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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ANGEL SALCEDO, individually, and on
behalf of other members of the general public
similarly situated,

Plaintiff,

vs.

DHILLON FOODS, INC., a California
corporation; DHILLON & HURTADO
ENTERPRISES, LLC, a Delaware limited
liability company; ENCHANT FOODS, INC., a
California corporation; JUSHEN
RESTAURANTS, INC., a California
corporation; KAHANI RESTAURANTS, LLC,
a Delaware limited liability company; SAGE
RESTAURANTS, LLC, a Delaware limited
liability company; and DOES 1 through 10,
inclusive,

Defendants.

Case No. 20STCV42750

PAGA SETTLEMENT AGREEMENT

PAGA SETTLEMENT AGREEMENT

Subject to Court approval by the Superior Court of the State of California for the County of Los Angeles (“Court”), Plaintiff Angel Salcedo (“Plaintiff”) and Defendant DHILLON FOODS, INC. (“Defendant”) (collectively with Plaintiff, the “Parties”) hereby agree to the following binding settlement (“Settlement” or “Settlement Agreement”) of the action entitled *Salcedo v. Dhillon Foods*, No. 20STCV42750 (Los Angeles County Superior Court) (the “Action”).

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. “Action” means *Salcedo v. Dhillon Foods*, No. 20STCV42750 (Los Angeles County Superior Court).
2. “Aggrieved Employees” means all persons who were employed by Defendant in non-exempt positions in the State of California at any time from September 4, 2019 to the date of entry of the Order and Judgment.
3. “Court” means the Superior Court for the State of California, County of Los Angeles.
4. “LWDA” means the California Labor and Workforce Development Agency.
5. “Maximum Settlement Amount” means the maximum settlement amount of Three Hundred Fifty Thousand Dollars (\$350,000) to be paid by Defendant in full satisfaction of all Settled Claims arising from the Action, which includes all payments to Aggrieved Employees, Plaintiff, Plaintiff’s Counsel, the LWDA, and the Settlement Administrator.
6. “PAGA Penalties Fund” means the Maximum Settlement Amount less the Attorneys’ Fees and Costs, Service Award, and Settlement Administrator Costs.
7. “Plaintiff’s Counsel” means Capstone Law APC.
8. “Service Award” means the amount to be paid to Plaintiff as payment for his service on behalf of the LWDA and Aggrieved Employees, and for a general release of all claims arising out of his employment with Defendant.
9. “Settled Claims” means any and all claims for PAGA civil penalties under the California Labor Code, Wage Orders, regulations, and/or other provisions of law alleged or could have been

alleged to have been violated in the Actions with respect to Aggrieved Employees based on the facts alleged in the Action during the Settlement Period.

10. “Settlement Period” means September 4, 2019 to the date of entry of the Order and Judgment.

TERMS

11. Maximum Settlement Amount. In consideration for Plaintiff’s promises and representations described in this Settlement Agreement, and subject to all of the conditions of the Settlement being met, Defendant will to pay a maximum amount of Three Hundred Fifty Thousand Dollars (\$350,000) (“Maximum Settlement Amount”), which represents the maximum amount payable in this Settlement by Defendant, and includes attorneys’ fees, litigation costs and expenses, consideration for Plaintiff’s service on behalf of the LWDA and Aggrieved Employees, Settlement Administration Costs, and payments to Aggrieved Employees and the LWDA for their share of the PAGA Penalties Fund. No portion of the Maximum Settlement Amount will be retained by, or revert to, Defendant.

12. Escalator: If the number of pay periods worked by all Aggrieved Employees during the Settlement Period is greater than 14,300, then Defendant will proportionally increase the Maximum Settlement Amount according to the following formula: Proportionally Increased Maximum Settlement Amount = Total Number of pay periods ÷ 14,300 × \$350,000.

13. PAGA Penalties Fund. The PAGA Penalties Fund will be paid to Aggrieved Employees and the LWDA in full satisfaction of all claims for PAGA civil penalties under the California Labor Code, Wage Orders, regulations, and/or other provisions of law alleged to have been violated in the Action with respect to Aggrieved Employees. Pursuant to PAGA, Seventy-Five Percent (75%) of the PAGA Penalties Fund will be paid to the LWDA, and the remaining Twenty-Five Percent (25%) will be paid to all Aggrieved Employees according to the following formula:

13(a) Defendant will calculate: (i) the total number of pay periods worked by each Aggrieved Employee during the Settlement Period, and (ii) the total number of pay periods worked by all Aggrieved Employees during the Settlement Period.

13(b) To determine each Aggrieved Employee’s payment from the PAGA

Penalties Fund, Defendant will use the following formula: Settlement Payment = 25% of PAGA Penalties Fund $\times$ [Pay Periods Worked by Individual Aggrieved Employee During the Settlement Period $\div$ Total Pay Periods Worked by All Aggrieved Employees during the Settlement Period].

14. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or motion by Plaintiff's Counsel for Attorneys' Fees and Costs of not more than One Hundred Sixteen Thousand Six Hundred Sixty Seven Dollars (\$116,667), plus the reimbursement of all out-of-pocket costs and expenses associated with Plaintiff's Counsel's litigation and settlement of the Action (including expert/consultant fees, investigations costs, etc.), not to exceed Twenty Thousand Dollars (\$20,000), both of which will be paid from the Maximum Settlement Amount. Any portion of the Attorneys' Fees and Costs not awarded to Plaintiff's Counsel will be added to the PAGA Penalties Fund.

15. Service Award. For a general release of all claims Plaintiff may have against Defendant arising out of his employment, and for his service on behalf of the LWDA and Aggrieved Employees, Defendant agrees to pay Plaintiff the sum of Ten Thousand Dollars (\$10,000) ("Service Award") paid from the Maximum Settlement Amount. Upon receipt of the Service Award, Plaintiff will be deemed to have fully released and discharged Defendant from any and all claims, demands, obligations, causes of action, rights, or liabilities of any kind which have been or could have been asserted against Defendant arising out of, or relating to, Plaintiff's employment with Defendant or termination thereof, including but not limited to claims for wages, restitution, penalties, retaliation, defamation, discrimination, harassment or wrongful termination of employment. This release specifically includes any and all claims, demands, obligations and/or causes of action for damages, restitution, penalties, interest, and attorneys' fees and costs (except provided by the Settlement) relating to or in any way connected with the matters referred to herein, whether or not known or suspected to exist, and whether or not specifically or particularly described herein. Specifically, Plaintiff will be deemed to have waived all rights and benefits afforded by California Civil Code 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**

1 **HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF**
2 **KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR**
3 **HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

4 16. Settlement Administration Costs. The Parties will retain CPT Group, Inc. as the third-
5 party settlement administrator (“Settlement Administrator”). The Settlement Administrator will be
6 responsible for establishing a qualified settlement fund (“QSF”) and issuing payments and appropriate
7 tax forms to Aggrieved Employees, the LWDA, Plaintiff, and Plaintiff’s Counsel. The Settlement
8 Administration Costs will be paid from the Maximum Settlement Amount. Based on the estimate that
9 there are approximately Four Hundred (400) Aggrieved Employees, Settlement Administration Costs are
10 estimated at Five Thousand Five Hundred Dollars (\$5,500).

11 17. Court Approval of the Settlement and Distribution of Settlement Payments. The Parties
12 will present this Settlement Agreement to the Court and the LWDA. The Parties will request that the
13 Court issue an order and judgment approving and incorporating by reference the terms and conditions of
14 the Settlement Agreement (the “Order and Judgment”) and dismissing the case against all Defendants.

15 18. List of Aggrieved Employees. Within fourteen (14) calendar days after entry of the
16 Order and Judgment, Defendant will provide the Settlement Administrator a complete list of all
17 Aggrieved Employees (“Aggrieved Employee List”). The Aggrieved Employee List will be formatted in
18 Microsoft Office Excel and will include each Aggrieved Employees full name; most recent mailing
19 address and telephone number; Social Security number; the respective number of pay periods during
20 which each Aggrieved Employee worked during the Settlement Period; and any other relevant
21 information needed to calculate settlement payments.

22 19. Funding of the Settlement. Within fourteen (14) calendar days after entry of the Order
23 and Judgment, Defendant will deposit the Maximum Settlement Amount into the QSF to be established
24 by the Settlement Administrator. Within fourteen (14) calendar days of the funding of the Settlement, the
25 Settlement Administrator will issue payments to: (a) Aggrieved Employees; (b) the Labor and
26 Workforce Development Agency; (c) Plaintiff; (d) Plaintiff’s Counsel; and (e) itself. The Settlement
27 Administrator, and not Defendant, will issue the appropriate tax forms for all payments issued under this
28 Settlement.

20. Settlement Payments to Aggrieved Employees. The Settlement Administrator will issue each Aggrieved Employee one check for his or her share of the PAGA Penalties Fund along with an explanatory letter which will be mutually approved by the parties. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address or Social Security number of the Aggrieved Employee involved, and will then perform a single re-mailing. Checks will remain negotiable for 180 days. Those funds represented by uncashed checks which remain outstanding 180 days after the mailing of the Settlement checks by the Settlement Administrator will be tendered to the LWDA. All settlement payments to Aggrieved Employees will be treated as miscellaneous income for which a 1099 will be issued.

21. Settled Claims. Upon entry of the Order and Judgment, Plaintiff and all Aggrieved Employees will be forever barred from pursuing against Defendant any and all Settled Claims during the Settlement Period. Aggrieved Employees, other than Plaintiff, will not be deemed to have released any individual wage and hour claims by virtue of this Settlement.

