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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

EDWIN ENRIQUEZ, individually and on
behalf of others similarly situated and
similarly aggrieved employees,

Plaintiffs,

v.

THE JOHNNY ROCKETS GROUP, an
active Delaware Corporation; and DOES
1 through 10,

Defendants.

Case No.: 19STCV43986

CLASS AND REPRESENTATIVE
ACTION

*[Assigned to Hon. Maren E. Nelson
in Dept. SS-17]*

**NOTICE OF MOTION AND
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT; DECLARATION
OF HAIK HACOPIAN WITH
EXHIBIT; DECLARATION OF
ZORIK MOORADIAN;
DECLARATION OF EDWIN
ENRIQUEZ; AND [PROPOSED]
ORDER**

Date: October 27, 2022

Time: 10:00 a.m.

Dept.: SS-17

1 **PLEASE TAKE NOTICE** that, pursuant to Cal. Rules of Court, rule 3.769, on
2 October 27, 2022 at 10:00 a.m. or as soon thereafter as the matter may be heard in Department
3 SS-17 of the above-entitled Court, located at 312 North Spring Street, Los Angeles, California
4 90012, Plaintiff Edwin Enriquez ("Plaintiff"), individually and on behalf of a similarly-
5 situated class of individuals, will and hereby does move this Court for an order:

6 1. Preliminarily approving the proposed class settlement of this lawsuit;

7 2. Provisionally certifying the Settlement Class, defined as follows:

8 All non-exempt employees who were employed by Defendant
9 The Johnny Rockets Group in California during the period
 starting November 18, 2016 to March 1, 2022 ("Class Period");

10 3. Preliminarily appointing Plaintiff Edwin Enriquez as Class Representative;

11 4. Preliminarily appointing Zorik Mooradian and Haik Hacopian of Mooradian
12 Law, APC as Class Counsel;

13 5. Preliminarily approving the proposed settlement of Plaintiff's Private
14 Attorneys General Act ("PAGA") claims;

15 6. Appointing CPT Group as the third-party settlement administrator;

16 7. Scheduling a hearing to consider whether the class settlement should be finally
17 approved, and whether to award an amount for the Service Award to the Class Representative,
18 attorneys' fees and costs to Class Counsel, and settlement administration costs; and

19 8. Approving the proposed Class Notice, and ordering that it shall be
20 disseminated to the proposed Settlement Class as provided in the Stipulated Settlement
21 Agreement.

22 This Motion is based on this Notice of Motion, the accompanying Memorandum of
23 Points and Authorities, the Declaration of Haik Hacopian with Exhibit, the Declaration of
24 Zorik Mooradian, the Declaration of Edwin Enriquez, the pleadings and other papers filed in
25 this action, and on any further oral or documentary evidence or argument presented at the time
26 of hearing.

27 The Stipulated Settlement Agreement is attached as **Exhibit "A"** to the Declaration of
28 Haik Hacopian. The proposed Class Notice is attached as **Exhibit "1"** to the Stipulated

1 Settlement Agreement. See HH Decl. ¶9, Ex. 1.

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Dated: October 5, 2022

MOORADIAN LAW, APC

By: /s/ Haik Hacopian
Zorik Mooradian, Esq.,
Haik Hacopian, Esq.,
Attorneys for Plaintiff Edwin Enriquez,
individually and on behalf of other persons
similarly situated and similarly aggrieved
employees

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff, Edwin Enriquez (“Class Representative” or “Plaintiff”), and Defendant The
4 Johnny Rockets Group (“Defendant”) have reached a proposed class settlement with a non-
5 reversionary Settlement Amount of \$600,000 for a Class consisting of 522 non-exempt
6 employees who worked for Defendant at their corporate Johnny Rockets restaurants in
7 California from November 18, 2016 through March 1, 2022 (“Class Period”). The Settlement
8 anticipates coverage for 37,662 workweeks, with a proportional increase of the Settlement
9 Amount if the workweek total ultimately exceeds 110% of that amount. The settlement allows
10 for an average settlement payment in excess of \$600, which represents an excellent recovery.

11 This Settlement resolves this class action lawsuit and settles the wage and hour claims
12 for all Settlement Class Members who do not request exclusion. Payments will be made on an
13 opt-out non-reversionary basis.

14 The proposed settlement is memorialized in the “Stipulated Settlement Agreement”
15 hereinafter referred to as “Settlement Agreement” or “S.A.” A true and correct copy of which
16 is attached to the accompanying Declaration of Haik Hacopian (hereinafter “HH Decl.”) as
17 **Exhibit “A”**.

18 The Parties have conducted an investigation concerning the facts and law during the
19 pendency of this action and which included formal discovery, production of class records and
20 data and expert analysis of same, conferences, and a mediation session before an experienced
21 employment law mediator, Mr. Jeffrey Krivis.

22 This proposed settlement is well within the range of what constitutes a fair, reasonable,
23 and adequate settlement to all concerned especially in light of the legal and factual obstacles
24 that Plaintiff faced, the sharply contested issues involved, the risks and costs of further
25 litigation, and the tangible monetary benefits to be received by Plaintiff and the Class. The
26 proposed notice procedure comports with Cal. Rules of Court, rule 3.769, and due process
requirements. The notice program should be approved and a final fairness hearing set.

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1 **II. SUMMARY OF THE LITIGATION**

2 **A. Defendant, Class Members, and Plaintiff**

3 Defendant has been engaged in the business of franchising of Johnny Rockets
4 restaurants as well as direct ownership and operation of Johnny Rockets branded restaurants.
5 Defendant was acquired by Fat Group in mid-2020 and completed the process of transferring
6 its corporate restaurant locations, where Settlement Class Members were employed, to
7 franchisees. Johnny Rockets currently exists as one of many restaurant franchises under the
8 "Fat Group" umbrella and no longer directly employs non-exempt restaurant employees.
9 Settlement Class Members worked 37,662 workweeks during the Class Period. The average
10 shift length calculates to 6.8 hours and the average hourly rate to \$12.50. Plaintiff Enriquez
11 was employed at the corporate Johnny Rockets restaurant located at the Third Street
12 Promenade in Santa Monica from April 1, 2014 until his separation on or about January of
2019. Declaration of Haik Hacopian (hereinafter "HH Decl.") ¶7.

13 **B. Plaintiff's Lawsuit**

14 On December 9, 2019, Plaintiff Edwin Enriquez filed this class action complaint
15 against Defendant entitled *Edwin Enriquez v. The Johnny Rockets Group*, LASC Case No.
16 19STCV43986 ("Action"). On that date as well, Plaintiff communicated a notice letter
17 pursuant to the Private Attorneys General Act ("PAGA") to Defendant and to the Labor and
18 Workforce Development Agency ("LWDA"). Plaintiff's PAGA claim was assigned case no.
19 LWDA-CM-773887-20 upon electronic submission to the LWDA. S.A. ¶¶2.1, 2.2.

20 On August 17, 2020, the operative First Amended Complaint was filed and which
21 asserts the following causes of action: (1) Failure to Pay Wages; (2) Failure to Provide Meal
22 Periods; (3) Failure to Provide Paid Rest Periods; (4) Failure to Timely Pay Wages at
23 Termination/Separation; (5) Failure to Provide Accurate Wage Statements; (6) Violation of
24 Unfair Business Practices Act – Bus. & Prof. Code §§ 17200, et seq.; and (7) Penalties
25 Pursuant to Private Attorneys General Act ("PAGA"). On September 21, 2020, Defendant
26 filed its Answer to the First Amended Complaint. S.A. ¶2.3.

//

1 **C. Discovery and Mediation**

2 The Parties have conducted investigation of the operative facts and applicable law
3 during the pendency of the case through both formal and informal discovery. Plaintiff has
4 reviewed and examined class data and has retained the services of an expert who has analyzed
5 the damages and evaluated the potential class wide exposure. Prior to mediation, Defendant
6 produced a sample of time and payroll records for two of their locations, a class list with hire
7 and termination dates, and relevant policies. Subsequent to mediation, the production was
8 substantially supplemented through formal discovery and to include time records, time
9 adjustment records, payroll records across all class restaurant locations as embodied by over
10 a 16,000 bates page production and payroll data file with 17,840 lines of data. HH Decl. ¶9.

11 On May 12, 2021, Plaintiff and Defendant participated in a full-day mediation before
12 Mr. Jeffrey Krivis. The Parties were unable to reach a resolution at the mediation and resumed
13 litigation while concurrently attempting to negotiate a settlement. The Parties ultimately
14 reached this settlement by entering into their Stipulated Settlement Agreement, a true and
15 correct copy of which is attached as **Exhibit “A”** to the Declaration of Haik Hacopian. HH
16 Decl. ¶10, Ex. A.

17 **III. THE PROPOSED SETTLEMENT**

18 **A. The Essential Terms of the Settlement**

19 If the Court approves this settlement, Defendant will pay the gross sum of \$600,000
20 ("Settlement Amount") which will be used to fund this Settlement and make payments to Class
21 Members, who will be paid on an all-in non-reversionary opt-out basis. The Settlement
22 Amount excludes the employer share of taxes on the wage component of the Settlement which
23 will be separately funded by Defendant. HH Decl. ¶11.

24 The principal terms of the class action settlement are summarized below:

- 25 • Settlement Amount. S.A. ¶¶1.21, 3.5: \$600,000
- 26 • Minus Court-approved Attorneys’ Fees (35%). S.A. ¶3.6: (\$210,000)
- Minus Court-approved Cost Award. S.A. ¶3.6: (\$25,000)

- 1 • Minus Court-approved Service Award. S.A. ¶3.8: (\$10,000)
- 2 • Minus estimated settlement administration costs. S.A. ¶3.7: (\$13,000)
- 3 • Minus 75% PAGA Payment to LWDA. S.A. ¶3.9: (\$15,000)
- 4 • Minus 25% PAGA Share to Aggrieved Employees. S.A. ¶3.9: (\$5,000)

5
6 Total Deductions from Settlement Amount: (\$278,000)

7 Net Settlement Amount. S.A. ¶1.12: \$322,000

8 The approximate estimated simple average class settlement payment, assuming
9 maximum awards and participation by 522 individuals, calculates to \$616.86. HH Decl. ¶12.
10 There are presently no other claims or lawsuits that would be impacted by this settlement. HH
11 Decl. ¶13.

11 **B. Class Members**

12 Settlement Class Members are defined as follows:

13 All non-exempt employees who were employed by Defendant The Johnny
14 Rockets Group in California during the period starting November 18, 2016
15 to March 1, 2022 (“Class Period”). S.A. ¶¶1.5, 1.22.

16 **C. Settlement Payments to Class Members**

17 The Individual Settlement Payment to each Settlement Class Member will be
18 determined by the total number of Workweeks Worked by the entire Settlement Class. S.A.
19 ¶4.3.

20 The value of a Workweek Worked shall be calculated by counting the total number of
21 Workweeks Worked by all Settlement Class Members and dividing the Net Settlement
22 Amount (less \$5,000 for the PAGA share of Aggrieved Employees) by that number. Each
23 Participating Settlement Class Member will receive an Individual Settlement Payment equal
24 to his or her number of Workweeks Worked multiplied by the value of a Workweek Worked.
25 *Id.*

25 **D. Settlement Allocation to Class Members**

26 The Individual Settlement Payments to Participating Settlement Class Members are

1 allocated for tax purposes as follows: claimed unpaid wages – 20% of each Settlement
2 Payment; claimed interest and claimed penalties – 80% of each Individual Settlement
3 Payment. Class Members will be responsible for paying their share of all taxes due on their
4 Settlement Payment other than the employer’s share of payroll taxes, and all required
5 withholdings and deductions which will be calculated and withheld by the Settlement
6 Administrator. S.A. ¶4.9.

7 **E. Opt-Outs and Objections**

8 Class Members will have sixty (60) days from the mailing of the Class Notice to opt
9 out, object to the Settlement, or dispute the number of workweeks attributable to them. S.A.
10 ¶¶4.4, 4.5, & 4.6.

11 Class Members may elect to exclude themselves (“Opt Out”) from the Settlement by
12 timely submitting a written request to be excluded from the Settlement. S.A. ¶4.5. The Opt-
13 Out Request must include the Class Member’s name, address, telephone number, last four
14 digits of the Social Security number, and a statement that the Settlement Class Member wishes
15 to be excluded from the Settlement. Class Notice, §13.

16 Class Members who have not filed an Opt-Out Request may object to the Settlement
17 by submitting a written request to the Settlement Administrator. S.A. ¶4.6. The written
18 objection must contain the Class Member’s name, address, and telephone number of the
19 objector. It must also include the case name and number, and a description of the objection.
20 Class Notice, §16. S.A. ¶4.6.

21 Any dispute shall be resolved by the Settlement Administrator with the assistance of
22 Settlement Class Counsel and Defense Counsel. Absent clear evidence submitted by the
23 Settlement Class Member establishing that the workweeks are not as presented in their Class
24 Notice, Defendant’s records shall presumptively control. To the extent the Settlement
25 Administrator is unable to resolve the dispute to the satisfaction of the Settlement Class
26 Member, the Parties will submit the dispute with all supporting evidence to the Court for final
adjudication at the Final Approval Hearing. S.A. ¶4.4.

//

1 **F. Release**

2 Release As To All Participating Class Members. Upon the Effective Date and funding
3 in full of the Settlement Amount by Defendant, all Settlement Class Members who do not
4 timely opt out of the Settlement (“Participating Class Members”), including their heirs,
5 assigns, estates and representatives, shall be deemed to fully forever, irrevocably and
6 unconditionally release and discharge the Released Parties from the Released Claims. The
7 Settlement Agreement shall be in full settlement, compromise, release and discharge of the
8 Released Claims and each of them, and the Released Claims by the Class Representative, and
9 the Released Parties shall have no further or other liability or obligation to any Class Member
10 and/or the Class Representative with respect to the Released Claims and Class
Representative’s Released Claims, except as expressly provided herein. S.A. ¶5.1.

11 Release As To All Aggrieved Employees. Upon the Effective Date and funding in full
12 of the Settlement Amount by Defendant, Plaintiff and the State of California shall be deemed
13 to fully forever, irrevocably and unconditionally release and discharge the Released Parties
14 from the Released PAGA Claims. *Id.*

15 “Released Claims” means all class claims alleged in the operative complaint which
16 occurred during the Class Period, and expressly excluding all other claims, including claims
17 for vested benefits, wrongful termination, unemployment insurance, disability, social security,
18 workers’ compensation, and class claims outside of the Class Period. This release includes
19 claims for failure to pay all wages, failure to pay overtime wages, failure to provide meal
20 periods, failure to provide rest periods, failure to reimburse business expenses, failure to
21 provide itemized wage statements, failure to pay all wages and termination and unfair business
22 practices under the California Business and Professions Code associated with same. S.A.
¶1.17.

23 “Released PAGA Claims” means all PAGA claims alleged in the operative complaint
24 and Plaintiff’s PAGA notice to the LWDA which occurred during the PAGA Period, and
25 expressly excluding all other claims, including claims for vested benefits, wrongful
26 termination, unemployment insurance, disability, social security, workers’ compensation, and

1 PAGA claims outside of the PAGA Period. This release includes PAGA claims for failure to
2 pay all wages, failure to pay overtime wages, failure to provide meal periods, failure to provide
3 rest periods, failure to reimburse business expenses, failure to provide itemized wage
4 statements, failure to pay all wages and termination and unfair business practices under the
5 California Business and Professions Code associated with same. S.A. ¶1.18.

6 “Released Parties” means Defendant, and each of Defendant’s respective past, present,
7 and/or future, direct and/or indirect, officers, directors, members, managers, employees,
8 agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators,
9 parent companies, subsidiaries, related entities, affiliates, divisions, predecessors, successors,
10 assigns, and joint venturers. S.A. ¶1.19.

11 “Effective Date” means and refers to the date when all of the following events have
12 occurred: (1) this Settlement Agreement has been executed by all Parties; (2) the Court has
13 given preliminary approval to this Settlement Agreement; (3) the Class Notice has been sent
14 to Settlement Class Members, providing them with an opportunity to object to the terms of
15 this Settlement Agreement or to opt out of the Settlement; (4) the Court has held a formal
16 fairness hearing and entered a final Order and Judgment certifying the Settlement Class, and
17 approving this Settlement Agreement; (5) ten (10) calendar days have passed since the Court
18 has entered a Final Approval Order and Judgment certifying the Settlement Class, and
19 approving the Stipulated Settlement Agreement; and (6) in the event there are written
20 objections filed prior to the final fairness hearing which are not later withdrawn or denied, the
21 later of the following events: five (5) business days after the period for filing any appeal, writ
22 or other appellate proceeding opposing the Court’s final Order approving the Settlement has
23 elapsed without any appeal, writ or other appellate proceeding having been filed; or, if any
24 appeal, writ or other appellate proceeding opposing the Court’s final Order approving the
25 Settlement has been filed, five (5) business days after any appeal, writ or other appellate
26 proceedings opposing the Settlement has been finally and conclusively dismissed with no right
to pursue further remedies or relief. S.A. ¶1.11.

Only Named Plaintiff will be providing a general release and waiver of Civil Code

1 §1542. S.A. ¶5.2.

2 **G. Service Award to Named Class Representative**

3 As part of the settlement, at the time of seeking final approval of the proposed class
4 action settlement, Plaintiff will separately apply for a Service Award in the amount of Ten
5 Thousand Dollars (\$10,000) for his services to the Settlement Class. S.A. ¶3.8. "[I]ncentive
6 awards are fairly typical in class action cases ... and are intended to compensate class
7 representatives for work done on behalf of the class [and] to make up for financial or
8 reputational risk undertaken in bringing the action." *In re Cellphone Fee Termination Cases*
9 (2010) 186 Cal.App.4th 1380, 1393-94. Plaintiff's requested incentive payment is intended to
10 recognize Plaintiff's contributions on behalf of the Class and is fair in relation to the total
11 settlement, his efforts, and standing alone. HH Decl. ¶14. Plaintiff has put a significant amount
12 and time and effort participating in this case and understands his role and obligations as class
13 representative. Declaration of Edwin Enriquez, ¶¶3-8.

14 **H. Attorneys' Fees & Costs**

15 Defendant agrees not to oppose Plaintiff's counsel's application for an attorneys' fees
16 award of \$210,000.00, which is thirty five percent (35%) of the Settlement Amount of
17 \$600,000, and payment of documented litigation costs and expenses up to \$25,000. S.A. ¶3.6.
18 Plaintiff will submit detailed support for his request for a fee award along with his motion for
19 final approval of the settlement. For now, counsel submits that the requested fee is fair
20 compensation for undertaking a complex, risky, expensive, and potentially time-consuming
21 litigation involving this case on a purely contingent fee basis. Here, counsel has incurred
22 substantial attorneys' fees independently conducting pre-filing investigations, analyzing the
23 claims, litigating the case, conducting legal research and analysis, reviewing significant
24 documentary and electronic records produced by Defendant, performing data analysis of
25 employee timekeeping data and payroll records, preparing for and attending a full-day
26 mediation, negotiating the settlement, preparing and amending the long-form Stipulated
Settlement Agreement, Class Notice, and preparing this Motion for Preliminary Approval,
and otherwise aggressively pursuing the interests of the putative class. HH Decl. ¶15.

1 Both California and federal courts have recognized that an appropriate method for
2 awarding attorneys' fees in class actions is to award a percentage of the "common fund"
3 created as a result of the settlement. *See Wershba v. Apple Computer, Inc.* (2001) 91
4 Cal.App.4th 224, 254 (recognizing both the "percentage of recovery" and "lodestar/
5 multiplier" methods). Plaintiff counsel's request for fees of thirty five percent (35%) of the
6 Settlement Amount is within the range of reasonableness. Historically, courts have awarded
7 percentage fees in the one-third range. *See, e.g., Laffitte v. Robert Half Int'l, Inc.* (2014) 231
8 Cal.App.4th 860, 878 ("[S]tudies show that . . . fee awards in class actions average around
9 one-third of the recovery."); *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 66 n.11 (2008)
10 (accord); Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*,
11 J. of Empirical Legal Studies, Vol. 1, Issue 1, 27-78, March 2004, at 35 (independent studies
12 of class action litigation nationwide conclude that a one-third fee is consistent with market
13 rates).

