

**Execution Copy**

**U. S. Department of Labor Wage & Hour Division  
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San Francisco, CA 94109  
Tel. (415) 241-7720  
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IN THE MATTER OF:  
*Regents of the University of California, Case ID 1782882*  
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**BACK WAGE COMPLIANCE AND PAYMENT AGREEMENT**

This Agreement is entered into May 05, 2017 by and between the Secretary of Labor, United States Department of Labor, ("Secretary"), and the Regents of the University of California ("UC") (collectively, the "Parties").

The Secretary, through Investigators Alberto Raymond and Jeremy Reichard of the Wage and Hour Division, United States Department of Labor, conducted an investigation of UC under the Fair Labor Standards Act ("FLSA") that resulted in findings that employees working at 11 UC campuses and medical centers throughout the state of California were not paid proper overtime wages as required by Section 7 of the FLSA, 29 U.S.C. § 207. The investigation covered UC's operations from January 1, 2014 through December 31, 2016.

As a result of that investigation, the Department of Labor and UC have chosen to resolve this matter as set forth in this Back Wage Compliance and Payment Agreement ("Agreement"). The Parties have agreed that 13,721 current and former employees will receive back wages totaling \$746,746. In addition, UC will pay liquidated damages in the amount of \$616,011. The figures set forth above are further explained in Exhibit A.

The Parties stipulate and agree to the following:

1. *UC Payments:* UC agrees to pay the back wages and liquidated damages set forth in Exhibit 1 to the current and former employees whose back wages exceed \$20, in the amounts shown for the periods indicated on the Form WH-56, Summary of Unpaid Wages, attached as Exhibits B (current employees) and C (former employees), as described below.
2. *Deductions and Withholdings:* All back wage payments under this Agreement shall have the legally required deductions withheld. UC, or a claims administrator selected by UC, shall be responsible for determining each employee's required deductions from the amounts to be paid, and for timely remitting all deductions to the appropriate government agencies.

3. *Notification for Current Employees:* Thirty days prior to issuing the back wage payments under this Agreement to current employees, UC shall issue to the current employees listed on Exhibit B a written notice, to be distributed by email to the employee's current work email address (and by intra-office mail for those employees who do not have a work email address). That notice will state the following:

UC has determined that it underpaid employees who worked overtime hours during the period 1/1/14 through 12/31/16 based on an incorrect calculation of the employees' regular rate of pay. You are one of the employees UC has determined are owed back wages based on this error. UC will provide your payment with your next regularly scheduled paycheck. This payment serves to correct the underpayment of overtime wages you received during this time period.

No action is required on your part for you to receive this payment. However, if you do not wish to accept this payment, please reply to this email and state, "I do not wish to receive the scheduled payment" within seven days of receipt of this email. If you have questions or concerns, or would like to make a complaint regarding this corrective payment, you may contact [name] at [email address set up for this purpose].

4. *Notification for Former Employees:* Thirty days prior to issuing the back wage payments under this Agreement to former employees, UC (through a claims administrator, as described below) shall issue to the former employees listed on Exhibit C a written notice, sent by US Mail to their last known address. The notice shall state the following:

UC has determined that it underpaid employees who worked overtime hours during the period 1/1/14 through 12/31/16 based on an incorrect calculation of the employees' regular rate of pay. You are one of the employees UC has determined are owed back wages based on this error. This payment serves to correct the underpayment of overtime wages you received during this time period.

No action is required on your part if you wish to receive this payment. However, if you do not wish to accept this payment, please sign the bottom of this form and return it to the claims administrator at the address listed below, within seven days. If you have questions or concerns, or would like to make a complaint regarding this corrective payment, you may contact the UC claims administrator charged with administering this repayment at [phone number] or [email address].

5. *Payments to Current Employees:* In the first payroll period starting after the day that is 90 days after the effective date of this Agreement, UC will pay current UC employees listed

on Exhibit B the sums indicated therein (except for those current employees who opted out of such payment pursuant to the notice described in Paragraph 3). This payment will be added to each employee's next regularly scheduled paycheck. The portion of the payment that constitutes back wages will be subject to normal payroll deductions.

6. *Payments to Former Employees:*

- a. UC will retain a claims administrator to manage and distribute the payments to former employees listed on Exhibit C. UC will select an entity to perform the traditional functions performed by a claims administrator retained to manage payments to class members in settlement of class action litigation, including the function of taking reasonable measures to locate former employees whose mailing address on file at UC is no longer valid. Those functions will include the following:
  - i. Providing former employees the notices described above 30 days prior to the issuance of payments, using the mailing address on file at UC.
  - ii. Taking additional measures to locate former employees whose address on file is no longer valid, including the use of standard 'skip trace' methodologies to locate them;
  - iii. Running a second 'skip trace' search for former employees whose first skip trace is unsuccessful;
  - iv. For any former employee not located within 90 days of the second skip trace effort, holding all payments in escrow;
  - v. Issuing the payment checks, calculating taxes and issuing required federal and state tax reporting filings (except for those former employees who opted out of such payment pursuant to the notice described in Paragraph 4);
  - vi. Distributing such payments through checks mailed to the confirmed address of eligible former employees;
  - vii. Managing the payment process, including the process by which settlement checks are distributed;
  - viii. Providing a report to UC and the Secretary every two months regarding the status of the payouts under this Agreement; and
  - ix. Managing the process by which the value of unclaimed payments are paid to the United States Treasury, as described below.
- b. UC will remit, either by check or electronically, a lump sum payment to the claims administrator within 30 days of the execution of this Agreement in order to allow for the distribution of the payments as set forth above.

