

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CIVIL COMPLEX CENTER

Coordination Proceeding
Special Title (RULE 3.550)

Judicial Council Coordination
Proceeding No. 5321

**KIMCO STAFFING DATA BREACH
CASES**

**ORDER GRANTING PLAINTIFFS'
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

INCLUDED ACTIONS:

VARELA, ET AL. V. KIMCO
NO. 30-2023-01369914

BAILAS V. KIMCO
NO. 30-2024-01370515

Complaint Filed: December 21, 2023

PERALTA V. KIMCO
NO. 30-2024-1371244

GUERRERO V. KIMCO
NO. 30-2024-01381971

PITTMAN V. KIMCO
NO. 37-2023-00055232

1 This matter is before the Court on the Motion for Preliminary Approval of Class Action
2 Settlement (the "Motion") of Plaintiffs Stephen Varela, Sheryl Bailas, Jose Peralta, and Jesus
3 Guerrero (collectively, "Plaintiffs"). Plaintiffs, individually and on behalf of the proposed
4 Settlement Class, and Defendant Kimco Staffing Services, Inc. (hereinafter, "Kimco" or
5 "Defendant") have entered into a Settlement Agreement and two amendments thereto (together,
6 the "Settlement" or the "Settlement Agreement") (Exhibits 1, 2 and 3 hereto). Having considered
7 the Motion, the Settlement Agreement and all declaration and other documents submitted in
8 support of the Motion and the Settlement, the Court orders as follows:

9 1. Unless otherwise defined herein, all terms that are capitalized herein shall have
10 the same meanings ascribed to those terms in the Settlement Agreement.

11 2. The Court finds that the Settlement Agreement appears to be fair, reasonable and
12 adequate, and that the terms of the Settlement Agreement fall within the range of possible
13 approval as fair, reasonable, and adequate.

14 3. The settlement fund is \$640,000. The court preliminary approves the following
15 deductions from the settlement fund: (a) enhancement awards not to exceed \$2,500 to each
16 named plaintiff (total not to exceed \$10,000); (b) attorneys' fees to Class Counsel not to exceed
17 \$192,000; (c) litigation costs to Class Counsel not to exceed \$30,000; and (d) settlement
18 administration expenses not to exceed \$97,000.

19 4. The Court preliminarily certifies, for settlement purposes only, the Settlement
20 Class as follows:

21 All individuals who reside in the United States whose Private Information was
22 exposed in the Data Incident involving Defendant, including all who were sent
23 notice of the Data Incident.

24 The Settlement Class specifically excludes: (i) Defendant; (ii) any entity in which Defendant has
25 a controlling interest, is a parent or subsidiary, or which is controlled by Defendant; (iii) the
26 affiliates, legal representatives, attorneys, heirs, predecessors, successors, and assigns of
27 Defendant; and (iv) the judges and court personnel in this case and any members of their
28

1 immediate families.

2 5. The Court preliminarily finds that the Settlement Class satisfies the requirements
3 of Cal. Civ. Proc. Code § 382 for settlement purposes: (1) the Settlement Class is so numerous
4 that joinder of all members is impracticable; (2) there are questions of law or fact common to the
5 Settlement Class; (3) Plaintiffs' claims are typical of those of Settlement Class Members; and (4)
6 Plaintiffs will fairly and adequately protect the interests of the Settlement Class.

7 6. The Court preliminarily finds that the Settlement Class satisfies the requirements
8 of Cal. Civ. Proc. Code § 382 for settlement purposes: (1) the questions of law or fact common
9 to the Settlement Class predominate over individual questions; and (2) class action litigation is
10 superior to other available methods for the fair and efficient adjudication of this controversy.

11 7. The Court hereby preliminarily appoints Plaintiffs Stephen Varela, Sheryl Bailas,
12 Jose Peralta, and Jesus Guerrero as the Representative Plaintiffs.

13 8. The Court hereby preliminarily appoints as Class Counsel John J. Nelson of
14 Milberg Coleman Bryson Phillips Grossman, PLLC and Jason M. Wucetich of Wucetich &
15 Korovilas LLP.

16 9. The court preliminarily designates Kroll Settlement Administration ("Kroll") as
17 the Claims Administrator. The Claims Administrator is ordered to perform all the duties of the
18 Claims Administrator set forth in the Settlement Agreement.

19 10. The Court finds that the Short and Long Notices (Exhibit 4 hereto) and Notice
20 Program set forth in the Settlement Agreement satisfy the requirements of due process and Cal.
21 Civ. Proc. Code § 382 and provide the best notice practicable under the circumstances. The Short
22 and Long Notices and Notice Program are reasonably calculated to apprise Settlement Class
23 Members of the nature of this Litigation, the scope of the Settlement Class, the terms of the
24 Settlement Agreement, the right of Settlement Class Members to object to the Settlement
25 Agreement or exclude themselves from the Settlement Class and the process for doing so, and of
26 the Final Approval Hearing. The Court therefore approves the Short and Long Notices and
27 Notice Program and orders the parties and the Claims Administrator to proceed with providing
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1 notice to Settlement Class Members pursuant to the terms of the Settlement Agreement and this
2 Order.

3 11. The Final Approval Hearing is scheduled for October 15, 2026 at 2:00 p.m. in
4 Department CX105 of the above court.

5 12. At the Final Approval Hearing, the Court will consider whether: (a) the
6 Settlement is fair, reasonable, and adequate; (b) the Settlement Class should be finally certified
7 for settlement purposes; (c) a final judgment should be entered; (d) Class Counsel's motion for
8 attorneys' fees and costs should be granted; and (e) the service award sought for Representative
9 Plaintiffs should be granted.

10 13. The Court may continue the date of the Final Approval Hearing without further
11 notice to Settlement Class Members.

12 14. The settlement timeline follows:

<u>From Order Granting Preliminary Approval</u>	
Kimco provides list of Settlement Class Members to the Settlement Administrator	+10 days
Kimco pays cost of notice and administration	+14 days
Notice Commencement Date	+30 days
Short Notice Completion Date	+45 days
<u>From Notice Commencement Date</u>	
Objection Deadline	+60 days (<i>i.e.</i> , 90 days after Order Granting Preliminary Approval)
Exclusion Deadline	+60 days (<i>i.e.</i> , 90 days after Order Granting Preliminary Approval)
Optional Reminder Notice	+60 days (<i>i.e.</i> , 90 days after Order Granting Preliminary Approval)
Claims Deadline	+90 days (<i>i.e.</i> , 120 days after Order Granting Preliminary Approval)
<u>Final Approval Hearing</u>	+120 days from Order Granting Preliminary Approval
Motion for Final Approval of Settlement, Fees, Costs, and Enhancement Awards	At least 16 court days before Final Approval Hearing
<u>From Order Granting Final Approval</u>	
Effective Date	+61 days, assuming no appeals

Kimco pays remainder of Settlement Fund	+68 days, assuming no appeal, or +7 days after the Effective Date if an appeal is taken
Settlement Administrator pays Attorneys' Fees and Expenses and Class Representatives Service Awards	+71 days, assuming no appeals, or +11 days after the Effective Date if an appeal is taken

15. All proceedings and deadlines in this matter, except those necessary to implement this Order and the Settlement, are hereby stayed and suspended until further order of the Court.

16. The parties, their counsel and the Claims Administrator are ordered to carry out their duties and obligations as set forth in the Settlement Agreement.

17. The court retains jurisdiction pursuant to Civil Procedure Code section 664.6 to enforce the Settlement.

IT IS SO ORDERED.

Dated: August 17, 2026



MELISSA R. MCCORMICK
JUDGE OF THE SUPERIOR COURT

EXHIBIT 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE, CIVIL COMPLEX CENTER

Coordination Proceeding
Special Title (Rule 3.550)

**KIMCO STAFFING DATA BREACH
CASES**

**JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 5321**

Assigned to: Hon. Melissa R. McCormick
Dept.: CX104

CLASS ACTION

SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of February 17, 2025, is made and entered into by and among the following Parties (as defined below): Plaintiffs Stephen Varela, Sheryl Bailas, Jose Peralta, and Jesus Guerrero ("Plaintiffs"), individually and on behalf of the Settlement Class (as defined below), and Kimco Staffing Services, Inc. ("Defendant" or "Kimco" and, together with Plaintiffs, the "Parties,"), by and through their respective counsel of record. The Settlement Agreement is subject to Court approval and is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof.

I. THE LITIGATION

Plaintiffs allege that on or about June 24, 2023, Kimco experienced a cyberattack in which unauthorized individuals infiltrated Kimco's computer network and gained access to specific personal data, including the personally identifiable information ("PII") of approximately 69,687 individuals (the "Data Incident"). Plaintiffs allege that during the Data Incident, cybercriminals potentially accessed and/or exfiltrated sensitive personal identifiable information ("Private Information" or "PII"), including names, Social Security numbers, financial account information, and payment card information, belonging to Plaintiffs and Class Members. Plaintiffs and members of the Settlement Class (defined below) received notices of the Data Incident in or around December of 2023.

On December 21, 2023, the first putative class action arising from the Data Incident was filed in San Diego Superior Court and captioned *Kawauna Pittman vs. Kimco Staffing Services, Inc.* ("Pittman"), Case Number 37-2023-00055232.¹ Beginning on December 27, 2023, four cases were filed in the Orange Superior Court, where Kimco is headquartered. Those cases are captioned: *Stephen Varela et al. vs. Kimco Staffing Services, Inc.* ("Varela"), Case Number 30-2023-01369914; *Sheryl Bailas et al. vs. Kimco Staffing Services, Inc. et al.* ("Bailas"), Case Number 30-2024-01370515; *Jose Peralta et al. vs. Kimco Staffing Services, Inc. et al.* ("Peralta"), Case Number 30-2024-01371244; *Jesus Guerrero v. Kimco Staffing Services Inc.* ("Guerrero"), Case Number 30-2024-01381971. All of these actions alleged claims relating to the potential exposure of PII in the Data Incident.

On April 3, 2024, the *Varela*, *Bailas*, *Peralta*, and *Guerrero* Plaintiffs petitioned for the coordination of all actions in the Orange County Superior Court. On June 3, 2024, the Court

¹ Plaintiff Kawauna Pittman, who is also proceeding in a pending arbitration, neither is a party to this Settlement Agreement nor was a party to the negotiations that led to the same. Plaintiff Pittman is, thus, not included in the definition of "Plaintiffs".

granted Plaintiffs' petition in full, and the Honorable Melissa M. McCormick was appointed as coordination judge.

During this time, the Parties engaged in several months of settlement negotiations. These negotiations included the preparation of informal discovery requests, the exchange of informal discovery, and the preparation and exchange of mediation statements.

On April 10, 2024, the Parties participated in a full-day mediation session with experienced mediator, the Hon. Wayne Andersen (Ret.) of JAMS. Despite a full day of intense negotiations, the Parties were unable to reach a resolution at the mediation.

The Parties continued to negotiate with the assistance of Judge Andersen while engaging in formal discovery, and the Parties propounded and responded to requests for production and special interrogatories. Ultimately, on September 25, 2024, the Parties negotiated a term sheet that memorialized the principal terms reflected in this Settlement Agreement.

This Settlement Agreement was negotiated at arm's length, in good faith, and without collusion, by capable and experienced counsel, with full knowledge of the facts, the law, and the inherent risks in the Litigation, and with the active involvement of the Parties.

II. CLAIMS AND BENEFITS OF SETTLING

Plaintiffs believe the claims asserted in this action have merit. Plaintiffs and Class Counsel recognize and acknowledge, however, the expense and length of continued proceedings necessary to litigate this action against Defendant through motion practice, trial, and potential appeals. They have also considered the uncertain outcome and risk of further litigation, as well as the difficulties and delays inherent in such litigation, especially in complex class actions. Class Counsel, in consultation with Plaintiffs, have determined that the settlement set forth in this Settlement Agreement is fair, reasonable, and adequate, and in the best interests of the Settlement Class.

III. DENIAL OF WRONGDOING AND LIABILITY

Defendant denies: (a) each and every allegation and all charges of wrongdoing or liability of any kind whatsoever asserted or which could have been asserted in this Litigation, (b) that Plaintiffs and the Class they seek to represent have suffered any damage, and (c) that the Litigation satisfies the requirements to be tried as a class action under California's Code of Civil Procedure § 382. Nonetheless, Defendant has considered the uncertainty and risks inherent in any litigation and concluded that contesting the Litigation further could be protracted and expensive, so it is desirable and beneficial that the Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Agreement. This Settlement Agreement is for settlement purposes only, and nothing in this agreement shall constitute, be construed as, or be admissible in evidence as any admission of the validity of any claim or any fact alleged by Plaintiffs in the Litigation or in any other pending or subsequently filed action, or of any wrongdoing, fault, violation of law, or liability of any kind on the part of Defendant or admission by any of the Parties of the validity or lack thereof of any claim, allegation, or defense asserted in the Litigation or in any other action. The sole purpose of this Settlement Agreement is to reach a final conclusive disposition of Plaintiffs' claims against Defendant arising out of the Data Incident.

IV. TERMS OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by Plaintiffs (individually and on behalf of the Settlement Class), Class Counsel, and Defendant that, subject to the approval of the Court, the Litigation and the Released Claims shall be finally and fully compromised, settled, and released, upon and subject to the terms and conditions of this Settlement Agreement, as follows:

1. Definitions

As used in the Settlement Agreement, the following terms have the meanings specified below:

1.1 “Agreement” or “Settlement Agreement” means this agreement.

1.2 “Attorneys’ Fees and Expenses Award” means the amount awarded by the Court to be paid to Class Counsel from the Settlement Fund, such amount to be in full and complete satisfaction of Class Counsel’s claim or request for payment of attorneys’ fees, costs, disbursements, and compensation in the Litigation.

1.3 “Business Practice Enhancements” means the good and valuable security hardening measures referenced in ¶ 2.4.

1.4 “Claims Administration” means the processing and payment of claims received from Settlement Class Members by the Settlement Administrator.

1.5 “Claims Administrator” or “Settlement Administrator” means Kroll Settlement Administration (“Kroll”), a company experienced in administering class action claims generally and specifically those of the type provided for and made in data breach litigation.

1.6 “Claims Deadline” means the deadline by which Settlement Class Members must submit any valid Settlement Claims. The Claims Deadline shall be set by the Court in the Preliminary Approval Order. The Parties propose a Claims Deadline that is 90 days after the Notice Commencement Date.

1.7 “Claim Form” means the form that will be used by Settlement Class Members to submit a Settlement Claim to the Settlement Administrator and that is substantially in the form as shown in Exhibit A to this Settlement Agreement.

1.8 “Class Counsel” means John J. Nelson and Jason M. Wucetich.

1.9 “Class Representatives” or “Plaintiffs” means Stephen Varela, Sheryl Bailas, Jose Peralta, and Jesus Guerrero.

1.10 “Costs of Claims Administration” means all actual costs associated with or arising from Claims Administration, the Notice Program, the administration of opt-outs, and the administration of objections. All Costs of Claims Administration shall be paid from the Settlement

Fund.

