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MARTHA HERNANDEZ, on behalf
of herself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

MARTHA HERNANDEZ, on behalf
of herself and all others similarly situated

Plaintiffs,

v.

FEAST FOODS, LLC, a Delaware limited
liability company; and DOES 1 through 100,
Inclusive

Defendants.

Case No.: 20STCV03485

**JOINT STIPULATION RE: CLASS
ACTION AND REPRESENTATIVE
SETTLEMENT AGREEMENT**

Judge: Hon. Kenneth A. Freeman
Dept.: 14

Complaint Filed: January 28, 2020
Trial Date: TBD

INTRODUCTION

This Joint Stipulation Re: Class and Representative Action Settlement Agreement (“Settlement Agreement”) is made and entered into by and between Plaintiff MARTHA HERNANDEZ (“Class Representative” or “HERNANDEZ”), individually, and on behalf of all putative class members and aggrieved employees, on the one hand, and Defendant FEAST FOODS, LLC (“Defendant” or “FEAST FOODS”), on the other hand. HERNANDEZ and FEAST FOODS are collectively referred to herein as the “Parties.” This Settlement Agreement is subject to the terms and conditions set forth below and the Court’s approval. This Settlement Agreement completely resolves the wage and hour class and representative action filed by HERNANDEZ against FEAST FOODS on January 28, 2020, Superior Court of the Case of California, County of Los Angeles, Case No. 20STCV03485.

I. DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement shall also be applicable.

1. “Action” means the case entitled *Martha Hernandez v. Feast Foods, LLC*, et al., Case No. 20STCV03485, pending before the Superior Court of California, County of Los Angeles.

2. “Class” means all non-exempt, hourly-paid California employees employed by FEAST FOODS during the Class Period. Members of the Class are referred to herein individually as a “Class Member” and collectively as “Class Members.” FEAST FOODS represents that the Class includes approximately 1,385 Class Members.

3. “Class List” means a list of Class Members that FEAST FOODS will compile from its records. The Class List shall include each Class Member’s full name, last known address to the extent available in FEAST FOODS’ business records, social security number, dates of employment in a non-exempt, hourly-paid position with FEAST FOODS during the Class Period.

4. “Class Period” means the time period from April 3, 2017 to June 24, 2021.

5. “Court” means the Superior Court of California, County of Los Angeles.

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6. "Complaint" refers to the operative First Amended Complaint filed by Plaintiff in Los Angeles County Superior Court, Case No. 20STCV03485.

7. "Defendant's Counsel" means Michael J. O'Connor, Jr., Esq. and Geoff D. La Val, Esq. of Atkinson, Andelson, Loya, Ruud & Romo.

8. "Effective Date" means the latter of: (a) if no objections to the Settlement Agreement are made in writing or at the hearing for Final Approval, the date the Court enters an order granting Final Approval of the Settlement Agreement; (b) if objections are made in writing or at the hearing for Final Approval and overruled, and no appeal is taken of the order granting Final Approval, then the Effective Date shall be three (3) calendar days after the deadline to file an appeal of the order granting Final Approval; or (c) if one or more appeals are taken from the Court's overruling of any objections to the settlement, then the Effective Date shall be three (3) calendar days after any appeal is dismissed or the order granting Final Approval of the settlement is affirmed after an appeal, and the order granting Final Approval is not subject to further review and becomes final.

9. "Final Approval" means the Court order granting final approval of the Settlement Agreement and entering final judgment thereon.

10. "Individual Settlement Payment" means each Participating Class Member's share of the Net Settlement Proceeds calculated in accordance with the Individual Settlement Payment Calculations described below.

11. "Maximum Settlement Amount" or "Gross Settlement Amount" means the total amount of \$595,000.00 which FEAST FOODS is required to pay under this Settlement Agreement (subject to HERNANDEZ obtaining Final Approval and exhaustion of any and all appeals). The Maximum Settlement Amount includes each and all of the following (and all subject to Court approval): (1) the attorneys' fees of Class Counsel; (2) the litigation costs and expenses of Class Counsel; (3) the Service Award to the Class Representative; (4) the payment to the Labor Workforce and Development Agency ("LWDA") pursuant to the Private Attorneys General Act of 2004, Labor Code 2698, et seq. ("PAGA") claims in the Action; (5) all costs of administration, including, without limitation, settlement administration fees and expenses; and (6) the Individual

Settlement Payments paid to Participating Class Members. The attorneys' fees and litigation costs and expenses of Class Counsel include, without limitation, all such fees and costs incurred to date, as well as such fees and costs to be incurred in documenting the settlement, securing Court approval of the settlement, and obtaining judgment in the Action. Employer payroll taxes due on wage payments made under the Settlement are not included, but rather shall be paid separately by FEAST FOODS, in addition to the Maximum Settlement Amount. FEAST FOODS is under no obligation under this Settlement Agreement to pay, and shall not pay, anything other than the Maximum Settlement Amount and the employer payroll taxes referred to above. The Maximum Settlement Amount shall also include any interest that accrues in the escrow account created by the Settlement Administrator.

12. "Net Settlement Amount" means the portion of the Maximum Settlement Amount, less the amounts approved and awarded by the Court for: (1) the attorneys' fees of Class Counsel; (2) the litigation costs and expenses of Class Counsel; (3) the Service Award to the Class Representative; (4) the payment to the LWDA, and; (5) all costs of administration, including, without limitation, settlement administration fees and expenses.

13. "Notice Deadline" means the deadline by which Class Members must postmark or fax to the Settlement Administrator a valid request to be excluded from the settlement, object to the settlement or dispute the workweeks. The Notice Deadline shall be forty-five (45) calendar days from the initial mailing of the Notice of Settlement by the Settlement Administrator, unless the 45th day falls on a Sunday or federal holiday, in which case the Notice Deadline will be extended to the next day on which the U.S. Postal Service is open.

14. "Notice of Settlement" means the notice that the Court approves and orders to be sent to all Class Members advising them of their rights under this Settlement Agreement. The Notice of Settlement is attached hereto as **Exhibit 1**.

15. "PAGA" means the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, et seq., "PAGA").

16. "PAGA Group Members" means all non-exempt, hourly-paid California employees employed by FEAST FOODS during the PAGA Period.

17. "PAGA Payment" means the amount that the Parties have agreed to allocate in order to settle claims arising under the Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, et seq.)(“PAGA”). The Parties have agreed that Thirty Thousand Dollars (\$30,000.00) of the Gross Settlement Amount will be allocated to the resolution of all PAGA claims asserted in the Action. Seventy Five Percent (75%) of the PAGA Payment (i.e. \$22,500.00) will be paid to the California Labor and Workforce Development Agency in accordance with Labor Code §§ 2698 et seq. Twenty Five Percent (25%) of the PAGA Payment (i.e. \$7,500.00), will be included in the Net Settlement Amount and distributed to PAGA Group Members.

18. "PAGA Notice" means the notice submitted to the LWDA by HERNANDEZ regarding alleged Labor Code violations by FEAST FOODS.

19. "PAGA Period" shall mean the period from January 28, 2019 to June 24, 2021.

20. "Participating Class Members" or "Settlement Class" means all Class Members who do not submit a timely and valid request to be excluded from the settlement, consistent with the terms set forth in this Settlement Agreement.

