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12 **CALIFORNIA SUPERIOR COURT**
13 **IN AND FOR THE COUNTY OF SANTA CRUZ**

14 MARIO ALBERTO GARCIA
15 SAUCEDO,

16 PLAINTIFF,

17 V.

18 CORWIN & VOSKOBOYNIKOV
19 MANAGEMENT, LLC; DANIEL
20 VOSKOBOYNIKOV, AND DOES 1
21 THROUGH 50.

22 DEFENDANTS.

Case No. 20CV02190

**DECLARATION OF HUY TRAN IN SUPPORT
OF PLAINTIFF'S MOTION TO APPROVE
PAGA SETTLEMENT**

Hearing Date: January 26, 2021

Time: 8:30am

Location: Department 10

23 I, HUY TRAN, declare as follows:

24 1. I am counsel for Plaintiff MARIO ALBERTO GARCIA SAUCEDO. I am duly registered with
25 the State of California and am in good standing. The facts asserted in this declaration are based on my
26 personal knowledge unless otherwise stated.

27 2. The PAGA Notice letter attached to the Complaint was served on the Labor Workforce and
28 Development Agency (LWDA) on July 13, 2020. The Complaint was filed on October 19, 2020, which
is more than sixty-five days after the PAGA Notice letter was sent to Defendants and the LWDA. The
LWDA never responded to the PAGA Notice letter. Defendants filed their answer on January 6, 2021.

1 3. Shortly after Defendants filed their Answer, the parties began to discuss mediation and agreed to
2 mediation before the Honorable Justice James Lambden. To facilitate these discussions and an informal
3 exchange of documents, the parties also agreed to a stipulated protective order, which was granted on
4 May 17, 2021.

5 4. Defendants produced time records for forty-seven (47) current and former employees on May 21,
6 2021. Time records for one additional worker was produced on September 28 when it was discovered
7 that they were not part of the original production. In total, Defendants produced time and pay records for
8 forty-eight (48) alleged aggrieved employees who worked at Harbor Café between the period of July 13,
9 2019 through December 31, 2020, including plaintiff.

10 5. From these records, Plaintiff conducted an analysis that showed over \$2.2 million in liabilities,
11 91% of which was from PAGA penalties, 9% from break premiums.

12 6. No formal discovery was conducted in this matter. Time records produced by Defendants did not
13 show any recorded meal breaks for employees. None of Defendants' voluntary production had
14 information establishing any violation of their rest break obligations, but all parties contend that they
15 have evidence and support for their respective positions on Defendants' liability for rest break
16 violations.

17 7. Mediation was originally scheduled for June 29, but was ultimately held on July 12, 2021. At
18 mediation, Plaintiff claimed \$22,256.50 and \$2,043,267.02 in PAGA penalties for four different labor
19 code violations: (1) failure to timely pay all wages earned aside from explicit exemptions (LC 204), (2)
20 failure to provide meal breaks (LC 512), (3) failure to provide premiums for meal and rest break
21 violations (LC 226.7), and (4) non-compliant wage stubs (LC 226).

22 8. Plaintiff acknowledged that Defendants contested liability, that they were represented by talented
23 Counsel who was prepared to represent them zealously, and that Harbor Café is a small restaurant that is
24 unlikely to be able to pay over \$2 million in liabilities. The parties agreed to a global settlement of
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26
27
28

1 Plaintiff's individual claims and the claims for statutory penalties under PAGA. The parties agreed to a
2 [REDACTED] – of which \$70,000 will be dedicated to the
3 settlement of the PAGA claims – and executed a memorandum of understanding that laid out additional
4 terms that the parties accepted that same day. The MOU was executed with the understanding that the
5 parties would resolve any additional matters in a final settlement agreement.
6

7 9. The parties had key disagreements that needed to be resolved about the scope of the release
8 included in the Settlement Agreement but entered into a final agreement on September 30, 2021. All
9 parties believe that the settlement is fair and reasonable for Plaintiff, Defendants, and Aggrieved
10 Employees based on careful consideration of the strengths and weakness of this Action, including the
11 risks of delay, the defenses asserted by Defendants, and Defendants' ability to pay. A true and correct
12 copy of the Settlement Agreement is attached hereto as Exhibit A with portions related to the settlement
13 payment to Plaintiff for his individual damages redacted. A complete copy of the Settlement Agreement
14 will be filed under seal concurrently with this Motion.
15

16 10. Tomas Margain has 24 years of experience, and as such bills at \$914 per hour. I have 9 years of
17 experience, and as such bill at \$540 per hour. Alan Jimenez is our clerk and bills at \$125 per hour.
18 Prior to the filing of this Motion, our team committed the following hours in this matter:

19

Person	Rate	Hours	Total
Tomas Margain	\$914	24	\$21,936.00
Huy Tran	\$540	19.4	\$10,260.00
Alan Jimenez	\$125	12	\$1500.00

20
21
22

23 Much of these hours were spent creating the damages model to assess the PAGA penalties, along with
24 preparing for and participation in mediation and drafting and filing the PAGA Motion. In total, Plaintiff
25 claims \$33,696 in fees. Plaintiff has also incurred \$461.96 in costs. Altogether, Plaintiff has incurred
26 \$34,157.96 in fees and costs.
27
28

1 11. The Settlement Agreement was submitted to the LWDA on [INSERT DATE]. In this case, there
2 is no active government participant. The LWDA never took any action against Defendants after being
3 sent the PAGA Notice letter on July 13, 2020, nor after being sent the Settlement Agreement for review.
4

5 I swear under penalty of perjury of laws of the State of California that the statements above are true and
6 correct to the best of my ability.