1.11 “Court” means the Superior Court for the State of California for the County of Orange.

1.12 “Credit Monitoring and Identity-Protection Services” means the credit monitoring and identity-protection services available to the Settlement Class pursuant to ¶ 2.4.

1.13 “Data Incident” means the data security incident that resulted in the notice to Class Representatives of the incident.

1.14 “Effective Date” shall have the meaning specified in ¶ 9.1.

1.15 “Final Judgment Order” means the order of the Court that approves this Settlement Agreement, provides for the release of the Released Claims, and makes such other final rulings as are contemplated by this Settlement Agreement, which may or may not include approving payment of any Service Award and Class Counsel’s Attorneys’ Fees and Expenses Award. The Parties’ proposed form of Final Judgment Order is attached to this Settlement Agreement as Exhibit G.

1.16 “Litigation” means the above-captioned litigation.

1.17 “Long Notice” means the long form notice of settlement to be posted on the Settlement Website (as defined below), substantially in the form of Exhibit B to this Settlement Agreement.

1.18 “Notice Program” means the plan described in Section 3 for disseminating notice to members of the Settlement Class of the terms of this Settlement Agreement and the Final Judgment Order.

1.19 The “Notice Commencement Date” means thirty (30) days after the entry of the Preliminary Approval Order.

1.20 “Objection Date” means the date by which Settlement Class Members’ objections to the Settlement must be postmarked to the Settlement Administrator on or before the Objection Date. The Objection Date shall be set by the Court in the Preliminary Approval Order. The Parties

propose an Objection Date that is sixty (60) days after the Notice Commencement Date.

1.21 “Opt-Out Date” means the date by which members of the Settlement Class requests for exclusion from the Settlement Class must be postmarked by mailing them to the Settlement Administrator for that request to be effective. The Opt-Out Date shall be set by the Court in the Preliminary Approval Order. The Parties propose an Opt-Out Date that is sixty (60) days after the Notice Commencement Date.

1.22 “Person” means an individual, corporation, partnership, limited partnership, limited liability company or partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity, and their respective spouses, heirs, predecessors, successors, representatives, or assignees.

1.23 “Preliminary Approval Order” means the order preliminarily approving the Settlement Agreement and ordering that notice be provided to the Settlement Class. The Parties’ proposed form of Preliminary Approval Order is attached to this Settlement Agreement as Exhibit F.

1.24 “*Pro Rata* Cash Payment” means the equal *pro rata* distribution from the Net Monetary Settlement Amount to all Settlement Class Members who file a valid claim. The amount of this benefit shall be based on the number of claims received and the amount of funds remaining in the Settlement Fund following the payment of any Attorneys’ Fees and Expenses Award, any Service Awards to Plaintiffs, the Costs of Claims Administration, and claims for Out-of-Pocket Losses, and Credit Monitoring and Identity-Protection Services.

1.25 “Released Claims” shall collectively mean any and all past, present, and future claims, causes of action, demands, damages, debts, liabilities, remedies, proceedings, actions, suits, allegations, assertions of wrongdoing, and any demand for injunctive relief or any other type of equitable or legal relief including, but not limited to, any causes of action arising under or

premised upon any statute, constitution, law, ordinance, treaty, regulation, or common law of any country, state, province, county, city, or municipality, liquidated or unliquidated, accrued or unaccrued, fixed or contingent, direct or derivative, and any other form of legal or equitable relief that either has been asserted, was asserted, or could have been asserted by any Settlement Class Member against any of the Released Persons arising from, or connected to, the Data Incident. Released Claims shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement and shall not include the claims of individuals in the Settlement Class who have timely excluded themselves from the Settlement.

1.26 “Released Persons” means Defendant and its past or present parents, subsidiaries, divisions, and related or affiliated entities, of any nature whatsoever, whether direct or indirect, as well as each of Defendant’s and these entities’ past, present and future assigns, successors in interest, heirs, executors, subrogees, insurers, reinsurers, agents, brokers, servants, representatives, advisors, consultants, vendors, predecessors, producers, employees, affiliates, associates, officers, directors, partners, principals, shareholders, stockholders, parent companies, attorneys, subsidiaries, divisions, contractors, subcontractors, administrators, all other persons, firms, entities or corporations with whom any of the former have been, are now or may hereafter be affiliated, and all persons acting by, through, under or in concert with Defendant of any nature whatsoever, whether direct or indirect.

1.27 “Reminder Notice” means a reminder notice, based off of the Short Notice. The Settlement Administrator shall also have the option, if requested by Class Counsel, to send reminder notices to Settlement Class Members who have not yet submitted a Claim Form, with such reminder notices to be sent, if at all, thirty (30) days prior to the Claims Deadline. Any such reminder notices shall be sent via email to members of the Settlement Class for whom Defendant possess email addresses and via single postcard to any member of the Settlement Class for whom

Defendant possesses a physical address but not an email address.

1.28 “Settlement Claim(s)” means a claim for settlement benefits made under the terms of this Settlement Agreement.

1.29 “Settlement Class” means all individuals who reside in the United States whose Private Information was exposed in the Data Incident involving Defendant, including all who were sent notice of the Data Incident. The Settlement Class specifically excludes: (i) Defendant; (ii) any entity in which Defendant has a controlling interest, is a parent or subsidiary, or which is controlled by Defendant; (iii) the affiliates, legal representatives, attorneys, heirs, predecessors, successors, and assigns of Defendant; and (iv) the judges and court personnel in this case and any members of their immediate families.

1.30 “Settlement Class Member(s)” means an individual within the defined Settlement Class who does not timely and validly request exclusion from the Settlement Class.

1.31 “Settlement Consideration” or “Total Settlement Benefits” means the following: (1) the non-reversionary cash fund that shall be established by Defendant in the amount of Six Hundred and Forty Thousand Dollars (\$640,000.00); and (2) Defendant’s Four Hundred Thousand Dollars (\$400,000.00) in Business Practice Enhancements. The Settlement Consideration provided for in this Settlement is, therefore, One Million and Forty Thousand Dollars (\$1,040,000.00).

1.32 “Settlement Fund” means the non-reversionary cash fund to be paid by Defendant in an amount equal to Six Hundred and Forty Thousand Dollars (\$640,000.00), which shall be used to pay for: (i) Valid Claims; (ii) Costs of Claims Administration; (iii) any Service Award approved by the Court; and (iv) any Attorneys’ Fees and Expenses Award payment approved by the Court. The Settlement Fund will not be used to pay for the Business Practice Enhancements identified in ¶ 2.4, which will be exclusively paid for by Defendant.

1.33 “Short Notice” means the short notice of the proposed class action settlement, substantially in the form of Exhibit C to this Settlement Agreement, sent via email to members of

the Settlement Class for whom Defendant possesses email addresses, and via single postcard to members of the Settlement Class for whom Defendant possesses physical addresses. The Short Notice will direct recipients to the Settlement Website where recipients may view the Long Notice and make a claim for monetary relief. The emailed version of the Short Notice will include a link to download the Claim Form. The Short Notice will also provide the Settlement Class with instructions on how to enroll in the Credit Monitoring and Identity-Protection Services Benefits explained below in ¶ 2.4. The Short Notice will also inform the Settlement Class, *inter alia*, of the Claims Deadline, and the Opt-Out Date and Objection Date.

1.34 “Short Notice Completion Date” means forty-five (45) days after the entry of the Preliminary Approval Order.

1.35 “United States” as used in this Settlement Agreement includes the District of Columbia and all United States and territories.

1.36 “Valid Claims” means Settlement Claims in an amount approved by the Settlement Administrator.

1.37 All time periods herein stated in terms of “days” shall be in calendar days unless otherwise expressly stated.

2. Settlement Benefits

2.1 In consideration for the release contained in this Settlement Agreement, and as a direct result of the Litigation, and without admitting liability for any of the alleged acts or omissions alleged in the Litigation, and in the interests of minimizing the costs inherent in any litigation, Kimco will perform all the following.

2.2 Kimco will establish the Settlement Fund with the Settlement Administrator as follows:

2.2.1 Within fourteen (14) days of the Court granting preliminary approval of this Settlement Agreement, Defendant shall pay all costs associated with notifying the Settlement Class Members of this Settlement Agreement in an amount estimated by the Claims Administrator (said amount being part of and not in addition to the Settlement Fund); and

- 2.2.2 Within seven (7) days of the Effective Date, Defendant shall pay into a Qualified Settlement Fund to be established and maintained by the Settlement Administrator the remaining portion of the Settlement Fund.
- 2.2.3 Additionally, within one hundred twenty (120) days after the Effective Date, Kimco will implement the Business Practice Enhancements as described in ¶ 2.4.
- 2.2.4 Kimco will not be required to pay any amount in excess of the amount identified in the Settlement Fund under any circumstances.

2.3 All Class Members shall have the opportunity to submit a Claim Form for certain claimed benefits. The claimed benefits, as described below, shall include: (a) Credit Monitoring and Identity-Protection Services; (b) Out-of-Pocket Losses; (c) CCPA Payments; and (d) *Pro Rata* Cash Payments. Any Valid Claim may be combined with any other Valid Claim. The cost of providing Credit Monitoring and Identity-Protection Services shall be paid from the Settlement Fund after the payment of any Attorneys' Fees and Expenses Award, any Service Award, and the Costs of Claims Administration. Thereafter, the priority for payment of claimed benefits will be as follows: (1) Out-of-Pocket Losses, (2) CCPA Payments, and (3) *Pro Rata* Cash Payment. If the Settlement Fund is insufficient to cover all Out-of-Pocket Losses and CCPA Payments, such claims shall be reduced *pro rata* to account for the amount of remaining funds, and no money shall be paid to any claimants for *Pro Rata* Cash Payments. Any remaining money in the Settlement Fund (to the extent any exists) after the payment of Out-of-Pocket Losses and CCPA Payments shall be disbursed in a *pro rata* amount to all valid claimants.

2.3.1 Credit Monitoring and Identity-Protection Services Benefit: All members of the Settlement Class who submit a valid Claim Form (regardless of whether they request a monetary payment under the settlement) shall be provided access to credit monitoring and identity-protection services for a period of two (2) years from the date a member of the Settlement Class claims the offer as provided on the Short Notice (defined below). The Credit Monitoring and

Identity-Protection Services will include a minimum of the following features: (1) credit monitoring; (2) identity theft insurance (with a \$1,000,000 policy limit); (3) real-time credit monitoring services; and (4) access to fraud resolution agents. The costs for such services will be paid from the Settlement Fund.

2.3.2 Out-of-Pocket Losses: Every Settlement Class Member may submit a claim for up to \$5,000 for out-of-pocket expenses and losses including proven actual monetary losses, upon submission of a valid Claim Form provided that: (i) the loss is an actual, unreimbursed monetary loss is supported by third-party documentation; (ii) the loss is fairly traceable to the Data Incident; (iii) the claimant made reasonable efforts to avoid the loss or seek reimbursement for the loss, including, but not limited to, exhaustion of all available credit monitoring insurance and identity theft insurance; and (v) the actual misuse or fraud loss occurred between June 24, 2023, and the close of the Claims Period. Losses may include, without limitation, the following: (i) out-of-pocket expenses incurred as a result of the Data Incident, including bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, or gasoline for local travel, fees for credit reports, credit monitoring, or other identity theft insurance product; and (iii) other expenses fairly traceable to the Data Incident.

Settlement Class Members who elect to submit a claim for reimbursement of Out-of-Pocket Losses must provide to the Settlement Administrator information required to evaluate the claim, including: (1) the Settlement Class Member's name and current address; (2) documentation reasonably supporting their claim; and (3) a brief description of the nature of the loss, if the nature of the loss is not apparent from the documentation alone. Documentation supporting Out-of-Pocket Losses can include receipts or other documentation not "self-prepared" by the Settlement Class Member concerning the costs incurred. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to clarify or

support other submitted documentation. Out-of-Pocket Losses will be deemed “fairly traceable” if: (1) the timing of the loss occurred on or after the respective Data Incident, and (2) in the Settlement Administrator’s sole determination, the Out-of-Pocket Losses could reasonably be caused by either of the Data Incident. Claims for Out-of-Pocket Losses may be reduced *pro rata* if insufficient funds remain in the Settlement Fund after the payment of Attorneys’ Fees and Expenses Award, any Service Award, and the Costs of Claims Administration.

2.3.3 CCPA Payment: All Settlement Class Members who resided in California on June 24, 2023 may submit a claim to receive a cash payment of \$50. Settlement Class Members who make a valid claim for the CCPA Payment will also be entitled to make a claim for Out-of-Pocket Losses, Pro Rata Cash Payment, and Credit Monitoring and Identity-Protection Services.

2.3.4 Pro Rata Cash Payment: Following the payment of any Attorneys’ Fees and Expenses Award, any Service Award, the Costs of Claims Administration, the cost of Credit Monitoring and Identity-Protection Services, claims for Out-of-Pocket Losses, and CCPA Payments, any remaining amount in the Settlement Fund shall be distributed on a *pro rata* basis to all Settlement Class Members who submitted approved claims.

2.3.5 Residual Funds: As to any portion of the Settlement Fund that remains after all of the above have been paid, the Parties shall meet and confer regarding the appropriate use of such residual funds, including the possibility for using residual funds for additional Credit Monitoring and Identity-Protection Services or whether any such funds shall be paid to National Cybersecurity Alliance as *cy pres* recipient. The Parties agree that no residual funds will revert to Defendant.

2.3.6 Claim Form Submission: Settlement Class Members submitting a claim for Credit Monitoring and Identity-Protection Services, Out-of-Pocket Losses, CCPA Payment, and/or Pro Rata Cash Payment must complete and submit a Claim Form to the Settlement Administrator, postmarked or submitted online on or before the Claims Deadline. A Claim Form being filed for

an Out-of-Pocket Expense and Loss reimbursement must be verified by the Settlement Class Member with a statement that his or her claim is true and correct, to the best of his or her knowledge and belief. Notarization is not required. Disputes as to claims submitted under this paragraph are to be resolved pursuant to the provisions stated in ¶ 8.1.

2.4 Business Practice Enhancements: Kimco shall take or continue the implementation of reasonable steps to secure personal information within its network. As part of those efforts, Kimco agrees that it has taken or will take the following measures: The costs associated with implementing and/or maintaining these Business Practice Enhancements are separate and apart from the Settlement Fund:

- 1) Sentinel One Complete Endpoint Protection via Arete Managed Detection & Response (MDR): Provides 24/7 cybersecurity expert monitoring of Kimco's network through autonomous, AI-driven endpoint threat detection and that will deploy an immediate response to mitigate potential threats (EDR). Integrated Ranger Network Visibility and Control offers unparalleled insight into unmanaged and IoT devices, ensuring no blind spots in Kimco's network.
- 2) Rapid7InsightVM: Continuous and dynamic vulnerability management with actionable insights into risks across our Kimco's infrastructure. The software's integrated remediation workflows streamline the process of patch management and vulnerability resolution, improving operational efficiency.
- 3) Varonis: Empowers Kimco with real-time visibility into sensitive data access and user behaviors. By identifying potential insider threats and minimizing unnecessary data exposure, Varonis effectively reduces the blast radius of any security incident. Its proactive threat detection platform ensures that suspicious activities are flagged and addressed before they escalate.