21. "Plaintiff's Counsel" or "Class Counsel" means Michael Nourmand, Esq. and James A. De Sario, Esq. of The Nourmand Law Firm, APC, counsel of record for HERNANDEZ.

22. "Preliminary Approval" means the Court order granting preliminary approval of the Settlement Agreement.

23. "Qualified Settlement Account" means the account established by the Settlement Administrator into which the Maximum Settlement Amount and all employer payroll taxes associated therewith shall be deposited.

24. "Released Parties" means FEAST FOODS, its past, present, and/or future owners, officers, directors, managing agents, trustees, payroll processors, independent contractors, members, managers, shareholders, employees, attorneys, insurers, assigns, shareholders, successors, predecessors and agents, FEAST FOODS' past, present, and/or future parent, subsidiary, or affiliated entities, DBAs and franchisors, and each of their owners, officers, directors, managing agents, trustees, payroll processors, independent contractors, members, managers, employees, attorneys, insurers, assigns, shareholders, successors, predecessors and

agents.

25. "Released Claims" means any and all claims, damages or causes of action alleged in, or arising out of, the allegations in the Complaint filed in this Action, which were alleged or that could have been alleged by HERNANDEZ in such complaints based on any of the factual allegations contained in such complaints, including, but not limited to, claims under state, or local law, including, but not limited to claims for the failure to pay minimum wages, claims for the failure to pay overtime wages, claims related to missed meal and rest breaks or periods and nonpayment of premium pay for such, failure to comply with itemized employee wage statement provisions, failure to pay wages due at separation. The Released Claims specifically include, but are not limited to, all claims arising under California Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1199, the applicable Wage Orders of the California Industrial Welfare Commission, California Business and Profession Code 17200, *et seq.* based on the alleged Labor Code violations, and California common law, interest and claims for attorney's fees relating in any way to those claims alleged and mentioned in the complaint(s).

26. "Released PAGA Claims" means any and all claims for civil penalties under PAGA based on the labor code violations alleged in the PAGA Notice sent by Plaintiff to the LWDA; those being California Labor Code Section 201, 202, 203, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1199, 2698, *et seq.*, as well as all facts, theories, or claims for civil penalties that would be considered administratively exhausted under applicable law by the PAGA Notice Plaintiff sent to the LWDA.

26. "Settlement Administrator" means a third-party class action settlement administrator mutually agreed to by the Parties and approved by the Court for the purposes of administering this settlement. Subject to Court approval, the Parties have agreed that Simpluris, Inc. will serve as a neutral third-party settlement administrator to perform all acts required by the Settlement Agreement, including but not limited to providing the Notice of Settlement to the Class.

27. "Settlement Administration Costs" mean the expenses payable from the Maximum Settlement Amount to the Settlement Administrator for administering this Settlement Agreement,

including, but not limited to, calculating weeks of employment from the Class List, printing, translating into Spanish, distributing and tracking forms for this settlement, mailing notices, calculating awards, processing requests for exclusion and objections, performing necessary skip traces on Notices of Settlement returned as undeliverable, mailing Participating Class Members and PAGA Group Members settlement checks, issuing any required tax reporting forms, distributing the Maximum and Net Settlement Amounts and providing necessary reports and declarations, as requested by the Parties, Class Counsel and Defendant's Counsel, among other things in this Settlement Agreement. The Settlement Administration Costs are expected to total no more than \$14,200. Any portion of the Settlement Administration Costs which is not used shall be returned to the Net Settlement Amount for pro rata distribution to Participating Class Members, and will not revert to FEAST FOODS under any circumstances.

28. "Workweeks" mean the total number of weeks Class Members and PAGA Group Members worked at least one shift in a non-exempt, hourly-paid position in California during the Class Period and/or PAGA Period. Workweeks shall be calculated by counting the number of pay periods worked by each Class Member in a non-exempt, hourly-paid position for FEAST FOODS during the Class Period and/or PAGA Period and multiplying that sum by two.

II. PROCEDURAL AND FACTUAL BACKGROUND

1. On January 28, 2020, Plaintiff filed a putative class action complaint alleging the following wage and hour claims against Defendant: 1) Failure to Pay Overtime Wages; 2) Failure to Pay Minimum Wages; 3) Failure to Provide Meal Periods; 4) Failure to Provide Rest Periods; 5) Failure to Pay All Wages Upon Termination; 6) Failure to Provide Accurate Wage Statements; and 7) Unfair Competition. On October 30, 2020, Plaintiff filed a First Amended Complaint, which added an Eighth Cause of Action for Civil Penalties under PAGA.

2. After the filing of the Action, HERNANDEZ and FEAST FOODS engaged in informal discovery including the production of time records and payroll records for FEAST FOODS employees, as well as other data regarding FEAST FOODS employees. The Parties exchanged substantial informal discovery and engaged in conferences regarding HERNANDEZ'S claims and the claims of the alleged aggrieved employees, the value of those claims, and FEAST

1 FOODS' defenses to those claims.

2 3. On June 24, 2021, the Parties attended a day-long mediation with the Hon. Steven
3 R. Denton (Ret.), a respected jurist and mediator with substantial experience presiding over and
4 resolving employment class and representative actions. The matter did not resolve at mediation,
5 however, over the following weeks the Parties continued to negotiate a potential settlement with
6 the help of Judge Denton. Finally, on July 28, 2021, the Parties accepted a mediator's proposal to
7 resolve this matter on a Class and Representative Basis for a Maximum Settlement Amount of
8 \$595,000.00.

9 4. FEAST FOODS denies any liability or wrongdoing of any kind associated with the
10 claims alleged in the PAGA Notice and the Complaint, and further denies that the Action is
11 appropriate for class treatment for any purpose other than this settlement. FEAST FOODS
12 contends that it has complied at all times with the California Labor Code. It is FEAST FOODS'
13 position that, if this case were to be litigated, HERNANDEZ'S putative class claims would be
14 subject to binding individual arbitration, class certification would be denied, and the PAGA claims
15 would be found to be without procedural and substantive merit, and/or unmanageable. In addition,
16 FEAST FOODS maintains its right to compel HERNANDEZ'S putative class claims to arbitration
17 and to raise all defenses to the claims if the matter were prosecuted further.

18 5. The Action, the negotiation and execution of this Settlement Agreement, and all
19 acts performed or documents executed pursuant to or in furtherance of the Settlement Agreement
20 (i) shall not be used as an admission or evidence of wrongdoing on behalf of FEAST FOODS; (ii)
21 shall not be an admission or evidence of fault on behalf of FEAST FOODS in any action before a
22 civil, criminal, or administrative agency; and (iii) shall not be deemed to be, and may not be used
23 as, an admission or evidence of the appropriateness of these or similar claims for class certification
24 in the Action or with respect to any other proceeding. This Settlement Agreement may, however,
25 be used to enforce the terms of the parties agreement, including but not limited to use as a bar or
26 affirmative defense, in whole or in part, to other or future claims.

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6. Class Counsel represent they have conducted a thorough investigation into the facts and law during the prosecution of this class action case, including the exchange of extensive informal discovery and the review and verification of statistical data and other facts and information provided by FEAST FOODS. Counsel for the Parties also represent they have investigated the applicable law as applied to the facts discovered regarding the alleged claims of HERNANDEZ and the putative class and potential defenses thereto.

