlement payment. Although the company disagreed with the claims in the case, this money is intended to compensate you. Key Mechanical values each and every one of you, and we want you to accept the money for yourself and your families.

You will not face any retaliation from the company for accepting a settlement payment.

Thank you for your continued commitment to Key Mechanical.

Sincerely,  
Frank Leonard








# Stafford v. Key Mechanical Settlement Agreement

Final Audit Report

2022-03-02

Created:	2022-03-01
By:	Megan Grosse (mgrosse@frankfreed.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAABVlrbsIRvvL7IX3c1q8otBfTJHlz5-29

## "Stafford v. Key Mechanical Settlement Agreement" History

-  Document created by Megan Grosse (mgrosse@frankfreed.com)  
2022-03-01 - 11:43:33 PM GMT- IP address: 50.208.205.105
-  Document emailed to Audra Stafford (audrakstafford@gmail.com) for signature  
2022-03-01 - 11:47:38 PM GMT
-  Email viewed by Audra Stafford (audrakstafford@gmail.com)  
2022-03-02 - 0:00:24 AM GMT- IP address: 66.249.84.67
-  Document e-signed by Audra Stafford (audrakstafford@gmail.com)  
Signature Date: 2022-03-02 - 0:02:29 AM GMT - Time Source: server- IP address: 98.127.186.205
-  Document emailed to JAmES B. Pizl (jim@ententelaw.com) for signature  
2022-03-02 - 0:02:31 AM GMT
-  Document e-signed by JAmES B. Pizl (jim@ententelaw.com)  
E-signature obtained using URL retrieved through the Adobe Sign API  
Signature Date: 2022-03-02 - 0:45:02 AM GMT - Time Source: server- IP address: 76.22.90.234
-  Agreement completed.  
2022-03-02 - 0:45:02 AM GMT