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individually and on behalf of all others similarly
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ASSOCIATES, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

JASON VILLAMEDIANA, individually and
on behalf of all other aggrieved employees

Plaintiff,

vs.

SBH RESTAURANT ASSOCIATES, LLC, a
California limited liability company; and DOES
1 through 50, inclusive,

Defendants.

CASE NO. 20STCV17937

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

Action Filed: May 11, 2020
Trial Date: None Set

1 IT IS HEREBY STIPULATED, by and between plaintiff Jason Villamediana,
2 individually and on behalf of all others similarly situated, on the one hand, and defendant SBH
3 Restaurant Associates, LLC, on the other hand, and subject to the approval of the Court, that the
4 claims alleged in the Action are hereby compromised and settled pursuant to the terms and
5 conditions set forth in this Joint Stipulation of Class and Representative Action Settlement
6 (“Stipulation”) and that the Court shall make and enter judgment, subject to the continuing
7 jurisdiction of the Court as set forth below, and subject to the definitions, recitals, and terms set
8 forth herein which by this reference become an integral part of this Stipulation. The Parties
9 expressly acknowledge that this Stipulation is entered into solely for the purpose of
10 compromising significantly disputed claims and that nothing in this Stipulation is an admission of
11 liability or wrongdoing by Defendant. If for any reason the Stipulation is not approved, it will be
12 of no force or effect, and the Parties will be returned to their respective positions immediately
13 prior to and as if they had never executed this Stipulation as more fully set forth below.

14 **DEFINITIONS**

15 1. “Action” means the putative class and representative action entitled *Jason*
16 *Villamediana v. SBH Restaurant Associates, LLC*, Los Angeles County Superior Court Case No.
17 20STCV17937.

18 2. “Attorneys’ Fees and Expenses” means reasonable attorneys’ fees for Class
19 Counsel’s litigation and resolution of this Action (not to exceed one-third of the GSA), and Class
20 Counsel’s expenses and costs reasonably incurred in connection with this Action.

21 3. “Class Counsel” means Matthew J. Matern, Launa Adolph, and Ellie D. Goralnick
22 of Matern Law Group, PC.

23 4. “Class Information” means information regarding Settlement Class Members that
24 Defendant shall in good faith compile from their records and shall be authorized by the Court to
25 transmit in a secured manner to the Settlement Administrator. Class Information shall be
26 transmitted in electronic form and shall include each Settlement Class Member’s full name; last
27 known address; Social Security number; and total number of Compensable Workweeks.
28

1 5. “Class Notice” means the Notice of Class and Representative Action Settlement,
2 substantially in the form attached hereto as **Exhibit 1**, which shall be subject to Court approval
3 and which the Settlement Administrator shall mail to each Settlement Class Member explaining
4 the terms of this Stipulation and the Settlement.

5 6. “Class Representative Service Award” means the amount the Court authorizes to
6 be paid to Plaintiff, in addition to Plaintiff’s Individual Settlement Payment, in recognition of
7 Plaintiff’s efforts and risks in prosecuting the Action.

8 7. “Compensable Workweeks” means the total number of weeks during which a
9 Settlement Class Member performed work for Defendant in California as an hourly-paid, non-
10 exempt employee during the Settlement Period, based on Defendant’s records, and which shall be
11 used to calculate Individual Settlement Payments. A week shall include any regular workweek in
12 which a Settlement Class Member worked one or more calendar days.

13 8. “Defendant” means defendant SBH Restaurant Associates, LLC.

14 9. “Defense Counsel” means Janet Grumer and Chris Petersen of Davis Wright
15 Tremaine LLP.

16 10. “Effective Date” means: (a) the date of entry of the Judgment if no objections are
17 filed; (b) sixty-five (65) calendar days after the entry of the Judgment if objections are filed and
18 overruled, and no appeal is taken; or (c) twenty (20) calendar days after the appeal is dismissed or
19 after an appellate decision affirming the Judgment becomes final and non-appealable if an appeal
20 is taken from the Court’s overruling of objections to the settlement.

21 11. “Employer’s Share of Payroll Taxes” means Defendant’s portion of payroll taxes
22 that are ordinarily paid by the employer, which include federal and state unemployment taxes and
23 the employer’s share of FICA and Medicare taxes, on the portion of the Individual Settlement
24 Payments that constitutes wages. The Employer’s Share of Payroll Taxes shall be submitted by
25 Defendant to the Settlement Administrator in addition to the GSA.

26 12. “Final Approval Hearing” means the hearing to be conducted by the Court after
27 the filing of an appropriate motion by Plaintiff and following appropriate notice to Settlement
28 Class Members giving Settlement Class Members an opportunity to request exclusion from the

1 class and Settlement and to object to the Settlement, at which time Plaintiff shall request that the
2 Court finally approve the Settlement, enter the Judgment, and take other appropriate action.

3 13. "Gross Settlement Amount" or "GSA" means the maximum amount Defendant
4 shall pay in connection with this Settlement, by way of a common fund, which shall be inclusive
5 of all Individual Settlement Payments, Attorneys' Fees and Expenses, the Class Representative
6 Service Award, Settlement Administration Costs, and the PAGA Payment. Subject to Court
7 approval and the terms of this Stipulation, the GSA that Defendant shall be required to pay is
8 Three Hundred Thousand Dollars (\$300,000.00).

9 14. "Individual Settlement Payment" means the amount payable from the Net
10 Settlement Amount to each Settlement Class Member.

11 15. "Information Sheet" means the form that shall be prepared by the Settlement
12 Administrator and sent to each Settlement Class Member that sets forth the total number of
13 Compensable Workweeks and the estimated Individual Settlement Payment for the Settlement
14 Class Member, substantially in the form attached hereto as **Exhibit 2**.

