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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MOHAMMED RAHMAN, ALICIA
NOEMI BAUTISTA DIAZ, AND
PASCAL MOORE, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

GATE GOURMET, INC.,
GATEGROUP U.S. HOLDING, INC.,
and DOES 1-10, inclusive,

Defendants.

Case No. 3:20-cv-03047-WHO

**DECLARATION OF HALLIE VON ROCK IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: September 28, 2022
Time: 2:00 PM

Hon. William H. Orrick
Courtroom 2, 17th Floor
San Francisco Courthouse
450 Golden Gate Avenue
San Francisco, CA 94102

Action Filed May 4, 2020

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**Declaration of Hallie Von Rock in Support of Plaintiffs' Motion for Preliminary
Approval of Class Action and PAGA Settlement**

I, Hallie Von Rock, declare as follows:

1. I am an attorney at law licensed to practice in the State of California and before this Court. I am a partner in the law firm Aiman-Smith & Marcy ("ASM"), which law firm is Class Counsel for Plaintiff Mohammed Rahman, on behalf of himself and those similarly situated, and the California Labor Workforce Development Agency, (collectively "Plaintiffs"), in the captioned consolidated class action with Plaintiffs Alicia Noemi Bautista Diaz and Pascal Moore. The facts stated herein are true of my own personal knowledge. This declaration is provided in support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the fully executed Settlement Agreement and Release entered into by the parties in this Action.

FACTUAL ALLEGATIONS AND DISCOVERY

3. Plaintiffs allege that Class Members experienced wage and hour violations in their work for Defendants. In particular, Plaintiffs contend that Gate Gourmet required Class Members to work off the clock during preliminary and postliminary activities, as well as during security inspections. Plaintiffs allege that as a result of this off-the-clock work, Defendants failed to pay all hours worked, failed to pay minimum wages, failed to pay overtime wages, failed to provide duty-free, 30 minute meal periods, failed to permit and/or make available duty-free 10 minute rest periods, failed to time pay earned wages during employment, failed to provide accurate itemized wage statements, failed to timely pay wages upon separation, failed to pay all wages due on regularly scheduled paydays, and violated the California Business and Professions Code.

4. The parties, in their separate actions and then in the consolidated action, served and responded to multiple formal discovery requests. Extensive meet and confer efforts were engaged in by the parties for additional documents to be produced.

5. A Belaire-West process was conducted with sampled contact information provided to my firm. My staff reached out to dozens of potential class members and had substantive interviews with at least 20 employees prior to mediation.

6. As a condition of the mediation, Plaintiffs required additional data and information to be produced by Defendants, which included a lengthy set of requests of discovery needed that included policies, videos, timekeeping records, ingress and egress records, and payroll data. Defendants provided the requested documents and data prior to mediation. This information, along with the independent investigation conducted by Plaintiffs' counsel and expert, was sufficient for Plaintiffs to assess the strengths and weaknesses of the case and to perform a thorough damages analysis.

7. The data provided consisted of thousands of daily entries that plaintiffs' expert was able to use to calculate the average minutes spent between ingress and egress from when an employee used their badge to enter the building until clocking in and similarly to analyze the exit times. This discovery was crucial for Plaintiffs' damages analysis for mediation.

8. Ultimately, facilitated by mediator Hunter Hughes III, the Parties used this information and discovery to fairly resolve the litigation.

PROCEDURAL HISTORY

9. Defendants and Plaintiff Bautista Diaz mediated with Jeffrey Krivis on June 7, 2021. According to filings in the Los Angeles Superior Court, the parties did not reach a settlement that day.

10. On June 15, 2021, Plaintiff Rahman filed a motion for transfer with the U.S. Judicial Panel for Multidistrict Litigation and filed the necessary motion that same day.

11. On June 18, 2021, Defendant and Plaintiff Diaz reached a settlement in principle and, thereafter, stipulated to an order remanding the action to Los Angeles Superior Court for settlement review.

12. On July 1, 2021, Plaintiff Rahman first learned of the putative settlement from Defense counsel.

1 13. On July 17, 2021, Plaintiff Rahman stipulated to a provisional stay of the
2 *Rahman* action, to permit Plaintiff Rahman to focus on attacking the proposed settlement.

3 14. On July 22, 2021, Plaintiff Rahman filed a petition in the *Diaz* action in Los
4 Angeles Superior Court seeking leave to file a complaint in intervention, and alternately for a
5 stay of the action in favor of the first-filed *Rahman* action.

6 15. On August 27, 2021, in response to a formal request from Plaintiff Rahman, the
7 LWDA initiated an investigation into the *Diaz* settlement, by giving notice in response to the
8 *Diaz* amended PAGA charge, which sought authority to settle the additional claims not
9 identified in her original PAGA charge.

10 16. On September 2, 2021, Judge Elihu Berle in Los Angeles Superior Court held a
11 hearing on Plaintiff Rahman's petition to intervene. Judge Berle directed Plaintiff Diaz to file
12 her proposed settlement agreement, directed the parties to submit supplemental briefing, and
13 set a further hearing for October 15, 2021.

14 17. On September 16, 2021, Plaintiff Diaz filed a motion for preliminary approval
15 for a settlement in the amount of \$2,400,000.

16 18. On September 16 and 23, 2021, Plaintiff Rahman and Defendants respectively
17 filed supplemental papers addressing the merits of the settlement, and Plaintiff Rahman's
18 request for a stay in favor of the *Rahman* action.

19 19. On October 15, 2021, Judge Berle continued the hearing on Plaintiff Rahman's
20 petition, ordered the parties to meet and confer regarding a global settlement, ordered Rahman
21 to file supplemental briefing on a recent appellate decision, and ordered the parties to inquire
22 with Judge Orrick in the *Rahman* action regarding his views of the propriety of staying the
23 *Diaz* action.

24 20. On October 22, 2021, in the *Rahman* action, Plaintiff Rahman filed a noticed
25 motion to lift the stay, which this Court granted.

26 21. On December 13, 2021, Judge Berle held the continued hearing in LASC on
27 Plaintiff Rahman's petition to stay or intervene. Judge Berle ordered *Diaz* stayed in favor of
28 the *Rahman* action.

22. Thereafter, Defendants and Plaintiff Diaz stipulated to a second removal of the *Diaz* action to the Central District, for transfer to this Court. While Plaintiff Rahman opposed that removal and sought remand, his objections were overruled, and the *Diaz* was transferred to this Court.

23. On March 9, 2022, a case management conference in the combined *Rahman/Diaz* proceedings was held and the parties informed the Court that a global mediation had been scheduled.

24. On April 26, 2022, a global mediation with the Plaintiffs in the *Rahman, Diaz*, and *Moore* actions and Defendants was held with Hunter Hughes, III.

25. On May 31, 2022, a case management conference in the combined *Rahman/Diaz* proceedings was held and the parties informed the Court that a settlement had been reached. A further case management conference was set for September 13, 2022.

26. On July 22, 2022, the parties filed a Stipulation and Proposed Order Re: Consolidated Complaint to consolidate all claims in the *Rahman, Diaz*, and *Moore* actions in this Court.

27. The *Moore* action will be dismissed in the Central District.

28. In the intervening time since informing the Court that the Action had settled, the Parties have negotiated and drafted the Settlement Agreement and its exhibits, including the Postcard Notice and Long Form Notice of Settlement.

MEDIATION

29. The global mediation of the *Rahman, Bautista Diaz*, and *Moore* actions occurred on April 26, 2022, with well-respected mediator Hunter Hughes, III. With the assistance of Mr. Hughes, who has vast experience mediating wage and hour disputes, counsel engaged in serious and arm's-length negotiations.

30. Ultimately, a mediator's proposal was made. On May 12, 2022, the Parties accepted a mediator's proposal, which culminated in an agreement to settle for \$3,850,000. After the agreement to settle, counsel for the Parties met and conferred extensively over the detailed terms of the settlement for purposes of finalizing a long-form Settlement Agreement

1 and corresponding notice documents. Several drafts and revisions were circulated in order to
2 arrive at the final settlement. The Settlement Agreement was fully executed on July 1, 2022.

3 31. The settlement was a product of non-collusive, arm's-length negotiations. The
4 litigious procedural history of this consolidated action further confirms the non-collusive
5 nature of the settlement. Plaintiff Rahman sought to intervene in the *Bautista Diaz* action and
6 objected to the settlement reached in the *Bautista Diaz* action, which was valued at \$2,400,000.
7 The global resolution of this consolidated action adds another \$1,485,000 in funds to the
8 settlement.

9 TERMS OF THE SETTLEMENT

10 32. Defendants have agreed to pay a non-reversionary Gross Settlement Amount of
11 \$3,850,000 to settle all aspects of the case. The Net Settlement Amount is defined as the Gross
12 Settlement Amount, less deductions for: Service Payment Awards to the Named Plaintiffs (not
13 to exceed \$7,500 each), attorney's fees to Class Counsel (not to exceed 33.33%, or
14 \$1,283,200.00), Class Counsel's litigation costs (not to exceed \$56,000.00), administrative
15 expenses to the Settlement Administrator, Atticus Administration ("Atticus"), (estimated at
16 \$40,000.00), and payment to the Labor & Workforce Development Agency ("LWDA") for its
17 75% share of the PAGA penalties (\$288,750.00).

18 33. The Gross Settlement Amount is a negotiated amount that resulted from
19 substantial arms' length negotiations and significant investigation and analysis by Class
20 Counsel. Class Counsel based their damages analysis and settlement negotiations on the
21 discovery propounded, including payroll and timekeeping data, and hired an expert to conduct
22 a damages analysis for mediation. Based on the analysis of the documents and data produced
23 by Defendants, Plaintiffs made reasonable assumptions regarding the wage and hour violation
24 rates, and resulting damages and potential penalties.

25 34. If the total residual amount of uncashed settlement checks and non-activated
26 digital payments is less than \$50,000.00, then the amount will revert to *cy prè*s, per the
27 Settlement Agreement ¶ 31(d)(i). The Parties propose that the *cy prè*s recipient be Open Door
28 Legal, in San Francisco, which provides legal services assisting low-income, working families

1 and promotes better understanding of the conditions, policies, and institutions that affect the
 2 well-being of workers and their families and communities. Additional information about Open
 3 Door Legal can be found at their website: <https://opendoorlegal.org/>

4 35. If the total residual amount is \$50,000.00 or greater, a second distribution will
 5 occur to those Class Members who cashed their Settlement Award checks and activated their
 6 digital payments, per the Settlement Agreement, ¶ 31(d)(ii). Any residual funds uncashed after
 7 the second distribution will revert to the *cy prè*s recipient.

8 36. Upon the Final Approval by the Court, and subject to the exclusions described
 9 below, each Class Member fully releases all claims that were raised in the litigation and all
 10 claims that could have been brought based on the facts alleged in the Consolidated Complaint.
 11 Plaintiffs Rahman, Bautista Diaz, and Moore also agree to a general release from all known
 12 and unknown claims they may have against the Released Parties.

13 DAMAGES ANALYSIS

14 37. Plaintiffs' damages analysis in considering a reasonable settlement was based
 15 upon time and payroll records provided by Defendants in formal discovery and informally for
 16 mediation.

17 38. For wage payment violations, Gate Gourmet disclosed that a total of 179,983
 18 payperiods were worked by aggrieved employees within the PAGA limitations period.¹
 19 Plaintiffs, accordingly, assume 179,983 payperiods in which wage payment violations
 20 occurred.

21 39. For meal period violations, Plaintiffs assume employees working as drivers will
 22 experience violations every payperiod worked because they kept their cell phones on during
 23 meal breaks. As for non-driver aggrieved employees, Plaintiff's expert determined that
 24 approximately 14% of shifts involved ingress/egress time stamps associated with meal period
 25

26 ¹ Gate Gourmet disclosed 212k payperiods worked by aggrieved employees, and 563 workweeks worked by class
 27 members. However, Gate Gourmet also indicated that 5,079 workweeks should be excluded as having been worked outside
 28 California, that 47,723 workweeks should be excluded for employees being paid not to work during COVID, and 31,288
 workweeks should be excluded as involving no hours worked. Plaintiffs have accordingly assumed only 479,417
 workweeks worked by class members, and have assumed the PAGA payperiods proportionally reduced down to 179,983
 payperiods worked by aggrieved employees.

time entries. Given that most employees worked full time, that means a given employee would have suffered one meal period violation per payperiod on average. Accordingly, Plaintiffs assume non-driver aggrieved employees also experienced meal period violations every payperiod. Accordingly, Plaintiffs assume 179,983 payperiods in which meal period violations occurred.

40. For rest period violations, Plaintiffs assume that violations would be at approximately 10% of the meal period violations because the size of the facilities made leaving them for a 10-minute break not feasible, as affirmed by interviews with putative class members.

41. There are effectively eight categories of classwide recoveries here: (1) ingress wages, or wages for preliminary activities performed prior to the start of a shift; (2) egress wages, or wages for postliminary activities performed after the end of a shift; (3) meal ingress wages, or wages for preliminary activities performed on returning from a meal period and prior to clocking back in; (4) meal egress wages, or wages for postliminary activities performed on leaving for a meal period after clocking out; (5) meal period penalties, or premium meal period wages owed for days on which a compliant meal period was not provided; (6) rest period penalties, or premium rest period wages for days on which a compliant rest period was not provided; (7) wage statement penalties; and (8) waiting time penalties.

42. For purposes of calculating the unpaid wage claims, Plaintiff's expert, Jeffrey Petersen, Ph.D., analyzed a sample of timekeeping and ingress/egress records provided by Defendant, and calculated the following average times spent in each category of off the clock work:

1. Mean time spent between ingress and clock in at start of shift:
6.36 minutes (15,669 impressions, 1.2% margin of error);
2. Mean time spent between clock out and egress at end of shift:
5.4 minutes (18,160 impressions, 1% margin of error);

Plaintiff then calculated each category of wage claims as follows, which totals \$11,289,441:

1. Ingress Wages = Shifts (2,258,792) x hours per ingress (0.106) x hourly rate (\$17) x overtime wage rate coefficient (1.5x) = \$6,105,514.78

2. Egress Wages = Shifts (2,258,792) x hours per egress (0.09) x hourly rate (\$17) x overtime wage rate coefficient (1.5x) = \$5,183,927.64

43. For purposes of calculating premium meal period penalties, Plaintiffs multiplied the number of shifts (2,258,792) by the percentage of shifts with meal periods (0.97) by the percentage of meal periods with egress (0.14) by the hourly rate (\$17), which yields the \$5,214,647 in unpaid premium meal period wages.

44. For premium rest period wages, Plaintiffs applied the same analysis, with the assumption that employees left Gate Gourmet's facilities on rest breaks at 10% of rate to that seen with meal periods. Accordingly, Plaintiff estimates \$521,464 in unpaid premium rest period wages.

45. Accordingly, the total amount of wage and break damages, if Plaintiffs were successful on all their claims is \$17,025,552. The Gross Settlement Amount is, thus, approximately 23% of the underlying damages exposure calculation.

46. For wage statement penalties, each aggrieved employee worked an average of 63 payperiods within the PAGA period, which is the same limitations period applicable to the wage statement penalties claim. Accordingly, Plaintiff assumes each class member suffered at least 63 wage statement violations, and accordingly is entitled to the statutory maximum of \$4,000 in wage statement penalties, which yields a total of \$13,444,000 in wage statement penalties owing to the class.

47. For waiting time penalties, Gate Gourmet disclosed that a total of 5,434 class members separated within the class period, and had an average hourly rate of \$16.13. Multiplied by 8 hours per day, and by 30 days of waiting time wages, yields a total of \$21,036,100 in waiting time penalties owing to the class.

48. For purposes of calculating PAGA penalties, Plaintiffs used the 179,983 pay periods disclosed by Gate Gourmet and the percentages discussed above for violations to calculate the potential of Defendant's PAGA exposure at trial.

49. In reviewing the reasonableness of PAGA settlements, some courts have asked for an analysis of the stacking of all available penalties for violations alleged in the case. *See*,

1 *e.g., Gonzalez v. Corecivic of Tenn., LLC* (E.D.Cal. 2018) 2018 U.S.Dist.LEXIS 156549, at
2 *24-25 (“‘stacking’ PAGA penalties is not inappropriate under California law and, therefore,
3 there is no obvious reason to use ‘unstacked’ calculations to estimate the value of the case ...
4 plaintiff has not adequately explained why, in attempting to set out the total potential value of
5 the claims in this case, he both ‘unstacked’ them and suggested they might only be worth a
6 quarter of the statutory penalty.”).