7
8
9 Date: January 3, 2022

By: _____

Huy Tran

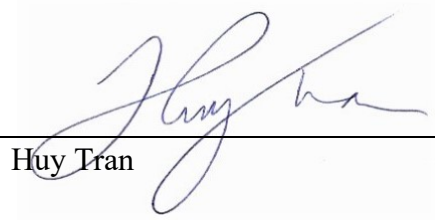
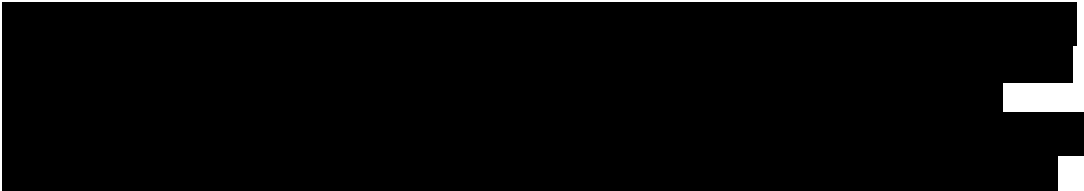
A handwritten signature in blue ink, appearing to read 'Huy Tran', is written over a horizontal line. The signature is fluid and cursive.

EXHIBIT A

STIPULATION OF SETTLEMENT

I. DEFINITIONS

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

- A. “Action” means the civil action titled *Saucedo v. Corwin & Voskoboynikov Management, LLC et al*, California Superior Court for the County of Santa Cruz Case No. 20CV02190. Plaintiff and Defendants collectively are referred to in this Agreement as the “Parties,” and each as a “Party.”
- B. “Agreement” shall refer to this document.
- C. “Aggrieved Employees” shall include Plaintiff and all hourly or non-exempt employees employed by Defendants Corwin & Voskoboynikov Management, LLC or Daniel Voskoboynikov in a position in the restaurant during the PAGA Period (July 13, 2019 through the date upon which the Court approves of this proposed PAGA Settlement Amount).
- D. Court means the Santa Cruz County Superior Court.
- E. “Defendants’ Counsel” means Eileen Kennedy of Berliner Cohen, LLP.
- F. “Effective Date” means: (a) if there are no objections to or efforts to intervene in the Action or this settlement, the date of approval of the PAGA Settlement Amount by the Court; (b) or if objections to the settlement are filed and overruled or an effort to intervene in the Action or this settlement is denied and no appeal is taken from the order granting approval of the PAGA Settlement Amount or denying an effort to intervene, then 65 days after service of notice of entry of judgment; or (c) if an appeal is taken from any aspect of the order granting approval of the PAGA Settlement Amount or the judgment, then 21 days after the later of either (i) the appeal being withdrawn or (ii) an appellate decision affirming the order granting approval of the PAGA Settlement Amount or judgment becoming final.
- G. “Employer Payroll Contributions” shall mean the employer’s portion of payroll taxes and other monetary contributions required by state and federal law to be made by an employer on wage payments, including but not limited to FICA, Medicare, FUTA, and SUTA, and any federal and state unemployment taxes, payable with respect to amounts treated as wages under this Agreement.
- H. “Judgment” means the Order Granting Approval of PAGA Settlement and Entering Final Judgment entered by the Superior Court.
- I. 
- J. “LWDA” refers to the California Labor and Workforce Development Agency.
- K. “PAGA” means the Private Attorneys General Act claim in the Action, Cal. Lab. Code

section 2698, *et seq.*

- L. "PAGA Period" shall refer to the time period applicable to the PAGA claim in this Action from July 13, 2020 through the date upon which the Court approves of this proposed PAGA settlement.
- M. "PAGA Settlement Amount" refers to the \$70,000.00 of the GSA allocated to Plaintiff's counsel for fees and costs, the Settlement Administrator's costs, the Aggrieved Employees and the LWDA to settle the PAGA claim in the Action.
- N. "Plaintiff's Counsel" means Justice at Work Law Group.
- O. "Plaintiff" means Plaintiff Mario Alberto Garcia Saucedo.
- P. 
- Q. "Settlement" means the terms and conditions set forth in this Agreement meant to resolve the Actions.

