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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

EMIL PETERSON, as an individual and on
behalf of all others similarly situated; and
WILLIE SUMPTER, JR., as an individual
and on behalf of all others similarly
situated,

Plaintiffs,

v.

BP FUND A LLC, an unknown corporate
entity; BLAZE PIZZA OPERATIONS,
LLC, a limited liability company; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 34-2020-00288162

**CLASS ACTION SETTLEMENT
AGREEMENT**

Complaint Filed: October 29, 2020
FAC Filed: January 8, 2021
Trial Date.: None

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1 This Class Action Settlement Agreement (“Agreement”) is made by and between Plaintiff
2 Willie Sumpter, Jr. (“Plaintiff”) and Defendant Blaze Pizza Operation, LLC (“Defendant”)
3 (collectively “the Parties”) with regard to the lawsuit titled *Emil Peterson, as an individual and on*
4 *behalf of all others similarly situated, and Willie Sumpter, Jr., as an individual and on behalf of*
5 *all others similarly situated v. BP Fund A LLC, and Blaze Pizza Operations, LLC, et al.*, Case No.
6 34-2020-00288162 pending in the Superior Court of the State of California, County of Sacramento
7 (the “Civil Action”).

8 THE SETTLEMENT

9 1. Subject to the Court’s approval pursuant to Section 382 of the California Code of
10 Civil Procedure and Rule 3.769 of the California Rules of Court, Plaintiffs and Defendant have
11 agreed to settle the Civil Action upon the terms and conditions and for the consideration set forth
12 in this Agreement.

13 2. A summary of the terms of the Agreement is as follows:

- 14 • The Parties agree to settle the Civil Action on a class-wide basis only. The
15 settlement excludes any release of any Private Attorneys General Act
16 Claims.
- 17 • The Parties agree that this is a non-claims made settlement.
- 18 • Defendant shall pay a settlement amount of Two Hundred and Twenty-Five
19 Thousand Dollars and No Cents (\$225,000.00), referred to herein as the
20 Gross Settlement Amount, which shall be inclusive of all Individual
21 Settlement Payments to Settlement Class Members, attorneys’ fees and
22 expenses (fees not to exceed 35% of the Gross Settlement Amount, and
23 costs not to exceed \$30,000) to be paid to Class Counsel, any Class
24 Representative Enhancement Award, settlement administration costs and
25 expenses, and any and all penalty amounts to be paid regardless of the
26 recipient. In no event shall Defendant be required to pay more than the
27 Gross Settlement Amount under this Agreement. In no event shall any
28 portion of the Gross Settlement Amount revert to Defendant.

- The Class consists of all all current and former non-exempt California employees of Defendant who were paid wages by Defendant at any time during the period of time from May 2, 2019 through November 20, 2020 (the “Class Period”), and who have not previously released the claims released by this settlement. All Settlement Class Members shall receive an Individual Settlement Payment in accordance with paragraph 64 of the Agreement.
- The Settlement Administrator shall be ILYM Group, Inc. From the Gross Settlement Amount, settlement administration fees in a reasonable amount shall be paid to the Settlement Administrator. Settlement administration fees are estimated to be approximately Six Thousand Dollars and No Cents (\$6,000.00). If the actual cost of settlement administration is less or more than the amount approved by the Court, those funds shall be added to or subtracted from the Net Settlement Amount.
- From the Gross Settlement Amount, the Class Representative may seek from the Court an Enhancement Award up to Ten Thousand Dollars and No Cents (\$10,000), which Defendant shall not oppose.
- Class Counsel may seek attorneys’ fees of up to Seventy-Eight Thousand Seven Hundred and Fifty Dollars and No Cents (\$78,750), which is thirty percent (35%) of the Gross Settlement Amount and reasonable costs of up to Thirty Thousand Dollars and No Cents (\$30,000), which Defendant shall not oppose.

DEFINITIONS

Unless otherwise defined herein, capitalized terms used in this Agreement shall have the meanings set forth below:

3. “Civil Action” means the lawsuit filed by Plaintiff in the Superior Court of the State of California for the County of Sacramento titled, *Emil Peterson, as an individual and on behalf of all others similarly situated, and Willie Sumpter, Jr., as an individual and on behalf of*

1 *all others similarly situated v. BP Fund A LLC, and Blaze Pizza Operations, LLC, et al.*, Case No.
2 34-2020-00288162.

3 4. “Class,” “Classes,” “Class Member,” or “Class Members” means all individuals
4 who are or were non-exempt employees of Defendant and were paid wages in California at any
5 time during the Class Period.

6 5. “Class Counsel” means Larry W. Lee of Diversity Law Group, P.C., Dennis S.
7 Hyun of Hyun Legal, APC, and Edward W. Choi of Law Offices of Choi and Associates, APLC.

8 6. “Class Period” means between May 2, 2019 through November 20, 2020.

9 7. “Class Representative” or “Plaintiff” means plaintiff Willie Sumpter, Jr.

10 8. “Complaint” means the Complaint filed on or about October 29, 2020 and
11 operative First Amended Complaint filed on or about January 8, 2021 in the Sacramento County
12 Superior Court, styled *Emil Peterson, as an individual and on behalf of all others similarly*
13 *situated, and Willie Sumpter, Jr., as an individual and on behalf of all others similarly situated v.*
14 *BP Fund A LLC, and Blaze Pizza Operations, LLC, et al.*, Case No. 34-2020-00288162.

15 9. “Court” means the Superior Court of California for the County of Sacramento.

16 10. “Defendant” means Defendant Blaze Pizza Operations, LLC, formerly known as
17 BP Fund A, LLC.

18 11. “Defense Counsel” means Jennifer C. Terry and Corrie J. Buck of Reed Smith
19 LLP.

20 12. “Effective Date” means the first date upon which all of the following events have
21 occurred:

22 (i) this Agreement has been executed by all Parties and by Class Counsel and
23 Defense Counsel;

24 (ii) the Court has preliminarily approved the Settlement;

25 (iii) notice has been properly given to Class Members, providing them an
26 opportunity to participate in the settlement, object to the settlement, or to
27 opt out of the settlement;

28 (iv) the Court has held a Final Fairness and Approval Hearing and entered a

1 Final Order and Judgment approving the Settlement;
2 (iv) the latest of the following: in the event that no objections and/or motions to
3 intervene are filed by the time of the Final Fairness and Approval Hearing,
4 the date of Court's granting of final approval; in the event that an objection
5 and/or motion to intervene is filed, but no appeal is filed, then sixty (60)
6 days after the entry of the Final Order and Judgment; or, if an appeal is
7 filed, upon the final dismissal and/or resolution of the appeal, writ or other
8 appellate proceeding opposing this Agreement. In this regard, it is the
9 intention of the Parties that the Settlement shall not become effective until
10 the Court's order approving the Settlement has become completely final,
11 and there is no timely recourse by an appellant or objector who seeks to
12 contest the Settlement.

13 13. "Enhancement Award" means any payment to the Class Representative for his
14 service to the Class and his individual release as set forth in paragraph 76, which is in addition to
15 whatever payments he may otherwise be entitled to as a Settlement Class Member.

16 14. "Final Fairness and Approval Hearing" means the hearing to be requested by
17 Plaintiff and conducted by the Court after the filing by Plaintiff of an appropriate motion and
18 following appropriate notice to Class Members giving Class Members an opportunity to opt out
19 from the Class and Settlement or to object to the Settlement, at which time Plaintiff shall request
20 that the Court finally approve the fairness, reasonableness and adequacy of the terms and
21 conditions of the Settlement, enter the Final Order and Judgment, and take other appropriate
22 action.

23 15. "Final Order and Judgment" means the order and judgment to be entered by the
24 Court upon granting final approval of the Settlement and this Agreement as binding upon the
25 Parties and the Settlement Class Members who do not properly and timely submit a written Opt
26 Out.

27 16. "Gross Settlement Amount" or "GSA" means the total maximum amount that
28 Defendant shall be required to pay under this Agreement, which shall be inclusive of all Individual

1 Settlement Payments to Settlement Class Members, attorneys' fees and litigation costs, Settlement
2 Administration Costs, and Enhancement Awards to the Class Representatives and all penalty
3 amounts to be paid regardless of the recipient. The Gross Settlement Amount is Two Hundred and
4 Twenty-Five Thousand Dollars and No Cents (\$225,000.00).

5 17. "Individual Settlement Payment" means the gross amount that shall be paid to
6 each Settlement Class Member for their Qualifying Wage Statements. The Individual Settlement
7 Payment shall be determined as described in paragraph 64 below.

8 18. "Net Settlement Amount" means the amount of money remaining after all
9 Individual Settlement Payments to Settlement Class Members, attorneys' fees and litigation costs,
10 Settlement Administration Costs, Enhancement Awards to the Class Representatives and all
11 penalty amounts have been deducted from the Gross Settlement Amount.

12 19. "Notice of Class Action Settlement" or "Notice" means the form attached hereto as
13 **Exhibit 1** or whichever form is approved by the Court that shall be provided to the Class Members
14 to inform them of the terms of this Agreement and their rights and options related thereto in the
15 various methods described in paragraphs 48 and 50-52 below.

16 20. "Objection" means a Class Member's written objection to the Settlement. Any
17 Objection shall be in the form described in paragraphs 57-58 below.

18 21. "Opt Out" means a written request that a Class Member may submit to be excluded
19 from the Class and the Settlement. Any Opt Out shall be in the form described in paragraph 53
20 below.

21 22. "Party" or "Parties" means Plaintiff and Defendant.

22 23. "Preliminary Approval Order" means the order to be issued by the Court approving
23 and authorizing the mailing of the Notice of Class Action Settlement by the Settlement
24 Administrator, setting the date of the Final Fairness and Approval Hearing and granting
25 preliminary approval of the Settlement set forth in this Stipulation, among other things,
26 substantially in the form attached as **Exhibit 2**, or as subsequently modified with the approval of
27 counsel for all Parties.

28 24. "Proof of Work" means document(s) that a Class Member may submit to the

1 Settlement Administrator to show that they are entitled to payment based upon a different number
2 of Qualifying Wage Statements than the number(s) calculated by the Settlement Administrator
3 based upon Defendant's data. Adequacy of the Proof of Work submitted will be evaluated by
4 Class Counsel, Defense Counsel, and the Settlement Administrator. In the event of a
5 disagreement, the Settlement Administrator will make the final decision.

6 25. "Qualifying Wage Statements" means the total number of wage statements issued
7 to each Class Member during the Class Period based on Defendant's records.

8 26. "Released Class Claims" are defined in paragraph 81 below.

9 27. "Released Parties" Defendant Blaze Pizza Operations, LLC and each of its present
10 and former parents, affiliates, divisions and subsidiaries, acquired companies, and each of its
11 respective present and former directors, officers, shareholders, agents, representatives, employees,
12 partners, attorneys, insurers, predecessors, successors, assigns, affiliated companies and entities
13 and any individual or entity that could be jointly liable with any of the foregoing.