7. Based on their own independent investigation and evaluation, Class Counsel are of the opinion (and will so represent to the Court) that settlement for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Settlement Class in light of all known facts and circumstances, including the risk of significant delay, the risk that Class Members' claims would be ordered to individual arbitration, and any class claims would not be certified by the Court, and the defenses asserted by FEAST FOODS. FEAST FOODS and its counsel also agree (and will so represent to the Court) that this settlement is fair and in the best interest of the Settlement Class.

8. The Parties agree that the Class described herein may be certified for settlement purposes only and that any motion for preliminary approval seeking, *inter alia*, certification of the class is for purposes of the settlement only. If for any reason the settlement is not approved, the certification will have no force or effect and will immediately be revoked. The Parties further agree that certification for purposes of the settlement is in no way an admission that class certification is proper under the more stringent standard applied for litigation and that evidence of this limited stipulation for settlement purposes only will not be admissible for any purpose in this or any other proceeding. The Parties further agree that by entering this settlement, FEAST FOODS is not waiving its right to enforce the arbitration agreements it has with FEAST FOODS employees, or otherwise waiving any other defenses to the claims.

III. DUTIES OF THE PARTIES BEFORE PRELIMINARY APPROVAL AND BETWEEN PRELIMINARY AND FINAL APPROVAL

1. After the execution of this Settlement Agreement, Class Counsel shall move the Court for Preliminary Approval of the Settlement and obtain entry of an order accomplishing the

1 following:

2 a. Provisionally certifying this action under California law as a class action for
3 purposes of this settlement only;

4 b. Preliminarily approving the settlement subject only to objections of Class
5 Members, the terms of the Parties' Settlement Agreement, and final approval by the Court;

6 c. Approving as to form and content the proposed Notice of Settlement
7 attached hereto as **Exhibit 1**;

8 d. Directing the mailing of the Notice of Settlement by first-class mail to the
9 Class Members;

10 e. Preliminarily appointing HERNANDEZ as class representative and
11 Plaintiff's Counsel as class counsel (only for purposes of effectuating and implementing this
12 Settlement Agreement);

13 f. Preliminarily approving the application for payment of reasonable
14 attorneys' fees up to thirty-three and one-third percent (33.3%) of the Maximum Settlement
15 Amount, but not to exceed \$198,333.33; and reimbursement of reasonable litigation-related costs
16 and expenses not to exceed \$20,000 payable to Class Counsel. FEAST FOODS agrees not to
17 dispute, undermine, or otherwise object to the attorneys' fees and costs awards requested by Class
18 Counsel provided they do not exceed the foregoing enumerated amounts, respectively;

19 h. Preliminarily approving the service award to HERNANDEZ as Class
20 Representative in an amount up to \$7,500 ("Service Award"). An IRS Form 1099 will be issued
21 to HERNANDEZ with respect to her Service Award. FEAST FOODS agrees not to dispute,
22 undermine, or otherwise object to the Service Award requested by HERNANDEZ provided it does
23 not exceed the foregoing enumerated amount;

24 i. Preliminarily approving settlement administration services by Settlement
25 Administrator and its estimated Settlement Administration Costs of \$14,200;

26 j. Preliminarily approving the allocation of civil penalties pursuant to the
27 PAGA in the amount of \$30,000, seventy-five percent (75%) of which (i.e. \$22,500.00) shall be
28 payable to the LWDA and twenty-five percent (25%) of which (\$7,500.00) shall be distributed to

1 Participating Class Members from the Net Settlement Amount; and

2 k. Scheduling a hearing for Final Approval on the question whether the
3 proposed settlement should be finally approved as fair, reasonable and adequate to Class
4 Members.

5 2. HERNANDEZ shall submit this Settlement Agreement in support of the Motion for
6 Preliminary Approval. The Parties will endeavor to stipulate to the form of the proposed
7 preliminary approval order, but FEAST FOODS reserves its right to object to the form of the
8 proposed preliminary approval order.

9 3. HERNANDEZ shall also submit this Settlement Agreement to the LWDA (as
10 required by Labor Code § 2699(1)(2)) and to the Court in support of HERNANDEZ'S motion for
11 Preliminary Approval.

12 4. Class Counsel will file a Motion for Final Approval of the Settlement and
13 supporting documents with the Court no later than sixteen (16) court days prior to the Final
14 Approval Hearing. Supporting documents shall include, but are not limited to: (a) a declaration by
15 the Settlement Administrator of due diligence and proof of mailing of the Notice of Settlement
16 required to be mailed to Class Members by this Settlement Agreement, and of the delivery results
17 of the Settlement Administrator's mailings, including tracing and re-mailing efforts; and (b) a
18 proposed Order and Judgment granting Final Approval. Class Counsel will send Defendant's
19 Counsel the final approval motion and proposed Judgment for review prior to the filing of same.
20 Defendant's Counsel shall have at least five (5) business days in which to review and provide
21 comments on the motion. Plaintiff will consider Defendant's comments in good faith but shall not
22 be required to implement such changes. The Parties will endeavor to stipulate to the form of the
23 proposed Order and Judgment granting Final Approval, but Defendant reserves its right to object
24 to the form of the proposed Order and Judgment granting Final Approval.

25 5. FEAST FOODS will not object to or oppose Preliminary or Final Approval of the
26 settlement, including application by Class Counsel for the Service Award, attorneys' fees and
27 reimbursement of litigation-related costs and expenses as set forth above, provided the amounts
28 sought do not exceed the amounts agreed to in this Settlement Agreement.

1 6. Class Counsel will submit with the motion for Final Approval a proposed Order
2 and Judgment granting Final Approval. The proposed Order and Judgment granting Final
3 Approval shall include the following findings and orders:

4 a. Approving the settlement, adjudging the terms thereof to be fair, reasonable and
5 adequate, and directing that its terms and provisions be carried out;

6 b. Approving payment of the Service Award to the Class Representative;

7 c. Approving Class Counsel's application for an award of reasonable attorneys' fees
8 and reimbursement of reasonable litigation-related costs and expenses;

9 d. Approving the Settlement Administration Costs;

10 e. Approving payment of the portion of the PAGA Payment to the LWDA;

11 f. Ordering the payment of Individual Settlement Payments in accordance with the
12 terms of this Agreement;

13 g. Listing the individuals who opted-out of the Settlement and will not be included in
14 the releases or bound by the Judgment.

15 h. Entering Final Approval releasing all Released Claims of the Participating Class
16 Members against all Released Parties;

17 i. Entering judgment in this Action in accordance with this Settlement Agreement,
18 pursuant to Cal. Rules of Court, Rule 3.769(h);

19 j. Requiring the Settlement Administrator to post a copy of the Judgment on its
20 website for a period of at least 30 days from the date the Judgment is executed in compliance with
21 Cal. Rules of Court, Rule 3.771(b); and

22 k. Providing that the Court will retain jurisdiction to oversee administration and
23 enforcement of the terms of the settlement and the Court's orders.

24 **IV. DUTIES OF THE PARTIES AFTER FINAL APPROVAL**

25 1. Following entry of the Court's Order and Judgment granting Final Approval of the
26 Settlement Agreement, the Parties will each act to assure its timely execution and the fulfillment
27 of all its provisions, including, but not limited to the following:

28 a. Should an appeal be taken from the Order and Judgment granting Final

1 Approval of the Settlement Agreement, all Parties will support the Order and Judgment granting
2 Final Approval on appeal.

