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HANNAH WILLIAMS,
6 and on behalf of all others similarly aggrieved.

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF ORANGE, COMPLEX CIVIL**

11
12 HANNAH WILLIAMS, individually and on
behalf of all others similarly aggrieved.

13 Plaintiff,

14 vs.

15 CEDAR CREEK INN SJC, INC., a California
16 Corporation; and DOES 1-50, Inclusive,

17 Defendant.

Case No. 30-2020-01174105-CU-OE-CXC

Assigned to Hon. Randall J. Sherman
Department CX105

**DECLARATION OF ANDREA W. S.
PARIS IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

[Filed Concurrently with:

- 18 **1. Notice of Motion and Motion; and**
19 **2. [Proposed] Order.**

20 Date: March 24, 2023
21 Time: 10:00 a.m.
22 Dept.: CX105

23 Complaint Filed: December 10, 2020
24 Trial Date: None Set

25 Reservation #: 73927088

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DECLARATION OF ANDREA W. S. PARIS

I, Andrea W. S. Paris, declare as follows:

1. I am an attorney duly admitted to the Bar of the State of California and all United States District Courts in the State of California. I am the Principal at Andrea Paris Law, PC. I have personal knowledge of the facts stated herein and if called as a witness I could and would competently testify thereto.

CLASS COUNSEL’S BACKGROUND AND EXPERIENCE

2. I am a duly licensed attorney and have been a member of the California State Bar since 2007. I graduated from Chapman University School of Law in 2007 and I am licensed to practice before all courts of the State of California and United States District Courts throughout California.

3. Prior to opening my law firm, I developed a particular expertise in wage and hour litigation.

4. As the Principal of Andrea Paris Law, PC I handle a wide range of employment law claims, including wage and hour violations. For over ten years I have represented plaintiffs and defendants in representative actions brought under the California Labor Code, including meal and rest break violations, overtime, minimum wage claims, off the clock work, and other wage related claims. My practice includes management of multiple representative actions. My management of these cases includes taking and defending depositions, interviewing class members, and mediating these matters.

5. As the Principal attorney at my firm, I am responsible for leading the strategy of these cases and drafting all of the pleadings and briefs. I received a wide-array of wage and hour representative action experience performing the following types of tasks: drafting complaints; responding to written discovery; drafting and opposing discovery related motions; arguing discovery related motions; interviewing class members; drafting motions for class certification; determining the likelihood of prevailing at class certification and potential damages resulting from such claims; drafting mediation briefs; deposing defendant and corporate witnesses; and deposing

1 retained expert witnesses. In short, I played an integral role in all aspects of litigation from the
2 inception of a matter through and beyond class certification.

3 6. I continue to devote myself and my practice to working in employment law and on
4 complex class action cases and representative litigation, and multi-plaintiff work.

5 7. I am fully aware of the legal and actual issues in the Actions and have specific
6 experience litigating complex wage and hour actions as class actions, including the employment
7 cases as set forth above.

8 8. The Settlement presented here only resulted after having engaged in extensive
9 informal discovery and investigation and is the product of hard-fought litigation and extensive arms'
10 length negotiations. In my opinion as an experienced class counsel, the Settlement is fair,
11 reasonable, adequate, and in the best interests of the Class.

12 **FACTUAL AND PROCEDURAL BACKGROUND**

13 9. Plaintiff was employed as a server/waiter by Defendant at its restaurant, Cedar Creek
14 Inn from around November 2018, until her termination on December 15, 2019. Plaintiff and other
15 aggrieved employees were almost entirely part-time employees who worked approximately 10-15
16 hours per week as non-exempt employees. Defendant's restaurant was closed for a period of time
17 in 2020 due to the COVID-19, and then was open reduced hours, thus, further reducing the number
18 of hours worked by aggrieved employees. Additionally, Defendant faced relatively high turnover,
19 resulting in aggrieved employees working for Defendant for relatively shorter periods of time than
20 normal. Defendant paid Plaintiff the minimum wage of \$11.00 per hour in 2018 and \$12.00 per hour
21 in 2019, plus tips. A sampling of other employees indicates that they were also generally paid
22 minimum wage. Plaintiff alleges that during the course of her employment, she suffered meal and
23 rest break violations, performed off-the-clock work, and failed to receive paid sick leave.

24 10. On April 28, 2020 Plaintiff provided notice to the California Labor and Workforce
25 Development Agency ("LWDA") and Defendant of her intent to seek penalties pursuant to Labor
26 Code § 2699, et seq. ("PAGA"). Attached hereto as **Exhibit 1** is a true and correct copy of Plaintiff's
27 Notice to the LWDA.

1 11. On December 10, 2020, Plaintiff filed a complaint with the Orange County Superior
2 Court, Case No. 30-2020-01174105-CU-OE-CXC alleging the following causes of action: 1)
3 Failure to Pay for Missed Meal Periods (Lab. Code §§512, 226.7); 2) Failure to Provide Paid Rest
4 Periods (Lab. Code § 226.7); 3) Failure To Pay Accrued Sick Time (Cal. Labor Code §246); 4)
5 Failure to Maintain Records and Provide Accurate Itemized Wage Statements (Lab. Code §§226,
6 1174, 1175, 1198); 5) Failure To Pay All Wages 6) Failure to Timely Pay All Wages Upon
7 Separation (Lab. Code §§201-203); and 7) Private Attorney General Act (Lab. Code §2699, Et Seq.).

8 12. Plaintiff and Defendant (collectively, “the Parties”) agreed to stay formal discovery,
9 exchange informal discovery and engage in private mediation.

10 13. Prior to mediation, Defendant produced Plaintiff’s personnel file, including time and
11 pay records, and a sampling of aggrieved employees’ payroll records, time records, meal period
12 waivers, and wage statements from 2018-2021. Additionally, I reviewed Defendant’s financial
13 records evidencing Defendant’s position that it suffered financial hardship prior to and as a result of
14 the pandemic.

15 14. After a thorough investigation and analysis of this data, the Parties attended formal
16 mediation with Michael Diliberto, Esq., a neutral and highly respected mediator with extensive
17 experience in complex wage and hour matters. At mediation, the Parties engaged in a full day of
18 intensive settlement discussions during which they debated their respective positions and exchanged
19 views regarding the strengths and weaknesses of the alleged claims.

20 15. After a full day of mediation, and with the mediator’s assistance, the Parties reached
21 an agreement to resolve this dispute on a class and representative basis for a Gross Settlement
22 Amount of \$110,000.00, contingent upon the execution of a Settlement Agreement and Court
23 Approval.

24 16. Thereafter, the Parties worked diligently to negotiate and memorialize the terms of a
25 long-form settlement. On or around August 31, 2022, after extensive discussions and revisions to
26 the agreement, the Parties entered into a fully executed Joint Stipulation of Class Action and PAGA
27 Settlement. Attached hereto as **Exhibit 2** is a true and correct copy of the Agreement.

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1 17. On or about January 9, 2023, I submitted a copy of the proposed Joint Stipulation of
2 Class Action and PAGA Settlement, as well as the hearing date, time and location for the scheduled
3 preliminary approval hearing on this matter, were submitted to the California Labor Workforce
4 Development Agency via online filing at [https://www.dir.ca.gov/Private-Attorneys-General-
5 Act/Private-Attorneys-General-Act.html](https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html). A true and correct copy of the confirmation of receipt
6 from the LWDA is attached hereto as **Exhibit 3**.

7 **SUMMARY OF THE TERMS OF SETTLEMENT**

8 18. Plaintiff seeks preliminary approval of the proposed class action and PAGA
9 settlement. A true and correct copy of the Parties' Joint Stipulation of Class Action and PAGA
10 Settlement (hereinafter "Settlement" or "Agreement") is attached hereto as **Exhibit 2**. True and
11 correct copies of the Notice of Proposed Class Action Settlement ("Class Notice") and PAGA
12 Notice are attached to the Agreement as **Exhibits A and B**.

13 19. Plaintiff seeks to provisionally certify the following class for settlement purposes:
14 "All current and former non-exempt employees of Defendant who worked for Defendant in
15 California at any time between June 15, 2017 and May 26, 2022." (Agreement ¶ I(E.))

16 20. The Parties have agreed that PAGA members shall be defined as: all current and
17 former hourly paid or non-exempt individuals who were employed by Defendant within the state of
18 California, at any time between October 16, 2019 through May 26, 2022. Agreement ¶ I(Q) &
19 I(DD)).

20 21. It is estimated that there are 200 Class Members within the Class Period and
21 approximately 152 PAGA Members within the PAGA Period.

22 22. I am not aware of any other currently filed individual, class, or PAGA action that
23 would be affected by this agreement.

24 23. Subject to Court approval, the Parties have agreed to settle the class and PAGA
25 claims at issue for a non-reversionary Gross Settlement Amount of \$110,000.00, exclusive of any
26 employer-side payroll taxes. (Agreement ¶ I(T) & III(A).)

27 24. The Gross Settlement Amount allocations are as follows:

28 a. attorneys' fees in the amount of 33% equaling \$36,300.00 of the Gross Settlement;

- 1 b. actual litigation costs, not to exceed \$5,661.00;
- 2 c. Settlement Administration Costs are currently estimated at \$10,000.00;
- 3 d. Class Representative Enhancement Payment in the amount of \$15,000.00; and
- 4 e. the PAGA Payment of \$5,000.00, 75% of the PAGA Payment (\$3,750.00) shall be
- 5 paid to the LWDA, and 25% of the PAGA Payment shall be distributed to Eligible
- 6 Aggrieved Employees.
- 7 25. After the above-estimated amounts are deducted from the Gross Settlement Amount,
- 8 approximately 200 Class Members will share in a Net Settlement Amount of \$38,039.00.
- 9 (Agreement ¶ I(W).)
- 10 26. The Net Settlement Amount will be distributed to Class Members who do not request
- 11 exclusion from settlement.
- 12 27. The Class Members who are also PAGA members will receive a *pro-rata* share of
- 13 the 25% portion of the PAGA Payment allocated for aggrieved employees. (Agreement ¶ I(BB).)
- 14 28. Payments to Participating Class Members shall be allocated as 20% wages and 80%
- 15 interest and penalties. (Agreement ¶ III(G)(2)).
- 16 29. Employee taxes on wages will be deducted from the wage portion of each
- 17 Participating Class Member's Individual Settlement Payment. (Agreement ¶ I(T)).
- 18 30. The Settlement Administrator will submit Defendant's portion of employer side
- 19 taxes, along with each Participating Class Member's Individual Settlement Share withholdings, to
- 20 the appropriate taxing authorities. (Agreement ¶ III(H)(3)).
- 21 31. The proposed Agreement is a non-reversionary settlement. All money from the Net
- 22 Settlement Amount will be distributed to Participating Class Members. No money from the
- 23 Settlement will revert to Defendant. (Agreement ¶ I(T)).
- 24 32. Any residue Individual Settlement Payment checks remaining uncashed after 180
- 25 days will be distributed to the Controller of the State of California to be held in trust for such Class
- 26 Members pursuant to California unclaimed property law. As such, no "unpaid residue" under
- 27 California Code of Civil Procedure §384 will result from the settlement. (Agreement ¶ III(I)).
- 28

33. In exchange for participating in the settlement, Participating Class Members will release their wage and hour claims against Defendant and the “Released Class Parties”; however, the release for Participating Class Members will only occur upon the complete funding of the Gross Settlement Amount and is narrowly tailored to only release claims based upon the facts alleged in the operative complaint.

34. In addition, upon the funding of the Gross Settlement Amount, all PAGA Members, the LWDA, and the State of California shall release Defendant, and the “Released PAGA Parties” from claims for the recovery of civil penalties that were alleged or reasonably could have been alleged based on the facts asserted in the operative complaint. (Agreement ¶ I(CC)).

