

**PRIVATE ATTORNEYS' GENERAL ACT
SETTLEMENT AGREEMENT & RELEASE**

ARP; ET AL., V. OSSO STEAKHOUSE LLC; ET AL.,
SAN FRANCISCO COUNTY SUPERIOR COURT CASE NO. CGC-20-585650

This Private Attorneys General Act Settlement Agreement & Release ("PAGA Settlement Agreement") is entered into between Plaintiffs Robert Arp, Miles Blank, and Tiffanie Brown ("Plaintiffs") and Defendants Osso Steakhouse LLC, SFS 39 Inc., and Stink Inc. ("Defendants") to memorialize their agreement. Plaintiffs and Defendants are collectively referred to as "Parties," and any one of them is sometimes referred to as a "Party," or "Parties." This PAGA Settlement Agreement is effective as of the date of the last of the Parties' signatures below ("Effective Date").

RECITALS

- A. WHEREAS, Plaintiffs worked for Defendants as managers at various restaurants throughout San Francisco, California.
- B. WHEREAS, on or about July 20, 2020, Plaintiffs filed a Complaint against Defendants in San Francisco County Superior Court (Case No. CGC-20-585650), for numerous causes of action, including but not limited to, Negligence, Wrongful Constructive Termination, Retaliation, Negligent Hiring, Supervision, or Retention of Employee, Itemized Wage Statement Violations, Failure to Provide Mandatory Rest Breaks; Failure to Provide Mandatory Meal Breaks, Failure to Reimburse for Business Expenses, Failure to Pay Overtime Wages, Failure to pay Minimum Wage, Failure to Timely Produce Employee Records, Violation of California Unfair Competition law, Intentional Infliction of Emotional Distress, and Declaratory & Injunctive Relief. Plaintiffs sought to recover monetary damages, punitive damages, and other relief resulting from their employments and unlawful separations from Defendants ("Complaint").
- C. WHEREAS, the Parties desire to enter into this PAGA Settlement Agreement to provide for certain payments in full settlement and discharge of all claims which are or might have been the subject of the Complaint, upon the terms and conditions set forth herein.
- D. WHEREAS, the Parties further wish to fully, finally, and completely conclude the matter, together with all existing and potential claims, damages, and causes of action. The Parties further understand, acknowledge, and agree that this PAGA Settlement Agreement constitutes a compromise of disputed claims. Nothing in this PAGA Settlement Agreement shall be construed as an admission of liability by Defendants.
- E. WHEREAS, the Parties believe and agree that this PAGA Settlement Agreement provides for a fair, adequate, and reasonable resolution of the Lawsuit. They have arrived at the settlement in extensive, arms-length negotiations, taking into account all relevant factors, present, and potential.
- F. WHEREAS, under California Law, the State of California may assess and collect civil penalties from "employers" for violations of certain provisions of the Labor Code. Under PAGA, however, if an "aggrieved employee" "give[s] written notice by certified mail to the

[State] and the employer of the specific provision of the [Labor Code] alleged to have been violated,” and the State thereafter decides not to investigate, or does investigate and determines that a citation against the employer should not issue, the employee may, “as an alternative” to enforcement by the State, bring a civil action under PAGA to recover the civil penalties, “on behalf of himself or herself and other current or former employees.” *Id.* “[C]ivil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the state and 25 percent to the aggrieved employees.” *Id.*

G. WHEREAS, the Parties mutually desire to enter into a separate and related Individual Settlement Agreement and Release with respect to Plaintiffs’ Individual Claims (“Individual Settlement Agreement”).

H. NOW THEREFORE, in consideration of the following covenants, obligations, undertakings, and consideration, the sufficiency of which is acknowledged, the Parties expressly, knowingly, voluntarily, and mutually agree as follows:

PAGA SETTLEMENT AGREEMENT

1. **PAGA Release.** Upon the Effective Date, Plaintiffs, and only the Plaintiffs, shall fully release and forever discharge any and all claims seeking civil penalties under California Labor Code sections 558 and 2698, *et seq.*, predicated on the alleged California Labor Code violations asserted in this Lawsuit’s Complaint, which include Labor Code sections 1102.5, 1194, 558, 226, 226.7, 512, 2802, 510, 1194, and 1198.5, as well as any other alleged Labor Code violations that can be filed as a PAGA claim (“Released PAGA Claim”). Plaintiffs release the Released PAGA Claim against Defendants, Defendants’ past and present subsidiaries, affiliated corporations, LLCs, or other entities, and Defendants officers, directors, owners, employees, partners, agents, insurers, representatives, affiliates, heirs, assigns, licensees, and trustees and all persons acting by, through, under, or in concert with Defendants, and/or any other individual or entity that could be liable for the acts or omissions of Defendants (“Released Parties”). The Parties expressly understand and agree that this PAGA release does not release Defendant from liability, if any, for any other claim other than the Released PAGA Claim. This PAGA release does not affect a waiver of claims, if any, for violations of any statute or law, other than PAGA. The Parties expressly understand and agree that the PAGA release is only between Plaintiffs and Defendants.

