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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

Coordination Proceeding Special Title (Rule  
3.550)

Marugame Udon Wage and Hour Cases

Included actions:

Lance Linden v. Marugame Udon USA, LLC

Nereyda Rodriguez v. Marugame Udon USA,  
LLC

Alice Turner v. Marugame Udon USA, LLC

JCCP No.: 5146

Los Angeles County Superior Court  
Case No. 20STCV00728

Orange County Superior Court  
Case No. 30-2020-01127949

Orange County Superior Court  
Case No. 30-2020-01148544

**JOINT STIPULATION OF CLASS AND  
REPRESENTATIVE ACTION  
SETTLEMENT**

Complaint filed: January 8, 2020  
Trial date: Not set

1 [Counsel continued from prior page]

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## **JOINT STIPULATION OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT**

This Joint Stipulation of Class and Representative Action Settlement (“Joint Stipulation of Settlement” or “Settlement” or “Agreement”) is made and entered into by and between Plaintiffs LANCE LINDEN, NEREYDA RODRIGUEZ and ALICE TURNER, individually, and on behalf of all others similarly situated, (“Plaintiffs” or “Class Representatives”), and Defendant MARUGAME UDON USA, LLC. (“Marugame” or “Defendant”). Plaintiffs and Defendant are collectively referred to herein as “the Parties.”

THE PARTIES STIPULATE AND AGREE as follows:

### **DEFINITIONS**

1. For purposes of this Settlement, “Complaint” refers to the Second Amended Consolidated Class and Representative Action Complaint, JCCP No.: 5146, or any subsequent operative complaint at the time the Court grants Preliminary Approval of this Settlement.

2. For purposes of this Settlement, this matter, entitled *Marugame Udon Wage and Hour Cases*, JCCP No.: 5146, which includes the coordinated actions entitled *Lance Linden v. Marugame Udon USA, LLC*, LASC Case No.: 20STCV00728, *Nereyda Rodriguez v. Marugame Udon USA, LLC*, Orange County Superior Court Case No.: 30-2020-01127949, and *Alice Turner v. Marugame Udon USA, LLC*, Orange County Superior Court Case No.: 30-2020-01148544, is referred to herein as the “Action.”

3. For purposes of this Settlement, the “Class Period” is January 8, 2016 through July 31, 2022, or the date upon which the Court grants preliminary approval of this Settlement, whichever is sooner.

4. For purposes of this Settlement, the “Class” or “Class Members” consist of: All current and former non-exempt employees of Defendant within the State of California at any time during the Class Period. “Settlement Class Members” are those Class Members who do not submit timely exclusion requests to the Settlement Administrator. The Parties’ best estimate is that the Class includes approximately 1,284 individuals who worked approximately 35,000 work weeks.

5. For purposes of this Settlement, “Class Counsel” means MOON & YANG, APC and LAWYERS *for* JUSTICE, PC.

6. For purposes of this Settlement, “Covered Workweeks” means the number of weeks a

1 Class Member worked at Defendant's locations in California during the Class Period.

2 7. For purposes of this Settlement, "Response Deadline" means the date sixty (60) days after  
3 the Settlement Administrator initially mails the Notice to Settlement to Class Members, and is the last date  
4 on which Settlement Class Members may submit a request for exclusion or written objection to the  
5 Settlement. In the case of a re-mailed Notice, the Response Deadline will be the later of 60 calendar days  
6 after initial mailing or 14 calendar days from re-mailing. The Response Deadline may be extended only as  
7 expressly described herein.

8 8. For purposes of the Settlement, "Defendant's Counsel" means SEYFARTH SHAW LLP.

9 9. For purposes of this Settlement, "PAGA" means the Labor Code Private Attorneys  
10 General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*).

11 10. For purposes of this Settlement, "PAGA Allocation" means the portion of the Gross  
12 Settlement Amount that the Parties have agreed to allocate to resolution of the Released PAGA Claims.  
13 The Parties have agreed that the PAGA Allocation will be \$75,000 from the Gross Settlement Amount.  
14 Pursuant to PAGA, Seventy Five Percent (75%), or \$56,250, of the PAGA Allocation will be paid to the  
15 Labor and Workforce Development Agency ("LWDA") ("PAGA Penalty Payment"), and Twenty Five  
16 Percent (25%), or \$18,750, of the PAGA Allocation will be included in the Net Settlement Amount for  
17 PAGA Employees ("PAGA Settlement Payment").

18 11. For purposes of this Settlement, "PAGA Period" means the period between January 6,  
19 2019 through the date of entry of order for preliminary approval of the Settlement, or July 31, 2022,  
20 whichever is sooner.

21 12. For purposes of this Settlement, "PAGA Employee" means all Class Members that worked  
22 for Defendant during the PAGA Period. It is stipulated by the Parties that, for purposes of this Settlement,  
23 all PAGA Employees are "aggrieved employees" as defined pursuant to PAGA.

24 13. For purposes of this Settlement, "PAGA Pay Periods" means the number of pay periods  
25 each PAGA Employee worked during the PAGA Period.

26 14. For purposes of this Settlement, "PAGA Representatives" means Plaintiffs.

27 15. For purposes of this Settlement, "Released PAGA Claims" means all claims that have been  
28 pled or could have been pled, based upon the factual allegations and issues set forth in the Notice to the

1 LWDA and alleged in the Complaint, including civil penalties under PAGA, fees, and all other claims and  
2 allegations made or which could have been made in the Action based on the facts and allegations pled in  
3 Plaintiffs' Notice to the LWDA and the Complaint. Plaintiffs' Notices to the LWDA are attached hereto  
4 as **Exhibit "B."**

5 16. For purposes of this Settlement, the "FLSA Subclass" consists of: All Settlement Class  
6 Members who were employed by Defendant in the State of California between January 8, 2017 and the  
7 date of entry of order for preliminary approval of the settlement, or July 31, 2022, whichever is sooner.

8 17. For purposes of this Settlement, "FLSA Workweeks" are workweeks worked by each  
9 FLSA Subclass member during the FLSA Subclass period.

10 18. For purposes of this settlement, the "FLSA Allocation" is the portion of the Gross  
11 Settlement Amount that the Parties have agreed to allocate to resolution of FLSA claims. The Parties have  
12 agreed that the FLSA Allocation will be \$50,000 from the Gross Settlement Amount.

13 19. For purposes of this Settlement, "Settlement Payments" means all of the payments to  
14 Settlement Class Members, FLSA Subclass (the "FLSA Subclass Payments") and all of the payments to  
15 PAGA Employees (the "PAGA Settlement Payments").

16 **STIPULATED BACKGROUND**

17 20. On January 8, 2020, Plaintiff Lance Linden filed a class action alleging various wage and  
18 hour claims. On March 11, 2020, Plaintiff Lance Linden filed First Amended Complaint pursuant to Labor  
19 Code Section 2699.3(2)(c) adding the Eighth Cause of Action as a representative action under the  
20 California Private Attorney General Act ("PAGA") to recover civil penalties that are owed to Plaintiff, the  
21 State of California, and past and present employees. Plaintiff Nereyda Rodriguez filed her class action  
22 complaint for damages on January 30, 2020 in the Orange County Superior Court. She filed her First  
23 Amended Complaint on February 28, 2020. Plaintiff Alice Turner filed her Complaint under the California  
24 Private Attorneys General Act (PAGA) on July 14, 2020 in the Orange County Superior Court.

25 21. On October 15, 2020, Defendant filed petition for coordination and application of stay of  
26 the following three actions: *Lance Linden v. Marugame Udon USA, LLC*, pending in Los Angeles County  
27 Superior Court, Case No. 20STCV00728; *Nereyda Rodriguez v. Marugame Udon USA, LLC*, pending in  
28 Orange County Superior Court, Case No. 30-2020-01127949; and *Alice Turner v. Marugame Udon USA*,

1 *LLC*, pending in Orange County Superior Court, Case No. 30-2020-01148544. On March 18, 2021, the  
2 Court granted Defendant's petition to coordinate the above mentioned three cases (the "Action"). On April  
3 27, 2021, the Action was reassigned to Department 9 of the Superior Court of California County of Los  
4 Angeles, with the Honorable Yvette M. Palazuelos assigned to sit as coordination trial judge (the "Court").

5 22. On September 10, 2021, Plaintiffs filed their Second Amended Consolidated Class and  
6 Representative Action Complaint.

7 23. On April 28, 2022, the Parties participated in a day-long mediation with mediator Steven  
8 Rottman.

9 24. Solely for purposes of settling this case, the Parties and their respective counsel stipulate  
10 and agree that the requisites for establishing class certification with respect to the Class Members have  
11 been met and are met.

12 25. Should, for whatever reason, the Settlement not become effective, the fact that the Parties  
13 were willing to stipulate to certification as part of the Settlement shall have no bearing on, and shall not be  
14 admissible in connection with, the issue of whether the Class Members and/or the Class Claims should be  
15 certified in a non-Settlement context in this Action or in any other lawsuit. Defendant expressly reserves  
16 its right to oppose claim or class certification in this or any other action should this Settlement not become  
17 effective.

18 26. Defendant denies any liability or wrongdoing of any kind whatsoever associated with the  
19 claims alleged in the Complaint, and Defendant further denies that, for any purpose other than settling this  
20 lawsuit, the action is appropriate for class or representative treatment. With respect to Plaintiffs' claims,  
21 Defendant contends, among other things, that Plaintiffs and the Class Members have been paid proper  
22 wages, have been provided meal periods, have been provided rest periods, have been paid timely wages  
23 upon separation of employment, have been reimbursed for any reasonable and necessary business  
24 expenses, and have been provided with accurate itemized wage statements. Defendant contends, among  
25 other things, that it has complied at all times with the California Labor Code and the applicable Wage  
26 Orders of the Industrial Welfare Commission. Furthermore, with respect to all claims, Defendant contends  
27 that it has complied at all times with the California Business and Professions Code.

28 27. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge

all disputes and claims arising from or related to the Complaint.