15 16. "Judgment" means the judgment to be entered by the Court upon granting final
16 approval of the Settlement and this Stipulation as binding upon the Parties and Settlement Class
17 Members.

18 17. "LWDA" means the California Labor and Workforce Development Agency.

19 18. "LWDA Payment" means the portion of the PAGA Payment payable to the
20 LWDA.

21 19. "Net Settlement Amount" means the GSA, less Attorneys' Fees and Expenses, the
22 Class Representative Service Award, Settlement Administration Costs, and the PAGA Payment.

23 20. "Notice of Objection" means a Settlement Class Member's written objection to the
24 Settlement.

25 21. "Notice Packet" means the packet of documents, which shall be mailed to all
26 Settlement Class Members by the Settlement Administrator, including the Class Notice and
27 Information Sheet, both in English and Spanish.
28

22. “PAGA” means the Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698, et seq.

23. “PAGA Payment” means the amount payable from the GSA to resolve the PAGA claim alleged in the Action, of which seventy-five percent (75%) shall be paid to the LWDA and twenty-five percent (25%) shall be paid to Settlement Class Members as part of their Individual Settlement Payments.

24. “Participating Class Members” means Plaintiff and all other Settlement Class Members who do not submit a valid and timely Request for Exclusion.

25. “Parties” means Plaintiff and Defendant, each of which may also be referred to as a “Party.”

26. “Plaintiff” means plaintiff Jason Villamediana.

27. “Preliminary Approval Order” means the order to be issued by the Court approving and authorizing the mailing of the Notice Packet by the Settlement Administrator, setting the date of the Final Approval Hearing, and granting preliminary approval of the Settlement set forth in this Stipulation, among other things.

28. “Released Parties” means Defendant and its affiliated predecessor and successor entities, and each such entity’s respective present and former subsidiaries, affiliates, parents, agents, employees, members, investors, partners, owners, directors, officers, attorneys, trustees, insurers, representatives, predecessors, successors and assigns.

29. “Request for Exclusion” means a written request made by the Response Deadline by a Settlement Class Member to opt out of, or exclude oneself from, the Settlement.

30. “Response Deadline” means the date sixty (60) days after the Settlement Administrator mails the Notice Packets to Settlement Class Members and the last date on which Settlement Class Members may submit a Request for Exclusion, Notice of Objection, or dispute regarding the number of Compensable Workweeks stated on their respective Information Sheet.

31. “Settlement” means the final and complete disposition of the Action pursuant to this Stipulation.

32. “Settlement Administration Costs” means the reasonable costs and fees of administering the Settlement to be paid from the GSA, including, but not limited to: (i) translating the Class Notice and Information Sheet into Spanish; (ii) printing, mailing and re-mailing (if necessary) of Notice Packets to Settlement Class Members; (iii) preparing and submitting to Settlement Class Members and government entities all appropriate tax filings and forms; (iv) computing the amount of and distributing Individual Settlement Payments, the Class Representative Service Award, Attorneys’ Fees and Expenses, and the LWDA Payment; (v) processing and validating Requests for Exclusion and Notices of Objection; (vi) establishing a Qualified Settlement Fund (“QSF”), as defined by the Internal Revenue Code; and (vii) calculating and remitting to the appropriate government agencies all employer and employee payroll tax obligations arising from the Settlement and preparing and submitting filings required by law in connection with the payments required by the Settlement.

33. “Settlement Administrator” means Simpluris, Inc. or another third party administrator mutually agreed-upon by the Parties that will be responsible for the administration of the Settlement pursuant to the terms of the Stipulation.

34. “Settlement Class Members” means all persons employed by Defendant in California as hourly-paid, non-exempt employees during the Settlement Period.

35. “Settlement Period” means March 7, 2019 through May 7, 2021.

RECITALS

37. Procedural History. On May 11, 2020, Plaintiff filed a lawsuit against Defendant in Los Angeles County Superior Court, alleging a single cause of action for penalties under PAGA.

38. On January 7, 2022, the Parties participated in a private mediation session with mediator Steven J. Rottman, Esq. At the conclusion of the mediation, the Parties came to an agreement that would resolve the Action in its entirety. The Parties memorialized the settlement in a Memorandum of Understanding (“MOU”), which was executed on January 7, 2021.

39. On February 10, 2021, Plaintiff filed a First Amended Complaint (“FAC”), adding class claims for the time period of March 7, 2019 through May 7, 2021.

1 40. Benefits of Settlement to Plaintiff and the Settlement Class Members. Plaintiff
2 and Class Counsel recognize the expense and length of continued proceedings necessary to
3 litigate Plaintiff's claims in the Action through trial and through any possible appeals. Plaintiff
4 also has taken into account the uncertainty and risks of the outcome of further litigation, and the
5 difficulties and delays inherent in such litigation. Plaintiff and Class Counsel are also aware of
6 the burdens of proof necessary to establish liability for the claims asserted in the Action, both
7 generally and in response to Defendant's defenses thereto, and the difficulties in establishing
8 damages, penalties, restitution and other relief sought in the Action. Plaintiff and Class Counsel
9 also have taken into account Defendant's agreement to enter into a settlement that confers
10 substantial benefits upon the Settlement Class Members. Based on the foregoing, Plaintiff and
11 Class Counsel have determined that the Settlement set forth in this Stipulation is fair, adequate,
12 and reasonable and is in the best interests of all Settlement Class Members.