14 In conclusion, counsel submits that its request for attorneys' fees is reasonable when
15 viewed as an overall percentage of the settlement as well as with reference to counsel's
16 loadstar. In light of the risks and significant work undertaken by counsel, the results obtained
17 for the class, and the efficiency with which the Parties collaborated to conduct the litigation,
18 the fee and cost request is fair and reasonable. HH Decl. ¶16.

19 **IV. PRELIMINARY APPROVAL IS WARRANTED**

20 Rules of Court, rule 3.769 conditions the settlement of a class action on court approval,
21 which is generally evaluated under the federal standards applicable under Rule 23 of the Fed.
22 R. Civ. P. 23. *See Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322, 337
23 (2012) (stating that Rule 3.769 requires the trial court to determine "that the settlement is fair,
24 reasonable and adequate to all concerned"); *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150
25 F.3d 1011, 1026 (stating that Rule 23(e) requires the trial court to determine "whether a
26 proposed settlement is fundamentally fair, adequate, and reasonable"). To be approved, a
settlement must be "fair, reasonable and adequate to all concerned." *Reed*, 208 Cal.App.4th at

1 337. Settlement is the preferred means of dispute resolution, particularly in complex class
2 action litigation. *See In re Syncor ERISA Litig.* (9th Cir. 2008) 516 F.3d 1095, 1101. The
3 Court's role in evaluating a proposed settlement is limited to ensuring that the agreement taken
4 as a whole is fair, and is not the product of fraud or collusion between the negotiating parties.
5 *See, e.g., Hanlon*, 150 F.3d at 1027. There is an initial presumption of fairness when the
6 settlement agreement was negotiated at arms' length by experienced counsel. *See, e.g., Kullar*
7 *v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130. A trial court's decision to approve
8 a class action settlement is within the sound discretion for the trial judge and may be reversed
9 only if the trial court acted outside of its broad discretion. *See Munoz v. BCI Coca-Cola*
10 *Bottling Co. of L.A.* (2010) 186 Cal.App.4th 399, 407.

11 **A. Standard for Preliminary Approval**

12 To make a fairness determination, the Court should consider several factors, including:
13 "The strength of Plaintiff's case, the risk, expense, complexity and likely duration of further
14 litigation, the risk of maintaining class action status through trial, the amount offered in
15 settlement, the extent of discovery completed and the stage of the proceedings, [and] the
16 experience and views of counsel." *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.
17 "The list of factors is not exclusive and the Court is free to engage in a balancing and weighing
18 of the factors depending on the circumstances of each case." *Wershba v. Apple Computer,*
19 *Inc., supra*, 91 Cal.App.4th at 245. It should be noted that the reasonableness of a settlement
20 is not dependent upon its actual value approaching the potential recovery plaintiff might have
21 received if he had succeeded at trial, *Sutter Health Unins. Pricing Cases* (2009) 171 Cal. App.
22 4th 495, 511 (emphasizing that the court must be mindful that "[t]he ... class case could have
23 gone to an incredibly lengthy and expensive jury trial, and the class could have lost the case"
24 and must account for that likelihood in discounting the value of the claims for settlement
25
26

1 purposes [emphasis in original]). As discussed below, the proposed settlement is fair, adequate
2 and reasonable in light of the overall balance of factors in this case.

3 **B. The Strength of Plaintiff's Case**

4 1. Unpaid Wage Claims

5 Defendant maintained compliant written policies related to time tracking and the
6 payment and calculation of wages. Employees were instructed to keep an accurate record of
7 work hours in the electronic timekeeping system, including the start and end times for each
8 meal period. The policies dictated that all work time will be paid even if not authorized. There
9 is an express prohibition against "off-the-clock" work including work during meal periods.
10 Employees were directed to contact the company human resources department if it was
11 believed an employee was being asked or pressured to work off-the-clock. Written overtime
12 rules for non-exempt employees were consistent with Cal. Lab. Code requirements. HH Decl.
¶17.

13 Any potential claim for unpaid wages will not emanate from non-compliant policies
14 and as such, will be extremely individualized and difficult to prove. The extent to which an
15 employee worked off the clock and was not compensated will likely depend on a specific shift,
16 position, location, management, and other circumstances that will not translate to certification.
17 Although electronic time adjustment records identify the individual making the adjustment,
18 who typically appears to be a manager, no reasons for adjustment are listed making it
19 impossible to tell from the record whether any employee is owed additional wages. Any
20 assessment will rely on morass of individual inquiries as to whether any adjustment that
21 reduced a time entry was proper, e.g. a forgotten clock out, or improper, e.g. a manager
22 adjusting a clock out to avoid employee overtime. HH Decl. ¶18.

23 Generously assuming an average loss of two hours per workweek, with one hour at a
24 regular hourly rate of \$12.50 and another hour at the overtime hourly rate of \$18.75, across
25 the 37,662 total workweeks results in \$1,176,938 in potentially unpaid wages. In light of
26 compliant policies, factual variations making certification highly unlikely, as well as issues of
proof bearing on merits, Plaintiff does not value an unpaid wage claim in excess of 10% of

1 the assessed exposure, or \$117,694. HH Decl. ¶19.

2 2. Meal Breaks

3 Defendant maintained compliant written meal period policies that allowed for a thirty
4 (30) minute unpaid meal period no later than the fifth hour of work and a second meal period
5 no later than the tenth hour of work. Employees were relieved of all duty during meal periods
6 and were allowed to leave the premises. Employees were instructed to accurately record their
7 meal periods. Employees were required to report to their managers if they were unable to take
8 any meal period or took them late. Further, that no manager was authorized to instruct an
9 employee to skip a meal period, take a meal period less than thirty minutes, or tell an employee
10 how to spend their personal time during a meal period. Employees were instructed to report
11 to the Human Resources Department if any of the aforementioned occurred. Moreover, the
12 policy does not reference the availability of meal period premiums nor does the time record
reflect their payment. HH Decl. ¶20.

13 Plaintiff's analysis identifies 86.9% of shifts, or 118,605, in excess of five hours
14 entitling employees to a meal break. Of these shifts, Plaintiff identifies 62,112 with unique
15 meal period violations consisting of no meal breaks, a meal break recorded after the fifth hour,
16 a meal break of less than 30 minutes, or no second meal break for shifts greater than 10 hours.
17 A premium rate of \$12.50 results in \$776,400 in potential exposure. In light of compliant
18 policies, substantial individual inquiry would be necessary to determine whether a non-
19 compliant meal period was due to employee choice and craft some theory that will lend itself
20 to certification across the multiple locations, managers, and job circumstances. Based on the
21 foregoing, Plaintiff does not value a meal break claim in excess of 10% of the assessed
22 exposure, or \$77,640. HH Decl. ¶21.

23 3. Rest Breaks

24 Defendant maintained compliant written rest period policies that authorized one 10-
25 minute rest period during each four-hour work period, or major fraction thereof, to be taken
26 as near the middle of each four-hour period as possible. Employees were instructed to notify
their manager if they could not take rest breaks in accordance with the policy. Rest periods

1 were not allowed to be combined or added to a meal period or used to make up for tardiness
2 or leaving work early. Notably, employees were instructed to “not leave the premises during
3 rest breaks.” HH Decl. ¶22.

4 Plaintiff’s analysis identifies 96.6% of shifts, or 131,969 shifts, in excess of 3.5 hours
5 entitling employees to a rest break. The policies do not require tracking of rest breaks nor is
6 it legally required. To the extent Plaintiff assumes that there was a requirement and proceeds
7 with a rest break valuation similar to meal breaks, 83,031 shifts would be identified with
8 unique rest period violations consisting of no rest breaks or rest breaks less than 10 minutes
9 in duration. This translates to \$1,037,888 in premiums owed. The more realistic valuation
10 scenario is to assume a rest break violation for the inverse of shifts that reflect a facially
11 compliant rest break in the time record because of the policy that employees were disallowed
12 from leaving the premises during their rest breaks. This would result in exposure for 48,938
13 shifts, or \$611,725 in premiums owed. As with the meal break claim, there are factual
14 variations including the open of issue of how restricted employees were during rest breaks
15 and what was meant by “premises” and the policy’s application by a specific manager at a
16 specific restaurant. Even if certification was possible just on the written policy, decertification
17 based on predominance of factual issues would be the likely result. Based on the foregoing,
18 Plaintiff does not value a rest break claim in excess of \$200,000 for the class. HH Decl. ¶23.

18 4. Waiting Time Penalties

19 Defendant maintained compliant written final pay policies that paid wages to
20 separating employees at the time of termination or within 72 hours of quitting. Employees had
21 the option of requesting that their final wage payment be mailed. In Plaintiff’s instance, his
22 last day worked was on December 9, 2018 after which he took a scheduled vacation. He was
23 terminated on January 19, 2019 for not showing up to work after vacation and the record
24 reflects that his final wages were paid by direct deposit as of January 11, 2019. As such,
25 Plaintiff would not have a substantive claim. Also, the foregoing is an example of a factual
26 variation that would minimize suitability for certification of a substantive waiting time claim
across class members. HH Decl. ¶24.

1 The claim for waiting time penalties would ultimately be derivative of the claims for
2 unpaid wages and meal and rest premiums and the weaknesses described there would directly
3 impact the viability of this claim. *See Naranjo v. Spectrum Sec. Svcs.* (2022) 13 Cal.5th 93.
4 At 336 terminated employees from December 9, 2016 to March 1, 2022, maximum waiting
5 time penalties calculate to \$856,800 (336 employees x 30 days x 6.8 hours per shift x \$12.50
6 average hourly rate). But given weaknesses of the underlying claims, Plaintiff does not believe
7 the value of this claim exceeds 15% of the assessed maximum, or \$128,520. HH Decl. ¶25.

8 5. Wage Statement Penalties

9 The regular wage statements issued to employees were facially compliant with the
10 requirements of Labor Code Section 226. As with waiting time penalties, this claim is
11 derivative of unpaid wage, meal, and rest break violations. *See Naranjo, supra.* Although
12 maximum exposure calculates to \$1,004,000 for the 251 employees during the wage statement
13 penalty period for 13,551 wage statements from December 9, 2018 through March 1, 2022,
14 value may be assessed to 15% of the maximum exposure, or \$150,600, due to this claim's
15 reliance on the underlying claims and subject to weaknesses described therein. HH Decl. ¶26.

16 6. PAGA Claims

17 The intention of PAGA penalties is not to serve a punitive or compensatory purpose
18 but to sufficiently act as a deterrent to future Labor Code violations. As such, to the extent
19 PAGA penalties are assessed, Plaintiff expects a nominal award as this Defendant no longer
20 has any employees. In light of this, and also because of potential defenses to the substantive
21 claims that would bear on PAGA liability as well and potential for rejection of all or part of
22 the claim on trial manageability grounds, an allocation of \$20,000 for settlement of the PAGA
23 claim is extremely reasonable. HH Decl. ¶27.

24 C. Risks and Uncertainty

25 Although Plaintiff steadfastly maintains that his claims are meritorious, he
26 acknowledges that his position includes real risks and uncertainty. In deciding whether to
approve the settlement, the Court must balance the risk factors against an "understanding of
the amount in controversy and the realistic range of outcomes of the litigation." *Kullar*, 168

1 Cal.App.4th at 130, 133; *Munoz*, 186 Cal.App.4th at 408-09. In this case, the settlement is fair
2 and adequate when compared to the total potential exposure and the risks inherent in
3 Plaintiff's claims. HH Decl. ¶28.

4 As courts have observed, "simply because a settlement may amount to only a fraction
5 of the potential recovery does not in itself render it unfair or inadequate. Compromise is the
6 very nature of settlement." *Boyd v. Bechtel Corp.* (C.D. Cal. 1979) 485 F. Supp. 610, 618. In
7 this case, Plaintiff considers the settlement to be significantly more than a "fraction,"
8 particularly considering the various potential complications, dangers and pitfalls that
9 proceeding would entail. HH Decl. ¶28.

10 In addition to considering the value of immediate payment for Settlement Class
11 Members, Plaintiff's counsel discounted the value of the class claims based on a variety of
12 factors, including the California Supreme Court's decision in *Brinker Restaurant Corp. v.*
13 *Superior Court* (2012) 53 Cal.4th 1004. Defendant could have argued that it sufficiently
14 provided breaks without "policing" them. Moreover, Plaintiff's theory of liability for rest
15 break violations was weaker since employers have no obligation to record rest breaks (as rest
16 breaks are paid breaks). The relative lack of written proof, except for potential testimony from
17 Settlement Class Members, diminished the prospect of certifying the claim. Thus, a significant
discount on those claims was warranted. HH Decl. ¶¶20-23.

18 The potential penalties were deemed to be substantial claims. In response, Defendant
19 raised the good-faith dispute defense to the waiting time penalty claims, thereby precluding
20 their imposition¹. Success on the penalty claims would require proving that the Defendant's
21 conduct was "willful." As to PAGA claims, there existed a high likelihood of a nominal award
22 because there will be no future violations to deter as Defendant no longer employs any non-
23 exempt restaurant employees. HH Decl. ¶¶24-27.

24
25 ¹ See, e.g., Cal. Code Regs. § 13520 (a good-faith dispute exists to a claim for waiting time penalties "when an
26 employer presents a defense, based in law or fact which, if successful, would preclude any recovery on the part
of the employee. The fact that a defense is ultimately unsuccessful will not preclude a finding that a good faith
dispute did exist.").

1 In short, Plaintiff's ability to prevail on certification and merits was far from certain.
2 There is the risk that prolonged litigation would likely have produced a worse result for
3 Settlement Class Members. Thus, this factor supports preliminary approval.

4 **D. Risk, Expense, Complexity, and Duration of Further Litigation**

5 This factor also weighs in favor of settlement approval. The parties had engaged in
6 formal discovery with significant review and assessment of the asserted claims which included
7 expert assistance. Defendant could have moved for summary adjudication on all or some of
8 the claims. Moreover, preparation for class certification and trial remained for the Parties as
9 well as the prospect of appeals in the wake of a disputed class certification ruling for Plaintiff
10 and/or summary judgment ruling. As a result, the parties would incur considerably more
11 attorneys' fees and costs through trial. This settlement avoids those risks and the
12 accompanying expense. HH Decl. ¶29. Hence, an additional support for a preliminary
13 approval.

14 **E. Risk of Maintaining Class Action Status**

15 To the extent any claims were certified, Defendant would certainly seek to decertify
16 them. Absent settlement, there was a risk that there would never be a certified class. HH Decl.
17 ¶30. Thus, this factor, too, supports preliminary approval of the settlement.

18 **F. Amount Offered in Settlement Given Realistic Value of Claims**

19 This proposed settlement provides a fair and reasonable monetary recovery for the
20 Class in the face of disputed claims and significant hurdles. HH Decl. ¶28. Courts recognize
21 that the reasonableness of a settlement is not dependent upon it approaching the potential
22 recovery plaintiffs might receive if successful at trial. *See In re Omnivision Tech., Inc.* (N.D.
23 Cal. Jan. 9, 2008) 2008 WL 123936; *see also Nat'l Rural Telecomm. Coop. v. Directv, Inc.*
24 (C.D. Cal. 2004) 221 F.R.D. 523, 527 ("well settled law that a proposed settlement may be
25 acceptable even though it amounts to only a fraction of the potential recovery"); *Officers for*
26 *Justice v. Civil Serv. Comm* (9th Cir. 1982) 688 F. 2d 615, 628 (it is "the complete package,
taken as a whole rather than the individual component parts, that must be examined for overall
fairness"). The \$600,000 Settlement Amount captures 88.9% of the \$674,454 assessed case

1 value on viable class claims, which is extremely favorable given the significant risk factors
2 described above. At a net settlement amount of \$322,000, class members will be recovering
3 47.7% of the assessed case value, which represents an excellent recovery. HH Decl. ¶28.

4 **G. Discovery Completed and the Status of Proceedings**

5 The lawsuit involved formal discovery which included the production of substantial
6 payroll and timekeeping records, and information regarding the size and makeup of the
7 putative class. It was only after the completion of this process and expert analysis that the
8 parties participated in mediation and thereafter reached the proposed settlement. HH Decl. ¶¶9
& 10. Here is an additional factor germane to the preliminary approval.

9 **H. The Experience and Views of Counsel**

10 "Parties represented by competent counsel are better positioned than courts to produce
11 a settlement that fairly reflects each party's expected outcome in litigation." *In re Pacific*
12 *Enterprises Securities Litigation* (9th Cir. 1995) 47 F.3d 373, 378. Here, Plaintiff is
13 represented by competent and experienced counsel who pressed Plaintiff's claims forward
14 against a reputable employment defense firm. Class Counsel possesses extensive experience
15 litigating wage and hour class actions from the plaintiff side and has been appointed as class
16 counsel in numerous cases alleging similar claims. HH Decl. ¶¶2-3, Declaration of Zorik
17 Mooradian (hereinafter "ZM Decl.") ¶¶2-5. Class Counsel conducted review and analysis of
18 Defendant's practices and timekeeping and payroll records and drew on its extensive
19 experience in similar cases to effectively assess the strengths and weaknesses of Plaintiff's
20 claims. The settlement was also reached with the input and assistance of an experienced and
21 respected neutral mediator. HH Decl. ¶¶9 & 10. This factor strongly supports preliminary
22 approval. *See, Kullar, supra*, 168 Cal.App.4th at 130 ("The court undoubtedly should give
23 considerable weight to the competency and integrity of counsel and the involvement of a
24 neutral mediator in assuring itself that a settlement agreement represents an arm's length
transaction entered without self-dealing or other potential misconduct.").

25 //

26 //

1 **V. THE PRELIMINARY APPROVAL STANDARD HAS BEEN MET**

2 The Court should grant preliminary approval of the settlement and direct that notice
3 be given if the proposed settlement when it: (1) falls within the range of possible approval;
4 (2) appears to be the product of serious, informed and non-collusive negotiations; and (3) has
5 no obvious deficiencies. *See Manual for Complex Litigation* § 30.41 (3rd Ed. 1995); *4*
6 *Newberg on Class Actions* § 11:24-25 (4th Ed. 2013).

7 The proposed settlement reflects a substantial portion of the estimated recovery that
8 the Settlement Class could reasonably expect in light of the potential litigation risks. As well,
9 the proposed settlement is for a sizable sum in light of the strong defenses and provides for
10 significant individual recovery. In accordance, the proposed settlement is within the range of
11 possible approval for communication of a notice in conformity and consideration thereof by
12 the Settlement Class. The Court will have the opportunity to again assess the reasonableness
13 of the settlement after the Class has had the opportunity to opt-out or object. HH Decl. ¶31.

14 **A. The Settlement Resulted From Serious, Informed, and Non-Collusive**
15 **Negotiations**

16 This proposed class-wide settlement is the result of arm's-length negotiations by
17 counsel, punctuated by a full-day mediation session before an experienced mediator and is,
18 therefore, entitled to an initial presumption of fairness. *See Kullar*, 168 Cal.App.4th at 130.
19 Plaintiff reviewed data for the class and conducted analysis of the data and records, with the
20 participation of an expert, to arrive at his estimated damage figures. HH Decl. ¶¶9-10, 17-27.

21 The parties reached an agreement to mediate before Mr. Jeffrey Krivis, a respected
22 neutral mediator. Despite not being able to settle at mediation, both sides proceeded to
23 litigation and ultimately agreed to a settlement. They then finalized the Stipulated Settlement
24 Agreement. HH Decl. ¶10. Therefore, this factor also supports preliminary approval.

25 **B. Provisional Class Certification is Appropriate Here**

26 “Litigation by class action has long been recognized as a superior method of resolving
wage and hour claims in California.” *Martinez v. Joe’s Crab Shack Holdings* (2013) 221
Cal.App.4th 1148, 1152. Class certification is appropriate when there exists “an ascertainable

1 and sufficiently numerous class, a well-defined community of interest, and substantial benefits
2 from certification that render proceeding as a class superior to alternatives.” *Brinker*, 53
3 Cal.4th 1004 at 1021. As the Supreme Court has noted, “[c]laims alleging a uniform policy
4 consistently applied to a group of employees in violation of the wage and hour laws are of the
5 sort routinely, and properly, found suitable for class treatment.” *Id.* at 1033. This is exactly
6 such a case.