28. Class Counsel has conducted a thorough investigation into the facts of this Action, including an extensive review of relevant documents, and has diligently pursued an investigation of the claims of the Class against Defendant. Based on its own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement with Defendant for the consideration and on the terms set forth in this Joint Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest of the Class in light of all known facts and circumstances, including the risk of significant delay, the risk the Class will not be certified by the Court, defenses asserted by Defendant, and numerous potential appellate issues. Defendant and Defendant's Counsel also agree that the Settlement is fair and in the best interest of the Class.

29. The Parties agree to cooperate and take all steps necessary and appropriate to obtain preliminary and final approval of this Settlement.

30. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the Court.

### **PRIMARY TERMS OF SETTLEMENT**

31. NOW THEREFORE, in consideration of the mutual covenants, promises and agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

(a) It is agreed by and among the Settlement Class Members, FLSA Subclass, PAGA Employees, and Defendant that this case and any claims, damages, or causes of action arising out of the disputes which are the subject of this case, be settled and compromised as between the Settlement Class Members, FLSA Subclass, PAGA Employees, and Defendant, subject to the terms and conditions set forth in this Settlement and the approval of the Court.

(b) Effective Date: The terms of settlement embodied in this Settlement shall become effective when all of the following events have occurred: (i) this Joint Stipulation of Settlement has been executed by all Parties and their respective counsel; (ii) the Court has given preliminary approval to the Settlement; (iii) the Notice has been

1 given to the Class, providing them with an opportunity to dispute information  
2 contained in the Notice, to opt out of the Settlement, or to object to the Settlement;  
3 (iv) the Court has held a final approval hearing and entered a final order and  
4 judgment certifying the Class and approving this Settlement; and (v) the later of the  
5 following events: (a) seven calendar days have passed since final approval is  
6 granted if there are no objections to the settlement; (b) 35 days following notice of  
7 entry of the Court's final order approving the Settlement if there are any objections  
8 by any Class Member; (c) or if any appeal, writ or other appellate proceeding  
9 opposing this Settlement has been filed within 30 days following notice of entry of  
10 the Court's final order approving the Settlement, then 21 days after when any  
11 appeal, writ or other appellate proceeding opposing the Settlement has been  
12 resolved finally and conclusively with no right to pursue further remedies or relief.  
13 In this regard, it is the intention of the Parties that the Settlement shall not become  
14 effective until the Court's order approving the Settlement is completely final, and  
15 there is no further recourse by an appellant or objector who seeks to contest the  
16 Settlement.

17 (c) Gross Settlement Amount: Defendant's maximum total payment under the  
18 Settlement, including all attorney's fees and costs, the Service Payment to the  
19 named Plaintiffs, the costs of settlement administration, the PAGA Allocation, and  
20 any other payments provided by this Settlement, is \$700,000.00 ("Gross Settlement  
21 Amount"), subject to the Escalator Clause and except that, to the extent that any  
22 portions of the Class Members' Settlement Payments constitute wages, Defendant  
23 will be separately responsible for any employer payroll taxes required by law,  
24 including the employer FICA, FUTA, and SDI contributions.

25 (d) Escalator Clause: The number of Covered Workweeks is estimated to be 35,000.  
26 If it is later determined that, through the Class Period, the number of actual  
27 Covered Workweeks during the Class Period exceeds 25% of the estimated  
28 Covered Workweeks (i.e., exceeds 43,750 workweeks), Defendant may elect to

1           either (a) increase the Gross Settlement Amount by a pro-rata dollar value equal to  
2           the number of workweeks in excess of 43,750 workweeks; (b) end the Class Period  
3           on the date the number of workweeks exceeds 43,750; or (c) Defendant may  
4           withdraw from the settlement. The Gross Settlement Amount will not be reduced  
5           for any reason.

6           (e)   Non-reversionary Settlement: No portion of the Gross Settlement Amount will  
7           revert to Defendant.

8           (f)   No Claims Required: Class Members will not be required to submit a claim to  
9           receive their Settlement payment.

10          (g)   Net Settlement Amount: The Net Settlement Amount shall be calculated by  
11          deducting from the Gross Settlement Amount (\$700,000.00) the following sums,  
12          subject to approval by the Court: (1) attorney's fees (not to exceed 35% of the  
13          Gross Settlement Amount, or \$245,000.00); (2) reasonable litigation costs (not to  
14          exceed \$40,000.00); (3) the Service Payments (not to exceed \$7,500.00 to the  
15          named Plaintiffs [for a total of \$22,500.00]); (4) the PAGA Penalty Payment in the  
16          amount of \$56,250.00 (which is 75% of the PAGA Allocation); and (5) costs of  
17          settlement administration (estimated to be \$14,000.00). Settlement Payments to  
18          the Class Members will be calculated by the Settlement Administrator and paid out  
19          of the Net Settlement Amount as set forth below.

20          (h)   Payroll Taxes and Required Withholdings: To the extent that any portions of the  
21          Settlement Class Members' Settlement Payments constitute wages, Defendant will  
22          be separately responsible for any **employer** payroll taxes required by law,  
23          including the employer FICA, FUTA, and SDI contributions. Except for any  
24          employer payroll taxes, it is understood and agreed that Defendant's maximum  
25          total liability under this Settlement shall not exceed the Gross Settlement Amount.  
26          The Settlement Administrator will calculate and submit the Defendant's employer  
27          share of payroll taxes after advising Defendant of the total amount owed, in  
28          aggregate, as employer-side payroll taxes and receiving a lump sum payment from

Defendant in that amount when the Gross Settlement Amount is delivered to the Settlement Administrator.

- (i) Settlement Class Payments (Excludes PAGA Settlement Payments and FLSA Settlement Payments): Settlement Class Payments will be paid out of the Net Settlement Amount. Each Settlement Class Member will be paid a pro-rata share of the Net Settlement Amount (less the PAGA Settlement Payments totalling \$18,750.00 and the FLSA Settlement Payments totalling \$50,000), as calculated by the Settlement Administrator. The pro-rata share will be determined by comparing the individual Settlement Class Member's Covered Workweeks employed during the Class Period in California to the total Covered Workweeks of all the Settlement Class Members during the Class Period as follows: 
$$\frac{\text{Workweeks worked by a Settlement Class Member}}{\text{Sum of all Covered Workweeks worked by all Settlement Class Members}} \times [\text{Net Settlement Amount} - \text{all PAGA Settlement Payments and all FLSA Settlement Payments}] = \text{individual Settlement Payment for a Settlement Class Member.}$$
 Settlement Class Payments in the appropriate amounts will be distributed by the Settlement Administrator by mail to the Settlement Class Members. Un-cashed, unclaimed or abandoned checks, shall be transmitted to the California Controller's Office, as set forth below.
- (j) PAGA Settlement Payments: PAGA Settlement Payments will be paid out of the Net Settlement Amount. Each PAGA Employee will be paid a pro-rata share of the PAGA Employees' PAGA Settlement Payment, as calculated by the Settlement Administrator. Class Members will not be permitted to exclude themselves from this portion of the Settlement. The pro-rata share will be determined by comparing the individual PAGA Employee's PAGA Pay Periods during the PAGA Period to the total PAGA Pay Periods of all the PAGA Employees during the PAGA Period as follows: 
$$\frac{\text{PAGA Pay Periods worked by a PAGA Employee}}{\text{Sum of all PAGA Pay Periods worked by all PAGA Employees}} \times [\text{PAGA Settlement Payment}] = \text{individual PAGA Employee's portion of the PAGA Settlement}$$

1 Payment. PAGA Settlement Payments to PAGA Employees in the appropriate  
2 amounts will be distributed by the Settlement Administrator by mail to the PAGA  
3 Employees at the same time Settlement Class Payments issue to the Settlement  
4 Class. Un-cashed, unclaimed or abandoned checks, shall be transmitted to the  
5 California Controller's Office, as set forth below. The LWDA's PAGA Penalty  
6 Payment will issue to the LWDA at the same time Settlement Payments issue to  
7 the Settlement Class.

8 (k) FLSA Settlement Payments: FLSA Settlement Payments will be paid out of the  
9 Net Settlement Amount. Each member of the FLSA Subclass will be paid a pro-  
10 rata share of the FLSA Allocation, as calculated by the Settlement Administrator.  
11 The pro-rata share will be determined by comparing the individual FLSA Subclass  
12 Employee's FLSA Workweeks during the FLSA Period to the total FLSA  
13 Workweeks of all the FLSA Subclass Employees during the FLSA Period as  
14 follows:  $[ \text{FLSA Workweeks worked by an FLSA Subclass member} ] \div [ \text{Sum of} \\$   
15  $[ \text{all FLSA Workweeks worked by all FLSA Subclass Employees} ] \times [ \text{FLSA} \\$   
16  $[ \text{Settlement Payment} ] = \text{individual FLSA Subclass member's portion of the FLSA} \\$   
17  $[ \text{Settlement Payment} ]$ . FLSA Settlement Payments to FLSA Subclass Employees in  
18 the appropriate amounts will be distributed by the Settlement Administrator by  
19 mail to the FLSA Subclass Employees at the same time Settlement Class Payments  
20 and PAGA Settlement Payments issue to the Settlement Class. Un-cashed,  
21 unclaimed or abandoned checks shall be transmitted to the California Controller's  
22 Office, as set forth below.

23 (l) Allocation of Settlement Payments: The Parties have agreed that Settlement Class  
24 Payments and FLSA Settlement Payments will be allocated as follows: 30% to  
25 wages, 35% to penalties and 35% to interest. The PAGA Settlement Payment  
26 shares to PAGA Employees will be entirely allocated to penalties. Appropriate  
27 federal, state and local withholding taxes will be paid by Defendant separately and  
28 in addition to the GSA, and each Class Member will receive an IRS Form W-2

1 with respect to this portion of the Settlement Payment. The employer's share of  
2 payroll taxes and other required withholdings will be paid as set forth above,  
3 including but not limited to the Defendant's FICA and FUTA contributions, based  
4 on the payment of claims to the Class Members. Class Members are responsible to  
5 pay appropriate taxes due on the Settlement Payments they receive. The  
6 Settlement Administrator will issue to each Settlement Class Member an Internal  
7 Revenue Service Form W-2 and comparable state forms with respect to the wage  
8 allocation and a Form 1099 with respect to the penalties and interest allocations, to  
9 the extent required by law.