13 41. Defendant's Reasons for Settlement. Defendant has concluded that any further
14 defense of the Action would be protracted and expensive for all Parties. Substantial amounts of
15 Defendant's time, energy, and resources have been, and unless this Settlement is completed, shall
16 continue to be, devoted to the defense of the claims asserted by Plaintiff. Defendant also has
17 taken into account the risks of further litigation in reaching its decision to enter into this
18 Settlement. Even though Defendant contends it is not liable for any of the claims alleged by
19 Plaintiff in the Action, Defendant has agreed, nonetheless, to resolve the Action in the manner
20 and upon the terms set forth in this Stipulation and to put to rest the claims alleged in the Action.
21 Defendant has asserted and continues to assert that the claims alleged by Plaintiff have no merit
22 and do not give rise to any liability, damages, restitution, penalties or other payments. This
23 Stipulation is a compromise of disputed claims. Nothing contained in this Stipulation, no
24 documents referred to herein, and no action taken to carry out this Stipulation, shall be construed
25 or used as an admission by or against Defendant as to the merits or lack thereof of the claims
26 asserted in the Action. Defendant contends it has complied with all applicable state, federal and
27 local laws.

28 ///

TERMS OF SETTLEMENT

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

42. Binding Settlement. This Settlement shall bind the Parties and all Settlement Class Members, subject to the terms and conditions hereof and the Court's approval.

43. Tax Liability. The Parties make no representations as to the tax treatment or legal effect of the payments specified herein, and Settlement Class Members are not relying on any statement or representation by the Parties, Class Counsel, or Defense Counsel in this regard. Settlement Class Members and Class Counsel understand and agree that they shall be responsible for the payment of all taxes and penalties assessed on the payments specified herein, and shall hold the Parties, Class Counsel, and Defense Counsel free and harmless from and against any claims resulting from treatment of such payments as non-taxable, including the treatment of such payments as not subject to withholding or deduction for payroll and employment taxes.

44. Circular 230 Disclaimer. The Parties acknowledge and agree that (1) no provision of this Stipulation, and no written communication or disclosure between or among the Parties, Class Counsel, or Defense Counsel and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Stipulation, (b) has not entered into this Stipulation based upon the recommendation of any other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or advisor to any other party to avoid any tax penalty that may be imposed on the acknowledging party; and (3) no attorney or advisor to any other party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Stipulation.

1 45. Preliminary Approval of Settlement. Plaintiff shall move the Court to enter the
2 Preliminary Approval Order, thereby provisionally certifying the class for settlement purposes
3 only and setting a Final Approval Hearing date. The Parties agree to work diligently and
4 cooperatively to have this Settlement presented to the Court for preliminary approval. Plaintiff
5 shall provide the motion for preliminary approval, motion for final approval, other briefing
6 requested by the court, and related documents to Defense Counsel for review no less than five (5)
7 court days prior to filing. The Preliminary Approval Order shall provide for, among other things,
8 the Notice Packet to be sent to Settlement Class Members as specified herein. The Parties agree
9 that provisional certification of the class is for settlement purposes only and is in no way an
10 admission by Defendant in the Action or in any other proceeding that class certification is proper.

11 46. Release of Claims.

12 a. Settlement Class Members' Released Claims. Upon the Effective Date, all
13 Participating Class Members shall fully release and discharge the Released Parties from any all
14 claims arising out of the factual allegations plead in the operative complaint in the Action,
15 including claims that have been or could have been plead as wage and hour violations and relates
16 penalties and interest under California law, including all claims made and that could have been
17 made in such pleadings arising out of the factual allegations therein, including without limitations
18 claims related to overtime pay based on the regular rate of pay calculation for bonuses or
19 incentive pay (collectively, the "Released Claims"). All Participating Class Members will release
20 Defendant and the Released Parties from all remedies that could have been claimed in connection
21 with the Released Claims including but not limited to, statutory, constitutional, contractual
22 damages, unpaid costs, penalties, punitive damages, interest, attorneys' fees, litigation costs,
23 restitution, and equitable relief.

24 b. Plaintiff's Released Claims. Upon full payment of the GSA by Defendant
25 to the Settlement Administrator, Plaintiff shall be deemed to have released the Released Parties
26 from any and all claims, demands, rights, liabilities, and/or causes, of every nature, description,
27 and any form whatsoever, whether sounding in tort, in contract, in law, in equity or otherwise,
28 and including but not limited to, all claims for violations of any federal, state, local, or common

1 laws, rules, or regulations, whether known or unknown, unforeseen, unanticipated, unsuspected or
2 latent, that have been or could have been asserted by Plaintiff, or Plaintiff's heirs, successors
3 and/or assigns, whether directly, indirectly, representatively, derivatively or in any other capacity,
4 against Defendant or any of the other Released Parties, arising at any time prior to entry of the
5 Judgment, including but not limited to those claims raised in the Action, and those arising from or
6 related to Plaintiff's employment with Defendant. Plaintiff's Released Claims include, without
7 limitation, any claims under Title VII of the Civil Rights Act of 1964, any claims for fraud,
8 promises without the intent to perform, intentional or negligent misrepresentation, breach of
9 contract, breach of implied covenant of good faith and fair dealing, wrongful termination in
10 violation of public policy, retaliatory discharge, violations of the California Labor Code,
11 intentional infliction of emotional distress, violations of California Business and Professions
12 Code §§ 17200, *et seq.*, or violations of the California Fair Employment and Housing Act. This
13 release excludes only the release of claims not permitted by law.

14 Plaintiff expressly waives all rights and benefits under the terms of section 1542 of the
15 California Civil Code. Section 1542 reads as follows:

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

22 Notwithstanding the provisions of section 1542, and for the purpose of implementing a
23 full and complete release and discharge of all of Plaintiff's Released Claims, Plaintiff expressly
24 acknowledges that this Settlement is intended to include in its effect, without limitation, all claims
25 that Plaintiff does not know or suspect to exist in his favor at the time of execution hereof, and
26 that the Settlement contemplates the extinguishment of all such Plaintiff's Released Claims.