7 50. In applying full stacking of penalties, the failure to pay wages have stacked
8 penalties at \$750 for initial violations, excluding penalties for violations of section 226;
9 the failure to provide compliant meal breaks have stacked penalties at \$650 for initial
10 violations, again excluding penalties for violations of section 226; the failure to provide
11 accurate wage statements for violations of section 226 have stacked penalties at \$350 for
12 initial violations; the failure to maintain accurate timekeeping records have stacked
13 penalties at \$450 for initial violations; and the failure to pay wages at separation in
14 violation of sections 201 and 202 has stacked penalties at \$100 for initial violations.
15 Under this calculation, Gate Gourmet’s maximum potential liability for PAGA penalties
16 alone exceeds \$513 million.

17 51. However, the PAGA grants trial courts discretion to reduce the amount of
18 civil penalties to be imposed; the full amount of potential penalties possible in this case
19 would exceed Gate Gourmet’s realistic ability to pay.

20 52. Accordingly, Plaintiffs’ analysis at mediation was the more realistic possibility
21 of the court imposing a \$100 per payperiod PAGA penalty, which amounts to \$18,000,000 in
22 liability for PAGA penalties

23 53. Totaling these estimated substantive and derivative damages across the
24 Settlement Class yields the total estimated damages amount for the entire action of
25 approximately \$69,505,652. However, this damages and penalties analysis above is Plaintiffs’
26 best-case scenario. Gate Gourmet had formidable defenses that the postliminary and
27 preliminary time spent by Class Members on ingress and egress, and related activities, was not
28 under employer control. If the Court were to adopt Defendants’ legal arguments, then

1 Plaintiffs' claims would be limited to off the clock security searches of Class Members who
2 worked at the SFO location for four months from January 2020 through April 2020 and at the
3 LAX facility from February 2019 to the present, which would have affected 2,620 Class
4 Members.

5 54. Video evidence of the security searches shows that the time spent undergoing the
6 searches was typically less than one minute. With the average hourly rate of \$17.00, and
7 assuming one minute of off-the-clock time per day, this totals \$1.42 per workweek (\$17.00 x 5
8 minutes per week). Based on discovery provided, approximately half of the 2,620 Class
9 Members worked at SFO and half at LAX.

10 55. For the approximately 1,310 Class Members that worked at SFO during the time
11 security searches were conducted, if Plaintiffs assume that every Class Member worked all 13
12 weeks between January through April 2020, this results in wages owed of $\$1.42 \times 13 \text{ weeks} \times$
13 $1,310 \text{ Class Members} = \$24,182$.

14 56. For the approximately 1,310 Class Members that worked at LAX during the time
15 security searches were conducted, if assuming that every Class Member worked all 165 weeks
16 between February 2019 through April 2022, this results in wages owed of $\$1.42 \times 165 \text{ weeks} \times$
17 $1,310 \text{ Class Members} = \$306,933$.

18 57. Therefore, if the Court held that Class Members were not under Gate Gourmet's
19 control during their ingress and egress time, Plaintiffs' wage claims would be limited to
20 approximately \$331,115. Plaintiffs' meal and rest break claims and derivative claims would
21 also be drastically reduced. If these claims had the same percentage of reduction applied as the
22 off-the-clock damages, it would result in meal break damages of \$151,224; rest break damages
23 of \$15,122; wage statement penalties of \$389,876; waiting time penalties of \$610,046; and
24 PAGA penalties of \$522,000. Thus, assuming Plaintiffs were successful on their off-the-clock
25 security search claims only, the damages and penalties exposure would be \$2,019,383.

26 58. Thus, the Gross Settlement Amount of \$3,850,000 is substantially higher than the
27 potential outcome if the case were limited to off-the-clock security search time and derivate
28 claims and represents a fair compromise given the risks presented for both sides.

59. The Settlement will result in immediate and certain payment to Class Members of meaningful amounts. The average recovery is approximately \$309 per Class Member (this amount divides the *net* Settlement Class recovery by total number of Class Members). Additionally, \$96,250 will be shared among approximately 3,361 Aggrieved Employees, which results in approximately \$28 additional per Aggrieved Employee. This amount provides significant compensation to the Class Members, and in light of all of the risks, the settlement amount is fair, reasonable, and adequate.

SETTLEMENT ADMINISTRATION

60. My firm obtained quotes for settlement administration from three established administration firms. The parties have agreed to use Atticus Administration (“Atticus”) to administer the Settlement. My firm has successfully used Atticus in several recent class actions.

61. Atticus provided a competitive bid for the services offered of total fees and costs currently estimated at \$40,000.00. Atticus will distribute the Postcard Notices of Settlement via U.S. mail and email, re-mail any Postcard Notices returned as non-deliverable but with forwarding addresses, and re-mail the Notice to any new address obtained by way of skip-trace. Atticus will also receive and process workweek disputes, calculate the settlement payments, calculate all applicable payroll taxes, withholdings, and deductions; and prepare and issue all disbursements to Class Members, Service Awards to Plaintiffs, payment to the LWDA payment, payment to Class Counsel for fees and costs, and payment to itself for fees in administering the settlement.

62. Atticus will also create a website for the Settlement which will allow Class Members to view the Class Notice in substantially the form attached as “**Exhibit A**” to the Settlement Agreement, the Settlement Agreement, Plaintiffs’ preliminary and final approval motions, and payment options. The Settlement Administrator will also establish a toll-free call center for inquiries from Class Members.

63. Class Members will have the option to receive their settlement amount in a digital form, through a prepaid E-Mastercard, or electronically with a Paypal or Venmo

1 account. These digital payment options provide more flexibility and provide a substantial
2 benefit to Class Members who do not have traditional bank accounts. The Settlement
3 Administrator will have a secure link on the settlement website for Class Members to submit a
4 request for a digital payment option.

5 64. The parties propose sending a Postcard Notice, attached as **Exhibit B** to the
6 Settlement Agreement, which summarizes the settlement and directs the Class Members to the
7 long form Notice of Settlement, attached as **Exhibit A** to the Settlement Agreement, on the
8 settlement website. The parties also propose sending the information contained on the
9 Postcard Notice via email to all Class Members for whom an email address is provided that
10 includes a link to the settlement website with the long form Notice of Settlement. This is “the
11 best notice practicable.” Mailing of a postcard saves on the costs of administration and Class
12 Members will immediately see the settlement information on the postcard, rather than opening
13 an envelope, which could be inadvertently tossed as junk mail. The proposed Notice is clear
14 and straight-forward and provides information on the nature of the action, the terms and
15 provisions of the Settlement Agreement, and the monetary awards that the Settlement will
16 provide Class Members.

17 65. The Notice of Settlement clearly explains the procedures and deadlines for
18 objecting to the Settlement, and the date, time and place of the Final Approval Hearing. The
19 proposed Notice of Settlement also sets forth the amounts of attorney’s fees and costs sought
20 by Plaintiffs, as well as an explanation of the procedure by which Class Counsel will apply for
21 them. The Notice of Settlement clearly states that the Settlement does not constitute an
22 admission of liability by Defendants. Accordingly, the Notice of Settlement complies with the
23 standards of fairness, completeness, and neutrality required of a settlement class notice
24 disseminated under authority of the Court.

25 66. Class Members will have 60 days from the mailing of the Notice of Settlement to
26 request exclusion or object to the Settlement. Any Class Member who does not submit a timely
27 request to exclude themselves from the Settlement will be deemed a Participating Class
28 Member. At least 10 days prior to the final approval hearing, the Administrator shall provide

1 the Court with a declaration of due diligence and proof of mailing with regard to the mailing of
2 the Notice Packet, and all attempts to locate Class Members.

3 **CERTIFICATION OF THE SETTLEMENT CLASS**

4 67. The proposed settlement class is numerous; Defendants identified approximately
5 7,000 non-exempt employees who worked at Gate Gourmet facilities in California during the
6 Class Period.

7 68. There are common questions of law and fact predominate here. The wage and
8 hour violations at issue are borne of Defendants' standardized policies, practices, and
9 procedures regarding preliminary and postliminary activities that Defendants impose, creating
10 pervasive issues of fact and law that are amenable to resolution on a class-wide basis.

11 69. Class Members are subject to the same: timekeeping, payroll, compensation,
12 preliminary and postliminary activities, and meal and rest period policies and practices.
13 Plaintiffs' other derivative claims will rise or fall with the primary claims.

14 70. Defendants provided classwide policies, ingress and egress records, and video
15 surveillance. Further, my firm conducted interviews with 20 current and former Gate Gourmet
16 employees who reiterated the classwide practices of Gate Gourmet. Because these questions
17 can be resolved at the same juncture, Plaintiffs contend the commonality requirement is
18 satisfied for the Class.

19 71. Plaintiffs' claims are typical of those of all other Class Members; they worked at
20 Gate Gourmet facilities during the Class Period and were subjected to the alleged illegal
21 policies and practices that form the basis of the claims asserted in this case. Thus, Plaintiffs
22 contend that the typicality requirement is also satisfied.

23 72. Weighing the significant risks associated with further litigation against the
24 strengths of Plaintiffs' case supports approval of the Settlement here. When a party continues
25 to deny liability, there is an inherent risk in continuing litigation. Getting the case certified and
26 litigating the class action claims, here, would require substantial additional preparation and
27 resources. Plaintiffs alleged that employees were subject to Defendants' control because the
28 building layouts for the airports and warehouses are spread out, the time clocks were not at the

1 entry, but rather distant from the turnstiles and, thus, employees were required to walk from the
2 entry turnstiles to their posts to clock in and out, and some employees were required to don and
3 doff uniforms and/or safety equipment, had to go to their lockers to store items or retrieve
4 uniforms and equipment, and were submitted to searches. Defendants countered that
5 Plaintiffs' claims for preliminary and postliminary activities would fail because the time spent
6 between entering the facility and clocking in, or conversely, clocking out and exiting the
7 facility was not time under the employer's control. Further, Defendants argued that there
8 would be manageability issues to determine the amount of time during these preliminary and
9 postliminary activities which might be considered under employer control or not, thus
10 defeating class certification. If the Court had sided with Defendants on either of those
11 defenses, Class Members may not receive any compensation.

12 73. The value of the Settlement – \$3,850,000 – is not only fair and reasonable, but an
13 exceptional result, especially in light of the initial settlement offered by Defendants in the
14 *Bautista Diaz* action of \$2,400,000. Moreover, the Settlement amount represents a meaningful
15 recovery for Class Members. The negotiated non-reversionary Gross Settlement Amount of
16 \$3,850,000 represents 23% of the wage and break violations calculated (\$17,025,552) and is
17 significantly higher than the \$2,019,383 calculated if Plaintiffs were limited only to their
18 security search and reduced derivative claims.

19 PLAINTIFF INCENTIVE AWARDS

20 74. Plaintiffs are seeking service payments of \$7,500 each (totaling \$22,500) to
21 compensate the Named Plaintiffs for the critical role they played in this case, and the time,
22 effort, and risks undertaken in helping secure the result obtained on behalf of the Class
23 Members. In agreeing to serve as Class Representatives, these individuals formally agreed to
24 accept the responsibilities of representing the interests of all Class Members. Each Named
25 Plaintiff participated fully in discovery, worked closely with Class Counsel, and took on the
26 burden and stigma of being a class representative in an employment action. Defendants do not
27 oppose the requested payments to these representatives as reasonable service awards and in
28 consideration of the full releases given by Plaintiffs.

75. Moreover, the service awards are fair when compared to the awards approved in similar cases in the Northern District. In accordance with the Northern District's Guidance for Class Action Settlement Approval, I have reviewed prior orders regarding service awards in this Court and the Northern District, and such orders support the service awards sought by Plaintiffs here.

- *Nucci v. Rite Aid*, Case no. 19-cv-01434-LB (N.D. Cal. May 26, 2022) (ECF 136) (Beeler, M.J.) (granting service awards of \$7,500 each to 3 plaintiffs; average class member claim was \$308).
- *Alvarez v. Farmers Ins. Exch.*, 2017 WL 2214585, at *1 (N.D. Cal. Jan. 18, 2017) (Orrick, J.) (“\$10,000 service award for each of the named Plaintiffs is reasonable and appropriate” where “Plaintiffs . . . assisted Class Counsel in the litigation of this case” and “took a significant risk by becoming a class representative in this action”).
- *Springer v. Custard Insurance Adjusters* (N.D. Cal. July 22, 2019) (ECF 96) (Orrick, J.) (“\$7,500 enhancement awards for 5 plaintiffs “reasonable in light of the risks and burdens undertaken by the Representative Plaintiffs in this Action, for their time and effort in bringing and prosecuting this matter on behalf of the Plaintiff Classes, and for the broader releases they are providing to Defendant.”)
- *In re Yahoo! Inc. Customer Data Security Breach Litigation*, Case no. 5:16-MD-02752-LHK (N.D. Cal. July 22, 2020) (ECF 497) (granting service awards ranging from \$2,500 to \$7,500 (up to 187 times the size of the average compensation to class members).
- *Soto, et al. v. O.C. Communications, Inc., et al.*, Case No. 3:17-cv-00251-VC (N.D. Cal. Oct. 23, 2019) (ECF 304) (approving \$15,000 and \$10,000 service awards in hybrid FLSA/Rule 23 settlement).
- *Guilbaud v. Sprint/United Management Co., Inc.*, No. 3:13-cv-04357-VC (N.D. Cal. Apr. 15, 2016) (ECF 181) (approving \$10,000 service payments for each class representative in FLSA and California state law representative wage and hour action).

1 any entries that might be considered duplicative. Thus, the lodestar hours submitted were
2 reasonable and necessary for the successful litigation and eventual settlement of the Action.

3 82. Our firm regularly does extensive research into hourly rates charged in the Bay
4 Area and Los Angeles area by attorneys with comparable experience to the attorneys in my
5 firm. That research takes the form of review of individual attorney declarations filed in support
6 of fee applications and the orders thereon, review of professional surveys of attorney hourly
7 rates, such as National Law Journal and AmLaw, and review of the *Laffey Matrix*. Over the
8 years, we have developed expertise in this area.

9 83. Recently, we compiled a survey of over 200 lawyers' hourly rates, as reflected in
10 sworn attorney declarations filed in various Bay Area and Los Angeles Area Superior Courts
11 as well as all the District Courts in California, including over 50 declarations filed in Los
12 Angeles Superior Court. Since then, we have regularly updated that database with additional
13 hourly rates from sworn attorney declarations. Our survey included cases in areas of complex
14 litigation similar to those in which our firm practices, such as employment, discrimination,
15 fraud, and breach of contract.

16 84. In each instance, we track the name of the attorney, their law firm, location, the
17 year admitted to the bar, the years of experience of each attorney at the time of the award, the
18 hourly rate actually awarded by the court, the case name, the court, the judge, and the case
19 type. The declarations include rates for partners, associates, contract lawyers, and paralegals.

20 85. The survey showed that for attorneys with more than 30 years of experience
21 (similar to Randall Aiman-Smith), the hourly rates awarded ranged from \$700 to \$1,500. For
22 attorneys with 20-25 years of experience (similar to Reed Marcy), the hourly rates awarded
23 ranged from \$650 to \$950. For attorneys with 10-19 years of experience (similar to myself
24 Carey James, and Brent Robinson), the hourly rates awarded ranged from \$525 to \$935.

25 86. Each of the hourly rates for the lawyers in Aiman-Smith & Marcy is well within
26 the foregoing ranges. In sum, these 200 attorney declarations and fee awards by courts in
27 California provide ample evidence of the market rate for attorneys of similar experience in
28

cases of similar complexity and show that the hourly rates for Class Counsel are well within the range of hourly rates regularly awarded. The rates sought here are, therefore, reasonable.

87. Additionally, the hourly rates of the attorneys and staff at Aiman-Smith & Marcy are commensurate with rates awarded in California state courts and Northern and Central District courts. *See, e.g., Hadsell v. City of Baldwin Park*, Los Angeles Superior Court No. BC548602 (Partner rates of \$1,100 and associate rates of \$550-\$850 rates approved); *Independent Living Center of S. Cal. V. Kent*, 2020 U.S. Dist Lexis 13019 (C.D. Cal. 2020) (Partner rates of \$1,025 and associate rates of \$600-\$815 approved); *Nozzi v. Housing Authority*, 2018 U.S. Dist.LEXIS 26049 (C.D. Cal. 2018) (Partner rates of \$1,150 and associate rates of \$750-\$765 approved); *Banas v. Volcano Corp.* (N.D. Cal. 2014) 47 F.Supp.3d 957 (Partner rates of \$1,095 and associate rates of \$620-\$770 approved).