4) Trend Micro Vision One: This cloud email and collaboration protection platform shields Kimco's email systems and collaboration tools (e.g., Microsoft 365) from phishing, malware, and business email compromise (BEC). Its extended detection and response (XDR) capabilities enhance our ability to correlate events across multiple vectors, providing a unified view of threats.

5) Zerto Disaster Recovery Solution: Ensures the resilience of Kimco's critical systems by enabling near-instant recovery of data and applications. This solution reduces downtime and data loss during unforeseen disruptions, safeguarding Kimco business continuity.

6) On-Premise Surveillance Camera System: Enhances physical security by monitoring critical locations and providing a deterrent against unauthorized access. This system integrates with our broader security framework for cohesive incident management.

7) Increased Comprehensive Security Review and Penetration Testing: Increased frequency of independent third-party penetration testing and end-to-end internal and external security reviews to ensure that all layers of Kimco's cybersecurity infrastructure are tested, validated, and optimized against current threat landscapes.

8) Policy and Response Plan Updates: Conducted a thorough review and, where necessary, updates to all internal security policies and incident response plans to ensure alignment with current industry standards and best practices. These revisions enhance our preparedness and ensure a swift, coordinated response to potential future incidents.

9) Upgraded IT Infrastructure and End-User Devices: Reviewed and upgraded all

desktop computers, laptops, and tablets to ensure they meet the latest security and performance standards. Additionally, key data center switches and routers were upgraded to enhance network reliability, performance, and security. These improvements minimize vulnerabilities in endpoint devices and core network infrastructure, ensuring a stronger, more resilient IT environment.

Kimco acknowledges that the business practice changes already implemented were implemented in substantial part due to the pending Litigation and/or this Settlement. The cost of the Business Practice Enhancement being implemented and/or maintained is approximately \$400,000. The costs of the Business Practice Enhancement are to be paid by Defendant separate and apart from the Settlement Fund.

2.5 Validity of Claims.

2.5.1 The Settlement Administrator, in its sole discretion to be reasonably exercised, will determine whether: (1) the claimant is a Settlement Class Member; (2) the claimant has provided all information needed to complete the Claim Form, including any documentation that may be necessary to reasonably support a claim for Out-of-Pocket Losses, pursuant to ¶¶ 2.3.2 and 2.5.3; and (3) the information submitted could lead a reasonable person to conclude that more likely than not the claimant has suffered the claimed losses or expenses as a result of the Data Incident. Subject to ¶ 2.5.3, the Settlement Administrator may, at any time, request from the claimant, in writing, additional information as the Settlement Administrator may reasonably require in order to evaluate the claim, e.g., documentation requested on the Claim Form, information regarding the claimed expenses, and claims previously made for identity theft and the resolution thereof.

2.5.2 Upon receipt of an incomplete or unsigned Claim Form the Settlement Administrator shall request additional information and give the claimant thirty (30) days to cure

the defect before rejecting the claim. If the defect is not cured to the satisfaction of the Settlement Administrator, then the claim will be deemed invalid, there shall be no obligation to pay the defective claim, and the claim shall not be considered a Valid Claim.

2.5.3 For a Claim Form for an Out-of-Pocket Loss that is not accompanied by sufficient documentation to support the claimed expenses, within thirty (30) days after the Claims Deadline, the Settlement Administrator shall request additional information and give the claimant thirty (30) days to cure the defect before rejecting the claim, in whole or in part. If the defect is not cured to the satisfaction of the Settlement Administrator, then any claim for Out-of-Pocket Losses under section ¶ 2.3.2 will be deemed invalid to the extent the documentation does not support the claim and as a Valid Claim to the extent the documentation supports the claim. Following receipt of additional information requested by the Settlement Administrator, the Settlement Administrator shall have thirty (30) days to accept, in whole or lesser amount, or reject each claim. To the extent the claim is deemed invalid by the Settlement Administrator, there will be no obligation to pay the claim and it will not be considered a Valid Claim. Notwithstanding the foregoing, the failure to provide sufficient information to support a claim for Out-of-Pocket Losses shall have no impact on a claimant's eligibility for other Settlement benefits.

2.6 Settlement Checks. If a Settlement Class Member opts for payment via mailed check, all settlement checks shall be void ninety (90) days after issuance and shall bear the language: "This check must be cashed within ninety (90) days, after which time it is void." If a check becomes void, the Settlement Class Member shall have until six months after the Effective Date to request re-issuance. If no request for re-issuance is made within this period, the Settlement Class Member will have failed to meet a condition precedent to recovery of payment on his/her claim, the Settlement Class Member's right to receive monetary relief shall be extinguished, and neither the Settlement Fund, Settlement Administrator, Defendant nor Settlement Class Counsel shall have any obligation to make payments to the Settlement Class Member on the claim. The same

provisions shall apply to any re-issued check. For any checks that are issued or re-issued for any reason more than one hundred eighty (180) days after the Effective Date, requests for re-issuance need not be honored after such checks become void.

2.6.1 In the event that a Settlement Check is returned to the Settlement Administrator by the USPS because the address of the recipient is no longer valid, and the envelope contains a forwarding address, the Settlement Administrator shall re-send the Settlement Check to the forwarding address within seven (7) days of receiving the returned Short Notice

2.6.2 In the event that a Settlement Check is returned to the Settlement Administrator by the USPS because the address of the recipient is no longer valid, i.e., the envelope is marked "Return to Sender" and does not contain a new forwarding address, the Settlement Administrator shall perform a standard skip trace, in the manner that the Settlement Administrator customarily performs skip traces, in an effort to attempt to ascertain the current address of the particular member of the Settlement Class in question and, if such an address is ascertained, the Settlement Administrator will re-send the Settlement Check within seven (7) days of receiving such information. This shall be the final requirement for mailing.

2.7 Payment of Valid Claims, whether via mailed check or electronic distribution, shall be issued by the Settlement Administrator. The Settlement Administrator will make every reasonable effort to pay valid claims within forty-five (45) days after the Effective Date.

2.8 Settlement Class Certification. The Parties agree, for purposes of this settlement only, to the certification of the Settlement Class and Settlement Subclass. If the settlement set forth in this Settlement Agreement is not approved by the Court, or if the Settlement Agreement is terminated or cancelled pursuant to the terms of this Settlement Agreement, this Settlement Agreement, and the certification of the Settlement Class and Settlement Subclass provided for herein, will be vacated and the Litigation shall proceed as though the Settlement Class and Settlement Subclass had never been certified, without prejudice to any Party's position on the issue

of class certification or any other issue. The Parties' agreement to the certification of the Settlement Class and Settlement Subclass is also without prejudice to any position asserted by the Parties in any other proceeding, case or action, as to which all of their rights are specifically preserved.

3. Order of Preliminary Approval and Publishing of Notice of Final Approval Hearing

3.1. As soon as practicable after the execution of the Settlement Agreement, Class Counsel shall submit this Settlement Agreement to the Court, and Class Counsel will file a motion for preliminary approval of the settlement with the Court requesting entry of a Preliminary Approval Order in the form substantially similar to Exhibit D, requesting, *inter alia*:

- a) certification of the Settlement Class and Settlement Subclass for settlement purposes only pursuant to ¶ 2.8;
- b) preliminary approval of the Settlement Agreement as set forth herein;
- c) appointment of Class Counsel as Settlement Class Counsel;
- d) appointment of Plaintiffs as Class Representatives;
- e) approval of the Short Notice to be emailed or mailed to Settlement Class Members and Settlement Subclass Members in a form substantially similar to the one attached as Exhibit C to this Settlement Agreement;
- f) approval of the Long Notice to be posted on the Settlement Website in a form substantially similar to the one attached as Exhibit B to this Settlement Agreement, which, together with the Short Notice, shall include a fair summary of the parties' respective litigation positions, statements that the settlement and notice of settlement are legitimate and that the Settlement Class and Settlement Subclass are entitled to benefits under the settlement, the general terms of the settlement set forth in the Settlement Agreement, instructions for how to object to or opt-out of the settlement, instructions for

how to obtain the Credit Monitoring and Identity-Protection Services Benefit, the process and instructions for making claims to the extent contemplated herein, and the date, time and place of the Final Approval Hearing;

- g) approval of a Claim Form to be used by Settlement Class Members and Settlement Subclass Members to make a claim in a form substantially similar to the one attached as Exhibit A to this Settlement Agreement; and
- h) appointment of Kroll Settlement Administration as the Settlement Administrator.

3.2 Notice Program. The Short Notice, Long Notice, and Claim Form have been reviewed and approved by the Settlement Administrator but may be revised as agreed upon by the Parties prior to submission to the Court for approval. Immaterial revisions to these documents may also be made prior to dissemination of notice.

3.3 The Settlement Fund shall be used to pay for providing notice to the Settlement Class in accordance with the Preliminary Approval Order, and the costs of such notice, together with the other costs of Claims Administration. Attorneys' fees, costs, and expenses of Class Counsel, and any Service Award to the Class Representatives, as approved by the Court, shall be paid by Settlement Fund as set forth in ¶ 7 below. Notice shall be provided to the Settlement Class by the Settlement Administrator as follows:

- a) *Class Member Information:* No later than ten (10) days after entry of the Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the names, email addresses, and any last known physical address of each member of the Settlement Class and Settlement Subclass (collectively, "Class Member Information") that Defendant possesses.
- b) The Class Member Information and its contents shall be used by the

Settlement Administrator solely for the purpose of performing its obligations pursuant to this Agreement and shall not be used for any other purpose at any time. Except to administer the settlement as provided in this Settlement Agreement or provide all data and information in its possession to the Parties upon request, the Settlement Administrator shall not reproduce, copy, store, or distribute in any form, electronic or otherwise, the Class Member Information. The Settlement Administrator shall delete all information associated with this Litigation when it no longer has a legal requirement to retain such data.

- c) *Settlement Website:* Prior to the dissemination of the Short Notice, the Settlement Administrator shall establish a settlement website (www.KimcoDataSettlement.com) that will inform members of the Settlement Class of the terms of this Agreement, their rights, dates and deadlines and related information (“Settlement Website”). The Settlement Website shall include, in .pdf format and available for download, the following: (i) the Long Notice; (ii) the Claim Form; (iii) the Preliminary Approval Order; (iv) this Agreement; (v) the Complaint; and (vii) any other materials agreed upon by the Parties and/or required by the Court, *e.g.*, the Order and Judgment of Final Approval in this Litigation, an exclusion form, and an objection form (substantially in the form as shown in Exhibits D and E to this Settlement Agreement). The Settlement Website shall provide members of the Settlement Class with the ability to complete and submit the Claim Form electronically. The Settlement Website shall be activated by the Notice Commencement Date and shall remain active until one hundred and eighty (180) days after the Effective Date. The Settlement Website will have

the Short Notice, Long Notice, Claim Form, and other necessary forms available in Spanish, with the mailed Short Notice directing Spanish speaking Settlement Class Members to the Website for Spanish translations.

d) *Short Notice:* By the Notice Commencement Date, the Settlement Administrator will begin providing the Short Notice to the Settlement Class, which provision shall be substantially completed by the Short Notice Completion Date. Subject to the requirements of this Settlement Agreement and the Preliminary Approval Order, the Settlement Administrator will provide the Short Notice to the Settlement Class as follows:

- i. Via mail to the postal address in Defendant's possession. Before any mailing under this paragraph occurs, the Settlement Administrator shall run the postal addresses of members of the Settlement Class through the United States Postal Service ("USPS") National Change of Address database to update any change of address on file with the USPS;
- ii. Via email to those members of the Settlement Class for whom Defendant has email addresses but does not have postal addresses;
- iii. In the event that a Short Notice is returned to the Settlement Administrator by the USPS because the address of the recipient is no longer valid, and the envelope contains a forwarding address, the Settlement Administrator shall re-send the Short Notice to the forwarding address within seven (7) days of receiving the returned Short Notice;
- iv. In the event that subsequent to the first mailing of a Short Notice, and at least fourteen (14) days prior to the Opt-Out Date and

Objection Date, a Short Notice is returned to the Settlement Administrator by the USPS because the address of the recipient is no longer valid, *i.e.*, the envelope is marked “Return to Sender” and does not contain a new forwarding address, the Settlement Administrator shall perform a standard skip trace, in the manner that the Settlement Administrator customarily performs skip traces, in an effort to attempt to ascertain the current address of the particular member of the Settlement Class in question and, if such an address is ascertained, the Settlement Administrator will re-send the Short Notice within seven (7) days of receiving such information. This shall be the final requirement for mailing.

- e) Publishing, on or before the Notice Commencement Date, the Claim Form, Long Notice and this Settlement Agreement on the Settlement Website, as specified in the Preliminary Approval Order, and maintaining and updating the website throughout the claim period as provided in Section 3.3(c);
- f) Providing the Settlement Class with a Reminder Notice via email or postcard at least thirty (30) days before the Claims Deadline, if requested by Class Counsel;
- g) A toll-free help line with a live operator shall be made available to provide members of the Settlement Class with additional information about the settlement. The Settlement Administrator also will provide copies of the Long Notice and paper Claim Form, as well as this Settlement Agreement, upon request; and
- h) Contemporaneously with seeking Final Approval of the Settlement, Class Counsel and the Settlement Administrator shall cause to be filed with the

Court an appropriate affidavit or declaration with respect to complying with these provisions regarding notice.

3.4 The Short Notice, Long Notice, and other applicable communications to the Settlement Class may be adjusted by the Settlement Administrator in consultation and agreement with the Parties as may be reasonable and not inconsistent with such approval. The Notice Program shall commence by the Notice Commencement Date.

3.5 The Parties through their respective counsel shall request that the Court hold a hearing (the “Final Approval Hearing”) no fewer than 120 days after the Preliminary Approval Order and grant final approval of the settlement set forth herein. Class Counsel shall file a Motion for Final Approval at least thirty-five (35) days before the Final Approval Hearing (or at such other time as ordered by the Court).

4. Opt-Out Procedures

4.1 Each Person who intends to opt out of the Settlement Class must personally sign themselves (with a physical ink signature or via DocuSign, or other similar process for transmitting authenticated digital signatures) and timely submit a written notice to the Settlement Administrator of their intent to opt out of the Settlement Class by mailing it with a postmark by the Opt-Out Date to the designated Post Office box established by the Settlement Administrator, or (b) emailing it to the Settlement Administrator using the email address provided on the Settlement Website. To be effective, the written opt-out notice must include the following: (a) the requestor’s name, address, and email address; (b) the requestor’s physical ink or digitally authenticated signature; (c) the name and number of this Litigation, *Kimco Staffing Data Breach Cases*, Judicial Council Coordination Proceeding No. 5321; and (d) a statement that clearly manifests his or her intent to be excluded from the Settlement Class for purposes of this settlement. To be timely, written notice must be postmarked or emailed no later than the Opt-Out Date. To meet requirements to make an opt out notice effective stated above, the signature must be physically written in ink beneath the declaration

of the signer's expression of intent to opt out of the Settlement Class or digital signatures. In the event that a Person submits an opt out notice without a physical, ink signature or via DocuSign, or other similar process for transmitting authenticated digital signatures, the Settlement Administrator must contact the Person using the email address provided in the opt out notice and request the Person to correct their signature and submit a physical, ink signature or via DocuSign, or other similar process for transmitting authenticated digital signatures to be postmarked or emailed no later than one week from the date of the request. Failure to submit the physical ink or digitally authenticated signature before that deadline will result in the opt out notice being untimely and ineffective.