7 **1. The Proposed Class Is Ascertainable and Numerous**

8 A class is "ascertainable" where the members "may be readily identified without
9 unreasonable expense or time by reference to official [or business] records." *See Sevidal v.*
10 *Target Corp.* (2010) 189 Cal.App.4th 905, 919 (alterations in original). Here, the proposed
11 Class is defined by reference to two objective characteristics: (1) individuals who worked as
12 non-exempt employees for Defendant in California, and (2) were employed by Defendant at
13 some time during the putative class period at their corporate California restaurant locations.
14 Therefore, Class Members can be identified from Defendant’s personnel and other
15 employment records. As to numerosity, the Class consists of at least 522 individuals, making
16 it highly impracticable to bring all class members before the Court. HH Decl. ¶12.

17 **2. The Community of Interest Requirements for Class Treatment are Met**

18 “[T]he community of interest requirement embodies three factors: (1) predominant
19 common questions of law or fact; (2) class representatives with claims or defenses typical of
20 the class; and (3) class representatives who can adequately represent the class.” *Brinker*, 53
21 Cal.4th at 1021.

22 **a. Common Issues of Law and Fact Predominate**

23 The focus in a certification dispute is not on the merits of the case, but rather on what
24 types of questions, "common or individual," are likely to arise in the action. *See Sav-On Drug*
25 *Store, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 327. "Common questions of law and fact
26 are required in order to assure the interests of the litigants and the Court are furthered by
permitting the suit to proceed as a class action rather than in a multiplicity of separate suits."

1 *Cohen v. DIRECTV, Inc.* (2009) 178 Cal.App.4th 966, 975. Where the defendant
2 systematically engages in policies and practices that allegedly violate the Labor Code and
3 subject all of its employees to the same unlawful conduct, common questions of law and fact
4 will predominate over individualized issues. *See, e.g., Ghazaryan v. Diva Limousine, Ltd.*
5 (2008) 169 Cal.App.4th 1524, 1538 (holding that a class of limousine drivers challenging their
6 compensation plan was proper for class treatment). Here, the predominance factor is met
7 because each claim challenges an alleged common policy or practice that Plaintiff contends is
8 illegal. Plaintiff's claims under the Labor Code are predicated on: a failure to pay for all hours
9 worked; meal, rest period policies and practices. These sorts of claims are commonly held to
10 be proper for class certification. *See, e.g., Williams v. Superior Court* (2013) 221 Cal.App.4th
11 1353, 1371 (certifying class based on uncompensated work time).

12 **b. The Claims of Named Plaintiffs Are Typical**

13 The typicality requirement is satisfied where class representatives have claims that are
14 typical of those of the rest of the class. *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987)
15 191 Cal.App.3d 1341, 1347 (finding typicality satisfied where named Plaintiff purchased the
16 same goods as the putative class in a consumer class action). Here, the claims of Plaintiff are
17 typical of those held by the members of the proposed Class. First, Plaintiff was employed by
18 Defendant during the proposed Class Period and was subject to its wage and hour practices.
19 Second, Plaintiff claims he was injured by the same challenged practices he claims injured the
20 Settlement Class as a whole. Therefore, Plaintiff has suffered the same alleged injuries as the
21 other members of the Settlement Class and satisfies the typicality requirement.

22 **c. Plaintiff & Class Counsel Will Fairly & Adequately
23 Represent the Class**

24 The adequacy of representation requirement examines conflicts of interest between
25 named parties and the class they seek to represent. *See Capital People First v. State Dept. of
26 Developmental Services* (2007) 155 Cal.App.4th 676, 697. A party's claim of representative
status will only be defeated by a conflict that "goes to the very subject matter of the litigation."
Richmond v. Dart Industries, Inc. (1981) 29 Cal.3d 462, 470. Here, Plaintiff and his counsel

1 will adequately represent the class as there are no conflicts between the named Plaintiff and
2 the Class he seeks to represent, and Plaintiff has claims that are in line with those of the class.
3 Declaration of Edwin Enriquez, ¶¶3&4, HH Decl. ¶5, ZM Decl. ¶7. Plaintiff's counsel also
4 has extensive experience in wage and hour class action litigation. HH Decl. ¶¶2-6, ZM Decl.
5 ¶¶2-5. For these reasons, the Court should provisionally certify the proposed Class.

6 **3. Class-Wide Settlement is Superior to Other Available Methods of** 7 **Resolution**

8 Here, the alternative method of resolution would be multiple individual lawsuits,
9 challenging the same alleged wage and hour policies and practices of Defendant, and each
10 seeking a small amount of damages. Such duplicative litigation would be extremely inefficient
11 and costly for the courts and wasteful for judicial forums that would otherwise devote
12 resources to other matters. HH Decl. ¶32. In light of these concerns, a class action is the
13 superior method of resolving these wage and hour claims. *Martinez*, 221 Cal.App.4th at 152
14 (“Litigation by class action has long been recognized as a superior method of resolving wage
15 and hour claims in California.”)

16 **VI. THE COURT SHOULD ORDER DISTRIBUTION OF THE PROPOSED** 17 **NOTICE**

18 This Court should order distribution to the Class Members of the proposed Class
19 Notice in both English and Spanish by first-class mail. S.A. ¶¶1.6 & 4.4. This manner of
20 giving notice is the "best notice practicable" under the circumstances because it provides
21 "individual notice to all members who can be identified through reasonable effort." *See Eisen*
22 *v. Carlisle & Jacquelin* (1974) 417 U.S. 156, 173. As a general rule, class notice must strike
23 a balance between thoroughness and the need to avoid unduly complicating the content of the
24 notice and confusing class members. *Wershba*, 911 Cal.4th at 252. The proposed Notice of
25 Settlement is attached as Exhibit 1 to the Stipulated Settlement Agreement. S.A. ¶1.6, Ex. 1.

26 Here, the Parties propose that the settlement be administered by CPT Group (“CPT”
or “Settlement Administrator”), an experienced class action settlement administrator. S.A.

¶4.2. The Settlement Administrator’s duties are detailed in the Stipulated Settlement Agreement. S.A. ¶4.2. Settlement Class Members’ addresses are ascertainable through Defendant’s personnel and payroll records. To the extent that the addresses of former employees have changed, CPT will run all the addresses provided through the United States Postal Service Notice of Change Of Address database (which provides updated addresses for any individual who has moved in the previous four years and has notified the U.S. Postal Service of a forwarding address) and perform skip traces to obtain current address information. S.A. ¶4.4. The Settlement Agreement allocates a maximum of \$13,000 for administration expenses, which is appropriate in light of the number of class members and the size of the settlement and the extent of work to be performed in administering the settlement of the class. S.A. ¶3.7.

The content of the proposed Class Notice satisfies Cal. Rules of Court, rule 3.769(d) because it advises class members of the nature of the claims, basic contentions and denials of the parties and the key terms of the settlement, the deadline to opt-out, or object to the settlement and the procedure by which to do so, explains the recovery formula and expected recovery amount for each class member, and advises them that they will be bound by the terms of the settlement if they do not request exclusion. S.A. ¶1.6, Ex. 1. The proposed Class Notice will also notify Settlement Class Members of the final approval hearing date and provides the contact information for Class Counsel, and advises Settlement Class Members that they may enter an appearance through counsel if they wish to. This manner of giving notice satisfies Cal. Rules of Court, rule 3.769(e) as the most reliable and cost-effective method of reaching Settlement Class Members.

VII. THE PAGA ALLOCATION AND PAYMENTS SHOULD BE APPROVED

The Settlement allocates \$20,000 for resolution of Plaintiff’s PAGA claim with \$15,000 (75%) payable to the LWDA and \$5,000 (25%) payable to Aggrieved Employees. S.A. ¶3.9. “Aggrieved Employees” means non-exempt employees who are or previously were employed by Defendant in California during the period starting December 8, 2018 until March

1 1, 2022 (“PAGA Period”). S.A. ¶¶1.3 and 1.13. To the extent an Aggrieved Employee is also
2 a Settlement Class Member, they will receive their Individual PAGA Settlement Payment
3 (S.A. ¶1.24) even if they submit an exclusion request. S.A. ¶3.9. The sum payable to each
4 Aggrieved Employee shall be allocated based on the proportionate number of weekly pay
5 periods worked by the individual Aggrieved Employee during the PAGA Period relative to
6 the total number of pay periods worked by all Aggrieved Employees. *Id.* As required, this
7 Motion and all supporting papers will be concurrently submitted to the LWDA.

8 **VIII. THE COURT SHOULD SET A FINAL APPROVAL HEARING**

9 The Parties request that this Court set a hearing for final approval of the settlement on
10 a date appropriately scheduled to follow the deadline by which Settlement Class Members
11 must file objections to the settlement or opt-out. *See* Cal. Rule of Court, rule 3.769. The parties
12 propose that the final papers in support of the settlement be filed and served no later than 14
13 days prior to the hearing on final approval, and that the hearing on final approval of the
14 settlement be set 120 days after the date of the preliminary approval hearing, to allow a
15 reasonable period for notice and administration, and an opportunity to object to the settlement,
16 without excessive delay to the Class as to the receipt of their settlement shares.

17 **IX. CONCLUSION**

18 For the foregoing reasons, Plaintiff respectfully requests that the Court preliminarily
19 approve the proposed settlement, provisionally certify the Settlement Class, and enter the
20 Proposed Order submitted concurrently herewith.
21

22 Dated: October 5, 2022

MOORADIAN LAW, APC

23 By: /s/Haik Hacopian

24 Zorik Mooradian, Esq.,

Haik Hacopian, Esq.,

25 Attorneys for Plaintiffs Edwin Enriquez,
26 individually and on behalf of other persons
similarly situated and similarly aggrieved
employees

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24007 Ventura Blvd., Suite 210
CALABASAS, CA 91302
(818) 487-1998

Declaration of HAIK HACOPIAN

1 **DECLARATION OF HAIK HACOPIAN**

2 I, Haik Hacopian, declare as follows:

3 1. I am an attorney at law duly licensed to practice law in the state of California.
4 I work with Mooradian Law, APC and, along with Zorik Mooradian, am counsel for Plaintiff
5 Edwin Enriquez and seek appointment as Class Counsel in the class action lawsuit entitled
6 *Edwin Enriquez, individually and on behalf of other persons similarly situated and similarly*
7 *aggrieved employees v. The Johnny Rockets Group*, and bearing Los Angeles County Superior
8 Court Case No. 19STCV43986. I make this Declaration in support of Plaintiff's Motion for
9 Preliminary Approval based on my own personal knowledge and if called as a witness I could
10 and would competently testify to the following facts stated herein.

11 2. I am a 2010 graduate of St. John's University School of Law. I was admitted
12 to the New York State Bar in February of 2011 and was assigned Registration Number
13 4895728. I was admitted to The State Bar of California on April 25, 2012 and was assigned
14 State Bar Number 282361 and have been active and in good standing since. I have
15 been involved in the litigation of complex cases at all stages throughout my career including
16 wage and hour class actions and representative PAGA actions. I am currently actively
17 involved with numerous class action and PAGA matters in various litigation stages.

18 3. The following is a short title index of wage-and-hour class action cases in
19 which I have represented and/or continue to represent named plaintiff in the capacity of co-
20 counsel: Nuno v. Universal Building Maintenance/BC541570; Perez v. Quest
21 Nutrition/BC630914; Cabrera v. Complete Facilities Maintenance/BC538248; Cardenas v.
22 Iron Mountain/BC620476 (appointed as class counsel); Hernandez v. Johnny
23 Rockets/BC604536; Castro v. Advanced Cosmetic Research/BC634270; Linares v. Personal
24 Touch Cleaning/BC613182; Escalante v. Friendly Hills Country Club/BC640583 (appointed
25 as class counsel); Fuentes v. Kamran Staffing/BC604535 (appointed as class counsel);
26 Martinez v. Pampanga Food Company/BC637207; Perez v. El Pollo Loco/JCCP4957
27 (appointed as class counsel); Rosa v. Intercontinental Hotels/BC566377; Serrano v. Noise
28 (appointed as class counsel); Contreras v. Golden State Foods/BC708535; Avina v. Marriott

Vacations Worldwide/8:18-cv-00685-JVS-JPR (appointed as class counsel); Balaguer v. Eminent, Inc/19STCV16803 (appointed as class counsel); Gonzalez v. FMS Management/30-2019-01065563-CU-OE-CXC (appointed as class counsel); Ramos v. Liberty Container Corp./20STCV06560 (appointed as class counsel); Mendoza v. Savage Services Corporation/18STCV04798 (appointed as class counsel); Moreno v. DCX-Chol Enterprises/19STCV19105; Villacana v. Crothall Laundry Services/19STCV16330.

4. I am familiar with California wage and hour law including the laws governing the alleged violations and the Orders of the Industrial Welfare Commission, and the Private Attorneys General Act.

5. I know of no conflicts as to why I, or Mr. Mooradian, could not serve as Class Counsel in this matter and I am fully aware of the responsibilities I would owe as Class Counsel to the proposed class in this action. I also know of no conflicts that would preclude Mr. Enriquez from serving as a Class Representative in this matter.

6. As a result of my prior experience, including as class counsel in other wage and hour class actions, I am fully aware of the responsibilities I owe as Class Counsel to the proposed class in this action. Based on my experience as Class Counsel, I believe, in light of the criteria identified in *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801, that the proposed settlement is fair to the class, reasonable and more than adequate in view of (i) the strength of Plaintiff's claims and Defendant's defenses, (ii) the risk, expense, complexity and likely duration of further litigation, (iii) the risk and difficulty of obtaining class certification and maintaining class action status through trial, (iv) the total settlement amount of \$600,000 offered in settlement allowing for significant individual recoveries by employees, (vii) the discovery conducted by the Parties in this case, (vi) my experience with similar settlements in wage and hour class actions that have received court approval, and (viii) the fact that the settlement was the result of arms' length negotiations between experienced counsel facilitated by Mr. Jeffrey Krivis, a respected neutral mediator.

7. Defendant has been engaged in the business of franchising of Johnny Rockets restaurants as well as direct ownership and operation of Johnny Rockets branded restaurants.

1 Defendant was acquired by Fat Group in mid-2020 and completed the process of transferring
2 its corporate restaurant locations, where Settlement Class Members were employed, to
3 franchisees. Johnny Rockets currently exists as one of many restaurant franchises under the
4 "Fat Group" umbrella and no longer directly employs non-exempt restaurant employees.
5 Settlement Class Members worked 37,662 workweeks during the Class Period. The average
6 shift length calculates to 6.8 hours and the average hourly rate at \$12.50. Plaintiff Enriquez
7 was employed at the corporate Johnny Rockets restaurant located at the Third Street
8 Promenade in Santa Monica from April 1, 2014 until his separation on or about January of
9 2019.

10 8. Mooradian Law, APC, was appointed as Class Counsel for an earlier class
11 action settlement involving non-exempt employees who worked at corporate Johnny Rockets
12 restaurants in California, which was granted preliminary and final approval. That lawsuit is
13 *Noe Hernandez, individually and on behalf of all others similarly situated and aggrieved*
14 *employees v. The Johnny Rockets Group, Inc.*, LASC Case No. BC604536. The class period
15 in the Hernandez settlement spanned from December 17, 2011 through November 17, 2016.
16 The Class Period here accounts for overlap due to the Hernandez settlement and reduces what
17 would otherwise be a class period starting on December 9, 2015 (four years before the filing
18 this action on December 9, 2019) to a class period starting on November 18, 2016.
19 Furthermore, to compare, the Hernandez settlement covered 603 employees with a gross
20 settlement sum of \$280,000 whereas this settlement allows for a better recovery at an average
21 payment that is over twice greater (~\$254 v. ~\$600) for what are identical wage and hour
22 claims.

23 9. The Parties have conducted investigation of the operative facts and applicable
24 law during the pendency of the case through both formal and informal discovery. My office
25 has reviewed and examined class data and has retained the services of an expert who has
26 analyzed the damages and evaluated the potential class wide exposure. Prior to mediation,
27 Defendant produced a sample of time and payroll records for two of their locations, a class
28 list with hire and termination dates, and relevant policies. Subsequent to mediation, the

1 production was substantially supplemented through formal discovery to include time records,
2 time adjustment records, payroll records across all class restaurant locations as embodied by
3 over a 16,000 bates page production and payroll data file with 17,840 lines of data.

4 10. On May 12, 2021, Plaintiff and Defendant participated in a full-day mediation
5 before Mr. Jeffrey Krivis. The Parties were unable to reach a resolution at the mediation and
6 resumed litigation while concurrently attempting to negotiate a settlement. The Parties
7 ultimately reached this settlement by entering into their Stipulated Settlement Agreement, a
8 true and correct copy of which is attached hereto as **Exhibit "A"**.

9 11. If the Court approves this settlement, Defendant will pay the gross sum of
10 \$600,000 ("Settlement Amount") which will be used to fund this Settlement and make
11 payments to Class Members, who will be paid on an all-in non-reversionary opt-out basis. The
12 Settlement Amount excludes the employer share of taxes on the wage component of the
13 Settlement which will be separately funded by Defendant.

14 12. The Net Settlement Amount to be distributed to Settlement Class Members
15 calculates to \$322,000 after deductions from the Settlement Amount for: (1) \$210,000 (thirty-
16 five percent of Settlement Amount) for attorneys' fees, (2) \$25,000 for litigation costs, (3)
17 \$10,000 for a Service Award to Plaintiff, (4) \$13,000 in settlement administration costs, (5) a
18 \$15,000 payment to the LWDA as its 75% share of the \$20,000 allocated to settlement of
19 Plaintiff's PAGA claims, and (6) a \$5,000 distribution to Aggrieved Employees for their 25%
20 share of the PAGA allocation. The approximate estimated simple average class settlement
21 payment, assuming maximum awards and participation by 522 individuals, calculates to
22 \$616.86. ($\$322,000 \div 522$).

23 13. I am unaware of any other cases or claims that would be impacted by this
24 Settlement. I am unaware of any other pending wage and hour lawsuits against Defendant.
25 Moreover, a search for other recent PAGA notices filed against Defendant on the LWDA's
26 online database shows a PAGA notice submitted by Potter Handy, LLP on behalf of David
27 Rodriguez. Defendant had filed a Notice of Related Case in this action for the non-complex
28 lawsuit filed on behalf of Mr. Rodriguez, 20STCV36035, on September 18, 2020. I reviewed

1 the docket for that matter and a request for dismissal was filed on April 1, 2022. There is no
2 docket entry for any type of court approved settlement, PAGA or otherwise.

3 14. Plaintiff's requested incentive payment of \$10,000 is intended to recognize
4 Plaintiff's contributions on behalf of the Class and is fair standing alone, in relation to the
5 total settlement, and his efforts which will result in significant individual recovery by other
6 employees.

7 15. The Parties have agreed to an attorneys' fees award of \$210,000, which is thirty
8 five percent (35%) of the Settlement Amount of \$600,000, and payment of documented
9 litigation costs and expenses up to \$25,000. My office will submit detailed support for this
10 request for a fee award along with the motion for final approval of the settlement. For now, I
11 submit that the requested fee is fair compensation for undertaking a complex, risky, expensive,
12 and potentially time-consuming litigation involving this case on a purely contingent fee basis.
13 Here, my office has incurred substantial attorneys' fees independently conducting pre-filing
14 investigations, analyzing the claims, litigating the case, conducting legal research and
15 analysis, reviewing significant documentary and electronic records produced by Defendant,
16 performing data analysis of employee timekeeping data and payroll records, preparing for and
17 attending a full-day mediation, negotiating the settlement, preparing and amending the long-
18 form Stipulated Settlement Agreement, Class Notice, and preparing this Motion for
19 Preliminary Approval, and otherwise aggressively pursuing the interests of the putative class.

20 16. I submit that the request for attorneys' fees is reasonable when viewed as an
21 overall percentage of the settlement as well as with reference to counsel's loadstar, which will
22 be set forth in support of the final approval motion. In light of the risks and significant work
23 undertaken by my office, the results obtained for the class, and the efficiency with which the
24 Parties collaborated to conduct the litigation, the fee and cost request is fair and reasonable.

25 17. Defendant maintained compliant written policies related to time tracking and
26 the payment and calculation of wages. Employees were instructed to keep an accurate record
27 of work hours in the electronic timekeeping system, including the start and end times for each
28 meal period. The policies dictated that all work time will be paid even if not authorized. There

1 is an express prohibition against “off-the-clock” work including work during meal periods.