THE SETTLEMENT IS REASONABLE

Method of Distribution

35. The proposed settlement is based on the number of Workweeks worked by each Class Member. This method is commonly used in wage and hour class actions because it relies upon objective evidence of the total weeks of employment, which Class Members can easily review and confirm for themselves. This information is readily available from Defendant's records, and the Settlement Administrator can apply the formula in a fair and transparent manner.

36. Additionally, this method of distribution is commonly used in wage and hour class actions because it allows for a distribution that corresponds closely to the alleged damages since employees experience the same working conditions, so their damages are directly related to the amount of time they were employed.

37. The effectiveness of Class Counsel in prosecuting this case has translated into monetary benefits for the Class in the following respects: (1) the Class will recover over a reasonably short period of time as opposed to waiting additional years for the same, or possibly, a worse, result; (2) a guaranteed result that compares favorably with other similar class action settlements of this type, and (3) significant savings in Class Counsel's fees and costs which would have only increased significantly had the case progressed through trial, appeals, and continued litigation.

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1 **Discovery and Informed Arms-Length Negotiations**

2 38. Settlement was reached in this matter only after extensive informal discovery,
3 including review and analysis of the time and payroll data. I also reviewed and obtained additional
4 information and documentation concerning the claims set forth in the Complaint such as
5 Defendant's relevant wage and hour policies and procedures, information regarding the number of
6 putative class members and the number of current versus former employees, the number employees
7 and pay periods within a year of the filing of Complaint, the total workweeks by the Class, and the
8 average rate of pay during the Class Period. This investigation allowed me to act intelligently in
9 negotiating the settlement. I thoroughly reviewed this information prior to mediation and conducted
10 a class-wide assessment and analysis of Defendant's potential damages based on the documents and
11 information provided. The Parties extensively briefed the strengths and weaknesses of Plaintiff's
12 claims and Defendant's defenses and provided their analyses to the mediator for her consideration.

13 39. The Parties engaged in with Michael Diliberto, Esq., a highly-respected mediator
14 with particular experience in wage and hour class actions, during which the Parties engaged in
15 extensive settlement negotiations. The settlement negotiations were at arm's length and, although
16 conducted in a professional manner, were adversarial. Defendant at all times maintained that they
17 had complied with California wage and hour laws. Likewise, Plaintiff was prepared to vigorously
18 litigate this dispute including through class certification and trial if the Parties had been unable to
19 reach an agreement.

20 40. The proposed Settlement was reached at the end of a process that was neither
21 fraudulent nor collusive. On the contrary, counsel for the Parties advanced their respective positions
22 throughout the settlement negotiations and was only able to reach an agreement following mediation
23 after additional discussions and careful consideration of a proposal issued by the mediator.

24 **Estimate of Potential Value**

25 41. I analyzed a representative sampling of time and payroll records. Based on the
26 discovery provided, I chose to focus its damages assessment on the PAGA penalties alone. I
27 conservatively estimated that Defendant's exposure for PAGA penalties alone was in excess of
28 \$537,437.50, plus attorney's fees. The estimated liability is based on the claims at issue as follows:

1 \$104,037.50 for unpaid overtime penalties, \$208,000.00 for minimum wage violation penalties,
2 \$17,500.00 for wage statement violation penalties, and \$207,900.00 for waiting time penalties.

3 42. Counsel for the Parties had discussed Defendant's financial condition and the fact
4 that Defendant is unlikely to have sufficient funds to achieve a class settlement.

5 **Analysis of Specific Claims and Risks Considered**

6 43. Defendant did not have sufficient funds to pay the PAGA penalties and, Defendant
7 did not have insurance policy that covered the claims made in this litigation.

8 44. Although the investigation and information discovered support Plaintiff's
9 contentions, the strengths of these claims varied and Defendant raised potential defenses and other
10 circumstances that impacted the risk of proceeding on a class and representative basis. As with all
11 class and PAGA actions, these complex cases raise difficult management and proof issues and
12 consideration of these risks factored into the decision to enter this settlement.

13 ***Rest Period Analysis***

14 45. Plaintiff contended that Defendant failed to provide Class Members with timely, full,
15 and uninterrupted rest periods which prevented or prohibited employees from taking compliant rest
16 breaks. Plaintiff believed that she and others were routinely required to work through their rest and
17 recovery periods which led to missed periods of adequate rest breaks for which they were not
18 compensated which was unlawful and violated California law. Defendant claims that it allowed
19 employees to take their rest period, that its practices comply with California law, and that in many
20 instances, it would not be practical for employees to leave the premises in the time afforded.

21 46. Plaintiff also alleged that Defendant's work-related demands interfered with
22 employees' ability to take a compliant rest period. However, given the lack of records demonstrating
23 rest period violations, there were legitimate concerns Plaintiff would not be able to certify these
24 claims or prove substantial damages even assuming a uniform practice could be established.

25 47. In contrast, Defendant argued that their written policies were lawful and that all
26 employees were provided an opportunity to take a rest period for every four hours worked or a major
27 fraction thereof. Defendant further argued that whether employees had received a compliant rest
28 period, the reasons why a putative class member failed to receive a compliant rest period, and

1 whether such rest period was waived raised individual issues that could not be certified and that
2 even if such a claim could be certified, Plaintiff would be unable to adequately prove the alleged
3 damages given the lack of records.

4 48. Litigating rest period claims is inherently difficult as an employer's records, as is the
5 case here, does not usually indicate when a rest period is short, late, interrupted, or missed entirely.
6 While I disagree with Defendant's arguments and factual contentions, there were significant risks
7 associated with this claim. Accordingly, a discount was applied to account for the risks associated
8 with obtaining and maintaining certification, succeeding on the merits, establishing liability, proving
9 the extent of damages, and ultimately obtaining this award.

10 ***Minimum Wage and Overtime Claims***

11 49. Plaintiff alleges that Defendant failed to pay putative class members overtime and
12 minimum wages as a result of uniform policies, practices, and procedures, that required putative
13 class members to perform work before clocking-in and after clocking-out. This off-the-clock work
14 was work regularly caused employees to work more than eight hours in a day or 40 hours a week
15 thereby incurring additional overtime compensation. Plaintiff estimated as a result of this off-the-
16 clock work class members incurred approximately one hour of unpaid wages per week amounting
17 to \$104,037.50 in damages.

18 50. Defendant contended that its overtime policies and practices comply with the law,
19 that it paid putative class members the minimum wage for all hours worked, and that it properly
20 included all required compensation in employees' regular rate of pay and paid overtime at the proper
21 rate. Defendant also argued that individual liability issues predominate, including: (1) whether each
22 employee worked off-the-clock; (2) whether Defendant knew or should have known about each
23 employee's off-the-clock work; (3) whether each employee worked overtime; and (4) whether
24 Defendant knew or should have known that each putative class member performed overtime work.
25 Moreover, given that these claims were based on off-the-clock work not reflected in Defendant's
26 time records, Defendant argued that proving damages at trial would not be manageable.

27 51. Plaintiff disagrees with Defendant's contentions but acknowledges that claims
28 regarding off-the-clock work involve substantial challenges in obtaining and maintaining class

1 certification, establishing liability, and providing damages, in light of potential individualized issues
2 and the lack of records. Accordingly, I discounted their initial valuation of this claim to account for
3 risks regarding certification and for the risks associated with succeeding on the merits, establishing
4 liability, proving the extent of damages, and ultimately obtaining this award.

5 ***Sick Time Penalties***

6 52. The Class consists of all current and former non-exempt employees of Defendant
7 who worked for Defendant within the aforementioned time period. Defendant's former employees
8 would not be able to successfully claim sick leave violations because they forfeited their sick leave
9 benefits when they terminated their employment with Defendant. I had to consider how the risk of
10 maintaining this claim could defeat certification. Accordingly, I discounted their initial valuation of
11 this claim to account for risks regarding certification for the risks associated with succeeding on the
12 merits, establishing liability, proving the extent of damages, and ultimately obtaining this award.

13 ***Waiting Time Penalties***

14 53. Plaintiff alleges that Defendant intentionally and willfully failed to pay all wages
15 owed termination, within the time period permissible under California law as a result of its failure
16 to pay employees all wages due from off-the-clock work, as well as unpaid meal and rest period
17 premiums. Based on the information provided by Defendant there were approximately 99 former
18 employees within the three-year statute of limitations who Plaintiff believes were entitled to waiting
19 time penalties of approximately \$207,900.00.

20 54. However, there were substantial risks associated with a claim for waiting time
21 penalties. First, this claim was derivative of previous claims and if certification was denied on those
22 underlying claims, these claims would also likely fail. The Court of Appeal recently held that failure
23 to pay meal and rest premiums does not trigger derivative liability for waiting time penalties thereby
24 eliminating derivative liability for these potential violations. (See *Betancourt v. OS Rest. Servs.*
25 (Aug. 25, 2022, B293625)). However, even if the underlying off-the-clock claims were successful,
26 Plaintiff would still need to demonstrate that Defendant's violations of Labor Code § 203 were
27 willful violations, a difficult prospect. Accordingly, I discounted their initial valuation of this claim
28

1 to account for risks regarding certification and for the risks associated with succeeding on the merits,
2 establishing liability, proving the extent of damages, and ultimately obtaining this award.

3 ***Wage Statement Claims***

4 55. Plaintiff's wage statement claims were derivative of the violations alleged above
5 which resulted in a failure to provide wage statements that accurately reflected all hours worked or
6 all wages owed. Based on these claims and assuming a violation could be proven once per pay
7 period for each of the 277 employees employed during the 1-year time period employees were
8 eligible for penalties there were potential penalties for wage statement violations of approximately
9 \$17,500.00.

10 56. Defendant argued that the putative class members suffered no actual injury from the
11 alleged wage statement violations and that these derivative violations would rise or fall based on the
12 prior claims and that it could not be demonstrated that these violations for items such as off- the-
13 clock work were knowing and intentional. Wage statement claims have also seen varying treatment
14 at the appellate level because such claims have an element of discretion attached to them rather than
15 a pure calculation of damages after liability is proven. (Compare *Jaimez v. DAIOHS USA, Inc.*,
16 (2010)181 Cal.App.4th 1286 with *Price v. Starbucks Corp.*, (2011) 192 Cal.App.4th 1136.) While
17 I do not agree with this assessment, in light of the risks raised I discounted their initial valuation for
18 risks pertaining to certification and for risks pertaining to the merits, establishing liability, proving
19 the extent of damages, and obtaining this award.

20 ***PAGA Claims***

21 57. I also separately contemplated the risks of proceeding with the PAGA action and the
22 potential liability Defendant could face from this claim if asserted. As part of the valuation of the
23 potential PAGA claims including claims under Labor Code §§204 and 1174(d). The Parties agreed
24 during settlement negotiations to allocate \$5,000.00 of the Settlement towards the PAGA claims,
25 which represents approximately 4.55% of the Gross Settlement Amount. This percentage of the
26 settlement is above the range of PAGA settlements regularly approved in both state and federal court
27 for cases that include both a class and PAGA action. Settlements that allocate only 1% of the total
28 settlement value to resolve PAGA claims is typical of wage and hour settlements and PAGA

1 amounts as little as 0.27% of the Gross Settlement Amount have been approved as reasonable by
2 courts. *See, e.g.,*

- 3 • *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted as
4 PAGA penalties or 0.48% of \$21,000,000 settlement amount);
- 5 • *Bararsani v. Coldwell Banker Residential Brokerage Company*, Case No. BC495767
6 (2016) (\$10,000 allotted as PAGA penalties or 0.22% of \$4,500,000 settlement
7 amount);
- 8 • *Rico v. Cardinal Health 200 Inc.*, No. CIVRS-14-01451 (2017) (\$5,000 allotted as
9 PAGA penalties or 0.14% of \$3,500,000 settlement amount);
- 10 • *Moppin v. Los Robles Medical Center*, No. 5:15CV01551 (C.D. Cal. 2017) (\$15,000
11 allotted as PAGA penalties or 0.40% of \$3,775,000 settlement amount);
- 12 • *Scott-George v. PVH Corporation*. No., 2:13CV00441 (E.D. Cal. 2017) (\$15,000
13 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount);
- 14 • *Hart v. Parkview Community Hospital Medical Center*, No. RIC-14-06044 (2016)
15 (\$10,000 allotted as PAGA penalties or 0.39% of \$2,550,000 settlement amount);
- 16 • *Nehrlich v. RPM Mortgage Inc.*, No. 30-2013-00666783-CU-OE-CXC (2017)
17 (\$10,000 allotted as PAGA penalties or 0.40% of \$2,500,000 settlement amount);
18 and
- 19 • *Kelley v. The Related Companies of California L.L.C.*, No. CIVDS-13-07167 (2016)
20 (\$10,000 allotted as PAGA penalties or 0.50% of \$2,000,000 settlement amount);

21 58. In allocating \$5,000.00 to the alleged PAGA Claims, I considered that PAGA
22 penalties would be subject to the same defenses and risks as the class claims, as well as defenses
23 unique to PAGA.