3 b. Class Counsel and Defendant's Counsel will reasonably assist the
4 Settlement Administrator as needed or requested in the process of identifying and locating
5 Participating Class Members and PAGA Group Members entitled to payments from the Net
6 Settlement Amount and assuring delivery of such payments;

7 c. Class Counsel and Defendant's Counsel will reasonably assist the
8 Settlement Administrator as needed or requested in responding to late requests for payments from
9 the Net Settlement Amount;

10 d. Class Counsel and Defendant's Counsel will ensure that the Settlement
11 Administrator will certify to the Court completion of all payments required to be made by this
12 Settlement Agreement.

13 **V. TERMS OF AGREEMENT**

14 HERNANDEZ, on behalf of herself and all Class Members, and FEAST FOODS, agree to
15 the following terms of settlement:

16 1. Terms of this Settlement Agreement are Subject to Court Approval. All terms set
17 forth in this Settlement Agreement are subject to Court approval. The Parties stipulate to class
18 certification for purposes of settlement only. HERNANDEZ shall apply to the Court for approval
19 of the Settlement Agreement and for class certification solely for purposes of effectuating this
20 settlement. FEAST FOODS shall not oppose such application, provided it does not deviate from
21 this Settlement Agreement. If, for any reason, the settlement is not approved, the stipulation to
22 certification will be void. The Parties further agree that certification for purposes of settlement is
23 not an admission that class certification is proper under the standard applied to contested
24 certification motions and that this settlement will not be admissible in this, or in any other, legal
25 process or proceeding as evidence that (i) a class should be certified or (ii) FEAST FOODS is
26 liable to HERNANDEZ or any other Class Members.

27 2. Overview of Payment Structure. This settlement is made on a non-reversionary
28 basis. This settlement shall consist of a Maximum Settlement Amount which, in turn, is

comprised of: (1) the attorneys' fees of Class Counsel; (2) the litigation costs and expenses of Class Counsel; (3) the Service Award to the Class Representative; (4) the payment to the LWDA; (5) all costs of administration, including, without limitation, settlement administration fees and expenses; and (6) the Individual Settlement Payments paid to Participating Class Members.

3. Maximum Settlement Amount or Gross Settlement Amount. FEAST FOODS shall pay \$595,000 to fund settlement of this action. The payments by FEAST FOODS pursuant to this Settlement Agreement shall settle all claims released herein. The settlement payment is not being made for any other purpose and will not be construed as compensation for determining eligibility for any health and welfare benefits or unemployment compensation. FEAST FOODS shall be responsible for paying any appropriate and lawfully required employer payroll taxes in addition to the Maximum Settlement Amount.

4. Funding of the Maximum Settlement Amount. Defendant's payment of the Gross Settlement Amount will occur in two equal payments:

- a. First Installment Payment: Within thirty (30) business days after Preliminary Approval is granted, Defendant shall deliver to the Settlement Administrator a payment in the amount of Two Hundred Ninety-Seven Thousand Five Hundred Dollars and Zero cents (\$297,500.00), which shall be kept in an interest-bearing trust account to be established by the Settlement Administrator. If for any reason the Settlement does not obtain final approval by the Court, the full balance of the First Installment Payment and accrued interest shall be returned to Defendant.
- b. Second Installment Payment: Within one (1) year following the First Installment Payment, or within thirty (30) days of Final Approval if Final Approval occurs more than one (1) year after the First Installment Payment is made, Defendant shall deliver to the Settlement Administrator a payment in the amount of Two Hundred Ninety-Seven Thousand Five Hundred Dollars and Zero cents (\$297,500.00), constituting the remainder of the Maximum Settlement Amount, plus an amount sufficient to cover Employer

1 Taxes for the portion of the Individual Settlement Payments allocated as
2 wages, which shall be kept in an interest-bearing trust account to be
3 established by the Settlement Administrator.

4 5. Disbursement of the Maximum Settlement Amount. Within three (3) business days
5 after Defendant transmits the Second Installment Payment, the Settlement Administrator shall
6 distribute, subject to Court approval of such amounts: (1) the Service Award; (2) the Settlement
7 Administration Costs; (3) the PAGA award payable to the LWDA; (4) Class Counsel's awarded
8 attorney fees; (5) all of Class Counsel's awarded costs; and (6) the remainder of the Maximum
9 Settlement Amount to Participating Class Members and PAGA Group Members from the Net
10 Settlement Amount.

11 6. Service Award. In exchange for a general release, and in recognition of her efforts
12 and work in prosecuting the Action on behalf of all Class Members, FEAST FOODS agrees not to
13 oppose or object to any application or motion for a Service Award to HERNANDEZ in an amount
14 equal to or less than \$7,500, which shall be payable from the Maximum Settlement Amount and
15 shall be in addition to payment of the Individual Settlement Payment payable to her as a Class
16 Member, and is further consideration for settling this matter. The Settlement Administrator shall
17 issue an IRS Form 1099 for the Service Award. HERNANDEZ shall be solely and legally
18 responsible to pay any and all applicable taxes on the payment made pursuant to this paragraph.
19 Any reduction in the amount of the Service Award by the Court shall remain in the Net Settlement
20 Amount to be distributed to Participating Class Members.

21 7. Settlement Administration Costs. The Settlement Administrator shall be paid for
22 the costs of administration of the settlement and distribution of all payments from the Maximum
23 Settlement Amount. Subject to Court approval, the Parties have agreed that Simpluris, Inc., will
24 serve as Settlement Administrator. Settlement Administration Costs are expected to total no more
25 than \$14,200. These costs, which shall be paid from the Maximum Settlement Amount, shall be
26 used to administer the settlement, including, inter alia, preparing the required tax reporting on the
27 Individual Settlement Payments, issuing 1099 and W-2 IRS Forms, distributing the Notice of
28 Settlement, calculating Individual Settlement Payments, processing exclusion requests, objections,

1 dispute of workweeks, resolving disputes with Class Members, distributing the Net Settlement
2 Amount as directed by the Court and as set forth herein, and providing necessary reports and
3 declarations. No fewer than ten (10) calendar days prior to the Final Approval hearing, the
4 Settlement Administrator shall provide the Court and all counsel for the Parties with a statement
5 detailing the Settlement Administration Costs. The Parties agree to cooperate in the settlement
6 administration process and to make all reasonable efforts to control and minimize the costs and
7 expenses incurred in the administration of the settlement. An IRS Form 1099 shall be issued to
8 the Settlement Administrator.

9 8. PAGA Payment. The Parties agree that \$30,000 shall be allocated to settle the
10 claims pursuant to PAGA. Of this amount, seventy-five percent (75%) (i.e. \$22,500.00) shall be
11 made payable to the LWDA and twenty-five percent (25%) (i.e. \$7,500.00) shall be distributed to
12 PAGA Group Members as part of the Net Settlement Amount.