2. **Settlement Payment.** In exchange for Plaintiffs’ PAGA release of any and all claims for PAGA civil penalties asserted or that could have been asserted under California Labor Code sections 558 and 2698, *et seq.* (including PAGA penalties payable in part to the State of California and penalties for alleged underpaid wages payable in full to Plaintiffs) against the Released Parties, Defendants agree to pay, in accordance with the terms specified below, the total sum of \$2,250.00 (“PAGA Payment”) to Plaintiffs and/or the LWDA, as apportioned below. Defendant shall pay the PAGA payment in a check made out to “Astanche Law Trust Account” no later than thirty (30) calendar days after the Effective Date of the PAGA Settlement Agreement. The PAGA Payment shall be allocated as follows:

- a. A total of \$1,687.50 shall be paid to the California Labor & Workforce Development Agency in satisfaction of all PAGA Claims in the Lawsuit. Within ten (10) calendar days of receipt of the Settlement Payment, Plaintiffs, or their counsel, shall make this

payment to the LWDA. Plaintiffs' counsel shall provide proof of such payment to Defendants' counsel. The remaining \$562.50 shall be paid to Plaintiffs.

3. **Waiver of Civil Code Section 1542.** Plaintiffs understand that they may later discover PAGA Claims or facts that may be different from, or in addition to, those that they now know or believe to exist regarding the subject matter of the PAGA release contained in Section 2, and which, if known at the time of signing this PAGA Settlement Agreement, may have materially altered this PAGA Settlement Agreement and Plaintiffs' decision to enter into it and grant the release contained in Section 2. Nevertheless, Plaintiffs intend to fully, finally, and forever settle and release all PAGA Claims that now exist, may exist, or previously existed, as set out in the PAGA release contained in Section 2, whether known or unknown, foreseen or unforeseen, or suspected or unsuspected, and the PAGA release given herein is and will remain in effect as a complete release, notwithstanding the discovery or existence or such additional or different facts. Plaintiffs hereby waive any right or PAGA Claim that might arise as a result of such different or additional PAGA Claims or facts. Plaintiffs have been made aware of, and understand, the provisions of California Civil Code Section 1542 ("Section 1542"), which provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

The Plaintiffs expressly, knowingly, and intentionally waive any and all rights, benefits, and protections of Section 1542 and of any other state or federal statute or common law principle limiting the scope of this release.

4. **Dismissal.** Within ten (10) court days of receiving the PAGA Payment, Plaintiffs shall file a Request for Dismissal, without prejudice, in the San Francisco County Superior Court. Within two (2) days of filing the Request for Dismissal, Plaintiffs shall email a conformed copy of the filed Request for Dismissal to Defendant's counsel, Cathleen S. Yonahara, at the email address listed on their State Bar profile.

5. **Representations & Warranties.** Plaintiffs each represent and warrant that they have the right and exclusive authority to execute this PAGA Settlement Agreement. Each Party to this PAGA Settlement Agreement also represents and warrants to, and agrees with, each other Party hereto as follows:

- a. They have the full right, power, and authority to enter into this PAGA Settlement Agreement, to grant the limited release contained herein and to perform its obligations hereunder.
- b. The execution of this PAGA Settlement Agreement by the individual whose signature is set out at the end of this PAGA Settlement Agreement on behalf of such Party, and the delivery of this PAGA Settlement Agreement by such Party, have been duly authorized by all necessary action on the part of such Party.

- c. This PAGA Settlement Agreement has been executed and delivered by such Party and constitutes the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.
- d. Each Party has carefully read, and knows and understands the full contents of this PAGA Settlement Agreement and is voluntarily entering into this PAGA Settlement Agreement after having received independent legal advice from their attorney with respect to the advisability of making the settlement provided for herein and the advisability of executing this PAGA Settlement Agreement.
- e. In executing this PAGA Settlement Agreement and in making the settlement provided for herein, no Party relies or has relied on any statement, representation, omission, inducement, or promise of any other Party (or any officer, agent, employee, representative, or attorney for any other Party), except as expressly stated in this Agreement.
- f. Each Party to this PAGA Settlement Agreement has investigated the facts relevant to this settlement and this PAGA Settlement Agreement, and all matters pertaining thereto, to the full extent that each Party deems necessary.
- g. Each of the Parties has participated in the drafting of all provisions of this PAGA Settlement Agreement, has had an adequate opportunity to read, review, and consider the effect of the language of this PAGA Settlement Agreement, and has agreed to its terms.

6. **Confidentiality.** Claimants agree that they will keep the fact, terms and existence of this PAGA Settlement Agreement, including the amount paid under it, strictly confidential. Claimants shall not communicate to any third party, except as otherwise required by law, the fact, terms or the amount that was paid under this PAGA Settlement Agreement. However, nothing herein shall prohibit Claimants from sharing a copy of this PAGA Settlement Agreement or disclosing its contents to their accountants, attorneys, and/or spouses, if applicable, provided that those individuals first agree to keep all the information confidential. Claimants agree that in response to any inquiry regarding the Parties' dispute, they will state only that it was "resolved." Respondents' Directors & Officers agree to keep the fact, terms and existence of this PAGA Settlement Agreement confidential; provided, however, this does not restrict Respondents' Directors and Officers from sharing a copy of this PAGA Settlement Agreement or disclosing its contents to their accountants, attorneys, and/or spouses, if applicable, or to anyone else for any business purpose.