22. No Right to Exclusion or Objections by Representative Action Members. Because this settlement resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private Attorney General of, and for, the State of California and the LWDA, the Parties agree that no Aggrieved Employee has the right to exclude himself or herself from the Settlement. Aggrieved Employees will be bound by the terms of the Settlement Agreement, upon its approval by the Court, regardless of whether he or she cashes any payment received as a result of this Settlement. The Parties also agree that no Aggrieved Employee has the right to object to the terms of the Settlement Agreement.

23. No Credit Toward Benefit Plans. Payments to Aggrieved Employees as referenced herein will not be utilized to calculate any additional benefits under any benefit plans to which any Aggrieved Employee may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit

1 plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights,
2 contributions, or amounts to which any Aggrieved Employee may be entitled under any benefit plans.

3 24. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
4 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
5 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
6 action or right herein released and discharged.

7 25. Nullification of Settlement Agreement. In the event that: (i) the Court does not approve
8 the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then
9 this Settlement Agreement, and any documents generated to bring it into effect, will be null and void,
10 and the Parties will be returned to their original respective positions.

11 26. Judgment and Continued Jurisdiction. After entry of the Order and Judgment, the Court
12 will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement
13 of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters
14 as may be appropriate under court rules or as set forth in this Settlement.

15 27. Entire Agreement. This Settlement Agreement constitutes the entirety of the Parties'
16 settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding
17 on the Parties.

18 28. Amendment or Modification. This Settlement Agreement may be amended or modified
19 only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all
20 Parties.

21 29. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
22 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
23 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant
24 to this Settlement Agreement to effectuate its terms and to execute any other documents required to
25 effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each
26 other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to
27 reach agreement on the form or content of any document needed to implement the Settlement, or on any
28 supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties

1 may seek the assistance of the Court to resolve such disagreement.

2 30. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,
3 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

4 31. California Law Governs. All terms of this Settlement Agreement will be governed by
5 and interpreted according to the laws of the State of California.

6 32. Execution and Counterparts. This Settlement Agreement is subject only to the execution
7 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All
8 executed counterparts and each of them, including electronic signatures (e.g., DocuSign), facsimiles, and
9 scanned copies of the signature pages, will be deemed to be one and the same instrument.

10 33. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
11 Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
12 Settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that
13 they are each represented by competent counsel and that they have had an opportunity to consult with
14 their counsel regarding the fairness and reasonableness of this Settlement.

15 34. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however, that
16 Plaintiff may appeal any reduction to the Attorneys' Fees and Costs below the amount they request from
17 the Court, and either party may appeal any court order that materially alters the Settlement's terms.

18 35. Invalidity of Any Provision. Before declaring any provision of this Settlement
19 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
20 possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement
21 valid and enforceable.

22 36. Captions. The captions and section numbers in this Settlement Agreement are inserted
23 for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
24 provisions of this Settlement Agreement.

25 37. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement
26 or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or
27 constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

28 38. Enforcement Action. In the event that one or more of the Parties institutes any legal

1 action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement
2 or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
3 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including
4 expert witness fees incurred in connection with any enforcement actions.

5 39. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
6 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed
7 more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for
8 one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties,
9 all Parties have contributed to the preparation of this Settlement Agreement.

10 40. Representation By Counsel. The Parties acknowledge that they have been represented
11 by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and
12 that this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed
13 in full.

14 41. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
15 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
16 Settlement Agreement.

17 42. Binding Agreement. The Parties warrant that they understand and have full authority to
18 enter into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and
19 binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to
20 enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply
21 under federal or state law.

22 43. Denial of Liability. The Parties expressly recognize that the making of this agreement
23 does not in any way constitute an admission or concession of wrongdoing on the part of Defendant.
24 Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements,
25 discussions or communications, nor any materials prepared, exchanged, issued or used during the
26 pendency of the Action, is intended by the Parties to, nor will any of the foregoing constitute, be
27 introduced, be used or be admissible in any way in any other judicial, arbitral, administrative,
28 investigative or other forum or proceeding, as evidence of any violation of any federal, state, or local law,

statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.

Notwithstanding the foregoing, this agreement may be used in any proceeding in the Court that has as its purpose the interpretation, implementation, or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith.

READ CAREFULLY BEFORE SIGNING

PLAINTIFF

Dated: 12/28/2021

DocuSigned by:
angel salcedo
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Angel Salcedo

DEFENDANT

Dated: January 5, 2022


Name of Authorized Signatory
DHILLON FOODS, INC.

APPROVED AS TO FORM

CAPSTONE LAW APC

Dated: 12/28/2021


Raul Perez

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

Dated: _____


Steven T. Mannix