10 (m) Settlement Payments Do Not Give Rise to Additional Benefits: All Settlement  
11 Payments to individual Class Members shall be deemed to be paid to such Class  
12 Member solely in the year in which such payments actually are received by the  
13 Class Member. It is expressly understood and agreed that the receipt of such  
14 Settlement Payments will not entitle any Class Member to additional compensation  
15 or benefits under any company bonus, contest or other compensation or benefit  
16 plan or agreement in place during the period covered by the Settlement, nor will it  
17 entitle any Class Member to any increased retirement, 401(k) benefits or matching  
18 benefits or deferred compensation benefits. It is the intent that the Settlement  
19 Payments provided for in this Settlement are the sole payments to be made by  
20 Defendant to the Class Members, and that the Class Members are not entitled to  
21 any new or additional compensation or benefits as a result of having received the  
22 Settlement Payments (notwithstanding any contrary language or agreement in any  
23 benefit or compensation plan document that might have been in effect during the  
24 period covered by this Settlement).

25 (n) Attorney's Fees and Costs: Subject to approval by the Court, Defendant will not  
26 object to Class Counsel's application for attorney's fees not to exceed 35% of the  
27 Gross Settlement Amount (\$245,000.00) and reimbursement of litigation costs and  
28 expenses not to exceed \$40,000.00. Approved attorney's fees and litigation costs

1 shall be paid at the same time Settlement Payments issue to the Settlement Class.  
2 Should the Court approve attorney's fees and costs in an amount less than that set  
3 forth above, the difference between the lesser amount(s) approved by the Court and  
4 the attorney's fees and costs set forth above shall be added to the Net Settlement  
5 Amount.

- 6 (o) General Release and Service Payment: Subject to Court approval, and in exchange  
7 for a general release, Defendant will not object to Class Counsel's application for  
8 an additional payment of up to \$7,500.00 to each of the three named Plaintiffs as  
9 consideration for a general release of all claims and as a payment for service as  
10 Class Representatives ("Service Payment"). It is understood that the Service  
11 Payment is in addition to the individual Settlement Payment to which a named  
12 Plaintiffs entitled to along with the other Class Members. In exchange, named  
13 Plaintiffs have agreed to release all claims, whether known or unknown, under  
14 federal law or state law against the Releasees, to the extent permitted by law,  
15 through the Class Period ("Plaintiffs' Released Claims"). Named Plaintiffs  
16 understand that this release includes unknown claims and that the named  
17 Plaintiffs are, as a result, waiving all rights and benefits afforded by Civil Code  
18 § 1542, which provides:

19 **A GENERAL RELEASE DOES NOT EXTEND TO**  
20 **CLAIMS THAT THE CREDITOR OR RELEASING**  
21 **PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN**  
22 **HIS OR HER FAVOR AT THE TIME OF EXECUTING**  
23 **THE RELEASE. WHICH IF KNOWN BY HIM OR HER**  
24 **MUST HAVE MATERIALLY AFFECTED HIS OR HER**  
25 **SETTLEMENT WITH THE DEBTOR OR RELEASED**  
26 **PARTY.**

27 Specifically excluded from named Plaintiffs' Released Claims are any claims for  
28 workers' compensation benefits. The Service Payment will issue at the same time  
all Settlement Payments are mailed to the Settlement Class.

- (p) Defendant or the Settlement Administrator will issue an IRS Form 1099 for the  
Service Payment to the Plaintiffs. The Plaintiffs will be individually responsible

1 for correctly characterizing this compensation on personal income tax returns for  
2 tax purposes and for paying any taxes on the amounts received. Should the Court  
3 approve a Service Payment in an amount less than that set forth above, the  
4 difference between the lesser amount(s) approved by the Court and the Service  
5 Payment amount(s) set forth above shall be added to the Net Settlement Amount.  
6 Plaintiffs agree not to opt out or object to the Service Payments as the Class  
7 Representatives.

8 (q) Settlement Administrator: The Settlement Administrator will be Phoenix  
9 Settlement Administrators, or such Settlement Administrator as may be mutually  
10 agreeable to the Parties and approved by the Court. The Settlement  
11 Administrator's bid for settlement administration services in the amount of  
12 \$14,000.00 was selected for the reasonable price and the quality of administration  
13 services provided by Phoenix Settlement Administrators. The costs of the  
14 Settlement Administrator for work done shall be paid regardless of the outcome of  
15 this Settlement.

16 (r) Funding of Settlement Account: Defendant will fund the settlement account with  
17 the Gross Settlement Amount and all employer related payroll taxes within 21  
18 calendar days of the Effective Date of the Settlement provided that the Settlement  
19 Administrator has provided the Parties with an accounting of the amounts to be  
20 paid by Defendant pursuant to the terms of this Settlement.

21 (s) Mailing of Settlement Payments: The Settlement Administrator shall cause the  
22 Settlement Payments to be mailed to the Class Members within 35 calendar days of  
23 the Effective Date of the Settlement, provided that the Settlement Administrator  
24 has provided the Parties with an accounting of the amounts to be paid by  
25 Defendant pursuant to the terms of this Settlement and Defendant has fully funded  
26 the Settlement within 35 calendar days of the Effective Date.

27 (t) Notice of Settlement: Within 21 calendar days of the Court's preliminary approval  
28 of the Settlement, Defendant will provide to the Settlement Administrator a list in

1 Microsoft Excel format containing each Class Member's (i) full name, (ii) last  
2 known address, (iii) Social Security Number, and (iv) the total number of Covered  
3 Workweeks for each Class Member during the Class Period ("Class List"). Within  
4 fourteen (14) calendar days of receipt of the Class List, the Settlement  
5 Administrator will perform an NCOA check and will mail the notice to the Class  
6 Members setting forth the material terms of the proposed Settlement, along with  
7 instructions about how to object or request exclusion from the proposed class  
8 action Settlement ("Class Notice"). The Administrator will skip-trace returned mail  
9 and re-mail the notice to the new addresses within five calendar days. These  
10 deadlines are subject to court approval. For each Class Member, there will be pre-  
11 printed information on the mailed Class Notice, based on Defendant's records,  
12 stating the Class Member's Covered Workweeks during the Class Period and the  
13 estimated total Settlement Payment under the Settlement, including the Settlement  
14 Class Payment, PAGA Settlement Payment (that will be distributed irrespective of  
15 any exclusion request) and the FLSA Subclass Payment. The pre-printed  
16 information based on Defendant's records shall be presumed to be correct. A Class  
17 Member may dispute the pre-printed information on the Notice as to his or her  
18 Covered Workweeks during the Class Period. Class Members must submit any  
19 dispute regarding the information on the Class Notice to the Settlement  
20 Administrator as to his or her Covered Workweeks within the Response Deadline.  
21 Unless a disputing Class Member submits documentary evidence in support of his  
22 or her dispute, the records of Defendant will be dispositive.

23 (u) Settlement Notice Language: The Notice will issue in English and Spanish.

24 (v) Class Members Cannot Exclude Themselves from the Released PAGA Claims:

25 Class Members submitting a Request for Exclusion will nevertheless receive their  
26 pro-rata share of the PAGA Settlement Payment. If the Court approves the  
27 compromise of the PAGA Claim, all Class Members are bound by the Court's  
28 resolution of that Claim. Plaintiffs shall serve a notice of settlement on the

1 California Labor and Workforce Development Agency at or before the time  
2 Plaintiffs file the motion for preliminary approval.

3 (w) Resolution of Workweek Disputes: If a Class Member disputes the accuracy of  
4 Defendant's records used to calculate Covered Workweeks, and the Parties'  
5 counsel cannot resolve the dispute informally, the matter will be referred to the  
6 Settlement Administrator. The Settlement Administrator will review Defendant's  
7 records and any information or documents submitted by the Class Member and  
8 issue a decision regarding the dispute. If the Settlement Administrator's decision is  
9 not accepted by the Parties and the disputing Class Member, the dispute will be  
10 submitted to the Court for resolution at the time of the final approval hearing. The  
11 Class Member must submit information or documents supporting his or her  
12 position to the Settlement Administrator prior to the expiration of the Response  
13 Deadline. Information or documents submitted after the expiration of the  
14 Response Deadline will not be considered by the Settlement Administrator, unless  
15 otherwise agreed to by the Parties. In the event that the number of Covered  
16 Workweeks is increased for any Class Member, then the Settlement Administrator  
17 will recalculate the Individual Settlement Payments accordingly; in no event will  
18 Defendant be required to increase the Gross Settlement Amount except for as set  
19 forth in the Escalator Clause.

20 (x) Right of Class Member to Request Exclusion from the Settlement: Any Class  
21 Member may request to be excluded from the Class by mailing a "Request for  
22 Exclusion" from the Settlement within the Response Deadline. A Request for  
23 Exclusion must clearly and unequivocally state a desire to be excluded from the  
24 Class, with a statement comparable to the following:

25 "I WANT TO BE EXCLUDED FROM THE CLASS IN THE  
26 *MARUGAME UDON WAGE AND HOUR CASES.*, JCCP NO.:  
5146.

27 No specific wording is required to state a Request for Exclusion, so long as it is  
28 clear and unequivocal. Any Request for Exclusion must include the name, address,

1 telephone number, last four digits of the Class Member's Social Security Number,  
2 and the signature of the Class Member requesting exclusion to protect against  
3 falsified Requests for Exclusion. Any such request must be made in accordance  
4 with the terms of the Class Notice, and the Class Notice will advise Class Members  
5 of these requirements. Any Class Member who timely requests exclusion in  
6 compliance with these requirements (i) shall not have any rights under this  
7 Settlement other than a right to receive a pro-rata share of the portion of the PAGA  
8 payment allocated to the Class Members if the Class Member is also PAGA  
9 Employee; (ii) shall not be entitled to receive any Settlement Payments under this  
10 Settlement other than as stated in (i) in this paragraph; and (iii) shall not be bound  
11 by this Settlement or the Court's Order and Final Judgment other than as it applies  
12 to the PAGA Claim.