14 28. "Response Deadline" means the thirty (30) day period following the date the
15 Settlement Administrator mails the Notice of Class Action Settlement to Class Members within
16 which any Class Member may: (a) submit a written Opt Out to be excluded from the Class and this
17 Settlement; (b) submit an Objection; and/or (c) submit a dispute regarding their Qualifying Wage
18 Statements and any Proof of Work. For purposes of this definition, the term "submit" refers to the
19 date by which the correspondence is postmarked, faxed, or emailed and is thereafter received by
20 the Settlement Administrator. All Opt Outs and Objections must be submitted on or before the
21 end of the Response Deadline or within the extended deadline for certain Class Members only as
22 expressly described in paragraph 50(a).

23 29. "Settlement" means the final and complete disposition of the Civil Action as
24 provided for in this Agreement and all Exhibits hereto.

25 30. "Settlement Administrator" means ILYM Group, Inc.

26 31. "Settlement Administration Costs" means the reasonable costs and fees of
27 administration of this Settlement to be paid to the Settlement Administrator from the Gross
28 Settlement Amount, including, but not limited to: (i) translating into Spanish, printing and emailing

1 and mailing and re-mailing (if necessary) of Notices of Class Action Settlement to Class Members;
2 (ii) preparing and submitting to Settlement Class Members and government entities all appropriate
3 tax filings and forms; (iii) computing the amount of and distributing Individual Settlement
4 Payments, Class Representative Service Award, and Class Counsel Attorneys' Fees, Costs and
5 Expenses; (v) processing and validating Opt Outs; and (iv) preparing and submitting filings
6 required by law in connection with the payments required by the Settlement.

7 32. "Settlement Class Members" means Plaintiff and all other Class Members who do
8 not submit a timely and valid Opt Out under the process described in paragraph 53.

9 33. "Wage Statement Payment Rate" means the gross amount that shall be paid for
10 each Qualifying Wage Statement as described below in paragraph 64.

11 **BACKGROUND**

12 34. On October 29, 2020, Plaintiff Emil Peterson ("Peterson") filed a putative class
13 action complaint in Sacramento County Superior Court against BP Fund A, LLC ("BP Fund A")
14 n/k/a Blaze Pizza Operations, LLC, case number 34-2020-00288162. Through the Complaint,
15 Plaintiff, a non-exempt employee who sought damages and penalties, costs, attorneys' fees, and
16 any other relief deemed appropriate by the Court on the basis of the allegations, inter alia, against
17 BP Fund A: (1) failure to furnish accurate itemized wage statements, and (2) penalties under the
18 Private Attorneys General Act ("PAGA").

19 35. On January 8, 2021, a First Amended Complaint was filed in order to add Plaintiff
20 Willie Sumpter, Jr. ("Plaintiff"), removed Peterson as Class Representative, and add Defendant
21 Blaze Pizza Operations, LLC ("Defendant").

22 36. Defendant filed a demurrer to the First Amended Complaint on March 26, 2021,
23 alleging that Plaintiff failed to state a cause of action as to the PAGA claim because Defendant
24 successfully cured any alleged violations.

25 37. On July 14, 2021, the Court sustained Defendant's demurrer as to the PAGA claim,
26 without leave to amend, which effectively dismissed Peterson from this Civil Action.

27 38. Defendant filed an Answer to the First Amended Complaint on July 26, 2021.

28 39. Defendant denies each of the allegations of the Complaint, that Defendant has any

1 liability for the claims of Plaintiff, the putative class he purports to represent or any allegedly
2 aggrieved employee, and denies that Plaintiff, the putative class he purports to represent or any
3 allegedly aggrieved employee is entitled to any relief.

4 40. Class Counsel and Defense Counsel have extensive experience in litigating wage
5 and hour class actions in California. Class Counsel and Defense Counsel have vigorously litigated
6 the Civil Action since its inception.

7 41. On January 11, 2022, the Parties engaged in mediation before Mark S. Rudy, Esq.,
8 an experienced mediator in this area of law. The mediation was successful and the Parties agreed
9 on the principal terms of a settlement and, thereafter, executed a Memorandum of Understanding
10 (“MOU”) to memorialize their agreement on or about January 31, 2022. The MOU is superseded
11 in all respects by this Agreement.

12 42. This Agreement is made in compromise of and embraces all claims against any of
13 the Released Parties as enumerated in paragraphs 81-82 below.

14 43. Because the settled matters are putative class and representative action, this
15 Agreement must receive preliminary and final approval by the Court. Accordingly, Plaintiff and
16 Defendant enter into this Agreement on a conditional basis. Should the Court, or any other court
17 taking jurisdiction of this matter, decline to approve all material aspects of the Settlement or make
18 any ruling substantially altering the material terms of the Settlement, the Settlement shall be
19 voidable and unenforceable as to Plaintiff and Defendant, at the option of any party. Subject to
20 the requirements of the immediately preceding sentence, any party may exercise its option to void
21 this Settlement by giving notice, in writing, to the other Parties and to the Court at any time before
22 final approval by the Court of this Settlement. In the event that the Effective Date, as defined
23 herein does not occur, this Agreement shall be deemed null and void *ab initio* and shall be of no
24 force or effect whatsoever, and shall not be referred to or utilized for any purpose. Defendant
25 denies all of Plaintiff’s claims and all class claims as to liability and damages. Defendant
26 expressly reserves all rights to challenge any and all such claims and allegations upon all
27 procedural and factual grounds, including the assertion of all defenses, if the Effective Date of the
28 Settlement does not occur. Likewise, Plaintiff expressly reserves all rights to pursue, amend,

1 dismiss or otherwise dispose of the claims covered under this Settlement, including but not limited
2 to seeking damages, restitution, fees, expenses, interest and/or any other monetary amount in
3 excess of the GSA set forth above for the claims included in the Civil Actions or for any other
4 claims Plaintiff may have against Defendant, in the event the Effective Date of the Settlement does
5 not occur.

6 44. Plaintiff and Class Counsel have concluded, after taking into account the disputed
7 factual and legal issues involved in the Civil Action, the risks attending further prosecution, and
8 the substantial benefits to be received pursuant to settlement as set forth in this Agreement, that
9 settlement on the terms set forth herein is in the best interest of Plaintiff and the Class, and is fair
10 and reasonable.

11 45. Similarly, Defendant has concluded, after taking into account the disputed factual
12 and legal issues involved in the Civil Action, the risks and expense attending further litigation, and
13 its desire to put the controversy to rest, that settlement on the terms set forth herein is in its best
14 interest and is fair and reasonable.

15 46. This Settlement contemplates (i) entry of an order preliminarily approving the
16 Settlement, (ii) distribution of the Notice of Class Action Settlement to Class Members, and (iii)
17 entry of a Final Order and Judgment of the Settlement. The Court shall retain jurisdiction over the
18 Civil Action and Parties for purposes of enforcing the Settlement and resolving any disputes
19 relating to the Settlement.

20 **SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURE**

21 **Preliminary Approval of Settlement**

22 47. As soon as practicable, Class Counsel shall submit this Agreement to the Court for
23 its preliminary approval. Plaintiff shall also move the Court to enter a Preliminary Approval
24 Order and to conditionally certify the Class for purposes of this Settlement only. Class Counsel
25 shall provide the motion for preliminary approval to Defense Counsel for review of the substance
26 contained in the motion for preliminary approval at least 5 days prior to filing. The submission
27 shall also include admissible evidence as may be required for the Court to determine that this
28 Settlement is fair, adequate and reasonable, as required by Code of Civil Procedure section 382.

1 The submission shall also include the Notice of Class Action Settlement in the form attached
2 hereto as **Exhibit 1**, a proposed order granting preliminary approval of Settlement in the form
3 attached hereto as **Exhibit 2**, which shall, among other things, set a Final Fairness and Approval
4 Hearing date, and a proposed order granting final approval of Settlement in the form attached
5 hereto as **Exhibit 3**. Plaintiff and Defendant agree that the conditional certification of the Class for
6 settlement purposes only is in no way an admission by any of the Released Parties that class
7 certification would otherwise be proper.

8 **Notice to Class Members**

9 48. Following the Court's order granting preliminary approval of this Settlement, the
10 Settlement Administrator shall disseminate the Notice of Class Action Settlement in the form
11 attached hereto as **Exhibit 1** to the Class Members.

12 **Cooperation**

13 49. The Parties agree to cooperate with each other to accomplish the terms of this
14 Settlement, including, but not limited to, the timely execution of such documents and such other
15 acts as may be reasonably necessary to implement the terms of this Settlement. Neither the Parties
16 nor any of their attorneys or agents shall solicit or encourage any Class Members to exclude
17 themselves from the Settlement or to object to the Settlement. The Parties to the Settlement shall
18 use their best efforts, including all efforts contemplated by this Agreement and any other efforts
19 that may become necessary by Court order, or otherwise, to effectuate this Settlement and the
20 terms set forth herein.

21 **Notice of Class Action Settlement by Mail**

22 50. The Settlement Administrator shall, within thirty (30) days of the date of
23 preliminary approval of this Settlement, mail by First-Class United States mail the Notice of Class
24 Action Settlement to each Class Member (hereinafter "Notice"), using the most recent address
25 available to the Settlement Administrator for mail delivery, after updating provided addresses
26 using the National Change of Address Database. The Settlement Administrator shall also, within
27 10 days of mailing the Notice, send an electronic copy of the Notice via email to the last known
28 email addresses (to the extent available) of each Class Member.

- 1 a. Any Notice returned to the Settlement Administrator as non-
2 delivered on or before the Response Deadline with a forwarding
3 address from the U.S. postal service shall be promptly re-mailed to
4 the forwarding address affixed thereto. If no forwarding address is
5 provided, the Settlement Administrator shall promptly attempt to
6 determine a correct address by the use of skip-tracing, or other
7 automated search, and shall then promptly perform a re-mailing to
8 the Class Member whose Notice was returned as non-delivered,
9 assuming another mailing address is identified by the Settlement
10 Administrator. A letter prepared by the Settlement Administrator
11 will be included in the re-mailed Notice in that instance, stating that
12 the recipient of the Notice has until the original deadline set forth on
13 the Notice, or ten (10) calendar days after the date of re-mailing of
14 the Notice (whichever is later) to object or submit an Opt Out or
15 submit Proof of Work. In no event shall this be more than ten (10)
16 calendar days after the Response Deadline.
- 17 b. If these procedures are followed, notice to Class Members shall be
18 deemed to have been fully satisfied, and if the intended recipient
19 does not receive the Notice of Class Action Settlement, the intended
20 recipient shall nevertheless remain a Class Member and shall be
21 bound by all terms of the Settlement and the Final Order and
22 Judgment.