- c. All payments to former employees that have not been made within one year from the date of this Agreement because of an inability to locate the proper persons or because of their refusal to accept payment shall be deposited in the United States Treasury as miscellaneous receipts under 29 U.S.C. § 216(c).
- d. For all payments for whom the former employees cannot be located, the claims administrator shall prepare a report for the Secretary detailing the names, amounts owed, and efforts made to locate the former employees within 30 days after the expiration of the 1-year period under 29 U.S.C. 216(c). The report shall be sent to:

District Director, Wage-Hour Division  
U.S. Dept of Labor  
90 7th Street, #13-100  
San Francisco, CA 94103-6714

- 7. *Additional Payments to Current Employees:* Beginning with the first payroll period in the month following 30 days after the effective date of the Agreement, UC will arrange for current employees working at locations that have not yet been converted to UC PATH, UC's new payroll system, to receive an additional premium for all overtime hours worked. This premium will be paid by paying 1.501 times the applicable regular rate for all overtime hours worked by current employees, instead of the legally required payment of 1.5 times the applicable regular rate. Such employees will continue to receive this additional premium for all overtime hours worked until the location at which they are employed is converted to UC PATH.
- 8. *UC Representative:* UC agrees to designate [name] as its representative to review and resolve any complaints from current UC employees regarding the unpaid overtime described in this Agreement. The designated representative shall maintain an email address for employee complaints under this Paragraph and shall address all such complaints within 30 days of receipt.
- 9. *No Clawback; No Reversion of Overpayments:* UC will not seek to recover any overpayments made to current or former employees made under this Agreement. Similarly, UC shall not request, solicit, suggest, or coerce, directly, or indirectly, any employee to return or to offer to return to UC or to someone else for UC, any money in the form of cash, check, or any other form, for wages previously due or to become due in the future to said employee under the provisions of this Agreement or the FLSA; nor shall UC accept, or receive from any employee, either directly or indirectly, any money in the form of cash, check, or any other form, for wages heretofore or hereafter paid to said employee under the provisions of this Agreement or the FLSA; nor shall UC discharge or in any other manner discriminate, nor solicit or encourage anyone else to discriminate, against any such employee because such employee has received or retained money due to him from UC under the provisions of this Agreement or because such employee exercised any right protected by the FLSA.
- 10. *No Waiver:* This Agreement shall not act as or be asserted as a bar or defense to any action under Section 16(b) of the FLSA, 29 U.S.C. § 216(b), as to any employee not

named on the attached Exhibit B, nor as to any employee named on Exhibit B for any period not specified in this Agreement.

11. *Authority to Sign:* Any person signing this Agreement on behalf of UC or the Secretary expressly acknowledges and represents that he or she has the authority to sign for and legally bind the respective party.
12. *Effective Date:* The Parties acknowledge and agree that this Agreement shall become effective upon its execution by each of the undersigned. The deadlines for the implementation steps of this Agreement shall be as stated herein.
13. *Entire Agreement:* This Agreement and its exhibits constitute the entire Agreement between the Parties relating to the subjects covered. No oral representations, warranties, covenants, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.

**Approved by the following parties:**

**For the Regents of the University of California**



Date: 5/20/2017

**For the Secretary of Labor:**

Date: May 5<sup>th</sup> 2017



Alberto Raymond  
Assistant District Director  
U.S. Department of Labor  
Wage Hour Division

Exhibit A

Applying the Welch Consulting calculation methodology previously presented to, and approved by, DOL, the Parties agree that the back pay calculation are the following:

1. Period Prior to DOL Communications (1/1/14 – 12/31/15)

	# of Employees	Back Wages	Liquidated Damages	Total
Current	12,028	\$547,014	\$547,014	\$1,094,028
Former	1,575	\$68,997	\$68,997	\$137,993
Total	13,063	\$616,011	\$616,011	\$1,232,021

2. Period Following DOL Communications (1/1/16 -12/31/16)

	# of Employees	Back Wages	Liquidated Damages	Total
Current	11,649	\$124,086	\$0	\$124,086
Former	766	\$6,649	\$0	\$6,649
Total	12,415	\$130,735	\$0	\$130,735

3. Liquidated Damages

As indicated above, liquidated damages are calculated as 100% of back wages for the period prior to UC's communications with DOL in this matter, i.e., 1/1/14-12/31/15. The total is \$616,011.

3. Total

	# of Employees	Back Wages	Liquidated Damages	Total
Current	12,118	\$671,100	\$547,014	\$1,218,114
Former	1,603	\$75,646	\$68,997	\$144,643
Total	13,721	\$746,746	\$616,011	\$1,362,757