24 59. Defendant denied and continued to deny that they ever violated any provision of the
25 California Labor Code. Defendant would likely have argued, that, even if, *arguendo*, such violations
26 occurred, heightened penalties should not apply because Defendant had not received notice from a
27 labor agency or Court that they were violating the law. (*See, e.g., Amaral v. Cintas Corp. No. 2,*
28 (2008). 163 Cal.4th 1157, 1209.)

1 60. Defendant also contended that when determining whether or not to assess a penalty,
2 the court exercises the same discretion as the Labor Commissioner and may reduce the penalties to
3 be assessed against the employer pursuant to California Labor Code section 2699(e)(1)-(2). As such,
4 Defendant contended that, with respect to a PAGA claim, the Court was unlikely to assess
5 cumulative penalties for the maximum number of possible, separate California Labor Code
6 violations, because it would be unjust, arbitrary, oppressive, and/or confiscatory, especially where
7 certain conduct may be governed by multiple provisions of the California Labor Code that are
8 interrelated and work in tandem.

9 61. Defendant maintained that, in addition to their strong arguments against the
10 underlying claims, taking the current unsettled state of law, it would be unjust to award the
11 maximum potential PAGA penalties. There was a dearth of law and guidance regarding trials and/or
12 assessment of penalties under the PAGA statute, and there is no clearly-established methodology
13 for the valuation and/or assessment of PAGA penalties.

14 62. Based upon the violations alleged above, I estimated PAGA penalties in this matter
15 could exceed \$537,437.50. However, a discount was applied to account for the risks associated with
16 succeeding on the merits, establishing liability, and proving the extent of penalties that are
17 warranted, and the unique risks to PAGA including the likely discretionary reduction of penalties
18 by the Court given the circumstances of the Actions and outside considerations. This brought the
19 relative value of the PAGA claim to approximately \$5,000.00.

20 ***General Considerations***

21 63. For all claims and when considering the settlement generally, I recognized that, even
22 if a class was successfully certified, proving the amount of wages due to each Class Member would
23 be an expensive, time-consuming, and extremely uncertain proposition. In order to prove liability
24 and damages, I will need to request and analyze thousands of pages of documents, contact Class
25 Members and obtain numerous declarations at great expense. Obtaining the cooperation of current
26 employees would also be difficult, given the likely reluctance to aid prosecution of a lawsuit against
27 a current employer and trial, possible appeals could substantially delay any recovery by the Class.

1 64. Therefore, taking into account the strengths and weaknesses of each claim, the
2 unique risks associated therewith, the general risks associated with litigating the case, and the
3 significant additional costs and expenses that would be incurred by both sides in litigating the
4 Actions through class certification, trial, and appeals, and the unique risks of these particular
5 Actions, as well as Defendant's financial position resulted in an adjusted risk-based estimated
6 liability.

7 65. Based on these factors, I, therefore, submit that the Settlement is fair, reasonable, and
8 adequate. The Settlement is in the best interest of the Class Members and is within the accepted
9 range of recoveries for this type of litigation given the inherent risk of litigation, the risk of obtaining
10 and maintaining class certification, and the costs of further litigation.

11 **REQUESTED INCENTIVE PAYMENTS**

12 66. As part of the settlement agreement, Plaintiff is requesting a reasonable
13 incentive/enhancement payment of \$15,000.00 for her service as the Class and PAGA
14 Representatives. This payment is imminently reasonable given the time and effort Plaintiff spent on
15 this case and the benefit to the other putative class members and the State of California as a result
16 of their actions. Plaintiff's Motion for Final Approval will expand on Plaintiff's participation in the
17 lawsuits and additional reasons regarding the reasonableness of this award. Notice of the requested
18 award is disclosed to Class Members and should be preliminarily approved by the Court. See
19 Agreement, Ex. A.

20 **ATTORNEYS' FEES AND COSTS**

21 67. The attorney's fees I incurred are in line with the common fund requested. I am
22 seeking thirty-three percent (33%) of the Gross Settlement Amount or \$36,300.00. I achieved an
23 excellent result for the class during hard fought negotiations. I have extensive experience in wage
24 and hour disputes and were able to use their extensive experience and skills to achieve this result.
25 The Motion for Final Approval will elaborate on the nature of the legal services provided, the time
26 incurred in performing those services, and my hourly rates. The Motion for Final Approval will also
27 elaborate on the reimbursement for costs I am seeking, which are currently estimated at
28

1 approximately \$5,661.00. Notice of the requested award of fees and costs is included in the Class
2 Notice and PAGA Notice. See Agreement, Exhs. A-B.

3 **THE METHOD OF NOTICE IS VERY LIKELY TO GIVE ACTUAL NOTICE**

4 68. Within 21 calendar days after entry of the Preliminary Approval Order, Defendant
5 will provide the Class List to the Settlement Administrator including the name, last known address,
6 last known telephone number, social security number, and dates of employment as a non-exempt
7 employee of Defendant during the Class Period, amongst other information. The Settlement
8 Administrator shall perform any searches necessary for confirmation of the Class Members'
9 addresses and shall mail the Class Notice to Class Members within 7 days of receiving the Class
10 List.

11 69. I am not aware of an alternative method of providing notice to the Class which would
12 result in a higher likelihood of actual notice. The original source of the mailing addresses is from
13 each Class Member, who provided the information to Defendant. As a fail-safe, additional searches
14 will be performed on any notice returned as non- deliverable. The Settlement Administrator will
15 track any and all opt outs, objections and disputes.

16 I declare under penalty of perjury under the laws of the State of California that the foregoing
17 is true and correct. Executed on January 11, 2023.

18
19
20 
21 Andrea W. S. Paris

EXHIBIT 1

ANDREA PARIS LAW, PC

23 CORPORATE PLAZA, SUITE 150
NEWPORT BEACH, CA 92660

TEL | 949.529.0007
FAX | 888.751.7660

E-MAIL | ap@andreaparislaw.com
WEBSITE | www.andreaparislaw.com

April 28, 2020

Cedar Creek Inn
26860 Ortega Highway
San Juan Capistrano, CA 92675

SENT VIA USPS CERTIFIED MAIL

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814

SENT VIA ONLINE SUBMISSION

Re: PAGA Notice Letter re California Wage & Hour Violations

To Whom It May Concern:

This office represents Hannah Williams ("Claimant") in connection with Private Attorney General Act ("PAGA") claims she intends to pursue against Cedar Creek Inn ("Respondent") for employment practices in violation of California laws. Claimant intends to seek civil penalties, attorney's fees, costs, and any other available relief for violations of the California Labor Code, which are recoverable under sections 2698 et seq. Claimant seeks relief on behalf of herself, the State of California, and other non-exempt employees regardless of position, who were employed by Respondent in any branch or location in California in the past four (4) years, who suffered one or more violations of the California Labor Code ("aggrieved employees"). This letter constitutes notice and reporting required by Labor Code Section 2699.3.

Claimant commenced her employment with Respondent as a server in or around November 2018. Respondent terminated Claimant on December 15, 2019. Claimant generally worked approximately 10-15 hours per week. She earned \$11 per hour in 2018, and \$12 per hour in 2019, plus tips. Her job duties included taking food and drink orders from customers, communicate customer orders to kitchen or bar staff, and food and drinks to customers.

Based on information and belief, Respondent has employed and continues to employ servers as well as other hourly, non-exempt employees such as bussers, cooks, and dishwashers, and during such employment, Respondent engaged and continues to engage in the following employment practices in violation of California labor laws:

Code Provisions Violated

Failure to Pay Employees for All Time Worked

Respondent engaged and continues to engage in the practice of failing to pay its non-exempt employees for all the time worked by said employees in violation of California Labor Code

§1198 and the applicable Industrial Welfare Commission (“IWC”) Order. Claimant is informed and believes, and on that basis alleges that Respondent’s practices include, but are not limited to, failing to pay non-exempt employees for hours worked prior to clocking-in and after clocking-out for their respective shifts, and failing to pay for time worked while non-exempt employees are clocked out for their meal breaks. Thus, Respondent failed to pay Claimant and other aggrieved employees for all the time that they are under Respondent’s control. Additionally, Claimant is informed and believes, and on that basis alleges that Respondent rounds the time aggrieved employees clock in to the disadvantage of its employees.

Failure to Pay Overtime

Claimant is informed and believes, and on that basis alleges that Respondent violated California Labor Code §§510 and 1198 and the applicable IWC Wage Order which requires employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek to be compensated at a rate of one-and-one-half (1 1/2) times the regular rate of pay for hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay an employee working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including non-discretionary bonuses and incentive pay.

Respondent willfully failed to pay all overtime wages owed to other aggrieved employees. During the relevant time period, other aggrieved employees were not paid overtime premiums for all hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a workweek because all hours that they worked were not recorded.

Failure to Pay Minimum Wage

Respondent violated California Labor Code §§1182.12, 1194, 1194.3, 1197, and 1197.1 and applicable state or local law, by failing to pay Claimant and other aggrieved employees at least minimum wage for all hours worked as fixed by law. As set forth in this notice, Respondent failed to pay for all hours worked by Claimant and other aggrieved employees, including failing to pay for work performed during rest breaks or during interrupted meal breaks, and/or for working over eight (8) hours in a day, over 12 hours in a day, and/or over forty (40) hours in a week, resulting in paying less than minimum wage for all hours worked.

Failure to Pay All Tips and Gratuities

Labor Code Section 351 prohibits employers and their agents from sharing in or keeping any portion of a gratuity left for or given to one or more employees by a patron. Furthermore, it is illegal for employers to make wage deductions from gratuities. Claimant is informed and believes, and on that basis alleges that Respondent or their agents share in or keep a portion of Claimant’s and other aggrieved employees’ gratuities and/or makes wage deductions from those gratuities.

Failure to Provide Employees with Mandatory Meal/Rest Breaks

Respondent violated California Labor Code §§226.7, 512(1), and 1198, and the applicable IWC Wage Orders by failing to provide Claimant and other aggrieved employees with meal and rest breaks mandated by law.

Employees are entitled to one (1) additional hour of pay at the employee's regular rate of pay for each workday that a meal or rest period is not provided. Pursuant to Labor Code Sections 226.7 and 512(a) and the applicable IWC Wage Orders, an employer may not require, cause, or permit an employee to work more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee. Further, pursuant to Labor Code Sections 226.7 and 512(a), employers must provide a second break of not less than thirty (30) minutes if an employee works over ten (10) hours in a workday.

California Labor Code Section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable IWC Wage Order. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages."