23 51. The Notice of Class Action Settlement to be provided to each Class Member shall
24 set forth the number of Qualifying Wage Statements applicable to the Class Member, the
25 estimated Wage Statement Payment Rate applicable to the Class Member, and the estimated
26 Individual Settlement Payment that the Class Member shall receive under this Settlement if the
27 Court grants final approval of the Settlement.

28 52. If the Class Member wishes to contest the number of Qualifying Wage Statements

1 assigned to him or her by the Settlement Administrator, the Class Member or his or her authorized
2 representative in the case of the individual's death or incapacity must timely provide his or her
3 dispute with Proof of Work to the Settlement Administrator. To be timely, the completed Proof of
4 Work must be mailed to the Settlement Administrator and postmarked no later than thirty (30)
5 days after the date of mailing of the Notice of Class Action Settlement. As this is not a claims-
6 made Settlement and Class Members need not return the optional Proof of Work, Class Members
7 shall be bound by this Agreement unless they submit a completed, signed and timely Opt Out.

8 **Opt Out**

9 53. Any Class Member seeking to be excluded from the Class and this Settlement shall
10 submit a written Opt Out to the Settlement Administrator. The written Opt Out must: (1) contain
11 the name, address, and the last four digits of the Social Security Number of the person requesting
12 exclusion; (2) state the Class Member's request to exclude himself or herself from the Settlement
13 and to opt out of the Settlement; (3) be signed by the Class Member or his or her lawful
14 representative; and (4) be postmarked by the Response Deadline and returned to the Settlement
15 Administrator at the specified address. Opt Outs may also be returned to the Settlement
16 Administrator's email address, as specified in the Notice, by 11:59 p.m. on the Response
17 Deadline. Any Class Member, who submits a completed, signed and timely written Opt Out shall
18 no longer be a member of the Class, shall be barred from participating in this Settlement, shall be
19 barred from objecting to this Settlement, and shall receive no benefit from this Settlement. Any
20 untimely or incomplete Opt Out shall be considered null and void. If a Class Member submits
21 both a completed, signed and timely Proof of Work and a completed, signed and timely Opt Out,
22 the Opt Out shall be deemed invalid, and the Class Member shall be a Settlement Class Member
23 and participate in this Settlement, if the date the Opt Out was submitted falls after the date the
24 Proof of Work was submitted. The Settlement Administrator shall notify Class Counsel and
25 Defense Counsel of the number of timely opt-outs within sixty (60) days after mailing notice.
26 Each Class Member who fails to file a timely written Opt Out shall release Released Parties of all
27 claims asserted at any time in the Civil Action and in any of Plaintiffs' letters to the LWDA
28 related to the Civil Action, and from all other known or unknown claims which could have been

alleged in the Civil Action and/or the PAGA Letters. The Parties agree that this release excludes any claims, causes of action, penalties, attorneys' fees and costs arising from any alleged claims asserted under PAGA.

54. If more than five percent (5%) of the Class Members opt out of the Settlement by submitting completed, signed and timely written Opt Outs, Defendant shall have the right at its sole discretion to rescind and void this Settlement by giving written notice to Class Counsel within ten (10) business days after the Settlement Administrator informs the Parties that the opt out rate exceeded five percent (5%). If Defendant exercises its right to rescind and void this Settlement under this paragraph, Defendant shall pay any and all reasonable costs and expenses incurred by the Settlement Administrator. If the total number of wage statements provided to the Class Members during the Class Period ends up being more than five percent (5%) more than 5,852 wage statements, at Defendant's option and in its sole discretion, either: (i) the Gross Settlement Amount shall be increased pro rata for each wage statement above 5,852 + 5%; or (ii) the Class Period shall end on day that the total wage statements reached 5,852 + 5%.

Declaration of Compliance

55. As soon as practicable, but no later than ten (10) days following the close of the Response Deadline, the Settlement Administrator shall provide Class Counsel and Defense Counsel with a declaration attesting to completion of the notice process set forth in this Agreement, the number and names of opt outs, and a summary of any disputes raised by any Class Members. This declaration shall be filed with the Court by Class Counsel along with a motion requesting final approval of the Settlement. The Settlement Administrator shall also provide weekly updates to Class Counsel and Defense Counsel regarding the opt outs, disputes, and objections.

Sufficient Notice

56. The Parties agree that compliance with the procedures described in this Agreement constitutes due and sufficient notice to Class Members of this Settlement and the Final Fairness and Approval Hearing, and satisfies the requirements of due process, and that nothing else shall be required of Plaintiff, Class Counsel, Defendant, Defense Counsel, or the Settlement Administrator

1 to provide notice to Class Members of the Settlement and the Final Fairness and Approval
2 Hearing.

3 **Objections to Settlement**

4 57. Any Class Member wishing to object to this Settlement shall inform the Court,
5 Class Counsel, and Defense Counsel in writing of their intent to object by following the procedure
6 set forth in the Notice of Class Action Settlement no later than the Response Deadline. Any
7 Objection must: (1) state the Class Member's full name, address, and the last four digits of his or
8 her Social Security Number (for identification purposes only); (2) state the grounds for the
9 objection; (3) be signed by the Class Member or their lawful representative; and (4) be postmarked
10 on or before the Response Deadline and returned to the Settlement Administrator and/or be
11 emailed to the Settlement Administrator by 11:59 pm on the date of the Response Deadline.

12 58. Any Class Member who fails to file a timely written Objection shall be foreclosed
13 from objecting to this Settlement, unless otherwise ordered by the Court.

14 59. Class Counsel and Defense Counsel shall file any responses to any written
15 Objections submitted to the Court in accordance with this Agreement within seven (7) days of
16 receipt of the objection, or by no event, later than three (3) days before the Final Fairness and
17 Approval Hearing, or on another date set by the Court.

18 60. Class Counsel shall file a motion for final approval within the timeframe provided
19 in Code of Civil Procedure § 1005. Class Counsel shall provide the motion for final approval to
20 Defense Counsel for review of the substance contained in the motion for final approval at least 2
21 days prior to filing.

22 **Final Fairness and Approval Hearing**

23 61. On the date set forth by the Court for the Final Fairness and Approval Hearing in
24 the order granting preliminary approval of the Settlement, a Final Fairness and Approval Hearing
25 shall be held before the Court in order to consider and determine: (i) whether the Court should
26 give this Settlement final approval; (ii) whether the Court should approve Class Counsel's
27 application for attorneys' fees, costs and expenses and any Enhancement Award to the Class
28 Representative; and (iii) to hear any timely objections to the Settlement. At the Final Fairness and

1 Approval Hearing, Plaintiff, Class Counsel, Defendant, and Defense Counsel shall ask the Court
2 to give final approval to this Settlement. If the Court grants final approval of the Settlement, the
3 Settlement Administrator shall post notice of final judgment on its website within seven (7)
4 calendar days of entry of the Final Order and Judgment.

5 **Settlement Payment Procedures**

6 Payments under this Agreement shall be made by the Settlement Administrator as follows:

7 62. Settlement Class Members shall be paid exclusively from the Net Settlement
8 Amount.

9 63. Plaintiff and Defendant recognize and agree that the asserted claims in the Civil
10 Action are extremely difficult to quantify with any certainty for any given year, or at all, and are
11 subject to a myriad of differing calculations and formulas. Plaintiff and Defendant agree that the
12 formulas for allocating Individual Settlement Payment to Settlement Class Members provided
13 herein are reasonable and that the Individual Settlement Payments are designed to provide a fair
14 settlement, despite the uncertainties of the amounts alleged to be owed to Settlement Class
15 Members and the calculation of them. Distribution amongst Settlement Class Members are based
16 on Qualifying Wage Statements that the Class Member was employed during the Class Period.
17 Plaintiff and Defendant have agreed that the distribution to each Settlement Class Member shall be
18 determined as set forth in paragraph 64 below.

19 64. The Individual Settlement Payment to each Settlement Class Member shall be
20 determined based on the number of Qualifying Wage Statements worked by the Settlement Class
21 Member during the Class Period. The Net Settlement Amount shall be divided by the total
22 number of Qualifying Wage Statements for all Settlement Class Members during the Class Period.
23 The result of this division shall yield a Wage Statement Payment Rate for the Class. The gross
24 amount of each Settlement Class Member's Individual Settlement Payment shall be calculated by
25 multiplying the number of Qualifying Wage Statements applicable to that Class Member by the
26 Wage Statement Payment Rate.

27 65. Within fifteen (15) business days after the Effective Date, Defendant shall transmit
28 the Gross Settlement Amount to the Settlement Administrator.

1 66. Within twenty-one (21) business days after the Effective Date, the Settlement
2 Administrator shall transmit to Class Counsel the attorneys' fees, costs and expenses approved by
3 the Court, shall transmit to the Class Representatives their Enhancement Awards approved by the
4 Court, shall mail Individual Settlement Payments to each Settlement Class Member.

5 67. Individual Settlement Payments shall be made by check and shall be made payable
6 to each Settlement Class Member as set forth in this Agreement. Under no circumstances shall the
7 Settlement Administrator distribute checks to Settlement Class Members until all timely wage
8 statement disputes with Proof of Work have been considered, calculated, and accounted for, and
9 the Class Counsel fees and expenses, costs of the Settlement Administrator, and an Enhancement
10 Award have been calculated and accounted for.

11 68. The Individual Settlement Payments are payments for all Released Class Claims for
12 the Settlement Class Members. The Settlement Administrator shall be authorized to establish a
13 Qualified Settlement Fund ("QSF") pursuant to Internal Revenue Service ("IRS") rules and
14 regulations in which the Gross Settlement Amount shall be placed and from which payments
15 required by the Settlement shall be made. One hundred percent (100%) of each Individual
16 Settlement Payment to each Settlement Class Member shall be allocated to alleged non-wage
17 payments not subject to tax withholding and shall be reported on an IRS Form 1099. These non-
18 wage payments shall be comprised of 10% interest and 90% penalties, as provided for under the
19 California Labor Code. Each Settlement Class Member, Class Counsel, and Class Representative
20 shall be responsible for remitting to state and/or federal taxing authorities any applicable taxes
21 which may be owed on the portion of any payment received pursuant to this Agreement, except as
22 provided by this Agreement.

23 69. It is expressly understood and agreed that the receipt of an Individual Settlement
24 Payment shall not entitle any Class Member to compensation or benefits under any company
25 bonus, contest or other compensation or benefit plan or agreement in place during the applicable
26 Class Period, nor shall it entitle any Class Member to any increased retirement, 401(k) or
27 matching benefits, or deferred compensation benefits. The Parties agree that any Individual
28 Settlement Payments made to Settlement Class Members under the terms of this Agreement shall

1 not represent any modification of previously credited length of service or other eligibility criteria
2 under any bonus plan, employee pension benefit plan or employee welfare plan sponsored by any
3 of the Released Parties, or to which any of the Released Parties are required to make contributions.
4 Further, any Individual Settlement Payments made under this Agreement shall not be considered
5 compensation in any year for purposes of determining eligibility for, or benefit accrual within, any
6 employee pension benefit plan or employee welfare benefit plan sponsored by any of the Released
7 Parties or to which any of the Released Parties are required to make contributions. It is the
8 Parties' intent that the Individual Settlement Payments provided for in the Agreement are the sole
9 payments to be made by Defendant to the Class Members, and that the Class Members are not
10 entitled to any new or additional compensation or benefits as a result of having received the
11 Individual Settlement Payments, notwithstanding any contrary terms in any agreement, contract,
12 benefit or compensation plan document that might have been in effect during the applicable Class
13 Period.