27 Plaintiff represents, covenants, and warrants that he is the owner of all of Plaintiffs'
28 Released Claims which he purports to release, and that he hasnot directly or indirectly assigned,

transferred, or encumbered, or purported to assign, transfer or encumber to any person or entity whether by operation of law or otherwise, any portion of Plaintiff's Released Claims.

47. Settlement Administration.

a. Within fourteen (14) days of entry of the Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the Class Information for purposes of mailing the Notice Packets to Settlement Class Members. Class Information identifying the individual Settlement Class Members shall not be provided to Class Counsel.

i. Notice by First Class U.S. Mail. Upon receipt of the Class Information, the Settlement Administrator shall perform a search based on the National Change of Address Database maintained by the United States Postal Service to update and correct any known or identifiable address changes. Within fourteen (14) days after receiving the Class Information from Defendant as provided herein, the Settlement Administrator shall mail copies of the Notice Packet to all Settlement Class Members via regular First Class U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Settlement Class Member. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the most current mailing address for each Settlement Class Member. The Parties agree that this procedure for notice provides the best notice practicable to Settlement Class Members and fully complies with due process.

ii. Undeliverable Notice Packets. Any Notice Packet returned to the Settlement Administrator as non-deliverable on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address by the use of skip-tracing, or other type of automated search, using the name, address and/or Social Security number of the Settlement Class Member involved, and shall then perform a re-mailing to the Settlement Class Member whose Notice Packet was returned as non-deliverable, assuming another mailing address is identified by the Settlement Administrator. If a Notice Packet is re-mailed to a Settlement Class Member before, but less than ten (10) days prior to the Response Deadline, the Settlement Class Member shall have his or her response deadline extended by ten

1 (10) days from the date the Settlement Administrator re-mails the Notice Packet. In no case shall
2 any Settlement Class Member's individual response deadline be extended more than 10 days after
3 the Response Deadline. If these procedures are followed, notice to Settlement Class Members
4 shall be deemed to have been fully satisfied, and if the intended recipient of the Notice Packet
5 does not receive the Notice Packet, the intended recipient shall nevertheless remain a Settlement
6 Class Member and shall be bound by all terms of the Settlement and the Judgment.

7 iii. Determination of Individual Settlement Payments. The Settlement
8 Administrator shall determine the eligibility for, and the amount of, each Individual Settlement
9 Payment under the terms of this Stipulation. The Settlement Administrator's determination of the
10 eligibility for and amount of each Individual Settlement Payment shall be binding upon the
11 Settlement Class Member and the Parties, yet subject to review by Class Counsel and Defense
12 Counsel. In the absence of fraud or gross negligence, or the provision of clear and convincing
13 evidence presented by a Participating Class Member, Defendant's records shall be presumed
14 accurate.

15 iv. Disputes Regarding Administration of Settlement. Any dispute not
16 involving the Settlement Administrator's determination of eligibility for and amount of Individual
17 Settlement Payments that the Parties cannot resolve between themselves shall be resolved by the
18 Court. Prior to any such involvement of the Court, counsel for the Parties shall confer in good
19 faith and make use of the services of mediator Steven J. Rottman if necessary, to resolve the
20 dispute without the necessity of involving the Court. The Parties shall equally share the cost of
21 the mediator.

22 b. Requests for Exclusion. The Class Notice shall explain that Settlement
23 Class Members who wish to exclude themselves from the class and Settlement must submit a
24 Request for Exclusion to the Settlement Administrator by the Response Deadline. The Request
25 for Exclusion must: (1) contain the name, address, and telephone number of the Settlement Class
26 Member requesting exclusion; (2) be signed by the Settlement Class Member; and (3) be returned
27 to the Settlement Administrator via mail, email or fax by the Response Deadline. For Requests
28 for Exclusion submitted via mail, subject to review by Class Counsel, Defense Counsel, and the

1 Court, the date of the postmark on the mailing envelope on the Request for Exclusion shall be the
2 exclusive means used by the Settlement Administrator to determine whether a Settlement Class
3 Member has timely requested exclusion from the class and Settlement. Any Settlement Class
4 Member who timely and properly requests to be excluded from the class and Settlement shall not
5 be entitled to any benefits under the Settlement and shall not be bound by the terms of the
6 Settlement nor shall the Settlement Class Member have any right to object to the Settlement or
7 appeal from the entry of the Judgment. Settlement Class Members who do not submit a valid and
8 timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of
9 the Settlement and the Judgment entered in this Action if the Settlement is finally approved by the
10 Court. No later than ten (10) days after the Response Deadline, the Settlement Administrator
11 shall provide counsel for the Parties a complete list of all Settlement Class Members who
12 submitted a Request for Exclusion.

13 c. Objections. The Class Notice shall state that Settlement Class Members
14 who wish to object to the Settlement must submit to the Settlement Administrator a Notice of
15 Objection by the Response Deadline or appear at the Final Approval Hearing to explain their
16 objection(s). A Notice of Objection must (1) state the full name of the Settlement Class Member;
17 (2) be signed by the Settlement Class Member; (3) state the grounds for the objection; and (4) be
18 returned to the Settlement Administrator via mail, email, or fax by the Response Deadline. For
19 Notices of Objection submitted via mail, subject to review by Class Counsel, Defense Counsel,
20 and the Court, the date of the postmark on the mailing envelope on the Notice of Objection shall
21 be the exclusive means used by the Settlement Administrator to determine whether a Class
22 Member timely objected to the Settlement. Settlement Class Members who do not submit a valid,
23 timely, and complete Notice of Objection or appear at the Final Approval Hearing to explain their
24 objection(s) shall be deemed to have waived any objections and shall be foreclosed from making
25 any objections (whether by appeal or otherwise) to the Settlement. At no time shall any of the
26 Parties, Class Counsel, or Defense Counsel seek to solicit or otherwise encourage or discourage
27 Settlement Class Members from objecting to the Settlement or filing an appeal from the
28 Judgment.