Respondent has, on a company-wide basis, implemented work schedules and policies that prevent or prohibit employees from taking compliant meal and rest periods and/or fail to provide adequate meal and rest break coverage to allow employees to take compliant meal and rest breaks. Furthermore, Respondent discouraged and impeded Claimant and other aggrieved employees from taking meal periods by failing to schedule meal periods for them when they work over 6 hours in one day and a meal break waiver is in place, or when they work over 5 hours in one when a meal break waiver is not in place. As a result, Claimant and other aggrieved employees were rarely, if ever, permitted and authorized to take timely, uninterrupted, 30-minute meal periods during shifts in which they were entitled to receive meal periods. Similarly, Claimant and other aggrieved employees were rarely, if ever, permitted and authorized to take timely, uninterrupted, 10-minute rest periods during shifts in which they were entitled to receive rest periods. At all times herein mentioned, Respondent knew or should have known that as a result of its policies and practice, Claimant and other aggrieved employees were prevented from taking their mandated meal and rest breaks, and Respondent did not pay Claimant and other aggrieved employees' meal and rest period premium wages for missed meal and rest breaks. Alternatively, to the extent that Respondents did pay meal and/or rest period premium wages to Claimant and/or other aggrieved employees, it did so at incorrect rates by failing to properly calculate aggrieved employees' regular rates of pay by including all remunerations.

Failure to Pay Accrued Sick Time

Respondent violated California Labor Code §246 by failing to pay Claimant and other aggrieved employees with paid sick leave. Pursuant to Section 246 of the Labor Code, an employee accrues paid sick days at the rate of not less than one hour per every 30 hours worked or by some other accrual method provided an employee receives no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year. Employees are entitled to use accrued paid sick days beginning on the 90th day of employment, after which day the employee may use paid sick days as they are accrued. Additionally, an employer must provide an employee with written notice that sets forth the amount of paid sick leave available on either the employee's itemized wage statement or in a separate writing provided on the designated pay date with the employee's payment of wages.

Claimant and other aggrieved employees have been employed with Respondent for at least 90 days, are entitled to accrue paid sick leave at a rate of at least 1 hour for every 30 hours worked, and are entitled to payment for at least 3 days of paid sick leave at their regular rates of pay. Respondent failed to provide Claimant and other aggrieved employees with the opportunity to accrue paid sick leave, did not pay Claimant and other aggrieved employees for qualified leave pursuant to Section 246 of the Labor Code, and did not provide Claimant and other aggrieved employees with written notice of available paid sick leave.

Wage Statement and Records Violations

Respondent violated Labor Code §226(a), 1174(d), 1198, and the applicable Wage Order by failing to make, keep, and provide Claimant and other aggrieved employees with true, accurate, and complete employment records, including wage statements, as mandated by law.

During the relevant time period, Respondent willfully failed to maintain employment and payroll records related to Claimant and other aggrieved employees for at least three (3) years. Additionally, Respondent had no policy regarding time-keeping, and failed to keep time records showing when Claimant and aggrieved employees begin and end each work period, meal periods, split shift intervals, and total daily hours worked.

Additionally, Respondent knowingly and intentionally failed to provide Claimant and other aggrieved employees with accurate itemized wage statements. The wage statement deficiencies include, among other things, failing to list total hours worked by employees because Respondent did not keep accurate time records of hours worked by aggrieved employees; failing to list all applicable hourly rates in effect during the pay period, including overtime rate of pay, and the corresponding number of hours worked at each hourly rate because Respondent paid some of the other aggrieved employees in cash; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock. Moreover, Respondent failed to

accurately reflect gross and net wages earned since Respondent paid or partially paid some aggrieved employees in cash, failed to pay for all hours worked, failed to pay overtime rates for overtime hours worked, and deducted employee's pay for business losses. In addition, Respondents failed to provide other aggrieved employees the options to elect to receive hard copies of their wage statements at any time and/or failed to provide them with the ability to easily access the information and convert the electronic wage statements into hard copies at no expense to them.

Because Respondent failed to provide the accurate number of total hours worked and wages earned and paid to employees on wage statements, Claimant and other aggrieved employees were prevented from verifying, solely from information on the wage statement themselves that they were paid correctly and in full. Instead, Claimant and other aggrieved employees have had to look to sources outside of the wage statement themselves and reconstruct time records to determine whether they were in fact paid correctly and the extent of underpayment, thereby causing them injury.

Unlawful Deduction

Respondent violated §221 by making unlawful deductions to claimant's wages. The applicable Wage Order prohibits an employer from making any deduction from wages or require any reimbursement from an employee for any cash shortage, breakage, or loss of equipment, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or willful act, or by the gross negligence of the employee.

Failure to Pay Vested but Unused Vacation

Respondent violated California Labor Code Section 227.3, which requires employers to pay out an employee's vested but unused vacation time upon termination as final wages. The vested but unused vacation time shall be paid at the employee's final rate of pay. Upon information and belief, Respondent failed to pay other aggrieved employees' wages for unused vested vacation time.

Failure to Pay All Wages Owed at Time of Termination

California Labor Code Sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Respondent willfully failed to pay other aggrieved employees who are no longer employed by Respondent all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premium wages, accrued personal time off, and reporting time pay,

either at the time of discharge, or within seventy-two (72) hours of their leaving Respondent's employ in violation of California Labor Code Sections 201, 202, and 203.

Failure to Reimburse Business Expenses

California Labor Code Section 2802 mandates that employers reimburse employees for expenses they incur in the performance of their duties. Respondent routinely made other aggrieved employees such as those who perform delivery services to use their own cell phones and data plans in the performance of their duties without reimbursement.

Failure to Pay on Designated Pay Dates

California Labor Code Section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed are due and payable between the 1st and 10th day of the following month. California Labor Code Section 204 requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code Section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period. Additionally, Labor Code Section 351 requires that payment of a gratuity made by a patron using a credit card must be paid to the employee not later than the next regular payday following the date the patron authorized the credit card payment.

During the relevant time period, Respondent failed to pay Claimant and other aggrieved employees all wages due to them, including but not limited to, overtime wages, minimum wages, meal and rest period premium wages, reporting time pay, and gratuities paid with a credit card within any time period specified by California Labor Code Sections 204 and 351.

California Labor Code Section 558(a)

California Labor Code Section 558(a) provides that "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount provided for in this section are in addition to any other civil or criminal penalty provided by law."

Respondents, at all relevant times, were an employer or person acting on behalf of an employer(s) who violated Claimant's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Claimant seeks the remedies set forth in Labor Code Section 558 for herself, the State of California, and all other aggrieved employees. Pursuant to PAGA, in particular California Labor Code Sections 2699(a), 2699.3(a) and (c), 2699.5, and 558, Claimant, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against Respondents for violations of the California Labor Code sections referenced in this Notice. On behalf of all aggrieved employees, Claimant seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

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

If you have any further questions or comments, please do not hesitate to call or e-mail me.

Sincerely,



Andrea W. S. Paris

cc: Client

EXHIBIT 2

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this Joint Stipulation and Settlement Agreement is entered into between Plaintiff Hannah Williams (“Plaintiff”) on behalf of herself, others similarly situated, and other aggrieved employees and Defendant Cedar Creek Inn SJC, Inc. (“Defendant”). Plaintiff and Defendant are collectively referred to herein as the “Parties.”

I. DEFINITIONS

In addition to the other terms defined in this Joint Stipulation and Settlement Agreement, the terms below have the following meaning in this Agreement:

- A. **Administration Costs**: All administrative costs incurred by the Settlement Administrator to administer this Settlement including the cost of notice to the Class Members, settlement administration, and any fees and costs incurred or charged by the Settlement Administrator in connection with the execution of its duties under this Agreement, which is currently estimated at \$10,000 and shall not exceed \$10,000.00. All Administration Costs shall be paid from the Qualified Settlement Fund. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- B. **Agreement, Settlement Agreement, Joint Stipulation, or Settlement**: The settlement agreement reflected in this document, titled “Joint Stipulation and Settlement Agreement.”
- C. **Attorney Fee Award**: The amount, not to exceed thirty-three percent (33%) of the Gross Settlement Amount or \$36,300.00, finally approved by the Court and awarded to Class Counsel. The Attorney Fee Award shall be paid from the Qualified Settlement Fund and will not be opposed by Defendant. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- D. **Case or Action**: The lawsuit filed by Plaintiff on December 10, 2020, entitled *Hannah Williams v. Cedar Creek Inn SJC, Inc., et al.*, Orange County Superior Court Case No. 30-2020-01174105-CU-OE-CXC.
- E. **Class**: All current and former non-exempt employees of Defendant who worked for Defendant in California at any time between June 15, 2017 and May 26, 2022.
- F. **Class Counsel**: Andrea Paris of Andrea Paris Law.

- G. **Class Member**: Each person eligible to participate in this Settlement who is a member of the Class as defined above and does not opt out.
- H. **Class Period**: The time period from June 15, 2017 to May 26, 2022.
- I. **Class Representative or Plaintiff**: Hannah Williams
- J. **Class Representative Enhancement Payment**: The amount the Court awards to Plaintiff for her service as Class Representative, which will not exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00). This payment shall be paid from the Qualified Settlement Fund and will not be opposed by Defendant. The Class Representative Enhancement Payment is subject to the approval of the Court. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- K. **Complaint**: The complaint originally filed by Plaintiff Hannah Williams in the Superior Court of California, County of Orange, entitled *Hannah Williams v. Cedar Creek Inn SJC, Inc., et al.*, Orange County Superior Court Case No. 30-2020-01174105-CU-OE-CXC.
- L. **Cost Award**: The amount that the Court orders Defendant to pay Class Counsel for payment of actual litigation costs, which shall not exceed Five Thousand Six Hundred Sixty-One Dollars and Zero Cents (\$5,661.00). The Cost Award will be paid from the Qualified Settlement Fund and will not be opposed by Defendant. The Cost Award is subject to Court approval. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
- M. **Counsel for Defendant**: Attorney Lizbeth Ochoa of Fisher & Phillips LLP.
- N. **Court**: The Superior Court of California, County of Orange.
- O. **Defendant**: Cedar Creek Inn SJC, Inc.
- P. **Effective Final Settlement Date**: The date the Court enters judgment granting Final Approval, with the exception outlined in Sections III.J.8. & 9.
- Q. **Eligible Aggrieved Employees**: The aggrieved employees defined as all current and former non-exempt employees of Defendant that worked for Defendant in California at any time between October 16, 2019 and May 26, 2022 who are eligible to recover the PAGA Payment.
- R. **Exclusion Form**: The Election Not to Participate In (“Opt Out” From) the Class Action Settlement, substantially like the form attached hereto as **Exhibit B**, subject to Court approval.

- S. **Final Approval, Final Approval Order, Judgment or Final Judgment:** “Final Approval” or “Final Approval Order” means the final order entered by the Court following the Final Fairness and Approval Hearing. “Judgment” or “Final Judgment” means the final judgment entered by the Court following the Final Fairness and Approval Hearing.
- T. **Gross Settlement Amount:** The total value of the Settlement is a non-reversionary One Hundred Ten Thousand Dollars and Zero Cents (\$110,000.00). This is the gross amount Defendant can be required to pay under this Settlement Agreement, which includes without limitation: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Attorney Fee Award and the Cost Award to Class Counsel for attorneys’ fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payment paid to the Class Representative, as approved by the Court; (4) Administration Costs, as approved by the Court; (5) employee side taxes on the Individual Settlement Shares and (6) the PAGA Payment to the LWDA and to Eligible Aggrieved Employees, as approved by the Court. Defendant’s portion of payroll taxes as the Class Members’ current or former employer is not included in the Gross Settlement Amount and will be a separate obligation of Defendant. No portion of the Gross Settlement Amount will revert to Defendant for any reason.
- U. **Individual Settlement Share(s):** The amount payable to each Participating Class Member under the terms of this Settlement Agreement. Class Members are not required to submit a claim form to receive their Individual Settlement Shares pursuant to this Agreement. Rather, Participating Class Members will receive an Individual Settlement Share automatically, without the return of a claim form unless they timely Opt Out.
- V. **LWDA:** California Labor and Workforce Development Agency.
- W. **Net Settlement Amount:** The total amount of money available for payout to Participating Class Members, which is the Gross Settlement Amount less the following: Attorney Fee Award, the Cost Award, the Class Representative Enhancement Payment, Administration Costs, and the PAGA Payment. In other words, the Net Settlement Amount is the portion of the Gross Settlement Amount that will be distributed to Class Members who do not request exclusion from the Settlement.
- X. **Notice:** The “Notice of Class Action and PAGA Settlement” to be provided to all Class Members regarding the terms of this Settlement, substantially like the form attached hereto as **Exhibit A**, subject to Court approval. The Notice shall constitute class notice pursuant to California Rules of Court, rule 3.769 (f) and, once approved by the Court, shall be deemed compliant with California Rules of Court, rule 3.766.