14 70. Individual Settlement Payment checks shall remain negotiable for 180 days from
15 the date of mailing. Any Individual Settlement Payment checks that remain uncashed after One
16 Hundred Eighty (180) days from issuance shall be void and the Settlement Administrator shall pay
17 the funds represented by such un-redeemed checks to the California State Controller's Office as
18 unclaimed property pursuant to the California Unclaimed Property Law to be held in the name of
19 the Settlement Class Member. In such event, the Settlement Class Member shall nevertheless
20 remain bound by the Settlement's Released Class Claims, as applicable. Notwithstanding the
21 foregoing, the Settlement's Released Class Claims does not include any individual claims under
22 Section 16(b) of the FLSA, 29 U.S.C. 216(b), as to a Settlement Class Member who does not opt
23 in to the Settlement by cashing, depositing or endorsing his or her Individual Settlement Payment
24 check, to the extent that opting in is required to release such FLSA claims.

25 **The Settlement Administrator**

26 71. The Settlement Administrator shall administer the Settlement, including, but not
27 limited to: (i) printing, mailing and re-mailing (if necessary), and emailing, the Notice and
28 receiving Opt Outs and Objections from Class Members; (ii) preparing and maintaining a web site

1 for the settlement administration of this matter which includes of the substance in the Notice; (iii)
2 preparing and submitting to Settlement Class Members and government entities all appropriate tax
3 filings and forms; (iv) computing the amount of and distributing Individual Settlement Payments,
4 Enhancement Awards, and Class Counsel attorneys' fees and costs; (v) processing and validating
5 Qualifying Wage Statement disputes/Proof of Work, Opt Outs and Objections; and (vi)
6 establishing a QSF, as defined by the Internal Revenue Code;

7 72. Settlement administration fees in a reasonable amount shall be paid to the
8 Settlement Administrator from the Gross Settlement Amount. Settlement administration fees are
9 estimated to be approximately Six Thousand Dollars and No Cents (\$6,000.00). If the actual cost
10 of settlement administration is less or more than the amount approved by the Court, those funds
11 shall be added to or subtracted from the Net Settlement Amount for allocation to Settlement Class
12 Members. All costs associated with settlement administration shall come out of the Gross
13 Settlement Amount.

14 73. Delivery of Class Data. "Class Data" means a complete list of all Class Members
15 that Defendant will diligently and in good faith compile from their records. The Class Data shall
16 include the following information from Defendant's records all to the extent available: each Class
17 Member's full name, most recent mailing address and telephone number, social security number,
18 most recent e-mail address, and the number of wages statements issued to each Class Member
19 during the Class Period. Defendant shall provide the Settlement Administrator with the Class
20 Data no later than fifteen (15) calendar days after the Court grants preliminary approval of the
21 Settlement. The Class Data shall only be used by the Settlement Administrator for the purpose of
22 calculating Qualifying Wage Statements, Individual Settlement Payments and notifying Class
23 Members of the Settlement. The Class Data applicable to an individual Class Member (*i.e.*, unique
24 ID, full name, most recent mailing address, e-mail address, telephone number, and Qualifying
25 Wage Statements) shall be disclosed to Class Counsel if that individual Class Member contacts
26 Class Counsel regarding their Qualifying Wage Statements, estimated Individual Settlement
27 Payments, or related issues with the settlement, but only as necessary to allow them to fulfill their
28 fiduciary duties to the Class and investigate issues that may arise with respect to payments to be

1 made to Class Members, so long as notice is provided to Defendant by the Settlement
2 Administrator and Class Counsel. Notwithstanding, the Class Data in its entirety shall not be
3 disclosed to the Class Representative, or any other Class Members, without written consent of
4 Defendant or by order of the Court. However, concurrent with the mailing of the Notice of Class
5 Action Settlement, the Settlement Administrator shall provide Class Counsel and Defense Counsel
6 with a redacted list of all Class Members that shall be limited to the following information: (1)
7 Unique ID (as reflected on the respective Class Member's Notice); and (2) Total Qualifying Wage
8 Statements and estimated Individual Settlement Payment. The Settlement Administrator shall
9 execute an acknowledgement of the protective order entered in this matter and be responsible for
10 following all privacy laws and taking appropriate steps to ensure that Class Members' personal
11 information is safeguarded and protected from improper disclosure or use. The Settlement
12 Administrator shall run the Class Data list through the National Change of Address database, and
13 shall use the most recent address for each Class Member – either from Defendant's records or the
14 National Change of Address database – before mailing the Notice of Class Action Settlement.
15 The Settlement Administrator shall also take reasonable steps to locate any Class Member whose
16 Notice of Class Action Settlement is thereafter returned as undeliverable. Class Data shall be
17 provided in a secure format to be determined by the Settlement Administrator and Defendant.

18 **Resolution of Disputes Over Qualifying Wage Statements**

19 74. In calculating the Individual Settlement Payment for each Class Member,
20 Defendant's records regarding the dates of employment used to generate Qualifying Wage
21 Statements shall be presumed to be correct. Any Class Member who disagrees with Defendant's
22 determination of his or her or its Qualifying Wage Statements as indicated on his or her or its
23 Notice of Class Action Settlement may dispute that calculation to the Settlement Administrator as
24 explained on the Notice of Class Action Settlement. Defendant's determination shall be presumed
25 accurate unless the Class Member submits documents to the Settlement Administrator to show that
26 he or she is entitled to payment based upon a different number of Qualifying Wage Statements
27 than the number(s) calculated by the Settlement Administrator based upon Defendant's data.
28 Adequacy of Proof of Work submitted will be evaluated by Class Counsel, Defense Counsel, and

1 Settlement Administrator. In the event of a disagreement, the Settlement Administrator shall
2 make the final decision. All such challenges by Class Members must be received no later than the
3 Response Deadline.

4 75. In no case shall a dispute result in a payment by Defendant in excess of the Gross
5 Settlement Amount.

6 **Enhancement Award**

7 76. From the Gross Settlement Amount, the Class Representative may seek approval
8 from the Court of an Enhancement Award up to Ten Thousand Dollars (\$10,000) for serving as a
9 Class Representative, which Defendant shall not oppose.

10 **Payment of Class Counsel Attorneys' Fees, Costs and Expenses**

11 77. Class Counsel shall apply to the Court at the Final Fairness and Approval Hearing
12 for an award of attorneys' fees not to exceed the amount of Seventy-Eight Thousand Seven
13 Hundred Fifty Dollars and No Cents (\$78,750), which is Thirty Five Percent (35%) of the Gross
14 Settlement Amount and an award of reasonable costs (exclusive of the Settlement Administration
15 costs) not to exceed the amount of Thirty Thousand Dollars and No Cents (\$30,000), both of
16 which shall be paid out of the Gross Settlement Amount.

17 78. Class Counsel and Defendant agrees that such awards of attorneys' fees and costs
18 are reasonable under the circumstances. Nothing in this Agreement shall restrict Plaintiff's or
19 Class Counsel's ability to appeal any decision by the Court to award less than the requested
20 attorneys' fees and costs or Class Representative Enhancement Award. A decision by the Court to
21 award less than the requested attorneys' fees and costs or Class Representative Enhancement
22 Award, however, is not a material change to the settlement agreement. Any order relating to the
23 award of attorney's fees, costs or Class Representative Enhancement Award, or any appeal from
24 any order relating thereto or reversal or modification thereof, will not operate to terminate or
25 cancel this Agreement, however, the Effective Date shall not occur until any such appeal is
26 resolved. If the amount of, Enhancement Award, attorneys' fees and/or costs awarded by the
27 Court is less than the requested amounts, the difference shall serve to increase the Net Settlement
28 Amount to be distributed to Settlement Class Members as part of their Individual Settlement

1 Payments. Nothing in this Agreement will require Defendant to pay more than the Gross
2 Settlement Amount under any circumstances.

3 **Acknowledgment of No Tax Advice**

4 79. Each party to this Agreement acknowledges and agrees that:

- 5 (i) No provision of this Agreement and no written communication or
6 disclosure between or among the Parties or their attorneys and other
7 advisers is or was intended to be, nor shall any such communication or
8 disclosure constitute or be construed or be relied upon as, tax advice within
9 the meaning of United State Treasury Department Circular 230 (31 CFR
10 Part 10, as amended);
- 11 (ii) He, she or it (a) has relied exclusively upon his, her or its own, independent
12 legal and tax advisers for advice (including tax advice) in connection with
13 this Agreement, (b) has not entered into this Agreement based upon the
14 recommendation of any other party or any attorney or advisor to any other
15 party, and (c) is not entitled to rely upon any communication or disclosure
16 by any attorney or adviser to any other party to avoid any tax penalty that
17 may be imposed on him or her or it; and
- 18 (iii) No attorney or adviser to any other party has imposed any limitation that
19 protects the confidentiality of any such attorney's or adviser's tax strategies
20 (regardless of whether such limitation is legally binding) upon disclosure by
21 him or her of the tax treatment or tax structure of any transaction, including
22 any transaction contemplated by this Agreement.

23 80. The Individual Settlement Payment received by Settlement Class Members shall be
24 reported by the Settlement Administrator, as required, to the state and federal taxing authorities on
25 IRS forms 1099 or similar forms. Each Settlement Class Member shall be responsible for paying
26 all applicable state, local, and federal income taxes on all amounts the Settlement Class Member
27 receives pursuant to this Agreement.

28 **RELEASED CLASS CLAIMS**

1 81. **Released Class Claims:** Providing there is final approval of this Settlement, then
2 as of the date on which Defendant fully funds the Settlement per paragraph 65 above (“Release
3 Effective Date”), each Settlement Class Member, individually and on behalf of their respective
4 successors, assigns, agents, attorneys, executors, heirs and personal representatives, shall fully and
5 finally release and discharge the Released Parties, and each of them from the Released Class
6 Claims. The Class Released Claims include all claims, rights, demands, liabilities, causes of
7 action, and theories of liability of every nature and description, whether known or unknown, that
8 were or could have been alleged against any of the Released Parties arising out of, in connection
9 with, or based on the facts alleged in the operative First Amended Complaint. This includes, but
10 may not be limited to, claims for failure to provide accurate itemized wage statements, penalties
11 (including but not limited to civil and statutory penalties), damages, interest, costs, or attorneys'
12 fees, and violations of any other local, state, or federal law, whether for penalties, to the extent
13 necessary to effect a full and complete release of the Class Released Claims, including, but not
14 limited to, all claims under any California Labor Code Sections 226 and 2698, *et seq.* and any
15 related provisions. This release shall extend to all such claims accrued during the Class Period.