II. RECITALS

- A. Plaintiff filed a lawsuit against Defendants Corwin & Voskoboynikov Management, LLC and Daniel Voskoboynikov in Santa Cruz County Superior Court on October 19, 2020 ("Action") alleging: (1) failure to provide compliant meal breaks; (2) failure to provide compliant rest breaks; (3) waiting time penalties; (4) failure to provide accurate itemized wage stubs; (5) restitution for unfair business practices; and (6) violation of the Private Attorneys General Act, Labor Code §§ 2699 *et seq.*
- B. The parties participated in mediation on July 12, 2021 before Honorable Justice James Lambden (ret.).
- C. The Parties expressly acknowledge that nothing in this Agreement, nor the fact of the Agreement itself, shall be construed or deemed an admission of liability, culpability, or wrongdoing of any kind by Defendants, nor shall it constitute an admission on behalf of Defendants of any fact or allegations against it.
- D. Plaintiff and Plaintiff's Counsel believe that the claims asserted in this Action have merit. Plaintiff and Plaintiff's Counsel, however, recognize and acknowledge the significant expense and length of continued proceedings necessary to prosecute the Action against Defendants through trial and through potential appeals. Plaintiff and Plaintiff's Counsel are also mindful of the possible defenses to the Released Claims. After careful consideration, Plaintiff and Plaintiff's Counsel have concluded that it is desirable that the Action be settled in the manner and upon the terms and conditions set forth in this Agreement.
- E. It is the desire of the Parties that Plaintiff shall release, fully and completely, all claims, whether known or unknown, including those alleged in the Action, against the Released Parties prior to and through the date Plaintiff executes this Agreement and, further, that

Plaintiff waives the protection of Section 1542 of the Civil Code of the State of California, as set forth more fully below. Plaintiff intends this release to apply on to his own claims and not of any Aggrieved Employees, except as provided in Section V.

- F. It is also the desire of the Parties that the Aggrieved Employees release all claims for civil penalties available under PAGA based upon the facts and theories alleged within Plaintiff Saucedo's July 13, 2020 notice letter, or the operative Complaints filed in the Action or both, each of which is incorporated herein by reference.
- G. The Parties and their respective counsel of record deem the Agreement to be fair and reasonable and have arrived at the Agreement in arms-length negotiations taking into account all relevant factors, present or potential.
- H. Based on these Recitals, the Parties agree as follows:

III. COURT APPROVAL OF THE SETTLEMENT

- A. The Parties and their respective counsel shall take all necessary steps to implement this Agreement, any steps that may be requested by the Court relating to the approval of this Agreement and shall otherwise use their respective best efforts to obtain Court approval of this Agreement and implement this Agreement. The procedure for obtaining Court approval of this Agreement and implementing this Agreement shall be as set forth below.
- B. As soon as practicable after this Agreement has been executed by all Parties and their counsel, Plaintiff shall submit a motion to the Court for approval of this Agreement pursuant to Labor Code § 2699(1)(2). Defendants agree that they will not object to or contest the amounts allocated to the individual Plaintiff from the Gross Settlement Amount, the PAGA Settlement Amount, the Net PAGA Settlement Amount, and Plaintiffs' counsel's request for attorneys' fees and litigation costs, so long as they are consistent with this Agreement.
- C. Plaintiffs will request entry of an order that accomplishes the following:
 - 1. approves the Agreement to the extent required to settle claims arising under California Labor Code §§ 2698-2699.6, including, to the extent necessary, the amount of the PAGA Settlement Amount, which will be allocated to the LWDA, Aggrieved Employees, the settlement administrator, and Plaintiffs' Counsel for reasonable attorneys' fees and litigation costs;
 - 2. provides that the Court shall retain continuing jurisdiction over the Parties, the LWDA, the settlement administrator, and the Aggrieved Employees to enforce the Agreement; and
 - 3. enters judgment in accordance with the terms of this Agreement with respect to the claims arising under California Labor Code §§ 2698-2699.6 applicable to the Aggrieved Employees.
- D. Plaintiffs' counsel shall be responsible for ensuring that at least the following documents are filed with the Court in anticipation of the approval hearing:
 - 1. A duly noticed motion, accompanying memorandum of points and authorities prepared

by Plaintiff's Counsel, and such other pleadings or other documents as may be necessary for the Court to approve the Agreement.

2. A [Proposed] Order and Judgment for the Court's signature that (i) approves the Agreement to the extent required to settle claims arising under California Labor Code §§ 2698-2699.6, including, to the extent necessary, the amount of the Settlement to be allocated to the LWDA and Aggrieved Employees and Plaintiffs' Counsel's request for reasonable attorneys' fees and litigation costs and the costs of the settlement administration; (ii) provides that the Court shall retain continuing jurisdiction over the Parties, the LWDA, and the Aggrieved Employees to enforce the Agreement; and (vii) enters judgment in accordance with the terms of this Agreement with respect to the claims arising under California Labor Code §§ 2698-2699.6 applicable to the Aggrieved Employees.

- E. The Parties agree that the Settlement shall not be contingent upon the Court awarding Plaintiffs' Counsel any particular amount for attorneys' fees or costs, provided Plaintiff seeks no more than 40% of the PAGA Settlement Amount.

IV. SETTLEMENT TERMS AND CONDITIONS

- A. [REDACTED] Defendants agree to pay a [REDACTED] to resolve the Action. This [REDACTED] shall include [REDACTED], the Aggrieved Employees, the LWDA, all of Plaintiffs' counsel's attorneys' fees and costs, and costs of administration of the Settlement. Defendants' share of employer-side payroll taxes for the Settlement monies designated herein as wages shall be paid by Defendants separately from, and in addition to, the [REDACTED]. The [REDACTED] and Defendants' share of employer taxes for the [REDACTED] will be the maximum amount that Defendants must pay under this Agreement. The [REDACTED] equals the [REDACTED] and the PAGA Settlement Amount (equal to \$70,000). Plaintiff's Counsel will seek Court approval of (1) Plaintiff's Counsel's attorneys' fees and costs not to exceed 40 %, or \$28,000, of the PAGA Settlement Amount; 2) the Net PAGA Settlement Amount; and 3) \$2500 of the PAGA Settlement Amount to be allocated to a third-party administrator disbursing checks to Aggrieved Employees stemming from the portion of the settlement allocated to PAGA pursuant to Labor Code § 2699.