- Y. **Notice Packet**: The Notice, Exclusion Form, and Objection Form.
- Z. **Objection Form**: The Notice of Objection Form, substantially like the form attached hereto as **Exhibit C**, subject to Court approval.
- AA. **PAGA**: The California Labor Code Private Attorneys General Act of 2004 (California Labor Code section 2698, *et seq.*).
- BB. **PAGA Payment**: The PAGA Payment consists of Five Thousand Dollars and Zero Cents (\$5,000.00) of the Gross Settlement Amount allocated to satisfy the PAGA penalties claim as alleged in the Action. Seventy-five percent (75%) of the PAGA Payment (\$3,750.00) shall be paid to the LWDA, and twenty-five percent (25%) of the PAGA Payment (\$1,250.00) shall be distributed to Eligible Aggrieved Employees, on a pro rata basis, as set forth below. Pursuant to California Labor Code § 2699(1)(2), settlement of a PAGA action must be approved by the Court and a copy of the proposed Settlement will be provided to the LWDA at the same time that it is submitted to the Court. In the event the LWDA objects to the Settlement, the Parties will meet and confer with the Court and the LWDA to reach a penalty allocation acceptable to all Parties that does not materially alter the terms of this Settlement.
- CC. **PAGA Released Claims**: Upon Defendant's fulfillment of its payment obligations pursuant to Section III (J)(10)(a) of this Agreement, in exchange for the consideration provided by this Agreement, Plaintiff, the LWDA, and any other representative, proxy, or agent thereof, including, but not limited to, any and all Eligible Aggrieved Employees shall release and be barred from pursuing claims against the Released Parties for civil penalties under the California Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code section 2698, *et seq.*, arising at any time during the PAGA Period and based on, or arising out of, alleged violations of Labor Code sections 201, 202, 203, 204, 210, 216, 218, 218.5, 218.6, 221, 226.7, 227.3, 246, 266(e), 351, 510, 512, 557, 558, 558.1, 1174, 1175, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 2698, 2699, 2699.3, 2699.5 and/or 2802 as alleged in Plaintiff's letter to the LWDA and/or the Action.
- DD. **PAGA Period**: The period from October 16, 2019 through May 26, 2022.
- EE. **Participating Class Members**: All Class Members who do not submit valid and timely requests to exclude themselves from this Settlement.
- FF. **Parties**: Plaintiff Hannah Williams, individually and as the Class Representative, and Defendant Cedar Creek Inn SJC, Inc.

GG. Preliminary Approval or Preliminary Approval Order: The order entered by the Court following the Preliminary Approval Hearing approving the proposed Settlement.

HH. Qualified Settlement Fund: A fund within the meaning of Treasury Regulation section 1.46B-1, 26 C.F.R. § 1.468B-1 *et seq.*, which is established by the Settlement Administrator for the benefit of Participating Class Members, Eligible Aggrieved Employees, Plaintiff and Class Counsel.

II. Released Class Claims: Upon Defendant's fulfillment of its payment obligations pursuant to Section III (J)(10)(a) of this Agreement, in exchange for the consideration provided by this Agreement, Plaintiff and the other Participating Class Members shall release any and all facts and claims asserted in the operative complaint in the Action and any other claims that could have been asserted in the Action based on the facts alleged and arising at any time during the Class Period, including, but not limited to, federal or state wage and hour claims (including claims under the California Labor Code, Fair Labor Standards Act and applicable Wage Order(s)) for: (1) failure to provide legally compliant meal periods; (2) failure to provide legally compliant rest periods; (3) failure to pay accrued sick pay; (4) failure to provide accurate wage statements; (5) failure to pay all wages; and (6) failure to timely pay all wages upon separation and their related provisions of the Labor Code, sections 201, 202, 203, 204, 210, 216, 218, 218.5, 218.6, 226, 226.7, 246, 266(e), 512, 557, 558, 558.1, 1174, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198.

The Released Class Claims expressly exclude the PAGA Released Claims, and Participating Class Members will not release the PAGA Released Claims unless such Participating Class Members are also Eligible Aggrieved Employees. Participating Class Members who are also Eligible Aggrieved Employees shall release the PAGA Released Claims, in addition to releasing the Released Class Claims, upon Defendant's fulfillment of its payment obligations pursuant to Section III (J)(10)(a) of this Agreement.

JJ. Released Parties: Defendant and its present, future and former owners, officers, directors, employees, shareholders, agents, trustees, heirs, representatives, fiduciaries, administrators, executors, partners, attorneys, insurers, reinsurers, parent companies, subsidiaries, divisions, affiliates, subrogees, predecessors, successors and assigns and any individual or entity which could be jointly or severally liable with Defendant and any entity that could be deemed a joint employer with Defendant for any of the Released Class Claims or PAGA Released Claims within the Class Period and/or PAGA Period.

KK. Response Deadline: Forty-five (45) calendar days from the initial mailing of the Notice Packet.

- LL. Settlement Administration:** The Settlement Administrator will conduct a skip trace for the addresses of all former employee Class Members. The Settlement Administrator will mail the Notice Packet by First-Class U.S. mail to all current employee Class Members at the address Defendant has on file for those Class Members and to all former employee Class Members at the addresses obtained via skip trace. The Notice Packet will inform Class Members that they have until the Response Deadline to either object to the Settlement or to opt out of (exclude themselves from) the Settlement. Any Class Member who does not receive a Notice Packet after the Settlement Administrator has taken the steps outlined above will still be bound by the Settlement and/or Judgment.
- MM. Settlement Administrator:** The third-party administrator agreed upon by the Parties to administer this Settlement is CPT Group.

II. RECITALS

- A. Procedural History.** On April 28, 2020, Plaintiff submitted a letter to the LWDA identifying a variety of Labor Code provisions that Plaintiff alleged were violated by Defendant. Thereafter, on December 10, 2020, Plaintiff filed a wage-and-hour class and PAGA action complaint against Defendant in the Orange County Superior Court entitled *Hannah Williams v. Cedar Creek Inn SJC, Inc., et al.*, Orange County Superior Court Case No. 30-2020-01174105-CU-OE-CXC, alleging the following causes of action: (1) Failure to Pay for Missed Meal Periods; (2) Failure to Provide Paid Rest Periods; (3) Failure to Pay Accrued Sick Time; (4) Failure to Provide Accurate Wage Statements; (5) Failure to Pay All Wages; (6) Failure to Timely Pay All Wages Upon Separation; and (7) PAGA penalties.
- B. Investigation and Discovery.** Prior to mediation, the Parties conducted significant investigation and discovery of the relevant facts and law. Specifically, Defendant produced documents relating to its wage-and-hour policies, practices, and procedures, including those regarding meal and rest periods, overtime, and other payroll and operational policies. As part of Defendant's production, Plaintiff also reviewed time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Plaintiff to understand the number of workweeks in the Class Period. Defendant also shared documentation reflecting its financial situation during the Class Period. The Parties agree that the above-described investigation and evaluation, as well as the information exchanged during the settlement negotiations, are more than sufficient to assess the merits of the respective Parties' positions and to compromise the issues on a fair and equitable basis. Counsel for all parties have thoroughly investigated the facts relating to the claims alleged in the Action and have made a thorough study of the legal principles applicable to the claims asserted against Defendant. Based on their investigation and evaluation of this case, Class Counsel concluded that the settlement described in this Agreement is fair, reasonable, and adequate in light of all known facts and

circumstances, including the defenses asserted by Defendant, potential adverse findings regarding liability, potential recovery issues, and numerous potential appellate issues.

- C. **Mediation.** Plaintiff and Class Counsel have engaged in good faith, arm's-length negotiations with Defendant concerning possible settlement of the claims asserted in the Action. Specifically, on January 26, 2022, the Parties participated in a mediation with Michael Diliberto, a well-respected mediator with considerable experience mediating wage-and-hour class actions. This mediation took place only after the Parties informally exchanged extensive information and data, described in Section II(B) above. After a full day of negotiation, under the auspices of the mediator, the Parties reached a tentative settlement of the Action subject to a long form settlement agreement and approval by the court.
- D. **Benefits of Settlement to Class Members.** Plaintiff and Class Counsel recognize the expense and length of additional proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiff and Class Counsel also have considered the uncertainty and risks, the potential outcome, and the difficulties and delays inherent in further litigation, including the possibility that Plaintiff and/or members of the Class may be subject to arbitration agreements impacted by the U.S. Supreme Court Case opinion in *Viking River Cruises, Inc. v. Moriana*, that may negatively impact Plaintiff's PAGA claim. Plaintiff and Class Counsel conducted extensive settlement negotiations, including formal mediation on January 26, 2022 and additional negotiations for several months thereafter. Based on the foregoing, Plaintiff and Class Counsel believe the Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the Class Members.
- E. **Defendant's Reasons for Settlement.** Defendant recognizes that the defense of this litigation will be protracted and expensive. Substantial amounts of Defendant's time, energy, and resources have been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiff. Defendant, therefore, has agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Released Class Claims and Released PAGA Claims.
- F. **Defendant's Denial of Wrongdoing.** Defendant generally and specifically denies any and all liability or wrongdoing of any sort with regard to any of the claims alleged, makes no concessions or admissions of liability of any sort, and contends that for any purpose other than settlement, the Action is not appropriate for class or PAGA treatment. Defendant also asserts several defenses to the claims and has denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Action. Neither this Agreement nor any document referred to or contemplated herein, nor any statements,

discussions, or communications, nor any action taken to carry out this Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. Nor should the Agreement be construed as an admission that Plaintiff can serve as an adequate Class Representative. There has been no final determination by any court as to the merits of the claims asserted by Plaintiff against Defendant or as to whether a class or classes should be certified, other than for settlement purposes only.

- G. **Plaintiff's Claims.** Plaintiff asserts that Defendant's defenses are without merit. Neither this Agreement nor any documents referred to or contemplated herein, nor any action taken to carry out this Agreement is, may be construed as, or may be used as an admission, concession, or indication by or against Plaintiff, Class Members, or Class Counsel as to the merits of any claims or defenses asserted, or lack thereof, in the Action. However, if this Settlement is finally approved by the Court, none of Plaintiff, Participating Class Members, or Class Counsel will oppose Defendant's efforts to use this Agreement to prove that Plaintiff and Participating Class Members have resolved and are forever barred from re-litigating the Released Class Claims and/or Released PAGA Claims.

III. **SETTLEMENT TERMS AND CONDITIONS**

- A. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement and court approval, the non-reversionary Gross Settlement Amount that Defendant is obligated to pay under this Settlement Agreement is One Hundred Ten Thousand Dollars and Zero Cents (\$110,000.00).
- B. **Notice to the Labor and Workforce Development Agency ("LWDA").** On April 28, 2020, Plaintiff filed and served her Notice of Labor Code Violations Pursuant to Labor Code section 2699.3. Thus, Plaintiff has satisfied her notice obligations under PAGA. Plaintiff shall also provide LWDA notice of this Settlement.
- C. **Class Certification.** Solely for the purposes of this Settlement, the Parties stipulate and agree to certification of the claims asserted on behalf of Class Members. As such, the Parties stipulate and agree that for this Settlement to occur, the Court must certify the Class as defined in this Agreement.
- D. **Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiff and Class Members for purposes of this Settlement only. This Stipulation is contingent upon Preliminary and Final Approval and certification of the Class for purposes of this Settlement only. If the Settlement does not become final, for whatever reason, the fact that the Parties were willing to stipulate provisionally to certification as part of the Settlement shall have no bearing on and shall not be admissible or used in any way in connection with, the question of whether the

Court should certify any claims in a non-settlement context in this Action or in any other lawsuit. Defendant expressly reserves the right to oppose class certification and/or to proactively move to deny class certification should this Settlement be materially modified, reversed on appeal, or otherwise not become final.