13 (y) Right of Settlement Class Member to Object to The Settlement: Any Class  
14 Member may object to the Settlement. To object, the Class Member may (1)  
15 appear in person (including through an audio or video call appearance as required  
16 or authorized by the Court) at the Final Approval Hearing to explain any objection,  
17 (2) have an attorney object for the Class Member, or (3) submit a simple written  
18 brief or statement of objection to the Settlement Administrator. If any Class  
19 Member chooses to submit a written objection, the written objection should contain  
20 sufficient information to confirm the identity of the objector and the basis of the  
21 objection, including (1) the full name of the Settlement Class Member; (2) the  
22 signature of the Settlement Class Member; (3) the grounds for the objection; and  
23 (4) be postmarked within the Response Deadline to permit adequate time for  
24 processing and review by the Parties of the written statement or objection. Class  
25 Counsel shall ensure that any written objections are transmitted to the Court for the  
26 Court's review (either by Class Counsel or as an attachment to declaration from the  
27 Settlement Administrator). A Class Member who does not object prior to or at the  
28 Final Approval Hearing, will be deemed to have waived any objections and will be

foreclosed from making any objections (whether at the Final Approval Hearing, by appeal, or otherwise) to the Settlement. If the Court rejects the Class Member's objection, the Class Member will still be bound by the terms of this Agreement. Class Counsel and Defendants' Counsel may file responses to any written objections submitted to the Court.

(z) Opt-in to Release Under Fair Labor Standards Act: Settlement Class Members will be advised that they will opt in to a settlement of claims for unpaid compensation under the Fair Labor Standards Act ("FLSA") by cashing or otherwise depositing the check for their FLSA Payment. This will be set forth in the Class Notice.

(aa) Tax Liability: Class Counsel and Defendant make no representations as to the tax treatment or legal effect of payments called for hereunder, and Plaintiffs, the Settlement Class Members and the FLSA Subclass are not relying on any statement or representation by Class Counsel or Defendant in this regard. Plaintiffs, Settlement Class Members and the FLSA Subclass understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective payments described herein. The amount of federal income tax withholding will be based upon a flat withholding rate for supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be made pursuant to applicable state and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring Defendant into compliance with any such changes.

(bb) CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE

1 ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES  
2 AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO  
3 WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG  
4 THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR  
5 WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR  
6 DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON  
7 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES  
8 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS  
9 AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED  
10 EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL  
11 AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN  
12 CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO  
13 THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY  
14 OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER  
15 PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY  
16 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER  
17 TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE  
18 IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY  
19 OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION  
20 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S  
21 OR ADVISER’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH  
22 LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE  
23 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX  
24 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION  
25 CONTEMPLATED BY THIS AGREEMENT.

26 **THE SETTLEMENT ADMINISTRATOR’S PRIMARY DUTIES**

27 32. Subject to the Court’s approval, and subject to reconsideration by the Parties after a  
28 competitive bidding process, the Parties have agreed to the appointment of Phoenix Settlement

Administrators to perform the customary duties of Settlement Administrator. The Settlement Administrator will mail the Notice, in English and Spanish, to the Class Members and FLSA Subclass.

33. The Settlement Administrator will independently review the Covered Workweeks, FLSA Workweeks and PAGA Pay Periods attributed to each Class Member and will calculate the estimated amounts due to each Class Member and the actual amounts due to each Settlement Class Member, FLSA Subclass and PAGA Employee in accordance with this Settlement. The Settlement Administrator shall report, in summary or narrative form, the substance of its findings. The Settlement Administrator shall be granted reasonable access to Defendant's records in order to perform its duties.

34. In accordance with the terms of this Settlement, and upon receipt of Gross Settlement Amount from Defendants, the Settlement Administrator will issue and send out the Settlement Payment checks to the Class Members and FLSA Subclass. Tax treatment of the Settlement Payments will be as set forth herein, and in accordance with state and federal tax laws. All disputes relating to the Settlement Administrator's performance of its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Settlement until all payments and obligations contemplated by this Settlement have been fully carried out.

35. The Settlement Administrator will post the final judgment approving the Settlement on a website maintained by the Settlement Administrator for a period of not less than 90 calendar days after the final judgment is entered. The website will use a page on the Settlement Administrator's website, and not a custom domain for this Settlement. The address of that website will be included in the Class Notice.

#### **ATTORNEY'S FEES AND COSTS**

36. In consideration for resolving this matter and in exchange for the release of all claims by the Class Members and FLSA Subclass, including Plaintiffs, and subject to approval by the Court, Defendant will not object to Class Counsel's application for attorney's fees not to exceed 35% of the Gross Settlement Amount (\$245,000.00 of \$700,000.00) and litigation costs not to exceed \$40,000.00. The amounts set forth above will cover all work performed and all fees and costs incurred to date, and all work to be performed and all fees and costs to be incurred in connection with the approval by the Court of this Settlement and administration of the Settlement. Should Class Counsel request a lesser amount and/or the Court approve a lesser amount(s) of attorney's fees and/or attorneys' costs, the difference between the

1 lesser amount(s) and the maximum amount set forth above shall be added to the Net Settlement Amount.  
2 As with the Settlement Payments to the Settlement Class, the attorney's fees and costs approved by the  
3 Court shall be paid to Class Counsel, within 35 calendar days of the Effective Date of the Settlement,  
4 provided that the Settlement Administrator has provided the Parties with an accounting of the amounts to  
5 be paid by Defendant pursuant to the terms of this Settlement and Defendant has fully funded the  
6 Settlement within 21 calendar days of the Effective Date. Class Counsel shall disclose to the Court any  
7 fee sharing agreements in existence. In the event that the Court awards less than 25% of the Gross  
8 Settlement Amount for attorney's fees, Class Counsel shall retain the right to appeal that portion of any  
9 Final Approval Order and Judgment.

### 10 **THE NOTICE PROCESS**

11 37. A Notice in approximately the form attached hereto as Exhibit "A," and as approved by the  
12 Court, shall be sent by the Settlement Administrator to the Class Members by first class mail. The Notice  
13 shall be translated into Spanish so that Spanish and English language versions of the Notice are included in  
14 the mailing. Any returned envelopes from this mailing with forwarding addresses will be utilized by the  
15 Settlement Administrator to forward the Notices to the Class.

- 16 (a) Within 21 calendar days from the date of preliminary approval of this Settlement  
17 by the Court, Defendant shall provide to the Settlement Administrator a class  
18 database containing the following information for each Class Member a list in  
19 Microsoft Excel format (or other format acceptable to the Settlement  
20 Administrator) containing each Settlement Class Member's (1) full name, (2) last  
21 known address, (3) Social Security Number, and (4) the total number of Covered  
22 Workweeks for each Class Member in California during the Class Period as a non-  
23 exempt employee ("Class List"). This database shall be based on Defendant's  
24 payroll and other business records. The Settlement Administrator will run a check  
25 of the Class Members' addresses against those on file with the U.S. Postal  
26 Service's National Change of Address List; this check will be performed only once  
27 per Class Member by the Settlement Administrator. Absent mutual written  
28 agreement of counsel for the Parties or Court order, the Settlement Administrator

1 will keep this database confidential and secure and use it only for the purposes  
2 described herein, and will return this database to Defendant upon final approval of  
3 the settlement or destroy electronic records containing the database after the  
4 Settlement is final and all payments are distributed as required under this  
5 Agreement. However, Plaintiffs' Counsel shall be entitled to review anonymized  
6 data showing the workweeks worked by each Class Member, with Class Member  
7 identity concealed through use of an employee number or number assigned by the  
8 Settlement Administrator.

9 (b) Within 14 calendar days after the Class database is provided to the Settlement  
10 Administrator, the Settlement Administrator will mail the Notices to the Class  
11 Members by First Class United States mail.

12 (c) Class Notices returned to the Settlement Administrator as non-deliverable on or  
13 before the initial Response Deadline shall be resent to the forwarding address, if  
14 any, on the returned envelope. A returned Class Notice will be forwarded by the  
15 Settlement Administrator any time that a forwarding address is provided with the  
16 returned mail. If there is no forwarding address, the Settlement Administrator will  
17 do a computer search for a new address using the Class Member's social security  
18 number and/or other information. In any instance where a Class Notice is re-  
19 mailed, that Class Member will have until the extended Response Deadline as  
20 described above. A letter prepared by the Settlement Administrator will be  
21 included in the re-mailed Class Notice in that instance, stating the extended  
22 Response Deadline if different than the original Response Deadline. Upon  
23 completion of these steps by the Settlement Administrator, Defendant and the  
24 Settlement Administrator shall be deemed to have satisfied their obligations to  
25 provide the Class Notice to the affected Class Member. The affected Class  
26 Member shall remain a member of the Settlement Class and shall be bound by all  
27 the terms of the Settlement and the Court's Order and Final Judgment.

28 (d) Class Counsel shall provide to the Court a declaration by the Settlement

1 Administrator of due diligence and confirming mailing of the Notices.

2 **DISPOSITION OF SETTLEMENT PAYMENTS AND UNCASHED CHECKS**

3 38. As set forth above, each Class Member will have until the expiration of the applicable  
4 Response Deadline to submit to the Settlement Administrator any challenge or dispute to the Class  
5 Member's Covered Workweek information on the Notice. No disputes will be honored if they are  
6 submitted after the Response Deadline, unless the Parties mutually agree to accept the untimely dispute.  
7 Each Class Member is responsible to maintain a copy of any documents sent to the Settlement  
8 Administrator and a record of proof of mailing.

9 39. The Settlement Administrator shall cause the Settlement Payments to be mailed to the  
10 Settlement Class Members, FLSA Subclass and PAGA Employees as provided herein. Settlement Class  
11 Payments and PAGA Payments may be combined into one check. Settlement Payment checks shall  
12 remain valid and negotiable for 180 calendar days from the date of their issuance. Settlement Payment  
13 checks will automatically be cancelled by the Settlement Administrator if they are not cashed by the Class  
14 Member within that time, and the Class Member's relevant claims will remain released by the Settlement.  
15 Settlement Payment checks which have expired will not be reissued.

16 40. Funds from un-cashed or abandoned Settlement Payment checks, based on a 180-day void  
17 date, shall be transmitted to the California State Controller's Office for Unclaimed Property in the name of  
18 each Class Member who failed to cash their Settlement Payment check prior to the void date.