2 18. Any potential claim for unpaid wages will not emanate from non-compliant
3 policies and as such, will be extremely individualized and difficult to prove. The extent to
4 which an employee worked off the clock and was not compensated will likely depend on a
5 specific shift, position, location, management, and other circumstances that will not translate
6 to certification. Although electronic time adjustment records identify the individual making
7 the adjustment, who typically appears to be a manager, no reasons for adjustment are listed
8 making it impossible to tell from the record whether any employee is owed additional wages.
9 Any assessment will rely on morass of individual inquiries as to whether any adjustment that
10 reduced a time entry was proper, e.g. a forgotten clock out, or improper, e.g. a manager
11 adjusting a clock out to avoid employee overtime.

12 19. Generously assuming an average loss of two hours per workweek, with one
13 hour at a regular hourly rate of \$12.50 and another hour at the overtime hourly rate of \$18.75,
14 across the 37,662 total workweeks results in \$1,176,938 in potentially unpaid wages. In light
15 of compliant policies, factual variations making certification highly unlikely, as well as issues
16 of proof bearing on merits, Plaintiff does not value an unpaid wage claim in excess of 10% of
17 the assessed exposure, or \$117,694.

18 20. Defendant maintained compliant written meal period policies that allowed for
19 a thirty (30) minute unpaid meal period no later than the fifth hour of work and a second meal
20 period no later than the tenth hour of work. Employees were relieved of all duty during meal
21 periods and were allowed to leave the premises. Employees were instructed to accurately
22 record their meal periods. Employees were required to report to their managers if they were
23 unable to take any meal period or took them late. Further, that no manager was authorized to
24 instruct an employee to skip a meal period, take a meal period less than thirty minutes, or tell
25 an employee how to spend their personal time during a meal period. Employees were
26 instructed to report to the Human Resources Department if any of the aforementioned
27 occurred. Moreover, the policy does not reference the availability of meal period premiums
28 nor does the time record reflect their payment.

21. Plaintiff's analysis identifies 86.9% of shifts, or 118,605, in excess of five hours entitling employees to a meal break. Of these shifts, Plaintiff identifies 62,112 with unique meal period violations consisting of no meal breaks, a meal break recorded after the fifth hour, a meal break of less than 30 minutes, or no second meal break for shifts greater than 10 hours. A premium rate of \$12.50 results in \$776,400 in potential exposure. In light of compliant policies, substantial individual inquiry would be necessary to determine whether a non-compliant meal period was due to employee choice and craft some theory that will lend itself to certification across the multiple locations, managers, and job circumstances. Based on the foregoing, Plaintiff does not value a meal break claim in excess of 10% of the assessed exposure, or \$77,640.

22. Defendant maintained compliant written rest period policies that authorized one 10-minute rest period during each four-hour work period, or major fraction thereof, to be taken as near the middle of each four-hour period as possible. Employees were instructed to notify their manager if they could not take rest breaks in accordance with the policy. Rest periods were not allowed to be combined or added to a meal period or used to make up for tardiness or leaving work early. Notably, employees were instructed to "not leave the premises during rest breaks."

23. Plaintiff's analysis identifies 96.6% of shifts, or 131,969 shifts, in excess of 3.5 hours entitling employees to a rest break. The policies do not require tracking of rest breaks nor is it legally required. To the extent Plaintiff assumes that there was a requirement and proceeds with a rest break valuation similar to meal breaks, 83,031 shifts would be identified with unique rest period violations consisting of no rest breaks or rest breaks less than 10 minutes in duration. This translates to \$1,037,888 in premiums owed. The more realistic valuation scenario is to assume a rest break violation for the inverse of shifts that reflect a facially compliant rest break in the time record because of the policy that employees were disallowed from leaving the premises during their rest breaks. This would result in exposure for 48,938 shifts, or \$611,725 in premiums owed. As with the meal break claim, there are factual variations including the open of issue of how restricted employees were during rest

breaks and what was meant by “premises” and the policy’s application by a specific manager at a specific restaurant. Even if certification was possible just on the written policy, decertification based on predominance of factual issues would be the likely result. Based on the foregoing, Plaintiff does not value a rest break claim in excess of \$200,000 for the class.

24. Defendant maintained compliant written final pay policies that paid wages to separating employees at the time of termination or within 72 hours of quitting. Employees had the option of requesting that their final wage payment be mailed. In Plaintiff’s instance, his last day worked was on December 9, 2018 after which he took a scheduled vacation. He was terminated on January 19, 2019 for not showing up to work after vacation and the record reflects that his final wages were paid by direct deposit as of January 11, 2019. As such, Plaintiff would not have a substantive claim. Also, the foregoing is an example of a factual variation that would minimize suitability for certification of a substantive waiting time claim across class members.

25. The claim for waiting time penalties would ultimately be derivative of the claims for unpaid wages and meal and rest premiums and the weaknesses described there would directly impact the viability of this claim. At 336 terminated employees from December 9, 2016 to March 1, 2022, maximum waiting time penalties calculate to \$856,800 (336 employees x 30 days x 6.8 hours per shift x \$12.50 average hourly rate). But given weaknesses of the underlying claims, Plaintiff does not believe the value of this claim exceeds 15% of the assessed maximum, or \$128,520.

26. The regular wage statements issued to employees were facially compliant with the requirements of Labor Code Section 226. As with waiting time penalties, this claim is derivative of unpaid wage, meal, and rest break violations. Although maximum exposure calculates to \$1,004,000 for the 251 employees during the wage statement penalty period for 13,551 wage statements from December 9, 2018 through March 1, 2022, value may be assessed to 15% of the maximum exposure, or \$150,600, due to this claim’s reliance on the underlying claims and subject to weaknesses described therein.

27. The intention of PAGA penalties is not to serve a punitive or compensatory

1 purpose but to sufficiently act as a deterrent to future Labor Code violations. As such, to the
2 extent PAGA penalties are assessed, Plaintiff expects a nominal award as this Defendant no
3 longer has any employees. In light of this, and also because of potential defenses to the
4 substantive claims that would bear on PAGA liability as well and potential for rejection of all
5 or part of the claim on trial manageability grounds, an allocation of \$20,000 for settlement of
6 the PAGA claim is extremely reasonable.

7 28. The settlement is fair and adequate when compared to the total potential
8 exposure and the risks inherent in Plaintiff's claims. Plaintiff considers the settlement to be
9 significantly more than a fraction of potential recovery, particularly considering the various
10 potential complications, dangers and pitfalls that proceeding would entail. This proposed
11 settlement provides a fair and reasonable monetary recovery for the Settlement Class in the
12 face of disputed claims and significant hurdles. The \$600,000 Settlement Amount captures
13 88.9% of the \$674,454 assessed case value on viable class claims, which is extremely
14 favorable given the significant risk factors described above. At a net settlement amount of
15 \$322,000, class members will be recovering 47.7% of the assessed case value, which
16 represents an excellent recovery.

17 29. The parties had engaged in formal discovery with significant review and
18 assessment of the asserted claims which included expert assistance. Defendant could have
19 moved for summary adjudication on all or some of the claims. Moreover, preparation for class
20 certification and trial remained for the Parties as well as the prospect of appeals in the wake
21 of a disputed class certification ruling for Plaintiff and/or summary judgment ruling. As a
22 result, the parties would incur considerably more attorneys' fees and costs through trial. This
23 settlement avoids those risks and the accompanying expense.

24 30. To the extent any claims were certified, Defendant would certainly seek to
25 decertify them. Absent settlement, there was a risk that there would never be a certified class.

26 31. I submit that the proposed settlement is within the range of possible approval
27 for communication of a notice in conformity and consideration thereof by the Settlement
28 Class. The Court will have the opportunity to again assess the reasonableness of the settlement

1 after the Class has had the opportunity to opt-out or object.

2 32. The alternative method of resolution of the claims asserted here would be
3 multiple individual lawsuits, challenging the same alleged wage and hour policies and
4 practices of Defendant, and each seeking a small amount of damages. Such duplicative
5 litigation would be extremely inefficient and costly for the courts and wasteful for judicial
6 forums that would otherwise devote resources to other matters.

7 I declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct.

9 Executed this 5th day of October 2022, in Calabasas, California.

10 /s/Haik Hacopian

11 Haik Hacopian, Declarant
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 and on behalf of others similarly situated and other
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Attorneys for Defendant
 THE JOHNNY ROCKETS GROUP

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

EDWIN ENRIQUEZ, individually and on
 behalf of others similarly situated and
 other aggrieved employees,

Plaintiffs,

v.

THE JOHNNY ROCKETS GROUP, an
 active Delaware Corporation; and DOES
 1 through 10,
 Defendants.

Case No.: 19STCV43986

CLASS AND REPRESENTATIVE ACTION

*[Assigned to Hon. Maren E. Nelson in Dept.
 SS-17]*

**STIPULATED SETTLEMENT
 AGREEMENT**

IT IS HEREBY STIPULATED AND AGREED, by and among the undersigned parties,
 subject to the approval of the Court pursuant to Section 382 of the California Code of Civil Procedure
 and Rule 3.769 of the California Rules of Court, that the settlement of this captioned action shall be
 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein shall
 have the meanings set forth in Section I or elsewhere in this Agreement.

I.

DEFINITIONS

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

1.1 “Action” means the lawsuit entitled *Edwin Enriquez, individually and on behalf of others similarly situated and other aggrieved employees v. The Johnny Rockets Group*, and Does 1 to 10, Los Angeles County Superior Court Case No. 19STCV43986.

1.2 “Agreement” or “Settlement Agreement” or “Settlement” means this Stipulated Settlement Agreement, including any Exhibit(s) attached hereto.

1.3 “Aggrieved Employees” means all non-exempt employees who are or previously were employed by Defendant The Johnny Rockets Group, Inc. in California during the PAGA Period.

1.4 “Class List and Data Report” means a list of the names, last known mailing address and Social Security number of each Settlement Class Member, number of Workweeks Worked by each Settlement Class Member during the applicable Class Period, and employment status of each Settlement Class Member as March 1, 2022.

1.5 “Class Period” means the period starting November 18, 2016 to March 1, 2022.

1.6 “Class Notice” or “Notice of Class Action Settlement” means the notice approved by the Court in the Order of Preliminary Approval in the form substantially similar to Exhibit 1, attached hereto. The Class Notice attached as Exhibit 1 shall be provided to Settlement Class Members. The Class Notice to Settlement Class Members will contain the respective Settlement Class Member’s individual information, including name, address, number of Workweeks Worked during the Class Period, and the estimated amount each Settlement Class Member may receive in the Settlement. The Class Notice to be sent to Settlement Class Members will include a Spanish translation; provided, however, that in case of any disagreement or question regarding the translation, the English language version of the Class Notice shall control.

1.7 “Complaint” or “Complaints” mean each and every Complaint filed at any time in the Action.

1.8 “Court” means the Superior Court for the County of Los Angeles.

1.9 “Defendant” or “JOHNNY ROCKETS” means Defendant The Johnny Rockets Group, Inc., a Delaware Corporation.

1.10 “Defense Counsel” means: Lonnie D. Giamela and LaLonnie V. Gray of FISHER & PHILLIPS LLP, 444 S. Flower Street, Suite 1500, Los Angeles California, 90071.

1.11 “Effective Date” means and refers to the date when all of the following events have occurred: (1) this Settlement Agreement has been executed by all Parties; (2) the Court has given preliminary approval to this Settlement Agreement; (3) the Class Notice has been sent to Settlement Class Members, providing them with an opportunity to object to the terms of this Settlement Agreement or to opt out of the Settlement; (4) the Court has held a formal fairness hearing and entered a final Order and Judgment certifying the Settlement Class, and approving this Settlement Agreement; (5) ten (10) calendar days have passed since the Court has entered a Final Approval Order and Judgment certifying the Settlement Class, and approving the Stipulated Settlement Agreement; and (6) in the event there are written objections filed prior to the final fairness hearing which are not later withdrawn or denied, the later of the following events: five (5) business days after the period for filing any appeal, writ or other appellate proceeding opposing the Court’s final Order approving the Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; or, if any appeal, writ or other appellate proceeding opposing the Court’s final Order approving the Settlement has been filed, five (5) business days after any appeal, writ or other appellate proceedings opposing the Settlement has been finally and conclusively dismissed with no right to pursue further remedies or relief.

1.12 “Net Settlement Amount” means the portion of the Settlement Amount available for distribution to Participating Settlement Class Members under this Agreement after payment of (1) the attorneys’ fees and costs award to be paid to Settlement Class Counsel; (2) the service payment to Plaintiff; (3) all payments to or withholdings for governmental authorities for the employee portion of any payroll taxes or other required taxes or withholdings; (4) all payments to the

1 Aggrieved Employees and the California Labor Workforce Development Agency (“LWDA”) for
2 PAGA penalties; and (5) all costs and fees incurred by and awarded to the Settlement Administrator.
3 One hundred percent (100%) of the Net Settlement Amount, less tax withholdings on the portion
4 characterized as wages, shall be distributed to Participating Settlement Class Members with no
5 reversion to Defendant.

6 1.13. “PAGA Period” means the period starting December 9, 2018 to March 1, 2022.

7 1.14 “Participating Settlement Class Member” means a Settlement Class Member
8 who has not timely opted-out of the Settlement.

9 1.15 “Parties” means Defendant and Plaintiff.

10 1.16 “Plaintiff” means named Plaintiff Edwin Enriquez.

11 1.17 “Released Claims” means: all class claims alleged in the operative complaint
12 which occurred during the Class Period, and expressly excluding all other claims, including claims for
13 vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’
14 compensation, and class claims outside of the Class Period. This release includes claims for failure to
15 pay all wages, failure to pay overtime wages, failure to provide meal periods, failure to provide rest
16 periods, failure to reimburse business expenses, failure to provide itemized wage statements, failure
17 to pay all wages and termination and unfair business practices under the California Business and
18 Professions Code associated with same.

19 1.18 “Released PAGA Claims” means all PAGA claims alleged in the operative
20 complaint and Plaintiff’s PAGA notice to the LWDA which occurred during the PAGA Period, and
21 expressly excluding all other claims, including claims for vested benefits, wrongful termination,
22 unemployment insurance, disability, social security, workers’ compensation, and PAGA claims
23 outside of the PAGA Period. This release includes PAGA claims for failure to pay all wages, failure
24 to pay overtime wages, failure to provide meal periods, failure to provide rest periods, failure to
25 reimburse business expenses, failure to provide itemized wage statements, failure to pay all wages and
26 termination and unfair business practices under the California Business and Professions Code
27 associated with same.

28 1.19 “Released Parties” means Defendant, and each of Defendant’s respective past,

1 present, and/or future, direct and/or indirect, officers, directors, members, managers, employees,
2 agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent
3 companies, subsidiaries, related entities, affiliates, divisions, predecessors, successors, assigns, and
4 joint venturers.

5 1.20 "Settlement Administrator" means CPT Group, Inc.

6 1.21 "Settlement Amount" means and refers to the maximum amount of money
7 Defendant will be required to pay pursuant to this Agreement. The Settlement Amount is Six Hundred
8 Thousand Dollars and No Cents (\$600,000.00). The Settlement Amount shall be inclusive of: (1) all
9 payments to Participating Settlement Class Members and Aggrieved Employees; (2) the attorneys'
10 fees and costs award to be paid to Settlement Class Counsel; (3) the service award to Plaintiff; (4) all
11 payments to or withholdings for governmental authorities for the employee portion of any payroll
12 taxes or other required taxes or withholdings; (5) all payments to the LWDA and Aggrieved
13 Employees for PAGA penalties; and (6) all costs and fees incurred by and awarded to the Settlement
14 Administrator. In addition to the Settlement Amount, Defendant shall also be responsible for
15 employer taxes, including the employer FICA, FUTA and SDI contribution, on the wage portion of
16 the Settlement paid to Participating Settlement Class Members. It is estimated that the Settlement
17 Class consists of approximately 522 individuals during the Class Period who worked approximately
18 37,662 workweeks during the Class Period. If the workweek number is greater than 110% of the
19 workweek estimate provided for herein, , Defendant may either: (1) increase the Settlement Amount
20 on a pro rata basis for each workweek in excess of the 110% workweek estimate; or (2) adjust the end
21 date of the Class Period so that the number of workweeks during the Class Period does not exceed
22 110% of the estimate. Except as so provided, the parties agree, covenant and represent that Defendant
23 shall be required to pay no more than the Settlement Amount of \$600,000.00 plus employer taxes as
24 described above.

25 1.22 "Settlement Class" and "Settlement Class Members" means shall refer to the
26 following: All non-exempt employees who previously were employed by Defendant in California
27 during the Class Period.

28 1.23 "Settlement Class Counsel" means the following:

5.

1
2 Zorik Mooradian
3 Haik Hacopian
4 Mooradian Law, APC
5 24007 Ventura Blvd., Suite 210
6 Calabasas, California 91302
7 Telephone: (818) 487-1998
8 Facsimile: (888) 783-1030
9

10 1.24 “Individual PAGA Settlement Payment” means the proportional share of the
11 25% portion of the PAGA Payment (as defined in Paragraph 3.9) allocated and paid to the Aggrieved
12 Employees, as calculated by the Settlement Administrator according to the terms of this Agreement.
13

14 1.25 “Individual Settlement Payment” means the proportional share of the Net
15 Settlement Amount to be paid to Participating Class Members, as calculated by the Settlement
16 Administrator according to the terms of this Agreement.
17

18 1.26 “Workweek Worked” means any calendar week during the applicable Class
19 Period in which a Settlement Class Member performed any work, as reflected in Defendant’s time and
20 payroll records.
21

22 II.

23 RECITALS

24 2.1 On December 9, 2019, Plaintiff Edwin Enriquez filed a class action complaint
25 against Defendant The Johnny Rockets Group, individually and on behalf of other persons similarly
26 situated described as “All individuals who are (or previously were) employed by [Defendant] in the
27 State of California as a non-exempt employee at any and/or all times during the period beginning four
28 (4) years prior to the filing of the initial Complaint in this action through the time of trial.” That lawsuit
is *Edwin Enriquez v. The Johnny Rockets Group*, Superior Court of the State of California in and for
the County of Los Angeles, Case No. 19STCV43986 (“Action”).

2.2 On December 9, 2019, Plaintiff Enriquez communicated a notice letter pursuant
to the Private Attorneys General Act (“PAGA”) to Defendant and thereafter to the Labor and
Workforce Development Agency (“LWDA”). Plaintiff Enriquez’s PAGA claim was assigned case no.

1 LWDA-CM-773887-20 upon electronic submission to the LWDA.

2 2.3 On August 17, 2020, the operative First Amended Complaint was filed in the
3 Action which added a cause of action for PAGA violations. The First Amended Complaint asserts the
4 following causes of action: (1) Failure to Pay Wages; (2) Failure to Provide Meal Periods; (4) Failure
5 to Provide Paid Rest Periods; (4) Failure to Timely Pay Wages at Termination/Separation; (5) Failure
6 to Provide Accurate Wage Statements; (6) Violation of Unfair Business Practices Act – Bus. & Prof.
7 Code §§ 17200, et seq.; and (7) Penalties Pursuant to Private Attorneys General Act (“PAGA”). On
8 September 21, 2020, Defendant filed its Answer to the First Amended Complaint.

9
10 2.4 On May 12, 2021, Plaintiff Edwin Enriquez and Defendant participated in a
11 full-day mediation before Jeffrey Krivis, Esq but were unable to reach a settlement on that date.
12 Thereafter, the Parties resumed litigation and concurrently continued settlement negotiations until
13 reaching a settlement, the terms of which are set forth herein.

14 2.5 Proceedings. This Action has been vigorously litigated between the Parties,
15 including formal discovery and production of documents and electronic records for Plaintiff and the
16 putative class. The Parties specifically and mutually intend to settle the claims for all theories of
17 liability alleged in the foregoing Action with respect to the Settlement Class herein. No class has been
18 certified.

19 2.6 Reasons for Settlement. Plaintiff and Settlement Class Counsel have concluded,
20 after taking into account disputed factual and legal issues involved in the Action, the risks attending
21 further prosecution, and the benefits received and to be received pursuant to the compromise and
22 settlement of the Action, that settlement on the terms hereinafter set forth is in the best interest of
23 Plaintiff and the Settlement Class. Defendant and Defense Counsel have concluded, after taking into
24 account the disputed factual and legal issues involved in the Action, the risks attending further defense
25 and litigation, the substantial expense and burden of protracted litigation, and their desire to put the
26 controversy to rest, that settlement on the terms hereinafter set forth is in the best interest of Defendant.