- E. **Appointment of Class Representative.** Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiff shall be appointed as the representative for the Class.
- F. **Appointment of Class Counsel.** Solely for the purposes of this Settlement, the Parties stipulate and agree that Class Counsel shall be appointed to represent the Class.
- G. **Individual Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual Settlement Share from the Net Settlement Amount to each Participating Class Member, that does not timely opt out of the settlement.

1. Calculation.

- a. **Individual Settlement Share Calculation.** The Settlement Administrator will pay each Participating Class Member according to his or her proportional share of the Net Settlement Amount, which will be equal to: (i) the number of weeks the Participating Class Member worked during the Class Period, based on the Class Data provided by Defendant, (ii) divided by the total number of weeks worked by any and all Participating Class Members collectively during the Class Period, based on the same Class Data, (iii) which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a week for purposes of this calculation. Therefore, the value of each Participating Class Member's Individual Settlement Share ties directly to the number of weeks the Participating Class Member worked during the Class Period.

- 2. **Tax Withholdings.** Each Participating Class Member's Individual Settlement Share will be apportioned as follows: twenty percent (20%) wages and eighty percent (80%) interest and penalties. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. The employees' share of payroll tax withholdings shall be withheld from each person's Individual Settlement

Share. Each Eligible Aggrieved Employee's portion of the PAGA Payment will be allocated as one hundred percent (100%) penalties. The PAGA Payment and the Individual Settlement Share that is allocated to interest and penalties, shall be issued an IRS form 1099.

H. Settlement Disbursement. Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments out of the Gross Settlement Amount:

- 1. To the Plaintiff, Hannah Williams.** In addition to her portion of the PAGA Payment, Individual Settlement Share and subject to the Court's approval, Plaintiff will receive up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) as a Class Representative Enhancement Payment. The Settlement Administrator will pay the Class Representative Enhancement Payment out of the Qualified Settlement Fund. Payroll tax withholdings and deductions will not be taken from the Class Representative Enhancement Payment. An IRS Form 1099 will be issued to Plaintiff with respect to her Class Representative Enhancement Payment. In the event the Court does not approve the entirety of the application for the Class Representative Enhancement Payment, the Settlement Administrator shall pay whatever amounts the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Plaintiff, the difference shall become part of the Net Settlement Amount and be available for distribution to Participating Class Members.
- 2. To Class Counsel.** Class Counsel will apply to the Court for, and Defendant agrees not to oppose, a total Attorney Fee Award not to exceed 33% or \$36,300 of the Gross Settlement and a Cost Award not to exceed \$5,661.00. The Settlement Administrator will pay the Court-approved amounts for the Attorney Fee Award and Cost Award out of the Gross Settlement Amount. The Settlement Administrator may purchase an annuity to utilize U.S. treasuries and bonds or other attorney fee deferral vehicles for Class Counsel. Payroll tax withholding and deductions will not be taken from the Attorney Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class Counsel with respect to these payments. In the event the Court does not approve the entirety of the application for the Attorney Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Class Counsel for the Attorney Fee Award and/or Cost Award, the difference shall become part of the Net Settlement Amount and be available for distribution to Participating Class Members.

Except as provided herein, each side shall bear its own attorneys' fees and costs.

3. **To the Responsible Tax Authorities.** The Settlement Administrator will pay the amount of the Participating Class Members' portion of normal payroll withholding taxes out of each person's Individual Settlement Share. Additionally, the Settlement Administrator will calculate, at least five court days before the settlement funding deadline, the amount of employer side taxes due and notify Defendant, through Defendant's counsel, so that Defendant can transmit those additional funds to the Qualified Settlement Fund. The Settlement Administrator will submit Defendant's portion of employer side taxes, along with each Participating Class Member's Individual Settlement Share withholdings, to the appropriate taxing authorities.
4. **To the Settlement Administrator.** The Settlement Administrator – CPT Group – will pay to itself Administration Costs (reasonable fees and expenses) approved by the Court in an amount currently estimated at \$10,000 and not to exceed \$10,000.00. This will be paid out of the Qualified Settlement Fund. If the actual amount of Administration Costs is less than the amount estimated, the difference shall become part of the Net Settlement Amount and be available for distribution to Participating Class Members. In the event the Court does not approve the entirety of the application for the Administration Costs, the Settlement Administrator shall pay to itself whatever amount the Court awards, and neither Defendant nor the Plaintiff shall be responsible for paying the difference between the amount requested and the amount awarded.
5. **To Participating Class Members.** The Settlement Administrator will pay Participating Class Members according to the Individual Settlement Share calculations set forth above. All payments to Participating Class Members shall be made from the Qualified Settlement Fund.
6. **To Eligible Aggrieved Employees.** The Settlement Administrator shall pay each Eligible Aggrieved Employee according to his or her proportional share of the PAGA Payment, which will be based upon the total number of pay periods during which the Eligible Aggrieved Employee was employed during the PAGA Period. Each individual share will be equal to: (i) the total number of pay periods during which the Eligible Aggrieved Employee was employed during the PAGA Period, (ii) divided by the total number of pay periods during which all Eligible Aggrieved Employees collectively were employed during the PAGA Period (i.e., the sum of all pay periods of employment for all Eligible Aggrieved Employees), (iii) which is then multiplied by the \$1,250.00 of the PAGA Payment allocated to the Eligible Aggrieved Employees. Settlement checks issued to the Eligible Aggrieved Employees pursuant to this Agreement shall expire one hundred eighty

(180) calendar days after the date they are initially mailed by the Settlement Administrator. After one hundred eighty (180) calendar days, any unclaimed funds shall be turned over by the Settlement Administrator to the California State Controller: Unpaid Wage Fund.

7. **To the LWDA.** Seventy-five percent (75%) of the PAGA Payment (\$3,750.00) shall be paid to the LWDA.

- I. Appointment of Settlement Administrator and Duties.** Solely for the purposes of this Settlement, the Parties stipulate and agree that CPT Group shall be retained to serve as Settlement Administrator, subject to Court approval. The Parties each represent that they do not have any financial interest in CPT Group or otherwise have a relationship with CPT Group that could create a conflict of interest. The Settlement Administrator shall be responsible for: (a) preparing, printing, and mailing the Notice Packet to the Class Members; (b) creating a static settlement website that will go live on the same date the Notice Packet is first mailed to the Class Members and that will include, among other things, the Complaint, standalone generic copies of the Notice, Exclusion Form, and Objection Form, all papers filed in connection with the preliminary approval motion (including all orders filed by the Court), all papers filed in connection with the Final Approval Hearing (including the fee motion and the final approval motion), and, if the Settlement is approved, the Final Judgment; (c) keeping track of any objections or requests for exclusion from Class Members; (d) performing skip traces and remailing Notice Packets, Individual Settlement Shares, and portions of the PAGA Payment to Class Members; (e) calculating any and all payroll tax deductions as required by law; (f) calculating each Participating Class Member's Individual Settlement Share and each Eligible Aggrieved Employee's portion of the PAGA Payment; (g) providing weekly status reports to Counsel for Defendant and Class Counsel, which are to include updates on any objections or requests for exclusion that have been received; (h) mailing Individual Settlement Shares and portions of the PAGA Payment to Participating Class Members and Eligible Aggrieved Employees, respectively; (i) mailing the LWDA's portion of the PAGA Payment to the LWDA; (j) distributing the Attorney Fee Award and the Cost Award to Class Counsel; (k) printing and providing Class Members and Plaintiff with W-2 and 1099 forms as required under this Agreement and applicable law; (l) providing a due diligence declaration for submission to the Court upon completion of the Settlement and prior to the Final Approval Hearing; (m) turning over any funds remaining in the Qualified Settlement Fund at the close of the 180-day period as a result of uncashed checks to the California State Controller: Unclaimed Property Fund; and (n) performing other tasks as the Parties mutually agree. Additionally, at Defendant's counsel's request the Settlement Administrator shall provide Defendant's Counsel the following: (1) a report that contains the names and amounts received by each Class Member and/or Eligible Aggrieved Employee pursuant to the Settlement; (2) a copy of the Settlement Payment checks issued by the Settlement Administrator pursuant to the terms of the Settlement; (3) a duplicate copy of the Class Notices issued to each individual Class Member and/or Eligible

Aggrieved Employee, as well as any Opt-Outs received; (3) copies of the IRS Forms W-2 and IRS Forms 1099 issued pursuant to the Settlement; (4) proof of tax payments having been made by the Settlement Administrator pursuant to the terms of the Agreement and (5) any other documents that Defendant may need to establish the Settlement Administrator has performed all of its duties pursuant to this Settlement. Finally, in order for the Settlement Administrator to perform its duties under this Agreement, Defendant shall be providing the Settlement Administrator confidential information protected by the right of privacy regarding Defendant and the Class Members (including but not limited to social security numbers). Consequently, the Settlement Administrator must take all steps necessary to protect the information and protect against any unauthorized access, use or disclosure of that information. The Settlement Administrator (or anyone acting on its behalf) is strictly prohibited from selling, profiting, transferring or using any of the information provided by Defendant and/or on Defendant's behalf, other than for fulfilment of its obligations under this Agreement.

J. Procedure for Approving Settlement.

1. Motion for Preliminary Approval and Conditional Certification.

- a. Plaintiff will move for an order conditionally certifying the Class for settlement purposes only, giving Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Notice, Exclusion Form, and Objection Form.
- b. At the Preliminary Approval Hearing, Plaintiff will appear, support the granting of the motion, and submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representative, Class Counsel, and Settlement Administrator; approving the Notice Packet; and setting the Final Approval Hearing.
- c. Should the Court decline to conditionally certify the Class or to Preliminarily Approve all material aspects of the Settlement, the Settlement will be null and void, and the Parties will have no further obligations under it. All Parties and their respective predecessors and successors will be deemed to have reverted to their respective positions in the Action as of the date and time immediately prior to the execution of this Settlement Agreement. If the Court does not conditionally certify the Class or Preliminarily Approve any material term or condition of the Settlement Agreement, or if the Court effects a material change to the Parties' settlement (including but not limited to the scope of release to be granted by Class Members or the binding effect of the Settlement on Class Members), the Parties shall work together in good faith to address any concerns raised by the Court and

propose a revised Settlement for the Court's approval. The amounts of the Attorney Fee Award, the Cost Award, the Administration Costs, and the Class Representative Enhancement Payment shall be determined by the Court, and the Court's determination on these amounts shall be final and binding. The Court's approval or denial of any amount requested for these items are not conditions of this Settlement Agreement and are to be considered separate and apart from the fairness, reasonableness, and adequacy of the Settlement. Any order or proceeding relating to an application for the Attorney Fee Award, the Cost Award, the Administration Costs, and the Class Representative Enhancement Payment shall not operate to terminate or cancel this Agreement. Nothing in this Agreement shall limit Plaintiff's or Class Counsel's ability to appeal any decision by the Court to award less than the requested Attorney Fee Award, the Cost Award, the Administration Costs, and the Class Representative Enhancement Payment.