88. Accordingly, the following hourly rates for counsel at Aiman-Smith & Marcy are well within the comparable range for attorneys and paralegals in the Bay Area and Los Angeles: Randall Aiman-Smith (36 year lawyer) \$1,005; Reed W. L. Marcy (25 year lawyer) \$950; Hallie Von Rock (18 year lawyer) \$850; Carey James (12 year lawyer) \$775; and Brent Robinson (9 year lawyer) \$690. These hourly rates for Aiman-Smith & Marcy have been recently in approved in the class action settlements of *Nucci v. Rite Aid*, Case no. 19-cv-01434-LB (N.D. Cal. May 26, 2022) (ECF 136) and *Ramirez v. Rite Aid*, Case no. CV 20-3531-GW-SKx (C.D. Cal. May 19, 2022) (ECF 72).

89. The current lodestar chart for Aiman-Smith & Marcy is as follows:

Attorney	Hours	Hourly Rate	Lodestar
Randall Aiman-Smith	26.8	\$1,005	\$26,934
Reed W. L. Marcy	220.3	\$950	\$209,285
Hallie Von Rock	163.5	\$850	\$138,975
Carey James	57	\$775	\$44,175
Brent Robinson	747.3	\$690	\$515,637
Total	1214.9		\$935,006

1 90. The percentage fee sought will also be reasonable on a lodestar/multiplier basis.
2 Based on Class Counsel's total current lodestar, the multiplier is approximately 1.08, which is
3 well within the range that California courts consider reasonable.

4 91. In this case, given the excellent results achieved and the effort expended
5 litigating the Actions, an upward adjustment from the percentage fee benchmark is warranted.
6 There was no guarantee of compensation or reimbursement. Rather, counsel undertook all the
7 risks of this litigation on a completely contingent fee basis. These risks were front and center.
8 Defendants' vigorous and skillful defense further confronted Class Counsel with the prospect
9 of recovering nothing or close to nothing for their commitment to and investment in the case.

10 92. Nevertheless, Plaintiffs and Class Counsel committed themselves to developing
11 and pressing Plaintiffs' legal claims to enforce the employees' rights and maximize the class
12 recovery. During the litigation, counsel had to turn away other less risky cases to remain
13 sufficiently resourced for this one. The challenges that Class Counsel had to confront and the
14 risks they had to fully absorb on behalf of the class here are precisely the reasons for
15 multipliers in contingency fee cases.

16 93. Attorneys who litigate on a wholly or partially contingent basis expect to receive
17 significantly higher effective hourly rates in cases where compensation is contingent on
18 success, particularly in hard-fought cases where, like in the case at bar, the result is uncertain.
19 This does not result in any windfall or undue bonus. In the legal marketplace, a lawyer who
20 assumes a significant financial risk on behalf of a client rightfully expects that his or her
21 compensation will be significantly greater than if no risk was involved (*i.e.*, if the client paid
22 the bill on a monthly basis), and that the greater the risk, the greater the "enhancement."
23 Adjusting court-awarded fees upward in contingent fee cases to reflect the risk of recovering
24 no compensation whatsoever for hundreds of hours of labor simply makes those fee awards
25 consistent with the legal marketplace, and in so doing, helps to ensure that meritorious cases
26 will be brought to enforce important public interest policies and that clients who have
27 meritorious claims will be better able to obtain qualified counsel.

94. Further, Plaintiffs' counsel has kept detailed records of costs expended in this matter, which support the request for litigation costs under the terms of the settlement to be sought at final approval. The current litigation expenses for Aiman-Smith & Marcy is \$29,425.99. Plaintiffs will provide a cost detail index at final approval.

PROPOSED SCHEDULE

95. Plaintiffs propose the following schedule of events from preliminary through final approval.

Date of preliminary approval of the Settlement as to the Class	
Deadline for Defendants to pay the Administrator all amounts awarded and approved by the Court ("Payment Date")	The latest of: • 30 calendar days following the entry of a Judgment finally approving this Settlement • If an objection is filed, 30 calendar days after any deadline to file an appeal has expired • If an appeal has been taken or sought, 30 calendar days after the Judgment is finally affirmed by an appellate court with no possibility of subsequent appeal or judicial review, or the date the appeal(s) or reviews are finally dismissed
Deadline for Defendants to provide to Administrator a list containing, for each Class Member, the following information: (1) name; (2) last known address, email address (to the extent such information is maintained by Defendants) and phone number (to the extent such information is maintained by Defendants); (3) Social Security Number; (4) number of weeks	Within 30 calendar days of the Court's Preliminary Approval Order

1	worked by each individual as a Class	
2	Member during the Class Period; and (5)	
3	number of weeks worked by each individual	
4	as a PAGA Aggrieved Employee during the	
5	PAGA Period.	
6	Deadline for Administrator to mail and email	Within 10 business days after
7	the Class Notice to Class Members	Administrator receives the Class List
8	Deadline for Settlement Class Members to	Within 60 days after Notice is initially
9	exclude themselves from the Settlement	mailed to the class
10	Deadline for Settlement Class Members to	Within 60 days after Notice is initially
11	postmark request to file objections to the	mailed to the class
12	Settlement	
13	Deadline for Administrator to provide the	At least 10 days prior to the Final
14	Court with a declaration attesting to	Approval Hearing
15	completion of the notice process	
16	Deadline for filing of Final Approval Motion	In accordance with Local Rule 7-2
17	Final Approval Hearing	
18	Effective Date	Upon execution by all Parties, Class
19		Counsel, Defendants' counsel, and Final
20		Approval from the Court, following
21		Notice to Class Members and a formal
22		fairness hearing and entry of a final
23		judgment by the Court
24	Deadline for Administrator to make all	Within ten (10) business days of the
25	payments due under the Settlement	Payment Date
26	Check-cashing / Digital Payment deadline	180 days after issuance
27	Deadline for Administrator to either	As soon as practicable after check-
28		

1 2	distribute uncashed check funds to <i>cy pres</i> recipient or redistribute such funds	cashing deadline
3 4 5 6	Deadline for Plaintiffs to file a Post- Distribution Accounting	Within 21 days after the distribution of any remaining monies to Class Members who cashed their Settlement Award check or to the <i>cy pres</i> recipient

7
8 I certify under penalty of perjury under the laws of the state of California that the
9 foregoing is true and correct.

10 Executed on August 15, 2022, at Oakland, California.

11 /s/ Hallie Von Rock

12

Hallie Von Rock

13 Attorneys for Plaintiffs
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Exhibit 1



Randall B. Aiman-Smith #124599

Reed W.L. Marcy #191531

Hallie Von Rock #233152

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

MOHAMMED RAHMAN, ALICIA
NOEMI BAUTISTA DIAZ, AND
PASCAL MOORE, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

GATE GOURMET, INC.,
GATEGROUP U.S. HOLDING, INC.,
and DOES 1-10, inclusive,

Defendants.

Case No.: 3:20-cv-03047-WHO

**CLASS ACTION AND PRIVATE
ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND
RELEASE**

Hon. William H. Orrick

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and GATEGROUP U.S. HOLDING, INC.

SETTLEMENT AGREEMENT

This Class Action and Private Attorneys General Act Settlement Agreement and Release (hereinafter “Settlement” or “Agreement”) is made and entered into by and between Plaintiffs Mohammed Rahman, Alicia Noemi Bautista Diaz, and Pascal Moore (hereinafter, “Plaintiffs” or “Representative Plaintiffs”), individually and on behalf of all Class Members (as defined in Paragraph 9 b., on the one hand, and Defendants Gate Gourmet, Inc. and gategroup U.S. Holding, Inc. (“Gate Gourmet” or “Defendants”), on the other hand, (collectively, the “Parties”), and subject to the approval of the Court.

1. On May 4, 2020, Plaintiff Mohammed Rahman filed a class action Complaint in the United States District Court, Northern District, Case No. 20-cv-03047-DMR (later reassigned as 20-cv-03407-WHO), that included causes of action for failure to pay wages for all hours worked (Lab.C. §§ 1194, 1194.2, 1197; IWC Wage Order No. 5, § 4(A)); failure to pay overtime wages (Lab.C. §§ 510, 1194; IWC Wage Order No. 5, § 3(A)(1)); failure to provide meal periods (Lab.C. §§ 226.7, 512; IWC Wage Order No. 5, § 11); failure to furnish accurate wage statements (Lab.C. § 226); waiting time penalties (Lab.C. §§ 201, 202, 203); unfair business practices (Bus. & Prof. Code § 17200, et seq.); and injunction. On May 5, 2020, Plaintiff Mohammed Rahman served a Private Attorneys General Act (“PAGA”) Notice of Violations on the LWDA, which described allegations that Defendants violated Labor Code §§ 201, 202, 204, 223, 226, 226.7, 510, 512, 558, 1174, 1197, 1198, and 1199, as well as IWC Wage Order No. 5, §§ 3, 4, and 11, and that Plaintiff and Aggrieved Employees were entitled to civil penalties pursuant to Labor Code §§ 203, 210, 225.5, 226, 226.3, 256, 558, 1174.5, 1197.1, 2699(a), 2699(f), and other applicable law. On July 10, 2020, a First Amended Complaint was filed that added Penalties under the PAGA (Labor Code § 2698, et seq). On February 2, 2022, Plaintiff Mohammed Rahman served a First Amended PAGA Notice of Violations on the LWDA, which added allegations of uncompensated preliminary and postliminary activities.

2. On September 4, 2020, Plaintiff Alicia Noemi Bautista Diaz filed a class action complaint in the Superior Court of California, County of Los Angeles, Case Number 20STCV34299, that included causes of action for failure to pay minimum and regular rate wages (Lab.C. §§ 204, 1194, 1194.2, 1197); failure to pay overtime compensation (Lab.C. §§ 1194 and 1198); failure to provide meal periods (Lab.C. §§ 226.7, 512); failure to authorize and permit rest periods (Lab.C. § 226.7); failure to time pay final wages at termination (Lab.C. §§ 201-203); failure to provide accurate itemized wage statements (Lab.C. §§ 226); and unfair business practices (Bus. & Prof. Code § 17200, et seq.). On June 28, 2021, Plaintiff Alicia Noemi Bautista Diaz served a PAGA Notice of Violations on the LWDA, which described allegations that Defendants violated Labor Code §§ 201, 203, 204, 226.7, 510, 512, 1174.5, 1194, 1197, and 1198, and that Plaintiff and Aggrieved Employees were entitled to civil penalties pursuant to Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, and 2699(f)(2). On October 15, 2020, the action was removed to the Central District of California, Case Number 2:20-cv-09454-SB-MAA; on June 28, 2021, the action was remanded to the Superior Court, County of Los Angeles; on December 22, 2021, the action was removed again to the Central District of California; on February 23, 2022, the action was transferred to the Northern District of California and then reassigned, Case Number 22-cv-1136-WHO.

3. On May 10, 2021, Plaintiff Pascal Moore filed a class action complaint in the Superior Court of California, County of Los Angeles, Case Number 21STCV17642, that included causes of action for failure to pay wages for all hours worked at minimum wage (Lab.C. §§ 1194 and 1197); failure to authorize or permit meal periods (Lab.C. §§ 512 and 226.7); failure to authorize or permit rest breaks (Lab.C. § 226.7); failure to timely pay final wages at termination (Lab.C. §§ 201-203); failure to provide accurate itemized wage statements (Lab.C. § 226); failure to timely pay earned wages during employment (Lab.C. ¶ 204); and unfair business practices (Bus. & Prof. Code § 17200, et seq.). On May 10, 2021, Plaintiff Pascal Moore served a PAGA Notice of Violations on the LWDA, which described allegations that Defendants violated Labor Code §§

201, 202, 203, 204, 226, 226.7, 512, 1194, 1197, and 1198, and that Plaintiff and Aggrieved Employees were entitled to civil penalties pursuant to Labor Code §§ 201, 202, 203, 204, 226, 226.7, 512, 1194, 1197, and 1198. On July 19, 2021, the action was removed to the Central District of California, Case Number 2:21-cv-05834-ODW-SP.

4. The Parties agree to enter into a stipulation to permit Plaintiffs Mohammed Rahman, Alicia Noemi Bautista Diaz, and Pascal Moore to file a Consolidated Complaint in the Northern District of California. The Consolidated Complaint will contain all claims and factual assertions pled in any of the complaints referenced in Paragraphs 1-3 and all claims and factual assertions contained in any PAGA notices served on the LWDA by any of Plaintiffs regarding either or both Defendants. The *Moore* action, currently pending in the Central District of California, will be dismissed following the filing of the consolidated complaint.

5. The parties participated in a global mediation with Hunter Hughes, III. Following the mediation session with Mr. Hughes, a mediator's proposal for the settlement of all actions was accepted by Plaintiffs and Defendants on May 12, 2022.

6. Prior to mediation with Mr. Hughes, the Parties engaged in formal written discovery, document production, informal discovery for mediation, and interviewed multiple putative class members. Substantial raw data and data compilations and analysis concerning the putative class was performed by Plaintiffs' experts.

7. Representative Plaintiffs and their counsel have conducted sufficient discovery and analysis to evaluate the strengths and weaknesses of their respective claims and Defendants' defenses and to recommend this Settlement to the putative class members, aggrieved employees, and the Court.

8. Counsel has fully advised Representative Plaintiffs of this Agreement and represents that they approve of and consent to the terms herein.

TERMS OF SETTLEMENT

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

1 9. Definitions of Certain Settlement Terms:

2 a. **“Person”** shall have the meaning set forth in California Government Code
3 Section 17.

4 b. **“Settlement Class”**: All individuals employed at any Gate Gourmet
5 facility in California as a non-exempt employee at any time from May 4, 2016
6 through the date of the preliminary approval of the settlement by the Court.

7 c. **“Class Period”**: May 4, 2016 through the date of the Preliminary
8 Approval of this Settlement by the Court.

9 d. Each individual member of the Settlement Class shall be referred to as a
10 **“Class Member.”**

11 e. **“Participating Class Members”**: All Members of the Settlement Class
12 except those who timely submit a valid Request for Exclusion (as defined in
13 Paragraph 32) for this Settlement pursuant to the process described in this
14 Agreement.

15 f. **“PAGA Aggrieved Employees”**: All individuals employed at any Gate
16 Gourmet facility in California as a non-exempt employee at any time from May
17 5, 2019 through the date of the preliminary approval of the settlement by the
18 Court.

19 g. **“PAGA Period”**: May 5, 2019 through the date of the preliminary
20 approval of the settlement by the Court.

21 h. **“Class Counsel”**: Aiman-Smith & Marcy, PC; Moon & Yang, APC;
22 Lavi & Ebrahimian, LLP.

23 i. **“Notice”**: The notice form to Class Members, substantially in the form
24 attached hereto as **Exhibit A**, which will, among other things, notify Class
25 Members of the preliminary approval of the settlement and scheduling of the
26 final approval hearing. This **Notice** will be available for viewing on the
27 settlement website.

28 j. **“Postcard Notice”**: The postcard notice form to Class Members,

substantially in the form attached hereto as **Exhibit B**, which will, among other things, notify Class Members of the settlement website for viewing the long form **Notice**.

k. **“Notice Deadline”** means the date that is sixty (60) days after the Notice is initially mailed to the Settlement Class. Class Members shall have until the Notice Deadline to exclude themselves or object to the Settlement.

l. **“Final Approval”**: The date of the Court’s order granting final approval of the Settlement.

m. **“Administrator”**: The administrator responsible for administering this settlement, Atticus Administration (subject to court approval).

10. Settlement of the Consolidated Action: As detailed in the Release set forth in Paragraph 35, all causes of action alleged in this Consolidated Action—and any claims, damages, or causes of action that could have been brought based on the factual allegations in the Consolidated Action, including any claims arising from the alleged violation of any provision of California law which were or could have been raised as a part of the Consolidated Action—shall be settled and compromised in full and without exception as between each Participating Class Member and Defendants, subject to the terms and conditions set forth in this Agreement and the approval of the United States District Court for the Central District of California.