- B. [REDACTED]

- C. The PAGA Settlement Amount. Subject to Court approval, \$70,000.00 of the Gross Settlement Amount will be allocated to the settlement of the PAGA claims alleged within

Plaintiff's July 13, 2020 notice letter or the operative Complaints filed in the Action or both. Pursuant to Labor Code section 2699(i), the Net PAGA Settlement Amount will equal the PAGA Settlement Amount less the following payments, all of which are subject to Court approval: up to \$28,000 payment to Plaintiff's counsel for fees and litigation costs, and up to \$2,500 to the Court approved third party PAGA settlement administrator. The Net PAGA Settlement Amount shall be paid to the LWDA and the Aggrieved Employees who fall within the PAGA period and distributed in the following way: seventy-five percent (75%) paid to the LWDA and twenty-five percent (25%) paid to the Aggrieved Employees. The twenty-five percent (25%) of the Net PAGA Settlement Amount allocated to Aggrieved Employees shall be distributed on a *pro rata* basis based on the number of shifts worked by Aggrieved Employees during the PAGA Period. Aggrieved Employees' *pro rata* share of the PAGA Settlement will be based on the number of shifts worked during the PAGA Period and calculated as follows: (a) the number of shifts each Aggrieved Employee worked during the PAGA Period; divided by (b) the total number of shifts collectively worked by all Aggrieved Employees during the PAGA Period; multiplied by (c) the twenty-five percent (25%) of the Net PAGA Settlement Amount. For tax purposes, the twenty-five percent (25%) of the Net PAGA Settlement Amount paid to the Aggrieved Employees will be characterized as penalties and will be reported on an IRS Form 1099.

D. The PAGA Period and Aggrieved Employees. The "PAGA Period" shall run from July 13, 2020 through the date upon which the Court approves of this proposed PAGA Settlement Amount. The PAGA Settlement Amount and releases shall include Plaintiff and all hourly or non-exempt employees employed by Defendants Corwin & Voskoboynikov Management, LLC or Daniel Voskoboynikov during the PAGA Period, and shall include all civil penalties sought pursuant to PAGA within Plaintiff's July 13, 2020 notice letter, or the operative Complaints filed in the Action or both.

E. Timing of Settlement Payments. The Parties agree that following court approval of the PAGA Settlement Amount, Defendants will make the payments constituting the entire Gross Settlement Amounts as follows:

1. Within twenty (20) days of the Effective Date, Defendants will provide to the third party administrator designated for disbursing checks to Aggrieved Employees and the LWDA stemming from the portion of the settlement allocated to PAGA pursuant to Labor Code § 2699 an Excel spreadsheet including the following information for each Aggrieved Employee: (1) name; (2) employee ID number (if any); (3) last known address, (4) the number of shifts they worked during for Defendants during the PAGA Period; and (5) the amount of all payments to be made to each Aggrieved Employee pursuant to the formula outlined in paragraph IV.C. of this Agreement.
2. Within twenty (20) days of the Effective Date, and subject to court approval, Defendants shall make the following payments from the Gross Settlement Amount.

[REDACTED]

a) [REDACTED]

b)

To the Third Party PAGA Settlement Administrator

- c) Defendants shall pay the Net PAGA Settlement Amount to the third party administrator designated for disbursing checks to the Aggrieved Employees and LWDA stemming from the portion of the settlement allocated to PAGA pursuant to Labor Code § 2699.
- d) All payments shall be accompanied by the notice attached to this Agreement as Exhibit 1. The language of this notice has been agreed to by the Parties.

To Plaintiffs' Counsel

- e) Defendants will pay Plaintiffs' Counsel the amount of reasonable attorneys' fees and costs as approved by the Court made payable to "Justice at Work Law Group Client Trust Account," but in no event shall Defendants be required to pay an amount of reasonable attorneys' fees and costs that, when combined with all other monetary obligations under this Agreement with the exception of Employer Payroll Contributions, would exceed the Gross Settlement Amount. Advocates for Worker Rights LLP will provide Defendants with an executed W-9 as a condition precedent to the payment herein.

To Third-Party Administrator.

- f) Defendants will pay the third-party administrator \$2,500 or the amount approved by the Court for the administration of the PAGA Settlement Amount or other obligations under this Agreement, but in no event shall Defendants be required to pay an amount of reasonable attorneys' fees and costs that, when combined with all other monetary obligations under this Agreement with the exception of Employer Payroll Contributions, would exceed the Gross Settlement Amount. The third-party administrator must provide Defendants with an executed W-9 as a condition precedent to the payment herein.