19 41. Upon completion of its calculation of Settlement Payments, the Settlement Administrator  
20 shall provide Class Counsel and Defendant's Counsel with a report listing the amounts of all payments to  
21 be made to Class Members (to be identified anonymously by employee number or other identifier). A  
22 Declaration attesting to completion of all payment obligations will be provided to Class Counsel and  
23 Defendant's Counsel and filed with the Court by Class Counsel.

24 **RELEASE BY THE CLASS AND PAGA EMPLOYEES**

25 42. Upon the final approval by the Court of this Settlement and Defendant's payment of all  
26 sums due pursuant to this Settlement, and except as to such rights or claims as may be created by this  
27 Settlement, the Class Representatives, the Class and each Class Member who has not submitted a valid  
28 and timely request for exclusion as to claims other than the PAGA claim, and each PAGA Employee,

1 regardless of whether they have requested exclusion from the Settlement of Class claims, will release  
2 claims as follows:

- 3 (a) **Identity of Released Parties.** The released parties are Defendant and its parents,  
4 owners, subsidiaries, affiliates, agents, managerial employees (current and former),  
5 partners, directors, officers, attorneys, trustees, insurers, representatives,  
6 predecessors, successors, and assigns, agents, payroll services, staffing services,  
7 and joint employers (collectively “Releasees”).
- 8 (b) **Date Release Becomes Active.** The Released Claims and Released PAGA Claims  
9 will be released upon the later of (1) the Settlement’s Effective Date, or (2) the  
10 satisfaction of Defendant’s obligation to provide to the Settlement Administrator a  
11 sum in the amount required to satisfy all required payments and distributions  
12 pursuant to this Settlement and the Order and Judgment of final approval. Class  
13 Members will not release the Released Claims or Released PAGA Claims until  
14 both the Effective Date of the Settlement has occurred, **and** Defendant has paid all  
15 amounts owing under the Settlement.
- 16 (c) **Claims Released by Settlement Class Members.** Each and every Class Member,  
17 on behalf of himself or herself and his or her heirs, representatives, successors,  
18 assigns, and attorneys, unless he or she has submitted a timely and valid Request  
19 for Exclusion (which will not effectuate an opt-out from the release of Released  
20 PAGA Claims), hereby releases Releasees from the following known and  
21 unknown claims, losses, damages, liquidated damages, penalties, interest,  
22 liabilities, causes of action, civil complaints, arbitration demands or suits for the  
23 entire Class Period:
- 24 1) any and all claims stated in the Action, or that could have been stated based  
25 on the facts alleged in the Action, implicitly or explicitly, including,  
26 without limitation, all claims under the California Labor Code and wage  
27 orders as alleged in the Action, including claims regarding meal periods,  
28 rest periods, calculation and payment of meal and rest period premiums,

unpaid overtime, calculation of unpaid overtime (including regular rate), minimum wages, off-the-clock work (including pre and post-shift work), timely payment of wages and final wages, wage statements, recordkeeping, waiting time penalties, unreimbursed expenses, and violations of California's Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*) whether sought under statute, tort, contract or as an unfair business practice, ("Released Claims");

2) as to any FLSA Subclass member who cashes their FLSA Settlement Payment, the signing and negotiation of that check shall serve as the FLSA Subclass Member's consent to join the action for purposes of releasing claims arising under the Fair Labor Standards Act that are related to the claims stated in the Action, implicitly or explicitly; and,

(d) **Claims Released by PAGA Employees.** All PAGA Employees employed during the Released PAGA Claims Period (whether requesting exclusion from the Settlement or not) will release the Released PAGA Claims (*see* Paragraph 15, above).

**EMPLOYMENT BY DEFENDANT NOT CONSIDERATION FOR THIS SETTLEMENT  
OR A CONDITION OF THIS SETTLEMENT**

43. Employment of Plaintiffs by Defendant is not consideration for, or a condition of, this Settlement.

**DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL**

44. The Parties shall submit this Joint Stipulation of Class Action Settlement to the Court in support of Plaintiffs' unopposed motion for preliminary approval for determination by the Court as to its fairness, adequacy, and reasonableness. Upon execution of this Joint Stipulation of Class Action Settlement, the Parties shall apply to the Court for the entry of an order:

(a) Scheduling a final approval and fairness hearing on the question of whether the proposed Settlement, including payment of attorney's fees and costs, and the Class Representatives' service payment, should be finally approved as fair, reasonable,

and adequate as to the members of the Class;

(b) Certifying a Class;

(c) Approving as to form and content the proposed Notice;

(d) Directing the mailing of the Notice;

(e) Preliminarily approving the Settlement subject only to the objections of Class Members and final review by the Court;

(f) Conditionally appointing Plaintiffs and Class Counsel as representatives of the proposed Class Members; and,

(g) Appointing Phoenix Settlement Administrators as the Settlement Administrator, and order the Settlement Administrator to issue Notices as outlined above.

**DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL**

45. In conjunction with the hearing of a motion for final approval by the Court of the Settlement provided for in this Joint Stipulation of Settlement, Class Counsel will provide to Defendant's Counsel for review and approval and then submit to the Court a proposed final order and judgment containing provisions sufficient to accomplish the following:

(a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

(b) Approving Class Counsel's application for an award of attorney's fees and costs;

(c) Approving the Settlement Administration Costs;

(d) Approving the Service Payment to the Class Representatives;

(e) Adjudging the Settlement Administrator has fulfilled its initial notice and reporting duties under the Settlement.

(f) Adjudging Plaintiffs and Class Counsel may adequately represent the Final Settlement Class for the purpose of entering into and implementing the Agreement;

(g) Entering a final judgment in the action;

(h) Adjudging that notwithstanding the submission of a timely request for exclusion, Class Members are still bound by the settlement and release of the Released PAGA Claims or remedies under the Judgment pursuant to *Arias v. Superior Court*, 46

Cal. 4th 969 (2009), as requests to be excluded from the Settlement do not apply to the Released PAGA Claims, and further affirms that the State's claims for civil penalties pursuant to PAGA are also extinguished;

- (i) Directing the posting of the final judgment on a website maintained by the Settlement Administrator for a period of not less than 90 calendar days after entry of final judgment.

Any revised final judgments will also be provided to Defendant's Counsel for review and approval before they are submitted to the Court.

### **NULLIFICATION AND TERMINATION**

46. This Settlement will be null and void if any of the following occur: (a) the Court should for any reason fail to certify a class for settlement purposes; (b) the Court should for any reason fail to preliminarily or finally approve of this Settlement in the form agreed to by the Parties, other than adjustments made to the attorney's fees and costs or granting of Service Payments; (c) the Court should for any reason fail to enter the final judgment; (d) the final judgment is reversed, modified, or declared or rendered void; or (e) the Settlement does not become final for any other reason.

47. If 5% or more of the Class Members opt out of this Settlement, then Defendant in its sole discretion may terminate, nullify and void this Settlement. The Settlement Administrator shall provide Defendant's Counsel with the information necessary to effectuate this provision on a regular basis, but no less frequently than on a monthly basis. To terminate this Settlement under this paragraph, Defendant's Counsel must give Plaintiffs' Counsel written notice, by facsimile, e-mail, or mail, no later than 10 court days after the Response Deadline. If this option is exercised by Defendant, Defendant shall be solely responsible for the costs incurred by the Settlement Administrator for the settlement administration.

48. In the event this Settlement is nullified or terminated as provided above: (i) this Settlement shall be considered null and void, (ii) neither this Settlement nor any of the related negotiations or proceedings shall have any force or effect and no party shall be bound by any of its terms, and (iii) all Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court.

1 **PARTIES' AUTHORITY**

2 49. The signatories hereto hereby represent that they are fully authorized to enter into this  
3 Settlement and bind the Parties hereto to the terms and conditions thereof.

4 **MUTUAL FULL COOPERATION**

5 50. The Parties agree to fully cooperate with each other to accomplish the terms of this  
6 Settlement including, but not limited to, execution of such documents and taking such other action as  
7 reasonably may be necessary to implement the terms of this Settlement. The Parties to this Settlement  
8 shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that  
9 may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set  
10 forth herein. As soon as practicable after execution of this Settlement, Class Counsel shall, with the  
11 assistance and cooperation of Defendant and Defendant's Counsel, take all necessary steps to secure the  
12 Court's preliminary and final approval of this Settlement.

13 **NO PRIOR ASSIGNMENTS**

14 51. The Parties and their respective counsel represent, covenant, and warrant that they have not  
15 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to  
16 any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein  
17 released and discharged except as set forth herein.

18 **NO ADMISSION OF LIABILITY**

19 52. Nothing contained herein, nor the consummation of this Settlement, is to be construed or  
20 deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant.  
21 Defendant denies all the claims and contentions alleged by the Plaintiffs in this case. The Defendant has  
22 entered into this Settlement solely with the intention to avoid further disputes and litigation with the  
23 attendant inconvenience and expenses.

24 **ENFORCEMENT ACTIONS**

25 53. In the event that one or more of the Parties to this Settlement institutes any legal action or  
26 other proceeding against any other party or parties to enforce the provisions of this Settlement or to declare  
27 rights and/or obligations under this Settlement, the successful party or parties shall be entitled to recover  
28 from the unsuccessful party or parties reasonable attorney's fees and costs, including expert witness fees

1 incurred in connection with any enforcement actions.