27 2.7 Defendant’s Denial of Wrongdoing. Defendant has denied and continues to
28 deny each of the claims and contentions alleged by Plaintiff in the Action. Defendant has repeatedly

1 asserted and continues to assert defenses thereto, and has expressly denied and continues to deny any
2 wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Action. Neither
3 this Agreement, nor any document referred to or contemplated herein, nor any action taken to carry
4 out this Agreement, is, may be construed as, or may be used as an admission, concession or indication
5 by or against Defendant of any fault, wrongdoing or liability whatsoever. The Settling Parties
6 understand and agree that this Settlement Agreement is the result of a good faith compromise
7 settlement of disputed claims, and Defendant enters into this agreement solely to resolve disputed
8 matters. No part of this Settlement Agreement or any conduct or written or oral statements made in
9 connection with this Settlement and this Settlement Agreement, whether or not the Settlement is finally
10 approved and/or consummated, may be offered as or construed to be an admission or concession of
11 any kind by Defendant or any of the Releasing or Released Parties or anyone else. In particular, but
12 without limiting the generality of the foregoing, nothing about this Settlement Agreement shall be
13 offered or construed as an admission that Defendant has failed to pay any Class Member in accordance
14 with its obligations set forth in the California Labor Code, or of liability in general, or any wrongdoing,
15 impropriety, responsibility, or fault whatsoever on the part of Defendant and/or the Released Parties.
16 Similarly, nothing about this Settlement Agreement shall be construed as or deemed to be evidence
17 of, or an admission or concession by Defendant that the Class Representative or any Class Member
18 has suffered any damage. In addition, this Settlement Agreement shall not be offered or be admissible
19 in evidence against Defendant or any Released Party, except in any action or proceeding brought by
20 or against Plaintiff, the Class, Class Members, or Defendant to enforce its terms, or by Defendant in
21 defense of any claims brought by Plaintiff, the Class, Class Members, or any member of the general
22 public, including any and all individuals who opted out of the Class.

23 2.8 Settlement. This Settlement was agreed to after, and as a result of arms-length
24 negotiations between the Parties facilitated by an experienced and neutral mediator. This Settlement
25 contemplates: (1) the discharge of liability for all claims raised in the Action and for those claims
26 released in this Agreement; and (2) the entry of an Order and Judgment of Final Approval granting
27 monetary relief to Participating Settlement Class Members as set forth in this Agreement.
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III.

TERMS OF THE SETTLEMENT

3.1 ***NOW, THEREFORE, IT IS HEREBY STIPULATED***, by and among Plaintiff, on his own behalf and on behalf of the Settlement Class Members, and Defendant on the other hand, and subject to the approval of the Superior Court, that the Action is hereby being compromised and settled pursuant to the terms and conditions set forth in this Agreement, subject to the definitions and recitals set forth hereinabove which by this reference become an integral part of this Agreement and subject to the following terms and conditions:

3.2 **Full Investigation**. Plaintiff Enriquez has fully investigated the factual and legal bases for the causes of action asserted in the Action and the claims being released by this Settlement.

3.3 **Conditional Certification of the Settlement Class**. No class has been certified in the Action. The Parties hereby consent and agree, solely for purposes of the Settlement set forth in this Agreement, to the conditional certification of the Settlement Class, to the conditional appointment of Settlement Class Counsel, and to the conditional approval of the Representative Plaintiff Edwin Enriquez.

3.4 **Contingent Nature of the Settlement**. The agreement to conditionally certify the Settlement Class is contingent upon final approval of this Agreement by the Court and is made for settlement purposes only. If the Settlement fails to be approved or otherwise fails to be consummated for any reason whatsoever, including but not limited to the Judgment not becoming final, then the Parties retain all rights previously available to them, and any provisional certification of any class, or the adoption of any procedure herein, shall be undone and the Parties restored to their pre-settlement status as if no settlement had been reached and no decisions were made pursuant to it, except as otherwise expressly provided herein. In that event, no evidence presented or statement made as part of this Settlement, including the Class Notice, shall be admissible in subsequent proceedings to support or oppose class certification by either side.

3.5 **Settlement Amount**. Subject to entry of a Final Approval order by the Court and the additional conditions specified in this Agreement, and in consideration of the mutual covenants

1 and promises set forth herein, Defendant agrees to make two payments under this Agreement totaling
2 Six Hundred Thousand Dollars and No Cents (\$600,000.00) (the "Settlement Amount") in full and
3 final settlement of this matter and the Released Claims, as contemplated by the schedule set forth in
4 Paragraph 4.12 below. Defendant shall also pay employer taxes on the wage portion of the Individual
5 Settlement Payments made to Participating Class Members. In no event shall Defendant be required
6 to pay any amount above the Settlement Amount and employer taxes except as otherwise set forth
7 herein.

8 3.6 Attorneys' Fees and Cost Award. Defendant agrees not to oppose or impede
9 any application or motion by Settlement Class Counsel for attorneys' fees not in excess of Two
10 Hundred Ten Thousand Dollars and No Cents (\$210,000.00), or thirty-five percent (35%) of the
11 Settlement Amount. Defendant further agrees not to oppose any application or motion by Settlement
12 Class Counsel for the reimbursement of any costs associated with Settlement Class Counsel's
13 prosecution of this Action not in excess of Twenty Five Thousand Dollars and No Cents (\$25,000.00).
14 Any amount awarded for costs to Settlement Class Counsel less than \$25,000.00 will result in the non-
15 awarded amount of costs being distributed to Participating Settlement Class Members in this matter
16 in an amount proportionate to the amount of their Individual Settlement Payment. Any amount
17 awarded for attorneys' fees to Settlement Class Counsel of less than \$210,000 will result in the non-
18 awarded amounts of attorneys' fees being distributed to Participating Settlement Class Members in
19 this matter in an amount proportionate to the amount of their Individual Settlement Payment unless
20 Settlement Class Counsel appeals the attorneys' fee award. The attorneys' fees can be appealed by
21 Settlement Class Counsel without affecting the remainder of this Agreement. If an appeal on a reduced
22 attorney fee award is taken and is unsuccessful or only partially successful, each Participating
23 Settlement Class member shall be entitled to receive a second distribution of the difference between
24 the amount requested and the amount awarded, which second distribution shall be distributed in an
25 amount proportionate to the amount of each Participating Settlement Class Member's Individual
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1 Settlement Payment within thirty (30) days of a final ruling on the appeal. Settlement Class Counsel
2 will be responsible for any second distribution, if necessary. Settlement Class Counsel shall be solely
3 and legally responsible to pay all applicable taxes on the payment(s) made pursuant to this Paragraph.
4 Forms 1099 – MISC, Box 14 shall be provided to Settlement Class Counsel for the payments made
5 pursuant to this Paragraph. For the avoidance of doubt, the final amount of attorneys’ fees and costs
6 to be paid to the Settlement Class Counsel (along with other payments described herein) are to be paid
7 out of the Settlement Amount and shall not result in any liability of Defendant in excess of the
8 Settlement Amount outside of employer side payroll taxes.
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11 3.7 Settlement Administrator. The Settlement Administrator shall be paid for the
12 costs of administration of the settlement from the Settlement Amount. The estimate of such costs of
13 administration is Thirteen Thousand Dollars and No Cents (\$13,000.00), and which is based on
14 522 Settlement Class Members. Any amount awarded for costs of administration to the Settlement
15 Administrator less than \$13,000.00 will result in the non-awarded amount to be awarded to
16 Participating Settlement Class Members in an amount proportional to the amount of their Individual
17 Settlement Payment. This estimate includes the required tax reporting on the settlement amounts,
18 including but not limited to the issuing of W2 and 1099 forms (if any), as well as calculation of
19 employee withholding taxes and the employer payroll taxes for Defendant to be remitted to the tax
20 authorities by the Settlement Administrator. A Form 1099 – MISC, Box 7 shall be issued to the
21 Settlement Administrator.

22 3.8 Service Award. Subject to Court approval, in exchange for the release of all
23 Released Claims, a General Release of all claims, and for his time and effort in bringing and
24 prosecuting this matter, Plaintiff Enriquez shall be paid up to a total of Ten Thousand Dollars and No
25 Cents (\$10,000.00), or such lower amount as the Court may order. The Parties agree that a decision
26 by the Court to award Plaintiff Enriquez an amount less than the amount stated above shall not be a
27 basis for Plaintiff Enriquez or Settlement Class Counsel to void this Agreement. The Settlement
28 Administrator shall issue a Form 1099 – MISC, Box 3 for the service award. Any amount awarded for

3.9 PAGA Payment. The total amount of the Settlement Amount allocated to PAGA claims being settled by this Agreement shall be Twenty Thousand Dollars and No Cents (\$20,000.00). Of this amount, Fifteen Thousand Dollars and No Cents (\$15,000.00) shall be paid to the LWDA as part of this Settlement. This PAGA Payment is made pursuant to PAGA's penalty provisions. The balance of Five Thousand Dollars and No Cents (\$5,000.00) shall be included in the Net Settlement Amount for distribution to Aggrieved Employees who were employed during the PAGA Period. The sum attributable to each Aggrieved Employee shall be allocated based on the proportionate number of weekly pay periods worked by the individual Aggrieved Employee during the PAGA Period relative to the total number of weekly pay periods worked by all Aggrieved Employees during the PAGA Period. Settlement Class Members who are entitled to a PAGA share and who exclude themselves from the Settlement will still be paid their PAGA share under this paragraph and will still release the PAGA Released Claims.

3.10 Tax Liability. Defendant makes no representations as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff is not relying on any statement or representation by Defendant in this regard. Plaintiff understands and agrees that Plaintiff will be solely responsible for the payment of any taxes and penalties assessed on the payments described herein.

SETTLEMENT PROCEDURES

4.1 Preliminary Settlement Hearing. Plaintiff shall file a motion for preliminary approval of the proposed Settlement and setting a date for a Final Approval Hearing. In conjunction

1 with the hearing on the motion for preliminary approval of the Settlement, Plaintiff will submit this
2 Stipulated Settlement Agreement and the attached Notice, and a preliminary approval order which sets
3 forth the terms of this Settlement Agreement. The Order shall provide for Notice of the Settlement and
4 related matters to be sent to Settlement Class Members as specified herein.

5 4.2 Settlement Administration/Management. This Settlement shall be managed and
6 administered as follows:

- 7 a. CPT Group, Inc. shall be retained to serve as Settlement Administrator. The Parties
8 each represent they do not have any financial interest in the Settlement
9 Administrator or otherwise have a relationship with the Settlement Administrator
10 that could create a conflict of interest.
- 11 b. Defendant will diligently and in good faith compile and provide to the Settlement
12 Administrator the Class List and Data Report within fourteen (14) calendar days of
13 Preliminary Approval of the Settlement. The report shall be provided to the
14 Settlement Administrator in a computer-readable format.
- 15 c. Within fourteen (14) calendar days of receipt of the Class List and Data Report, the
16 Settlement Administrator shall determine the approximate amount of each
17 Settlement Class Member's Individual Settlement Amount and will prepare and
18 mail the appropriate Class Notice to each Settlement Class Member.
- 19 d. All Settlement Class Members who do not timely opt-out of the Settlement will
20 receive Individual Settlement Payments as Participating Settlement Class Members
21 without having to submit any claim.
- 22 e. Ten (10) business days following the expiration of the period to opt-out or submit
23 objections, the Settlement Administrator shall provide Defendant and Settlement
24 Class Counsel a report and declaration indicating: (i) the names and number of
25 Settlement Class Members who have objected to the Settlement; (ii) the names of
26 the Settlement Class Members who have opted out of the Settlement; (iii) the names
27 of each Participating Settlement Class Member and the Individual Settlement
28 Amount for each Participating Settlement Class Member; and (iv) the total amount

1 of employer-side taxes on the Wage Component of the Participating Settlement
2 Class Members' Individual Settlement Payments.

3 f. The Parties agree to cooperate in the settlement administration process and to make
4 all reasonable efforts to control and minimize the costs and expenses incurred in
5 administration of the Settlement.

6 g. The Settlement Administrator shall be responsible for: calculating the approximate
7 amount of the Individual Settlement Amount for each Settlement Class Member;
8 printing and mailing the Class Notice to Settlement Class Members; resolving
9 Settlement Class Member disputes regarding the number of Workweeks Worked
10 by the Settlement Class Member during the applicable Class Period; receiving and
11 reporting the objections and Requests for Exclusion submitted by Settlement Class
12 Members; notifying Defendant of the total amount to be paid to fully fund the
13 Settlement; calculating, preparing and mailing Individual Settlement Payments to
14 Participating Settlement Class Members; distributing the Attorney's Fees and Costs
15 Award, PAGA Payment and service award to Plaintiff Enriquez; creating all
16 required tax and reporting forms and remitting appropriate monies to the taxing
17 authorities; and otherwise performing all tasks required to properly administer the
18 Settlement. The Settlement Administrator shall keep Defendant's Counsel and
19 Settlement Class Counsel timely apprised of the performance of all Settlement
20 Administrator responsibilities.

21 h. The Settlement Administrator, on Defendant's behalf, shall have the authority and
22 obligation to make payments, credits and disbursements, including payments and
23 credits in the manner set forth herein, to Participating Settlement Class Members
24 and taxing authorities calculated in accordance with the methodology set out in this
25 Agreement and orders of the Court.

26 i. Any tax return filing required in conjunction with the payments to be made pursuant
27 to this Agreement shall be made by the Settlement Administrator. Any expenses
28 incurred in connection with such filing shall be a cost of administration of the

1 Settlement.

- 2 j. No person shall have any claim against Defendant or Defendant's Counsel, Plaintiff
3 Enriquez, Settlement Class Members, the Settlement Class, Settlement Class
4 Counsel or the Settlement Administrator based on distributions and payments made
5 in accordance with this Agreement.

6 4.3 Calculation of Individual Settlement Amounts. To determine the Individual
7 Settlement Amount to be included in the Class Notice sent to Settlement Class Members, the
8 Settlement Administrator will:

- 9 a. Determine the total number of Workweeks Worked by the Settlement Class during
10 the Class Period as provided in the Class List and Data Report.
11 b. Divide the Net Settlement Amount, less Five Thousand Dollars (\$5,000), by the
12 total number of Workweeks Worked by the Settlement Class to determine the Per
13 Workweek Settlement Amount. The Per Workweek Settlement Amount shall then
14 be multiplied by the number of Workweeks Worked by each Settlement Class
15 Member during the applicable Class Period to determine each Settlement Class
16 Member's Individual Settlement Amount. All Settlement Class Members will be
17 entitled to payment for at least one (1) workweek.

18 4.4 Notice to Settlement Class Members. Notice of the Settlement shall be
19 provided to all Settlement Class Members using the following procedures:

- 20 a. Notice By First-Class Mail. Within fourteen (14) calendar days after receipt of
21 the Class List and Data Report, the Settlement Administrator shall mail the
22 Class Notice to the Settlement Class Members via first-class regular U.S. mail.
23 Class Notice to Settlement Class Members shall substantially be in the form
24 attached hereto as Exhibit 1. Prior to mailing, the Settlement Administrator
25 will perform a search based on the National Change of Address Database
26 information to update and correct for any known or identifiable address
27 changes. If a new address is obtained by way of a returned Notice, then the
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1 Settlement Administrator shall promptly forward the original Class Notice and
2 to the updated address via first-class regular U.S. mail indicating on the original
3 Class Notice packet the date of such re-mailing.

4 b. Opt Out/Objection Deadline Date. Settlement Class Members will have Sixty
5 (60) days from the mailing of the Class Notice to submit a Request for
6 Exclusion or object to the Settlement.

7 c. Disputes Regarding Individual Settlement Amounts. The Parties agree that if
8 any Class Member disputes the number of Workweeks Worked attributed to
9 him or her during the applicable Class Period, absent clear evidence submitted
10 by the Settlement Class Member establishing otherwise, Defendant's records
11 shall presumptively control. The Parties further agree that any dispute shall be
12 resolved by the Settlement Administrator with the assistance of Settlement
13 Class Counsel and Defense Counsel. Class Members shall have Sixty (60) days
14 from the mailing of the Class Notice to submit their dispute under this
15 paragraph, inclusive of all documentation that they wish to have considered. To
16 the extent the Settlement Administrator is unable to resolve the dispute to the
17 satisfaction of the Settlement Class Member, the Parties will submit the dispute
18 with all supporting evidence to the Court for final adjudication at the Final
19 Approval Hearing.

20 d. Procedure for Undeliverable Notices. Any Notice returned to the Settlement
21 Administrator as non-delivered on or before the expiration of the Opt Out and
22 Objections Deadline Date shall be sent to the forwarding address affixed thereto
23 within five (5) business days. If no forwarding address is provided, then the
24 Settlement Administrator shall promptly attempt to determine a correct address
25 using a single skip-trace, computer or other search using the name, address
26 and/or Social Security number of the individual involved, and shall then
27 perform a single re-mailing within five (5) business days. Those Settlement
28 Class Members that receive a re-mailed Class Notice shall have their deadline

1 for submitting an opt-out, objection, or disputes regarding Individual
2 Settlement Amounts to the Settlement extended by seven (7) calendar days
3 from the post mark date of re-mailing. In the event the procedures in this
4 Paragraph are followed and the intended recipient of a Class Notice still does
5 not receive the Notice, the Settlement Class Member shall be bound by all terms
6 of the Settlement and any final order entered by the Court if the Settlement is
7 approved by the Court.

8 4.5 Procedure for Requesting Exclusion (“Opt Out”) from the Class Action
9 Settlement. The Class Notice shall inform all Settlement Class Members that they may exclude
10 themselves from the Settlement, but that they may not exclude themselves from the settlement of the
11 PAGA claims.

12 a. Requesting Exclusion. If a Settlement Class Member elects to exclude
13 herself/himself from the Settlement (“opt out”), the Settlement Class Member
14 must submit a written Request for Exclusion requesting exclusion from the
15 Action on or before the expiration of the Opt Out Period (60 days after the date
16 that the Class Notice is mailed). Such Request for Exclusion must contain the
17 name, address, telephone number, and the last four digits of the Social Security
18 number of the person requesting exclusion. The Request for Exclusion must be
19 returned to the Settlement Administrator as instructed in the Class Notice and
20 must be postmarked on or before the date specified in the Class Notice. The
21 date of the postmark on the return mailing envelope shall be the exclusive
22 means used to determine whether a Request for Exclusion has been timely
23 submitted.

24 b. No Solicitation of Opt-Outs. At no time shall any of the Parties or their counsel
25 seek to solicit or otherwise encourage Settlement Class Members to opt out of
26 the Settlement.

27 c. Effect of Exclusion. Any Settlement Class Member who requests exclusion
28 from the Settlement by timely submitting a valid Request for Exclusion will not

1 be entitled to an Individual Settlement Payment (but will be entitled to an
2 Individual PAGA Settlement Payment if he or she is an Aggrieved Employee),
3 will no longer be a Settlement Class Member and will not be bound by the
4 Agreement or have any right to object, appeal or comment thereon, except that
5 he or she will still be bound by the release of the PAGA Released Claims if he
6 or she is an Aggrieved Employee. Settlement Class Members who fail to submit
7 a valid and timely Request for Exclusion on or before the expiration of the Opt
8 Out Period shall be bound by all terms of the Agreement and the Final Approval
9 Order and/or Order and Final Judgment.