1 d. Disputes Regarding the Number of Compensable Workweeks. If a
2 Settlement Class Member disagrees with the number of Compensable Workweeks stated on his or
3 her Information Sheet, the Settlement Class Member must send a letter to the Settlement
4 Administrator by the Response Deadline stating the reasons why he or she disputes the number of
5 Compensable Workweeks and provide any supporting documentation. The Settlement
6 Administrator will evaluate the evidence submitted by the Settlement Class Member and make a
7 decision as to the number of Compensable Workweeks that should be applied and/or the
8 Individual Settlement Payment to which the Settlement Class Member is entitled. The Settlement
9 Administrator may request additional information from Defense Counsel and/or consult with
10 Defense Counsel and/or Class Counsel in making its determination.

11 e. Monitoring and Reviewing Settlement Administration. The Parties have
12 the right to monitor and review the administration of the Settlement to verify that the monies
13 allocated under the Settlement are distributed in the correct amount, as provided for in this
14 Stipulation.

15 f. Best Efforts. The Parties agree to use their best efforts to carry out the
16 terms of this Settlement.

17 48. Funding and Allocation of GSA. No later than thirty (30) days after the Effective
18 Date, Defendant shall provide to the Settlement Administrator in any feasible manner, including,
19 but not limited to, by way of a wire transfer, the GSA. If this Settlement is not finally approved
20 by the Court in full, or is terminated, rescinded, canceled or fails to become effective for any
21 reason, or if the Effective Date does not occur, then no portion of the GSA shall be paid and the
22 GSA shall be returned to Defendant by the Settlement Administrator in full, with the exception of
23 the Settlement Administration Fees incurred to such date.

24 a. Individual Settlement Payments. Settlement Class Members shall not be
25 required to submit a claim in order to receive a share of the Net Settlement Amount, and no
26 portion of the GSA shall revert to Defendant or result in an unpaid residue. Individual Settlement
27 Payments shall be paid by the Settlement Administrator from the Net Settlement Amount
28 pursuant to the formula set forth herein. Individual Settlement Payments shall be mailed by the

1 Settlement Administrator by regular First Class U.S. Mail to each Settlement Class Member's last
2 known mailing address within ten (10) days after Defendant provides the Settlement
3 Administrator with the GSA. Prior to mailing the Individual Settlement Payments, the Settlement
4 Administrator shall perform a search based on the National Change of Address Database
5 maintained by the United States Postal Service to update and correct any known or identifiable
6 address changes.

7 i. Each Participating Class Member's Individual Settlement Payment
8 shall be calculated solely by the Settlement Administrator according to the following formula:
9 Defendant shall provide the Settlement Administrator with the Compensable Workweeks for each
10 Participating Class Member. The Settlement Administrator shall then divide the Net Settlement
11 Amount by the total number of Compensable Workweeks for all Participating Class Members
12 resulting in a value for each week worked by the Participating Class Members during the
13 Settlement Period ("Workweek Value"). The Settlement Administrator shall then multiply the
14 number of Compensable Workweeks for each Participating Class Member by the Workweek
15 Value. In addition, all Settlement Class Members shall receive a pro rata share of the portion of
16 the PAGA Payment allocated to Settlement Class Members based on their Compensable
17 Workweeks during the Settlement Period.

18 ii. Individual Settlement Payments shall be made by check and shall
19 be made payable to each Settlement Class Member as set forth in this Stipulation.

20 iii. Individual Settlement Payments shall be allocated as follows:
21 twenty percent (20%) as wages subject to all applicable tax withholdings and eighty percent
22 (80%) as non-wage penalties and interest not subject to payroll tax withholdings. The Settlement
23 Administrator shall issue an IRS Form W-2 to each Settlement Class Member for the portion of
24 each Individual Settlement Payment allocated as wages and subject to all applicable tax
25 withholdings. The Settlement Administrator shall issue an IRS Form 1099 to each Settlement
26 Class Member for the portion of each Individual Settlement Payment allocated as non-wage
27 penalties and interest not subject to payroll tax withholdings. The Settlement Administrator shall
28 calculate the amount of the Employer's Share of Payroll Taxes and shall remit and report the

1 applicable portions of the payroll tax payment to the appropriate taxing authorities in a timely
2 manner.

3 iv. Individual Settlement Payment checks shall remain negotiable for
4 one hundred eighty (180) days from the date of mailing. If an Individual Settlement Payment
5 check remains uncashed after one hundred eighty (180) days from mailing, the Settlement
6 Administrator shall distribute the value of the uncashed checks, plus any interest accrued thereon,
7 to the State of California unclaimed wages fund or such shall escheat such funds in the name of
8 the employee. In the event that the Court does not approve such payments, the Settlement
9 Administrator shall distribute the value of the uncashed checks, plus any interest that has accrued
10 thereon, to a non-profit charitable organization to be mutually agreed upon by the Parties and
11 approved by the Court. In the event of distribution to a charitable organization, the Settlement
12 Administrator shall void any tax documents issued to Settlement Class Members who did not
13 cash their checks within one hundred eighty (180) days of issuance. In such event, the Settlement
14 Class Members, except those who submitted a valid Request for Exclusion, shall nevertheless
15 remain bound by the Settlement. Prior to the Final Approval Hearing, the Parties shall provide
16 the Court the total amount that will be payable to Settlement Class Members. The Parties also
17 shall request that the Court set a date for the Parties to report to the Court the total amount that
18 was actually paid to Settlement Class Members and to submit an amended judgment that directs
19 that the sum of the uncashed checks, plus any interest that has accrued thereon, be paid in
20 accordance with the Court's orders.