## 2 NOTICES

3 54. Unless otherwise specifically provided herein, all notices, demands or other  
4 communications given hereunder shall be in writing and shall be deemed to have been duly given as of the  
5 third business day after mailing by United States registered or certified mail, return receipt requested,  
6 addressed as follows:

### 7 Class Counsel:

8 Kane Moon  
9 H. Scott Leviant  
10 Mariam Ghazaryan  
11 **MOON & YANG, APC**  
12 1055 W. Seventh St., Suite 1880  
13 Los Angeles, California 90017  
14 Telephone: (213) 232-3128  
15 Facsimile: (213) 232-3125  
16 kane.moon@moonyanglaw.com  
17 scott.leviant@moonyanglaw.com  
18 mariam.ghazaryan@moonyanglaw.com

14 Edwin Aiwazian  
15 Arby Aiwazian  
16 Joanna Ghosh  
17 **LAWYERS FOR JUSTICE P.C**  
18 1801 Century Park East, Suite 850  
19 Los Angeles, California 90067  
20 Telephone: (310) 824-3828  
21 edwin@calljustice.com  
22 arby@calljustice.com  
23 joanna@calljustice.com

### Counsel for Defendant:

Kerry Friedrichs (SBN 198143)  
**SEYFARTH SHAW LLP**  
560 Mission Street, 31<sup>st</sup> Floor  
San Francisco, California 94105  
Telephone: (415) 397-2823  
kfriedrichs@seyfarth.com

Reiko Furuta  
**SEYFARTH SHAW LLP**  
2029 Century Park East, Suite 3500  
Los Angeles, California 90067-3021  
Telephone: (310) 277-7200  
rfuruta@seyfarth.com

## 20 CONSTRUCTION

21 55. The Parties hereto agree that the terms and conditions of this Settlement are the result of  
22 lengthy, intensive arms-length negotiations between the Parties, and this Settlement shall not be construed  
23 in favor of or against any party by reason of the extent to which any party or his, her or its counsel  
24 participated in the drafting of this Settlement.

## 25 CAPTIONS AND INTERPRETATIONS

26 56. Paragraph titles or captions contained herein are inserted as a matter of convenience and  
27 for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision  
28 hereof. Each term of this Settlement is contractual and not merely a recital.

1 **MODIFICATION**

2 57. This Settlement may not be changed, altered, or modified, except in writing and signed by  
3 the Parties hereto, and approved by the Court. This Settlement may not be discharged except by  
4 performance in accordance with its terms or by a writing signed by the Parties hereto.

5 **INTEGRATION CLAUSE**

6 58. This Settlement contains the entire agreement between the Parties relating to the  
7 Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements,  
8 understandings, representations, and statements, whether oral or written and whether by a party or such  
9 party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

10 **WAIVER OF APPEALS**

11 59. The Parties agree to waive appeals and to stipulate to class certification for purposes of  
12 implementing this Settlement only, with the exception that Class Counsel retains the right to appeal the  
13 amount awarded as attorney's fees in the event that the Court awards less than twenty-five percent of the  
14 Gross Settlement Amount as attorney's fees.

15 **BINDING ON ASSIGNS**

16 60. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and  
17 their respective heirs, trustees, executors, administrators, successors and assigns.

18 **CLASS COUNSEL SIGNATORIES**

19 61. It is agreed that because the members of the Class are so numerous, it is impossible or  
20 impractical to have each member of the Class execute this Settlement. The Notice will advise all Class  
21 Members of the binding nature of the Released Claims and Released PAGA Claims, and the release shall  
22 have the same force and effect as if this Settlement were executed by each member of the Class.

23 **COUNTERPARTS**

24 62. This Settlement may be executed in counterparts and by electronic or facsimile signatures,  
25 and when each party has signed and delivered at least one such counterpart, each counterpart shall be  
26 deemed an original, and, when taken together with other signed counterparts, shall constitute one  
27 Settlement, which shall be binding upon and effective as to all Parties.  
28

**CONFIDENTIALITY & PUBLIC COMMENT**

63. The Class Representative and Class Counsel agree they will not make any disparaging comments about Defendant relating to this Settlement of this class action or disclose the negotiations of the Settlement. The Class Representative and Class Counsel shall only disclose matters of public record other than to Class Members, who may receive information about the Settlement that is not in the public record after the Court has preliminarily approved the Settlement. Other than as to Class Members or as expressly allowed below, the Parties and attorneys will keep the settlement confidential until the filing of the motion for preliminary approval of the class settlement. Thereafter, the Parties agree to make no comments to the media or otherwise publicize the terms of the Settlement, other than in court filings. To the extent counsel for either Party wish to advertise this settlement, such advertising will be limited to a statement that a matter was settled between a putative class and a “commercial Asian fast food restaurant.” Any communication about the Settlement to Class Members prior to the Court-approved mailing will be limited to (1) a statement that a settlement has been reached, (2) a statement of any of the details that would necessarily be included in any Court-approved Notice if a Class Member requests details about the proposed Settlement, and (3) a warning that the terms of the proposed Settlement have not yet been approved by the Court. Prior to preliminary approval, the Class Representative is prohibited from discussing the terms or the fact of the settlement with third parties other than (1) a spouse, (2) accountants or lawyers as necessary for tax purposes, or (3) Class Members. At all times, the Class Representative is prohibited from communicating about the terms or the fact of the settlement on any form of social media (“Social Media Bar”). Class Counsel will take all steps necessary to ensure the Class Representative is aware of, and will adhere to, the restrictions against any public disclosure of the Settlement. Class Counsel will not include or use the settlement for any marketing or promotional purposes other than as expressly allowed above.

///

**FINAL JUDGMENT**

64. The Parties agree that, upon final approval of the Settlement, final judgment of this Action will be made and entered in its entirety. The final judgment may be included in the Order granting Final Approval of the Settlement.

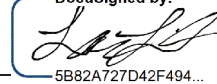
IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action Settlement between Plaintiffs and Defendant as set forth below:

IT IS SO STIPULATED.

**Plaintiffs & Class Representative:**

Dated: July 19, 2022

By: \_\_\_\_\_

DocuSigned by:  
  
5B82A727D42F494...

LANCE LINDEN

Dated: July \_\_, 2022

By: \_\_\_\_\_

NEREYDA RODRIGUEZ

Dated: July \_\_, 2022

By: \_\_\_\_\_

ALICE TURNER

**Plaintiffs' Counsel:**

Dated: July 19, 2022

MOON & YANG, APC

By: \_\_\_\_\_

  
Kane Moon  
H. Scott Leviant  
Mariam Ghazaryan

Attorneys for Plaintiff LANCE LINDEN

Dated: July \_\_, 2022

LAWYERS *for* JUSTICE, PC

By: \_\_\_\_\_

Edwin Aiwazian  
Arby Aiwazian  
Joanna Ghosh

Attorneys for Plaintiff NEREYDA  
RODRIGUEZ and ALICE TURNER

**FINAL JUDGMENT**

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IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action Settlement between Plaintiffs and Defendant as set forth below:

IT IS SO STIPULATED.

**Plaintiffs & Class Representative:**

Dated: July \_\_, 2022

By: \_\_\_\_\_  
LANCE LINDEN

07/12/2022

Dated: July \_\_, 2022

By:  \_\_\_\_\_  
NEREYDA RODRIGUEZ

Dated: July \_\_, 2022

By: \_\_\_\_\_  
ALICE TURNER

**Plaintiffs' Counsel:**

Dated: July \_\_, 2022

MOON & YANG, APC

By: \_\_\_\_\_  
Kane Moon  
H. Scott Leviant  
Mariam Ghazaryan  
Attorneys for Plaintiff LANCE LINDEN

Dated: July \_\_, 2022

LAWYERS *for* JUSTICE, PC

By: \_\_\_\_\_  
Edwin Aiwazian  
Arby Aiwazian  
Joanna Ghosh  
Attorneys for Plaintiff NEREYDA  
RODRIGUEZ and ALICE TURNER

**FINAL JUDGMENT**

64. The Parties agree that, upon final approval of the Settlement, final judgment of this Action will be made and entered in its entirety. The final judgment may be included in the Order granting Final Approval of the Settlement.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action Settlement between Plaintiffs and Defendant as set forth below:

IT IS SO STIPULATED.

**Plaintiffs & Class Representative:**

Dated: July \_\_, 2022

By: \_\_\_\_\_  
LANCE LINDEN

Dated: July \_\_, 2022

By: \_\_\_\_\_  
NEREYDA RODRIGUEZ

07/12/2022  
Dated: July \_\_, 2022

By:  \_\_\_\_\_  
ALICE TURNER

**Plaintiffs' Counsel:**

Dated: July \_\_, 2022

MOON & YANG, APC

By: \_\_\_\_\_  
Kane Moon  
H. Scott Leviant  
Mariam Ghazaryan

Attorneys for Plaintiff LANCE LINDEN

Dated: July 13, 2022

LAWYERS *for* JUSTICE, PC

By:  \_\_\_\_\_  
Edwin Aiwazian  
Arby Aiwazian  
Joanna Ghosh

Attorneys for Plaintiff NEREYDA  
RODRIGUEZ and ALICE TURNER

**Defendant:**

Dated: July 14, 2022

MARUGAME UDON USA, LLC

By: Rishi Sidhpura

Print Name



Signature

CFO

Title

**Defendant's Counsel:**

Dated: July 16, 2022

SEYFARTH SHAW LLP

By: Kerry Friedrichs

Kerry Friedrichs

Reiko Furuta

Attorneys for Defendant MARUGAME UDON  
USA, LLC

# **Exhibit “A”**

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL**

*Marugame Udon Wage and Hour Cases, JCCP No.: 5146:  
Lance Linden v. Marugame Udon USA, LLC, Case No. 20STCV00728  
Nereyda Rodriguez v. Marugame Udon USA, LLC, Case No. 30-2020-01127949  
Alice Turner v. Marugame Udon USA, LLC, Case No. 30-2020-01148544*

*The Superior Court for the State of California authorized this Notice. Read it carefully!  
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.*

You may be eligible to receive money from coordinated employee class action lawsuits (“Action”) against defendant Marugame Udon USA, LLC (“Marugame” or “Defendant”) for alleged wage and hour violations. The Action was filed by former Marugame employees Lance Linden, Nereyda Rodriguez and Alice Turner (“Plaintiffs”) and seeks payment of (1) back wages [and other relief] for a class of hourly employees (“Class Members”) who worked for Marugame during the Class Period (January 8, 2016 through July 31, 2022); (2) back wages for a subclass of hourly employees (“FLSA Sub-Class Members”) who worked for Marugame during the FLSA Sub-Class Period (January 8, 2017 through July 31, 2022) (“FLSA Subclass Members”), and (3) penalties under the California Private Attorney General Act (“PAGA”) for all hourly employees who worked for Marugame during the PAGA Period (January 8, 2019 through July 31, 2022) (“Aggrieved Employees”).