10 4.6 Procedure for Objecting to the Class Action Settlement. Any Settlement Class
11 Member wishing to object to the Settlement must submit an objection to the Settlement using the
12 following procedures:

- 13 a. Procedure for Objecting. The Class Notice shall provide that those Settlement
14 Class Members who wish to object to the Settlement may mail a written
15 statement of objection (“Notice of Objection”) to the Settlement Administrator
16 no later than the deadline to opt out or object. Settlement Class Members who
17 timely opt out of the Settlement cannot submit an objection to the Settlement.
18 The postmark date of the mailing shall be deemed the exclusive means for
19 determining that a Notice of Objection is timely. Only Settlement Class
20 Members who do not opt out of the Settlement may object to the Settlement.
21 The written objection must include the Settlement Class Member’s name,
22 address and phone number and the name of this case. Settlement Class Members
23 who do not opt out of the Settlement and who submit a timely Notice of
24 Objection may, at their option, include with their objection any legal briefs,
25 papers or memoranda the objecting Settlement Class Member wishes to submit
26 to the Court, or file such legal briefs, papers or memoranda directly with the
27 Court no later than fifteen (15) days prior to the Final Approval Hearing. The
28 Settlement Administrator shall send all objections by .pdf to counsel for

1 Defendant and Class Counsel, and also include the objections in its declaration
2 which is to be submitted to the Court in support of final approval of the
3 Settlement. Settlement Class Members who fail to submit a timely Notice of
4 Objection to the Settlement Administrator will not be barred from making an
5 appearance at the Final Approval Hearing to orally present their objection for
6 consideration by the Court.

7 b. Copies of Objections to the Parties. No later than ten (10) business days after
8 the deadline to opt out or object, the Settlement Administrator shall
9 electronically provide to counsel for the Parties complete copies of each Notice
10 of Objection received, including the postmark dates for each Notice, and any
11 legal briefs, papers or memoranda in support of objections received by the
12 Settlement Administrator.

13 c. No Solicitation of Objections. The Parties agree to use their best efforts to carry
14 out the terms of this Settlement. At no time shall any of the Parties or their
15 counsel seek to solicit or otherwise encourage Settlement Class Members to
16 submit written objections to the Settlement or appeal from the final order and/or
17 judgment.

18 d. Settlement Class Members who object to the Settlement shall be conclusively
19 bound by the Release contained in this Agreement.

20 4.7 Failure to Respond to the Notice. Any Settlement Class Member who does not
21 request to be excluded from the Settlement shall continue to be a Settlement Class Member and be
22 conclusively bound by the Release contained in this Agreement and shall be entitled to his or her
23 Individual Settlement Payment.

24 4.8 Procedure for Payment of Individual Settlement Payments: All Settlement
25 Class Members who do not timely opt out of the Settlement will receive an Individual Settlement
26 Payment, to be distributed through the Settlement Administrator pursuant to Section 4.13 below.
27 Individual Settlement Payments for Participating Settlement Class Members shall be paid pursuant to
28 the settlement formula set forth herein. Should any question arise regarding the determination of

a. Only Participating Settlement Class Members shall be entitled to payment under the Settlement. Participating Settlement Class Members shall be entitled to the payment of the Individual Settlement Amount calculated as set forth above in Paragraph 4.3. Any portion of the Net Settlement Amount not payable to Settlement Class Members shall be distributed to Participating Settlement Class Members on a basis proportional to the number of Workweeks Worked by each Participating Settlement Class Member, including Workweeks Worked enhancements. The total payout to each Participating Settlement Class Member shall be known as the Individual Settlement Payment.

b. Twenty Percent (20%) of each Participating Settlement Class Member's Individual Settlement Payment shall be apportioned to wages ("Wage Component"). The Wage Component shall be reduced by any required legal deductions for each Participating Settlement Class Member. Standard employee payroll deductions shall be made for state and federal withholding taxes and any other applicable payroll deductions owed by the Participating Settlement Class Members as a result of the Wage Component. The Settlement Administrator will issue a check and W-2 Form to each Participating Settlement Class Member for the Net Wage Component.

c. Eighty Percent (80%) of each Participating Settlement Class Member's

1 Individual Settlement Payment shall be apportioned to interest and penalties.
2 No withholding shall be made on the interest and penalty portion of the
3 Individual Settlement Payment. The Settlement Administrator will issue a
4 second check and IRS Form 1099 for the interest and penalty component paid
5 to each Participating Settlement Class Member.

6 d. All Aggrieved Employees shall be entitled to a payment of the PAGA Payment.
7 One Hundred Percent (100%) of each Aggrieved Employee's Individual PAGA
8 Settlement Payment shall be apportioned to penalties with an IRS Form 1099
9 to be issued accordingly.

10 e. The Settlement Administrator shall be responsible for issuing the payments and
11 calculating and withholding all required state and federal taxes.

12 f. Defendant will be responsible for paying all employer tax liabilities on the
13 Wage Component separate and apart from the Settlement Amount which shall
14 be conclusively determined upon final approval once the final number of
15 Participating Class Members and Individual Settlement Payment Amounts are
16 known.

17 g. Defendant makes no representation as to the tax treatment or legal effect of the
18 payments called for hereunder, and the Class Representative and Class
19 Members are not relying on any statement, representation, or calculation by
20 Defendant or by the Settlement Administrator in this regard. The Class
21 Representative and Class Members understand and agree that except for
22 Defendant's payment of the employer's portion of any employment and payroll
23 taxes and contributions, they will be solely responsible for the payment of any
24 taxes and penalties assessed on the payments described herein and will defend,
25 indemnify, and hold Defendant free and harmless from and against any claims
26 resulting from treatment of such payments as non-taxable damages.

27 h. Participating Settlement Class Members shall be conclusively bound by the
28 Release contained in this Agreement.

1 4.10 Nullification of Settlement Agreement. In the event: (i) the Court does not enter
2 the Preliminary Approval Order specified herein; (ii) the Court does not finally approve the Settlement
3 as provided herein; (iii) the Court does not enter a Final Judgment as provided herein, which becomes
4 final as a result of the occurrence of the Effective Date; (iv) the Settlement or Final Judgment is
5 reversed on appeal; (v) the Effective Date does not occur; or (vi) the Settlement does not become final
6 for any other reason, this Settlement Agreement shall be null and void, any order or judgment entered
7 by the Court in furtherance of this Settlement shall be treated as void from the beginning, and the
8 stipulations and recitals contained herein shall be of no force or effect, and shall not be treated as an
9 admission by any parties or their Counsel. In such a case, the Parties shall be returned to their
10 respective statuses as of the date and time immediately prior to the execution of this Agreement, and
11 the Parties shall proceed in all respects as if this Settlement Agreement had not been executed, except
12 that any fees already incurred by the Settlement Administrator shall be paid by Defendant.

13 4.11 Final Approval Hearing and Entry of Final Judgment. At least thirty (30)
14 business days after expiration of the Opt-Out/Objection Period, the Final Approval Hearing shall be
15 conducted to determine final approval of the Settlement along with the amount properly payable for
16 (i) the attorney's fees and costs award, (ii) any service award for Plaintiff Enriquez, and (iii) settlement
17 administration costs. In advance of said hearing, Settlement Class Counsel shall timely file and serve
18 their motion seeking final approval of the Settlement, an award of attorneys' fees and costs consistent
19 with the terms of this Agreement, and service award for Plaintiff Enriquez. Upon final approval of the
20 Settlement by the Court the Parties shall present a final judgment to the Court for its approval. After
21 entry of the final judgment, the Court shall have continuing jurisdiction solely for purposes of
22 addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) Settlement
23 administration matters, and (iii) such post-Final Judgment matters as may be appropriate under court
24 rules or as set forth in this Agreement.

25 4.12 Creation of the Qualified Settlement Fund and Administration of the
26 Settlement. Defendant shall deliver the Settlement Amount to the Settlement Administrator who shall
27 deposit said funds into a Qualified Settlement Fund created by the Settlement Administrator pursuant
28 to Internal Revenue Code Section 1.468B-1 ("QSF"). Within thirty (30) days after the Effective Date,

1 but no sooner than January 2, 2023, Defendant shall deliver one-half of the Settlement Amount, or
2 Three Hundred Thousand Dollars and No Cents (\$300,000.00), and the corresponding share of
3 employer taxes to the Settlement Administrator. Not later than January 1, 2024, Defendant shall
4 deliver the remaining one-half of the Settlement Amount, or Three Hundred Thousand Dollars and No
5 Cents (\$300,000.00), and the corresponding share of employer taxes to the Settlement Administrator.
6 All payments that Defendant is required to make pursuant to the Settlement Agreement shall be made
7 from this Fund. To the extent Defendant fails to deliver payments by the deadlines contemplated
8 herein, interest shall accrue on the balance at the legal rate of interest until funding is completed.
9 Plaintiff may seek entry of judgment on an *ex parte* basis for any balance owed and be entitled to
10 recovery of reasonable fees and costs should any such effort be undertaken. Payments from the
11 Qualified Settlement Fund shall be made for (1) any service award to Plaintiff Enriquez, as specified
12 in this Agreement and approved by the Court; (2) the attorneys' fees and costs award paid to Settlement
13 Class Counsel, as specified in this Agreement and approved by the Court; (3) the Settlement
14 Administration Costs, as specified in this Agreement and approved by the Court; (4) the amount
15 allocated to the LWDA for its portion of the PAGA Payment; (5) all payments to Participating
16 Settlement Class Members; and (6) payment of both the employee and employer portions of tax
17 withholdings on the portions of the Net Settlement Amount characterized as wages.

18 4.13 Distribution by the Settlement Administrator. The Settlement Administrator
19 shall make proportionate distributions from the Qualified Settlement Fund not later than fourteen (14)
20 days after receiving each one-half installment of the Settlement Amount from Defendant. Prior to each
21 distribution, the Settlement Administrator will perform a search based on the National Change of
22 Address Database information to update and correct for any known or identifiable address changes. If
23 a new address is obtained by way of a returned distribution payment, then the Settlement Administrator
24 shall promptly forward the distribution payment to the updated address via first-class regular U.S. mail
25 indicating on the original mailing the date of such re-mailing. With the distribution, the Settlement
26 Administrator is to make distributions to the appropriate parties for payments due under this
27 Agreement as follows:

28 a. Settlement Class Counsel's attorneys' fees and costs as awarded by the Court

1 under Paragraph 3.6 herein.

2 b. The service award to Plaintiff Enriquez as awarded by the Court under
3 Paragraph 3.8 herein.

4 c. The PAGA payments to the LWDA and Aggrieved Employees as set forth in
5 Paragraph 3.9 herein.

6 d. Payment to the Settlement Administrator for the costs of settlement
7 administration as set forth in Paragraph 3.7 herein and approved by the Court.

8 e. Individual Settlement Payments to Participating Class Members as set forth in
9 Paragraph 4.3 and 4.9 herein.

10 4.14 Undeliverable Individual Settlement Payments. Should any Individual
11 Settlement Payment checks be returned as undeliverable to the Settlement Administrator, the
12 Settlement Administrator shall use reasonable efforts to identify a correct address for the Participating
13 Class Member, and cause the Individual Settlement Payment check to be delivered to the correct
14 address.

15 4.15 Uncashed Individual Settlement Payment Checks. All checks for Individual
16 Settlement Payments shall remain valid and negotiable for 180 days from the date of their issuance.
17 Funds associated with any checks not cashed during the 180 day period after the first distribution shall
18 be made available to the Participating Settlement Class Member as part of the final distribution. Any
19 checks not cashed during the 180 day period after the final distribution shall be void, and the
20 Participating Settlement Class Member's release set forth herein shall remain valid. After the 180 day
21 period following the final distribution, all funds will escheat to the State of California's Unclaimed
22 Property Fund in the name of the Class Member.

23 4.16 Certification By Settlement Administrator. Upon completion of administration
24 and upon the distribution set forth in Section 4.15 above, the Settlement Administrator shall provide
25 written certification of such completion, including any administration summary, to the Court and
26 counsel for all Parties.

27 V.

28 24.

RELEASES

5.1 Release As To All Participating Class Members. Upon the Effective Date and funding in full of the Settlement Amount by Defendant, all Settlement Class Members who do not timely opt out of the Settlement ("Participating Class Members"), including their heirs, assigns, estates and representatives, shall be deemed to fully forever, irrevocably and unconditionally release and discharge the Released Parties from the Released Claims. The Settlement Agreement shall be in full settlement, compromise, release and discharge of the Released Claims and each of them, and the Released Claims by the Class Representative, and the Released Parties shall have no further or other liability or obligation to any Class Member and/or the Class Representative with respect to the Released Claims and Class Representative's Released Claims, except as expressly provided herein.

Release As To All Aggrieved Employees. Upon the Effective Date and funding in full of the Settlement Amount by Defendant, Plaintiff and the State of California shall be deemed to fully forever, irrevocably and unconditionally release and discharge the Released Parties from the Released PAGA Claims.

5.2 General Release By Named Plaintiff Only. In addition to the release made by the Participating Class Members as set forth in Paragraph 5.1 hereof, Plaintiff Enriquez, in his individual capacity and with respect to his individual claims only, agrees to release the Released Parties from all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule or regulation arising out of, relating to, or in connection with any act or omission by or on the part of any of the Released Parties committed or omitted prior to the execution hereof including a waiver of Civil Code §1542.

5.2.1. The General Release includes any unknown claims that Plaintiff Enriquez does not know or suspect to exist in his favor at the time of the General Release, which, if known by him, might have affected his settlement with, and release of, the Released Parties or might have affected his decision not to object to this Settlement or the General Release.

5.2.2. The Class Representative hereby fully and finally releases and discharges the

Released Parties from any and all of the Released Claims and from any and all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known or unknown, suspected or unsuspected, that the Class Representative had, now has, or may hereafter claim to have against the Released Parties arising out of, or relating in any way to, the Class Representative's hiring by, employment with, separation of employment with the Released Parties ("Class Representative's Released Claims"), arising or accruing from the beginning of time up through the date the Court preliminarily approves this Settlement. The Class Representative's Released Claims include, but are not limited to, claims arising from or dependent on the California Labor Code; the Wage Orders of the California Industrial Welfare Commission; California Business and Professions Code section 17200 *et seq.*; the California Fair Employment and Housing Act, Cal. Gov't Code § 12900 *et seq.*; the California common law of contract and tort; Title VII of the Civil Rights Act of 1964; the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*; the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*; the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* and the Portal to Portal Act, 29 U.S.C. § 251 *et seq.* This release expressly excludes any Worker's Compensation claims the Class Representative currently may have pending against Defendant.

The Class Representative further warrants that he understands that Section 1542 gives him the right not to release existing claims of which he is not now aware, unless he voluntarily chooses to waive this right. Having been so apprised, the Class Representative shall nevertheless voluntarily waive the rights described in Section 1542 only as related to the Released Claims and Class Representative's Released Claims, and elects to assume all risks as to the Released Claims set forth herein that now exist in his favor, known or unknown. Plaintiff agrees that due to irreconcilable differences he will not knowingly seek or maintain employment, independent contractor status, or any other business relationship with Defendant in the future in any position or capacity whatsoever and that Defendant is entitled to reject (and will be deemed to have rejected) with or without cause, any application for employment or agreement for independent contractor status or any other business relationship with Defendant made by Plaintiff. Plaintiff further agrees that any rejection of any application or offer made by Defendant to Plaintiff is not for retaliatory, discriminatory or any other illegal purpose and Plaintiff will not seek any redress, legally or otherwise, for such a rejection.

5.2.3. Plaintiff Enriquez may hereafter discover facts in addition to or different from those he now knows or believes to be true with respect to the subject matter of the General Release, but he shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever settled and released any and all of the claims released pursuant to the General Release whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.

VI.

MISCELLANEOUS

6.1 No Public Comment. All Parties and Class Counsel agree they will not, except as may be required by applicable law, make any public disclosure of the Settlement or the previously-signed Memorandum of Understanding until after this Stipulated Settlement Agreement is filed with the Court. Class Counsel will take all steps necessary to ensure all Parties are aware of, and will encourage them to adhere to, the restriction against any public disclosure of this Stipulated Settlement Agreement until after this Stipulated Settlement Agreement is filed with the Court. Following the filing of this Stipulated Settlement Agreement, all Parties and Class Counsel agree they will not have any communications with the media regarding the Action or Stipulated Settlement, other than to direct the media to the public records of the Action on file with the Court. Class Counsel will take all steps necessary to ensure all Parties are aware of, and will adhere to, the restriction against any media comment on this Stipulated Settlement Agreement and its terms.

6.2 No Additional Benefits. All Individual Settlement Payments paid to Participating Settlement Class Members shall be deemed to be paid to such Participating Settlement Class Members solely in the year in which such payments actually are received by Participating Settlement Class Members. It is expressly understood and agreed that the receipt of such payments will not entitle any Participating Settlement Class Member to any additional compensation or benefits

1 under any bonus, contest or other compensation or benefit plan or agreement currently in place and/or
2 that was in place during the applicable Class Period or thereafter, nor will receipt of such payments
3 entitle any Participating Settlement Class Member to any increased retirement, 401k benefits or
4 matching benefits, deferred compensation benefits or any other type of benefit. It is the intent of this
5 Settlement that the Individual Settlement Payments provided for in this Agreement are the sole
6 payments to be made by Defendant to the Participating Settlement Class Members, and that the
7 Participating Settlement Class Members are not entitled to any new or additional compensation or
8 benefits as a result of having received the payments, notwithstanding any contrary language or
9 agreement in any benefit or compensation plan document currently in place and/or that was in place
10 during the applicable Class Period or thereafter.

11 6.3 Dispute Resolution. Except as otherwise set forth herein, all disputes
12 concerning the interpretation, calculation or payment of settlement claims, or other disputes regarding
13 compliance with this Agreement shall be resolved as follows:

- 14 a. If Plaintiff Enriquez, or Settlement Class Counsel, on behalf of Plaintiff
15 Enriquez, or any Settlement Class Member, or Defense Counsel at any time
16 believe that the other Party has breached or acted contrary to the Agreement,
17 that Party shall notify the other Party in writing of the alleged violation.
- 18 b. Upon receiving notice of the alleged violation or dispute, the responding Party
19 shall have ten (10) business days to correct the alleged violation and/or respond
20 to the initiating Party with the reasons why the party disputes all or part of the
21 allegation.
- 22 c. If the response does not address the alleged violation to the initiating Party's
23 satisfaction, the Parties shall negotiate in good faith for up to ten (10) business
24 days to resolve their differences.
- 25 d. If the Parties are unable to resolve their differences after twenty (20) business
26 days, either Party may file an appropriate motion for enforcement with the
27 Court. The briefing of such motion should be in letter brief form and shall not
28 exceed five (5) single-spaced pages (excluding exhibits).

e. Reasonable attorney's fees and costs for work done in resolving a dispute under this Section may be recovered by any party that prevails under the standards set forth within the meaning of applicable law.

6.4 Exhibits and Headings. The terms of this Agreement, including the terms set forth in the attached Notice, which is incorporated by this reference as though fully set forth herein, shall be the only terms of this Agreement. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

6.5 Interim Stay of Proceedings. The Parties agree to the Court staying and holding all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, in abeyance pending the Final Settlement Hearing to be conducted by the Court.

6.6 Amendment or Modification. This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest and subject to the Court's approval.

6.7 Entire Agreement. This Agreement and any attached exhibits constitute the entire agreement among these Parties, and no oral or written representations, warranties or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties and covenants contained and memorialized in such documents.

6.8 Extensions of Time. Without further order of the Court, the Settling Parties hereto may agree in writing to reasonable extensions of time to carry out any of the provisions of the Settlement.

6.9 Waivers. The waiver by any party of any breach of this Settlement Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.

6.10 Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to

1 effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other
2 and use their best efforts to effect the implementation of the Settlement. In the event the Parties are
3 unable to reach agreement on the form or content of any document needed to implement the
4 Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of
5 this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement. The
6 person signing this Agreement on behalf of Defendant represents and warrants that he/she is
7 authorized to sign this Agreement on behalf of Defendant.

8 6.11 Binding on Successors and Assigns. This Agreement shall be binding upon, and
9 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

10 6.12 California Law Governs. All terms of this Agreement and the exhibits hereto
11 shall be governed by and interpreted according to the laws of the State of California.

12 6.13 Counterparts. This Agreement may be executed in one or more counterparts. A
13 facsimile or scanned signature shall have the same effect as an original signature and shall not affect
14 the enforceability of this Agreement. All executed counterparts and each of them shall be deemed to
15 be one and the same instrument provided that Counsel for the Parties to this Agreement shall exchange
16 among themselves signed counterparts.

17 6.14 Jurisdiction of the Court. Pursuant to California Rules of Court, rule 3.769(h)
18 and California Code of Civil Procedure Sec. 664.6, the Court shall retain jurisdiction with respect to
19 the interpretation, implementation and enforcement of the terms of this Agreement and all orders and
20 judgments entered in connection therewith, and the Parties and their counsel hereto submit to the
21 jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement
22 embodied in this Agreement and all orders and judgments entered in connection therewith.

