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

MARIO ROMERO, as an individual and on behalf
of all others similarly situated, and as a private
attorney general,

Plaintiff,

vs.

SAN FRANCISCO C&C/MEL'S DRIVE IN,
form unknown; and DOES 1 through 50, inclusive,

Defendants.

Case No. 20STCV41738

[Hon. Carolyn B. Kuhl, Department 12]

**DECLARATION OF SIMON L. YANG IN
SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: January 11, 2023
Time: 10:30 a.m.
Department: 12
Complaint Filed: October 27, 2020

1 I, Simon L. Yang, declare as follows:

2 1. I am an attorney admitted to practice in the State of California and, with the law firm
3 Diversity Law Group, P.C., am counsel of record for Plaintiff. I make this declaration on the basis of my
4 own personal knowledge, except as to those matters stated on information and belief and, as to those
5 matters, I believe them to be true. If called as a witness, I could testify competently as to the facts stated
6 in this declaration.

7 2. On August 27, 2020, Plaintiff initiated this class and private attorney general action on
8 behalf of a putative class of current and former non-exempt employees of Defendant in the State of
9 California. The Action pursued class action and representative action claims for Defendant's alleged
10 failures to pay or timely pay all sick pay wages and overtime, provide meal and rest breaks, and furnish
11 accurate itemized wage statements.

12 3. On November 24, 2020, and numerous dates thereafter, Plaintiff and Defendant met and
13 conferred about the alleged claims. On June 30, 2021, Plaintiff served initial written discovery. On July
14 15, 2021, Defendant served initial written discovery. The Parties supplemented formal discovery by
15 continuing to exchange information pursuant to informal methods to assist the Parties in exploring the
16 possibility of a mediated resolution. Plaintiff continued investigating the alleged claims and also
17 analyzed any defenses raised by Defendant. Defendant provided its written policies and a sample of
18 class pay and time data, among other things—enabling Plaintiff to assess the value of Class Members'
19 claims and further enabling negotiations to take place between the Parties. Defendant's willingness to
20 supplement formal discovery with informal discovery enabled Plaintiff to evaluate the extent of
21 Defendant's potential liability. Ultimately, the Parties agreed to schedule a mediation.

22 4. On March 31, 2022, the Parties attended a mediation with Lynn Frank, an experienced
23 mediator knowledgeable of both the wage and hour laws and class and representative action claims at
24 issue. With the mediator's assistance and based upon the mediator's proposal, the Parties were able to
25 agree to settlement terms, which were negotiated in light of all known facts and circumstances—
26 including the uncertainty associated with litigation, the risks of significant delay, and numerous potential
27 appellate issues. The settlement terms were memorialized in the Joint Stipulation of Class Action and
28 PAGA Settlement (the "Agreement"), a true and correct copy of which is attached as **Exhibit 1**.

1 5. The Agreement requires Defendant to pay \$750,000.00—or approximately \$474.68
2 gross, on average, per Class Member. As discussed below, this amounts to approximately 9.86% of
3 Defendant’s potential liability and is an excellent result for Class Members. To wit, Plaintiff contended
4 that meal and rest period violations resulted in Labor Code section 226.7 penalties of an additional hour
5 of regular rate wages. Plaintiff also contended that underpaid sick pay wages and overtime resulted in
6 Section 203 penalties of up to 30 days wages.¹ Under PAGA, Plaintiff contended that Defendant also
7 would be liable for an additional \$50 per pay period under Section 558. Moreover, Plaintiff contended
8 that class claims under Section 226(e) result in a \$50 penalty for the first non-compliant wage statement
9 to each Class Member and a \$100 penalty for each additional non-compliant wage statement to the Class
10 Member, up to a maximum of \$4,000 per class member. Under PAGA, Plaintiff contended that PAGA
11 penalties under Section 2699(f) also result in up to \$100 per pay period.

12 6. Defendant contested the merits and denied it was liable at all. Moreover, even if Plaintiff
13 prevailed on the merits, Defendant contested the extent of liability. For example, with respect to wage
14 statement liability, Defendant contended that liability under Section 226(e) would be subject to
15 additional defenses requiring proof of injuries resulting from knowing and intentional violations.
16 Likewise, with respect to sick pay and overtime liability, Defendant contended that it would not be
17 subject to Section 203 penalties, based on a good faith defense. As for meal and rest period violations,
18 Defendant contended that (i) it had already paid an additional hour of wages for meal and rest period
19 violations and (ii) the claims were not suitable for class or representative action litigation. Finally, with
20 respect to PAGA penalties, Defendant contended that PAGA penalties in any event be subject to
21 discretionary reductions.

22 7. While the Parties disagree on the application of the law to the facts, each Party
23 recognized in negotiations that, if taken to trial, the other Party would at least have reasonable
24 arguments, such that the Gross Settlement Amount to which the Parties ultimately agreed was
25 reasonable. Ultimately, based on data available at mediation and extrapolated through May 31, 2022,
26 Plaintiff argued that the potential total recovery amounted to approximately \$7,608,490—which
27

28 ¹ Actual underpayments of sick pay wages and overtime amount to comparatively smaller sums.