13 9. Payment of Class Counsel's Attorneys' Fees and Litigation Costs and Expenses.
14 FEAST FOODS agrees not to object to, undermine or oppose any application or motion by Class
15 Counsel for an award of attorneys' fees not to exceed \$198,333.33 or thirty-three and one-third
16 (33.3%) of the Maximum Settlement Amount, and reasonable litigation-related costs and expenses
17 not to exceed \$20,000 which is subject to review and final approval by the Court. If approved, the
18 Court's award of attorneys' fees and reimbursement of litigation costs and expenses to Class
19 Counsel shall be paid from the Maximum Settlement Amount. Any portion of the amounts sought
20 by Class Counsel not awarded by the Court shall revert back to the Net Settlement Amount for
21 distribution to Participating Class Members, and will not revert to FEAST FOODS under any
22 circumstance. Class Counsel shall be solely and legally responsible to pay all applicable taxes on
23 the payments made pursuant to this paragraph. IRS Form 1099 shall be provided to Class Counsel
24 for the payments made pursuant to this paragraph.

25 10. Net Settlement Amount. The Net Settlement Amount shall be available for
26 distribution to Participating Class Members and PAGA Group Members in accordance with the
27 notice procedure and formula set forth in this Settlement Agreement.

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1 11. Notice Procedure. The Settlement Administrator shall be responsible for the
2 following notice procedure:

3 a. Delivery of the Class List. Within seven (7) calendar days from the Court's
4 Order preliminarily approving the settlement, FEAST FOODS shall provide the Class List to the
5 Settlement Administrator. The Class List shall contain (to the extent available in FEAST FOODS'
6 business records) Class Members' last known addresses, telephone numbers, social security
7 numbers, and dates of employment as non-exempt, hourly-paid employees of FEAST FOODS
8 during the Class Period. The Class List information shall remain confidential and shall not be
9 disclosed to anyone, including Class Counsel, except to carry out reasonable efforts described
10 below, or pursuant to express written authorization by FEAST FOODS. The Settlement
11 Administrator shall use due care with respect to the storage, custody, use, and/or dissemination of
12 the confidential information. The Settlement Administrator will perform address updates and
13 verifications as necessary prior to the first mailing.

14 b. Notice. A notice of pendency of class action, proposed settlement and
15 hearing date for Court approval, substantially in the form attached hereto as Exhibit 1 and as
16 approved by the Court, shall be sent by the Settlement Administrator to the Class Members (in
17 English and Spanish), by first class mail, within seven (7) calendar days after FEAST FOODS
18 delivers the Class List to the Settlement Administrator. Prior to mailing the Notice of Settlement,
19 the Settlement Administrator shall run the addressed provided through the Notice of Change of
20 Address ("NCOA") database and updates any addressed The Notice of Settlement shall be sent via
21 regular First Class U.S. Mail, using the most updated mailing addresses for Class Members. Each
22 Class Member will be fully advised of the settlement, the ability to object to the settlement, in
23 writing and/or in person, and the ability to submit a Request for Exclusion. The Notice of
24 Settlement will further inform Class Members of the Court-established deadlines for filing
25 objections and requesting to be excluded from the Class. The Notice of Settlement will also
26 include the calculation of Workweeks during the applicable Class Period and calculation of the
27 Class Member's estimated Individual Settlement Payment (which will be based upon the
28 assumption that the requests for attorney's fees and costs and the Service Award are awarded in

1 full) and the ability to dispute the number of workweeks.

2 c. Procedure for Lost and Undeliverable Notices. Any Notice of Settlement
3 returned to the Settlement Administrator as non-deliverable on or before the Notice Deadline shall
4 be sent to the forwarding address affixed thereto, if a forwarding address is provided. If no
5 forwarding address is provided, the Settlement Administrator shall promptly, but no later than five
6 (5) days of receiving notice that the Notice of Settlement was undeliverable, attempt to determine
7 a correct address using a skip-trace, or other search using the name, address and/or social security
8 number of the Class Member involved, and shall re-mail the Notice of Settlement. If after
9 performing a skip-trace search, the Notice of Settlement is still returned to the Settlement
10 Administrator as non-deliverable, that individual will be deemed a Participating Class Member for
11 purposes of the Released Claims (as defined below), and the Settlement Administrator will have
12 no further obligation to obtain the Class Member's current address. The Notice Deadline for any
13 Class Member who is re-mailed a Notice of Settlement shall be extended fifteen (15) calendar
14 days from the date of the re-mailing or the original forty-five (45) calendar day deadline,
15 whichever is later.

16 12. Request for Exclusion Procedure. The Notice of Settlement shall provide Class
17 Members with instructions on how to exclude themselves or "opt out" if they do not wish to
18 participate in this settlement.

19 a. Class Members who wish to opt out of this settlement must mail a written
20 request to be excluded from the Settlement ("Request for Exclusion") to the Settlement
21 Administrator no later than forty-five (45) calendar days after the initial mailing of the Class
22 Notice, unless extended pursuant to a re-mailing, or unless the Court requires a longer period, in
23 which case the Court ordered exclusion period will apply. To be valid, a Request for Exclusion
24 must include the Class Member's name, signature, the last four digits of their Social Security
25 Number, and a clear statement indicating they wish to be excluded from the settlement. The date
26 of the postmark shall be deemed the date of submission and the timeliness of submitted Request
27 for Exclusion will be determined by valid postmark. If the 45th day falls on a Sunday or federal
28 holiday, the time to request exclusion will be extended to the next day on which the U.S. Postal

Service is open.

b. Within five (5) calendar days after receipt by the Service Administrator of each timely-submitted Request for Exclusion, the Service Administrator will send a deficiency notice to the Class Members for any irregularities in any Request for Exclusion (such as failure to sign or include last four (4) digits of the Class Member's social security number). The deficiency notice will provide the Class Members no more than (10) calendar days from the mailing of the deficiency notice to postmark a written response to cure all deficiencies. The failure of a Class Member to cure all deficiencies in a timely manner shall invalidate a Request for Exclusion and will not be subject to cure.

c. A Class Member who does not properly and timely submit a Request for Exclusion of the Settlement Agreement in the manner and by the deadline specified above will automatically become a Participating Class Member and will be bound by all terms and conditions of the Settlement Agreement, including the Released Claims, if the Settlement Agreement is approved by the Court, and be bound by the Final Approval Order, regardless of whether he or she has objected to the Settlement Agreement. In consideration for settlement and Release of Claims of the Participating Class Members against FEAST FOODS, each Participating Class Member will receive a share of the Net Settlement Amount.

d. A Class Member who properly and timely submits a Request for Exclusion of the Settlement Agreement will not become a Participating Class Member, will not be bound by the Settlement Agreement, and will not have the right to have any objections to the settlement heard by the Court at the Final Approval hearing.

e. To the extent any Class Member submits a Request for Exclusion, that Class Member's unclaimed portion shall be reallocated to the Net Settlement Amount. Increases to Participating Class Member payments shall be allocated on a proportional basis based on the size of each Participating Class Member's Workweeks.

f. Counsel for the Parties shall not discourage any Class Member from participating in, objecting to or opting out of the settlement.