3. The Third Party Settlement Administrator will disburse the twenty-five percent (25%) of the Net PAGA Settlement Amount, or no more than \$12,500, of the PAGA Settlement whichever amount is approved by the Court to the Aggrieved Employees by sending checks by first class mail, representing Aggrieved Employee's shares of the Net PAGA Settlement Amount, determined by the formula outlined in paragraph IV.C of this Agreement, along with a copy of the Notice of Settlement Payment (a copy of which is attached hereto as Exhibit 1), and will disburse seventy-five percent (75%), or no more than \$37,500.00, whichever amount is approved by the Court, of the Net PAGA Settlement Amount to the LWDA in accordance with the LWDA's standard protocol for making such payments.

4. Plaintiff and all Aggrieved Employees shall have 120 calendar days after mailing to negotiate their settlement checks. If Plaintiff or any Aggrieved Employee does not receive

(i.e., it is returned as undeliverable with no forwarding address) his or her PAGA settlement payment check(s), the amount of the check(s) will be redistributed on a *pro rata* basis to the Aggrieved Employees who have cashed their checks. For settlement payment check(s) that are not returned as undeliverable, if any Aggrieved Employee does not cash his or her settlement payment check(s) within the 120-day period, the funds for the checks will be submitted to the Department of Industrial Relations Unpaid Wage Fund for the benefit of the Aggrieved Employees.

5. Defendants make no representations as to the taxable nature of the cash consideration paid to Plaintiff pursuant to this Agreement. In consideration and inducement for this Agreement, Plaintiff agrees that he is solely and exclusively responsible for paying his respective federal or state taxes due as a result of these payments. Accordingly, Plaintiff agrees that he will indemnify and hold Defendants harmless from and against any claim, demand, damage, debt, obligation, liability, action or cause of action (including payment of attorneys' fees and costs incurred by Defendants) based on, in connection with, or arising out of, the taxability as to these payments, with the exclusion of the Employer Payroll Contributions arising from the specific amounts identified within Section IV.E.2.(a) above.

V. RELEASE OF CLAIMS

- A. Plaintiff Mario Alberto Garcia Saucedo, on behalf of himself, the LWDA, and all Aggrieved Employees, shall and hereby does fully release and discharge the Released Parties, as defined in Section V.B of this Agreement, from all claims, demands, rights, liabilities, and causes of action available for civil penalties under PAGA sought pursuant to PAGA within either Plaintiff's July 13, 2020 notice letter or the operative Complaints filed in the Action or both, or stemming from unpaid/underpaid/untimely paid wages, noncompliant breaks, inaccurate wage statements, late payment of final wages following separation of employment, and failure to reimburse business expenses for the PAGA period pertaining the Aggrieved Employees ("Release of PAGA Claim"). This Release of PAGA Claim also includes all civil penalties arising out of any violation of Labor Code §§ 204, 204(b), 210, 223, 226.3, 226.8, 246, 246.5, 247, 247.5, 248.5, 256, 511, 558, 558.1, 1174, 1174.5, 1197, 1197.1, 1198, 2698 et seq., Bus. & Prof. Code §§ 17200, et seq., Industrial Welfare Commission Wage Orders, Cal. Code of Regulations, or any other statute or regulation. Released Claims does not mean or include individual claims PAGA pool members may have including but not limited to claims for unpaid wages, failure to provide complaint meal and rest breaks, or wage stub penalty claims.
- B. In exchange for the mutual promises made herein this Agreement, Plaintiff, on behalf of himself and his agents, representatives, heirs, and assigns, hereby releases and forever discharges Daniel Voskoboynikov and Corwin & Voskoboynikov Management LLC, and any of their respective affiliates, subsidiaries, or parents, and their respective current and former members, shareholders, partners, owners, managing members, agents, directors, officers, employees, attorneys, agents, principals, heirs, executors, administrators, representatives, trustees, accountants, auditors, consultants, insurers, reinsurers, successors and assigns ("Released Parties") from any and all manner of action or actions, claims, liabilities, demands, losses, damages, costs, expenses, and obligations, whether known or unknown, claimed or unsuspected, that Plaintiff has or may have had, arising

out of or in any way related to his employment with Defendant or termination of his employment with Defendant; provided, however, that nothing in this section shall release or discharge Defendant from its obligations under any of the other provisions of this Agreement.

This release includes, but is not limited to: all causes of action arising under or based upon: the Age Discrimination in Employment Act of 1967; Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq.; Title VII of the Civil Rights Act of 1964, as amended, including the Civil Rights Act of 1991, 42 U.S.C. § 2000e et seq.; the Equal Pay Act of 1963, 29 U.S.C. § 206(d); the Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq.; the Employee Retirement Income Security Act of 1964 (ERISA), 29 U.S.C. § 1001 et seq.; Executive Order 11246; Americans With Disabilities Act, 42 U.S.C. § 12111, et seq.; the California Fair Employment and Housing Act, the California Labor Code, and any other local, state, or federal statute, public policy, order, or regulation, however promulgated, affecting or relating to claims or rights of employees, including any and all suits at law or in equity, including tort, contract, or any other cognizable claim, such as breach of an express or implied contract, whether oral or written, misrepresentation, defamation, interference with economic advantage, contract or prospective contractual relations, intentional or negligent infliction of emotional distress, invasion of privacy whether intentional or negligently caused, wrongful termination for any reason, including any allegations of termination based either on a refusal to commit, inquire about, or reporting on an act believed by Plaintiff to be illegal, breach of the covenant of good faith and fair dealing, or conspiracy to commit any of the above, whether known or unknown, claimed or unsuspected, which Plaintiff ever had, has, or can assert to have had against Defendant and/or the Released Parties occurring at any time prior to the date of execution of this Release.