16 82. **Release by Plaintiff.** Upon final approval of the Settlement, Plaintiff for himself,
17 his successors, assigns, agents, executors, heirs and personal representatives, spouse and attorneys,
18 and any and all of them, voluntarily and with the advice of counsel, waives and releases any and
19 all claims, obligations, demands, actions, rights, causes of action, and liabilities against any of the
20 Released Parties of whatever kind and nature, character, and description, whether in law or equity,
21 whether sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation,
22 constitution, common law, or other source of law or contract, whether known or unknown, and
23 whether anticipated or unanticipated, including all claims arising from or relating to any and all
24 acts, events and omissions occurring prior to the date of final approval of this Agreement
25 including, but not limited to, all claims which relate in any way to his employment with or the
26 termination of his employment with the Released Parties and/or his provision of services to the
27 Released Parties at any of Defendant’s locations during the Class Period. Plaintiff further releases
28 all unknown claims against any of the Released Parties, covered by California Civil Code Section

1 1542, which states: “**A general release does not extend to claims that the creditor or releasing**
2 **party does not know or suspect to exist in his or her favor at the time of executing the release**
3 **and that, if known by him or her, would have materially affected his or her settlement with**
4 **the debtor or released party.”** Notwithstanding the provisions of section 1542, and for the
5 purpose of implementing a full and complete release and discharge of all of his Released Claims,
6 Plaintiff expressly acknowledges that this Settlement is intended to include in its effect, without
7 limitation, all Released Claims which Plaintiff does not know or suspect to exist in his favor at the
8 time of execution hereof, and that the Settlement contemplates the extinguishment of all such
9 Released Claims.

10 **LIMITATIONS ON USE OF THIS SETTLEMENT**

11 **No Admission**

12 83. Neither the acceptance nor the performance by Defendant of the terms of this
13 Agreement nor any of the related negotiations or proceedings are or shall be claimed to be,
14 construed as, or deemed a precedent or an admission by Defendant of the truth of any allegations
15 in the Complaint.

16 **Non-Evidentiary Use**

17 84. Defendant denies that it has failed to comply with the law in any respect, or has any
18 liability to anyone based on the claims asserted in the Civil Action. Plaintiff expressly
19 acknowledges that this Agreement is entered into for the purpose of compromising highly disputed
20 claims and that nothing herein is an admission of liability, wrongdoing, or the propriety of class or
21 representative treatment by Defendant. Neither the Agreement nor any document prepared in
22 connection with the Settlement may be admitted in any proceeding as an admission by Defendant.
23 Notwithstanding this paragraph, any and all provisions of this Agreement may be admitted in
24 evidence and used in any proceeding to enforce the terms of this Agreement, or in defense of any
25 claims released or barred by this Agreement. In the event that an action is brought to enforce any
26 terms of this Agreement, the prevailing party shall be entitled to its/his reasonable attorneys’ fees
27 and costs.

28 85. This Agreement, the Settlement, and any proceedings or actions or negotiations in

1 connection therewith shall be deemed settlement communications covered by California Evidence
2 Code Sections 1152 and 1154, Federal Rule of Evidence 408, and any other similar provisions or
3 law, and shall not be construed as an admission of truth of any allegation or the validity of any
4 cause of action or claim asserted or of any liability therein.

5 **Nullification**

6 86. If the Court for any reason does not approve this Settlement, this Agreement shall
7 be considered null and void and the Parties to this Agreement shall stand in the same position,
8 without prejudice, as if the Agreement had been neither entered into nor filed with the Court.

9 87. Invalidation of any material portion of this Agreement shall invalidate this
10 Agreement in its entirety unless the Parties agree in writing that the remaining provisions shall
11 remain in full force and effect.

12 **MISCELLANEOUS PROVISIONS**

13 **No Inducements**

14 88. Plaintiff and Defendant acknowledge that they are entering into this Settlement as a
15 free and voluntary act without duress or undue pressure or influence of any kind or nature
16 whatsoever, and that neither Plaintiff nor Defendant have relied on any promises, representations
17 or warranties regarding the subject matter hereof other than as set forth in this Agreement.

18 **No Prior Assignment**

19 89. The Parties represent, covenant, and warrant that they have not directly or
20 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
21 person or entity any portion of any liability, claim, demand, action, cause of action or rights herein
22 released and discharged except as set forth herein.

23 **Construction**

24 90. The Parties agree that the terms and conditions of this Agreement are the result of
25 lengthy, intensive arm's-length negotiations between the Parties and their counsel, and this
26 Agreement shall not be construed in favor of or against any Party by reason of the extent to which
27 any Party or his or its counsel participated in the drafting of this Agreement.

28 **California Law**

1 91. All terms of this Agreement and its exhibits shall be governed and interpreted by
2 and according to the laws of the State of California, without giving effect to any conflict of law
3 principles or choice of law principles.

4 **Captions and Interpretations**

5 92. Paragraph titles or captions contained herein are inserted as a matter of convenience
6 and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or
7 any provision hereof.

8 **Incorporation of Exhibits**

9 93. All exhibits to this Agreement are incorporated by reference and are a material part
10 of this Agreement. Any notice, order, judgment, or other exhibit that requires approval of the
11 Court must be approved without material alteration from its current form in order for this
12 Agreement to be enforceable.

13 **Modification**

14 94. This Agreement may not be changed, altered, or modified, except in a writing
15 signed by the Parties' counsel, and approved by the Court. This Agreement may not be
16 discharged except by performance in accordance with its terms or by an amendment signed by the
17 Parties' counsel.

18 **Reasonableness of Settlement**

19 95. Plaintiff represents that this is a fair, reasonable, and adequate settlement and have
20 arrived at this settlement through arms-length negotiations, taking into account all relevant factors,
21 present and potential.

22 **Integration Clause**

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

28 **Binding On Assigns**

1 97. This Agreement shall be binding upon and inure to the benefit of the Parties and
2 their respective heirs, trustees, executors, administrators, successors and assigns.

3 **No Prevailing Party**

4 98. No Party shall be considered a prevailing party for any purpose. Except as
5 otherwise provided for in this Agreement, each Party shall bear its or his own attorney fees and
6 costs.

7 **Class Counsel Signatories**

8 99. It is agreed that because the members of the Class are numerous, it is impossible or
9 impractical to have each member of the Class execute this Agreement. The Notice of Class
10 Action Settlement shall advise all Class Members of the binding nature of the Agreement, and the
11 Agreement shall have the same force and effect as if this Agreement were executed by each
12 member of the Class.

13 **Counterparts**

14 100. This Agreement, and any amendments hereto, may be executed in any number of
15 counterparts, each of which when executed and delivered shall be deemed to be an original and all
16 of which taken together shall constitute but one and the same instrument. DocuSign, fax and pdf
17 signatures shall be as valid as original signatures.

18 **Waiver of Right to Object**

19 101. By signing this Agreement, Plaintiff, on behalf of the Class, and himself, agrees to
20 be bound by its terms. Plaintiff further agrees not to request to be excluded from the Class or
21 Settlement and agrees not to object to any of the terms of the Agreement. Any request for
22 exclusion from the Settlement by Plaintiff or any Objection by Plaintiff shall be void and of no
23 force and effect. Likewise, Defendant agrees to be bound by the terms of this Settlement and
24 agrees not to object to any of the terms of the Agreement.

25 **Administration Costs if Settlement Fails**

26 102. If the Settlement is not finally approved by the Court, voided or rescinded, any
27 costs incurred by the Settlement Administrator shall be paid equally by the Parties (half by
28 Plaintiff and/or Class Counsel and half by Defendant).

1 **Final Order and Judgment**

2 103. Upon final approval of the Settlement, a Final Order and Judgment shall be entered
3 by the Court which shall, among other things:

- 4 (i) Grant final approval to the Settlement as fair, reasonable, adequate, in good
5 faith and in the best interests of the Class as a whole, and order the Parties
6 to carry out the provisions of this Agreement.
- 7 (ii) Adjudge that the Settlement Class Members of the Settlement are
8 conclusively deemed to have released the Released Parties from the
9 applicable Released Class Claims, as more specifically set forth above.
- 10 (iii) Prohibit and permanently enjoin each Settlement Class Member of the
11 Settlement from pursuing in any fashion against any of the Released Parties
12 any and all of the applicable Released Class Claims.
- 13 (iv) Reserve continuing jurisdiction as provided herein.

14 **Limitations on Disclosure**

15 104. Plaintiff and his counsel agree to keep the fact and terms of this settlement
16 confidential until preliminary approval of the settlement is sought from the Court, and, thereafter
17 to the fullest extent possible. They also agree not to make or offer to make any disclosures other
18 than what is necessary and consistent with the need for judicial approval of the settlement and
19 notice to the class. Plaintiff and his counsel agree that any public references to the defendants in
20 this action shall be limited to the named defendants only, Blaze Pizza Operations, LLC and BP
21 Fund A, LLC.

22
23
24 IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized
25 attorneys, as of the day and year herein set forth.

26
27 DATED: May 18, 2022


Willie Sumpter JR (May 18, 2022 11:51 PDT)

28 WILLIE SUMPTER JR.

1 DATED: _____

2 BLAZE PIZZA OPERATIONS, LLC

3 By: _____

4
5 **APPROVED AS TO FORM AND CONTENT:**

6 DATED: 5/18/2022

DIVERSITY LAW GROUP, P.C.

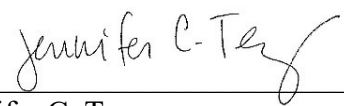
8 By  _____

Larry W. Lee

9 Attorneys for Plaintiff WILLIE SUMPTER JR.

10
11 DATED: 6/2/2022

REED SMITH LLP

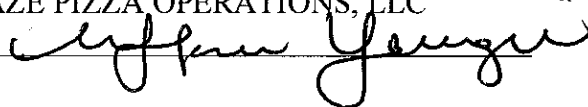
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13 By  _____

Jennifer C. Terry

14 Attorneys for Defendant BLAZE PIZZA
15 OPERATIONS, LLC
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1 DATED: 5/30/22

2 BLAZE PIZZA OPERATIONS, LLC

3 By: 

4
5 **APPROVED AS TO FORM AND CONTENT:**

6
7 DATED: _____

DIVERSITY LAW GROUP, P.C.

8 By _____

Larry W. Lee

9 Attorneys for Plaintiff WILLIE SUMPTER JR.

10
11 DATED: _____

REED SMITH LLP

12
13 By _____

Jennifer C. Terry

14 Attorneys for Defendant BLAZE PIZZA
15 OPERATIONS, LLC
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EXHIBIT 1

Peterson, et al. v. BP Fund A LLC, et al.