11. Settlement Amount:

a. **“Gross Settlement Amount”**: In consideration for this Settlement and a release by the Class Members, Defendants have agreed to pay the sum of Three Million Eight Hundred Fifty Thousand Dollars and Zero Cents (\$3,850,000.00). The Gross Settlement Amount is the maximum amount that Defendants are required to pay for any and all purposes under this Agreement. The Gross Settlement Amount shall exclude Defendants’ share of federal, state, and local taxes only, and such amounts will be paid separately by Defendants. In no event shall any part of the Gross Settlement Amount revert to the Defendants.

b. **“Net Settlement Amount”**: The Gross Settlement Amount of Three Million Eight Hundred Fifty Thousand Dollars and Zero Cents (\$3,850,000.00) less the following deductions:

- i. The sum of Twenty-Two Thousand Five Hundred Dollars and Zero Cents (\$22,500.00) for the representative payment award to Plaintiffs, with Seven Thousand Five Hundred Dollars (\$7,500) to be paid each to Mohammed Rahman, Alicia Noemi Bautista Diaz, and Pascal Moore, or such other amount as approved by the Court;
- ii. The sum of attorneys’ fees to Class Counsel under Paragraph 17, which shall not exceed One Million Two Hundred and Eighty-Three Thousand Two Hundred Dollars and Zero Cents (\$1,283,200.00) (33.33 % of the Gross Settlement Amount);
- iii. The sum of costs awarded to Class Counsel under Paragraph 17, which shall not exceed Fifty-Six Thousand Dollars and Zero Cents (\$56,000.00);
- iv. The administrative expenses approved by the Court pursuant to this Agreement, estimated at Forty Thousand Dollars and Zero Cents (\$40,000.00); and
- v. Two Hundred Eighty-Eight Thousand Dollars Seven Hundred Fifty Dollars and Zero Cents (\$288,750.00), which is 75% of the Three Hundred Eighty-Five Thousand Dollars and Zero Cents (\$385,000.00) earmarked for the release of Representative Plaintiffs’ and each PAGA Aggrieved Employee’s PAGA claims, and which will be paid to the California Labor and Workforce Development Agency (“**LWDA**”).

c. The Net Settlement Amount is comprised of two parts: (1) the **“Net PAGA Settlement Amount”** (*i.e.*, the \$96,250.00 earmarked for the release of Representative Plaintiffs’ and each PAGA Aggrieved Employee’s PAGA claims that is not payable to the California Labor and Workforce Development

Agency); and (2) the “**Net Class Settlement Amount**” (*i.e.*, the entire Net Settlement Amount less the Net PAGA Settlement Amount, which is approximately \$2,159,550.00).

12. Settlement Formula and Distribution:

Subject to the conditions of this Agreement, Class Members shall be entitled to a share (the “**Settlement Share**”) of the Net Settlement Amount. The allocation is set forth as follows: (1) Each Participating Class Member’s number of Workweeks during the Class Period will be divided by the total number of Workweeks for all Participating Class Members during the Class Period, and the resulting figure will be multiplied by the Net Settlement Amount; and (2) for PAGA Aggrieved Employees, the Net PAGA Settlement Amount of \$96,250 will be divided by the total number of Workweeks for all PAGA Aggrieved Employees during the PAGA Period, and the resulting figure will be multiplied by the Net PAGA Settlement Amount.

13. Reference to Gate Gourmet’s Records:

The number of weeks worked by Class Members as non-exempt employees in California during the Class Period will be determined by reference to Gate Gourmet’s records. Gate Gourmet’s records shall be presumptively correct for determining who the Class Members and PAGA Aggrieved Employees are and the number of weeks worked by the Class Members during the Class Period and PAGA Period.

14. Allocation of Settlement Payments:

a. One-third (1/3) of all Settlement Share payments to Participating Class Members shall be considered wages and shall be subject to the withholding of all applicable local, state and federal taxes. Participating Class Members will receive from the Administrator an IRS Form W-2 for the payment and taxes that will be withheld at the rate required by law. Furthermore, Defendants (via the Administrator) will pay all amounts required by law to be paid by the employer to any federal, state or local tax authority.

b. Two-thirds (2/3) of all Settlement Share payments to Participating Class

Members shall be considered non-wages for the settlement of interest claims and statutory and civil penalty claims, and for attorneys' fees. Class Members will receive from the Administrator an IRS Form 1099 for these payments, in accordance with and if required by IRS requirements, and will be responsible for correctly characterizing this compensation for tax purposes and to pay any taxes owing.

- c. One Hundred Percent (100%) of payments from the Net PAGA Settlement Amount paid to PAGA Aggrieved Employees shall be considered non-wages for the settlement of interest claims and statutory and civil penalty claims. Class Members will receive from the Administrator an IRS Form 1099 for these payments, in accordance with and if required by IRS requirements, and will be responsible for correctly characterizing this compensation for tax purposes and to pay any taxes owing.

15. Service Payment Award to Representative Plaintiffs:

From the Gross Settlement Amount, each Representative Plaintiff will be paid Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) as a service award for their time and efforts as Representative Plaintiffs. These service payment awards are for initiating and pursuing the Action, undertaking the risk of liability for attorneys' fees and expenses in the event they were unsuccessful in the prosecution of the Action, and granting the general release under the Settlement, and are will be paid in addition to their rights to payments provided in this Agreement. Tax deductions and withholdings will not be taken from the Representative Payments, and instead a Form 1099 will be issued to each Plaintiff with respect to this payment. Representative Plaintiffs will be responsible for correctly characterizing this compensation for tax purposes and to pay any taxes owing. The Representative Plaintiffs hereby indemnify and hold Defendants harmless for and against any action or liability of Representative Plaintiffs, if any tax authority should dispute the characterization of this compensation.

16. PAGA Payment:

Subject to Court Approval, from the Gross Settlement Amount, a payment of Two Hundred Eighty-Eight Thousand Dollars Seven Hundred Fifty Dollars and Zero Cents (\$288,750.00) will be made to the LWDA, which is the payment to the State of California for its share of civil penalties pursuant to the Labor Code Private Attorneys General Act, Cal. Labor Code §§ 2698, *et seq.* (“PAGA”), approved by the Court. The Two Hundred Eighty-Eight Thousand Dollars Seven Hundred Fifty Dollars and Zero Cents (\$288,750.00) payment is 75% of Three Hundred Eighty-Five Thousand Dollars and Zero Cents (\$385,000.00), which is the amount that the Parties have earmarked for the release of claims under PAGA. The remaining Twenty-Five Percent (25%), or Ninety-Six Thousand Two Hundred Fifty Dollars and Zero Cents (\$96,250.00), will be allocated to the Net PAGA Settlement Amount for distribution to the PAGA Aggrieved Employees as set forth in Paragraph 11 (c), above. The Net PAGA Amount will be divided by the total number of Workweeks for all PAGA Aggrieved Employees during the PAGA Period, and the resulting figure will be multiplied by the Net PAGA Settlement Amount.

17. Attorneys’ Fees and Costs:

Class Counsel shall submit an application for an award of attorneys’ fees not to exceed One Million Two Hundred and Eighty-Three Thousand Two Hundred Dollars and Zero Cents (\$1,283,200.00) (33.33 % of the Gross Settlement Amount). This amount will cover all work performed to date and all work to be performed in connection with the approval by the Court of this Agreement and the final conclusion of this Consolidated Action. Defendants agree not to oppose any fee application that is not in excess of the amount specified in this Paragraph. Should the fee and costs Award approved by the Court be less than the amount sought, the difference shall be added to the Net Settlement Amount. Payment of the fees and costs to Class Counsel shall constitute full satisfaction of any obligation to pay any amounts to any Person, attorney or law firm for attorneys’ fees, expenses or costs in the Action, and shall relieve Defendants of any other claims or liability to any other attorney or law firm for any attorneys’ fees,

1 expenses and/or costs to which any of them may claim to be entitled on behalf of
2 Plaintiffs and/or the Class.

3 Class Counsel shall submit an application for the reimbursement of costs and expenses
4 in an amount not to exceed Fifty-Six Thousand Dollars and Zero Cents (\$56,000.00).

5 This amount will cover all costs and expenses incurred to date or to be incurred. This
6 amount shall come from the Gross Settlement Amount. Defendants agree not to oppose
7 any cost and expense application that is not in excess of the amount specified in this
8 Paragraph.

9 Except as provided herein, each party shall be responsible for its own attorneys' fees
10 and costs.

11 18. Date of Defendants' Payment to Administrator:

12 Defendants shall pay the Administrator all amounts awarded and approved by the Court
13 and for the amount of employer-side payroll taxes, for payment to the Class, to the
14 LWDA, the service payment awards, and for attorneys' fees and costs on the "**Payment**
15 **Date,**" which shall be the latest of the following occurrences:

16 a. Thirty (30) calendar days following Final Approval, provided no objection
17 is made to this Settlement prior to or at the hearing for final approval of this
18 Settlement, or if any objection is made, but is resolved formally and withdrawn
19 prior to the final approval hearing of this Settlement.

20 b. If an objection to this Settlement is made before or at the hearing for final
21 approval (that is not resolved prior to the hearing and is formally withdrawn),
22 thirty (30) calendar days after any deadline to file an appeal under Federal Rule
23 of Appellate Procedure 4 has expired, provided no appeal is filed.

24 c. If an appeal has been taken or sought, thirty (30) calendar days after the
25 date the Judgment is finally affirmed by an appellate court with no possibility of
26 subsequent appeal or other judicial review, or the date the appeal(s) or other
27 judicial review are finally dismissed (and upholding the Settlement) with no
28 possibility of subsequent appeal or other judicial review.

1 19. Date of Administrator's Payment to Recipients:

2 Within ten (10) business days of the Payment Date, the Administrator shall distribute all
3 payments due under the Settlement, including the payments to each Class Member, to
4 Representative Plaintiffs, to the LWDA, and Class Counsel. Also, within ten (10)
5 business days of the Payment Date, the Administrator shall remit payment to the
6 appropriate tax authorities of the employee's and employer's share of taxes with respect
7 to the wage-portion.

8 20. No Further Payments:

9 Defendants shall have no obligation to pay or provide any further consideration to any
10 Class Member by reason of this Agreement or because of the foregoing payments,
11 including but not limited to contributions to any 401(k) or other retirement or employee
12 benefit plan, vacation or sick pay, etc. Any payments made pursuant to this Agreement
13 will not trigger any obligation of Defendants to make any withholding for 401(k)
14 contributions or to make any contributions to any 401(k) or similar plan. Nor will it
15 trigger any obligation of Defendants to make any contributions to any employee welfare
16 benefit plan for the benefit of any Class Member who is a member of any union.

17 21. Parties' Contentions:

18 In entering into this Agreement, Defendants do not admit to any liability or wrongdoing
19 of any kind associated with the asserted claims. In entering into this Agreement,
20 Representative Plaintiffs believe that they have filed a meritorious action.

21 22. Certification for Settlement Purposes Only:

22 As part of this Agreement and for purposes of this Settlement only, the Parties stipulate
23 to the certification of the Settlement Class. If this Agreement does not become final for
24 any reason, the Parties' willingness to stipulate to class certification as part of this
25 Settlement shall have no bearing on, and will not be admissible in connection with, the
26 issue of whether any class should be certified in this case or in any other pending or
27 future lawsuit. The Parties and their counsel will not offer or make reference to this
28 provisional stipulation to class certification for purposes of this Settlement in any

subsequent proceeding in this Consolidated Action (except for purposes of having this Agreement approved by the Court) or in any other action.

23. Settlement Fair, Reasonable, and Adequate

Representative Plaintiffs and Class Counsel are of the opinion that the terms set forth in this Agreement are fair, reasonable, and adequate and this Agreement is in the best interest of the Class in light of all known facts and circumstances, including the risk of pending motions and the trial, defenses asserted by Defendants, and numerous potential appellate issues. Defendants and their counsel also agree that this Agreement is fair and is in the best interests of the Class and each Class Member.

THE ADMINISTRATOR

24. Selection of Administrator:

Subject to the Court's approval, Atticus Administration shall be retained as the Administrator.

25. Class List:

Within thirty (30) calendar days of the date the Court enters an order granting preliminary approval of the Settlement (the "**Preliminary Approval Date**"), Defendants shall provide to the Administrator a list containing, for each Class Member, the following information: (1) name; (2) last known address, email address (to the extent such information is maintained by Defendants) and phone number (to the extent such information is maintained by Defendants); (3) Social Security Number; (4) number of weeks worked by each individual as a Class Member during the Class Period; and (5) number of weeks worked by each individual as a PAGA Aggrieved Employee during the PAGA Period.

26. Administrator's Duties:

The Administrator's duties will include:

- a. updating addresses contained in the Class List by way of search of the National Change of Address registry before the initial mailing of the Notice Packet;

- b. preparing, printing, mailing and emailing (where email is available pursuant to Paragraph 25) the Postcard Notice, in substantially the form attached hereto as “**Exhibit B**” to Class Members, as well as re-mailing any Postcard Notice that is returned by the U.S. Postal Service as non-deliverable but with a forwarding address; conducting a skip-trace on any Postcard Notice returned by the U.S. Postal Service as non-deliverable, as needed, and re-mailing the Postcard Notice to any new address obtained by way of skip-trace. The Administrator will also mail reminder postcards to all Class Members who have been issued checks or digital payments but have not cashed their check or verified their digital payment issued to them within ninety (90) calendar days after the checks’ or payments’ issuance;
- c. creating a website for the Settlement which will allow Class Members to view the Class Notice in substantially the same form attached hereto as “**Exhibit A**”, this Settlement Agreement, all papers filed by Class Counsel to obtain preliminary and final approval of the Settlement Agreement, and payment options. Additionally, the Settlement website will provide contact information for Class Counsel and the Administrator. The Administrator will provide Class Counsel and Defendants’ counsel with a preview of the proposed website. Class Counsel and Defendants’ counsel must approve the website before it goes live and also must approve any modifications to the website. The Administrator shall also create a toll-free call center to field telephone inquiries from Class Members during the notice and settlement administration periods.
- d. conducting any necessary verifications of Social Security Numbers;
- e. reviewing and processing disputes (as defined in Paragraph 34) and objections to the Settlement (as defined in Paragraph 33);
- f. providing Class Counsel and Defendants’ Counsel with periodic status reports about the delivery of the Notice, disputes, and objections to the Settlement;

- g. issuing payment to effectuate the payments due under the Settlement. Settlement checks will be valid for one hundred and eighty (180) days. Digital payments will be able to be activated for one hundred and eighty (180) days. At the end of that 180-day period, settlement checks will be void and non-activated digital payments will be combined with the sum of uncashed checks. The amounts of any uncashed checks and non-activated digital payments shall undergo a second distribution to Participating Class Members and/or be distributed to the charitable organization agreed to by the Parties and approved by the Court as detailed in Paragraph 31 (d));
- h. providing a report listing the amounts of payments made to each Class Member; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement.

27. Qualified Settlement Fund:

The Parties agree that the settlement funds will be placed in an account held by the Administrator to effectuate the terms of this Agreement and the orders of the Court. The Parties agree that the settlement fund (1) shall be established pursuant to an order of the Court prior to the receipt of any monies from Defendants; (2) that it shall be established to resolve and satisfy the contested claims that have resulted, or may result, from the matters that are the subject of this Consolidated Action and that are released by this Settlement; and (3) that the fund or account that is established and its assets are segregated and shall be segregated (within a separately established fund or account) from the assets of Defendants and all related other Persons. The Administrator shall be responsible for establishing, administering, and otherwise operating the settlement fund, including the preparation and filing of federal, state, and local tax returns. The Administrator shall also be responsible for preparing and issuing all payments to the Class Members, Representative Plaintiffs, Class Counsel, the employer's share of any payroll taxes and all checks for claims administration costs and expenses that are

1 approved by the Court and any other payments included in this Agreement and
2 approved by the Court.

3 28. Administrator's Findings:

4 The Administrator shall report, in summary or narrative form, the substance of its
5 findings regarding the notice and claims process, and, in that regard, the Administrator's
6 approval of claims shall be conclusive and binding. The Administrator shall be granted
7 reasonable access to Gate Gourmet's records to perform its duties. All disputes relating
8 to the Administrator's ability and need to perform its duties shall be referred, if
9 necessary, to the Court, which will have continuing jurisdiction over the terms and
10 conditions of this Agreement. The Administrator submits to the jurisdiction of the
11 Court in connection with its appointment as Administrator.

12 29. Administrator's Reports:

13 The Administrator shall provide weekly reports to counsel concerning receipt of Class
14 Members' requests for exclusion and returned mail.

15 **ADMINISTRATION OF SETTLEMENT**

16 30. Notice:

17 Within ten (10) business days of receipt of the Class List, the Postcard Notice, in the
18 form attached hereto as Exhibit "B", as approved by the Court, shall be sent by the
19 Administrator to each Class Member. The Postcard Notice shall be sent by first class
20 mail to each Class Member's current or last known address on file with TPI, following
21 an updated review of the National Change of Address Registry by the Administrator, as
22 well as by email (where available). The long form Notice, in the form attached hereto as
23 Exhibit "A" will be posted on the settlement website.