Plaintiff also agrees and promises he will not file any lawsuit or administrative complaint or demand for arbitration asserting any of the released claims or causes of action set forth above, with the exception Plaintiff understands nothing in this Agreement prohibits him from filing a charge or complaint with the Equal Opportunity Employment Commission, the National Labor Relations Board or the California Department of Fair Employment and Housing or participating in any investigation or proceeding conducted by any of these agencies, except that Plaintiff agrees that he has waived any right to receive any monetary compensation on account of any such charge or complaint.

This Agreement does not waive rights or claims under federal or state law that Plaintiff cannot waive by private agreement as a matter of law, including, but not limited to, any rights Plaintiff may have under California Labor Code Section 2802 (regarding indemnification rights) and any rights to unemployment benefits or workers' compensation benefits to which Plaintiff may be entitled.

- C. Plaintiff is over the age of forty (40) years, and in accordance with the Age Discrimination in Employment Act and Older Workers' Benefit Protection Act (collectively, the "Act"), he acknowledges that:

- a. He has been advised in writing to consult with an attorney prior to executing this Agreement, and has had the opportunity to do so;
 - b. He is aware of certain rights to make claims for age discrimination to which he may be entitled under the Act, and understands that by signing this Agreement he is giving up any rights to assert or sue for such claims;
 - c. In exchange for executing this Agreement and the release it contains, he will receive the Saucedo Individual Settlement Amount to which he would not otherwise be entitled, and in addition to the compensation and benefits that he earned as an employee of Defendants;
 - d. By signing this Agreement, he will not waive rights or claims under the Act which may arise after the execution of this Agreement;
 - e. He has been given a period of at least twenty-one (21) days to consider this Agreement, and understands that if he does not sign this Agreement, he will not receive the Saucedo Individual Settlement Amount. If Plaintiff is signing this Agreement after less than 21 days' review, he acknowledges that he is doing so voluntarily and is expressly waiving his right to take 21 days to review it; and
 - f. Plaintiff further acknowledges that he has a period of seven (7) days from the date of execution in which to revoke this Agreement by written notice to Plaintiff's Counsel and Eileen Kennedy, Berliner Cohen LLP, at Eileen.Kennedy@berliner.com. In the event Plaintiff does not exercise his right to revoke this Agreement, the Agreement shall become effective on the Effective Date as defined herein and in no event earlier than the expiration of the 7-day revocation period, and Plaintiff will receive the Saucedo Individual Settlement Amount in accordance with the terms of this Agreement.
- D. Plaintiff understands and intends that the claims and rights released herein include all legal, contractual, constitutional, statutory and equitable duties, rights, causes of action and claims owed to him by the Released Parties on the date he signs this Agreement, regardless of whether those claims, liabilities, and/or causes of action are presently existing, known or anticipated.
- E. Plaintiff acknowledges that he may hereafter discover facts different from or in addition to those now known or believed to be true regarding the subject matter of the Agreement, but agrees that this Agreement shall remain in full force and effect notwithstanding the existence or discovery of any such new or different facts. In order to achieve a full and complete release of claims by Plaintiff, he waives all rights and benefits afforded to him by Section 1542 of the Civil Code of the State of California and does so understanding the significance of that waiver. Section 1542 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.

VI. MISCELLANEOUS PROVISIONS

- A. Dismissal of Individual Claims. Within five (5) days of the date on which Plaintiff receives the Saucedo Individual Settlement Amount, Plaintiff's Counsel shall file a Request for Dismissal with prejudice as to all individual (non-PAGA) claims filed in the Action by Plaintiff.
- B. No Other Claims. Plaintiff represents that, excluding the Action, he has not filed any complaints, claims, grievances or actions against Defendants Corwin & Voskoboynikov Management, LLC or Daniel Voskoboynikov, whether previously or hereafter affiliated in any manner, in any state, federal or local court or agency, and covenants not to file any claims (other than administrative claims and charges, and/or other filings not subject to waiver by law) against Defendants Corwin & Voskoboynikov Management, LLC or Daniel Voskoboynikov at any time hereafter based on events occurring on or before the date on which the Parties sign this Agreement.
- C. No Liens. Plaintiff represents that no persons or entities hold or have asserted any lien rights with respect to money to be paid pursuant to this Agreement. He agrees that he is solely responsible for paying or resolving any such liens and agrees to hold Defendants Corwin & Voskoboynikov Management, LLC and Daniel Voskoboynikov harmless and indemnify them against any cost or expense, including attorney fees and costs, relating to any liens that may exist. Plaintiff also represents that he has not received benefits or treatment pursuant to Medicare or other governmental agencies or programs in connection with any damage that he contends he has experienced as a result of the conduct of Defendants Corwin & Voskoboynikov Management, LLC or Daniel Voskoboynikov. Plaintiff further represents that he is not presently and has never been eligible for or enrolled in Medicare Part A or Part B.
- D. No Other Attorneys Fees or Costs. The Parties shall each bear their own attorney fees and costs in connection with the Action, and none shall be entitled to recover attorney fees or costs from any other except as provided in this Agreement.
- E. Successors and Assigns. The Parties agree that this Agreement shall be binding upon their successors and assignees. Each represents that it has not transferred to any person or entity any of the rights released or transferred through this Agreement.
- F. Fair Settlement. The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arm's length negotiations, taking into account all relevant factors, current and potential.
- G. Jurisdiction. The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of the Settlement, and all Parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement as embodied in this agreement, including any award of attorneys' fees and costs. Any action to enforce this Settlement shall be commenced and maintained only in the Court.
- H. Non-Disparagement and Neutral References. Plaintiff agrees that he will not criticize, denigrate or disparage, defame, or make statements to anyone or on social media or to otherwise publish regarding Defendants or any Released Parties (as defined in Section V.B of this Agreement), their respective business products, services, practices, policies or