2. Notice to Class Members. After the Court enters its Preliminary Approval Order, every Class Member will be provided with the Notice Packet in accordance with the following procedure:

- a. Within twenty-one (21) calendar days after entry of the Preliminary Approval Order, Defendant shall deliver to the Settlement Administrator the following information about each Class Member: (1) first and last name; (2) last known mailing address; (3) Social Security number; (4) hire and termination dates. If any or all this information is unavailable to Defendant, Defendant will so inform Class Counsel, and the Parties will make their best efforts to reconstruct or otherwise agree upon how to deal with the unavailable information. The Settlement Administrator shall calculate each Class Member's total number of weeks worked during the Class Period as an hourly-paid or non-exempt California employee ("collectively "Class Data") and will conduct a skip trace for the addresses of all former employee Class Members of Defendant. The Settlement Administrator shall maintain the Class Data and all information contained within the Class Data as private and confidential. This provision will not impede the Settlement Administrator's ability to discharge their fiduciary duties, including effectuating the terms of this settlement.
- b. The Settlement Administrator shall run all addresses contained in the Class Data through the United States Postal Service National Change of Address ("NCOA") Database (which provides updated addresses for individuals who have moved in the previous four years and who have provided the U.S. Postal Service with a

forwarding address) to obtain current address information. The Settlement Administrator shall mail the Notice Packet to the Class Members via first-class regular U.S. Mail using the most current mailing address information available within fourteen (14) calendar days after the receipt of the Class Data from Defendant.

- c. If a Notice Packet is returned because of an incorrect address, within ten (10) calendar days after receipt of the returned Notice Packet, the Settlement Administrator will conduct a search for a more current address for the Class Member and re-mail the Notice Packet to the Class Member. The Settlement Administrator will use the NCOA Database and skip tracing to attempt to find the Class Member's current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Notice Packet is returned by U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing Notice Packets to Class Members for whom new addresses are found. If the Settlement Administrator is unable to locate a better address, the Notice Packet shall be re-mailed to the original address. If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records the date and address of each re-mailing. Those Class Members who receive a re-mailed Notice Packet, whether by skip trace or forwarded mail, will have their Response Deadline to postmark a request for exclusion from or objection to the Settlement extended by ten (10) calendar days from the original Response Deadline. The Settlement Administrator shall mark on the envelope whether the Notice Packet is a re-mailed packet.
- d. Class Members may dispute the information provided in their Notice Packets. All such disputes must be in writing, postmarked by the Response Deadline, and sent via first-class regular U.S. mail to the Settlement Administrator. To the extent a Class Member disputes the number of workweeks or pay periods with which he or she has been credited or the amount of his or her Individual Settlement Share or portion of the PAGA Payment, the Class Member must produce and submit evidence to the Settlement Administrator showing that such information is inaccurate. Class Members shall be permitted to submit copies of any evidence supporting workweek or pay period disputes – original versions will not be required. Absent evidence rebutting Defendant's records, Defendant's records will be presumed determinative. However, if a Class Member produces evidence rebutting Defendant's records, the Parties will evaluate the

evidence submitted by the Class Member and will make the final decision as to the number of eligible workweeks or pay periods with which the Class Member should be credited and/or the amount of the Individual Settlement Share or portion of the PAGA Payment to which the Class Member may be entitled. If the Parties cannot agree on a final decision as to the number of eligible workweeks or pay periods with which the Class Member should be credited and/or the amount of the Individual Settlement Share or portion of the PAGA Payment to which the Class Member may be entitled, the decision will be turned over to the Court. In this situation, the Court will evaluate the evidence submitted by the Class Member and will make the final decision as to the number of eligible workweeks or pay periods with which the Class Member should be credited and/or the amount of the Individual Settlement Share or portion of the PAGA Payment to which the Class Member may be entitled.

- e. If the Settlement Administrator receives an incomplete or deficient request for exclusion, the Settlement Administrator shall send a letter informing the Class Member of the deficiency and shall provide the Class Member fourteen (14) calendar days with which to cure the deficiency. However, the provision of a cure period will not extend the Response Deadline. If the Settlement Administrator does not receive a cured request for exclusion, postmarked on or before the last day of the cure period, the Class Member will be determined not to have excluded himself or herself from the Settlement and will be bound by the Settlement.
- f. The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Counsel for Defendant of the number of Notice Packets mailed, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed, and the number of requests for exclusion received.
- g. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration from the Settlement Administrator shall also be filed with the Court by Class Counsel no later than ten (10) calendar days before the Final Approval Hearing. If any material changes occur after the date of the filing of the Settlement Administrator's declaration of due diligence but before the Final Approval Hearing, the Settlement Administrator will supplement its declaration.

3. **Objections to Settlement.** The Notice Packet will provide that Class Members who wish to object to the Settlement must mail an Objection Form to the Settlement Administrator, postmarked no later than the Response Deadline. Class Members who object to this Settlement or any of its terms may not also submit requests for exclusion from this Settlement (i.e., may not opt out of this Settlement). In the event a Class Member submits both a request for exclusion and a written objection, the request for exclusion will be deemed invalid, and the objection will remain valid. The date the objection is postmarked shall be the exclusive means for determining whether an objection was timely served.

a. **Format.** Objections should: (a) state the objecting Class Member's full name, address, telephone number, the case name and number of the Action, as well as the name and address of the objecting Class Member's counsel, if any; (b) describe, in clear and concise terms, the Class Member's reasons for objecting and the legal and factual arguments supporting the objection; (c) identify any evidence supporting the factual basis for the objection; (d) be signed by the objecting Class Member, his or her lawful representative, or his or her attorney, if any; and (e) state whether the objecting Class Member (or someone on his or her behalf) intends to appear at the Final Approval Hearing. An objection will be deemed valid if it is postmarked no later than the Response Deadline and provides sufficient information to allow the Settlement Administrator to identify the Class Member and understand that the Class Member objects to the Settlement or some term(s) of the Settlement. Objecting Class Members who choose to submit evidence supporting their objections may submit copies of such evidence – original versions will not be required.

b. **Appearance at Final Approval and Oral Objection.** Class Members may (though are not required to) appear at the Final Approval Hearing, either in person or through their own counsel, at the Class Member's own expense and orally object to the Settlement. Any attorney who will represent a Class Member objecting to this Settlement must file a notice of appearance with the Court and serve Class Counsel and Counsel for Defendant no later than fifteen (15) calendar days before the Final Approval Hearing. Plaintiff, rather than objecting Class Members and/or their counsel, if any, will be responsible for filing timely objections with the Court.

c. A Class Member who objects to the Settlement will remain a member of the Settlement, i.e., a Participating Class Member, and if the Court finally approves the Settlement, the objecting Class

Member will be bound by the terms of the Settlement in the same way and to the same extent as those Participating Class Members who do not object.

- d. Plaintiff and Defendant will be permitted to respond in writing to such objections no later than seven (7) calendar days before the Final Approval Hearing. Plaintiff waives any right to object to the Settlement and hereby endorses the Settlement as fair, reasonable, adequate and in the best interests of the Class Members.

- 4. **Request for Exclusion from the Settlement (“Opt Out”).** The Notice Packet will provide that Class Members who wish to exclude themselves from the Settlement must mail a request for exclusion to the Settlement Administrator. The request for exclusion should: (a) include the Class Member’s name and address, and the last four digits of the Class Member’s Social Security number; (b) be addressed to the Settlement Administrator; (c) be signed by the Class Member; and (d) be postmarked no later than the Response Deadline. A request for exclusion will be deemed valid if it is postmarked no later than the Response Deadline and provides sufficient information to allow the Settlement Administrator to identify the Class Member and understand the Class Member’s request.

- a. **Confirmation of Authenticity.** The date of the initial mailing of the Notice Packet and the date the signed request for exclusion is postmarked shall be conclusively determined according to the records of the Settlement Administrator. If there is a question about the authenticity of a signed request for exclusion, the Settlement Administrator may demand additional proof of the Class Member’s identity. Any Class Member who returns a timely and valid executed request for exclusion will not participate in or be bound by the Settlement and Judgment, will not receive an Individual Settlement Share, and will not have any right to object, appeal, or comment thereon. A Class Member who does not complete and mail a timely request for exclusion will automatically be included in the Settlement, will be mailed an Individual Settlement Share, and will be bound by all terms and conditions of the Settlement, if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or she has objected to the Settlement.
- b. **Report.** No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the number of Notice Packets mailed to Class Members, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed to Class Members, the number of re-mailed Notice Packets

returned as undeliverable, the number of Class Members who objected to the Settlement and copies of their submitted objections, the number of Class Members who returned valid requests for exclusion, and the number of Class Members who returned invalid requests for exclusion.

- c. **Eligible Aggrieved Employees May Not Opt Out of PAGA Settlement.** Notwithstanding the foregoing, the Parties agree that there is no statutory or other right for any Eligible Aggrieved Employee to opt out or otherwise exclude himself or herself from the PAGA portion of the Settlement, which releases the claims enumerated in Section I (CC) above (“PAGA Released Claims”). An Eligible Aggrieved Employee who submits a timely and valid request for exclusion shall be deemed to have excluded himself or herself from the class portion of the Settlement only and will still be mailed a check for his or her portion of the PAGA Payment and shall release the PAGA Released Claims.

- 5. **Defendant’s Option to Revoke Settlement.** Defendant has the right to revoke the Settlement and shall have the option to terminate this Settlement if, after the Responsive Deadline, the number of Class Members who submitted timely and valid written requests for exclusion from the Settlement is at least ten percent (10%) of all Class Members. If Defendant exercises the option to terminate this Settlement, Defendant shall: (a) provide written notice to Class Counsel within five (5) calendar days after the Settlement Administrator provides information regarding opt outs that triggers this right to revoke and (b) pays all Settlement Administration Costs incurred up to the date or as result of the termination; and the Parties shall proceed in all respects as if this Agreement had not been executed.

- 6. **No Solicitation of Objection or Requests for Exclusion.** Neither the Parties nor their respective counsel will solicit or otherwise encourage, directly or indirectly, any Class Member to object to the Settlement, request exclusion from the Settlement, or appeal from the Final Approval Order or Judgment.

- 7. **Motion for Final Approval.**

- a. Upon expiration of the Response Deadline, Class Counsel will file unopposed motions and memorandums in support thereof for Final Approval of the Settlement and the following payments in accord with the terms of the Settlement: (1) the Attorney Fee Award; (2) the Cost Award; (3) the Administration Costs; (4) the Class Representative Enhancement Payment; and (5) the PAGA Payment. Class Counsel will also move the Court for an order of Final Approval (and associated entry of Judgment).

- b. If the Court does not grant Final Approval of the Settlement, or if the Court's Final Approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will become null and void. If that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement. An award by the Court of a lesser amount than sought by Plaintiff and Class Counsel for the Class Representative Enhancement Payment, the Attorney Fee Award, and/or the Cost Award, will not constitute a material modification to the Settlement within the meaning of this paragraph.
 - c. Upon Final Approval of the Settlement, the Parties shall present to the Court a proposed Final Approval Order, approving the Settlement and entering Judgment in accordance therewith. After entry of Judgment, the Court shall have continuing jurisdiction over the Action for purposes of: (1) enforcing this Settlement Agreement; (2) addressing settlement administration matters; and (3) addressing such post-Judgment matters as may be appropriate under Court rules and applicable law. Notice of entry of Final Judgment will be served upon Class Members by the Settlement Administrator posting the Final Judgment on the settlement website.
- 8. Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, if Class Members do not timely object to the Settlement, then the Parties and their respective counsel waive any and all rights to appeal from the Judgment, including, but not limited to, all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set aside judgment, and any extraordinary writ, and the Judgment will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceeding, or post-judgment proceeding. Notwithstanding the foregoing, Plaintiff or Class Counsel have the right to appeal from any refusal by the Court to award the Plaintiff's Class Representative Enhancement Payment, the Attorney Fee Award, and/or Cost Award.
- 9. Vacating, Reversing, or Modifying Judgment on Appeal.** If, after a notice of appeal, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then either Plaintiff or Defendant will have the right to void the Settlement, which the Party must do by giving

written notice to the other Party, the reviewing court, and the Court not later than thirty (30) days after the reviewing court's decision vacating, reversing, or materially modifying the Judgment becomes Final. A material modification would include, but not necessarily be limited to, any alteration of the Gross Settlement Amount, an alteration in the calculation of the Net Settlement Amount, and any change to the calculation of the Individual Settlement Shares or Eligible Aggrieved Employees' portions of the PAGA Payment.