23 6.15 Cooperation and Drafting. Each of the Parties has cooperated in the drafting
24 and preparation of this Agreement. Hence, in any construction made to this Agreement, the same shall
25 not be construed against any of the Parties.

26 6.16 Invalidity of Any Provision. Before declaring any provision of this Agreement
27 invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible
28 consistent with applicable precedents so as to define all provisions of this Agreement valid and

enforceable.

PLAINTIFF

Dated: _____
Edwin Enriquez

Represented By:

MOORADIAN LAW, APC

By: _____
Zorik Mooradian, Haik Hacopian

Dated: _____

Attorney for Plaintiff Enriquez and the Settlement Class

DEFENDANT THE JOHNNY ROCKETS GROUP

Dated: 8/12/2022
By: _____
1223EEAF21404ED...

Its: _____

Represented By:

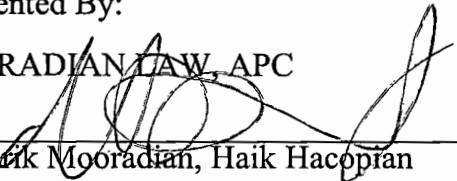
FISHER & PHILLIPS LLP

Dated: _____
By: _____
Lonnie D. Giamela

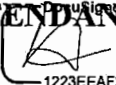
Attorney for Defendant

1 enforceable.

2
3
4 **PLAINTIFF**
5 Dated: **09/14/22** 
6 Edwin Enriquez

7
8 Represented By:
9 MOORADIAN LAW, APC
10 By: 
11 Dated: 9/14/22 Zorik Mooradian, Haik Hacopian

12 Attorney for Plaintiff Enriquez and the Settlement Class

13
14 **DEFENDANT THE JOHNNY ROCKETS GROUP**
15 Dated: 8/12/2022 By: 
16 Its: 1223EEAF21404ED...

17 Represented By:
18 FISHER & PHILLIPS LLP
19
20 Dated: _____ By: _____
21 Lonnie D. Giamela

22 Attorney for Defendant
23
24
25
26
27
28

Edwin Enriquez v. The Johnny Rockets Group
Los Angeles County Superior Court Case No. 19STCV43986

As a current or former hourly non-exempt employee of The Johnny Rockets Group (“JOHNNY ROCKETS”) in California at any time from November 18, 2016 through March 1, 2022, you may be entitled to receive money from a proposed class action settlement.

*The California Superior Court, County of Los Angeles authorized this Class Notice.
This is not a solicitation from a lawyer. This is not a lawsuit against you. You have not been sued.*

**PLEASE READ THIS CLASS NOTICE CAREFULLY.
YOUR LEGAL RIGHTS ARE AFFECTED BY IT.**

- A proposed class action settlement of \$600,000 has been reached between Plaintiff Edwin Enriquez and Defendant The Johnny Rockets Group (hereinafter “JOHNNY ROCKETS”) on behalf of Settlement Class Members.
- The settlement resolves the class and representative action lawsuit entitled *Edwin Enriquez, individually and on behalf of other persons similarly situated and similarly aggrieved employees, v. The Johnny Rockets Group*, Los Angeles County Superior Court Case No. 19STCV43986 (“**Lawsuit**”), wherein Plaintiff alleges various wage and hour violations. The Settlement also avoids the costs and risks from continuing the Lawsuit, pays money to persons like you, and releases JOHNNY ROCKETS from alleged liability.
- The Court has not made a determination of the validity of the claims in the Lawsuit. JOHNNY ROCKETS denies any and all liability arising from any of the claims and contends that at all relevant times it complied with applicable laws.
- This Settlement will be used to settle claims of all Settlement Class Members. The amount of Settlement Class Members’ individual settlements will be determined by the number of weeks they worked for JOHNNY ROCKETS (“**workweeks**”).
- Lawyers for the Settlement Class Members will be asking the Court to award up to \$210,000.00 to be paid out of the settlement (35%) as attorneys’ fees for investigating the facts, litigating the case, and negotiating the settlement, as well as litigation costs and expenses, not to exceed \$25,000, incurred during the case. They also will ask the Court to approve: (1) a \$10,000 incentive award to Plaintiff Edwin Enriquez (“**Plaintiff**” or “**Representative Plaintiff**”) who assisted in litigating this case for the benefit of all Settlement Class Members; (2) a \$15,000 payment to the California Labor and Workforce Development Agency (“**LWDA**”); and (3) up to a maximum of \$13,000 to the Settlement Administrator for costs incurred in administering this Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

DO NOTHING

You will automatically receive payment from the Settlement and you will give up any right you may have to sue for alleged violations and related claims released by the Settlement. **You get a payment and release your claims.** (See Sections 10, 11 and 19, below).

	If you do not agree with the number of workweeks presented to you in this Class Notice, you will have until [INSERT DATE] to submit any dispute regarding your individual workweek calculations. (See Section 10, below).
OPT OUT OR EXCLUDE YOURSELF	If you do not want to participate in the settlement you can opt-out. To opt-out, you must submit a written request for exclusion to the Settlement Administrator stating your intent to not be part of the settlement and sign and date the statement. The written statement must be postmarked on or before [INSERT DATE] . If you opt-out, you will not release any claims against JOHNNY ROCKETS and you will receive no benefit from this settlement, except your share of PAGA civil penalties to the extent you are entitled to them. (See Sections 10 and 13, below).
OBJECT	If you do not think the settlement is fair and do not opt out, then you may write to the Settlement Administrator about why you do not like the settlement and they will forward your concerns to the attorneys who will then provide it to the court. Your objection must be postmarked on or before [INSERT DATE] . (See Section 16, below). You may not object if you have opted out.

BASIC INFORMATION

1. Why did I get this Class Notice package?

The records of JOHNNY ROCKETS indicate that you were employed by JOHNNY ROCKETS in California as an hourly non-exempt employee for some period of time from November 18, 2016 through March 1, 2022 (“**Settlement Class**”) (See Section 6, below).

You were sent this Class Notice because you have a right to know about a proposed settlement involving this lawsuit and about all of your options before the Court decides whether to finally approve the settlement. If the Court approves the settlement and after any objections and appeals are resolved, a “**Settlement Administrator**” appointed by the Court will make the payments that the settlement allows. This package explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of this case is the California Superior Court for the County of Los Angeles. The person who sued is called the Plaintiff, and the organization they sued is called the Defendant.

2. What is this Lawsuit about?

On December 9, 2019, Plaintiff Edwin Enriquez filed a class action complaint in the Los Angeles County Superior Court (19STCV43986) against JOHNNY ROCKETS, on his own behalf and on behalf of other persons.

On August 17, 2020, the operative First Amended Complaint was filed which asserts the following class causes of action: (1) Failure to Pay Wages; (2) Failure to Provide Meal Periods; (4) Failure to Provide Paid Rest Periods; (4) Failure to Timely Pay Wages at Termination/Separation; (5) Failure to Provide Accurate Wage Statements; (6) Violation of Unfair Business Practices Act – Bus. & Prof. Code §§ 17200, et seq. The First Amended Complaint also includes representative causes of action for civil penalties under the Private Attorneys’ General Act (“PAGA”) in accordance with the required notice communicated by Plaintiff to the LWDA and JOHNNY ROCKETS.

JOHNNY ROCKETS has vigorously denied and defended against the allegations in the Lawsuit, asserting that it has paid its employees properly and has no liability for any of the alleged claims under any statute, wage order, common law, or equitable theory.

3. Why is this a class action?

In a class action, one or more people called Class Representatives or Representative Plaintiffs sue on behalf of people who have similar claims. All these people comprise a Class and are referred to as Class Members, except those who decide to exclude themselves from the Class. One court resolves the issues for all Class Members.

4. Why is there a settlement?

Since the Lawsuit was filed, there has been an ongoing investigation, and information exchanged. The parties have participated in mediation with a highly respected neutral mediator. Subsequently, after further negotiations, the parties reached this Settlement to avoid the cost and risk of further litigation.

The Superior Court of California, County of Los Angeles, has not made a ruling on the merits of Plaintiff’s claims or JOHNNY ROCKETS’s defenses. However, the Court has preliminarily approved the proposed Settlement. The Court will decide whether to give final approval to the Settlement at the Final Approval hearing scheduled for **INSERT DATE** at **INSERT**. The Court is located at 312 North Spring Street, Los Angeles, CA, 90012, in Department SS-17, Judge Maren E. Nelson presiding.

The settlement does not mean that any law was broken. The proposed Settlement is a compromise of disputed claims and does not mean that JOHNNY ROCKETS violated any legal wage requirements or is liable for any of the charges made by Plaintiff. JOHNNY ROCKETS denies all of the legal claims in the case, and also asserts that a class action is improper for any purpose other than this settlement. Plaintiff and Class Counsel believe that this settlement is fair and reasonable and is in the best interest of all Settlement Class Members.

5. What is a class action settlement?

The Court must approve the terms of the settlement described below as fair and reasonable to the class. Once approved, the settlement will affect all Settlement Class Members except those who have opted out (*i.e.* excluded themselves). This Class Notice explains your legal rights, the terms of the settlement, what you must do to participate, and the amount of money you may get. Please read this entire Class Notice carefully.

WHO IS IN THE SETTLEMENT?

To see if you will get money from this settlement, you first have to decide if you are a Settlement Class Member.

6. How do I know if I am a Settlement Class Member?

The parties have agreed, subject to Court approval, that the Settlement Class is made up of the following group:

The **Settlement Class** is defined as:

All non-exempt employees who were employed by Defendant JOHNNY ROCKETS in California during the period of November 18, 2016 through March 1, 2022 (“**Class Period**”).

If you received this Class Notice, you are considered to be a Settlement Class Member.

7. Are there exceptions to being included?

You can elect to be excluded from this settlement by opting out of this settlement and you will not be a Settlement Class Member.

8. I’m still not sure if I am a Settlement Class Member. What should I do?

You are receiving this Class Notice because JOHNNY ROCKETS’s records indicate that you are a Settlement Class Member. If you believe you have received this Class Notice in error, please notify the Settlement Administrator immediately.

If this Class Notice was sent to a different address from where you now reside, you need to contact the Settlement Administrator and provide updated information so that any future correspondence or the settlement payments themselves reach you.

In order to receive payment under this Settlement, you do not have to take any action.

THE SETTLEMENT BENEFITS—WHAT YOU GET

9. What does the settlement provide?

The Settlement Agreement provides that JOHNNY ROCKETS will pay Six Hundred Thousand Dollars (\$600,000) (the “**Settlement Amount**”) to fully resolve the claims being settled and released in the Lawsuit. After payment of the sums awarded by the Court (1) to the Settlement Administrator for its costs, up to a maximum of Thirteen Thousand Dollars (\$13,000); (2) to Settlement Class Counsel for their legal fees in the Action, including any work they do in the future, up to a maximum of Two Hundred Ten Thousand Dollars (\$210,000), which is thirty five percent (35%) of the Settlement Amount; (3) to Settlement Class Counsel for their litigation costs and expenses, up to a maximum of Twenty Five Thousand Dollars (\$25,000); (4) to Representative Plaintiff Edwin Enriquez as a service award for services he provided on behalf of the Settlement Class, risk of payment of costs in the event there had been an unfavorable outcome in the Action, and stigma, up to a maximum of Ten Thousand Dollars (\$10,000); (5) to the California Labor and Workforce Development Agency (“LWDA”), the sum of Fifteen Thousand Dollars (\$15,000) as its share of PAGA remedies; the remaining sum, estimated at no less than Three Hundred Twenty Seven Thousand Dollars (\$327,000) (the “**Net Settlement Amount**”) will be distributed entirely to Settlement Class Members who qualify to receive payment.

If the court approves the settlement, JOHNNY ROCKETS will fund the settlement by making two equal deposits of the Settlement Amount, plus the proportionate employer share of taxes for each deposit, one year apart. As such, any amounts payable to you under this settlement are expected to be paid over two equal installments. (See Section 11 below).

The actual and complete terms of the Settlement are set forth in the Stipulated Settlement Agreement (“Settlement Agreement”) filed with the Court. You can obtain a complete copy of the Settlement Agreement by calling Settlement Class Counsel, whose contact information is provided in Section 20, below.

10. How much will my payment be? How do I receive payment?

As a Settlement Class Member, you will automatically receive payment if you do not exclude yourself.

Based on JOHNNY ROCKETS’s records, your total number of Workweeks during your applicable time period is: **[NUMBER]**.

Your estimated settlement payment based on the number of Workweeks indicated above is: **[AMOUNT]**, less taxes.

Your estimated settlement payment is calculated pursuant to the method set forth below:

A Settlement Class Member’s estimated share of the Net Settlement Amount shall be determined based on each Settlement Class Member’s number of Workweeks Worked during the applicable Class Period. Each Settlement Class Member’s share of the Net Settlement Amount shall be determined by dividing the Net Settlement Amount (less \$5,000 for PAGA civil penalties payable to employees who were employed at anytime from December 9, 2018 to March 1, 2022 “PAGA Period,” see end of this section) by the total number of Workweeks Worked by all Settlement Class Members during the applicable Class Period to determine the Per Workweek Settlement Amount. Each Settlement Class Member’s Individual Settlement Amount is then determined by multiplying the Per Workweek Settlement Amount by the number of Workweeks Worked by that Settlement Class Member. In the event that any Settlement Class Members opt out of the Settlement, any portion of the Net Settlement Amount that is not claimed shall be paid to Participating Settlement Class Members on a proportional basis determined by the number of Workweeks Worked by each Participating Settlement Class Member. The amount actually paid to each Participating Settlement Class Member shall be known as the Individual Settlement Payment.

Taxation of your Individual Settlement Payment will be as follows:

Twenty Percent (20%) of each Participating Settlement Class Member’s Individual Settlement Payment shall be apportioned to wages. Standard payroll deductions shall be taken from the wage portion. The Settlement Administrator will issue a check and W-2 Form to each Participating Settlement Class Member for the Wage Component.

Eighty Percent (80%) of each Participating Settlement Class Member’s Individual Settlement Payment shall be apportioned to penalties and interest. No withholding shall be made on the interest and penalty portion. The Settlement Administrator will issue a second check and IRS Form 1099 for the interest and penalty component. Any taxes due on the portion of the Individual Settlement Payment reported on a Form 1099 shall be the responsibility of the individual Participating Settlement Class Member.

The Settlement Administrator shall be responsible for issuing the payments and calculating and withholding all required state and federal taxes.

JOHNNY ROCKETS will be responsible for paying all employer tax liabilities separate and apart from the Settlement Amount.

What if I believe My Workweeks are Wrong? If you wish to challenge the number of Workweeks shown above, you must provide a written statement stating what you believe to be the correct number of Workweeks you worked during the Class Period. You must also include information and/or documents that support your claim that you worked a different number of Workweeks. JOHNNY ROCKETS’s records will control unless you submit documentation that

establishes otherwise. If there is a dispute about which information is accurate, the Settlement Administrator will resolve the challenge with the assistance of Class Counsel and Defense Counsel. If the dispute remains unresolved, it will be submitted to the Court for final resolution.

Your share of PAGA civil penalties: Please note that if you were employed at anytime from December 9, 2018 to March 1, 2022 (“PAGA Period”), you will additionally be entitled to a proportionate share of the \$5,000 allocated to PAGA civil penalties payable to employees. Your share will be reflected by the proportionate number of pay periods worked by you during the PAGA Period relative to the total number of pay periods worked by Settlement Class Members during the PAGA Period. Settlement Class Members who are entitled to a PAGA share and who exclude themselves from the Settlement will still be paid their PAGA share under this paragraph. You will be issued a Form 1099 for this payment.

Your estimated PAGA share based on the [NUMBER] pay periods you were employed during the PAGA Period indicated above is: [AMOUNT]. **You will receive a payment for this sum, even if you exclude yourself from this Settlement.**

11. When would I get my payment?

The Court will hold a hearing on [INSERT DATE], to decide whether to approve the settlement. If the Court approves the settlement, after that there may be appeals if anyone objects. It is always uncertain when these objections and appeals can be resolved, and resolving them can take time. To check on the progress of the settlement, call the Settlement Administrator at 1-800-542-0900 or Class Counsel. *Please be patient.*

If the Court approves the settlement and if you do not opt out, your individual payment set forth in Section 10 above is expected to be distributed in two payments. This is because JOHNNY ROCKETS will be funding the Settlement Amount through two equal installments spaced one year apart. If there are no appeals or delays, the anticipated date of the first distribution is [INSERT DATE] and the anticipated date of the second distribution is [INSERT DATE].

Uncashed Checks: All checks for Individual Settlement Payments shall remain valid and negotiable for 180 days from the date of their issuance. Funds associated with any checks not cashed during the 180 day period after the first distribution shall be made available to the Participating Settlement Class Member as part of the final distribution. Any checks not cashed during the 180 day period after the final distribution shall be void, and the Participating Settlement Class Member’s release set forth herein shall remain valid. After the 180 day period following the final distribution, all funds will escheat to the State of California’s Unclaimed Property Fund in the name of the Class Member.

Please note that the above distribution dates are only estimates based on the information available to the Parties at this time and it is possible that the actual distributions will occur well after the above noted dates. Your payments are expected to be mailed to the address where you received this Class Notice. **If your mailing address changes for any reason, you must promptly notify the Settlement Administrator to ensure that your payments are mailed to the correct address.**

12. What am I releasing?

Release As To All Participating Class Members: Upon the Effective Date and funding in full of the Settlement Amount by Defendant, all Settlement Class Members who do not timely opt out of the Settlement (“**Participating Class Members**”), including their heirs, assigns, estates and representatives, shall be deemed to fully forever, irrevocably and unconditionally release and discharge the Released Parties from the Released Claims. The Settlement Agreement shall be in full settlement, compromise, release and discharge of the Released Claims and each of them, and the Released Claims by the Class Representative, and the Released Parties shall have no further or other liability or obligation to any Class Member and/or the Class Representative with respect to the Released Claims and Class

Representative's Released Claims, except as expressly provided herein.

Release As To All Aggrieved Employees: Upon the Effective Date and funding in full of the Settlement Amount by Defendant, Plaintiff and the State of California shall be deemed to fully forever, irrevocably and unconditionally release and discharge the Released Parties from the Released PAGA Claims.

"Released Claims" means: all class claims alleged in the operative complaint which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period. This release includes claims for failure to pay all wages, failure to pay overtime wages, failure to provide meal periods, failure to provide rest periods, failure to reimburse business expenses, failure to provide itemized wage statements, failure to pay all wages and termination and unfair business practices under the California Business and Professions Code associated with same.

"Released PAGA Claims" means: all PAGA claims alleged in the operative complaint and Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period. This release includes PAGA claims for failure to pay all wages, failure to pay overtime wages, failure to provide meal periods, failure to provide rest periods, failure to reimburse business expenses, failure to provide itemized wage statements, failure to pay all wages and termination and unfair business practices under the California Business and Professions Code associated with same.

"Released Parties" means: Defendant, including each of Defendant's respective past, present, and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, related entities, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

HOW YOU OPT OUT

13. How can I opt out of this settlement?

If you do not want to remain a member of the Settlement Class, you may opt out of the class action Settlement by mailing a written request for exclusion to the Settlement Administrator, CPT Group, Inc., postmarked no later than **[INSERT DATE]**. The request for exclusion must be submitted in writing in any form you choose but must be signed by you and must include your name, address, telephone number, last four digits of your Social Security number and a statement that you wish to be excluded from the Settlement. If you timely opt out of the Settlement, you will no longer be a member of the Settlement Class and you will be barred from participating in this Settlement. You will not receive any settlement payment if you opt out of this Settlement, except for your share of PAGA civil penalties described in Section 10, above. By timely opting out of the Settlement, you will retain whatever rights or claims you may have, if any, against JOHNNY ROCKETS, and you will be free to hire your own attorney to pursue those claims on an individual basis, or you may represent yourself, if you choose to do so.