conduct in such a way likely to be harmful to their respective business or personal reputations. The exceptions to Section VI.J.(a) & (b) of this Agreement will apply equally to this provision.) Defendant Daniel Voskoboynikov agrees that he will not criticize, denigrate or disparage, defame, or make statements to anyone or on social media or to otherwise publish regarding Plaintiff and his business products, services, practices, policies or conduct in such a way likely to be harmful to his business or personal reputations. Defendant Corwin & Voskoboynikov Management LLC agrees not to permit any of manager or principal to make a statement on its behalf criticizing, denigrating, disparaging, defaming, to anyone or on social media or to otherwise publish regarding Plaintiff and his business products, services, practices, policies or conduct in such a way likely to be harmful to his business or personal reputations.

- I. Neutral Job Reference. If contacted by a third party for an employment reference about Plaintiff, Defendants will provide only the dates of Plaintiff's employment and positions, provided that Plaintiff directs the third party to the attention of Daniel Voskoboynikov. If asked about the litigation or any of their claims raised in their respective lawsuits, Plaintiff will respond only that "the matter is resolved."
- J. Confidentiality. Plaintiff agrees that he will not disclose, make public or publicize the terms of this Agreement on social media or to anyone or through any media and will not discuss the terms of this Agreement, other than to acknowledge that the matter has been resolved, with anyone other than his, spouse, accountant, and his attorneys, unless required to by legal process. Plaintiff further agrees not to disclose the terms of this Agreement, other than to acknowledge that the matter has been resolved, to Defendants' current and former employees. This term is material to Defendants, and the Parties agree that should Defendants seek enforcement of this provision that the prevailing party will be entitled to recover their attorneys' fees for seeking enforcement of this provision. Other exceptions to this provision are as follows:
 - a. Plaintiff understands and acknowledges that this Agreement does not prevent him from (1) testifying in an administrative, legislative or judicial proceeding concerning alleged criminal conduct or alleged sexual harassment when Plaintiff has been compelled or requested to do so pursuant to court order, subpoena, or written request from an administrative agency or the legislature or (2) reporting alleged violations of federal, state or local law or regulation to any governmental agency or entity, including but not limited to the Department of Justice or the Securities and Exchange Commission.
 - b. The disclosure of this Agreement pursuant to court order or as otherwise required by law shall not be considered a breach of this provision. Pursuant to California Evidence Code section 1154, California Code of Civil Procedure section 664.6, and Federal Rules of Evidence 408, all terms of this Agreement may be disclosed to a court of law and shall be enforceable and binding upon them in a court of law, but the disclosure shall be designated "CONFIDENTIAL."

- K. No Admission. Neither the acceptance nor the performance by Defendants of the terms of this Agreement nor any of the related negotiations or proceedings is or shall be claimed to be construed as, or deemed to be an admission by Defendants of the truth of any of the allegations of the Actions, the representative character of the Action, the validity of any of the claims that were or could have been asserted by Plaintiff, the LWDA, and/or the Aggrieved Employees in the Action, or any liability or guilt of Defendants for the claims alleged in the Action or otherwise.
- L. Amendment or Modification. Unless otherwise provided herein, this Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.
- M. Authorization to Enter Into Agreement. Each individual signing this Agreement warrants that he or she has the authority and is expressly authorized to enter into this Agreement on behalf of the party for which that individual signs.
- N. Advice of Counsel. The Parties to this Agreement are represented by competent counsel, and they have had an opportunity to consult with counsel. The Parties to this Agreement agree that it reflects their good faith compromise of the claims raised in this action, based upon their assessment of the mutual risks and costs of further litigation and the assessments of their respective counsel.
- O. Governing Law. This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, irrespective of the State of California's choice of law principles.
- P. Entire Agreement. This Agreement and any supplemental written agreement subsequently incorporated constitute the entire Agreement among these Parties, and no oral or written representations, warranties or inducements have been made to any Party concerning this Agreement other than the representations, warranties and covenants contained and memorialized herein. This Agreement, once it is fully executed, supersedes, any and all prior agreements between the Parties, whether written or verbal, including, but not limited to, the Parties' Memorandum of Understanding.
- Q. Counterparts. This Agreement, and any amendments hereto, may be executed in any number of counterparts (and by facsimile or electronically-transmitted signatures, which shall be deemed to be originals) and any Party and/or their respective counsel hereto may execute any such counterpart on behalf of themselves, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument.
- R. Cooperation. The Parties shall cooperate fully with one another and to use their best efforts to consummate the Agreement and cause the Court to enter an order and judgment as described herein. No Party to this Agreement shall seek to evade his, her or its good faith obligations to seek approval and implementation of the Agreement by virtue of any ruling, order, or other development, whether in the Action, in any other litigation or otherwise that hereafter might occur and might be deemed to alter the relative strengths of the Parties with respect to any claims or defenses of their relative bargaining power with respect to negotiating.