10. Disbursement of Settlement Shares and Payments. Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Court's Final Approval Order and Judgment. The maximum amount Defendant can be required to pay under this Settlement for any purpose is the Gross Settlement Amount, plus the employer side taxes on the Settlement attributed to wages. The Settlement Administrator shall keep Counsel for Defendant and Class Counsel apprised of all distributions from the Gross Settlement Amount. The Settlement Administrator shall respond to questions from Counsel for Defendant and Class Counsel.

- a. **Funding the Settlement:** Within fourteen (14) court days of the Effective Final Settlement Date, Defendant shall deposit the Gross Settlement Amount of One Hundred Ten Thousand Dollars and Zero Cents (\$110,000.00) into the QSF (as defined below). Defendant shall also at this time provide any tax information that the Settlement Administrator may need to calculate each Participating Class Member's Individual Settlement Share and Defendant's employer side taxes. The Settlement Administrator will calculate Defendant's employer side taxes on the wage portion of the Settlement and notify Defendant within 5 court days of the Effective Final Settlement Date of the additional funds Defendant shall deposit to meet its employer side tax obligation.
- b. **Disbursement:** Within fourteen (14) court days after the funding of the Settlement, the Settlement Administrator shall calculate and pay all payments due under the Settlement Agreement, including all Individual Settlement Shares, the Attorney Fee Award, the Cost Award, the Class Representative Enhancement Payment, the PAGA Payment, the Administration Costs and tax payments. The Settlement Administrator will also forward a check for seventy-five percent (75%) of the PAGA Payment (\$3,750.00) to the LWDA for settlement of the PAGA claim.
- c. **Qualified Settlement Fund ("QSF"):** The Parties and Settlement Administrator shall treat the Qualified Settlement Fund as coming into existence on the earliest date permitted as set forth in 26 C.F.R.

§ 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.

11. Uncashed Checks. Participating Class Members must cash or deposit their Individual Settlement Share checks within one hundred eighty (180) calendar days after the checks are mailed to them. If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard indicating that unless the check is redeemed or deposited in the next ninety (90) calendar days, it will expire and become non-negotiable, and offering to replace the check if it was lost or misplaced. If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder notice, the Settlement Administrator will, within two hundred (200) calendar days after the checks are initially mailed, cancel the check(s), and pay the amount of the Individual Settlement Share(s) to the State of California's Unclaimed Property Fund in the name of the Class Member and/or Aggrieved Employee.

12. Final Report by Settlement Administrator. Within ten (10) calendar days after the disbursement of all funds, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds.

13. Defendant's Legal Fees. Defendant is responsible for paying for all Defendant's own legal fees, costs, and expenses incurred in this Action outside of the Gross Settlement Amount.

K. Release of Class Claims. Upon Defendant's fulfillment of its payment obligations under Section III (J)(10)(a) of this Agreement, Plaintiff and the other Participating Class Members will fully and finally release and discharge the Released Parties from the Released Class Claims.

L. Effect of PAGA Settlement. Upon Defendant's fulfillment of its payment obligations under Section III (J)(10)(a) of this Agreement, the LWDA, and any other representative, proxy, or agent thereof, including, but not limited to, any and all Eligible Aggrieved Employees are barred from pursuing any action for civil penalties under the California Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code section 2698, *et seq.*, against the Released Parties, based on or arising out of the alleged violations of Labor Code sections alleged in Plaintiff's PAGA notice to the LWDA and/or the Complaint, and occurring during the PAGA Period. They will release all PAGA Released Claims. As explained in Section III (J)(4)(c) of this Agreement, Eligible Aggrieved Employees may not opt out of the PAGA portion of the Settlement and will still be mailed checks for their portions of the PAGA Payment and shall still release the PAGA Released Claims regardless of the submission of a valid and timely request for exclusion.

M. Plaintiff's Release of Claims and General Release. Upon Defendant's fulfillment of its payment obligations under Section III (J)(10)(a) of this Agreement, in exchange for the Class Representative Enhancement Payment in an amount not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00), and in recognition of her work and efforts in obtaining the benefits for the Class and undertaking the risk of paying litigation costs in the event this matter had not successfully resolved, Plaintiff hereby provides a general release of claims for herself and any respective spouse, heirs, successors and assigns, and forever releases, remises, and discharges the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature and description whatsoever, known or unknown, suspected or unsuspected, asserted or that might have been asserted, whether in tort, contract, equity, or otherwise, arising out of Plaintiff's respective employment with Defendant, payment of wages during that employment and the cessation of that employment and/or violation of any federal, state or local statute, rule, ordinance or regulation, including, but not limited to claims for violation of the Fair Labor Standards Act, the California Labor Code, the Wage Orders of California's Industrial Welfare Commission, other state wage and hour laws, the Americans with Disabilities Act, the Age Discrimination in Employment Act (ADEA), the Employee Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act, the California Family Rights Act, the Family Medical Leave Act, California's Whistleblower Protection Act, California Business & Professions Code Section 17200, et seq. With respect to the General Release, Plaintiff stipulates and agrees that, upon Defendant's fulfillment of its payment obligations under Section III (J)(10)(a) of this Agreement and Plaintiff's receipt of the Class Representative Enhancement Payment, Plaintiff shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of section 1542 of the California Civil Code, or any other similar provision under federal or state law, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

N. Miscellaneous Terms.

- 1. No Admission of Liability.** Defendant makes no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendant reserves the right to contest any issues relating to class certification and liability if the Settlement is not approved. Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Case, or that but for the Settlement, a Class should be certified in the Case. This Agreement is entered into solely for the purpose

of compromising highly disputed claims. Nothing in this Agreement is intended as or will be construed as an admission by Defendant of liability or wrongdoing. This Settlement and Plaintiff's and Defendant's willingness to settle the Case will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with this Settlement).

2. **No Effect on Employee Benefits.** The amounts paid under this Agreement do not represent a modification of any previously credited hours of service under any employee benefit plan, policy or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendant's policies or bonus programs. Any payments made under the terms of this Settlement shall not be applied retroactively, currently or on a going forward basis as salary, earnings, wages, or any other form of compensation for the purposes of Defendant's benefit plans, policies or bonus programs. Defendant retains the right to modify the language of its benefit plans, policies and bonus programs to effect this intent and to make clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual or any other purpose, and that additional contributions or benefits are not required by this Settlement.
3. **Publicity.** Plaintiff and Class Counsel agree that they have not and will not publish the Settlement Agreement. Class Counsel shall not report the Settlement Agreement in any medium or in any publication, shall not post or report anything regarding Plaintiff's or the Class Member's claims or the Settlement Agreement on its website, and shall not contact any reporters or media regarding the Settlement Agreement. Despite this provision, Class Counsel can discuss the Settlement Agreement with Plaintiff and the Class Members and in any filings with the Court. This provision shall not impede Class Counsel's ability to discharge their fiduciary duties, including effectuating the terms of the Settlement.
4. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire Agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any party concerning this Agreement or its exhibits, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits. Except as expressly provided herein, this Agreement has not been executed in reliance upon any other written or oral representations or terms, and no such extrinsic oral or written representations or terms shall modify, vary, or

contradict its terms. In entering into this Agreement, the Parties agree that this Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence.

5. **Authorization to Enter Into Settlement Agreement.** Class Counsel and Counsel for Defendant warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement.
6. **Exhibits and Headings.** The terms of this Agreement include the terms set forth in the attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral part of the Settlement and must be approved substantially as written. 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.
7. **Deadlines Falling on Weekends or Holidays.** To the extent that any deadline set forth in this Settlement Agreement falls on a Saturday, Sunday, or legal holiday, that deadline shall be continued until the following business day.
8. **Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval Hearing to be conducted by the Court.
9. **Amendment or Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors-in-interest.
10. **Agreement Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.

- 11. No Prior Assignment.** Plaintiff hereby represents, covenants, and warrants that she has not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.
- 12. Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of California, without giving effect to any conflict of law principles or choice of law principles.
- 13. Fair, Adequate, and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arm's-length negotiations, taking into account all relevant factors, current and potential.
- 14. No Tax or Legal Advice.** The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement, and that Class Members will assume any such tax obligations or consequences that may arise from this Agreement, and that Class Members shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are due from any Class Member, such Class Member assumes all responsibility for the payment of such taxes.
- 15. Jurisdiction of the Court.** Pursuant to Code of Civil Procedure section 664.6, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.
- 16. Invalidity of Any Provision; Severability.** Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.
- 17. Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed

against any Party on the basis that the Party was the drafter or participated in the drafting.

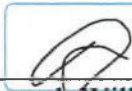
18. Execution in Counterpart. This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

8/26/2022
Dated: August __, 2022

PLAINTIFF HANNAH WILLIAMS



Hannah Williams

Dated: August 31, 2022

CEDAR CREEK INN, SJC, INC.



Sally Cochran
Representative for Cedar Creek Inn SJC, Inc.

Dated: August 25, 2022

ANDREA PARIS LAW, PC



Andrea Paris, Esq.
Attorneys for Plaintiff Hannah Williams, on behalf of herself and all others similarly situated

Dated: August __, 2022

FISHER & PHILLIPS LLP

Lizbeth Ochoa, Esq.
Attorney for Defendant Cedar Creek Inn, SJC, Inc.

against any Party on the basis that the Party was the drafter or participated in the drafting.

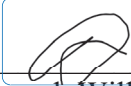
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IV. EXECUTION BY PARTIES AND COUNSEL

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8/26/2022
Dated: August __, 2022

PLAINTIFF HANNAH WILLIAMS



Hannah Williams

Dated: August __, 2022

CEDAR CREEK INN, SJC, INC.

Sally Cochran
Representative for Cedar Creek Inn SJC, Inc.

Dated: August 25, 2022

ANDREA PARIS LAW, PC



Andrea Paris, Esq.
Attorneys for Plaintiff Hannah Williams, on behalf of herself and all others similarly situated

Dated: August 28, 2022

FISHER & PHILLIPS LLP



Lizbeth Ochoa, Esq.
Attorney for Defendant Cedar Creek Inn, SJC, Inc.

eSignature Details

Signer ID:	wPCpoAWGwLikqWcDSaPHQ5aU
Signed by:	Hannah Williams
Sent to email:	hanaew@gmail.com
IP Address:	67.80.108.184
Signed at:	Aug 26 2022, 4:58 am PDT

EXHIBIT 3

Thank you for your Proposed Settlement Submission

wil01-01 (williams v. cedar creek)

DIR

3:57 PM

01/09/2023 03:56:27 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF ORANGE**

3 At the time of service, I was over 18 years of age and **not a party to this action**. I am
4 employed in the County of Orange, State of California. My business address is 23 Corporate
Plaza, Suite 150, Newport Beach, CA 92660.

5 On January 12, 2023, I served true copies of the following document(s) described as
6 **DECLARATION OF ANDREA W. S. PARIS IN SUPPORT OF PLAINTIFF'S MOTION**
7 **FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT;**
8 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** on the
interested parties in this action as follows:

8 Lizbeth Ochoa
9 Victory Xu
10 Fisher & Phillips LLP
11 2050 Main Street, Suite 1000
12 Irvine, California, 92614
13 Telephone: (949) 851- 2424
14 Facsimile: (949) 851- 0152

E-mail: lochoa@fisherphillips.com
E-mail: vxu@fisherphillips.com

13 ☒ **BY E-FILE SERVICE:** I caused the document(s) to be served on the persons listed above
14 by requesting that One Legal Online Court Services, the Orange County Court's e-file
15 vendor, electronically serve them.

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

17 Executed on January 12, 2023, at Newport Beach, California.

18 
19 _____
20 Andrea W. S. Paris

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