- 24 a. Returned Postcard Notice: For Postcard Notices returned from this
25 mailing with forwarding addresses affixed thereto, the Administrator will
26 promptly perform a single re-mailing of the Postcard Notice to the forwarding
27 address. For Postcard Notices returned without a forwarding address, the
28 Administrator will utilize reasonable and customary skip-tracing efforts to locate

an updated address, and promptly perform a single re-mailing to such updated address, if found.

b. It will be presumed that that a Class Member received the Postcard Notice if it has not been returned within thirty (30) days of mailing.

c. At least ten (10) days prior to the final approval hearing, the Administrator shall provide the Court with a declaration of due diligence and proof of mailing with regard to the mailing of the Postcard Notice, all attempts to locate Class Members, and confirmation of the posting of the long form Notice on the settlement website. Class Counsel shall be responsible for working with the Administrator to timely file the declaration of due diligence.

31. Administrator's Responsibility for Payment:

a. Class Members will have an option to choose a digital payment or a hard copy check. If a Class Member does not affirmatively choose a digital payment, a hard copy check will be mailed.

b. The digital payment options will include E-Mastercard, Paypal, and Venmo. Class members will have one hundred eighty (180) calendar days to activate their digital payment.

c. All settlement checks will be valid for one hundred eighty (180) calendar days.

d. At the end of the 180-day period, settlement checks will be cancelled and digital payments not activated will be combined with the uncashed settlement checks.

i. If the total residual amount of uncashed settlement checks and non-activated digital payments is less than Fifty Thousand Dollars and Zero Cents (\$50,000.00), then the amount will revert to *cy pres*. The *cy pres* recipient shall be proposed by the parties and approved by the Court. The Parties propose Open Door Legal, which provides legal services assisting low-income, working families and promotes better understanding of the

conditions, policies, and institutions that affect the well-being of workers and their families and communities. The Administrator shall distribute any *cy pres* payment.

ii. If the total residual amount is Fifty Thousand Dollars and Zero Cents (\$50,000.00) or greater, a second distribution will occur to those Class Members who cashed their Settlement Award checks and activated their digital payments. The second distribution will occur on a pro rata basis as provided for in Paragraph 12. In the event of a redistribution of uncashed check and non-activated digital payments funds to Class Members who cashed or activated their Settlement Award, the additional settlement administration costs related to the redistribution will be deducted from the total amount of uncashed checks and non-activated digital payments prior to the redistribution. If a check to a Settlement Class Member is returned to the Administrator as undeliverable during the second distribution, the Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace search and, if another address is identified, shall mail the check to the newly identified address. If none is found, then said check shall revert to the *cy pres* recipient. If there are uncashed check funds or digital payments not activated remaining from redistribution as described in this Paragraph, then the amount will revert to *cy pres* regardless of the amount and there will not be a second redistribution.

iii. Within twenty-one (21) days after the distribution of any remaining monies to Class Members who cashed their Settlement Award check or activated their digital payment or to the *cy pres* recipient, Representative Plaintiffs will file a Post-Distribution Accounting. The Post-Distribution Accounting will set forth the total settlement fund, the total number of Class Members, the total number of Class Members to whom notice was sent and not returned as undeliverable, the number and percentage of

1 objections, the average and median recovery per claimant, the method(s)
2 of notice and the method(s) of payment to class members, the number and
3 value of checks not cashed and digital payments not activated, the
4 amounts distributed to the *cy pres* recipient (if applicable), the
5 administrative costs, the attorneys' fees and costs, the attorneys' fees in
6 terms of percentage of the settlement fund, and the multiplier, if any.

7 32. Exclusions:

8 a. The Notice shall describe the process for Class Members to submit a
9 request for exclusion ("**Request for Exclusion**") from this Settlement. Requests
10 for Exclusion must contain the Class Member's name, current address, a
11 statement that he/she wishes to exclude himself/herself from the Settlement, last
12 four digits of their social security number, and must be signed individually by the
13 Class Member. No Request for Exclusion may be made on behalf of a group.
14 Such written statement must be postmarked by the Notice Deadline. None of the
15 Parties, their counsel, nor any Person on their behalf, shall seek to solicit or
16 otherwise encourage anyone to exclude themselves from the settlement. Class
17 Members who submit a Request for Exclusion are not entitled to any Settlement
18 Payment under this Agreement other than for their share of the Net PAGA
19 Settlement Amount.

20 b. In the event any Request for Exclusion is timely submitted but does not
21 contain sufficient information to be valid, the Administrator shall provide the
22 Class Member, within seven (7) calendar days, a letter requesting the information
23 that was not provided and giving the Class Member fourteen (14) days from the
24 mailing of such cure letter to respond. Any invalid submission that is not timely
25 cured will be considered a nullity.

26 c. Any Class Member who does not timely mail or fax a valid Request for
27 Exclusion to the Administrator shall be bound by the terms of this Agreement
28 and shall have released the Released Claims (as defined in Paragraph 35), even if

1 he/she files an objection to the Settlement.

2 d. A Class Member who has submitted a Request for Exclusion may
3 withdraw or revoke his/her Request for Exclusion in writing provided that the
4 writing is mailed or faxed to the Administrator and postmarked or fax-stamped
5 no later than five (5) days prior to the final approval hearing.

6 e. No Class Member will be permitted to pursue a claim released by this
7 Settlement on the grounds that a Request for Exclusion was submitted timely and
8 lost, destroyed, misplaced or otherwise not received by the Administrator unless
9 the Class Member has adequate proof that the Request for Exclusion was mailed
10 timely certified and return receipt requested or has equivalent proof of timely
11 delivery.

12 f. PAGA Aggrieved Employees who submit a timely Request for
13 Exclusion will still be entitled to their share of the Net PAGA Settlement
14 Amount.

15 33. Objections to the Settlement.

16 a. Class Members who do not submit a timely Request for Exclusion shall be
17 permitted to object to the Settlement before Final Approval. To object, a
18 Participating Class Member must file a timely written objection with the Court.

19 b. Such objection shall not be valid unless it includes the information
20 specified in the Settlement Notice. The statement must be signed personally by
21 the objector, and shall state each specific objection and any legal and factual
22 support for each objection. The objection must also state the Participating Class
23 Member's full name, address, the dates of his/her employment at Gate Gourmet,
24 and whether the objector intends to appear at the final approval hearing.

25 c. No Class Member shall be entitled to be heard at the final approval
26 hearing (whether individually or through counsel), unless written notice of the
27 Class Member's intention to appear at the final approval hearing has been filed
28 with the Court and served upon Class Counsel and Defendants' Counsel on or

1 before the Notice Deadline and the Class Member has not opted out of the
2 Settlement. The postmark date of mailing to Class Counsel and Defendants'
3 Counsel shall be the exclusive means for determining that an objection is timely
4 mailed to counsel. If postmark dates differ, the later of the two postmark dates
5 will control.

6 d. If the Court rejects the Participating Class Member's objection, the
7 Participating Class Member will still be bound by the terms of this Agreement
8 including the release.

9 e. The requirement that the Participating Class Member submit a written
10 objection may be excused by the Court upon a showing of good cause.

11 f. None of the Parties, their counsel, nor any Person on their behalf, shall
12 seek to solicit or otherwise encourage anyone to object to the settlement, or
13 appeal from any order of the Court that is consistent with the terms of this
14 Settlement.

15 34. Handling of Disputes Regarding Workweeks:

16 Class Member disputes may arise regarding the number of weeks worked as a non-
17 exempt worker for Gate Gourmet in California during the Class Period as shown in his
18 or her Settlement Notice. To the extent that any Class Member disputes the number of
19 workweeks that the Class Member worked, such Class Members may produce evidence
20 to the Administrator establishing the dates they contend to have worked for Defendants.
21 The deadline for Settlement Class Members to submit disputes pursuant to this
22 paragraph is the Notice Deadline (disputes must be postmarked by the Notice Deadline).
23 Unless the Settlement Class Member presents convincing evidence proving he or she
24 worked more workweeks than shown by Defendants' records, his/her Settlement Award
25 will be determined based on Defendants' records. The Administrator shall notify
26 counsel for the Parties of any disputes it receives. Defendants shall review its records
27 and provide further information to the Administrator, as necessary. The Administrator
28 shall resolve any remaining dispute. Absent evidence rebutting Defendant's records,

Defendant's records will be determinative. The Administrator will notify the disputing Settlement Class Member of the decision.

RELEASE OF CLASS CLAIMS

35. Release of Claims by Participating Class Members and Representative Plaintiffs:

Upon the Final Approval by the Court of this Agreement, and except as to such rights or claims as may be created by this Agreement, each Participating Class Member fully releases and discharges Defendants, their present, former, and future parents, subsidiaries, affiliates, predecessors, successors and assigns, and each of their respective past and present members, shareholders, directors, officers, employees, agents, servants, registered representatives, insurers and attorneys (collectively hereafter, the "**Released Parties**") from any and all claims, debts, liabilities, demands, claims for restitution or injunctive relief, obligations, guarantees, costs, expenses, attorneys' fees, damages, interest, liquidated damages, penalties, loss of wages, actions, causes of action and any other relief (of whatever kind or nature, whether known or unknown) that were asserted in the Action or could have been asserted based on the Factual Predicates, from May 4, 2016 through the date of the Final Approval of the settlement by the Court, including but not limited to Claims for violations of California law pertaining to (1) failure to pay wages for all hours worked, (2) failure to pay overtime wages, (3) failure to authorize and provide meal periods, (4) failure to authorize and permit rest periods, (5) failure to timely pay earned wages, (6) failure to furnish accurate wage statements, (7) waiting time penalties, (8) unfair business practices, and (9) PAGA civil penalties to the extent based on the six immediately preceding and identified issues in Subsections (1)-(8). This release includes but is not limited to claims for violations of California Labor Code §§ 201, 202, 204, 223, 226, 226.7, 510, 512, 558, 1174, 1197, 1197.1, 1198, 1199, and § 2698, *et seq.*; IWC Wage Order No. 5, §§ 3, 4, 9, and 11; California Code of Civil Procedure § 1021.5; California Business & Professions Code § 17200, *et seq.* (to the extent based on the same protections as provided by each of the statutes listed immediately above) that are or could be based on the Factual Predicates.. Class

Members who are not Participating Class Members release claims under PAGA only. (All together collectively, “**Released Claims**”). The “**Factual Predicates**” shall consist of all assertions of fact in any complaint filed by any or all of Plaintiffs against either or both Defendants from May 4, 2020, through the date of Final Approval and all assertions of fact made in any notice to the LWDA from any or all of Plaintiffs regarding either or both Defendants from May 4, 2020, through the date of Final Approval.

a. In order to achieve a full and complete release of the Released Parties as to the release directly above, the Representative Plaintiffs and each Participating Class Member acknowledge that the release directly above is also intended to include in its effect all such Released Claims listed above whether or not the Representative Plaintiffs and each Participating Class Member know or suspect them to exist.

b. If any Participating Class Member initiates a new lawsuit against Defendants based on any claim released under this Agreement, and the Court invalidates the release, any recovery by the Participating Class Member shall be offset by the amount, if any, paid to the Participating Class Member in connection with this Settlement. The language in this Paragraph shall be included in the Notice of Settlement.

36. Release of Claims by Representative Plaintiffs:

Upon the Final Approval by the Court of this Agreement, in consideration of their awarded Representative Payments, their Settlement Shares, and the other terms and conditions of the Settlement, Plaintiffs hereby fully and finally release and discharge **Released Parties** from all known and unknown claims they have or may have against the **Released Parties**, of every nature and description whatsoever, up to the date the District Court’s approval of the Settlement Agreement is final. This general release of claims includes any and all known or unknown contract, tort, statutory, common law, constitutional, discrimination, public policy, retaliation, wrongful discharge and other

claims of any type whatsoever, to the fullest extent such claims are releasable by law, arising out of Plaintiffs' employment with Defendants (collectively "Plaintiffs' Released Claims").

37. Waiver of Rights under California Civil Code Section 1542:

The Plaintiffs' Released Claims and the Participating Class Members' Released Claims, include all such respective claims, whether known or unknown by the releasing party. Thus, even if a Plaintiff, a Participating Class Member, or Class Counsel discovers facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of their respective Plaintiffs' Released Claims and Participating Class Members' Released Claims will remain released and forever barred. Therefore, with respect to those respective released claims, Plaintiffs and Participating Class Members expressly waive and relinquish the provisions, rights and benefits of section 1542 of the California Civil Code, which reads:

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.

DUTIES OF THE PARTIES FOR PRELIMINARY COURT APPROVAL

38. Plaintiffs shall promptly submit an Unopposed Motion for Preliminary Approval of Settlement Agreement, requesting that the Court determine that this Agreement is fair, adequate, and reasonable. Class Counsel shall submit the preliminary approval papers to Defendants' Counsel for their review three (3) business days prior to the filing of such papers with the Court. On the day Class Counsel submits the preliminary approval papers to the Court, Class Counsel will also submit the Settlement to the LWDA.

DUTIES OF THE PARTIES FOR FINAL COURT APPROVAL

39. Class Counsel will file an Unopposed Motion for Final Approval of Settlement

Agreement, and approval of the requested Service Awards, Fee Award, Class Counsel's Costs, and Administrator's Costs to be heard at the final approval hearing. Class Counsel shall submit the final approval papers to Defendants' Counsel for their review three (3) business days prior to the filing of such papers with the Court.

40. Plaintiffs shall request that the Court schedule the final approval hearing to determine final approval of the settlement and to enter a Final Approval order:

- a. finding dissemination of the Settlement Notice was accomplished as directed and met the requirements of due process;
- b. approving the Settlement as final and its terms as a fair, reasonable and adequate;
- c. approving the payment of the Service Award to Plaintiffs Mohammed Rahman, Alicia Noemi Bautista Diaz, and Pascal Moore;
- d. approving Class Counsel's application for an award of attorneys' fees and reimbursement of out-of-pocket litigation costs and expenses;
- e. directing that the Settlement funds be distributed in accordance with the terms of this Settlement Agreement;
- f. directing that the Action be dismissed finally, fully, forever and with prejudice and in full and final discharge of any and all Released Claims; and
- g. retaining continuing jurisdiction over this Action for purposes only of overseeing all settlement administration matters.

41. Within ten (10) days following Final Approval, Class Counsel shall submit the Final Approval order to the LWDA.

VOIDING THE AGREEMENT

42. If the Court disapproves of or refuses to enforce any of the material conditions set forth in the preceding Paragraphs, with the exception of the Court's reduction of the amounts of attorneys' fees and costs, service awards to Plaintiffs, or the Administrator's fee, the Parties agree to engage in follow up negotiations with the intent of resolving the Court's concerns that precluded approval, and if feasible, to resubmit the settlement for

1 approval within thirty (30) days. If the Settlement is not approved as resubmitted or if
2 the Parties are not able to reach another agreement, then either Party may void this
3 Agreement. At that point, the Parties agree that each shall return to their respective
4 positions on the day before this Agreement and that this Agreement shall not be used in
5 evidence or argument in any other aspect of their litigation.

6 43. If the conditions of the Settlement set forth herein are not satisfied, or if either of
7 the Parties void the Settlement under Paragraph 41 above, or if the Payment Date does
8 not occur, or, if one or more of the material terms of the Agreement is not approved or
9 is materially modified or reversed, with the exception of the Court's reduction of the
10 amounts of attorneys' fees and costs, Representative Plaintiffs' service payment award,
11 or the Administrator's fee, then this Agreement shall be cancelled, terminated, and shall
12 have no force or effect, unless the Parties agree otherwise. If the Settlement is not
13 finally approved, or if this Settlement is terminated, revoked or cancelled pursuant to its
14 terms, the Parties to this Settlement shall be deemed to have reverted to their respective
15 status as of the date and time immediately prior to the execution of this Agreement.

16 **PARTIES' AUTHORITY**

17 44. The signatories hereby represent that they are fully authorized to enter into this
18 Agreement and bind the Parties hereto to the terms and conditions hereof.

19 **MUTUAL FULL COOPERATION**

20 45. The Parties shall fully cooperate with each other to accomplish the terms of this
21 Agreement, including the execution of such documents and to take such other action as
22 may reasonably be necessary to implement the terms of this Agreement and to secure
23 the Court's Final Approval of this Agreement.

24 **NO PRIOR ASSIGNMENTS**

25 46. The Representative Plaintiffs hereto represent, covenant, and warrant that they
26 have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
27 transfer, or encumber to any Person or entity any portion of any liability, claim,
28 demand, action, cause of action, or rights herein released and discharged except as set

1 forth herein.