4.2 All Persons who submit valid and timely notices of their intent to opt-out and not be a Settlement Class Member, as set forth in ¶ 4.1 above, referred to herein as "Opt-Out(s)," shall not receive any benefits of and will not be bound by the terms of this Settlement Agreement. All Persons falling within the definition of the Settlement Class who do not submit a timely and effective opt out notice under Section 4.1.1 will be bound by the terms of this Settlement Agreement and Final Judgment Order entered thereon.

4.3 Persons submitting an Opt-Out are not entitled to any benefits of this settlement under Section 2. Any member of the Settlement Class who submits an Opt-Out and a Claim Form may not submit objections under Section 5 and may not receive any benefit and his or her claim shall not be considered a Valid Claim.

5. Objection Procedures

5.1 Each Settlement Class Member desiring to object to the Settlement Agreement shall submit a timely written notice of his or her objection to the Settlement Administrator by the Objection Date. Such notice shall state: (a) the objector's full name and address; (b) the case name and number, *Kimco Staffing Data Breach Cases*, Judicial Council Coordination Proceeding No. 5321; (c) information identifying the objector as a Settlement Class Member, including proof that

the objector is a member of the Settlement Class (*e.g.*, copy of the objector's settlement notice, copy of original notice of one or both of the Data Incident, or a statement explaining why the objector believes he or she is a Settlement Class Member); (d) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable; (e) the identity of any and all counsel representing the objector in connection with the objection; (f) a statement whether the objector and/or his or her counsel will appear at the Final Approval Hearing; (g) a list of any other objections submitted by the Settlement Class Member or Settlement Subclass Member, or their counsel, to any class actions submitted in any court, whether state, federal, or otherwise, in the United States in the previous five (5) years; and (h) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative (if any) representing him or her in connection with the objection. All objections must be emailed or postmarked to the Settlement Administrator on or before the Objection Deadline, as set forth above. Thereafter, the Parties' counsel shall file a single packet of all objections with the Court.

5.2 The exclusive means for any challenge to the Settlement Agreement shall be through the provisions of ¶ 5.1. Without limiting the foregoing, any appeal of the Settlement Agreement or the Final Judgment Order approving this Settlement Agreement shall be pursuant to appeal under the California's Code of Civil Procedure. Any Settlement Class Member or any other Party to the Settlement Agreement may not challenge the Settlement Agreement or the Final Judgment Order approving this Settlement Agreement through a collateral attack.

6. Releases

6.1 Upon the Effective Date, each Settlement Class Member, Settlement Subclass Member, and Plaintiffs, shall be deemed to have, and by operation of the Final Judgment Order shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims, including, without limitation, Unknown Claims. Further, upon the Effective Date, and to the fullest extent

permitted by law, each Settlement Class Member, Settlement Subclass Member, and Plaintiffs, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be permanently barred from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any of the Released Claims is asserted.

6.2 Upon the occurrence of the later of the Effective Date and Defendant paying the full amount of the Settlement Fund to the Settlement Administrator, and in consideration of the Released Claims described herein, Defendant shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged the Class Representatives, Class Counsel, and all Settlement Class Members of all claims based upon the institution, prosecution, settlement, or resolution of the litigation or the Released Claims, except for enforcement of the Settlement Agreement. Notwithstanding the above, any other claims or defenses Defendant may have against such Persons including, without limitation, any claims based upon any retail, banking, debtor-creditor, contractual, or other business relationship with such Persons not based upon the institution, prosecution, settlement, or resolution of the Litigation or the Released Claims are specifically preserved and shall not be affected by the preceding sentence.

7. Class Counsel's Attorneys' Fees, Costs, and Expenses; Service Award to Class Representatives

7.1 The Parties did not discuss the amount of Attorneys' Fees and Expenses Award and/or Service Award to Plaintiffs, as provided for in ¶¶ 7.2 and 7.3, until after the substantive terms of the settlement had been agreed upon.

7.2 At least thirty-five (35) days prior to the Final Fairness hearing, Class Counsel will move the Court for an award of reasonable attorneys' fees incurred in the Action in an amount not to exceed one third (1/3) of the Settlement Fund, and reimbursement of documented costs and expenses of an amount not to exceed \$45,000.00. The amount of the Attorneys' Fees and Expenses

Award shall be determined by the Court. Class Counsel, in their sole discretion, shall allocate and distribute any amounts of attorneys' fees, costs, and expenses awarded by the Court among Class Counsel and other plaintiffs' counsel.

7.3 Subject to Court approval, Class Counsel will move the court for Service Awards to the Class Representatives in the amount of \$2,500 (the "Service Award") each. The amount of the Service Award shall be determined by the Court.

7.4 It is not a condition of this Settlement Agreement that any particular amount of attorneys' fees, costs, or expenses or Service Awards be approved by the Court, or that such fees, costs, expenses, or awards be approved at all. Any order or proceeding relating to the amount of any award of attorneys' fees, costs, or expenses or Service Awards, or any appeal from any order relating thereto, or reversal or modification thereof, shall not operate to modify, terminate, or cancel this Settlement Agreement, or affect or delay the finality of the Final Judgment Order and the Judgment.

7.5 If awarded by the Court, the Settlement Administrator shall pay from the Settlement Fund any Attorneys' Fees and Expenses Award and any Service Award for the Class Representatives, as set forth in ¶¶ 7.2 and 7.3 in the amounts awarded by the Court within ten (10) days after the Effective Date. Class Counsel shall thereafter distribute the award of attorneys' fees, costs, and expenses among themselves and other plaintiffs' counsel, and the Service Awards to Plaintiffs, consistent with ¶¶ 7.2 and 7.3.

8. Administration of Claims

8.1 The Settlement Administrator shall administer and calculate the claims submitted by Settlement Class Members under ¶ 2.3. Class Counsel and Defendant shall be given reports as to both claims and distribution, and have the right to review and obtain supporting documentation and challenge such reports if they believe them to be inaccurate or inadequate. The Settlement Administrator shall make the initial determination of whether a Settlement Claim is valid. Claimants will have the opportunity to seek review by the Parties' Counsel, if they dispute the Settlement Administrator's initial determination.

8.2 All Settlement Class Members who fail to timely submit a claim for any benefits hereunder within the timeframes set forth herein, or such other period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments or benefits pursuant to the settlement set forth herein, but will in all other respects be subject to, and bound by, the provisions of the Settlement Agreement, the releases contained herein and the Final Judgment Order.

8.3 No Person shall have any claim against the Settlement Administrator, Defendant, Class Counsel, the Class Representatives, and/or Defendant's counsel based on distributions of benefits to Settlement Class Members.

8.4 The funds provided by Kimco under the Settlement will be maintained by an escrow agent as a Court-approved Qualified Settlement Fund pursuant to Section 1.468B-1, *et seq.*, of the Treasury Regulations promulgated under Section 468B of the Internal Revenue Code of 1986, as amended, and shall be deposited in an interest-bearing account insured by the Federal Deposit Insurance Corporation ("FDIC") at a reputable financial institution. Funds may be placed in a non-interest-bearing account as may be reasonably necessary during the check clearing process.

9. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination

9.1 The Effective Date shall mean one business day following the latest of: (i) the date upon

which the time expires for filing or noticing any reconsideration or appeal of the Final Judgment Order, or entry of the Final Judgment Order if no person or entity has standing to appeal or seek reconsideration; (ii) if there is an appeal or appeals or reconsideration sought, other than an appeal or appeals or reconsideration solely with respect to attorneys' fees, costs, and expenses, the date on which the Final Judgment Order is affirmed without any material modification and is no longer subject to judicial review; or (iii) the date of final dismissal of any appeal or reconsideration or the final dismissal of any proceeding on certiorari with respect to the Final Judgment Order, and the Final Judgment Order is no longer subject to judicial review.

9.2 If the Court does not approve the Settlement Agreement or the Effective Date does not occur for any reason, the Settlement Agreement shall be canceled and terminated subject to ¶ 9.4 unless Class Counsel and Defendant's counsel mutually agree in writing to proceed with the Settlement Agreement.

9.3 Within seven (7) days after the Opt-Out Date, the Settlement Administrator shall furnish to Class Counsel and to Defendant's counsel a complete list of all timely and valid requests for exclusion (the "Opt-Out List").

9.4 The Settlement Agreement may be terminated and cancelled at the sole and exclusive discretion of Defendant if 150 or more of the Settlement Class Members timely and validly exclude themselves from the Settlement Class, on the ground that exclusion at that level threatens to frustrate the essential purpose of this agreement. Defendant may exercise their right to terminate this Settlement Agreement under this subsection by providing written notification to Class Counsel of their election within five (5) business days after the Settlement Administrator has delivered the Opt-Out List to the Parties.

9.5 In the event that the Settlement Agreement or the releases set forth in ¶ 6.1 above are not approved by the Court, the Effective Date does not occur for any reason, or the settlement set forth in the Settlement Agreement is terminated in accordance with its terms, (a) the Parties shall

be restored to their respective positions in the Litigation and shall jointly request that all scheduled litigation deadlines be reasonably extended by the Court so as to avoid prejudice to any Party or Party's counsel, and (b) the terms and provisions of the Settlement Agreement shall have no further force and effect with respect to the Parties and shall not be used in the Litigation or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Settlement Agreement shall be treated as vacated, *nunc pro tunc*. Notwithstanding any statement in this Settlement Agreement to the contrary, no order of the Court or modification or reversal on appeal of any order reducing the amount of attorneys' fees, costs, expenses, and/or Service Awards shall constitute grounds for cancellation or termination of the Settlement Agreement. Further, notwithstanding any statement in this Settlement Agreement to the contrary, the Settlement Fund shall be used to pay any Costs of Claims Administration that have already been incurred by the Settlement Administrator, and the remaining Settlement Fund shall be paid back to Defendant or its insurer, as the case may be.

10. Miscellaneous Provisions

10.1 The Parties (a) acknowledge that it is their intent to consummate this Agreement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Settlement Agreement, and to exercise their best efforts to accomplish the terms and conditions of this Settlement Agreement.

10.2 The Parties intend this settlement to be a final and complete resolution of all disputes between them with respect to the Litigation. The settlement compromises claims that are contested and shall not be deemed an admission by any Party as to the merits of any claim or defense. The Parties each agree that the settlement was negotiated in good faith by the Parties, and reflects a settlement that was reached voluntarily after consultation with competent legal counsel. The Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum that the Litigation was brought or defended in bad faith

or without a reasonable basis. It is agreed that no Party shall have any liability to any other Party as it relates to the Litigation, except as set forth herein.

10.3 Neither the Settlement Agreement, nor the settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of the Settlement Agreement or the settlement (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity or lack thereof of any Released Claim, or of any wrongdoing or liability of any of the Released Persons; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Any of the Released Persons may file the Settlement Agreement and/or the Final Judgment Order in any action that may be brought against them or any of them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

10.4 The Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

10.5 The exhibits to this Settlement Agreement and any exhibits thereto are a material part of the settlement and are incorporated and made a part of the Agreement.

10.6 This Settlement Agreement, including all exhibits hereto, contains the entire understanding between Defendant and Plaintiffs regarding the payment of the Litigation settlement and supersedes all previous negotiations, agreements, commitments, understandings, and writings between Defendant and Plaintiffs in connection with the payment of the Litigation settlement. Except as otherwise provided herein, each party shall bear its own costs. This Settlement Agreement supersedes all previous agreements between Defendant and Plaintiffs.

10.7 Class Counsel, on behalf of the Settlement Class, are expressly authorized by the Class Representatives to take all appropriate actions required or permitted to be taken by the

Settlement Class pursuant to the Settlement Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or amendments to the Settlement Agreement on behalf of the Settlement Class which they deem appropriate in order to carry out the spirit of this Settlement Agreement and to ensure fairness to the Settlement Class.

10.8 Each counsel or other Person executing the Settlement Agreement on behalf of any party hereto hereby warrants that such Person has the full authority to do so.

10.9 The Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be an original but all of which shall constitute one and the same instrument. A complete set of original executed counterparts shall be filed with the Court.

10.10 The Settlement Agreement shall be binding upon, and inure to the benefit of, the respective successors, assigns, affiliates, associates, heirs, executors, and administrators of the parties hereto.

10.11 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Settlement Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in the Settlement Agreement. The Court shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation and enforcement of the Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice and the Settlement Administrator. As part of its agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.

10.12 As used herein, "he" means "he, she, they, or it;" "his" means "his, hers, theirs,

or its,” and “him” means “him, her, them, or it.”

10.13 The Settlement Agreement shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of California, and the rights and obligations of the parties to the Settlement Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of California.

10.14 All dollar amounts are in United States dollars (USD).

10.15 All agreements made and orders entered during the course of the Litigation relating to the confidentiality of information shall survive this Settlement Agreement, including but not limited to those relating to all information exchanged for purposes of mediation or under the auspices of California Evidence Code § 1152. Defendant shall not be liable for any additional attorneys’ fees and expenses of any Settlement Class Members’ or Settlement Subclass Members’ counsel, including any potential objectors or counsel representing a Settlement Class Member or Settlement Subclass Member individually, other than what is expressly provided for in this Agreement. Class Counsel agree to hold Defendant harmless from any claim regarding the division of any award of attorneys’ fees and expenses to Class Counsel, and any claim that the term “Class Counsel” fails to include any counsel, Person, or firm who claims that they are entitled to a share of any attorneys’ fees or expense awarded to Class Counsel in this lawsuit.

10.16 Except as required by law or any other disclosure obligations, or as provided herein, the Parties, and the Parties’ counsel, shall not issue any press releases or make any postings on social media, written or verbal, related to this case or the settlement; however, Defendant may respond to relevant posts on Defendant’s website or social media sites, and a Party or the Party’s counsel may also respond to any incoming press inquiry about this case or the Settlement with a responsive statement approved in advance by the opposing Party or the opposing Party’s counsel. Counsel for the Parties may identify this case, its nature, and the fact that it settled on their personal or firm resumes and on their websites.

10.17 The attached Appendix A compiles the dates and deadlines established by this Agreement. The Appendix is provided for convenience and should not be interpreted to alter the substance of this Agreement in any way.

IN WITNESS WHEREOF, the Parties have executed the Settlement Agreement.

Dated: February 18, 2025

Respectfully submitted,



Tom Megonigal
President, Kimco Staffing Services, Inc.