SETTLEMENT ADMINISTRATOR

[INSERT SETTLEMENT ADMINISTRATOR]

IMPORTANT LEGAL MATERIALS

Barcode39 - <<SequenceNo>>

<<Name1>>

<<Name2>>

<<Name3>>

<<Name4>>

<<Address1>>

<<Address2>>

<<City>> <<State>> <<Zip10>>

<<CountryName>>

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

Peterson, et al. v. BP Fund A LLC, et al.
Case No. 34-2020-00288162

**NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED
SETTLEMENT**

**YOU ARE ESTIMATED TO RECEIVE APPROXIMATELY \$<<EstimatedAward>>
THROUGH THIS CLASS ACTION SETTLEMENT.**

To: All individuals who are or were non-exempt employees of Defendant and were paid wages in California at any time between May 2, 2019 through November 20, 2020.

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED.
YOU MAY BE ENTITLED TO RECEIVE MONEY FROM THIS PROPOSED
SETTLEMENT.

TO RECEIVE YOUR SHARE, YOU DO NOT NEED TO DO ANYTHING.

This Notice is Court Approved. This is not a solicitation from an attorney.

1. WHY DID I GET THIS NOTICE?

You received this Notice because a the court granted preliminary approval of a proposed settlement (the “Settlement”) in the class action and representative lawsuit entitled *Emil Peterson, as an individual and on behalf of all others similarly situated, and Willie Sumpter, Jr., as an individual and on behalf of all others similarly situated v. BP Fund A LLC, and Blaze Pizza Operations, LLC, et al.*, Case No. 34-2020-00288162 (hereinafter referred to as the “Action”) on **INSERT DATE OF PRELIMINARY APPROVAL**.

The Notice explains the nature of the Action, the general terms of the proposed Settlement, and your legal rights and obligations. To obtain more information about the Settlement, including information about how you can see a copy of the Settlement Agreement, see Section 15, below.

2. WHAT IS THE ACTION ABOUT?

On October 29, 2020, Plaintiff Emil Peterson (“Peterson”) filed a putative class action complaint in Sacramento County Superior Court against BP Fund A, LLC (“BP Fund A”) n/k/a Blaze Pizza Operations, LLC, case number 34-2020-00288162. Through the Complaint, Peterson, a non-exempt employee who sought damages and penalties, costs, attorneys’ fees, and any other relief deemed appropriate by the Court on the basis of the allegations, inter alia, against BP Fund A: (1) failure to furnish accurate itemized wage statements, and (2) penalties under the Private Attorneys General Act (“PAGA”). On January 8, 2021, a First Amended Complaint was filed in order to add Plaintiff Willie Sumpter, Jr. (“Plaintiff” or “Named Plaintiff”), removed Peterson as Class Representative, and add Defendant Blaze Pizza Operations, LLC (“Defendant”).

Defendant filed a demurrer to the First Amended Complaint on March 26, 2021, alleging that Plaintiff failed to state a cause of action as to the PAGA claim because Defendant successfully cured any alleged violations. On July 14, 2021, the Court sustained Defendant’s demurrer as to the PAGA claim, without leave to amend, which effectively dismissed Peterson from this Civil Action. Defendant filed an Answer to the First Amended Complaint on July 26, 2021.

Defendant vehemently denies the allegations in the Action and is prepared to continue to defend the action vigorously. No court has made any ruling on the merits in the Action. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final hearing.

3. WHAT IS A CLASS ACTION?

In a class action lawsuit, one or more persons sue on behalf of other people who have similar claims. Plaintiff brought his case as a class action. In the Action, the Plaintiff seeks to represent you on a class and representative basis. Blaze Pizza Operations, LLC, formerly known as BP Fund A, LLC (“Blaze Pizza”) is the Defendant. A class action allows the Court to resolve the claims of all the class members at the same time. A class member is bound by the

determination or judgment entered in the case, whether the class wins or loses, and may not file his or her own lawsuit on the same claims that were decided in the class action. A class action allows one court to resolve all of the issues in a lawsuit for all the class members who choose not to exclude themselves from the class.

4. WHO IS INCLUDED IN THE SETTLEMENT CLASS?

All individuals who are or were non-exempt employees of Defendant and were paid wages in California at any time between May 2, 2019 through November 20, 2020 (“Class Period”).

5. WHAT ARE THE TERMS OF THE CLASS SETTLEMENT?

There was a hearing on [INSERT PRELIMINARY APPROVAL DATE] in the Superior Court of the State of California for the County of Sacramento, at which time Judge [REDACTED] preliminarily approved the Settlement. The Settlement will resolve the Class Members’ claims for violation of Labor Code §§226 and 2698, *et seq.*, for failure to provide accurate itemized wage statements during the Class Period.

The Settlement represents a compromise of highly disputed claims. Based on the investigation conducted by Plaintiff’s counsel, the estimated range of recovery for the entire class was between approximately \$ _____. Nothing in the Settlement is intended or will be construed as an admission by Blaze Pizza that the claims in the Actions have merit or that Blaze Pizza has any liability to the Plaintiff or the Class Members on those claims. No court has made any ruling on the merits of the Action.

The parties have agreed to settle the case for \$225,000.00 (“Gross Settlement Amount” or “GSA”). Under the terms of the settlement, the following payments have been agreed to: (1) attorneys’ fees not to exceed \$78,750.00 (35%) of the total settlement amount; (2) all documented litigation costs to Class Counsel, in amounts set by the Court, which are expected to not exceed \$30,000; (3) service payment to the Named Plaintiff Willie Sumpter Jr. for services in the Action, in an amount not to exceed \$10,000; and (4) \$6,000 for administration settlement costs. The amount of money remaining after these payments is the amount that will be distributed to individuals who are Settlement Class Members. This amount is known as the “Individual Settlement Payment”.

Each Class Member will receive a Settlement Class award based on the number of Qualifying Wage Statements worked by the Settlement Class Member during the Class Period. The Net Settlement Amount shall be divided by the total number of Qualifying Wage Statements for all Settlement Class Members during the Class Period. The result of this division shall yield a Wage Statement Payment Rate for the Class. The gross amount of each Settlement Class Member’s Individual Settlement Payment shall be calculated by multiplying the number of Qualifying Wage Statements applicable to that Class Member by the Wage Statement Payment Rate.

Your estimated Settlement payments is <<Estimated Payment>>.

6. HOW DOES THE SETTLEMENT AFFECT MY RIGHTS?

If the Settlement is approved, the Court will enter a Final Order and Judgment. Upon entry of the Final Order and Judgment and funding of the GSA, you will release the following claims, and will be barred from prosecuting any and all such claims, against Defendant Blaze Pizza Operations, LLC and each of its present and former parents, affiliates, divisions and subsidiaries, acquired companies, and each of its respective present and former directors, officers, shareholders, agents, representatives, employees, partners, attorneys, insurers, predecessors, successors, assigns, affiliated companies and entities and any individual or entity that could be jointly liable with any of the foregoing as follows:

All claims, rights, demands, liabilities, causes of action, and theories of liability of every nature and description, whether known or unknown, that were or could have been alleged against any of the Released Parties arising out of, in connection with, or based on the facts alleged in the operative First Amended Complaint. This includes, but may not be limited to, claims for failure to provide accurate itemized wage statements, penalties (including but not limited to civil and statutory penalties), damages, interest, costs, or attorneys' fees, and violations of any other local, state, or federal law, whether for penalties, to the extent necessary to effect a full and complete release of the Class Released Claims, including, but not limited to, all claims under any California Labor Code Sections 226 and 2698, *et seq.* and any related provisions. This release shall extend to all such claims accrued during the Class Period.

The precise definitions of the capitalized terms in the paragraphs above can be found in the Class Action Settlement Agreement filed on June 6, 2022, which can be viewed at the Courthouse (Superior Court of the State of California for the County of Sacramento, 720 9th St. Sacramento, CA 95814) during normal business hours or viewed online at <https://services.saccourt.ca.gov/PublicCaseAccess/>.

7. WHAT DO I NEED TO DO TO RECEIVE A SETTLEMENT PAYMENT?

You do not need to do anything to participate in the settlement. You will receive a monetary award from this Settlement approximately 90 days after the Final Approval Hearing on [INSERT DATE], if the Settlement is approved, and no later appeal is filed. Class Counsel have been appointed and approved by the Court and Class Counsel will represent you.

NOTE: It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your settlement payment. If you fail to keep your address current, you may not receive your settlement payment.

8. WHAT IF I WANT TO OBJECT TO THIS SETTLEMENT?

You can object to any of the terms of the Settlement before or at the Final Approval Hearing. Failure to take the steps below will be deemed a waiver of your objections. If the Court rejects your objection, you will still be bound by the terms of the Settlement, and receive a settlement payment unless you timely request to be excluded from the settlement. To object, in writing, you should mail your written objection to the Settlement Administrator at the addresses

listed below by [INSERT OBJECTION DEADLINE], 30 days after the date of mailing of this Notice. Your objection must (1) state your full name, address, and the last four digits of your Social Security Number (for identification purposes only); (2) state the grounds for the objection; (3) be signed by you or your lawful representative; and (4) be postmarked on or before the Response Deadline and returned to the Settlement Administrator and/or be emailed to the Settlement Administrator by 11:59 pm on [INSERT OBJECTION DEADLINE]:

- Settlement Administrator:
Peterson, et al. v. Blaze Pizza Operations LLC
ILYM
[INSERT SETTLEMENT ADMINISTRATOR ADDRESS]
Toll-free number: [TBD]
INSERT EMAIL

Any written objections shall state each specific reason for your objection and any legal support for each objection. You may appear personally at the Final Approval Hearing, or through your own counsel, paid for at your own expense.

IF YOU DO NOT TIMELY MAKE YOUR OBJECTION, YOU WILL BE DEEMED TO HAVE WAIVED ALL OBJECTIONS AND WILL NOT BE ENTITLED TO SPEAK AT THE FINAL APPROVAL HEARING.

9. WHAT IF I DON'T WANT TO PARTICIPATE IN THIS SETTLEMENT?

You have the right to request exclusion from the settlement. To do so, you must mail a letter to the Settlement Administrator that (1) contains your name, address, and the last four digits of your Social Security Number; (2) state that you request to exclude yourself from the Settlement and to opt out of the Settlement; (3) be signed by you or your lawful representative; and (4) be postmarked by the [INSERT OPT OUT DEADLINE] and returned to the Settlement Administrator by mail or email by 11:59 p.m. [INSERT OPT OUT DEADLINE]:

Peterson, et al. v. Blaze Pizza Operations LLC
ILYM
[INSERT SETTLEMENT ADMINISTRATOR ADDRESS]
Toll-free number: [TBD]
INSERT EMAIL

Unless you timely request to be excluded from the settlement, you will be bound by the judgment upon final approval of the Settlement, including the Release described in this Notice. Class Counsel will not represent your interests if you request to be excluded.