2 **NO ADMISSION**

3 47. Nothing contained herein, including the consummation of this Agreement, is to
4 be construed or deemed an admission of liability, culpability, negligence, or
5 wrongdoing on the part of Defendants. Each of the Parties hereto has entered into this
6 Agreement with the intention to avoid further disputes and litigation settled herein with
7 the attendant inconvenience, expenses, and uncertainties. This Agreement is a
8 settlement document and shall, pursuant to Federal Rule of Evidence 408 and California
9 Evidence Code Section 1152, be inadmissible in evidence in any proceeding, except an
10 action or proceeding to approve, interpret, or enforce this Agreement.

11 **TAXES**

12 48. Neither Class Counsel nor Defendants' counsel intend anything contained herein
13 to constitute legal advice regarding the taxability of any amount paid hereunder, nor
14 shall it be relied upon as such. The tax issues for each Class Member may be unique,
15 and each Class Member is advised to obtain tax advice from his/her own tax advisor
16 with respect to any payments resulting from this Agreement.

17 49. It shall be the responsibility of the Administrator to timely and properly withhold
18 from individual settlement payments to Class Members all applicable federal, state and
19 local income and employment taxes and to prepare and deliver the necessary tax
20 documentation for signature by all necessary Parties and, thereafter, to cause the
21 appropriate deposits of withholding taxes and informational and other tax return filing
22 to occur. It shall be the responsibility of the Administrator to pursue tax refunds on any
23 uncashed checks, and to remit such payments accordingly. Payments to Class Members
24 and to Class Counsel pursuant to this Agreement shall be reported on IRS Forms W-2
25 and/or 1099, and provided by the Administrator to the respective Class Members, Class
26 Counsel and all applicable governmental authorities as required by law.

NOTICES

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

To Plaintiffs and Class:

RANDALL AIMAN-SMITH, ESQ.
REED W.L. MARCY, ESQ.
HALLIE VON ROCK, ESQ.
BRENT A. ROBINSON, ESQ.
AIMAN-SMITH & MARCY
7677 Oakport St. Suite 1150
Oakland, CA 94621

KANE MOON, ESQ.
ALLEN FEGHALI, ESQ.
LILIT TER-ASTVATSATRYAN, ESQ.
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, CA 90017

JOSEPH LAVI, ESQ.
VINCENT C. GRANBERRY, ESQ.
MELISSA A. HUETHER, ESQ.
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Blvd., Suite 200
Beverly Hills, California 90211

To Defendants' Counsel:

DOUGLAS J. FARMER, ESQ.
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
One Embarcadero Center, Suite 900
San Francisco, CA 94111

CHRISTOPHER M. CASCINO, ESQ.
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
100 N. Tampa Street, Suite 3600
Tampa, FL 33602

CONSTRUCTION

51. The terms and conditions of this Agreement are the result of lengthy, intensive arms-length negotiations between the Parties, and this Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or his, her, or its counsel participated in its drafting.

CAPTIONS AND INTERPRETATIONS

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

MODIFICATION

53. This Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

INTEGRATION CLAUSE

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

BINDING ON ASSIGNS

55. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective spouses, heirs, trustees, executors, administrators, successors, and assigns, including Defendants and the Released Parties.

CLASS MEMBER SIGNATORIES

56. Because the Class is so numerous, it is impossible or impractical to have each member execute this Agreement. The Notice, **Exhibit "A"** hereto, as approved by the

1 Court, and the other forms of notice described herein will advise each Class Member of
2 the binding nature of the release and such shall have the same force and effect, to the
3 extent permitted by law, as if this Agreement were executed by each Class Member.

4 **CORPORATE SIGNATORIES**

5 57. Any Person executing this Agreement or any such related document on behalf of
6 a corporate signatory hereby warrants and promises for the benefit of all Parties hereto
7 that such Person has been duly authorized by such corporation to execute this
8 Agreement or any such related document.

9 **COUNTERPARTS**

10 58. This Agreement may be executed in counterparts, and when each Party has
11 signed and delivered at least one such counterpart, each counterpart shall be deemed an
12 original, and, when taken together with other signed counterparts, shall constitute one
13 Agreement, which shall be binding upon and effective as to all Parties as set forth
14 herein. Copies and facsimile transmissions of signatures shall be considered the same
15 as an original signature.

16 **CONTROLLING LAW**

17 59. The Agreement shall be governed by and construed in accordance with the laws
18 of the State of California. In any dispute about the scope of the Release provisions set
19 forth herein or their application to bar any future claim, including regarding the
20 assertion of a *res judicata* / collateral estoppel defense, this Agreement is governed
21 exclusively by California state law and without regard to any other state or federal law.

22 **IT IS SO AGREED.**

23
24 **[SIGNATURES ON THE FOLLOWING PAGE]**

1 Dated: Jun 29, 2022

PLAINTIFF MOHAMMED RAHMAN

2
3 
Mohammed Rahman (Jun 29, 2022 12:18 PDT)

4 MOHAMMED RAHMAN

5
6 Dated:

PLAINTIFF ALICIA NOEMI BAUTISTA DIAZ

7
8
9 ALICIA NOEMI BAUTISTA DIAZ

10
11
12 Dated:

PLAINTIFF PASCAL MOORE

13
14
15 PASCAL MOORE

16
17 Dated:

DEFENDANTS GATE GOURMET, INC.,
GATEGROUP U.S. HOLDING, INC.

18
19
20 JOSH JANOW

21
22
23 Dated:

DEFENDANTS GATE GOURMET, INC.,
GATEGROUP U.S. HOLDING, INC.

24
25
26 JENS KUHLEN

1 Dated: PLAINTIFF MOHAMMED RAHMAN

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MOHAMMED RAHMAN

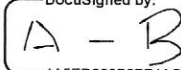
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6 Dated: 6/28/2022

PLAINTIFF ALICIA NOEMI BAUTISTA DIAZ

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ALICIA NOEMI BAUTISTA DIAZ

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12 Dated:

PLAINTIFF PASCAL MOORE

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PASCAL MOORE

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17 Dated:

DEFENDANTS GATE GOURMET, INC.,
GATEGROUP U.S. HOLDING, INC.

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JOSH JANOW

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23 Dated:

DEFENDANTS GATE GOURMET, INC.,
GATEGROUP U.S. HOLDING, INC.

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JENS KUHLEN

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1 Dated: PLAINTIFF MOHAMMED RAHMAN

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MOHAMMED RAHMAN

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6 Dated: PLAINTIFF ALICIA NOEMI BAUTISTA DIAZ

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ALICIA NOEMI BAUTISTA DIAZ

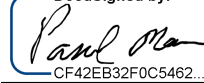
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12 Dated: July 1, 2022 PLAINTIFF PASCAL MOORE

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PASCAL MOORE

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17 Dated: DEFENDANTS GATE GOURMET, INC.,
18 GATEGROUP U.S. HOLDING, INC.

18

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JOSH JANOW

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23 Dated: DEFENDANTS GATE GOURMET, INC.,
24 GATEGROUP U.S. HOLDING, INC.

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JENS KUHLEN

28

1 Dated: PLAINTIFF MOHAMMED RAHMAN

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MOHAMMED RAHMAN

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6 Dated: PLAINTIFF ALICIA NOEMI BAUTISTA DIAZ

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ALICIA NOEMI BAUTISTA DIAZ

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12 Dated: PLAINTIFF PASCAL MOORE

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PASCAL MOORE

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17 Dated: DEFENDANTS GATE GOURMET, INC.,
18 GATEGROUP U.S. HOLDING, INC.

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DocuSigned by:

JOSH JANOW

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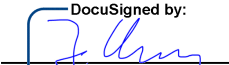
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23 Dated: DEFENDANTS GATE GOURMET, INC.,
24 GATEGROUP U.S. HOLDING, INC.

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DocuSigned by:

JENS KULLEN

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1 **APPROVED AS TO FORM:**

2
3 Dated: Jun 29, 2022

AIMAN-SMITH & MARCY

4
5 
6 Hallie Von Rock (Jun 29, 2022 12:40 PDT)
7 HALLIE VON ROCK
8 Attorneys for Plaintiff Mohammed Rahman

9 Dated:

MOON & YANG

10
11 _____
12 KANE MOON
13 ALLEN FEGHALI
14 LILIT TER-ASTVATSATRYAN
15 Attorneys for Plaintiff Alicia Noemi Bautista Diaz

16 Dated:

LAVI & EBRAHIMIAN

17 _____
18 JOSEPH LAVI
19 VINCENT GRANBERRY
20 MELISSA HUETHER
21 Attorneys for Plaintiff Pascal Moore

22 Dated:

OGLETREE, DEAKINS, NASH, SMOAK &
23 STEWART, P.C.

24 _____
25 DOUGLAS J. FARMER
26 CHRISTOPHER M. CASCINO
27 Attorneys for Defendants
28 GATE GOURMET, INC.
and GATEGROUP U.S. HOLDING, INC.

1 **APPROVED AS TO FORM:**

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3 Dated:

AIMAN-SMITH & MARCY

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6 _____
HALLIE VON ROCK
Attorneys for Plaintiff Mohammed Rahman

7
8 Dated: *June 28, 2022*

MOON & YANG

9
10 
11 _____
KANE MOON
ALLEN FEGHALI
LILIT TER-ASTVATSATRYAN
Attorneys for Plaintiff Alicia Noemi Bautista Diaz

12
13
14
15 Dated:

LAVI & EBRAHIMIAN

16
17 _____
JOSEPH LAVI
VINCENT GRANBERRY
MELISSA HUETHER
Attorneys for Plaintiff Pascal Moore

18
19
20
21 Dated:

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

22
23
24
25 _____
DOUGLAS J. FARMER
CHRISTOPHER M. CASCINO
Attorneys for Defendants
GATE GOURMET, INC.
and GATEGROUP U.S. HOLDING, INC.

1 **APPROVED AS TO FORM:**

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3 Dated:

AIMAN-SMITH & MARCY

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HALLIE VON ROCK
Attorneys for Plaintiff Mohammed Rahman

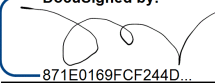
7
8 Dated:

MOON & YANG

9
10
11 _____
KANE MOON
ALLEN FEGHALI
LILIT TER-ASTVATSATRYAN
Attorneys for Plaintiff Alicia Noemi Bautista Diaz

12
13
14
15 Dated: July 1, 2022

LAVI & EBRAHIMIAN


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16
17 JOSEPH LAVI
VINCENT GRANBERRY
MELISSA HUETHER
Attorneys for Plaintiff Pascal Moore

18
19
20
21 Dated:

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

22
23
24 _____
DOUGLAS J. FARMER
CHRISTOPHER M. CASCINO
Attorneys for Defendants
GATE GOURMET, INC.
and GATEGROUP U.S. HOLDING, INC.

1 **APPROVED AS TO FORM:**

2
3 Dated:

AIMAN-SMITH & MARCY

4
5
6 HALLIE VON ROCK
7 Attorneys for Plaintiff Mohammed Rahman

8 Dated:

MOON & YANG

9
10
11 KANE MOON
12 ALLEN FEGHALI
13 LILIT TER-ASTVATSATRYAN
14 Attorneys for Plaintiff Alicia Noemi Bautista Diaz

15 Dated:

LAVI & EBRAHIMIAN

16 JOSEPH LAVI
17 VINCENT GRANBERRY
18 MELISSA HUETHER
19 Attorneys for Plaintiff Pascal Moore

20
21 Dated:

OGLETREE, DEAKINS, NASH, SMOAK &
22 STEWART, P.C.

23 
24 DOUGLAS J. FARMER
25 CHRISTOPHER M. CASCINO
26 Attorneys for Defendants
27 GATE GOURMET, INC.
28 and GATEGROUP U.S. HOLDING, INC.

Exhibit A

**NOTICE OF CLASS ACTION AND PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AND
RELEASE**

Mohammed Rahman, et al. v. Gate Gourmet, Inc., et al.
United States District Court, Northern District
Case No. 3:20-cv-03047-WHO

You could get a payment from a class action settlement if you worked for Gate Gourmet, Inc., in California as a non-exempt employee at any time during the period from May 4, 2016 through **[INSERT PRELIMINARY APPROVAL DATE]**.

This Notice is only a *summary* of the proposed class action settlement. For the precise terms and conditions of the settlement, please see the settlement agreement available at www._____.com, by contacting class counsel at _____, by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, San Francisco Division, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.

The United States District Court authorized this notice. This is not a solicitation from a lawyer. This is not a lawsuit against you and you are not being sued. However, your legal rights are affected whether you act or do not act.

- Plaintiffs Mohammed Rahman, Alicia Noemi Bautista Diaz, and Pascal Moore have sued Gate Gourmet, Inc. and gategroup U.S. Holding, Inc. (hereinafter referred to collectively as "Gate Gourmet"), claiming that Gate Gourmet violated California law by purportedly failing to pay all hours worked, failing to pay minimum wages, failing to pay overtime wages, failing to authorize and permit and/or make available meal periods, failing to authorize and permit and/or make available rest periods, failing to timely pay earned wages during employment, failing to provide accurate itemized wage statements, failing to timely pay wages upon separation, failing to pay all wages due on regularly scheduled paydays, and violating the California Business and Professions Code.
- Gate Gourmet has denied these claims and the Court has not decided the merits of these claims.
- To avoid litigation expenses, Gate Gourmet has agreed to settle these claims and this Notice is a summary of your rights and options under this Settlement—including the deadlines to exercise them.

1. Why did I get this notice package?

You are receiving this Class Notice because Gate Gourmet's records identify you as a non-exempt employee of Gate Gourmet in the state of California during the period of May 4, 2016 through **[INSERT PRELIMINARY APPROVAL DATE]**. As such, you are a potential Class Member in this lawsuit. The purpose of this Notice is to describe the litigation to you, inform you about the Settlement, and inform you of your rights and options in connection with the Settlement.

Class Members include all individuals who, according to Gate Gourmet's records, worked for Gate Gourmet as non-exempt in California at any time during the period of May 4, 2016, through **[INSERT PRELIMINARY APPROVAL DATE]**.

The Court in charge of the case is the United States District Court, Northern District, and the case is known as *Mohammed Rahman, et al. v. Gate Gourmet, Inc., et al.*, Case No. 3:20-cv-03047-WHO. The judge currently presiding over the lawsuit is the Honorable William H. Orrick, in Courtroom 2.

2. What is a class action and who is involved?

In class and representative actions, one or more people called “Class Representatives” (who – in this case – are Mohammed Rahman, Alicia Noemi Bautista Diaz, and Pascal Moore) sue on behalf of themselves and other individuals who have similar claims. The Class Representatives and these other individuals together are a “Class” or “Class Members.” Each person receiving this notice is a “Class Member” for purposes of this Settlement. The Court has preliminarily decided that this lawsuit can be resolved on a class-wide basis because it meets the requirements of federal law governing the resolution of claims through a class action.

3. What is this lawsuit about?

Plaintiffs Mohammed Rahman’s, Alicia Noemi Bautista Diaz’s and Pascal Moore’s Consolidated Action alleges that Gate Gourmet violated the rights of non-exempt employees under California law. Specifically, Plaintiffs claim that non-exempt employees in California employed by Gate Gourmet during the relevant time period were subjected to off-the-clock preliminary and postliminary activities, resulting in a: (1) failure to pay for all hours worked; (2) failure to pay overtime wages; (3) failure to authorize and permit and/or make available meal periods; (4) failure to authorize and permit and/or make available rest periods; (5) failure to timely pay earned wages; (6) failure to provide accurate itemized wage statements; (7) failure to timely pay all wages upon separation; (8) violation of the California Business and Professions Code; ; and based on the allegations in this Consolidated Action, Plaintiffs further seek (9) the recovery of penalties under the Private Attorneys General Act of 2004 (“PAGA”) and (10) injunctive relief.

Class Counsel is experienced in class action litigation and has a duty to represent the interests of all Class Members. Based on analyzing the law concerning the claims, analyzing records, making factual investigations, considering risks involved in further litigation, ensuring that the Class receives payment without having to wait for years of protracted litigation with no certainty of success, and using a professional third-party mediator to assist in reaching a fair settlement of this lawsuit, Class Counsel believes the Settlement is fair, adequate, and reasonable.

You are receiving Class Notice of this Settlement because the Court has reviewed the Settlement and has preliminarily determined the Settlement is fair and reasonable and can go forward.

Both sides agree that the Settlement is the result of good faith, arm’s length negotiations between Plaintiffs and Gate Gourmet, through their respective attorneys and aided by a well-respected mediator. Both sides agree that in light of the risks and expenses associated with continued litigation, this Settlement is fair and appropriate under the circumstances, and in the best interests of the Settlement Class Members. This Settlement is a compromise and is not an admission of liability on the part of Defendants.

The Court has not decided whether Plaintiffs’ claims have any merit. There was no trial. Instead of going to trial, both sides agreed to this settlement.