Dhavé Balatéro
Counsel for Defendant

Dated: February 17, 2025



Stephen Varela (Feb 17, 2025 13:16 PST)
Plaintiff Stephen Varela

Plaintiff Sheryl Bailas

Plaintiff Jose Peralta

Plaintiff Jesus Guerrero

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Beverly Hills, CA 90212
Telephone: (858) 209-6941

Counsel for Plaintiffs and the Proposed Class

Dated: February 24, 2025

Plaintiff Stephen Varela

DocuSigned by:

0000EE9400B5461...
Plaintiff Sheryl Bailas

Plaintiff Jose Peralta

Plaintiff Jesus Guerrero

Jason M. Wucetich (SBN 222113)
jason@wukolaw.com
Dimitrios V. Korovilas (SBN 247230)
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John J. Nelson (SBN 317598)
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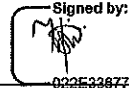
Counsel for Plaintiffs and the Proposed Class

2/24/2025

Dated: February ____, 2025

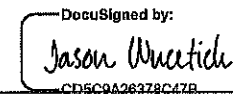
Plaintiff Stephen Varela

Plaintiff Sheryl Bailas

Signed by:

022E3367740D40A...

Plaintiff Jose Peralta

Plaintiff Jesus Guerrero

DocuSigned by:

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Jason M. Wucetich (SBN 222113)
jason@wukolaw.com
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/s/ John J. Nelson

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Counsel for Plaintiffs and the Proposed Class

Dated: February 17, 2025

Plaintiff Stephen Varela

Plaintiff Sheryl Bailas

Plaintiff Jose Peralta

Jesus Guerrero
Jesus Guerrero (Feb 20, 2025 19:40 PST)

Plaintiff Jesus Guerrero

Jason M. Wucetich (SBN 222113)
jason@wukolaw.com
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Counsel for Plaintiffs and the Proposed Class

APPENDIX A

SETTLEMENT TIMELINE

<u>From Order Granting Preliminary Approval</u>	
Kimco provides list of Settlement Class Members to the Settlement Administrator	+10 days
Kimco pays cost of notice and administration	+14 days
Notice Commencement Date	+30 days
Short Notice Completion Date	+45 days
<u>From Notice Commencement Date</u>	
Objection Deadline	+60 days (<i>i.e.</i> , 90 days after Order Granting Preliminary Approval)
Exclusion Deadline	+60 days (<i>i.e.</i> , 90 days after Order Granting Preliminary Approval)
Optional Reminder Notice	+60 days (<i>i.e.</i> , 90 days after Order Granting Preliminary Approval)
Claims Deadline	+90 days (<i>i.e.</i> , 120 days after Order Granting Preliminary Approval)
<u>Final Approval Hearing</u>	+120 days from Order Granting Preliminary Approval
Motion for Final Approval of Settlement, Fees, Costs, and Enhancement Awards	At least 35 days before Final Approval Hearing
<u>From Order Granting Final Approval</u>	
Effective Date	+61 days, assuming no appeals
Kimco pays remainder of Settlement Fund	+68 days, assuming no appeal, or +7 days after the Effective Date if an appeal is taken
Settlement Administrator pays Attorneys' Fees and Expenses and Class Representatives Service Awards	+71 days, assuming no appeals, or +11 days after the Effective Date if an appeal is taken

EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE, CIVIL COMPLEX CENTER

Coordination Proceeding
Special Title (Rule 3.550)

**KIMCO STAFFING DATA BREACH
CASES**

**JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 5321**

Assigned to: Hon. Melissa R. McCormick
Dept.: CX104

CLASS ACTION

FIRST AMENDMENT TO SETTLEMENT AGREEMENT

Plaintiffs Stephen Varela, Sheryl Bailas, Jose Peralta, and Jesus Guerrero (“Plaintiffs”), individually and on behalf of the Settlement Class (as defined in the Settlement Agreement), and Kimco Staffing Services, Inc. (“Defendant” or “Kimco” and, together with Plaintiffs, the “Parties,”), by and through their respective counsel of record, hereby agree to modify the Settlement Agreement (dated February 17, 2025 and signed by the Parties and their respective counsel between February 17, 2025 and February 24, 2025) as follows:

1. Delete Paragraph 1.25 of the Settlement Agreement in its entirety and replace with the following:

“Released Claims” shall collectively mean any and all past, present, and future claims, causes of action, lawsuits, set-offs, costs, expenses, attorneys’ fees, losses, rights, demands, charges, complaints, actions, suits, petitions, obligations, debts, contracts, penalties, damages, or liabilities of any nature whatsoever, whether known or unknown, liquidated or unliquidated, accrued or unaccrued, fixed or contingent, direct or derivative, matured or unmatured, in law or equity, and any other form of legal or equitable relief that has been asserted, was asserted, or could have been asserted, by any Settlement Class Member against any of the Released Persons reasonably related to the facts alleged in or otherwise described by the operative complaint in the above-captioned Litigation. Released Claims shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement and shall not include the claims of individuals in the Settlement Class who have timely excluded themselves from the Settlement.

2. Delete Paragraph 1.26 of the Settlement Agreement in its entirety and replace with the following:

“Released Persons” means Defendant and its past or present parents, subsidiaries, and divisions, as well as each of Defendant’s and these entities’ past, present and future assigns, successors in interest, heirs, executors, subrogees, insurers, reinsurers, agents, brokers, servants, representatives, predecessors, employees, officers, directors, partners, principals, shareholders, stockholders, parent companies, attorneys, subsidiaries, divisions, contractors, and subcontractors.

3. Delete Paragraph 6.1 of the Settlement Agreement in its entirety and replace with the following:

Upon Defendant’s full performance of its obligations under Paragraph 2.2.2 of the Settlement Agreement, each Settlement Class Member, Settlement Subclass Member, and Plaintiffs, shall be deemed to have, and by operation of the Final Judgment Order shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims, including, without limitation, Unknown Claims. Further, upon the Effective Date, and to the fullest extent permitted by law, each Settlement Class Member, Settlement Subclass Member, and Plaintiffs, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public or in any capacity, be permanently barred from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than participation in the settlement as provided herein) in which any of the Released Claims is asserted.

4. Delete Paragraph 2.6 of the Settlement Agreement in its entirety and replace with the following:

If a Settlement Class Member opts for payment via mailed check, all settlement checks shall be void ninety (180) days after issuance and shall bear the language: "This check must be cashed within ninety (180) days, after which time it is void." If a check becomes void, the Settlement Class Member shall have until six months after the Effective Date to request re-issuance. If no request for re-issuance is made within this period, the Settlement Class Member will have failed to meet a condition precedent to recovery of payment on his/her claim, the Settlement Class Member's right to receive monetary relief shall be extinguished, and neither the Settlement Fund, Settlement Administrator, Defendant nor Settlement Class Counsel shall have any obligation to make payments to the Settlement Class Member on the claim. The same provisions shall apply to any re-issued check. For any checks that are issued or re-issued for any reason more than one hundred eighty (180) days after the Effective Date, requests for re-issuance need not be honored after such checks become void.

5. Delete Exhibits A, B, C(1), C(2), and E of the original Settlement Agreement and replace with Exhibits A, B, C(1), C(2), and E attached hereto.
6. These amendments shall supersede any conflicting terms and conditions in the original Settlement Agreement and shall be incorporated as part of the Settlement Agreement.
7. This Amendment shall become effective as of January 9, 2026.
8. All other terms and conditions of the original Settlement Agreement, except to the extent amended herein, remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to Settlement Agreement.

Dated: January 8, 2026

Respectfully submitted,

On behalf of Kimco Staffing Services, Inc.



Fredrick A. Hagen
FREEMAN MATHIS & GARY, LLP

Counsel for Defendant

Dated: January ____, 2026

On behalf of Plaintiffs



Jason Wucetich (Jan 7, 2026 18:50:40 MST)

Jason M. Wucetich (SBN 222113)

jason@wukolaw.com

Dimitrios V. Korovilas (SBN 247230)

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Counsel for Plaintiffs and the Proposed Class

EXHIBIT 3

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE, CIVIL COMPLEX CENTER

Coordination Proceeding
Special Title (Rule 3.550)

**KIMCO STAFFING DATA BREACH
CASES**

**JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 5321**

Assigned to: Hon. Melissa R. McCormick
Dept.: CX104

CLASS ACTION

SECOND AMENDMENT TO SETTLEMENT AGREEMENT

Plaintiffs Stephen Varela, Sheryl Bailas, Jose Peralta, and Jesus Guerrero (“Plaintiffs”), individually and on behalf of the Settlement Class (as defined in the Settlement Agreement), and Kimco Staffing Services, Inc. (“Defendant” or “Kimco” and, together with Plaintiffs, the “Parties,”), by and through their respective counsel of record, hereby agree to modify the Settlement Agreement (dated February 17, 2025 and signed by the Parties and their respective counsel between February 17, 2025 and February 24, 2025) as follows:

- 1 1. Delete Paragraph 1.25 of the Settlement Agreement in its entirety and replace with the
2 following:

3 “Released Claims” shall collectively mean any and all claims, causes of
4 action, and demands, and that were or reasonably could have been asserted
5 by a Settlement Class Member against any of the Released Persons based
6 on the facts alleged in the operative complaint in the above-captioned
7 Litigation.

- 8 2. Delete Paragraph 1.26 of the Settlement Agreement in its entirety and replace with the
9 following:

10 “Released Persons” means Defendant, Defendant’s employees, and
11 Defendant’s insurer The Travelers Companies, Inc.

- 12 3. Delete Paragraph 6.1 of the Settlement Agreement in its entirety and replace with the
13 following:

14 Upon Defendant’s full performance of its obligations under Paragraph 2.2.2
15 of the Settlement Agreement, each Settlement Class Member, Settlement
16 Subclass Member, and Plaintiffs, shall be deemed to have, and by operation
17 of the Final Judgment Order shall have, fully, finally, and forever released,
18 relinquished, and discharged all Released Claims, including, without
19 limitation, Unknown Claims. Further, upon Defendant’s full performance
20 of its obligations under Paragraph 2.2.2 of the Settlement Agreement,, and
21 to the fullest extent permitted by law, each Settlement Class Member,
22 Settlement Subclass Member, and Plaintiffs, shall, either directly,
23 indirectly, representatively, as a member of or on behalf of the general
24 public or in any capacity, be permanently barred from commencing,
25 prosecuting, or participating in any recovery in any action in this or any
26 other forum (other than participation in the settlement as provided herein)
27 in which any of the Released Claims is asserted.

- 28 4. Delete Paragraph 2.6 of the Settlement Agreement in its entirety and replace with the
following:

If a Settlement Class Member opts for payment via mailed check, all
settlement checks shall be void one hundred eighty (180) days after issuance
and shall bear the language: “This check must be cashed within one hundred

1 eighty (180) days, after which time it is void." If a check becomes void, the
2 Settlement Class Member shall have until six months after the Effective
3 Date to request re-issuance. If no request for re-issuance is made within this
4 period, the Settlement Class Member will have failed to meet a condition
5 precedent to recovery of payment on his/her claim, the Settlement Class
6 Member's right to receive monetary relief shall be extinguished, and neither
7 the Settlement Fund, Settlement Administrator, Defendant nor Settlement
8 Class Counsel shall have any obligation to make payments to the Settlement
9 Class Member on the claim. The same provisions shall apply to any re-
issued check. For any checks that are issued or re-issued for any reason
more than one hundred eighty (180) days after the Effective Date, requests
for re-issuance need not be honored after such checks become void.

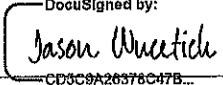
- 10 5. Delete Exhibits B, C(1), and C(2) of the First Amendment to Settlement Agreement
11 and replace with Exhibits B, C(1), and C(2) attached hereto, which incorporate the
12 revised release language.
- 13 6. These amendments shall supersede any conflicting terms and exhibits in the original
14 Settlement Agreement or in the First Amendment to Settlement Agreement and shall
15 be incorporated as part of the Settlement Agreement.
- 16 7. This Amendment shall become effective as of May 1, 2026.
- 17 8. All other terms and conditions of the original Settlement Agreement and the First
18 Amendment to the Settlement Agreement, except to the extent amended herein, remain
19 in full force and effect.
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22 IN WITNESS WHEREOF, the Parties have executed this Second Amendment to
23 Settlement Agreement.
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Dated: May ___, 2026

On behalf of Plaintiffs

DocuSigned by:

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Dimitrios V. Korovilas (SBN 247230)
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Telephone: (858) 209-6941

Counsel for Plaintiffs and the Proposed Class

Plaintiff Stephen Varela

Plaintiff Sheryl Bailas

Signed by:

022E3367719D40A...
Plaintiff Jose Peralta

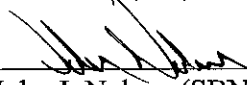
Plaintiff Jesus Guerrero

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Dated: May ___, 2026

On behalf of Plaintiffs

Jason M. Wucetich (SBN 222113)
jason@wukolaw.com
Dimitrios V. Korovilas (SBN 247230)
dimitri@wukolaw.com
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Counsel for Plaintiffs and the Proposed Class

Plaintiff Stephen Varela

Plaintiff Sheryl Bailas

Plaintiff Jose Peralta

Plaintiff Jesus Guerrero

1
2 Dated: May ___, 2026
3

On behalf of Plaintiffs

4
5
6 Jason M. Wucetich (SBN 222113)
jason@wukolaw.com
Dimitrios V. Korovilas (SBN 247230)
7 dimitri@wukolaw.com
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Telephone: (858) 209-6941

16
17 *Counsel for Plaintiffs and the Proposed Class*

18
19 
Stephen Varela (May 18, 2026 09:46:23 PDT)
20 Plaintiff Stephen Varela

21 Plaintiff Sheryl Bailas

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23 Plaintiff Jose Peralta

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25 Plaintiff Jesus Guerrero
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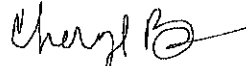
3 On behalf of Plaintiffs

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6 Jason M. Wucetich (SBN 222113)
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17 *Counsel for Plaintiffs and the Proposed Class*

18
19 Plaintiff Stephen Varela

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21 Plaintiff Sheryl Bailas

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23 Plaintiff Jose Peralta

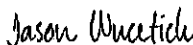
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25 Plaintiff Jesus Guerrero

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Dated: May __, 2026

On behalf of Plaintiffs

DocuSigned by:



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jason@wukolaw.com

Dimitrios V. Korovilas (SBN 247230)

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Telephone: (858) 209-6941

Counsel for Plaintiffs and the Proposed Class

Plaintiff Stephen Varela

Plaintiff Sheryl Bailas

Signed by:



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Plaintiff Jose Peralta

Plaintiff Jesus Guerrero

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Dated: May ___, 2026

On behalf of Plaintiffs

Jason M. Wucetich (SBN 222113)
jason@wukolaw.com
Dimitrios V. Korovilas (SBN 247230)
dimitri@wukolaw.com
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Telephone: (858) 209-6941

Counsel for Plaintiffs and the Proposed Class

Plaintiff Stephen Varela

Plaintiff Sheryl Bailas

Plaintiff Jose Peralta
Jesus Guerrero

Plaintiff Jesus Guerrero

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Dated: May ²¹ __, 2026

Respectfully submitted,

On behalf of Kimco Staffing Services, Inc.