10. WILL THE NAMED PLAINTIFF BE COMPENSATED FOR BRINGING THIS LAWSUIT?

The Plaintiff Sumpter individually will request a service award of up to \$10,000 for his services as the Representative and for his efforts in bringing the Action. The Court will make the

final decision as to the amount of the service award to be paid to the Plaintiff. Plaintiff's Application for his service award can be viewed at the Courthouse after [INSERT DATE], during normal business hours (as well as Class Counsel's Application for Attorneys' Fees and Costs as discussed below). Plaintiff's Application will be available for review by no later than [INSERT DATE].

11. DO I HAVE A LAWYER IN THIS CASE?

Yes. The Court has ordered that the interests of Named Plaintiff and the Class Members are represented by counsel for Named Plaintiff as follows:

Larry W. Lee, Esq.
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515 S. Figueroa St., Suite 1250
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Telephone: (213) 488-6555
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Edward W. Choi, Esq.
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Los Angeles, CA 90071
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Facsimile: (213) 465-4885
Email: edward.choi@choiandassociates.com

Dennis S. Hyun
HYUN LEGAL, APC
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Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile
dhyun@hyunlegal.com

(Collectively, "Class Counsel"). Class Members 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.

12. HOW WILL THE LAWYERS BE PAID?

Class Counsel will be requesting from the Court an amount not to exceed 35% of the total settlement amount (in other words, up to \$ \$78,750.00) for their attorneys' fees and litigation costs not exceeding \$30,000. A copy of Class Counsel's application for attorneys' fees and costs can be viewed at the Courthouse after **[INSERT DATE – 16 COURT DAYS BEFORE FINAL APPROVAL]**, during normal business hours or viewed online at <https://services.saccourt.ca.gov/PublicCaseAccess/>. The actual amount awarded to Class Counsel will be determined by the Court.

13. WHAT IS THE FINAL APPROVAL HEARING?

The Court has preliminarily approved the Settlement and will hold a hearing to decide whether to give final approval to the Settlement. The purpose of the Final Approval Hearing will be for the Court to determine whether the Settlement should be approved as fair, reasonable,

adequate, and in the best interests of the Class; to consider the award of attorneys' fees and expenses to Class Counsel; and to consider the request for a service award to Named Plaintiff.

14. WHEN AND WHERE IS THE FINAL APPROVAL HEARING?

The Court will hold the Final Approval Hearing on [INSERT DATE and TIME] a.m., in Department 54 of the Superior Court of the State of California for the County of Sacramento, 720 9th St. Sacramento, CA 95814 ("Final Approval Hearing").

The Final Approval Hearing may be continued without further notice to the Class Members. It is not necessary for you to appear at the Final Approval Hearing to have your objection considered by the Court. However, you have the right to attend the Final Approval Hearing and be represented by your own counsel at your own expense. If you plan to attend the Final Approval Hearing, you may contact Class Counsel to confirm the date and time. If the Settlement is not approved by the Court or does not become final for some reason, the Action may continue to trial.

15. MAY I SPEAK AT THE FINAL APPROVAL HEARING?

At the hearing, the Court will be available to hear any objections and arguments concerning the Settlement. You may attend, but you do not have to attend. If you have requested exclusion from the Settlement, however, you may not speak at the Final Approval Hearing.

16. HOW DO I GET MORE INFORMATION?

To see a copy of the Class Action Settlement Agreement filed on June 6, 2022, (which defines the capitalized terms used in this Notice and provides a brief summary of what has happened in the Action), the Court's Preliminary Approval Order, Class Counsel's application for attorneys' fees and costs, the operative Complaint filed in the lawsuit, and other filed documents related to the lawsuit and this Settlement, you may view all such files at the Clerk's office at the Superior Court of the State of California for the County of Sacramento, 720 9th St. Sacramento, CA 95814 or viewed online at <https://services.saccourt.ca.gov/PublicCaseAccess/>.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at the address and telephone number listed below, toll free. Please refer to the Peterson v. Blaze Pizza Class Action Settlement.

Peterson v. Blaze Pizza
SETTLEMENT ADMINISTRATOR NAME
[INSERT INFO]

You may also contact the attorneys for the Class, whose names and contact information are listed above.

17. WHAT IF MY INFORMATION CHANGES?

If, after you receive this Notice, you change your postal address or telephone number, it is your responsibility to inform the Settlement Administrator of your updated information.

**DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE
LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE**

EXHIBIT 2

Larry W. Lee (State Bar No. 228175)
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Telephone: (213) 381-1515
Facsimile: (213) 465-4885

Attorneys for Plaintiffs and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

EMIL PETERSON, as an individual and on
behalf of all others similarly situated; and
WILLIE SUMPTER, JR., as an individual
and on behalf of all others similarly
situated,

Plaintiff,

v.

BP FUND A LLC, an unknown corporate
entity; BLAZE PIZZA OPERATIONS,
LLC, a limited liability company; and
DOES 1 through 50, inclusive,

Defendant.

Case No.: 34-2020-00288162

*Assigned for All Purposes to Christopher E.
Krueger in Department 54*

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: June 28, 2022

Time: 9:00 a.m.

Dept.: 54

Reservation No. 2646264

ORDER

The Court has considered the Class Action Settlement Agreement (“Settlement Agreement”) and all other papers filed in this action.

NOW THEREFORE, IT IS HEREBY ORDERED:

1. All defined terms contained herein shall have the same meanings as set forth in the Settlement Agreement;

2. The Class Representative and Defendant, through their counsel of record in the Litigation, have reached an agreement to settle all claims in the Action (“Action”) on behalf of the Class as a whole;

3. The Court hereby conditionally certifies the following Class for settlement purposes only:

“All individuals who are or were non-exempt employees of Defendant and were paid wages in California at any time between May 2, 2019 through November 20, 2020 (“Class Period”)

Should for whatever reason the Settlement Agreement not become Final, the fact that the parties were willing to stipulate to certification of a class as part of the Settlement Agreement shall have no bearing on, or be admissible in connection with, the Litigation or the issue of whether a class should be certified in a non-settlement context.

4. The Court appoints and designates: (a) Plaintiff WILLIE SUMPTER JR. as the Class Representative and (b) Larry W. Lee of Diversity Law Group, P.C., Edward W. Choi of Law Offices of Choi & Associates, APLC., and Dennis S Hyun of Hyun Legal, APC as Class Counsel for the Class. Class Counsel is authorized to act on behalf of the Class with respect to all acts or consents required by, or which may be given, pursuant to the Settlement Agreement, and such other acts reasonably necessary to finalize the Settlement Agreement and its terms. Any Class Member may enter an appearance through his or her own counsel at such Class Member’s own expense. Any Class Member who does not enter an appearance or appear on his or her own behalf and who does not opt-out of the Settlement Agreement will be represented by Class Counsel.

5. The Court hereby approves the terms and conditions provided for in the Settlement

1 Agreement.

2 6. The Court hereby preliminarily approves the Settlement Agreement and the Gross
3 Settlement Amount of \$225,000.00, which is to be distributed as follows: (a) up to \$10,000.00 is
4 to be paid to the Class Representative for his Service Award, (b) up to \$78,750.00 shall be paid to
5 Class Counsel for attorneys' fees, plus up to \$30,000.00 for reimbursement of litigation costs, and
6 (c) the Settlement Administrator shall be paid for its fees and costs relating to the settlement
7 administration process which is expected to not exceed \$6,000.00. The Court further hereby
8 preliminarily approves the Net Settlement Amount and the formulas provided in the Settlement
9 Agreement regarding Individual Settlement Payments.

10 7. The Court finds that on a preliminary basis the Settlement Agreement appears to be
11 within the range of reasonableness of a settlement, including the amount of the, Class
12 Representative Service Award, Class Counsel's fees and costs, the Settlement Administration fees,
13 and the allocation of payments to Class Members, that could ultimately be given final approval by
14 this Court. It appears to the Court on a preliminary basis that the settlement is fair, adequate, and
15 reasonable as to all potential Class Members when balanced against the probable outcome of
16 further litigation relating to liability and damages issues. It also appears that extensive and costly
17 investigation, research, and court proceedings have been conducted so that counsel for the settling
18 parties are able to reasonably evaluate their respective positions. It appears to the Court that
19 settlement at this time will avoid substantial additional costs by all settling parties, as well as avoid
20 the delay and risks that would be presented by the further prosecution of the Action. It also
21 appears that settlement has been reached as a result of intensive, serious, and non-collusive arms-
22 length negotiations.

23 8. A hearing (the "Final Fairness Hearing") shall be held before this Court on
24 _____ at _____ in Department 54 of the Superior Court of the State of California,
25 County of Los Angeles, Spring Street Courthouse, located at 720 9th Street, Sacramento, CA
26 95814 to determine all necessary matters concerning the Settlement Agreement, including whether
27 the proposed settlement of the action on the terms and conditions provided for in the Settlement
28 Agreement is fair, adequate and reasonable and should be finally approved by the Court and

1 whether a Judgment, as provided in the Settlement Agreement, should be entered herein. At this
2 same time, a hearing on Class Counsel's motion for attorneys' fees and reimbursement of
3 litigation costs and the Class Representative's service award shall also be held.

4 9. The Court hereby approves, as to form and content, the Class Notice to be sent to
5 Class Members, which is attached as an Exhibit 1 to the Settlement Agreement. The Court finds
6 that distribution of the Class Notice to Class Members substantially in the manner and form set
7 forth in the Settlement Agreement and this Order meets the requirements of due process and shall
8 constitute due and sufficient notice to all parties entitled thereto.

9 10. The Court appoints and designates ILYM Group, Inc. as the Settlement
10 Administrator. The Court hereby directs the Settlement Administrator to provide the approved
11 Class Notice to Class Members pursuant to the procedures set forth in the Settlement Agreement.

12 11. Any Class Member may choose to opt out of and be excluded from the settlement
13 as provided in the Settlement Agreement and Class Notice and by following the instructions for
14 requesting exclusion. Any person who timely and properly opts out of the settlement will not be
15 bound by the Settlement Agreement or have any right to object, appeal, or comment thereon. Any
16 exclusion request must be in writing and signed by each such Class Member opting-out and must
17 otherwise comply with the requirements delineated in the Class Notice. Class Members who have
18 not requested exclusion by submitting a valid and timely exclusion request, by the Response
19 Deadline, shall be bound by all determinations of the Court, the Settlement Agreement, and
20 Judgment.

21 12. Any Class Member may object to the Settlement Agreement or express his or her
22 views regarding the Settlement Agreement, and may present evidence and file briefs or other
23 papers that may be proper and relevant to the issues to be heard and determined by the Court as
24 provided in the Class Notice. Any Class Member who does not make his or her objection in the
25 manner provided for in the Settlement Agreement and Class Notice, including by the Response
26 Deadline, shall be deemed to have waived such objection and shall forever be foreclosed from
27 making any objection to the Settlement Agreement.

28 13. The Motion for Final Approval shall be filed by the Class Representative no later

1 than sixteen (16) court days before the Final Fairness Hearing.