21 v. All monies received by Settlement Class Members under the
22 Settlement which are attributable to wages shall constitute income to such Settlement Class
23 Members solely in the year in which such monies actually are received by the Settlement Class
24 Members. It is expressly understood and agreed that the receipt of Individual Settlement
25 Payments shall not entitle any Settlement Class Member to additional compensation or benefits
26 under any collective bargaining agreement or under any bonus, contest or other compensation or
27 benefit plan or agreement in place during the period covered by the Settlement, nor shall it entitle
28 any Settlement Class Member to any increased pension and/or retirement, or other deferred

1 compensation benefits. It is the intent of the Parties that Individual Settlement Payments
2 provided for in this Stipulation are the sole payments to be made by Defendant to Settlement
3 Class Members in connection with this Settlement, with the exception of Plaintiff, and that the
4 Settlement Class Members are not entitled to any new or additional compensation or benefits as a
5 result of having received the Individual Settlement Payments. Furthermore, the receipt of
6 Individual Settlement Payments by Settlement Class Members shall not, and does not, by itself
7 establish any general, special, or joint employment relationship between and among the
8 Settlement Class Member(s) and Defendant.

9 b. Class Representative Service Award. Subject to Court approval, Plaintiff
10 shall be paid a Class Representative Service Award not to exceed Seven Thousand Five Hundred
11 Dollars (\$7,500.00), or any lesser amount as awarded by the Court, for his time and effort in
12 bringing and presenting the Action and for releasing his claims. Defendant shall not oppose or
13 object to Plaintiff's request for a Class Representative Service Award not to exceed Seven
14 Thousand Five Hundred Dollars (\$7,500.00) to Plaintiff. The Class Representative Service
15 Award shall be paid to Plaintiff from the GSA no later than ten (10) days after Defendant
16 provides the Settlement Administrator with the GSA. The Settlement Administrator shall issue
17 an IRS Form 1099 to Plaintiff for his Class Representative Service Award. Plaintiff shall be
18 solely and legally responsible to pay any and all applicable taxes on his Class Representative
19 Service Award and shall hold harmless Defendant, Class Counsel, and Defense Counsel from any
20 claim or liability for taxes, penalties, or interest arising as a result of payment of the Class
21 Representative Service Award. The Class Representative Service Award shall be made in
22 addition to Plaintiff's Individual Settlement Payment. Any amount requested by Plaintiff for the
23 Class Representative Service Award and not awarded by the Court shall become part of the Net
24 Settlement Amount and shall be distributed to Settlement Class Members as part of their
25 Individual Settlement Payments.

26 c. Attorneys' Fees and Expenses. Subject to Court approval, Class Counsel
27 shall be entitled to receive reasonable attorneys' fees in an amount not to exceed one-third (1/3)
28 of the GSA, which amounts to One Hundred Thousand Dollars (\$100,000.00). In addition,

1 subject to Court approval, Class Counsel shall be entitled to an award of reasonable costs and
2 expenses associated with Class Counsel's prosecution of the Action in an amount not to exceed
3 Fifteen Thousand Dollars (\$15,000.00). Class Counsel shall provide the Settlement
4 Administrator with a properly completed and signed IRS Form W-9 in order for the Settlement
5 Administrator to process the Attorneys' Fees and Expenses approved by the Court. Defendant
6 shall not oppose or object to Plaintiff's request for an award of attorneys' fees in an amount not to
7 exceed One Hundred Thousand Dollars (\$100,000.00) and request for an award of reasonable
8 costs and expenses not to exceed Fifteen Thousand Dollars (\$15,000.00). In the event the Court
9 awards Class Counsel less than One Hundred Thousand Dollars (\$100,000.00) in attorneys' fees
10 and/or less than Fifteen Thousand Dollars (\$15,000.00) in costs and expenses, the difference shall
11 become part of the Net Settlement Amount and shall be distributed to Settlement Class Members
12 as part of their Individual Settlement Payments. Class Counsel shall be paid any Court-awarded
13 Attorneys' Fees and Expenses no later than ten (10) days after Defendant provides the Settlement
14 Administrator with the GSA. Class Counsel shall be solely and legally responsible to pay all
15 applicable taxes on the Attorneys' Fees and Expenses. The Settlement Administrator shall issue
16 an IRS Form 1099 to Class Counsel for the Attorneys' Fees and Expenses. This Settlement is not
17 conditioned upon the Court awarding Class Counsel any particular amount of attorneys' fees or
18 costs.

19 d. PAGA Payment. Thirty Thousand Dollars (\$30,000.00) from the GSA
20 shall be allocated as penalties under PAGA, of which seventy-five percent (75%), or Twenty-Two
21 Thousand Five Hundred Dollars (\$22,500.00), shall be paid by the Settlement Administrator
22 directly to the LWDA. The remaining twenty-five percent (25%), or Seven Thousand Five
23 Hundred Dollars (\$7,500.00) shall be distributed to Settlement Class Members as part of their
24 Individual Settlement Payments.