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g. If more than ten percent (10%) of Class Members timely and properly submit a Request for Exclusion, then FEAST FOODS shall have the right, in its sole discretion, to void and revoke the Settlement Agreement and its stipulation to class certification. All signatories and their counsel must not encourage opt-outs. The Parties specifically agree not to solicit opt-outs, directly or indirectly, through any means. Objective statements to Class Members who call Class Counsel with inquiries regarding the settlement, or the exercise of Class Counsel's ethical obligations, shall not be deemed a violation of the prohibitions contained herein. In the event of such a rescission, no party may use the fact that the Parties agreed to settle this case as evidence of FEAST FOODS' liability in this Action or the lack thereof.

h. The Settlement Administrator will notify the Parties of the total number of valid Requests for Exclusion forms and identify the individuals who submitted a request for exclusion within seven (7) calendar days after the Notice Deadline. FEAST FOODS shall have seven (7) calendar days to notify Class Counsel in writing of FEAST FOODS' intent to revoke the Settlement Agreement, including conditional class certification. If FEAST FOODS unilaterally revokes the settlement pursuant to this provision FEAST FOODS will bear all costs of Settlement Administration incurred to date. FEAST FOODS' failure to provide timely notice will result in waiver of this right.

i. Class Members who are PAGA Group Members will not be permitted to exclude themselves from the PAGA claim portion of the Settlement. PAGA penalty settlement payments in the appropriate amounts will be distributed by the Settlement Administrator by mail to the PAGA Group Members including to those Class Members who are PAGA Group Members who submitted a request for exclusion.

13. Objection Procedure. Class Members who wish to object to this settlement should notify the Settlement Administrator in writing that they object to the settlement. The Settlement Administrator shall notify and submit a copy of the objection to Class Counsel and Defendant's counsel forthwith and Class Counsel shall lodge a copy of the objection with the Court. Any objection sent to the Settlement Administrator must be postmarked no later than the Notice Deadline, unless the Court requires a longer period, in which the Court ordered objection period

will apply. If the deadline date falls on a Sunday or federal holiday, the time to object will be extended to the next day on which the U.S. Postal Service is open. The objection should provide the name of the Class Member, all facts and reasons why the Class Member is objecting to the settlement along with any legal authority, and signed by the Class Member. Class Members shall be permitted to rescind their objections in writing by submitting a rescission statement to the Settlement Administrator not later than one (1) business day before the Court's Final Approval hearing or as otherwise ordered by the Court. The postmark date shall be deemed the exclusive means for determining that the notice of objection is timely. Whether or not they timely submit a written objection, Class Members may appear at the Final Approval hearing to have their objections heard by the Court.

14. Disputed Information on Notice of Settlement. Each Class Member shall have an opportunity to dispute the employment dates and number of Workweeks attributed to him or her as identified in the Class Notice. To the extent a Class Member disputes the employment dates or number of Workweeks identified and listed in the Class Notice, the Class Member may produce evidence to the Settlement Administrator showing that such information is inaccurate by no later than the Notice Deadline. Absent evidence rebutting FEAST FOODS' records, EAST FOODS' records will be presumed determinative. Defense Counsel and Class Counsel shall jointly determine the number of eligible Workweeks that should apply. If the Defense Counsel and Class Counsel cannot agree the dispute will be submitted to the Court.

15. The Settlement Terms Bind All Class Members Who Do Not Submit a Timely and Valid Request for Exclusion. Any Class Member who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid Request for Exclusion as set forth above and consistent with the terms of this Settlement Agreement shall be bound by all of its terms, including those pertaining to the Released Claims (as defined below), as well as any Final Approval that may be entered by the Court when it grants Final Approval of the settlement.

16. Certification Reports Regarding Requests for Exclusion, Disputes, and Undeliverable Notices. The Settlement Administrator shall provide Defendant's Counsel and Class Counsel a weekly report which certifies: (a) the number of Class Members who have

submitted a valid or defective Request for Exclusion; (b) whether any Class Member has submitted a challenge to any information contained in their Notice of Settlement; and (c) the number of returned, undeliverable and/or re-mailed Notices of Settlement. Additionally, the Settlement Administrator shall provide to Defendant's Counsel and Class Counsel any updated reports regarding the administration of the Settlement Agreement as needed or requested.

17. Individual Settlement Payment Calculations. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Settlement Agreement. Should any question arise regarding the determination of eligibility for participation in the settlement or the amount of any Individual Settlement Payment under the terms of this Settlement Agreement, Class Counsel and Defendant's Counsel will meet and confer and attempt to reach agreement. Any unresolved disputes concerning the administration of the Settlement Agreement will be resolved by the Court, under the laws of the State of California. To determine Individual Settlement Payments to Participating Class Members and PAGA Group Members, the Settlement Administrator will calculate the total Workweeks for all Participating Class Members and PAGA Group Members by adding the number of workweeks worked by each Participating Class Member and PAGA Group Members during the Class Period or PAGA Period. The amount that each Participating Class Member and/or PAGA Group Member will be eligible to receive will be calculated by dividing each Participating Class Member's and PAGA Group Member individual Workweeks by the total Workweeks of all Participating Class Members and PAGA Group Member, and multiplying the resulting fraction by the Net Settlement Amount. The Settlement Administrator will determine the total number of qualifying Workweeks for each Participating Class Member and PAGA Group Member which will be finalized after approval by the Parties.

18. Allocation and Tax Treatment of Individual Settlement Payments. Individual Settlement Payments shall be allocated as follows: One hundred percent (100%) of the PAGA Group Members share of the PAGA Payment shall be civil penalties; Twenty percent (20%) of the individual payment to Participating Class Members as wages and eighty percent (80%) of the individual payment to Participating Class Members as non-wage statutory damages and interest.

Portions of each Individual Settlement Payment allocated as wages will be reported on an IRS Form W-2. Portions allocated as non-wage statutory damages and interest, and those portions allocated as PAGA penalties, will be reported on an IRS Form 1099.

19. Payment of Individual Settlement Amounts. The Settlement Administrator shall have the authority and obligation to make all payments, credits and disbursements, calculated in accordance with the methodology set forth in this Settlement Agreement and orders of the Court. The Settlement Administrator's duties will include reporting payment of the Individual Settlement Payments to all required taxing and other authorities, taking appropriate withholding from the Individual Settlement Payments, and issuing the appropriate IRS Forms W-2 and 1099. No person shall have any claim against FEAST FOODS, Defendant's Counsel, HERNANDEZ, Class Counsel, the Settlement Administrator, or any Participating Class Member and PAGA Group Members based on distributions and payments made in accordance with this Settlement Agreement.

20. Non-Negotiated Settlement Checks. Participating Class Members and PAGA Group Members must cash each of their Individual Settlement Payment checks within one hundred eighty (180) calendar days after they are mailed by the Settlement Administrator. The Parties agree that any uncashed checks, subject to Court approval, shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code §1500, *et. seq.* for the benefit of those Participating Class Members who did not cash their checks until such time that they claim their property. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out to Participating Class Members and PAGA Group Members.

21. Settlement Administrator's Final Report(s). Not less than ten (10) calendar days after the Notice Deadline, the Settlement Administrator shall report to Defendant's Counsel and Class Counsel: (i) the names of individuals who opted-out of the settlement ; (ii) the Individual Settlement Payments owed to each Participating Class Member; and (iii) the final number of Class Members who have submitted objections and/or valid Requests for Exclusion requests from the

1 settlement. Upon completion of administration of the settlement, the Settlement Administrator
2 shall provide written certification of such completion to counsel for all Parties and the Court, if
3 requested by the Parties.

4 22. Limited Release of Claims by Participating Class Members. Upon the funding of
5 the Maximum Settlement Amount and all applicable employer-side payroll taxes and except as to
6 such rights or claims as may be created by this Settlement Agreement, each and every
7 Participating Class Member, on behalf of themselves and their heirs and assigns, shall release the
8 Released Parties from the Released Claims that arose during the Class Period.