The proposed Settlement has three main parts: (1) a Class Settlement requiring Marugame to fund Individual Settlement Class Payments, (2) a FLSA subclass settlement requiring Marugame to fund Individual FLSA Subclass Payments, and (3) a PAGA Settlement requiring Marugame to fund Individual PAGA Settlement Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, and the Parties’ current assumptions, your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding), your Individual FLSA Sub-Class Payment is estimated to be \$ [REDACTED] (less withholding), and your Individual PAGA Settlement Payment is estimated to be \$ [REDACTED]. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Settlement Payment or FLSA Sub-Class Payment, then according to Defendant’s records you are not eligible for such a payment under the Settlement because you didn’t work during the covered period.)

The above estimates are based on Defendant’s records showing that you worked [REDACTED] workweeks during the Class Period, you worked [REDACTED] workweeks during the FLSA Sub-Class Period, and you worked [REDACTED] pay periods during the PAGA Period. If you believe that you worked more workweeks or pay periods during any of the respective periods, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs’ attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Marugame to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Marugame.

If you worked for Marugame during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for an Individual Settlement Class Payment, Individual FLSA Payment, and/or an Individual PAGA Settlement Payment. As a Settlement Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Marugame. By cashing your Individual Settlement Class Payment, you will also be opting into the FLSA Sub-Class Payment if you worked at any time during the FLSA Sub-Class Period.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Settlement Class Payment or an Individual FLSA Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Marugame, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Settlement Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Marugame will not retaliate against you for any actions you take with respect to the proposed Settlement.

## SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

|                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>You Don't Have to Do Anything to Participate in the Settlement</b>                                                                                                 | If you do nothing, you will be a Settlement Class Member, eligible for an Individual Class Payment, Individual FLSA Payment, and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Marugame that are covered by this Settlement (Released Claims).                                                                                                                                                                                                                                                                                                                                                            |
| <b>You Can Opt-out of the Class Settlement but not the PAGA Settlement</b><br><br><b>The Opt-out Deadline is</b><br>[REDACTED]                                        | <p>If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. Marugame must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).</p> |
| <b>Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement</b><br><br><b>Written Objections Must be Submitted by</b><br>[REDACTED] | All Class Members who do not opt-out ("Settlement Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Settlement Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 7 of this Notice.  |
| <b>You Can Participate in the</b><br>[REDACTED] <b>Final Approval Hearing</b>                                                                                         | The Court's Final Approval Hearing is scheduled to take place on [REDACTED]. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Settlement Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.                                                                                                                                                                                                                                                         |
| <b>You Can Challenge the Calculation of Your Workweeks/Pay Periods</b><br><b>Written Challenges Must be Submitted by</b><br>[REDACTED]                                | The amount of your Individual Class Payment, Individual FLSA Payment, and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and/or the FLSA Sub-Class Period, and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Marugame's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [REDACTED]. See Section 4 of this Notice.                                                                               |

### 1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former Marugame employees. The Action accuses Marugame of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination and reimbursable expenses and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiffs are represented by attorneys in the Action: MOON & YANG, APC and LAWYERS FOR JUSTICE, PC ("Class Counsel.")

Marugame strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

### 2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Marugame or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and Marugame hired an experienced, neutral mediator, Steven Rottman, in an effort to resolve the Action by negotiating and to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Marugame have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Marugame does not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Marugame has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

### **3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?**

1. Marugame Will Pay \$700,000 as the Gross Settlement Amount (Gross Settlement). Marugame has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual FLSA Payments, Individual PAGA Payments, Class Representative Service Payments, Class Counsels’ attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Marugame will fund the Gross Settlement not more than 21 days after the Judgment entered by the Court become final. The Judgment will be final seven days after the date the Court enters Judgment, or a later date if Settlement Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to \$245,000.00 (35% of the Gross Settlement) to Class Counsel for attorneys’ fees and up to \$40,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$7,500.00 for each Class Representative Service Award (\$22,500.00 in total) for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies each Plaintiff will receive other than each Plaintiff’s Individual Class Payment, Individual FLSA Payment, and any Individual PAGA Payment.

C. Up to an estimated \$25,000.00 to the Administrator for services administering the Settlement.

D. \$50,000 as the FLSA Allocation.

D. \$75,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Settlement Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Settlement Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiffs and Marugame are asking the Court to approve an allocation of 30% of each Individual Class Payment to taxable wages (“Wage Portion”) and 70% to interest and penalties (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Marugame will separately pay employer payroll taxes it owes on the Wage portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiffs and Marugame have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Settlement Payments, Individual FLSA Settlement Payments and Individual PAGA Settlement Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Settlement Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [REDACTED] Response Deadline. The Request for Exclusion should be a signed letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, last four digits of the Class Member's Social Security Number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Settlement Payments, but will preserve their rights to personally pursue wage and hour claims against Marugame.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Settlement Payments and are required to give up their right to assert PAGA claims against Marugame based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Marugame have agreed that, in either case, the Settlement will be void: Marugame will not pay any money and Class Members will not release any claims against Marugame.

8. Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks and/or Pay Periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

9. Settlement Class Members' Release. After the Judgment is final and Marugame has fully funded the Gross Settlement and separately paid all employer payroll taxes, Settlement Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of another lawsuit against Marugame or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Settlement Class Members will be bound by the following release:

Each and every Class Member, on behalf of himself or herself and his or her heirs, representatives, successors, assigns, and attorneys, unless he or she has submitted a timely and valid Request for Exclusion (which will not effectuate an opt-out from the release of Released PAGA Claims), hereby releases Releasees from the following known and unknown claims, losses, damages, liquidated damages, penalties, interest, liabilities, causes of action, civil complaints, arbitration demands or suits for the entire Class Period:

1) any and all claims stated in the Action, or that could have been stated based on the facts alleged in the Action, implicitly or explicitly, including, without limitation, all claims under the California Labor Code and wage orders as alleged in the Action, including claims regarding meal periods, rest periods, calculation and payment of meal and rest period premiums, unpaid overtime, calculation of unpaid overtime (including regular rate), minimum wages, off-the-clock work (including pre and post-shift work), timely payment of wages and final wages, wage statements, recordkeeping, waiting time penalties, unreimbursed expenses, and violations of California's Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, et seq.) whether sought under statute, tort, contract or as an unfair business practice, ("Released Claims");

2) as to any FLSA Subclass member who cashes their FLSA Settlement Payment, the signing and negotiation of that check shall serve as the FLSA Subclass Member's consent to join the action for purposes of releasing claims arising under the Fair Labor Standards Act that are related to the claims stated in the Action, implicitly or explicitly

Settlement Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

10. **Aggrieved Employees' PAGA Release.** After the Court's judgment is final, and Marugame has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Marugame, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Settlement Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Marugame or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Aggrieved Employees will be barred from asserting Released PAGA Claims against Marugame, whether or not they exclude themselves from the Settlement (The "Released PAGA Claims means all claims that have been pled or could have been pled, based upon the factual allegations and issues set forth in the Notice to the LWDA and alleged in the Complaint, including civil penalties under PAGA, fees, and all other claims and allegations made or which could have been made in the Action based on the facts and allegations pled in Plaintiffs' Notice to the LWDA and the Complaint. Plaintiffs' Notices to the LWDA are attached to the Settlement Agreement as Exhibit "B.").

#### **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

1. **Individual Class Settlement Payments.** The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Settlement Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Settlement Class Member.

2. **Individual FLSA Settlement Payments.** The Administrator will calculate Individual FLSA Settlement Payments by (a) dividing the FLSA Allocation by the total number of Workweeks worked by all FLSA Sub-Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual FLSA Sub-Class Member.

3. **Individual PAGA Payments.** The Administrator will calculate Individual PAGA Settlement Payments by (a) dividing \$18,750 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

4. **Workweek/Pay Period Challenges.** The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Marugame's records, are stated in the first page of this Notice. You have until [REDACTED] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Marugame's calculation of Workweeks and/or Pay Periods based on Marugame's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Class Members) and Marugame's Counsel. If the Administrator's decision is not accepted by the Parties and the disputing Class Member, the dispute will be submitted to the Court for resolution at the time of the final approval hearing.

#### **5. HOW WILL I GET PAID?**

1. **Settlement Class Members.** The Administrator will send, by U.S. mail, a single check to every Settlement Class Member (i.e., every Class Member who doesn't opt-out) and all Class Members who qualify as Aggrieved Employees, whether they opt out or not. The single check will combine the Individual Class Settlement Payment, the Individual FLSA Settlement Payment for FLSA Sub-Class Members, and the Individual PAGA Payment. If your check includes an Individual FLSA Settlement Payment, signing and negotiation of that check shall serve as your consent to join the action for purposes of releasing claims arising under the FLSA that are related to the claims stated in the Action

2. **Non-Participating Class Members.** The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member who is eligible as an Aggrieved Employee).

**Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible.** Section 9 of this Notice has the Administrator's contact information.

## **6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?**

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as the Marugame Udon Wage and Hour Cases, and include your identifying information (full name, address, telephone number, approximate dates of employment, and the last four digits of your social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. The Administrator must be sent your request to be excluded by [REDACTED], or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

## **7. HOW DO I OBJECT TO THE SETTLEMENT?**

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Marugame are asking the Court to approve. At least [REDACTED] days before the [REDACTED] Final Approval Hearing, Class Counsel and/or Plaintiffs will file in Court a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and a request for awards of Fees, Litigation Expenses and Service Awards stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as Class Representative Service Awards. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Court's by going to <http://www.lacourt.org/casesummary/ui/index.aspx> and entering the Case Number for the Action, JCCP 5146. If you obtain documents through the Court's website, you will be required to pay for them.

A Settlement Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and for awards of Fees, Litigation Expenses and Service Awards may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. The deadline for sending written objections to the Administrator is [REDACTED]. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as the Marugame Udon Wage and Hour Cases and include your name, current address, telephone number, and approximate dates of employment for Marugame and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Settlement Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

## **8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

You can, but don't have to, attend the Final Approval Hearing on \_\_\_\_\_ at \_\_\_\_\_ in Department 9 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>.) Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should contact Class Counsel to verify the date and time of the Final Approval Hearing if you are planning to attend the hearing or have your own lawyer attend.