25 e. Settlement Administration Costs. The Settlement Administration fees and
26 expenses, which are estimated not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00),
27 shall be paid from the GSA. Prior to Plaintiff filing a motion for final approval of the Settlement,
28 the Settlement Administrator shall provide the Parties with a statement detailing the Settlement

Administration Costs to date. The Parties agree to cooperate in the Settlement Administration process and to make all reasonable efforts to control and minimize Settlement Administration Costs.

i. The Parties each represent they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

ii. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities required by the Settlement. The Settlement Administrator shall be authorized to establish a QSF pursuant to IRS rules and regulations in which the GSA shall be placed and from which payments required by the Settlement shall be made.

49. Final Settlement Approval Hearing and Entry of Judgment. Following expiration of the Response Deadline, a Final Approval Hearing shall be conducted to determine whether to grant final approval of the Settlement, including determining the amounts properly payable for: (i) Attorneys' Fees and Expenses; (ii) the Class Representative Service Award; and (iii) the PAGA Payment. Prior to the Final Approval Hearing, the Settlement Administrator shall provide a written report or declaration to the Parties describing the process and results of the administration of the Settlement to date, which report or declaration shall be filed by Plaintiff with the Court prior to the Final Approval Hearing. Plaintiff shall provide the motion for final approval and related documents to Defense Counsel for review no less than five (5) court days prior to filing. If the Court grants final approval of the Settlement, the Settlement Administrator shall post notice of final judgment on its website within seven (7) calendar days of entry of the Judgment.

50. Adjustment of Settlement Amount. The GSA was negotiated and is premised on the understanding that, as of January 7, 2021, the Settlement Class consists of approximately 216 employees and approximately 7,695 Compensable Workweeks. In the event that either of these numbers increases by more than by seven and one half percent (7.5%), the GSA will be increased proportionally, or Defendant will have the option to set the Settlement Period end date to a date at

1 which the number of Settlement Class Members and/or Compensable Workweeks does not
2 increase by more than seven and one half percent (7.5%) of the numbers set forth in this
3 paragraph.

4 51. Right of Defendant to Reject Settlement. In the event that more than five percent
5 (5%) of the Settlement Class Members submit valid Requests for Exclusion, Defendant will have
6 the right, but not the obligation, to void the Settlement and the Parties will have no further
7 obligations under the Settlement, including any obligation by Defendant to pay the GSA, or any
8 amounts that otherwise would have been owed under this Stipulation, except that Defendant shall
9 pay the Settlement Administration Costs incurred as of the date that Defendant exercise their right
10 to void the Settlement. Defendant will notify Class Counsel and the Court whether they are
11 exercising this right to void not later than seven (7) days after the Settlement Administrator
12 notifies the Parties of the total number of valid Requests for Exclusion it has received.

13 52. Nullification of Settlement. In the event: (i) the Court does not enter the
14 Preliminary Approval Order; (ii) the Court does not grant final approval the Settlement; (iii) the
15 Court does not enter the Judgment; or (iv) the Settlement does not become final for any other
16 reason, this Stipulation shall be rendered null and void, any order or judgment entered by the
17 Court in furtherance of this Settlement shall be treated as void from the beginning and this
18 Stipulation and any documents related to it shall not be used by any Settlement Class Member or
19 Class Counsel to support any claim or request for class certification in the Action, and shall not
20 be used in any other civil, criminal, or administrative action against Defendant or any of the other
21 Released Parties. In the event an appeal is filed from the order granting final approval or
22 Judgment, or any other appellate review is sought, administration of the Settlement shall be
23 stayed pending final resolution of the appeal or other appellate review. Any fees incurred by the
24 Settlement Administrator prior to it being notified of the filing of an appeal from the Judgment, or
25 any other appellate review, shall be paid by Defendant to the Settlement Administrator.

26 53. No Publicity. Except as set forth in this paragraph or with the consent of all
27 Parties, the Parties, Class Counsel, and Defense Counsel agree that they will not, unless required
28 by law, communicate or publicize the existence of or set forth the terms of the Settlement in a

1 public manner, including without limitation by communicating or publicizing the existence of or
2 the terms of the Settlement to members of the press, or to publish such information on any
3 website or social media forum (including through organizations that publicize verdicts and
4 settlements and on websites operated by or for Class Counsel or Defense Counsel). Nothing
5 herein shall be interpreted as preventing any good-faith communications by Class Counsel,
6 Defense Counsel and/or the Parties with the courts, Settlement Class Members, or the Settlement
7 Administrator for the purpose of facilitating the Settlement of the Action. Nothing herein shall
8 prevent the Parties from filing documents and communicating with the courts and other counsel
9 in connection with the Action. Nothing shall prevent Defendant from communicating with its
10 employees, ownership, and lender concerning the Settlement and the renegotiation of its loan
11 covenants.

12 54. No Admission by Defendant. Defendant denies all claims alleged in this Action
13 and deny all wrongdoing whatsoever by Defendant. Neither this Stipulation, nor any of its terms
14 and conditions, nor any of the negotiations connected with it, is a concession or admission, and
15 none shall be used against Defendant as an admission or indication with respect to any claim of
16 any fault, concession, or omission by Defendant or that class certification is proper under the
17 standard applied to contested certification motions. The Parties stipulate and agree to the
18 certification of the proposed class for settlement purposes only. The Parties further agree that this
19 Stipulation shall not be admissible in this or any other proceeding as evidence that either (i) a
20 class action should be certified or (ii) Defendant is liable to Plaintiff or any Settlement Class
21 Member, other than according to the terms of this Stipulation.

22 55. Exhibits and Headings. The terms of this Stipulation include the terms set forth in
23 any attached Exhibits, which are incorporated by this reference as though fully set forth herein.
24 The Exhibits to this Stipulation are an integral part of the Settlement. The descriptive headings of
25 any paragraphs or sections of this Stipulation are inserted for convenience of reference only.