7. **Governing Law & Jurisdiction.** The laws of the State of California shall govern this PAGA Settlement Agreement. Further, the Parties agree that any action or proceeding brought to enforce or declare rights arising out of or relating to this PAGA Settlement Agreement will be brought exclusively in the State or Federal courts located in San Francisco. The Parties consent to the jurisdiction of said courts and waive any claims of forum non conveniens or any other claims relating to venue.

8. **Severability.** If any provision of this PAGA Settlement Agreement is held in whole or in part to be void or unenforceable, the remainder of that provision and of the entire PAGA Settlement Agreement will be severable and remain in effect.

9. **Non-Admission of Wrongdoing.** The Parties agree that this Agreement does not constitute an admission by Defendants or any of the Released Parties, as defined in the Plaintiffs' Individual Settlement Agreement, of any of the matters alleged in the Lawsuit or of any violation by any of them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. Neither this PAGA Settlement Agreement nor anything in this PAGA Settlement Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Plaintiffs, Defendant, or any of Defendant's parents, subsidiaries, divisions, affiliated corporations, trustees, directors, officers, shareholders, agents, attorneys, insurers, or employees.

10. **Attorney Fees & Costs.** The prevailing party shall be awarded their attorney fees, and costs in any action or proceeding brought to enforce this PAGA Settlement Agreement.

11. **Attorney Fees & Costs to Date.** The Parties, and each of them shall bear their costs and attorney fees incurred up to and including the Effective Date, and including the filing of a Dismissal.

12. **Construction of Agreement.** This PAGA Settlement Agreement's language shall not be construed for or against either Party. The Parties acknowledge that they have participated in drafting this PAGA Settlement Agreement, and the language of all parts of this PAGA Settlement Agreement shall in all cases be construed as a whole, according to its fair meaning, and the Parties further agree that the rule of construction of contracts resolving ambiguities against the drafting Party shall be inapplicable to this PAGA Settlement Agreement. The headings used herein are for reference only and shall not affect this PAGA Settlement Agreement's construction or interpretation.

13. **Successors & Assigns.** This PAGA Settlement Agreement is binding upon the Parties' successors, assigns, heirs, executors, administrators, and other legal representatives.

14. **Counterparts.** This PAGA Settlement Agreement must be written and signed by duly authorized representatives of the Parties and may be executed in counterparts. Signatures may be exchanged electronically, digitally, or by facsimile, each of which shall be deemed an original, which together shall constitute one document.

15. **Entire Agreement.** This PAGA Settlement Agreement represents the sole and entire agreement and contains the Parties' entire agreement with respect to the Released PAGA Claim. No other agreement, statement, or promise made on or before this PAGA Settlement Agreement's Effective Date binds the Parties with respect to the Released PAGA Claim.

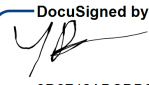
16. **Modification.** This PAGA Settlement Agreement may be modified by subsequent agreement of all Parties only by signed written agreement.

17. **Effective Date.** This PAGA Settlement Agreement is effective as of the date of the last of the Parties' signatures below.

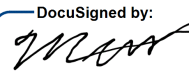
THE PARTIES READ, UNDERSTAND, & AGREE TO THE FOREGOING TERMS.

IN WITNESS THEREOF, the Parties have executed this PAGA Settlement Agreement on the dates indicated below effective as of the Effective Date.

Dated: 6/30/2021 | 6:30 PM PDT

DocuSigned by:

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Tiffanie Brown
Plaintiff

Dated: 6/30/2021 | 6:29 PM PDT

DocuSigned by:

9701CEC24F884DF
Miles Blank
Plaintiff

Dated: 6/30/2021 | 6:29 PM PDT

DocuSigned by:

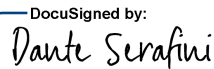
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Robert Arp
Plaintiff

Dated: 6/30/2021 | 6:30 PM PDT

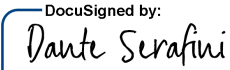
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OSSO STEAKHOUSE LLC
Defendant

Dated: 6/30/2021 | 6:30 PM PDT

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SFS 39 INC
Defendant

Dated: 6/30/2021 | 6:30 PM PDT

DocuSigned by:

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STINK INC.
Defendant

Approved as to form:

Dated: 6/30/2021 | 6:29 PM PDT

DocuSigned by:
Michael Astanehe
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Michael M. Astanehe
Attorney for Plaintiffs

Dated: 6/30/2021 | 6:34 PM PDT

DocuSigned by:
Cathleen S. Yonahara
FBBB174EC28A497
Cathleen S. Yonahara
Attorney for Defendants