Fredrick A. Hagen
Counsel for Defendant

Kimco Staffing Services, Inc.

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Dated: May 26, 2026

Respectfully submitted,

On behalf of Kimco Staffing Services, Inc.

Fredrick A. Hagen
Counsel for Defendant

Kimco Staffing Services, Inc.



EXHIBIT 4

EXHIBIT 4.A

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Your claim must be
submitted online or
postmarked by:

<<Claims

Deadline>>

CLAIM FORM FOR KIMCO DATA INCIDENT LITIGATION

Kimco Staffing Data Breach Cases

Judicial Council Coordination Proceeding No. 5321

Superior Court for the State of California for the County of Orange

KIMCO-C

GENERAL INSTRUCTIONS

You are eligible to receive benefits from a proposed class action settlement that provides Total Settlement Benefits of \$1,040,000.00, composed of a \$640,000.00 non-reversionary common fund plus an additional \$400,000.00 in Business Practice Enhancements. To be eligible to make a Settlement Claim, your information must have been impacted by the Data Incident, including all who were sent notice of the Data Incident. You may submit a Settlement Claim for settlement benefits, outlined below. Please refer to the Long Notice posted on the Settlement Website, www.KimcoDataSettlement.com, for more information on submitting a Claim Form.

If you wish to receive a monetary payment from this settlement via an electronic payment, you must submit the Claim Form below electronically at www.KimcoDataSettlement.com by <<Claim Form Deadline>>.

This Claim Form may be submitted electronically *via* the Settlement Website at www.KimcoDataSettlement.com or completed and mailed to the address below. Please type or legibly print all requested information, in blue or black ink. Mail your completed Claim Form, including any supporting documentation, by U.S. mail to:

Kimco Data Incident Litigation
c/o Kroll Settlement Administration LLC
P.O. Box XXXX
New York, NY 10150-XXXX

You may submit a Settlement Claim for all of following benefits:

- 1) **Identity Monitoring and Restoration, and \$1,000,000 Identity Theft Insurance** – all Settlement Class Members who submit a valid Claim Form will be provided access to Identity Monitoring and restoration, and \$1,000,000 Identity Theft Insurance for a period of two (2) years. **Any Settlement Class Member who submits a Valid Claim for any benefit will receive this benefit;**
- 2) **Reimbursement for any Documented Out-of-Pocket Losses** - every Settlement Class Member may submit a claim for up to \$5,000 for out-of-pocket expenses and losses including proven actual monetary losses, upon submission of a valid Claim Form;
- 3) **CCPA payment** – all Settlement Class Members who resided in California on June 24, 2023, may submit a Settlement Claim to receive a cash payment of **\$50**;

AND

- 4) **Pro Rata Cash Payment** - Following the payment of any Attorneys' Fees and Expenses Award, any Service Award, the Costs of Claims Administration, the cost of Credit Monitoring and Identity-Protection Services, claims for Out-of-Pocket Losses, and CCPA payments, any remaining amount in the Settlement Fund shall be distributed on a pro rata, or equal share basis to all Settlement Class Members who submitted Valid Claims.

Questions? Go to www.KimcoDataSettlement.com or call (XXX) XXX-XXXX.

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Page 1 of 5

Page 1 of 5

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I. SETTLEMENT CLASS MEMBER NAME AND CONTACT INFORMATION

Provide your name and contact information below. You must notify the Claims Administrator if your contact information changes after you submit this Claim Form.

First Name

Last Name

Address 1

Address 2

City

State

Zip Code

Email Address (optional):

@

Telephone Number: () -

II. PROOF OF DATA INCIDENTS SETTLEMENT CLASS MEMBERSHIP

☐

Check this box to certify that you are an individual who resided in the United States whose Private Information was exposed in the Data Incident involving Defendant Kimco, including all who was sent notice of the Data Incident.

Enter the Settlement Class Member ID Number provided on your Notice:

Settlement Class Member ID: 0 0 0 0 0

III. CREDIT MONITORING AND IDENTITY-PROTECTION SERVICES

Two (2) years of Identity Monitoring and Restoration, and \$1,000,000 Identity Theft Insurance at no cost to you. Any Settlement Class Member who submits a Valid Claim for any benefit will receive this benefit. **You may also submit a claim for the settlement benefits below.**

IV. COMPENSATION FOR OUT-OF-POCKET LOSSES

Every Settlement Class Member may submit a Settlement Claim for up to \$5,000 for out-of-pocket expenses and losses including proven actual monetary losses, upon submission of a valid Claim Form provided that: (i) the loss is an actual, unreimbursed monetary loss is supported by third-party documentation; (ii) the loss is fairly traceable to the Data Incident;

Questions? Go to www.KimcoDataSettlement.com or call (XXX) XXX-XXXX.

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Page 2 of 5

Page 2 of 5

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(iii) the claimant made reasonable efforts to avoid the loss or seek reimbursement for the loss, including, but not limited to, exhaustion of all available credit monitoring insurance and identity theft insurance; and (iv) the actual misuse or fraud loss occurred between June 24, 2023, and <<Claims Deadline>>;

Out-of-Pocket Losses incurred as a direct result of the Data Breach, including but not limited to:

- Out-of-pocket expenses incurred as a result of the Data Incident, including bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, or gasoline for local travel, fees for credit reports, credit monitoring, or other identity theft insurance product; and other expenses fairly traceable to the Data Incident.

You must submit documentation to obtain this reimbursement.

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I incurred Out-of-Pocket losses and have attached documentation showing that the claimed losses were more likely than not caused by the Data Incidents. I have submitted reasonable documentation that the Out-of-Pocket Losses and charges claimed were both actually incurred and plausibly arose from the Data Incidents. Failure to provide supporting documentation of the Out-of-Pocket Losses referenced above, as requested on the Claim Form, shall result in denial of a claim. "Self-prepared" documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but may be considered to add clarity or support other submitted documentation.

Cost Type (Fill all that apply)	Approximate Date of Out-of-Pocket Loss	Amount of Out-of-Pocket Loss	Description of Supporting Reasonable Documentation (Identify what you are attaching and why)
Example: Identity Theft Protection Service	0 7/17/2 0 (mm/dd/yy)	\$50.00	Copy of identity theft protection service bill
	____/____/____ (mm/dd/yy)	\$ _____.	
	____/____/____ (mm/dd/yy)	\$ _____.	
	____/____/____ (mm/dd/yy)	\$ _____.	

V. CCPA PAYMENT

By checking the below box, I choose an estimated \$50 CCPA payment. Please confirm you had a residential address in California on June 24, 2023, below.

Questions? Go to www.KimcoDataSettlement.com or call (XXX) XXX-XXXX.

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Yes, I choose a CCPA payment estimated to be \$50. I affirm that I am an individual that resided within the State of California on June 24, 2023, and my Private Information was impacted as a result of the Data Incident discovered by Defendant Kimco. **You may submit a claim for more than one settlement benefit.**

Address 1

Address 2

City

State

Zip Code

VI. PRO RATA CASH PAYMENT

By checking the below box, I choose a *Pro Rata* Cash Payment from the remaining amount in the Settlement Fund following the payment of any Attorneys' Fees and Expenses Award, any Service Award, the Costs of Claims Administration, the cost of Credit Monitoring and Identity-Protection Services, claims for Out-of-Pocket Losses, and CCPA Payments. **You may submit a claim for more than one settlement benefit.**

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Yes, I choose a *Pro Rata* Cash Payment

VII. ATTESTATION & SIGNATURE

I swear and affirm under the laws the State of California that the information I have supplied in this Claim Form is true and correct to the best of my recollection, and that this form was executed on the date set forth below.

Signature

Date

Print Name

Questions? Go to www.KimcoDataSettlement.com or call (XXX) XXX-XXXX.

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EXHIBIT 4.B

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Superior Court for the State of California for the County of Orange

Kimco Staffing Data Breach Cases, Judicial Council Coordination Proceeding No. 5321

A Court has authorized this Long Notice ("Notice"). This is not a solicitation from a lawyer.

If You Are an Individual Who Resides in the United States Whose Private Information was Exposed in the Data Incident involving Kimco Staffing Services, Inc., Including Those Who Were Sent Notice of the Data Incident, You Are Eligible to Receive Benefits from a Class Action Settlement

- This a Court-approved Notice to inform you that you are eligible to receive benefits from a proposed class action settlement that provides Total Settlement Benefits of \$1,040,000.00, composed of a \$640,000.00 non-reversionary common fund plus an additional \$400,000.00 in Business Practice Enhancements.
 - **Who is a Settlement Class Member?** You have been identified as a Settlement Class Member. To be eligible to make a Settlement Claim, you must be a United States resident who Kimco Staffing Services, Inc. or Defendant identified as being among the 69,687 individuals impacted by the Data Incident, including all who were sent notice of the Data Incident.
 - The Settlement Class specifically excludes: (i) Defendant; (ii) any entity in which Defendant has a controlling interest, is a parent or subsidiary, or which is controlled by Defendant; (iii) the affiliates, legal representatives, attorneys, heirs, predecessors, successors, and assigns of Defendant; (iv) the judges and court personnel in this case and any members of their immediate families; and (v) any Settlement Class Member who timely and validly submits an opt-out notice.
 - Defendant denies any wrongdoing and denies that they have any liability but have agreed to settle the Litigation on a class-wide basis.
 - Settlement Class Members who submit a Valid Claim will be eligible to receive any of the following benefits:
 - ❖ **Identity Monitoring and Restoration, and \$1,000,000 Identity Theft Insurance**—all Settlement Class Members who submit a valid Claim Form will be provided access to Identity Monitoring and restoration, and \$1,000,000 Identity Theft Insurance for a period of two (2) years. **Any Settlement Class Member who submits a Valid Claim for any benefit will receive this benefit;**
 - ❖ **Reimbursement for any Documented Out-of-Pocket Losses** - every Settlement Class Member may submit a claim for up to **\$5,000** for out-of-pocket expenses and losses including proven actual monetary losses, upon submission of a valid Claim Form;
 - ❖ **CCPA payment** – all Settlement Class Members who resided in California on June 24, 2023, may submit a Settlement Claim to receive a cash payment of **\$50**;
- AND**
- ❖ **Pro Rata Cash Payment** - Following the payment of any Attorneys' Fees and Expenses Award, any Service Award, the Costs of Claims Administration, the cost of Credit Monitoring and Identity-Restoration Services, claims for Out-of-Pocket Losses, and CCPA payments, any remaining amount in the Settlement Fund shall be

distributed on a *pro rata*, or equal share basis to all Settlement Class Members who submitted Valid Claims.

- To submit a Settlement Claim online visit www.KimcoDataSettlement.com, or mail your Claim Form to Kimco Data Incident Litigation, c/o Kroll Settlement Administration LLC, P.O. Box XXXXX, New York, NY 10150-XXXX by <<Claims Deadline>>.
- For more information, visit www.KimcoDataSettlement.com, email info@website.com or call (XXX) XXX-XXXX.

Please read this Notice carefully. Your legal rights will be affected, and you have a choice to make at this time.

	Summary of Legal Rights	Deadline(s)
Submit a Claim Form	The only way to receive Identity Monitoring and Restoration, and \$1,000,000 Identity Theft Insurance, reimbursement for Out-of-Pocket Losses, CCPA payment and/or a <i>Pro Rata</i> Cash Payment from the settlement.	Submitted or postmarked on or before <<Claims Deadline>>
Exclude Yourself by Opting Out of the Settlement Class	Receive no benefits. This is the only option that allows you to keep your right to bring any other lawsuit against the Released Persons for the same claims.	Email or mailed and postmarked on or before <<Opt-Out Date>>
Object to the Settlement and/or Attend the Final Approval Hearing	You can write the Court about why you agree or disagree with the settlement and/or the Attorneys' Fees and Expenses Award and Service Awards. The Court cannot order a different settlement. You can also ask to speak to the Court at the Final Approval Hearing on <<Final Approval Hearing Date>>, about the fairness of the settlement, with or without your own attorney.	Emailed or mailed postmarked on or before <<Objection Date>>
Do Nothing	You receive nothing from the settlement, but you give up any right to bring any other lawsuit against the Released Persons for the same claims.	N/A

- Your rights and options as a Settlement Class Member – **and the deadlines to exercise your rights** – are explained in this Notice.
- The Court still will have to decide whether to approve the settlement. Payments to Settlement Class Members will be made only if the Court approves the settlement and after any possible appeals are resolved.

What This Notice Contains

Basic Information	4
Who is in the Settlement	4
The Settlement Benefits—What You Get if You Qualify	5
How Do You Submit a Settlement Claim	7
Excluding Yourself from the Settlement	8
Objecting to the Settlement	8
The Lawyers Representing You	9
The Court’s Final Approval Hearing	10
If You Do Nothing	10
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BASIC INFORMATION

1. Why is there a Notice?

The Court authorized this Notice because you have a right to know about the settlement, and all of your options, before the Court decides whether to give “final approval” to the settlement. This Notice explains the nature of the Litigation that is the subject of the settlement, the general terms of the settlement, and your legal rights and options.

Hon. Melissa R. McCormick of the Superior Court for the State of California for the County of Orange is overseeing this case captioned as *Kimco Staffing Data Breach Cases*, Judicial Council Coordination Proceeding No. 5321. The people who brought the Litigation are called the Class Representatives. The company being sued, Kimco Staffing Services, Inc. (“Kimco”), is called the Defendant.

2. What is the Litigation about?

The Litigation alleges that on or about June 24, 2023, Kimco experienced a cyberattack in which unauthorized individuals infiltrated Kimco’s computer network and gained access to specific personal data, including the personally identifiable information or PII of approximately 69,687 individuals, called the Data Incident. Plaintiffs allege that during the Data Incident, cybercriminals potentially accessed and/or exfiltrated sensitive Private Information, including names, Social Security Numbers, financial account information, and payment card information, belonging to Plaintiffs and Settlement Class Members. Plaintiffs and Settlement Class Members received notices of the Data Incident in or around December of 2023.

Defendant denies these claims and say they did nothing wrong. No court or other judicial entity has made any judgment or other determination that Defendant have done anything wrong.

3. Why is this a class action?

In a class action, one or more people called “Class Representatives” or “Plaintiffs” sue on behalf of all people who have similar claims. Together, all of these people are called a “Settlement Class,” and the individuals are called “Settlement Class Members.” One court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Class.

4. Why is there a settlement?

The Court has not decided in favor of the Plaintiffs or Defendants. Instead, both sides agreed to the settlement. The settlement avoids the cost and risk of a trial and related appeals, while providing benefits to Settlement Class Members. The Class Representatives appointed to represent the Settlement Class, and the attorneys for the Settlement Class, Class Counsel, (see Question 17) think the settlement is best for all Settlement Class Members.