## **9. HOW CAN I GET MORE INFORMATION?**

The Agreement sets forth everything Marugame and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to \_\_\_\_\_'s website at \_\_\_\_\_. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to <http://www.lacourt.org/casesummary/ui/index.aspx> and entering the Case Number for the Action, JCCP 5146. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.**

**Class Counsel:**

Kane Moon  
H. Scott Leviant  
Mariam Ghazaryan  
MOON & YANG, APC  
1055 W. Seventh St., Suite 1880  
Los Angeles, California 90017  
Telephone: (213) 232-3128  
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kane.moon@moonyanglaw.com  
scott.leviant@moonyanglaw.com  
mariam.ghazaryan@moonyanglaw.com

Edwin Aiwazian  
Arby Aiwazian  
Joanna Ghosh  
LAWYERS FOR JUSTICE P.C  
1801 Century Park East, Suite 850  
Los Angeles, California 90067  
Telephone: (310) 824-3828  
edwin@calljustice.com  
arby@calljustice.com  
joanna@calljustice.com

**Settlement Administrator:**

Name of Company: Phoenix Settlement Administrators  
Email Address:  
Mailing Address:  
Telephone:  
Fax Number:

**10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the California Unclaimed Property Fund (<https://ucpi.sco.ca.gov/>) for instructions on how to retrieve the funds.

**11. WHAT IF I CHANGE MY ADDRESS?**

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

# **Exhibit “B”**

# **MOON & YANG, APC**

ATTORNEYS AT LAW  
WWW.MOONYANGLAW.COM

1055 W. SEVENTH ST., SUITE 1880  
LOS ANGELES, CALIFORNIA 90017  
TELEPHONE: (213) 232-3128  
FACSIMILE: (213) 232-3125

Kane Moon, Esq.  
kane.moon@moonyanglaw.com

January 6, 2020

## **VIA ONLINE SUBMISSION**

Labor & Workforce Development Agency  
Attn. PAGA Administrator  
1515 Clay Street, Ste. 801  
Oakland, CA 94612

## **VIA CERTIFIED MAIL**

Marugame Udon USA, LLC  
17300 Red Hill Avenue, Suite 200  
Irvine, CA 92614

## **Notice of Labor Code Violations and PAGA Penalties**

Re: ***Lance Linden v. Marugame Udon USA, LLC***

To Whom It May Concern:

Please be advised that my office has been retained by Lance Linden ("Plaintiff") to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employer, Marugame Udon USA, LLC. ("Defendant"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant's aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of himself as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendant in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

Plaintiff and the Aggrieved Employees of Defendant suffered the Labor Code violations described below.

**Factual Background Regarding Plaintiff's Employment with Defendant**

Defendant owns and operates an industry, business, and establishment within the State of California, including Los Angeles County. As such, Defendant is subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission ("IWC").

Plaintiff worked for Defendant as a cook and food preparer from approximately April 2019 to August 2019, primarily in Los Angeles County. Defendant classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendant, Plaintiff typically worked 5 days per week, and in excess of 8 hours each workday.

Throughout Plaintiff's employment, Defendant committed numerous labor code violations under state law. As discussed below, Plaintiff's experience working for Defendant was typical and illustrative.

**Failure to Pay for All Hours Worked, Including Overtime**

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the statutory period, Defendant also maintained a policy and practice of requiring Plaintiff and the Aggrieved Employees to perform work "off-the-clock". For example, Plaintiff and the Aggrieved Employees were required to work both before and after their shifts, and before and after clocking in and out each workday. Those tasks required to be completed were, for example, cleaning work areas and preparing work areas. In doing so, Defendant also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime.

### **Failure to Provide Meal Periods**

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendant wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of work. Moreover, Defendant did not have adequate written policies or practices providing meal periods for Plaintiff and the Aggrieved Employees, nor did Defendant have adequate policies or practices regarding the timing of meal periods. Defendant also did not have adequate policies or practices to verify whether Plaintiff and the Aggrieved Employees were taking their required meal periods. Accordingly, Defendant's policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

### **Failure to Authorize and Permit Rest Periods**

Employers are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Defendant, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a rest period. Moreover, Defendant did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and the Aggrieved Employees, nor did Defendant have adequate policies or practices regarding the timing of rest periods. Defendant also did not have adequate policies or practices to verify whether Plaintiff and the Aggrieved Employees were taking their required rest periods. Further, Defendant did not maintain accurate records of employee work periods, and therefore Defendant cannot demonstrate that Plaintiff and the Aggrieved Employees took rest periods during the middle of each work period. Accordingly, Defendant's policy and practice was for Plaintiff and the Aggrieved Employees to work through rest periods and to not authorize or permit them to take any rest periods.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendant are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

#### **Failure to Maintain Accurate Records of Hours Worked and Meal Periods**

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendant, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendant's failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and

question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods.

#### **Failure to Timely Pay All Wages at Termination**

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendant failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

Defendant's conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to Labor Code § 203.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

### **Failure to Furnish Accurate Itemized Wage Statements**

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Defendant intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify hourly rates, the failure to correctly list gross wages earned, and the failure to list the true net wages earned, including wages for meal periods that were not provided in accordance with California law, wages for rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked.

As a result of Defendant violating Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant's failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

**Action for Civil Penalties Under PAGA**

In light of the above, Plaintiff alleges that Defendant violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;
2. Labor Code § 226.7, 512 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
5. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
6. Labor Code § 226 by failing to provide accurate itemized wage statements.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, and 2699(f)(2).

Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence to its corporate address, as indicated on the first page.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

LWDA  
*Notice of Labor Code Violations and PAGA*  
January 6, 2020  
Page 8 of 8

Sincerely,

MOON & YANG, APC

A handwritten signature in blue ink, appearing to read 'Kane Moon', is written over the printed name.

Kane Moon  
*Attorney at Law*

May 8, 2020

**BY ONLINE SUBMISSION**

California Labor & Workforce Development Agency  
PAGAfilings@dir.ca.gov

**Re: MARUGAME UDON USA LLC**

Dear Representative:

We have been retained to represent Alice Turner against Marugame Udon USA LLC (including any and all affiliates, subsidiaries, parents, directors, officers, and employees) (collectively referred to as “Marugame Udon”) for violations of California wage-and-hour laws. Ms. Turner seeks penalties for violations of the California Labor Code, which are recoverable under California Labor Code section 2698, et seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”) and all other remedies available under PAGA.

Ms. Turner seeks these remedies on behalf of the State of California and “aggrieved employees,” as defined herein. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Marugame Udon employed Ms. Turner as an hourly-paid, non-exempt employee in October 2019, in the State of California.

The “aggrieved employees” that Ms. Turner may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California.

Based on the following facts and theories, Marugame Udon has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and IWC Wage Orders including *inter alia*, Wage Order 5-2001.

Marugame Udon required aggrieved employees to perform work before their scheduled shifts, after their scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks and failed to compensate aggrieved employees for this time. Such work included, but was not limited to, responding to work related inquiries from managers/supervisors, donning and doffing, cleaning, helping customers, and providing coverage.

California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-

and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Ms. Turner and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week. Therefore, Ms. Turner and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each meal or rest period that is not provided. During the relevant time period, Marugame Udon required Ms. Turner and other aggrieved employees to work during meal and rest periods and failed to compensate them properly for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods.

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, Marugame Udon failed to pay Ms. Turner and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Marugame Udon failed to pay Ms. Turner and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Marugame Udon did not provide Ms. Turner and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Marugame Udon were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include the total hours worked by Ms. Turner and other aggrieved employees, including time spent working off-the-clock and during meal and rest periods as discussed above.

California Labor Code sections 551 and 552 require that every person employed in any occupation of labor is entitled to one day's rest in a seven-day workweek, that no employer of labor shall cause his employees to work more than six days in a workweek, and that an employer shall pay a civil

penalty in the amounts of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation. During the relevant time period, Ms. Turner and the aggrieved employees were required to regularly and/or consistently work in excess of six (6) days in a workweek. During the relevant time period, Ms. Turner and the aggrieved employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. During the relevant time period, Ms. Turner and the aggrieved employees were required to work in excess of six (6) days in a workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and when Ms. Turner and the aggrieved employees accumulated days of rest, they were not actually provided the opportunity to take the equivalent of one (1) day's rest in seven (7) during each calendar month.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Marugame Udon failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Ms. Turner and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code sections 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, Marugame Udon did not provide Ms. Turner and other aggrieved employees with the minimum wages to which they were entitled for work performed "off-the-clock."

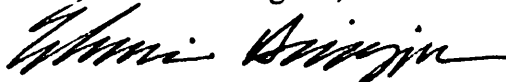
California Labor Code section 1198 provides that "The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage Orders, including *inter alia*, Wage Order 5-2001, require that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Further, if an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay. During the relevant time period, Marugame Udon failed to pay Ms. Turner and other aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which Ms. Turner and the other aggrieved employees reported to work and were furnished less than half the usual or scheduled day's work. During the relevant time period, Marugame Udon failed to pay Ms. Turner and other aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which Ms. Turner and the other aggrieved employees were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Ms. Turner and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by Marugame Udon. These costs include, but are not limited to, the use of a personal cell phone for business related purposes, the purchasing of clothing in compliance with the company dress code, and the purchasing of non-slip shoes.

Therefore, on behalf of all aggrieved employees, Ms. Turner seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the Labor and Workforce Development Agency, for violation of the California Labor Code pursuant to PAGA.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

With kind regards,

A handwritten signature in black ink, appearing to read 'Edwin Aiwozian', written in a cursive style.

Edwin Aiwozian, Esq.

Cc: (By U.S. Certified Mail / Return Receipt Requested)

Marugame Udon USA LLC  
c/o Sheryl Skibbe  
SEYFARTH SHAW LLP  
Attorney  
2029 Century Park East, Suite 3500  
Los Angeles, CA 90067

Marugame Udon USA LLC  
c/o CT Corporation System  
Agent for Service of Process  
818 West Seventh Street, Suite 930  
Los Angeles, CA 90017

(By U.S. Mail – Under Separate Cover with Filing Fee Enclosed)

Department of Industrial Relations Accounting Unit  
455 Golden Gate Avenue, 10th Floor  
San Francisco, California 94102