If you do not opt out, you will be bound by all the terms of the Settlement Agreement, including the release of claims set forth above, meaning that you cannot separately sue JOHNNY ROCKETS, their employees, or any other related persons or entities for the matters being settled in this case. You will also be releasing your ability to file or prosecute any claims, suits, or administrative proceedings (including filing claims with the California Division of Labor Standards Enforcement) regarding claims released by the Settlement.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

To represent you and other Class Members in this action, the Court has appointed Zorik Mooradian and Haik Hacopian of Mooradian Law, APC. These lawyers are called Class Counsel. They will be compensated from the Settlement Amount as discussed in this Class Notice. If you want to be represented by your own lawyer, you may hire one at your own expense.

15. How will the lawyers be paid?

Class Counsel will ask the Court to approve payment of up to \$210,000 to them for attorneys' fees, or thirty five percent (35%) of the Settlement Amount. The fees will pay Class Counsel for investigating the facts, litigating the case and negotiating and finalizing the settlement. Class Counsel will also ask the Court to award litigation costs and expenses, not to exceed \$25,000. JOHNNY ROCKETS has agreed not to oppose Class Counsel's application for these fees and costs. The Court may choose to award less than the amount requested by Class Counsel.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the settlement or some part of it.

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

You may appear at the Final Approval Hearing to present any objection you may have to the settlement, regardless of whether you submit a written objection in advance. You may object to the Settlement either personally or through an attorney. To the extent you wish to submit a written objection, you are strongly encouraged to do so by timely mailing a written notice that you are objecting to the Settlement Administrator (CPT Group) postmarked no later than **INSERT DATE**. If you submit a written objection by the deadline and in compliance with this paragraph, you are not required to appear in person at the Final Approval Hearing for your objection to be considered by the Court. In order for your objection (written or otherwise) to be considered, you must not have opted out. The Final Approval Hearing is presently set for **[date]** at **[time]**. If you have not opted out, you may appear, personally or through an attorney, at the Final Approval Hearing to present your objection directly to the Court. If you wish to file any legal briefs, papers or memoranda in support of your objection, you may provide them to the Settlement Administrator with your written notice that you are objecting or you may file them directly with the Court no later than fifteen (15) days prior to the Final Approval Hearing.

All written objections must be signed and must contain the following information:

- Your name;
- Your address;
- Your telephone number;
- The name of the case (*JOHNNY ROCKETS Class Action*); and
- A description of your objections.

If you object to the Settlement and if the Court approves the Settlement, you will be bound by the terms of the Settlement Agreement in the same way as a Settlement Class member who does not object. You will also receive a settlement payment.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you do not have to. If you have submitted a written objection by the deadline and in compliance with this

paragraph, you are not required to appear in person at the Final Approval Hearing for your objection to be considered by the Court.

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

The Court will hold a Fairness Hearing at [REDACTED] on [REDACTED], 2022, at the Los Angeles County Superior Court, Dept. SS-17, Judge Maren E. Nelson presiding, 312 North Spring Street, Los Angeles, CA 90012. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Judge will listen to people who have asked to speak at the hearing. At or after the hearing, the Court will decide whether to approve the settlement. We do not know how long this decision will take.

The date of the Fairness Hearing may change without formal notice to you and any change will be posted on the Settlement Administrator's general website at www.cptgroup.com, which you should check periodically.

18. Do I have to come to the hearing?

No. Class Counsel will represent the Participating Class Members at the hearing. But you are welcome to come at your own expense. If you sent an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not required.

Should you choose to appear at the Fairness Hearing, you may appear remotely. To do so, you must arrange an appearance at <https://my.lacourt.org/laccwelcome> through the "Civil" tab not sooner than thirty (30) days before the hearing. You will be asked to create a login, choose whether you will be making an audio or video appearance, and pass technical validations for your hardware. You must enter the case number (19STCV43986) when prompted and select the hearing date for the Final Fairness Hearing.

IF YOU DO NOTHING

19. What happens if I do nothing at all?

If you do nothing, you will receive your settlement payment. You will remain a member of the Settlement Class and will be bound by all the terms of the Settlement Agreement, including the release of claims set forth in Section 12 above, meaning that you cannot separately sue JOHNNY ROCKETS, their employees, or any other related persons or entities for the matters being settled under this Settlement. You will also be releasing your ability to file or prosecute any claims, suits, or administrative proceedings (including filing claims with the California Division of Labor Standards Enforcement) regarding claims released by the Settlement.

GETTING MORE INFORMATION

20. Are there more details about the settlement?

This Class Notice summarizes the proposed settlement. You may call or contact Class Counsel or the Settlement Administrator if you would like more information about the case. If you would like a complete copy of the Settlement Agreement, please contact Settlement Class Counsel. You may also go to the Court's website at <http://www.lacourt.org/casesummary/ui/> and enter the case number (19STCV43986) to electronically access all publicly filed documents in the Lawsuit. Please note that fees may be charged by the Court for retrieval of any documents. You may also access important case documents, including the Final Judgment if the Court grants final approval, on the Settlement Administrator's website at <https://www.cptgroup.com/case-access/>.

THE SETTLEMENT ADMINISTRATOR FOR THE SETTLEMENT IS:	SETTLEMENT CLASS COUNSEL	ATTORNEYS FOR DEFENDANT THE JOHNNY ROCKETS GROUP (“DEFENSE COUNSEL”)
CPT Group, Inc. 50 Corporate Park Irvine, CA 92606 Phone: (800) 542-0900 Fax: (949) 419-3446 www.cptgroup.com	Zorik Mooradian zorik@mooradianlaw.com Haik Hacopian haik@mooradianlaw.com Mooradian Law, APC 24007 Ventura Blvd., Suite 210 Calabasas, California 91302 Telephone: (818) 487-1998 Facsimile: (888) 783-1030	Lonnie D. Giamela lgiamela@fisherphillips.com LaLonnie V. Gray lgray@fisherphillips.com FISHER & PHILLIPS LLP 444 South Flower Street, Suite 1500 Los Angeles, CA 90071 Telephone: (213) 330-4500 Facsimile: (213) 330-4501

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, OR JOHNNY ROCKETS WITH INQUIRIES.

The statements in this document are not findings by a court of law. These statements are not an expression of opinion or approval by a judge. This notice is based only on statements by the Parties to this Lawsuit. You received this notice to help you decide what steps, if any, to take about this Lawsuit.

**Declaration of
ZORIK MOORADIAN**

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DECLARATION OF ZORIK MOORADIAN

I, Zorik Mooradian, declare as follows:

1. I am an attorney at law duly licensed to practice law in the state of California. I am the principal of Mooradian Law, APC and, along with Haik Hacopian, am counsel for Plaintiff Edwin Enriquez and seek appointment as Class Counsel in the class action lawsuit entitled *Edwin Enriquez, individually and on behalf of other persons similarly situated and similarly aggrieved employees v. The Johnny Rockets Group*, and bearing Los Angeles County Superior Court Case No. 19STCV43986. I make this Declaration in support of Plaintiff's Motion for Preliminary Approval based on my own personal knowledge and if called as a witness I could and would competently testify to the following facts stated herein.

2. I have attended Texas A & M University (Kingsville) and California State University Los Angeles (Los Angeles), and have received a Bachelor of Science degree in Civil Engineering in 1979. I have also attended University of La Verne College of Law, graduated and was admitted to the State Bar of California in 1988, and have been in good standing since. For the past 33 years, I have litigated hundreds of cases with numerous bench and jury trials. My most recent jury verdict was in October 2019, in a Fair Employment and Housing retaliation matter. I have also been and continue to be plaintiff's counsel in many wage and hour and consumer class actions, complex and multi-party matters.

3. The following is a short title index of class actions and individual employment/wage-and-hour cases (recent past and pending), in which I have represented and/or continue to represent the plaintiffs or defendants in the capacity of co-counsel or lead counsel:

4. Granados v. Bimbo Bakeries/CV 09-07329 DMG; Garcia v. Pharmavite /BC435699; Barsamian/Park v. Staples /BC450208 and BC449815; Bosch v. Bakery Holdings/BC484494; Uribe v. American Guard Services/ BC492881; Gamez-Flores v. Haynes Building Services/BC493709; Rodriguez v. KBS/ BC537386; Tovar v. Baron HR, LLC/ BC517984; Perez v. Valleycrest/ BC 538257; Uscanga v. Automotive Creations/BC509401; Gonzales v. Nefab

1 Packing/2;13-cv-04499 JAK-ss; Mendoza v. Accentcare/30-2013-00661891-CU-
2 OE-CXC; Nuno v. Universal Building Maintenance/BC541570; Cabrera v.
3 Complete Facilities Maintenance/BC538248; Valencia v. Rubbercraft/BC
4 535816; Fuentes v. Kamran Staffing/BC604535; Perez v. El Pollo
5 Loco/BC624001; Perez v. Quest Nutrition/BC630914; Escalante v. Friendly Hills
6 Country Club/BC640583; Serrano v. Noise Group/30-2017-00949440-CU-OE-
7 CXC; Bitton v. Sterling Jewelry, Inc./CIVDS1612665; Blandin v. Malibu Mgt.
8 Svcs., Inc./BC618629; Barrera v. Coast Composites, Inc./30-2017-00909572 CU-
9 OE-CJC; Aguilar v. Sweet Earth Café/19STCV13373; Avina v. Marriott/30-
10 2017-00945551; Azepita v. Eden Social Restaurants, Inc./30-2019-01077185;
11 Balaguer v. Eminent, Inc./19STCV16803; Barragan v. Golden Hotels Limited
12 Partnership/30-2018-01007420; Boch v. Merchants Building
13 Maintenance/BC681320; Bueno v. Proto Homes/19STCV20011; Cardenas v.
14 Intercon Security/19STCV11259; Castillo v. Robert's Waste/30-2018-01027486;
15 Castro v. Bee Gee Laboratories/BC712857; Contreras Teo v. Golden State
16 Foods/BC708535; Contreras Teo v. Golden State Foods/BC722540; Corona v.
17 Del Amo Hospital/19STCV24741; Cruz Ventura v. WSON-55/19STCV22958;
18 Cruel v. Andreas Elsenhans/19STCV35496; Espinoza v. Don Chava
19 Mgt./19STCV27068; Galvan v. Property Mgt. Associates/BC722781; Godoy v.
20 UCLA/19STCV04634; Gonzalez v. Toyon Catering, Inc./19STCV11369;
21 Gonzalez v. FMS Mgt./30-2019-01065563; Gutierrez v. Anaheim Denn/30-2019-
22 01092546; Guzman v. Millennium Shoes/19STCV33166; Hernandez v.
23 Township Retail Services/18STCV06709; Hernandez v. Resource Employment
24 Solutions/30-2019-01084740; Herrera v. Color Spot Nurseries/30-2017-
25 00933249; Leon v. Island Hospitality Mgt./30-2019-01060719; Martinez v.
26 Snakerz/19STCV02674; Mendoza v. Savage Service Corp./18STCV04798;
27 Martinez v. Riviera Beverages/ 30-2019-01056796; Mendoza v. United
28 Production Framing/30-2019-01104255; Morales Cano v. Coordinated
Staffing/19STCV29817; Moreno v. DCX-CHOL Enterprises/19STCV19105;

1 Moreno v. DCX-CHOL Enterprises/19STCV26247; Contoran Najera v. TOPH I,
2 LLC/30-2018-00999474; Nunez v. Wonderland Montessori,
3 LLC/18STCV06042; Olmos v. Mall Food Mgt. Associates/30-2019-01096292;
4 Pallares - Mercado v. MB Santa Ana Restaurants/30-2019-01047135; Perez v.
5 First Rate Staffing/18STCV02057; Popoca v. Denim Technologies/
6 19STCV11434; Reidy v. City of Inglewood/18STCV09373; Rosales v. DBR
7 Premium/19STCV32726; Salceda v. GBG USA, Inc./ 18STCV10004; Salceda v.
8 GBG USA, Inc./ 18STCV04778; Torres v. Metro Security/19STCV21114; Torres
9 v. Metro Security/19STCV15680; Trujillo v. Securitas Security
10 Services/19STCV01207; Villacana v. Crothall Laundry Services,
11 Inc./19STCV16330; and Villareal v. Golden Touch Cleaning/30-2019-01108777.

12 5. I am familiar with California wage and hour law and the laws governing the
13 alleged violations in this matter, including but not limited to California Labor Code Sections
14 201 – 203, 226, 226.7, 510, 512, 1194, 1194.2, 2698 and 2802, California Business and
15 Profession Codes 17200 *et. seq.*, the Orders of the Industrial Welfare Commission, and the
16 Private Attorneys General Act.

17 6. I seek appointment as class counsel on behalf of the settlement class. I know
18 of no conflicts that would preclude me, or Mr. Hacopian, from serving as Class Counsel in
19 this matter. I also know of no conflicts that would preclude Mr. Enriquez from serving as a
20 Class Representative in this matter.

21 7. As a result of my prior experience as class counsel in other wage and hour
22 class actions, I am fully aware of the responsibilities I owe as Class Counsel to the proposed
23 class in this action. Based on my experience as Class Counsel, I believe, in light of the criteria
24 identified in *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801, that the proposed
25 settlement is fair to the class, reasonable and more than adequate in view of (i) the strength
26 of Plaintiff's claims and Defendant's defenses, (ii) the risk, expense, complexity and likely
27 duration of further litigation, (iii) the risk and difficulty of obtaining class certification and
28 maintaining class action status through trial, (iv) the total settlement amount of \$600,000

1 offered in settlement, (vii) the discovery conducted by the Parties in this case, (vi) my
2 experience with similar settlements in wage and hour class actions that have received court
3 approval, and (viii) the fact that the settlement was the result of arms' length negotiations
4 between experienced counsel facilitated by Mr. Jeffrey Krivis, a respected neutral mediator.

5 8. I submit that the proposed settlement is within the range of possible approval
6 for communication of a notice in conformity and consideration thereof by the Settlement
7 Class. The Court will have the opportunity to again assess the reasonableness of the
8 settlement after the Class has had the opportunity to opt-out or object.

9 I declare under penalty of perjury under the laws of the State of California that the
10 foregoing is true and correct.

11 Executed on October 5, 2022 in Calabasas, California.

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14 /s/Zorik Mooradian
Zorik Mooradian

**Declaration of
EDWIN ENRIQUEZ**

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1 answering calls I received from other employees about the lawsuit. I have also spent time
2 reviewing the settlement agreement as well as this declaration.

3 7. In total, I estimate that I have spent approximately 23 hours to date participating
4 in this case.

5 8. I understand that the parties have agreed to a \$10,000 service award to me for
6 coming forward and participating in this case and for providing a release of claims to Johnny
7 Rockets which includes more claims than what the other class members are releasing. I also
8 understand that any amounts payable to me must be approved by the Court.

9 I declare under penalty of perjury under the laws of the State of California that the
10 foregoing is true and correct.

11 Executed this 14 day of September 2022, at Los angeles California.

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14 Edwin Enriquez
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[PROPOSED] ORDER

1 ZORIK MOORADIAN, Bar No. 136636

2 zorik@mooradianlaw.com

3 HAIK HACOPIAN, Bar No. 282361

4 haik@mooradianlaw.com

5 **MOORADIAN LAW, APC**

24007 Ventura Blvd., Suite 210

Calabasas, CA 91302

Telephone: (818) 487-1998

Facsimile: (888) 783-1030

6 Attorneys for Plaintiff Edwin Enriquez, individually and on behalf of others similarly
situated and similarly aggrieved employees

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

11 EDWIN ENRIQUEZ, individually and on
behalf of others similarly situated and
12 similarly aggrieved employees,

13 Plaintiffs,

14 v.

15 THE JOHNNY ROCKETS GROUP, an
16 active Delaware Corporation; and DOES
1 through 10,

17 Defendants.

Case No.: 19STCV43986

CLASS AND REPRESENTATIVE
ACTION

[Assigned to Hon. Maren E. Nelson
in Dept. SS-17]

**[PROPOSED] ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: October 27, 2022

Time: 10:00 a.m.

Dept.: SS-17

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1 On October 27, 2022, the Court considered the motion of Plaintiff Edwin Enriquez for
2 preliminary approval of the Parties' proposed class action Settlement.

3 The Court having read and considered the papers on the motion submitted by Class
4 Counsel, having heard the presentation of Class Counsel and Defendant's counsel, having
5 reviewed all of the submissions presented with respect to the proposed Settlement, having
6 carefully considered the requirements for class certification, and having preliminarily
7 determined that the Settlement is fair, adequate, and reasonable, it is hereby ORDERED
8 ADJUDGED, and DECREED that:

9 1. Preliminary Approval of the Class Action Settlement is GRANTED pursuant
10 to Cal. Rules of Court, rule 3.769;

11 2. The Settlement, as set forth in the Stipulated Settlement Agreement
12 ("Settlement Agreement"), is in all respects fair, reasonable, adequate, and in the best interests
13 of the Settlement Class, and it is preliminarily approved. Except as expressly set forth herein,
14 the Parties shall effectuate the Settlement Agreement according to its terms. The Settlement
15 Agreement, and every term and provision thereof, shall be deemed incorporated herein as if
16 explicitly set forth and shall have full force of an Order of this Court;

17 3. The Court finds that the notice plan set forth in the Settlement Agreement
18 constitutes the best notice practicable under the circumstances and shall constitute due and
19 sufficient notice to the Settlement Class of the pendency of the Action, the terms of the
20 Settlement Agreement, the Final Approval Hearing, and satisfies the requirements of
21 California law and federal due process law;

22 4. The proposed Settlement Class is provisionally certified under Civ. Code §
23 382, with the Class consisting of:

24 All non-exempt employees who were employed by Defendant The
25 Johnny Rockets Group in California during the period starting
26 November 18, 2016 to March 1, 2022 ("Class Period")

5. Plaintiff Edwin Enriquez is appointed as Class Representative;

6. Zorik Mooradian and Haik Hacopian of Mooradian Law, APC, are appointed
as Class Counsel for the class;

1 7. CPT Group, Inc., is appointed as the third-party administrator (“Settlement
2 Administrator”);

3 8. The proposed settlement of Plaintiff’s Private Attorneys General Act (the
4 “PAGA”) claims is preliminarily approved;

5 9. The proposed Class Notice, attached as Exhibit 1 to the Settlement Agreement,
6 is approved and shall be disseminated according to the notice plan described in the Settlement
7 Agreement and substantially in the form submitted;

8 10. In conformity with the Class Notice, Settlement Class Members wishing to be
9 excluded from the Settlement Class must submit a written request for exclusion requesting
10 exclusion from the Settlement on or before the expiration of the opt out period (60 days after
the date that the Class Notice is mailed);

11 11. In conformity with the Class Notice, any Settlement Class Member who does
12 not opt out of the Settlement may object to the settlement, either personally or through an
13 attorney, orally at the Final Approval Hearing or by providing written notice that the
14 Settlement Class Member is objecting to the Settlement Administrator, which written notice
15 must be postmarked no later than 60 days after the date that the Class Notice is mailed;

16 12. A Final Approval Hearing will be held on _____,
17 to determine if the proposed settlement should be granted final approval. The Court will hear
18 all evidence and argument necessary to evaluate the Settlement, and will consider Plaintiff’s
19 request for Class Representative Service Payment, Class Counsel’s request for Attorney’s
20 Fees, Class Counsel’s request for Costs, payment to the LWDA, and payment to the
21 Settlement Administrator. Any Settlement Class Member who complies with the procedures
22 and requirements specified in the Class Notice may appear at the Final Approval Hearing;

23 13. Class Counsel is to file and serve the Motion for Final Approval of Class
24 Action Settlement and for Award of Class Representative Service Award, Attorneys’ Fees,
25 Costs, payment to the LWDA, and payment to the Settlement Administrator, by
_____; and

26 14. The Court shall retain jurisdiction necessary to effectuate this Order and

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consider all further applications out of or in connection with the Settlement.

Dated: _____

By: _____
Honorable Maren E. Nelson
Judge of the Superior Court

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On October 5, 2022, I served on the parties of record in this action the foregoing document(s) described as:

on the parties to this action by placing them in a sealed envelope(s) addressed as follows:

☒ **VIA ELECTRONIC SERVICE** – Based on a court order or agreement of the parties to accept service by electronic transmission, I caused the document(s) to be sent to the above persons listed at their electronic notification addresses by uploading the document(s) to the CASEANYWHERE service.

☒ **STATE** – I declare under penalty of perjury under the laws of the “State of California that the above is true and correct.

/s/Haik Hacobian
Haik Hacobian