WHO IS IN THE SETTLEMENT?

5. How do I know if I am part of the settlement?

You are affected by the settlement and potentially a Settlement Class Member if you are an individual

QUESTIONS? Visit www.KimcoDataSettlement.com,⁴ email info@website.com, or call toll-free (XXX) XXX-XXXX

who resided in the United States whose Private Information was exposed in the Data Incident involving Defendant, including all who were sent notice of the Data Incident.

The Settlement Class specifically excludes: (i) Defendant; (ii) any entity in which Defendant has a controlling interest, is a parent or subsidiary, or which is controlled by Defendant; (iii) the affiliates, legal representatives, attorneys, heirs, predecessors, successors, and assigns of Defendant; (iv) the judges and court personnel in this case and any members of their immediate families; and (v) any Settlement Class Member who timely and validly submits an opt-out notice.

6. What if I am not sure whether I am included in the settlement?

If you are not sure whether you are included in the settlement, you may call (XXX) XXX-XXXX or email info@website.com with questions. You may also write with questions to:

Kimco Data Incident Litigation
c/o Kroll Settlement Administration LLC
P.O. Box XXXXX
New York, NY 10150-XXXX

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

7. What does the settlement provide?

All Settlement Class Members shall have the opportunity to submit a Claim Form for certain claimed benefits. The claimed benefits, as described below, shall include (a) Credit Monitoring and Identity-Protection Services; (b) Out-of-Pocket Losses; (c) CCPA payments; and (d) *Pro Rata* Cash Payments. **You may submit a Settlement Claim for one or all of the settlement benefits.**

Business Practice Enhancements: Kimco has implemented and will maintain reasonable protocols to secure personal information within its network. As part of those efforts, Kimco agrees that it has taken or will take the following measures in the future:

1. Sentinel One Complete Endpoint Protection via Arete Managed Detection & Response (MDR): Provides 24/7 cybersecurity expert monitoring of Kimco's network through autonomous, AI-driven endpoint threat detection and that will deploy an immediate response to mitigate potential threats (EDR). Integrated Ranger Network Visibility and Control offers unparalleled insight into unmanaged and IoT devices, ensuring no blind spots in Kimco's network.
2. Rapid7InsightVM: Continuous and dynamic vulnerability management with actionable insights into risks across our Kimco's infrastructure. The software's integrated remediation workflows streamline the process of patch management and vulnerability resolution, improving operational efficiency.
3. Varonis: Empowers Kimco with real-time visibility into sensitive data access and user behaviors. By identifying potential insider threats and minimizing unnecessary data exposure, Varonis effectively reduces the blast radius of any security incident. Its proactive threat detection platform ensures that suspicious activities are flagged and addressed before they escalate.

4. Trend Micro Vision One: This cloud email and collaboration protection platform shields Kimco's email systems and collaboration tools (e.g., Microsoft 365) from phishing, malware, and business email compromise (BEC). Its extended detection and response (XDR) capabilities enhance our ability to correlate events across multiple vectors, providing a unified view of threats.
5. Zerto Disaster Recovery Solution: Ensures the resilience of Kimco's critical systems by enabling near-instant recovery of data and applications. This solution reduces downtime and data loss during unforeseen disruptions, safeguarding Kimco business continuity.
6. On-Premise Surveillance Camera System: Enhances physical security by monitoring critical locations and providing a deterrent against unauthorized access. This system integrates with our broader security framework for cohesive incident management.
7. Increased Comprehensive Security Review and Penetration Testing: Increased frequency of independent third-party penetration testing and end-to-end internal and external security reviews to ensure that all layers of Kimco's cybersecurity infrastructure are tested, validated, and optimized against current threat landscapes.
8. Policy and Response Plan Updates: Conducted a thorough review and, where necessary, updates to all internal security policies and incident response plans to ensure alignment with current industry standards and best practices. These revisions enhance our preparedness and ensure a swift, coordinated response to potential future incidents.
9. Upgraded IT Infrastructure and End-User Devices: Reviewed and upgraded all desktop computers, laptops, and tablets to ensure they meet the latest security and performance standards. Additionally, key data center switches and routers were upgraded to enhance network reliability, performance, and security. These improvements minimize vulnerabilities in endpoint devices and core network infrastructure, ensuring a stronger, more resilient IT environment.

Kimco acknowledges that the business practice changes already implemented were implemented in substantial part due to the pending Litigation and/or this Settlement. The cost of the Business Practice Enhancement being implemented and/or maintained is approximately \$400,000. The costs of the Business Practice Enhancement are to be paid by Defendant separately and apart from the Settlement Fund.

8. What payments are available for reimbursement under the settlement?

Settlement Class Members who submit a Valid Claim are eligible to receive:

- a) ***Identity Monitoring and Restoration, and \$1,000,000 Identity Theft Insurance***– All Settlement Class Members who submit a valid Claim Form will receive access to Identity Monitoring and Restoration, and \$1,000,000 Identity Theft Insurance for a period of two (2) years from the date a Settlement Class Member claims the offer as provided on the Short Notice. **Any Settlement Class Member who submits a Valid Claim for any benefit will receive this benefit;**

- The Identity Monitoring and Restoration, and Identity Theft Services will include a minimum of the following features: (1) credit monitoring; (2) identity theft insurance (with a \$1,000,000 policy limit); (3) real-time credit monitoring services; and (4) access to fraud resolution agents. The costs for these services will be paid from the Settlement Fund;
- b) ***Reimbursement for any Documented Out-of-Pocket Losses*** – Every Settlement Class Member may submit a Settlement Claim for up to \$5,000 for out-of-pocket expenses and losses including proven actual monetary losses, upon submission of a valid Claim Form provided that:
- i. the loss is an actual, unreimbursed monetary loss is supported by third-party documentation;
 - ii. the loss is fairly traceable to the Data Incident;
 - iii. the claimant made reasonable efforts to avoid the loss or seek reimbursement for the loss, including, but not limited to, exhaustion of all available credit monitoring insurance and identity theft insurance; and
 - iv. the actual misuse or fraud loss occurred between June 24, 2023, and <<Claims Deadline>>.
- Losses may include, without limitation, the following:
 - i. out-of-pocket expenses incurred as a result of the Data Incident, including bank fees, long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used), postage, or gasoline for local travel, fees for credit reports, credit monitoring, or other identity theft insurance product; and
 - ii. other expenses fairly traceable to the Data Incident.
 - Settlement Class Members who elect to submit a Settlement Claim for reimbursement of Out-of-Pocket Losses must provide to the Settlement Administrator information required to evaluate the claim, including: (i) the Settlement Class Member’s name and current address; (ii) documentation reasonably supporting their claim; and (iii) a brief description of the nature of the loss, if the nature of the loss is not apparent from the documentation alone.
 - Documentation supporting Out-of-Pocket Losses can include receipts or other documentation not “self-prepared” by the Settlement Class Member concerning the costs incurred. “Self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to clarify or support other submitted documentation.
 - Out-of-pocket losses will be deemed “fairly traceable” if: (1) the timing of the loss occurred on or after the respective Data Incident, and (2) in the Settlement Administrator’s sole determination, the Out-of-Pocket Losses could reasonably be caused by either of the Data Incident. Settlement Claims for Out-of-Pocket Losses may

be reduced *pro rata* if insufficient funds remain in the Settlement Fund after the payment of Attorneys' Fees and Expenses Award, any Service Award, and the Costs of Claims Administration.

- c) **CCPA payment** – all Settlement Class Members who resided in California on June 24, 2023, may submit a Settlement Claim to receive a cash payment of \$50. Settlement Class Members who make a Valid Claim for the CCPA payment will also be entitled to make a Settlement Claim for Out-of-Pocket Losses, *Pro Rata* Cash Payment, and Credit Monitoring and Identity-Protection Services;

AND

- d) **Pro Rata Cash Payment** – Following the payment of any Attorneys' Fees and Expenses Award, any Service Award, the Costs of Claims Administration, the cost of Credit Monitoring and Identity-Protection Services, claims for Out-of-Pocket Losses, and CCPA Payments, any remaining amount in the Settlement Fund shall be distributed on a *pro rata* or equal share basis to all Settlement Class Members who submitted Valid Claims.

HOW DO YOU SUBMIT A SETTLEMENT CLAIM?

9. How do I get a benefit?

To receive a benefit under the settlement, you must complete and submit a Settlement Claim online at www.KimcoDataSettlement.com, or by mail to Kimco Data Incident Litigation, c/o Kroll Settlement Administration LLC, P.O. Box **xxxxx**, New York, NY 10150-**xxxx**. Read the Claim Form instructions carefully, fill out the Claim Form, provide the required documentation, and submit online by **<<Claims Deadline>>** or by mail postmarked by **<<Claims Deadline>>**.

10. When will I get my payment?

The Court will hold a hearing on **<<DATE>>**, at **<<TIME>>** a.m. PT to decide whether to approve the settlement. If the Court approves the settlement, there may be appeals from that decision and resolving them can take time, perhaps more than a year. It also takes time for all of the Claim Forms to be processed. Please be patient.

11. What am I giving up as part of the settlement?

The Released Persons gets a release from all claims covered by this settlement. Thus, if the settlement becomes final and you do not exclude yourself from the settlement, you will be a Settlement Class Member and you will give up your right to sue Defendant, Defendant's employees, and Defendant's insurer The Travelers Companies, Inc. for Released Claims. These Released Claims are any and all claims, causes of action, and demands that were or reasonably could have been asserted by a Settlement Class Member against any of the Released Persons based on the facts alleged in the operative complaint in this Litigation. If you have any questions, you can talk to the law firms listed in Question 17 for free or you can talk to your own lawyer.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to be part of the settlement, then you must take steps to exclude yourself from the Settlement Class. This is sometimes referred to as "opting out" of the Settlement Class.

12. If I exclude myself, can I get a payment from this settlement?

No. If you exclude yourself, you will not be entitled to receive any benefits from the settlement and you will not be bound by any Final Judgment Order.

13. If I do not exclude myself, can I sue Released Persons for the same thing later?

No. Unless you exclude yourself, you give up any right to sue any Released Persons for the Released Claims that this settlement resolves. You must exclude yourself from the settlement to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a Claim Form to ask for any benefit under the settlement.

14. How do I exclude myself from the settlement?

To exclude yourself, complete the Exclusion Form available at www.KimcoDataSettlement.com. The form must be personally signed by the Settlement Class Member (with a physical ink signature or via DocuSign, or other similar process for transmitting authenticated digital signatures) and (a) timely mailing it with a **postmark by <<Opt-Out Date>>** to the Settlement Administrator at the designated address below, or (b) emailing it to the Settlement Administrator using the email address provided below.

To be effective, the Exclusion Form must include the following: (a) the requestor's name, address, and email address; and (b) the requestor's physical ink or digitally authenticated signature. You must **email** the opt-out notice to info@website.com by **<Opt-Out Date>**, or **mail** your opt-out notice **postmarked by <<Opt-Out Date>>** to:

Kimco Data Incident Litigation
c/o Kroll Settlement Administration LLC
P.O. Box **XXXXX**
New York, NY 10150-**XXXX**

OBJECTING TO THE SETTLEMENT

15. How do I tell the Court that I do not like the settlement?

You can tell the Court that you do not agree with the settlement or some part of it by objecting to the settlement. To object, you must complete and submit an Objection Form, available at www.KimcoDataSettlement.com. The Objection Form must be emailed to info@website.com or postmarked to the address of the Settlement Administrator below on or before the **<<Objection Date>>**:

Kimco Data Incident Litigation
c/o Kroll Settlement Administration LLC
P.O. Box **XXXXX**
New York, NY 10150-**XXXX**

Your objection must be written and must include all of the following:

- (a) the objector's full name and address;
- (b) the case name and number, *Kimco Staffing Data Breach Cases*, Judicial Council Coordination Proceeding No. 5321;
- (c) information identifying the objector as a Settlement Class Member, including proof that

the objector is a member of the Settlement Class (e.g., copy of the objector's settlement notice, copy of original notice of one or both of the Data Incident, or a statement explaining why the objector believes he or she is a Settlement Class Member);

(d) a written statement of all grounds for the objection, accompanied by any legal support for the objection the objector believes applicable;

(e) the identity of any and all counsel representing the objector in connection with the objection;

(f) a statement whether the objector and/or his or her counsel will appear at the Final Approval Hearing; and

(g) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative (if any) representing him or her in connection with the objection.

16. What is the difference between objecting and asking to be excluded?

Objecting is telling the Court that you do not like the settlement and why you do not think it should be approved. You can object only if you are a Settlement Class Member. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class and do not want to receive any payment from the settlement. If you exclude yourself, you have no basis to object because you are no longer a Settlement Class Member, and the case no longer affects you.

THE LAWYERS REPRESENTING YOU

17. Do I have a lawyer in this case?

Yes. The Court appointed means John J. Nelson of Milberg Coleman Bryson Phillips Grossman, PLLC and Jason M. Wucetich of Wucetich & Korovilas LLP as Class Counsel to represent the Settlement Class in settlement negotiations. If you want to be represented by your own lawyer, you may hire one at your own expense.

18. How will the lawyers be paid?

Class Counsel will file an application to be paid from the \$640,000.00 Settlement Fund. Class Counsel will request an Attorneys' Fees and Expenses Award in an amount not to exceed one third (1/3) of the Settlement Fund (\$213,333.33), and reimbursement of documented costs and expenses of an amount not to exceed \$45,000. Defendant has agreed to pay from the Settlement Fund any Attorneys' Fees and Expenses Award up to those amounts, to the extent approved by the Court. Any such award would compensate Class Counsel for investigating the facts, litigating the case, and negotiating the settlement and will be the only payment to them for their efforts in achieving this settlement. The costs of administering the Settlement and providing Notice to the Class will also be paid from the \$640,000.00 Settlement Fund. These costs will be capped at \$97,000.00.

Class Counsel will also ask the Court for a Service Award up to \$2,500 for each of the Class Representatives to be paid from the \$640,000.00 Settlement Fund. The amount of the Service Award shall be determined by the Court.

THE COURT'S FINAL APPROVAL HEARING

19. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Approval Hearing at <<TIME>> a.m. PT on <<DATE>>, at the <<Court Address>>, Room <<Number>> as ordered by the Court. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are timely and valid objections, the Court will consider them and will listen to people who have asked to speak at the hearing if such a request has been properly made. The Court will also rule on the request for Attorneys' Fees and Expenses Award, as well as the request for Service Award for the Class Representatives. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take. The hearing may be moved to a different date or time without additional notice, so Class Counsel recommends checking the Settlement Website www.KimcoDataSettlement.com, or calling (XXX) XXX-XXXX.

20. Do I have to attend the hearing?

No. Class Counsel will present the Settlement Agreement to the Court. You or your own lawyer are welcome to attend at your expense, but you are not required to do so. If you send an objection, you do not have to visit the Court to talk about it. As long as you emailed or mailed your written objection on time to the Settlement Administrator according to the instructions provided in Question 15, the Court will consider it.

21. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing.