9 23. General Release of Claims by Class Representative Only. Upon the funding of the
10 Maximum Settlement Amount and all applicable employer-side payroll taxes, the Class
11 Representative shall release the Released Claims against the Released Parties, and shall make the
12 additional following General Release in favor of the Released Parties:

13 a. HERNANDEZ hereby individually and unconditionally waives and forever
14 releases, waives, discharges, any and all demands, damages, debts, liabilities, contracts,
15 obligations, actions, causes of action and claims of every kind, nature, and description whatsoever,
16 whether now known or unknown, suspected or unsuspected, including in equity or otherwise,
17 which she ever had or now has against the Released Parties arising or accruing at any time prior to
18 the Effective Date, including without limitation any matter, cause or claim arising out of or related
19 to facts or events occurring prior to the execution of this Settlement Agreement, and/or related to
20 HERNANDEZ'S employment with FEAST FOODS and her separation therefrom. At a minimum,
21 the claims released by HERNANDEZ include but are not limited to: (a) any claims that were or
22 could have been brought under California Labor Code sections 132a, 201, 202, 203, 204, 216,
23 218, 218.5, 218.6, 225.5, 226, 226.3, 226.7, 432.5, 510, 512, 558, 1050, 1054, 1194, 1194.2, 1197,
24 1198, 2698 et seq., the applicable Industrial Welfare Commission Wage Orders, the FLSA, and all
25 related or corresponding federal laws, and all implementing regulations and interpreting guidance;
26 (b) any claims that were or could have been brought under California Corporations Code, and
27 California Business and Professions Code, including but not limited to California Business and
28 Professions Code section 17200 et seq. as unlawful, fraudulent or misleading based on the claims,

1 facts and allegations alleged in the Action (including, but not limited to, claims of conduct
2 unlawful under state or federal law); (c) any other causes of action, including those seeking
3 premiums, penalties, interest, punitive damages, costs, attorneys' fees, injunctive relief,
4 declaratory relief, or accounting, whether such causes of action are in tort, contract, equity, statute,
5 or common law; (d) any claims under the Fair Employment and Housing Act, Americans with
6 Disabilities Act, Age Discrimination in Employment Act, and Title VII of the Civil Rights Act of
7 1964, and (e) any other claims the Class Representative could have made related to her
8 employment with FEAST FOODS. The Class Representative may hereafter discover facts in
9 addition to or different from those which she now knows or believes to be true, but stipulates and
10 agrees that, upon the Effective Date, she fully, finally, and forever settles and releases any and all
11 claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or
12 not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or
13 equity and without regard to the subsequent discovery or existence of such different or additional
14 facts. FEAST FOODS is deemed, by operation of the Order granting Final Approval, to have
15 agreed not to sue or otherwise make a claim against any of the Released Parties for any claim.

16 b. HERNANDEZ acknowledges that she has had the opportunity to review,
17 and has reviewed, California Civil Code section 1542, which provides:

18 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
19 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
20 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
21 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
22 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR
23 RELEASING PARTY.

24 Being fully informed of this provision of the Civil Code and understanding its provisions,
25 the Class Representative agrees to waive any rights under that section, and acknowledges that this
26 Settlement Agreement and the release contained herein extends to all claims that she has or might
27 have against the Released Parties, including those which are presently unknown to her or that she
28 does not know or suspect to exist, which, if known by HERNANDEZ, might have affected her
settlement with, and release of, the Released Parties or might have affected her decision.

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1 24. Final Approval Hearing and Entry of Judgment. Upon expiration of the deadlines
2 to postmark a request to be excluded from or objection to the Settlement Agreement, and with the
3 Court's permission, a Final Approval hearing shall be conducted to finally determine the fairness
4 of the settlement, along with the amounts properly payable for (a) Individual Settlement
5 Payments; (b) The Class Representative's Service Award; (c) Class Counsel's attorneys' fees and
6 litigation costs and expenses; (d) Settlement Administration Costs; and (e) the PAGA payment.
7 Class Counsel will be responsible for drafting the attorneys' fees and costs application/motion to
8 be heard at the Final Approval hearing, which such application/motion may be part of the Class
9 Representative's motion for final approval.

10 25. Judgment and Continued Jurisdiction. Upon Final Approval of the settlement by
11 the Court or at the time of or subsequent to the Final Approval hearing, the Parties shall present a
12 Final Approval to the Court for approval and entry. After entry of the Final Approval, the Court
13 shall have continuing jurisdiction under Code of Civil Procedure section 664.6 solely for purposes
14 of addressing: (a) the interpretation and enforcement of the terms of the settlement, (b) Settlement
15 Administration matters, (c) failure to timely pay all amounts owed by Defendant, and (d) such
16 post-Final Approval matters as may be appropriate under court rules or as set forth in this
17 Settlement Agreement.

18 26. No Solicitation of Settlement Objections or Exclusions. The Parties agree to use
19 their best efforts to carry out the terms of this Settlement Agreement. At no time shall any of the
20 Parties or their counsel seek to solicit or otherwise encourage Class Members to submit either a
21 Request for Exclusion or written objections to the Settlement Agreement or to appeal from the
22 Court's Final Approval.

23 27. Interim Stay of Proceedings. Pending completion of the settlement process, the
24 Parties agree to a stay of all proceedings in the Action except such as are necessary to implement
25 the Settlement itself and the Parties agree to refrain from further litigation of this matter, except as
26 to proceedings necessary to implement and obtain an order granting Final Approval of the terms of
27 the settlement.

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28. Nullification of Settlement Agreement. In the event: (i) FEAST FOODS timely and properly revokes this Settlement Agreement as set forth in Section V. Paragraph 12(g) herein; (ii) the Court does not finally approve the Settlement Agreement as provided herein; (iii) the Court does not enter Final Approval as provided herein, which becomes final as a result of the occurrence of the Effective Date; or (iv) the Settlement Agreement does not become final for any other reason, this Settlement Agreement shall be null and void and any order or judgment entered by the Court in furtherance of this Settlement Agreement shall be treated as void from the beginning. In such a case, the Parties shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Settlement Agreement and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed (and the terms and existence of the Settlement Agreement will be confidential). In the event an appeal is filed from the Court's Final Approval, or any other appellate review is sought prior to the Effective Date, administration of the Settlement Agreement shall be stayed pending final resolution of the appeal or other appellate review (unless otherwise agreed to by the Parties).

29. No Admission. Nothing contained herein, nor the consummation of this Settlement Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of FEAST FOODS or any of the other Released Parties. FEAST FOODS specifically denies any and all liability. Each of the Parties hereto has entered into this Settlement Agreement with the intention of avoiding further disputes and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a settlement document and, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408 and/or any other similar law, shall be inadmissible in evidence in any proceeding, except an action or proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement, including but not limited to use as a bar or affirmative defense, in whole or in part, to other or future claims or actions.

30. Construction. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms-length negotiations between the Parties, and that this Settlement Agreement shall not be construed in favor of or against any party

by reason of the extent to which any Party or his, her, or its counsel participated in the drafting of this Settlement Agreement.