4. What does the settlement provide?

- Gate Gourmet will pay \$3,850,000.00 (“Total Settlement Amount”) to end this lawsuit.
- Class Members will receive a portion of the Net Settlement Amount in the manner described under Question 5. The Net Settlement Amount is the Total Settlement Amount minus the following deductions: (1) up to \$7,500.00 to each of the Class Representatives as approved by the Court; (2) up to \$1,283,200.00 as attorneys’ fees to Class Counsel as approved by the Court; (3) up to \$56,000.00 as costs to Class Counsel as approved by the Court; (4) approximately \$40,000.00 as Administrative Expenses as approved by the Court; and (5) \$288,750.00 to the California Labor & Workforce Development Agency.

5. How much will my payment be?

A Class Member's Settlement Payment will be his or her share of the Net Settlement Amount. The Net Settlement Amount is comprised of two parts: (1) the Net PAGA Settlement Amount (*i.e.*, \$96,250.00 earmarked for the release of Representative Plaintiffs' and each PAGA Aggrieved Employee's PAGA claims that is not payable to the California Labor and Workforce Development Agency), and (2) the Net Class Settlement Amount (*i.e.*, the entire Net Settlement Amount less the Net PAGA Settlement Amount which is approximately \$2,159,550.00).

A Class Member's pro-rata share of the Net Class Settlement Amount will be calculated by dividing the number of workweeks that he or she worked for Gate Gourmet as a non-exempt employee in California between May 4, 2016 and [INSERT PRELIMINARY APPROVAL DATE], by the total number of workweeks that all Class Members (who do not opt-out or exclude themselves from the Settlement) worked for Gate Gourmet as non-exempt employees between May 4, 2016 and [INSERT PRELIMINARY APPROVAL DATE].

Settlement Class Members who worked for Gate Gourmet between May 5, 2019 and [INSERT DATE OF PRELIMINARY APPROVAL] in the State of California shall also receive a pro rata share of the Net PAGA Amount (*i.e.*, \$96,250.00).

All Settlement Payment determinations will be based on Gate Gourmet's timekeeping, payroll, and/or human resources records for Class Members. The Postcard Notice of Settlement you received identifies the number of workweeks you worked in the Class Period according to records maintained by Gate Gourmet.

If you dispute the number of workweeks as shown on the Postcard Notice of Settlement, you may produce evidence to the Settlement Administrator establishing the dates you contend to have worked for Gate Gourmet from May 4, 2016 to [INSERT PRELIMINARY APPROVAL DATE]. Corrections to the number of workweeks must be supported by documentation or other evidence to constitute a valid dispute of workweeks. The Settlement Administrator shall provide a recommendation to counsel for the Parties and counsel will meet and confer to resolve the dispute. Corrections and supporting evidence must be mailed to [INSERT ADDRESS], faxed to [INSERT FAX NUMBER], or emailed to [INSERT EMAIL ADDRESS]. The deadline to submit corrections and supporting evidence is [INSERT DATE].

When calculating the individual Settlement Payments for purposes of the Notices of Settlement, the Settlement Administrator will assume that no Settlement Class Members opt-out. When calculating the individual Settlement Payments to Settlement Class Members following Final Approval (for purposes of preparing individual Settlement Payment checks), the Settlement Administrator will not include Settlement Class Members who validly request exclusion from the Settlement.

For tax purposes, the individual Settlement Payments will be allocated as follows: one-third (1/3) of all non-PAGA settlement payments to Settlement Class Members shall be considered wages and shall be subject to the withholding of all applicable local, state and federal taxes; two-thirds (2/3) of all non-PAGA payments to Settlement Class Members shall be considered non-wages for the settlement of interest claims, statutory and civil penalty claims, and for attorneys' fees. One-hundred percent (100%) of payments of the PAGA Settlement Amount shall be considered non-wages for the settlement of interest claims, statutory and civil penalty claims, and for attorneys' fees. The portion allocated to wages shall be reported on an IRS Form W-2, and the portion allocated to reimbursement, penalties, and interest shall be reported on an IRS Form 1099. You should consult with your tax advisors concerning the tax consequences of the payments you receive under the settlement. Neither Class Counsel nor Gate Gourmet's counsel intend anything contained herein to constitute legal advice regarding the taxability of any amount paid, nor shall it be relied upon as such.

6. Will being part of this Settlement affect my job with Gate Gourmet?

Gate Gourmet represents that, as required by law, it will not retaliate against any employee as a result of his or her participation in the Settlement or decision not to participate in the Settlement.

7. How do I receive payment from the Settlement Amount?

To receive a digital payment by E-Mastercard, PayPal, or Venmo, go to ([website](#)), and select Payment Options by [MM/DD/YY](#) [30 days from the Postcard Notice being mailed].

If you do not choose a digital payment option, a settlement check will be mailed to your address on file.

8. What claims am I releasing as part of this lawsuit?

If you do not exclude yourself from the Settlement, you will be bound by the release of claims in this Settlement. This release includes the wage and hour claims that were pleaded in the Consolidated Action (or that could have been pleaded based on the facts alleged in the Consolidated Action), which arise out of the Class Members' work performed for Gate Gourmet as non-exempt employees in the state of California between May 4, 2016 and [\[INSERT PRELIMINARY APPROVAL DATE\]](#).

More specifically, if the Court grants final approval of the Settlement, all Settlement Class Member who do not timely request exclusion from the Settlement will be barred from bringing certain claims described below. Settlement Class Members fully release and discharge Gate Gourmet from any and all claims that were asserted in the Consolidated Action or could have been asserted based on the same factual predicates contained in the Consolidated Action from May 4, 2016 through the Final Approval Date, including but not limited to claims for violations of California and/or federal law pertaining to (1) failure to pay wages for all hours worked, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to authorize and permit rest periods, (5) failure to timely pay earned wages, (6) failure to furnish accurate wage statements, (7) waiting time penalties, (8) unfair business practices, and (9) PAGA civil penalties to the extent based on the six immediately preceding and identified issues in Subsections (1)-(8). This release includes but is not limited to claims for violations of California Labor Code §§ 201, 202, 204, 223, 226, 226.7, 510, 512, 558, 1174, 1197, 1197.1, 1198, 1199, and § 2698, et seq.; IWC Wage Order No. 5, §§ 3, 4, 9, and 11; California Code of Civil Procedure § 1021.5; California Business & Professions Code § 17200, et seq. (to the extent based on the same protections as provided by each of the statutes listed immediately above) that are or could be based on the same factual allegations in the Action. (All together collectively, "Released Claims").

If any Class Member initiates a new lawsuit against Gate Gourmet based on any claim released under this Agreement, and the Court invalidates the release, any recovery by the Class Member shall be offset by the amount, if any, paid to the Class Member in connection with this Settlement.

For the full language of the release, as well as additional documents related to the settlement, including the complete Class Action and Private Attorneys General Act Settlement Agreement and Release and the documents filed by the Parties to obtain approval of the settlement, you may visit the settlement website at [\[INSERT URL\]](#). You may also contact the Settlement Administrator for a copy of the Class Action and Private Attorneys General Act Settlement Agreement and Release that has been filed with the United States District Court, located at 450 Golden Gate Avenue, San Francisco, CA 94102.

9. What are my options?

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
DO NOTHING	If you do nothing and the Court orders final approval of the Settlement, you will give up your rights to pursue the claims that are released by the Settlement and will be paid your portion of the Net Settlement Amount.
YOU MAY ASK TO BE EXCLUDED FROM THE SETTLEMENT AND RECEIVE NO MONEY	If you ask to be excluded from, or opt-out of, the Settlement, you will get no payment other than your share, if any, of the Net PAGA Settlement Amount, but you will keep your rights and not release any claims other than claims under PAGA in this lawsuit.
OBJECT	Write to the Court about what you do not like about the Settlement, and if you so choose, attend Court to speak about the fairness of the Settlement.

10. How do I ask to be excluded from the settlement?

If you do not want a payment from this Settlement, but you want to keep your rights, then you ***must*** take steps to exclude yourself from the Settlement. You can exclude yourself from the Settlement by notifying the Settlement Administrator in writing of your intent to exclude yourself by [REDACTED], 2022 (which is 60 calendar days from the date this Notice is sent to the Class Members). Your exclusion letter must state your (i) name, (ii) current address, (iii) the last four digits of your social security number, (iv) desire to exclude yourself from the Settlement, and (v) your signature. Exclusion letters must be sent directly to the Settlement Administrator. The Settlement Administrator, [REDACTED], is a neutral third-party appointed by the Court to administer the Settlement in accordance with the Court's Orders and the terms of the Settlement Agreement. Exclusion letters must be sent directly to the Settlement Administrator at the following address by first class mail, postage prepaid, postmarked on or before [REDACTED], 2022:

Mohammed Rahaman v. Gate Gourmet Corporation
 [Administrator Address Here]

No Class Member will be permitted to pursue a claim released by this Settlement on the grounds that a request for exclusion was submitted timely and lost, destroyed, misplaced, or otherwise not received by the Settlement Administrator unless the Class Member has adequate proof that the request for exclusion was mailed timely certified and return receipt requested or has equivalent proof of timely delivery.

You may withdraw your exclusion prior to [REDACTED], 2022, by writing to the Settlement Administrator and stating your intent to withdraw your request to be excluded.

PAGA Aggrieved Employees who submit a timely Request for Exclusion will still be entitled to their share of the Net PAGA Settlement Amount and are bound by the Settlement Agreement's Release of PAGA claims.

11. If I don't exclude myself, can I sue Gate Gourmet for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Gate Gourmet for the claims that this Settlement resolves. If you have a pending lawsuit regarding these claims, speak to your lawyer in that case. ***Remember, the exclusion***

deadline is [REDACTED], 2022.

12. If I exclude myself, can I get money from this settlement?

If you exclude yourself, you will receive only your share, if any, of the Net PAGA Settlement Amount, but will not receive any additional money from this settlement, but you may sue, continue to sue, or be part of a different lawsuit against Gate Gourmet. If you ask to be excluded, you will not be bound by the Settlement or have any right to object, appeal, or comment thereon.

13. How do I object to the settlement?

If you are a Settlement Class Member and wish to object and tell the Court why you do not like the settlement, you may submit a written objection and appear at the final approval hearing to raise your objection. No Class Member's written objection shall be considered by the Court, unless it is filed with the Court by no later than [REDACTED], 2022 (which is 60 calendar days from the date this Notice is sent to the Class Members.). All such objections must be signed by the Class Member and must contain the Class Member's name, his/her address, and the dates of his/her employment with Gate Gourmet. Upon request, the objector must also provide the parties any address information or other necessary information so as to identify the objector. Any objections must clearly explain why the Class Member objects to the Settlement (including any legal and factual support for the objection(s)) and state whether the Class Member (or someone on his or her behalf) intends to appear at the Final Approval Hearing. A Class Member may enter an appearance through an attorney if the Class Member so desires.

No Class Member shall be entitled to be heard at the final approval hearing (whether individually or through counsel), unless written notice of the Class Member's intention to appear at the final approval hearing has been timely filed with the Court and served upon Class Counsel and Defendants' Counsel and the Class Member has not opted out of the Settlement.

If a Class Member objects to the Settlement, he/she will remain a member of the Class, and, if the Court grants final approval of the Settlement, he/she will be bound by the Settlement in the same way and to the same extent as a Class Member who does not object. Any member of the Class who does not make and serve his/her written objection in the manner provided above, shall be deemed to have waived such objections and shall be foreclosed from making any objections by appeal or otherwise to the Settlement.

The names and addresses of Class Counsel are:

Class Counsel		
Randall B. Aiman-Smith Reed W.L. Marcy Hallie Von Rock Brent Robinson Aiman-Smith & Marcy, PC 7677 Oakport St., Suite 1150 Oakland, CA 94621 Telephone: 510.817.2711 Facsimile: 510.562.6830	Kane Moon Allen Feghali Lilit Ter-Astvatsatryan Moon & Yang, APC 1055 W. Seventh St., Suite 1880 Los Angeles, CA 90017 Telephone: 213.232.3128 Facsimile: 213.232.3125	Joseph Lavi Vince C. Granberry Melissa A. Huether Lavi & Ebrahimian, LLP 8889 W. Olympic Blvd., Suite 200 Beverly Hills, California 90211 Telephone: 310.432.0000 Facsimile: 310.432.0001

14. What's the difference between objecting and excluding myself?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class and don't want to release your individual claims. If you exclude yourself, you have no basis to object because the case no longer affects you.

15. Do I have a lawyer in this case?

The Court has approved Aiman-Smith & Marcy, PC, Moon & Yang, APC, and Lavi & Ebrahimian, LLP, respectively, to represent you and other Class Members in this action. These lawyers are called Class Counsel. You will not be separately charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense. A Class Member may enter an appearance through an attorney if the Class Member so desires. Class Counsel are available as your counsel to answer your questions. The names and contact information of Class Counsel are listed in Question 13 above.

16. How will the lawyers be paid?

Class counsel would ask the Court to approve a payment of up to \$1,283,200.00 for attorneys' fees and up to \$56,000 for litigation costs, which will be paid out of the \$3,850,000.00 settlement fund. These attorneys' fees will pay Class Counsel for bringing the lawsuit on your behalf, investigating the facts, litigating the case, and negotiating the Settlement. Gate Gourmet has agreed not to oppose these attorneys' fees or costs. The Court may award less than these amounts.

17. When will final approval occur?

The Court will hold a final hearing to decide whether or not to approve the Settlement. You may attend, either in person or remotely depending on the Court's procedure at the time of the hearing due to the pandemic, and you may ask to speak, but you don't have to. The final approval hearing is scheduled for [REDACTED], 2022, at [REDACTED] a.m. in the United States District Court, Northern District, Courtroom 2, located at 450 Golden Gate Avenue, San Francisco, CA 94102.

18. How do I get more information?

This Notice only summarizes the Action, the Settlement and related matters. For more information, you may visit the settlement website at: [REDACTED URL]. You may also contact the Settlement Administrator for a copy of the Class Action and Private Attorneys General Act Settlement Agreement and Release. This document and the motion for approval of the settlement is also on file with the United States District Court, Northern District, located at 450 Golden Gate Avenue, San Francisco, CA 94102. You may also access the Court's docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov> and entering the case number. You may also contact Class Counsel at the address listed in Section 13 above without having to pay for any attorneys' fees. You also have the right to speak with an attorney of your choosing at your own expense. A Class Member may enter an appearance through an attorney if the Class Member so desires.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, OR ANY OF GATE GOURMET'S MANAGERS, SUPERVISORS, OR ATTORNEYS ABOUT THIS SETTLEMENT.

Exhibit B

POSTCARD – SUMMARY NOTICE

On _____, 2022, the US District Court for the Northern District of California preliminarily approved a class action settlement in the case *Rahman, et al. v. Gate Gourmet, Inc., et al.*, Case Number No. 3:20-cv-03047-WHO.

You could get a payment from a class action settlement if you worked for Gate Gourmet in California as a non-exempt employee at any time from May 4, 2016 through [date of preliminary approval].

This Notice is only a *summary* of the class action settlement. You can (and are encouraged to) access and review the full-length Notice of Class Action Settlement, with all of the settlement terms to which you are bound, at the settlement website [INSERT URL].

What does the settlement provide? Gate Gourmet will pay \$3,850,000.00 (“Total Settlement Amount”) to end this lawsuit. The proposed deductions from the Total Settlement Amount for payments to the Representative Plaintiffs, Class Counsel, Claims Administrator, and the LWDA are included in the full-length Notice of Class Action Settlement. Class Members will receive a portion of the Net Settlement Amount on a pro rata basis calculated from their non-exempt workweeks worked for Gate Gourmet in California at any time from May 4, 2016 through [date of preliminary approval].

How much will my payment be? Gate Gourmet’s records show you worked [REDACTED] non-exempt workweeks during the Class Period. Your total estimated settlement payment will be approximately \$[REDACTED]. This amount is an estimated amount, and your final settlement payment is expected to differ from this amount (*i.e.*, it could be higher or lower). If you dispute the workweeks shown here, you must follow the dispute procedures set forth in the full-length Notice of Class Action Settlement by **MM/DD/YY**.

What are my Options? To receive a digital payment by E-Mastercard, PayPal, or Venmo, go to (**website**), and select Payment Options by **MM/DD/YY**. If you do not choose a digital payment option, a check will be mailed to your address on file.

To exclude yourself or object to the settlement, you must submit a written exclusion or objection by no later than **MM/DD/YY**. Further details for excluding yourself or objecting to the settlement are set forth in the full-length Notice of Class Action Settlement.