S. The Parties' settlement is conditioned upon the Court's approval.

* * *

THE UNDERSIGNED ACKNOWLEDGE THAT EACH HAS READ THE FOREGOING AGREEMENT AND ACCEPTS AND AGREES TO THE PROVISIONS CONTAINED THEREIN, AND HEREBY EXECUTES IT VOLUNTARILY WITH FULL KNOWLEDGE OF ITS CONSEQUENCES.

VII. EXECUTION BY PARTIES

The Parties hereby execute this Agreement.

Dated: 9/30/2021

Daniel Vosko

Defendant Corwin & Voskoboynikov
Management, LLC

Name: Daniel Voskoboynikov
Title: managing member

Dated: 9/30/2021

Daniel Vosko

Defendant Daniel Voskoboynikov

09/28/2021
Dated: _____

[Signature]

Plaintiff Mario Alberto Garcia Saucedo

Approved as to form.

Dated: 9/30/2021

Eileen P. Kennedy

Eileen Kennedy
Attorney for Defendants

Dated: 9/28/21

Huy Tran

Huy Tran
Attorney for Plaintiff

EXHIBIT ONE

Notice of PAGA Settlement and Release of Claims

Saucedo v. Corwin & Voskoboynikov Management, LLC et al, Santa Cruz County Case No. 19CV360241

<<EmployeeName>>
<<Address1>> <<Address2>>
<<City>>, <<State>> <<Zip Code>>
XXX - XX - <<W9SSN>>

I. NOTICE OF PAGA SETTLEMENT

Plaintiff filed the above-referenced action in Santa Cruz County (“Action”). In this action, Plaintiff alleged that Defendants Corwin & Voskoboynikov Management, LLC or Daniel Voskoboynikov (collectively “Defendants”) failed to provide compliant meal and rest breaks and as a result owed premium wages for the failure to provide compliant meal and rest breaks. In the complaint, Plaintiff sought individual damages and civil penalties on behalf of California’s Labor and Workforce Development Agency (“LWDA”) and other Aggrieved Employees under the Private Attorneys General Act (“PAGA”), Labor Code sections 2698 *et seq.*

The Court has not made a determination about Plaintiff’s allegations. This Notice is not to be understood as an expression of any opinion by the Court as to the merits of the claims in either action.

Defendants maintain that they were in compliance with the California Labor Code at all times and enter into this Settlement with no admission of liability and solely for the purposes of compromising and settling the actions to avoid the cost and operational burden of continued litigation.

You are receiving this Notice because you are in the group of employees referred to as the “Aggrieved Employees,” which is defined as: Plaintiff and all hourly or non-exempt employees employed by Defendants Corwin & Voskoboynikov Management, LLC or Daniel Voskoboynikov during the PAGA Period (July 13, 2019 through the date upon which the Court approved of this proposed PAGA settlement).

The “PAGA Period” is defined as the period from July 13, 2019 through the date upon which the Court approved of this proposed PAGA settlement.

II. CALCULATION OF INDIVIDUAL PAGA SHARE

You worked <<WorkShifts>> work shifts during the PAGA Period. The total amount of work shifts worked by all Aggrieved Employees during the PAGA Period is <<TotalWorkShifts>>. The Aggrieved Employee Payment fund is equal to twenty-five percent (25%) of the Net PAGA Settlement Amount (\$), which is allocated to the Aggrieved Employees on a pro rata basis pursuant to Labor Code section 2699(i). Thus, your individual PAGA Share is estimated to be <<CheckAmount>>.

Each individual PAGA Share was calculated on a pro rata basis (*i.e.*, proportional) based on the number of work shifts worked by each Aggrieved Employee, respectively, during the PAGA Period, divided by the total number of work shifts collectively worked by all Aggrieved Employees during the PAGA Period, multiplied by the Aggrieved Employee Payment, or the twenty-five percent (25%) of the PAGA Settlement Amount that is allocated to the Aggrieved Employees pursuant to Labor Code section 2699(i). By law, the remaining seventy-five percent (75%) of the PAGA Settlement Amount will

be paid to the Labor and Workforce Development Agency.

III. TIME TO CASH YOUR CHECK

Settlement checks will be null and void one hundred and twenty (120) days after issuance. In such event, the Settlement Administrator shall direct all unclaimed funds to the California Department of Industrial Relations Unpaid Wage Fund in the name of the Aggrieved Employee to whom the check was issued. If your check is lost or misplaced, contact the Settlement Administrator at [REDACTED] immediately to request a replacement.