IF YOU DO NOTHING

22. What happens if I do nothing?

If you do nothing, you will not receive any payment from this settlement. If the settlement is granted final approval and the judgment becomes final, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants or the other Released Persons based on any of the Released Claims.

ADDITIONAL INFORMATION

23. How do I get more information?

This Notice summarizes the settlement. More details are in the Settlement Agreement itself. A copy of the Settlement Agreement is available at www.KimcoDataSettlement.com. You may also call or email the Settlement Administrator with questions or to receive a Claim Form at (XXX) XXX-XXXX or info@website.com.

24. What if my contact information changes or I no longer live at my address?

It is your responsibility to inform the Settlement Administrator of your updated information. You may do so at the address below or at the Contact page of the Settlement Website:

Kimco Data Incident Litigation
c/o Kroll Settlement Administration LLC
P.O. Box XXXXX
New York, NY 10150-XXXX

**PLEASE DO NOT CONTACT THE COURT OR CLERK OF THE COURT FOR
INFORMATION ABOUT THE CLASS ACTION SETTLEMENT**

EXHIBIT 4.C(1)

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Superior Court for the State of California for the County of Orange

Kimco Staffing Data Breach Cases, Judicial Council Coordination Proceeding No. 5321

A Court has authorized this Notice. This is not a solicitation from a lawyer.

*Si desea recibir esta notificación en español, visite nuestra página web,
www.KimcoDataSettlement.com.*

If You Are an Individual Who Resides in the United States Whose Private Information was Exposed in the Data Incident involving Kimco Staffing Services, Inc., Including Those Who Were Sent Notice of the Data Incident, You Are Eligible to Receive Benefits from a Class Action Settlement

What is this Litigation about? This case is known as *Kimco Staffing Data Breach Cases*, Judicial Council Coordination Proceeding No. 5321, filed in Superior Court for the State of California for the County of Orange. The Persons who sued are called the Plaintiffs or Class Representatives and the company they sued, Kimco Staffing Services, Inc. ("Kimco"), is known as the Defendant in this case. This Litigation alleges that on or about June 24, 2023, Kimco experienced a cyberattack in which unauthorized individuals infiltrated Kimco's computer network and gained access to specific personal data, including the personally identifiable information or PII of approximately 69,687 individuals, called the Data Incident. Plaintiffs allege that during the Data Incident, cybercriminals potentially accessed and/or exfiltrated sensitive Private Information, including names, Social Security Numbers, financial account information, and payment card information, belonging to Plaintiffs and Settlement Class Members. Plaintiffs and Settlement Class Members received notices of the Data Incident in or around December of 2023. Defendant denies any wrongdoing.

Who is a Settlement Class Member?

Settlement Class Member: All individuals who resided in the United States whose Private Information was exposed in the Data Incident involving Defendant, including all who were sent notice of the Data Incident.

The Settlement Class specifically excludes: (i) Defendant; (ii) any entity in which Defendant has a controlling interest, is a parent or subsidiary, or which is controlled by Defendant; (iii) the affiliates, legal representatives, attorneys, heirs, predecessors, successors, and assigns of Defendant; (iv) the judges and court personnel in this case and any members of their immediate families; and (v) any Settlement Class Member who timely and validly submits an opt-out notice.

What are the benefits? All Settlement Class Members shall have the opportunity to submit a Claim Form for certain claimed benefits. The claimed benefits, as described below, shall include (a) Credit Monitoring and Identity-Protection Services – **any Settlement Class Member who submits a Valid**

Claim for any benefit will receive Identity Monitoring and Restoration, and \$1,000,000 Identity Theft Insurance; (b) Documented Out-of-Pocket Losses; (c) CCPA payments; and (d) *Pro Rata* Cash Payments. You may submit a Settlement Claim for one or all of the settlement benefits.

How to make a Settlement Claim. You must file a Claim Form by mail postmarked by **<<Claims Deadline>>**, and mailed to the Settlement Administrator's address below, or online at www.KimcoDataSettlement.com by **<< Claims Deadline>>** to receive benefits from the settlement.

What are my other rights?

- **Do Nothing:** If you do nothing, you will not receive a benefit and remain in the settlement. You give up your rights to sue Defendant Kimco or bring any other lawsuit against the Released Persons for the same claims.
- **Exclude yourself:** You can get out of the settlement and keep your right to sue about the claims in this Litigation, but you will not get any benefits from the settlement. You must submit a valid and timely Exclusion Form, available at www.KimcoDataSettlement.com, via **email or mail** to the Settlement Administrator by **<< Opt-Out Date>>**.
- **Object:** You can stay in the settlement but tell the Court why you think the settlement should not be approved. Your Objection Form, available at www.KimcoDataSettlement.com, must be submitted via **email or mail** by **<<Objection Date>>**. You may also request to appear at the Final Approval Hearing. Detailed instructions on how to file a Claim Form, exclude yourself, object, or appear at the hearing can be found on the Long Notice found on the Settlement Website.
- **Attend a hearing:** The Court will hold the Final Approval Hearing on **<<Final Approval Hearing Date>>** at **<<Time>>** a.m. PT, to consider whether the proposed settlement is fair, reasonable, and adequate, to consider Class Counsel's request for an Attorneys' Fees and Expenses Award that will not exceed one-third (1/3) of the Settlement Fund (\$213,333.33) and reimbursement of documented costs and expenses of an amount not to exceed \$45,000, plus a Service Award not to exceed \$2,500 to each Class Representative, and to consider whether and if it should be approved. Attorneys' Fees, Expenses, and Service Awards to Plaintiffs will be paid from the \$640,000.00 Settlement Fund. Settlement administration and notice costs will also be paid in an amount not to exceed \$97,000.00. You may attend the hearing, but you don't have to.

What is the effect of the Settlement? If the settlement becomes final and you do not exclude yourself from the settlement, you will be a Settlement Class Member and you will give up your right to sue Defendant and the Released Persons for any all claims, causes of action, and demands that were or reasonably could have been asserted based on the facts alleged in the operative complaint in this Litigation. More information can be found on the on the Long Notice found on the Settlement Website.

This is only a summary. For more information, visit the Settlement Website or call **(XXX) XXX-XXXX**. To change or update your contact information, you may also contact the Settlement Administrator at *Kimco Data Incident Litigation*, c/o Kroll Settlement Administration LLC, P.O. Box **XXXX**, New York, NY 10150-**XXXX** or at the Contact page of the Settlement Website.

EXHIBIT 4.C(2)

From:

To:

Subject: Email Notice of Class Action Settlement

Class Member ID: <<RefNum>>

If You Are an Individual Who Resides in the United States Whose Private Information was Exposed in the Data Incident involving Kimco Staffing Services, Inc., Including Those Who Were Sent Notice of the Data Incident, You Are Eligible to Receive Benefits from a Class Action Settlement

*Si desea recibir esta notificación en español, visite nuestra página web,
www.KimcoDataSettlement.com.*

What is this Litigation about? This case is known as *Kimco Staffing Data Breach Cases*, Judicial Council Coordination Proceeding No. 5321, filed in Superior Court for the State of California for the County of Orange. The Persons who sued are called the Plaintiffs or Class Representatives and the company they sued, Kimco Staffing Services, Inc. ("Kimco"), is known as the Defendant in this case. This Litigation alleges that on or about June 24, 2023, Kimco experienced a cyberattack in which unauthorized individuals infiltrated Kimco's computer network and gained access to specific personal data, including the personally identifiable information or PII of approximately 69,687 individuals, called the Data Incident. Plaintiffs allege that during the Data Incident, cybercriminals potentially accessed and/or exfiltrated sensitive Private Information, including names, Social Security Numbers, financial account information, and payment card information, belonging to Plaintiffs and Settlement Class Members. Plaintiffs and Settlement Class Members received notices of the Data Incident in or around December of 2023. Defendant denies any wrongdoing.

Who is a Settlement Class Member?

Settlement Class Member: All individuals who resided in the United States whose Private Information was exposed in the Data Incident involving Defendant, including all who were sent notice of the Data Incident.

The Settlement Class specifically excludes: (i) Defendant; (ii) any entity in which Defendant has a controlling interest, is a parent or subsidiary, or which is controlled by Defendant; (iii) the affiliates, legal representatives, attorneys, heirs, predecessors, successors, and assigns of Defendant; (iv) the judges and court personnel in this case and any members of their immediate families; and (v) any Settlement Class Member who timely and validly submits an opt-out notice.

What are the benefits? Settlement Class Members may submit a Claim Form for the following benefits:

- ***Identity Monitoring and Restoration, and \$1,000,000 Identity Theft Insurance*** – all Settlement Class Members who submit a valid Claim Form will be provided access to Identity Monitoring and restoration, and \$1,000,000 Identity Theft Insurance for a period of two (2) years. **Any Settlement Class Member who submits a Valid Claim for any benefit will receive this benefit;**

- ***Reimbursement for any Documented Out-of-Pocket Losses*** - every Settlement Class Member may submit a claim for up to \$5,000 for out-of-pocket expenses and losses including proven actual monetary losses, upon submission of a valid Claim Form;

- ***CCPA payment*** – all Settlement Class Members who resided in California on June 24, 2023, may submit a Settlement Claim to receive a cash payment of **\$50**;

AND

- ***Pro Rata Cash Payment*** - Following the payment of any Attorneys' Fees and Expenses Award, any Service Award, the Costs of Claims Administration, the cost of Credit Monitoring and Identity-Protection Services, claims for Out-of-Pocket Losses, and CCPA payments, any remaining amount in the Settlement Fund shall be distributed on a *pro rata*, or equal share basis to all Settlement Class Members who submitted Valid Claims.

How to make a Settlement Claim. You must file a Claim Form by mail postmarked by **<<Claims Deadline>>**, and mailed to the Settlement Administrator's address below, or online at www.KimcoDataSettlement.com by **<< Claims Deadline>>** to receive benefits from the settlement. To download a Claim Form, click here.

What are my other rights?

- **Do Nothing:** If you do nothing, you will not receive a benefit and remain in the settlement. You give up your rights to sue Defendant Kimco or bring any other lawsuit against the Released Persons for the same claims.

- **Exclude yourself:** You can get out of the settlement and keep your right to sue about the claims in this Litigation, but you will not get any benefits from the settlement. You must submit a valid and timely Exclusion Form, available at www.KimcoDataSettlement.com, via **email or mail** to the Settlement Administrator by **<< Opt-Out Date>>**.

- **Object:** You can stay in the settlement but tell the Court why you think the settlement should not be approved. Your Objection Form, available at www.KimcoDataSettlement.com, must be submitted via **email or mail** by **<<Objection Date>>**. You may also request to appear at the Final Approval Hearing. Detailed instructions on how to file a Claim Form, exclude yourself, object, or appear at the hearing can be found on the Long Notice found on the Settlement Website.

- **Attend a hearing:** The Court will hold the Final Approval Hearing on **<<Final Approval Hearing Date>>** at **<<Time>>** a.m. PT, to consider whether the proposed settlement is fair, reasonable, and adequate, to consider Class Counsel's request for an Attorneys' Fees and Expenses Award that will not exceed one-third (1/3) of the Settlement Fund (\$213,333.33) and reimbursement of documented costs and expenses of an amount not to exceed \$45,000, plus a Service Award not to exceed \$2,500 to each Class Representative, and to consider whether and if

it should be approved. Attorneys' Fees, Expenses, and Service Awards to Plaintiffs will be paid from the \$640,000.00 Settlement Fund. Settlement administration and notice costs will also be paid in an amount not to exceed \$97,000.00. You may attend the hearing, but you don't have to.

What is the effect of the Settlement? If the settlement becomes final and you do not exclude yourself from the settlement, you will be a Settlement Class Member and you will give up your right to sue Defendant and the Released Persons for any and all claims, causes of action, and demands that were or reasonably could have been asserted based on the facts alleged in the operative complaint in this Litigation. More information can be found on the on the Long Notice found on the Settlement Website.

This is only a summary. For more information, including a copy of the Settlement Agreement, Long Notice, Claim Form, Class Counsel's Attorneys' Fees and Expenses Award application, and Service Award when available, and other documents, visit the Documents section of the Settlement Website or call (XXX) XXX-XXXX. To change or update your contact information, you may also contact the Settlement Administrator at *Kimco Data Incident Litigation*, c/o Kroll Settlement Administration LLC, PO Box XXXX, New York, NY 10150-XXXX or at the Contact page of the Settlement Website.

Unsubscribe

EXHIBIT 4.D

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Your exclusion
must be emailed or
postmarked by:

<<Exclusion
Deadline>>

**EXCLUSION ("OPT-OUT") FORM FOR KIMCO DATA
INCIDENT LITIGATION**

Kimco Staffing Data Breach Cases
Judicial Council Coordination Proceeding No. 5321
Superior Court for the State of California for the County of Orange

KIMCO-C

**YOU MUST COMPLETE THIS FORM IF YOU DO NOT WISH TO BE
PART OF THE CLASS ACTION SETTLEMENT.**

By providing the following information, I confirm that I do not want to be included in the Settlement of the class action lawsuit referenced above (please type or legibly print all requested information, in blue or black ink).

I understand that by opting out, I am giving up my right to receive any payments under the settlement.

By opting out, I understand that I retain the right to file my own individual lawsuit against Kimco Staffing Services, Inc.

First Name

Last Name

Address 1

Address 2

City

State

Zip Code

Email Address: _____ @ _____

Signature

This Claim Form may be submitted via email at <<Email Address>> or mailed to the address below.

Kimco Data Incident Litigation
c/o Kroll Settlement Administration LLC
P.O. Box XXXX
New York, NY 10150-XXXX

Questions? Go to www.KimcoDataSettlement.com or call (XXX) XXX-XXXX.

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EXHIBIT 4.E

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Your exclusion
must be emailed or
postmarked by:

<<Objection
Deadline>>

**OBJECTION FORM FOR KIMCO DATA INCIDENT
LITIGATION**

Kimco Staffing Data Breach Cases
Judicial Council Coordination Proceeding No. 5321
Superior Court for the State of California for the County of Orange

KIMCO-C

**IF YOU WISH TO OBJECT TO THE SETTLEMENT DESCRIBED IN THE ACCOMPANYING
NOTICE, PLEASE COMPLETE THIS FORM.**

You have a right to object to the Settlement, or any of its terms. In order to object, you must NOT have submitted an Opt-Out Form. If you choose to object, you must complete this form and submit it via email to <<Email Address>> or mail it to the address below:

Kimco Data Incident Litigation
c/o Kroll Settlement Administration LLC
P.O. Box XXXX
New York, NY 10150-XXXX

First Name

Last Name

Address 1

Address 2

City

State

Zip Code

Name of your attorney (if any):

Do you intend to appear at the final approval hearing? (Circle: YES / NO)

Why do you believe you are a member of the Class Action Settlement:

☐ I received a notice of the Data Breach.

☐ I received a notice of the Class Action Settlement.

☐ Other (Explain):

Questions? Go to www.KimcoDataSettlement.com or call (XXX) XXX-XXXX.

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[illegible]

Signature _____ Date _____

Page 2 of 5