31. Notices. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by U.S. registered or certified mail, return receipt requested, addressed as follows:

<u>To Class Counsel:</u>	<u>To Defendant's Counsel:</u>
Michael Nourmand (SBN 198439) mnourmand@nourmandlawfirm.com James A. De Sario (SBN 262552) jdesario@nourmandlawfirm.com THE NOURMAND LAW FIRM, APC 8822 West Olympic Boulevard Beverly Hills, CA 90211 T: (310) 553-3600 F: (310) 553-3603	Michael J. O'Connor, Jr. (SBN 202734) Michael.OConnor@aalrr.com Geoffrey D. La Val (SBN 279987) Geoffrey.LaVal@aalrr.com Atkinson, Andelson, Loya, Ruud & Romo 4275 Executive Square, Suite 700 La Jolla, CA 92037-1477 T: (858) 485-9526 F: (858) 485-9412

32. Tax Liability. The Parties make no representations as to the tax treatment or legal effect of the payments called for hereunder, and Participating Class Members and PAGA Group Members are not relying on any statement or representation by the Parties in this regard. Participating Class Members and PAGA Group Members understand and agree that Participating Class Members and PAGA Group Members will be solely responsible for the payment of any taxes and penalties assessed on the payments described herein.

33. Headings. The descriptive headings of any paragraphs or sections of this Settlement Agreement are inserted for convenience of reference only and do not constitute a part of this Settlement Agreement, and in no way, define, limit, extend, or describe the scope of this Settlement Agreement or any provision herein.

34. Amendment or Modification. Unless otherwise provided herein, this Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest, and approved by the Court.

///

1 35. Entire Agreement. This Settlement Agreement, any supplemental written
2 agreement subsequently incorporated, and any attached exhibits constitute the entire Settlement
3 Agreement among these Parties, and no oral or written representations, warranties or inducements
4 have been made to any Party concerning this Settlement Agreement or its exhibits other than the
5 representations, warranties and covenants contained and memorialized in such documents.

6 36. Authorization to Enter into Settlement Agreement. The signatories hereto represent
7 that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to
8 the terms and conditions hereof.

9 37. Mutual Full Cooperation. The Parties and their counsel will cooperate with each
10 other and use their best efforts to effect the implementation of the Settlement Agreement,
11 including but not limited to, execution of such documents and to take such other action as may be
12 reasonably be necessary to implement the terms of this Settlement Agreement. As soon as
13 practicable after execution of this Settlement Agreement, Class Counsel shall, with the assistance
14 of FEAST FOODS and Defendant's counsel, take all necessary steps to secure the Court's
15 Preliminary Approval and Final Approval of this Settlement Agreement. In the event the Parties
16 are unable to reach agreement on the form or content of any document needed to implement the
17 Settlement Agreement, or on any supplemental provisions that may become necessary to
18 effectuate the terms of this Settlement Agreement, the Parties may seek the assistance of the Court
19 to resolve such disagreement.

20 38. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
21 they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign,
22 transfer, or encumber to any person or entity any portion of liability, claim, demand, action, cause
23 of action, or rights herein released and discharged except as set forth herein.

24 39. Binding on Successors and Assigns. This Settlement Agreement shall be binding
25 upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors,
26 administrators and successors.

27 40. Participating Class Member Signatories. It is agreed that because the Participating
28 Class Members are so numerous, it is impossible or impractical to have each Participating Class

1 Member execute this Settlement Agreement. The Notice of Settlement will advise all Class
2 Members of the binding nature of the Released Claims and, upon Final Approval, such shall have
3 the same force and effect as if this Settlement Agreement were executed by each Participating
4 Class Member.

5 41. California Law Governs. All terms of this Settlement Agreement shall be governed
6 by and interpreted according to the laws of the State of California, without giving effect to any
7 conflict of law principles or choice of law principles.

8 42. Counterparts. This Settlement Agreement may be executed in one or more
9 counterparts. All executed counterparts and each of them shall be deemed to be one and the same
10 instrument provided that counsel for the Parties to this Settlement Agreement shall exchange
11 among themselves original signed counterparts.

12 43. The Class Representative's Waiver of Right to be Excluded and Object. The Class
13 Representative agrees that by signing this Settlement Agreement, she is bound by the terms herein
14 stated and further agrees not to request to be excluded from the settlement and agrees not to object
15 to any of the terms of this Settlement Agreement. Any such letter requesting to be excluded from
16 the settlement or objection shall therefore be void and of no force or effect. Efforts by the Class
17 Representative to circumvent the terms of this paragraph shall be void and of no force or effect.

18 44. Confidentiality Preceding Preliminary Approval. The Class Representative and
19 Class Counsel agree that the terms of this settlement (including, but not limited to, the Maximum
20 Settlement Amount), the negotiations leading to this settlement, and all documents related to the
21 settlement shall not be discussed with, advertised, marketed, publicized, published, reported, or
22 promoted to the public, except as necessary to effectuate and/or enforce the terms of this
23 Settlement Agreement. The Class Representative and Class Counsel will not publicize the terms
24 of this Settlement Agreement and will not issue any press releases except that the Class
25 Representative and Class Counsel may disclose in legal proceedings a summary of the terms of the
26 Settlement Agreement and may communicate with Class Members regarding the settlement, its
27 terms, its history (apart from settlement communications).

28 ///

ATKINSON, ANDELSON, LOYA, RUUD & ROMO
 A PROFESSIONAL CORPORATION
 ATTORNEYS AT LAW
 ATKINSON, ANDELSON, LOYA, RUUD & ROMO 4275 EXECUTIVE SQUARE, SUITE 700
 LA JOLLA, CA 92037-1477
 T: (858) 485-9526
 F: (858) 485-9412

45. Increase in Workweeks. FEAST FOODS represents that that there are approximately 64,000 total workweeks. In the event the actual total number of workweeks exceeds 64,000 by more than 5%, i.e., 67,200, by the end of the Class Period, the Net Settlement Amount shall be increased by determining the workweek value calculated off of 67,200 workweeks and multiplied by the additional number of workweeks. For example, if the total number of workweeks is 68,000 and the workweek value is \$10.00 per workweek, FEAST FOODS would have to increase the Net Settlement Amount by \$8,000 ($68,000 - 67,200 = 800 \times \$10.00 = \$8,000$).

Dated: 12/28/2021

FEAST FOODS, LLC

By:

DocuSigned by:

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Dated:

MARTHA HERNANDEZ

By:

Martha Hernandez

APPROVED AS TO FORM ONLY

Dated: 12/28/2021

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

By:

Michael J. O'Connor
 Geoff D. La Val
 Attorneys for Defendant
 FEAST FOODS, LLC

Dated:

THE NOURMAND LAW FIRM, APC

By:

Michael Nourmand
 James A. DeSario
 Attorneys for Plaintiff

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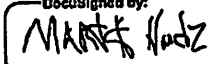
Dated: _____

FEAST FOODS, LLC

By: _____

Dated: 12/27/2021

MARTHA HERNANDEZ

By: 
E5F2E012838845E...
Martha Hernandez

APPROVED AS TO FORM ONLY

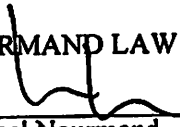
Dated: _____

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

By: _____
Michael J. O'Connor
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Attorneys for Defendant
FEAST FOODS, LLC

Dated: 12/27/21

THE NOURMAND LAW FIRM, APC

By: 
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