For more information, including the full-length Notice of Class Action Settlement, go to (website**) or call (XXX) XXX-XXXX.**

Exhibit 2



CURRICULUM VITAE OF AIMAN-SMITH & MARCY

FIRM BIOGRAPHY

Aiman-Smith & Marcy, PC, is a boutique plaintiffs' law firm that has successfully litigated individual and class action cases for plaintiffs across a broad variety of areas, including unpaid wages, unpaid overtime, missed meal and rest breaks, uniform reimbursement, consumer fraud, securities fraud, employment discrimination, civil rights, sex harassment, wrongful termination, whistleblower retaliation, and others. The firm represents exclusively plaintiffs, in all aspects of litigation, including trial and appeals. Aiman-Smith & Marcy began in 2005, although the principals have worked together since 1997.

Aiman-Smith & Marcy, PC
7677 Oakport Street, Suite 1150
Oakland, CA 94621
Tel.: 510-817-2711
Fax: 510-562-6830
www.asmlawyers.com

ATTORNEYS

RANDALL B. AIMAN-SMITH (SBN 124599)

Despite never graduating from high school or college, Randall Aiman-Smith was able to earn his Juris Doctor degree from Boalt Hall (University of California, Berkeley) School of Law in 1986. While at Boalt Hall, Mr. Aiman-Smith served as a member of the editorial board of the California Law Review and, additionally, on the Moot Court Board. Mr. Aiman-Smith was an adjunct faculty member at University of California, Hastings College of the Law for seven years and has been a frequent presenter at continuing educational seminars.

Mr. Aiman-Smith is admitted to practice in state and federal courts in California, including the Northern District, Central District, Ninth Circuit, and the Tenth Circuit Court of Appeals, and the California Supreme Court. Additionally, Mr. Aiman-Smith has been admitted *pro hac vice* in several other jurisdictions.

Over the 30 years that Mr. Aiman-Smith has been practicing law, he has worked exclusively as a litigator in the state and federal trial and appellate courts on behalf of plaintiffs seeking to vindicate their rights under the law. Mr. Aiman-Smith has tried numerous cases in the state and federal courts and has taken at least twenty-five cases to judgment or verdict, including an individual discrimination verdict in excess of \$1.6 million in *Williams v. Union Pacific Railroad* in 2009. Most recently, Mr. Aiman-Smith was lead trial counsel in *Aghmane v. Bank of America*, which was successfully tried to a \$1.6 million verdict on defamation and blacklisting in February 2018.

The firm and Mr. Aiman-Smith have taken approximately 25 matters to the state and federal courts of appeal on behalf of both appellants and respondents resulting in the creation of significant legal precedents favorable to plaintiffs. Published decisions where Mr. Aiman-Smith was counsel of record and had primary responsibility for writing briefs and making oral arguments include: *Bergemann v. United States*, 820 F.2d 1117 (10th Cir. 1987); *Eidsmore v. R.B.B., Inc.*, 25 Cal.App.4th 1989 (1994); *Rivero v. Superior Court (Smith)* (1997) 54 Cal.App.4th 1048; *Rivero v. City and County of San Francisco*, 316 F.3d 857 (9th Cir. 2002); *Bradley v. Networkers International LLC* (2012) 211 Cal.App.4th 1129; and *Benton v. Telecom Network Specialists, Inc.* (2013) 220 Cal.App.4th 701.

REED W. L. MARCY (SBN 191531)

Reed W. L. Marcy obtained his Bachelor's degree with High Honors in French Literature in 1983 and his Master's degree in French Literature in 1985, both from the University of California, Berkeley. After completing his Master's degree, Mr. Marcy worked at U.C. Berkeley's English Department for five years and at California College of Art (formerly known as CCAC) for three years prior to attending law school. Mr. Marcy graduated from University of California, Hastings College of Law, in 1997 and was admitted to practice in California in December 1997. Mr. Marcy was awarded numerous academic honors at Hastings, including the American Jurisprudence Award, the David Snodgrass Oral Advocacy Award, the California Computerized Legal Instruction Award, and awards for civil

rights and art law. Mr. Marcy was Associate Executive Editor for Comm/Ent, the journal of intellectual property law, and published a note on patent law. Mr. Marcy has been a frequent presenter of continuing legal education programs on employment law and legal research topics through National Business Institute.

Mr. Marcy is admitted to practice in state and federal courts in California, including the Northern District, Central District, Ninth Circuit, and Court of Appeals, along with the California Supreme Court, and has been admitted *pro hac vice* in Ohio and Oklahoma.

Mr. Marcy began working as a law clerk for Randall Aiman-Smith in 1995, while still a law student. After graduation and admission to the Bar in 1997, Mr. Marcy continued working as an attorney for Mr. Aiman-Smith, becoming a partner in Mr. Aiman-Smith's firm in 2002. In 2005, Mr. Marcy and Mr. Aiman-Smith formed Aiman-Smith & Marcy.

Mr. Marcy has abundant experience as a civil litigator, including extensive experience in all phases of employment law and class actions from initial client intake through trial and appeal. Mr. Marcy has been the lead attorney for dozens of employment and consumer class actions. Mr. Marcy has extensive experience in employment law appellate practice. Published decisions where Mr. Marcy had responsibility for writing briefs and making oral arguments include *Rivero v. City and County of San Francisco*, 316 F.3d 857 (9th Cir. 2002); *Bradley v. Networkers International LLC* (2012) 211 Cal.App.4th 1129; and *Benton v. Telecom Network Specialists, Inc.* (2013) 220 Cal.App.4th 701. Mr. Marcy's most recent decision was an unpublished memorandum opinion overturning summary judgment in a defamation and blacklisting action in the Ninth Circuit in *Aghmane v. Bank of America, N.A.* 696 Fed. Appx. 175 (9th Cir. May 17, 2017) Case Number 15-15482. The case was successfully tried to a \$1.6 million verdict for defamation and blacklisting in February 2018.

HALLIE VON ROCK (SBN 233152)

Ms Von Rock graduated with a Bachelor of Arts degree from University of California, Berkeley with Honors in 1999. Ms Von Rock graduated from the University of California, Hastings College of Law, in 2004 and was admitted to practice in California in December, 2004. Ms Von Rock was awarded numerous academic honors at Hastings, including the Witkin Award for Excellence for Trial Advocacy and CERCLA Outstanding Achievement Awards for Trial Advocacy

and for Moot Court. Ms Von Rock was an Editor for Hastings West Northwest Environmental Law Journal.

Ms Von Rock is admitted to practice in state and federal courts in California, including the Northern District, Central District, Southern District, and Court of Appeals, along with the California Supreme Court.

Ms Von Rock has worked with Randall Aiman-Smith and Reed Marcy since 1996, first doing administrative work while still an undergraduate at University of California, Berkeley. Ms Von Rock began working as a law clerk for Mr. Aiman-Smith and Mr. Marcy during her last year of law school in June 2003 and was hired as an Associate following admission to the California Bar in 2004. Ms Von Rock has been a partner at Aiman-Smith & Marcy since 2012.

During Ms Von Rock's significant litigation experience, she has worked on numerous employment and consumer cases and class action cases. Ms Von Rock has experience in all aspects of litigation and class action work, including trial and appeal. Published decisions where Ms Von Rock had responsibility for writing briefs include *Bradley v. Networkers International LLC* (2012) 211 Cal.App.4th 1129; and *Benton v. Telecom Network Specialists, Inc.* (2013) 220 Cal.App.4th 701, and the unpublished decision in *Aghmane v. Bank of America, N.A.*, 696 Fed. Appx. 175 (9th Cir. May 17, 2017) Case Number 15-15482. Most recently, Ms Von Rock was trial counsel in *Aghmane v. Bank of America*, which was successfully tried to a \$1.6 million verdict on defamation and blacklisting in February 2018.

BRENT A. ROBINSON (SBN 289373)

Mr. Robinson graduated with a Bachelor of Arts degree in English literature from University of California, Santa Barbara in 2008, having spent his junior year at University of Leeds, in England. Mr. Robinson graduated from the University of San Francisco School of Law, in 2012 and was admitted to practice in California in 2013. Mr. Robinson graduated in the top-twentieth percentile of his class, earned the CALI Award for Excellence in Legal Ethics, and received the California Academy of Appellate Lawyers Award for outstanding appellate advocacy.

Mr. Robinson is admitted to practice in state and federal courts in California and is a member of the Labor & Employment Section of the California Lawyers Association, as well as the California Employment Lawyers Association.

Mr. Robinson spent the first four years of his career fighting for employees' civil rights in the workplace, representing low-income workers from marginalized communities throughout the San Francisco Bay Area. Mr. Robinson has handled cases from intake through to settlement or judgment, including by prevailing at trial and in overcoming dispositive motions.

Mr. Robinson continues to serve as lead attorney in prosecuting putative class claims for age discrimination in disability retirement benefits in *Carroll v. City and County of San Francisco et al.* (San Francisco Sup. Ct. Case No. CGC-17-526580; First Dist. Ct. of App. Case Nos. A154569 and A155208; Supreme Court Case No. S259558). *See, Carroll v. City and County of San Francisco* (2019) 41 Cal.App.5th 805.

CAREY JAMES (Former Partner) (SBN 269270)

Mr. James graduated with a Bachelor of Arts degree from University of California, Berkeley with Honors in 2006. Mr. James graduated from the University of California, Hastings College of Law, in 2009 and was admitted to practice in California in April 2010. Mr. James obtained his LLM from University of California, Los Angeles in 2014, where he was a Dean's Fellow, with a specialization in Securities Regulation.

REPRESENTATIVE CASES FOR AIMAN-SMITH & MARCY

A representative list of significant class actions, representative actions, and jury trials in which the attorneys at Aiman-Smith & Marcy have served as lead counsel or co-class counsel includes:

Aghmane v. Bank of America NA, U.S. District Court, Northern District, Case No. No.: C 13-03698 DMR. (\$1.6 million jury verdict on defamation and blacklisting in February 2018) (Ninth Circuit Opinion reversing summary judgment on defamation and blacklisting claim appears at 696 Fed. Appx. 175 (9th Cir. 2017)).

Bean v. Hugo Boss Retail, Inc., U.S. District Court, Northern District, Case No. 3:13-cv-05921-RS (class action for uniform reimbursement, bag searches, and missed breaks)

Benton, et al. v. Telecom Network Specialists, Inc., Los Angeles County Superior

Court, Case No. BC354230, published as (2013) 220 Cal.App.4th 701 (Class action judgment in 15-year old case with \$9,494,585 awarded in damages and penalties; established important principles for class certification of wage and hour cases).

Booker, et al. v. Tanintco, Inc., Los Angeles County Superior Court, Case No. BC349267 (class action for overtime, meal and rest breaks)

Bradley, et al. v. Networkers International, LLC, San Diego County Superior Court, Case No. GIC 862417, published as (2012) 211 Cal.App.4th 1129 (class action for overtime, meal and rest breaks; established important principles for class certification of wage and hour cases).

Brawner v. Bank of America, United States District Court, Northern District of California, Case No. 3:2014cv02702 (class action for misclassification as exempt)

Brown v. Abercrombie & Fitch Co., 2014 U.S. Dist. LEXIS 19414, N.D. Cal., February 14, 2014, Case No.: 4:13-CV-05205 YGR (uniform reimbursement class action; 62,000 person class certified), consolidated with *Bojorquez v. Abercrombie & Fitch Co.*, Southern District of Ohio, Case No. 2:16-cv-00551-MHW (250,000 employees) (\$25 million settlement).

Cohen v. FedEx Office and Print Services, Inc., Alameda County Superior Court Case No. RG17810621 (consumer class action under Fair and Accurate Credit Transactions Act)

Cruz v. Goodman Networks, Inc., U.S. District Court, Northern District, Case No. 4:2010cv03820 (misclassification).

Flournoy, et al. v. 3S Network, Inc., Contra Costa County Superior Court, Case No. C09-00113 (misclassification)

Green, et al. v. Presidio International, Inc. dba A|X Armani Exchange, San Francisco Superior Court, Case No. CGC 13-536365 (class action for uniform reimbursement, bag searches, and missed breaks)

Guess Outlet Stores Pricing Cases, Los Angeles County Superior Court Case No. JCCP 4883 (consumer retail pricing class actions)

Hernandez, et al. v. FocusMicro, Inc., U.S. District Court, Northern District, Case No. CV 11-05621 EDL (off-the-clock work and missed breaks)

Hurtado, et al. v. Lowe's HIW, U.S. District Court, Northern District, Case No. CV-11-1996 (consumer class action under Song-Beverly Credit Card Act)

Holmes, et al. v. Big Five Sporting Goods, Los Angeles County Superior Court, Case No. JCCP4667 (consumer class action under Song-Beverly Credit Card Act)
Jerominski v. Walgreen Co., consolidated as *In re Walgreen Co. Wage and Hour Class Action*, U.S. District Court, Central District of California, Case No. 11-cv-07664-PSG (FFMx) (40,000 employee class action for bag searches) (\$23 million settlement)

Jones v. Armanino LLP, Alameda County Superior Court, Case No. RG 13-68105 (consumer class action for accounting negligence)

Kulvicki, et al. v. Pick-N-Pull Auto Dismantlers, Alameda County Superior Court, Case No. RG11560441 (class action for misclassification)

Mattice v. Benchmark Conference Resorts of California, Santa Cruz County Superior Court, Case No. 19CV03102 (approval of PAGA settlement granted)

Mendes, et al. v. B-4 Partners, LLC, et al., Alameda County Superior Court, Case No. RG11603095, consolidated with *Noble v. Greenberg Traurig, LLP*, Alameda County Superior Court, Case No. RG11593201 (consumer class action for securities fraud, Ponzi scheme)

Milton v. Best Buy Stores, L.P., U. S. District Court, Central District of California, Case No. CV11-6913, consolidated as *Gass, et al. v. Best Buy Stores, L.P.*, U.S. District Court, Central District of California, Case No. CV 11-01507 SJO (JCGx) (consumer class action under the Song-Beverly Credit Card Act)

Nakooka v. Dollar Tree Stores, Inc., U.S. District Court, Northern District of California, Case No. 3:17-CV-03955-JD (employee class action for uniform reimbursement settlement approved)

Nucci v. Rite Aid Corporation, et al., U.S. District Court, Northern District of California, Case No. 19-cv-01434-LB (certified employee class action for uniform reimbursement)

Ortiz v. CVS Caremark Corporation, et al., U.S. District Court, Northern District of California, Case No. CV 12-05859 EDL; related with *Murphy v. CVS Caremark Corp.*, Los Angeles County Superior Court No. BC464785 (30,000 employee class action for bag searches, off-the-clock work) (\$12.75 million settlement)

Padilla, Cong, et al. v. Mygrant Glass Co., Alameda County Superior Court, Case No. RG18906877 (final approval of wage and hour class action granted)

Palma v. Mercury Insurance Services, San Bernardino County Superior Court, Case No. CIV-DS1911981 (approval of PAGA settlement granted)

Ping v. See's Candy Shops, et al., Butte County Superior Court, Case No. 20CV01023 (class action for reimbursements for uniform expenses)

Price, et al. v. EXI Parsons Telecom, Los Angeles County Superior Court, Case No. BC351252 (class action for overtime, meal and rest breaks)

Ramirez and Lemons, et al. v. Rite Aid Corporation, Thrifty Payless, Inc., Central District of California, Case No. 2:20-cv-03531-GW-SKx (final approval pending of class action for off-the-clock work)

Rivera v. Uniqlo California, LLC, U.S. District Court for the Central District of California, Case No. 17-CV-02848-JAK (JPR) (uniform reimbursement class action)

Robinson, et al. v. Defender Security Company, Alameda County Superior Court, Case No. RG10505016 (class action for misclassification and off-the-clock work)

Saberi, et al. v. Bridgestone Firestone Retail & Commercial Operations, Alameda County Superior Court. Case No. RG08406555 (\$14 million settlement)

Smith, et al. v. S.Com, Inc., San Francisco County Superior Court, Case No. CGC-02-412968 (misclassification class action)

Silva, et al. v. Ross Dress For Less, Inc., Alameda County Superior Court, Case No. RG19023625 (approved PAGA settlement)

Westman, et al. v. Rogers Family Funeral Homes, Contra Costa County Superior Court, Case No. C 98-03165 (consumer class action for negligence)

Williams v. Bank of America, N.A., U.S. District Court, Central District of California, Case No. SACV 15-01597 AG (KESx) (misclassification class action)

Williams v. Union Pacific Railroad Co., Alameda County Superior Court Case No. RG 06251955 (race discrimination jury verdict of \$1.6 million)

Zimmelman Jewelry v. CrossCheck, Sonoma County Superior Court, Case No. SCV 229654 (consumer class action for unfair business practices)