2 14. In the event that the Effective Date occurs, all Settlement Class Members and Class
3 Representative will be deemed to have forever released and discharged the Released Claims
4 applicable to them.

5 15. The Court reserves the right to adjourn or continue the date of the Final Fairness
6 Hearing and all dates provided for in the Settlement Agreement without further notice to the Class,
7 and retains jurisdiction to consider all further applications arising out of or connected with the
8 Settlement Agreement.

9

10 IT IS SO ORDERED.

11

12 DATED: _____

13

Honorable Christopher E. Krueger
Judge of the Superior Court

14

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EXHIBIT 3

Larry W. Lee (State Bar No. 228175)
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Attorneys for Plaintiffs and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

EMIL PETERSON, as an individual and on
behalf of all others similarly situated; and
WILLIE SUMPTER, JR., as an individual
and on behalf of all others similarly
situated,

Plaintiff,

v.

BP FUND A LLC, an unknown corporate
entity; BLAZE PIZZA OPERATIONS,
LLC, a limited liability company; and
DOES 1 through 50, inclusive,

Defendant.

Case No.: 34-2020-00288162

*Assigned for All Purposes to Christopher E.
Krueger in Department 54*

**[PROPOSED] ORDER AND JUDGMENT
OF FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: **
Time: **
Dept.: 54

1 This matter having come before this Court for hearing on _____ at _____ a.m.
2 on Plaintiff Willie Sumpter, Jr.'s ("Named Plaintiff") unopposed Motion for Final Approval of
3 Class Action Settlement, as set forth in the Parties' Class Action Settlement Agreement
4 ("Settlement Agreement"), pursuant to the Order Granting Motion for Preliminary Approval of
5 Class Action Settlement ("Preliminary Approval Order"), adequate notice having been given as
6 required in said Order, and the Court having considered all papers filed and proceedings had
7 herein, and good cause appearing therefore, it is ORDERED, ADJUDGED AND DECREED
8 THAT:

9 The Court has jurisdiction over the subject matter of the action and all parties.

10 Based on a review of the papers submitted by Named Plaintiff and a review of the
11 applicable law, the Court finds that the Gross Settlement Amount of \$225,000.00 and the terms
12 set forth in the parties' Settlement Agreement are fair, reasonable, and adequate. The
13 Settlement Agreement is hereby incorporated into this Order as though fully set forth herein.
14 Except as otherwise specified herein and for purposes of this Order, the terms used in this
15 Order have the meaning assigned to them in the Settlement Agreement and Notice of
16 Settlement of Class Action Lawsuit ("Class Notice").

17 The Court hereby certifies the following Class for settlement purposes only:

18 "All individuals who are or were non-exempt employees of Defendant and were
19 paid wages in California at any time between May 2, 2019 through November
20 20, 2020 ("Class Period")."

21 The Court has determined that the Class Notice provided to the Class pursuant to the
22 Preliminary Approval Order fully and accurately informed all Class Members of the material
23 elements of the proposed Settlement, constituted the best notice practicable under the
24 circumstances, and constituted valid, due and sufficient notice to all Class Members.

25 The Court hereby grants full, unconditional and final approval of the Settlement as fair,
26 reasonable and adequate in all respects, determines that the Settlement was made in good faith
27 and in the best interests of the Parties, and orders the Parties to effectuate the Settlement in
28 accordance with the terms of the Settlement Agreement. The Court further finds that the

1 Settlement was the result of arm's-length negotiations conducted after Class Counsel had
2 thoroughly and adequately investigated the claims and became familiar with the strengths and
3 weaknesses of those claims. In particular, the amount of monies allocated to the Class
4 Members, and the assistance of an experienced mediator in the settlement process, among
5 other factors, support the Court's conclusion that the Settlement is fair, reasonable, and
6 adequate. The amounts agreed to be paid by Defendant Blaze Pizza Operations, LLC,
7 formerly known as BP FUND A ("Defendant"), including the Individual Settlement Payments
8 to be paid to Settlement Class Members as provided for by the Settlement Agreement, are fair
9 and reasonable under the facts of this case.

10 The Court hereby grants final approval of attorneys' fees in the amount of \$78,750.00
11 and grants final approval of attorneys' costs in the amount of \$30,000.00 to Class Counsel.

12 The Court hereby grants final approval of an enhancement award in the amount of
13 \$10,000.00 to Named Plaintiff, in addition to his Individual Settlement Payment, for his time
14 and effort serving as the Class Representative.

15 The Court also hereby approves payment of \$6,000.00 to ILYM, the appointed
16 Settlement Administrator, for the services it has rendered and will render in administering the
17 Settlement as described more fully in the Settlement Agreement.

18 The Court hereby finds that the Class Notice and all related documents have been
19 mailed to all Class Members as previously ordered by the Court, and that such Class Notice
20 fairly and adequately described the terms of the proposed Settlement Agreement, the manner in
21 which Class Members could object to or participate in the Settlement, and the manner in which
22 Class Members could opt out of the Class; was the best notice practicable under the
23 circumstances; was valid, due and sufficient notice to all Class Members; and complied fully
24 with California Rule of Court 3.769, due process and all other applicable laws. The Court
25 finds that there are zero (0) request for exclusion. The Court further finds that a full and fair
26 opportunity has been afforded to Class Members to participate in the proceedings convened to
27 determine whether the proposed Settlement Agreement should be given final approval.
28

1 Accordingly, the Court hereby determines that all Class Members who did not file a timely and
2 proper request to be excluded from the Settlement are bound by this Order.

3 The Court finds that the Settlement Agreement is fair, reasonable, and adequate as to
4 the Class, Named Plaintiff and Defendant. The Court further finds that the Settlement is the
5 product of good faith, intensive, serious, non-collusive, and arm's-length negotiations between
6 the Parties, is supported by an evidentiary record, experienced and qualified Class Counsel and
7 involvement of an experienced mediator, and all Settlement Class Members, and confers a
8 significant financial benefit to the Class commensurate with the likely recovery if Named
9 Plaintiff prevailed at trial and the risks of continued litigation. The Court further finds that the
10 Settlement Agreement is consistent with public policy, and fully complies with all applicable
11 provisions of law, including the provisions of California Code of Civil Procedure section 382
12 and California Rules of Court, Rule 3.760. The nature of the claims, the strength of
13 Defendant's defenses, the amounts paid under the Settlement, the allocation of settlement
14 proceeds among the Settlement Class Members and the fact that a settlement represents a
15 compromise of the Parties' respective positions rather than the result of a finding of liability at
16 trial all support the Court's decision granting final approval. The following factors also
17 support the decision granting final approval: the risk, expense, complexity and likely duration
18 of further litigation; the risk of attaining and maintaining class action status throughout the
19 proceedings; and the extent of discovery completed and the stage of the proceedings.

20 The reaction of the Class Members to the proposed Settlement further supports the
21 Court's decision granting final approval. There were no objections nor requests for exclusion.

22 ILYM shall calculate and administer from the Maximum Gross Settlement Amount the
23 following, all of which shall be deducted from the \$225,000.00 Gross Settlement Amount:
24 Individual Settlement Payments to be made to the Settlement Class Members; Attorney's Fees
25 and Expenses Payment to Class Counsel; Enhancement Payment to the Named Plaintiff. ILYM
26 is hereby directed to mail the Individual Settlement Payments and take all other actions in
27 furtherance of the settlement administration as specified in the Settlement Agreement.
28

1 The releases, waivers and covenants not to sue by the Named Plaintiff, as set forth in
2 the Settlement Agreement and in the Class Notice, are approved and are hereby incorporated
3 by reference and made a part of this Order as though fully set forth herein. As more
4 specifically set forth in the Settlement Agreement, by operation of the entry of this Order and
5 Judgment and pursuant to the Settlement, Named Plaintiff waives and releases the Released
6 Claims as set forth in the Settlement Agreement, which are barred pursuant to this Order and
7 Judgment.

8 By means of this Final Approval Order, final judgment is entered, as defined in section
9 577 of the California Code of Civil Procedure, binding each Settlement Class Member and
10 operating as a full release and discharge of Released Claims as follows:

11 “Providing there is final approval of this Settlement, then as of the date on
12 which Defendant fully funds the Gross Settlement Amount (“Release
13 Effective Date”), each Settlement Class Member, individually and on
14 behalf of their respective successors, assigns, agents, attorneys, executors,
15 heirs and personal representatives, shall fully and finally release and
16 discharge the Released Parties, and each of them from the Released Class
17 Claims. The Class Released Claims include all claims, rights, demands,
18 liabilities, causes of action, and theories of liability of every nature and
19 description, whether known or unknown, that were or could have been
20 alleged against any of the Released Parties arising out of, in connection
21 with, or based on the facts alleged in the operative First Amended
22 Complaint. This includes, but may not be limited to, claims for failure to
23 provide accurate itemized wage statements, penalties (including but not
24 limited to civil and statutory penalties), damages, interest, costs, or
25 attorneys' fees, and violations of any other local, state, or federal law,
26 whether for penalties, to the extent necessary to effect a full and complete
27 release of the Class Released Claims, including, but not limited to, all
28 claims under any California Labor Code Sections 226 and 2698, et seq.
and any related provisions. This release shall extend to all such claims
accrued during the Class Period”.

23 All rights to appeal this Order or the Judgment have been waived except as specifically
24 permitted in the Settlement Agreement.

25 Nothing in this Order and Judgment shall preclude any action to enforce the Parties'
26 obligations under the Settlement or under this Order.
27
28

1 Settlement Class Members shall have one-hundred eighty (180) days from the date of
2 issuance of the check to negotiate the check. Funds represented by Individual Settlement
3 Payment checks returned as undeliverable and Individual Settlement Payment checks
4 remaining un-cashed for more than 180 days after issuance will be tendered to the California
5 State Controller's Office as unclaimed property pursuant to the California Unclaimed Property
6 Law to be held in the name of the Settlement Class Member.

7 A non-appearance compliance hearing is set for _____, 2023 in
8 Department 54 of the above-referenced Court. At least five (5) court days prior to the
9 compliance hearing, the Settlement Administrator will provide a written declaration under oath
10 to certify the total amount that was paid to all class members and ensure that distribution of the
11 un-cashed funds be tendered to the California State Controller to be held in the unclaimed
12 property fund in the name of the Settlement Class Member.

13 Without affecting the finality of the Judgment in any way, the Court reserves exclusive
14 and continuing jurisdiction over the action and the Parties for purposes of supervising the
15 implementation, enforcement, construction, administration and effectuation of the Settlement
16 Agreement.

17 The Parties and ILYM are hereby ordered to implement and comply with the terms of
18 the Settlement Agreement.

19 Notice of entry of this Order and Judgment will be available on the Settlement
20 Administrator's website.

21
22 **IT IS SO ORDERED AND ADJUDGED.**

23
24 DATED: _____

25 Honorable Christopher E. Krueger
26 Judge of the Superior Court
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