26 56. Interim Stay of Action. The Parties agree to stay and to request that the Court stay
27 all proceedings in the Action, except such proceedings necessary to implement and complete the
28 Settlement and enter the Judgment.

1 57. Amendment or Modification. This Stipulation may be amended or modified only
2 by a written instrument signed by counsel for all Parties or their successors-in-interest.

3 58. Entire Agreement. This Stipulation and any attached Exhibits constitute the entire
4 agreement between the Parties, and no oral or written representations, warranties, or inducements
5 have been made to Plaintiff or Defendant concerning this Stipulation or its Exhibits, other than
6 the representations, warranties, and covenants contained and memorialized in this Stipulation and
7 its Exhibits. No other prior or contemporaneous written or oral agreements may be deemed
8 binding on the Parties.

9 59. Authorization to Enter into Settlement Agreement. Class Counsel and Defense
10 Counsel warrant and represent they are expressly authorized by the Parties whom they represent
11 to negotiate this Stipulation and to take all appropriate actions required or permitted to be taken
12 by such Parties pursuant to this Stipulation to effectuate its terms, and to execute any other
13 documents required to effectuate the terms of this Stipulation. The Parties, Class Counsel, and
14 Defense Counsel shall cooperate with each other and use their best efforts to effect the
15 implementation of the Settlement. In the event the Parties are unable to reach agreement on the
16 form or content of any document needed to implement the Settlement, or on any supplemental
17 provisions that may become necessary to effectuate the terms of this Settlement, the Parties may
18 seek the assistance of the Court and/or mediator Steven J. Rottman to resolve such disagreement.
19 The person(s) signing this Stipulation on behalf of Defendant represents and warrants that they
20 are authorized to sign this Stipulation on behalf of Defendant. Plaintiff represents and warrants
21 that he is authorized to sign this Stipulation and that he has not assigned any claim, or part of a
22 claim, covered by this Settlement to a third-party. The Parties have cooperated in the drafting and
23 preparation of this Stipulation. Hence, in any construction made of this Stipulation, the same
24 shall not be construed against any of the Parties.

25 60. Binding on Successors and Assigns. This Stipulation shall be binding upon, and
26 inure to the benefit of, the successors and assigns of the Parties.

27 61. California Law Governs. All terms of this Stipulation and the Exhibits hereto shall
28 be governed by and interpreted according to the laws of the State of California, without giving

1 effect to any law that would cause the laws of any jurisdiction other than the State of California to
2 be applied.

3 62. Counterparts. This Stipulation may be executed in one or more counterparts by
4 facsimile, electronic signature, or email which for purposes of this Stipulation shall be accepted
5 as an original. All executed counterparts and each of them shall be deemed to be one and the
6 same instrument. Any executed counterpart will be admissible in evidence to prove the existence
7 and contents of this Stipulation.

8 63. Jurisdiction of the Court. Following entry of the Judgment, the Court shall retain
9 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of
10 this Stipulation and all orders and judgments entered in connection therewith, and the Parties,
11 Class Counsel, and Defense Counsel submit to the jurisdiction of the Court for purposes of
12 interpreting, implementing, and enforcing the Settlement embodied in this Stipulation and all
13 orders and judgments entered in connection therewith.

14 64. Invalidity of Any Provision. Before declaring any term or provision of this
15 Stipulation invalid, the Parties request that the Court first attempt to construe the terms or
16 provisions valid to the fullest extent possible consistent with applicable precedents so as to define
17 all provisions of this Stipulation as valid and enforceable.

18 65. Binding Nature of Notice of Class Action Settlement. It is agreed that because the
19 Settlement Class Members are so numerous, it is impossible or impractical to have each
20 Settlement Class Member execute the Stipulation. The Class Notice shall advise all Settlement
21 Class Members of the binding nature of the Settlement, and the release of Released Claims and
22 shall have the same force and effect as if this Stipulation were executed by each Settlement Class
23 Member.

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25 Dated: May 28, 2021


Jason Villamediana (May 28, 2021 11:15 PDT)

Plaintiff JASON VILLAMEDIANA

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Dated: 6/28/2021, 2021

DocuSigned by:
Michael Lubitz
4759126A5D5D465...
Defendant SBH Restaurant Associates, LLC
By: Michael Lubitz
Its: Chief Financial Officer

Approved as to form and content:

DATED: _____, 2021

MATERN LAW GROUP, PC

By: _____
MATTHEW J. MATERN
LAUNA ADOLPH
ELLIE D. GORALNICK
Attorneys for Plaintiff JASON VILLAMEDIANA,
individually and on behalf of all others similarly
situated

DATED: June 29, 2021

DAVIS WRIGHT TREMAINE LLP

By:  _____
JANET GRUMER
CHRIS PETERSON
Attorneys for Defendant SBH RESTAURANT
ASSOCIATES, LLC

1 Dated: _____, 2021

2 Defendant SBH Restaurant Associates, LLC

3 By: _____

4 Its: _____

5
6 Approved as to form and content:

7
8
9 DATED: 5/28, 2021

MATERN LAW GROUP, PC

10
11 By: _____


12 MATTHEW J. MATERN
13 LAUNA ADOLPH
14 ELLIE D. GORALNICK
15 Attorneys for Plaintiff JASON VILLAMEDIANA,
16 individually and on behalf of all others similarly
17 situated

18
19 DATED: _____, 2021

DAVIS WRIGHT TREMAINE LLP

20
21 By: _____

JANET GRUMER
CHRIS PETERSON

22 Attorneys for Defendant SBH RESTAURANT
23 ASSOCIATES, LLC
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25
26
27
28