1 included approximately \$931,500 under Section 226.7, approximately \$2,468,490 under Section 203,
2 approximately \$857,500 under Section 558, approximately \$1,636,000 under Section 226(e), and
3 approximately \$1,715,000 under Section 2699(f). The Gross Settlement Amount of \$750,000.00 is
4 approximately 9.86% of the potential total recovery of \$7,608,490. Based on the terms of the
5 Agreement, it is expected that, on average, each Class Member would be allocated approximately
6 \$264.24 (*after* all requested payments from the Gross Settlement Amount).²

7 8. Although I am confident that litigation of the claims would result in a classwide judgment
8 against Defendant, I recognize the inherent risks in litigation, including the specific risks that class
9 certification could be denied, liability could not be established at trial, or the applicable law could
10 change. I recognize that the settlement resulting from extensive arm's length negotiations between the
11 Parties is fair, reasonable, and adequate for each participating Class Member, given the inherent risks of
12 litigation, as well as the potential for appeals and the costs of pursuing litigation.

13 9. I am one of the primary attorneys on this matter. My qualifications are as follows: After
14 completing my undergraduate education at The Wharton School at the University of Pennsylvania in
15 2004 with concentrations in Management and Human Resources, I continued studying labor and
16 employment issues by enrolling in post-graduate education at the School of Labor and Employment
17 Relations at the University of Illinois. I determined before enrolling in law school that I wanted to
18 practice labor and employment law in California. I thus received my J.D. from UCLA School of Law in
19 2008. During law school, I spent the summer of 2006 with the National Labor Relations Board, Region
20 21, and the summer of 2007 with the law firm of Seyfarth Shaw LLP in 2007.

21 10. Upon graduating from law school in 2008, I practiced labor and employment law at
22 Seyfarth Shaw LLP, a well-regarded labor and employment firm. I was elevated to partner in 2019. My
23 practice focused on wage and hour class, collective, and representative actions, with a particular
24 emphasis on matters involving the Labor Code Private Attorneys General Act of 2004 ("PAGA").
25 During my time with Seyfarth Shaw LLP, I was a primary attorney on numerous wage and hour class,

26 ² The amount paid on average to each Class Member may increase, depending on how many Class
27 Members opt out of the class action settlement. The amount actually paid to any Class Member may
28 increase or decrease depending on his or her number of relevant wage statements during the Class
Period.

collective, and representative actions that resulted in published opinions, including for example, *Ehret v. WinCo Foods, LLC*, 26 Cal. App. 6th 1 (2018) (affirming summary judgment in PAGA action based on absence of meal period violations in light of collectively bargained waiver of meal periods on shifts of not more than six hours), and *Ruelas v. Costco Wholesale Corporation*, 67 F. Supp. 3d 1137 (C.D. Cal. Sept. 8, 2014) (obtaining dismissal of wage statement allegations in PAGA representative action). I was also able to obtain experience litigating representative claims or wage and hour matters through trial and appeal. *E.g.*, *Velazquez v. Costco Wholesale Corporation*, 603 Fed. App'x 584 (9th Cir. Mar. 25, 2015) (reversing award of waiting-time penalties based on lack of evidence supporting any willful failure to pay wages); *Ward v. Costco Wholesale Corporation*, 552 Fed. App'x 631 (9th Cir. Jan. 9, 2014) (affirming bench-trial judgment in favor of defendant against named plaintiff and 18 opt-in plaintiffs in collective action with involving deductions from final paychecks). I also litigated class certification on numerous matters. *E.g.*, *Martinez v. Guess?, Inc.*, Los Angeles Superior Court Case No. BC 498326 (denial of class certification on behalf of retail employees alleging off-the-clock work).

11. Based on my experience in wage and hour class, collective, and representative actions, I have been interviewed and quoted in articles published in the Northern California Record about legislative efforts to reform PAGA. I also have published articles on myriad topics relevant to wage and hour class and representative action litigation, including for example articles on California kin care requirements in *Employee Relations Law Journal* (Vol. 36, No. 2), the extraterritorial application of California employment laws in *The Recorder* (134RD Year No. 28), and California meal and rest break laws in *California Transportation News*, a publication of the California Construction Trucking Association.

12. In 2020 I left Seyfarth Shaw LLP and joined my current firm, Diversity Law Group, P.C., which also focuses primarily on employment law. I have handled a number of wage and hour class and representative actions and continue litigating such matters in numerous Superior Courts and District Courts. From matters with both Seyfarth Shaw LLP and Diversity Law Group, P.C., I have successfully mediated the resolution of dozens of wage and hour class, collective, and representative actions. I have obtained class certification and been appointed class counsel. No court has ever found me to be inadequate class counsel.

13. My co-counsel and I will adequately represent the Class Members in this action. Plaintiff's Counsel have and will zealously represent Plaintiff and the Class and pursue this lawsuit to its conclusion.

14. Along with the filing of the motion for preliminary approval of the settlement in this matter, a copy of the motion papers have also been uploaded to the Labor and Workforce Development Agency (“LWDA”) in compliance with Section 2699(1)(2) and (4). Similarly, upon approval of a settlement in this matter, my regular practice would be to direct my office staff to upload a copy of the Court’s judgment, papers, or other orders awarding civil penalties under PAGA.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 16th day of December 2022, at Pasadena, California.

Simon L. Yang

EXHIBIT 1

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Attorneys for Defendant

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

MARIO ROMERO, as an individual and on
behalf of all others similarly situated, and as a
private attorney general,

Plaintiff,

vs.

SAN FRANCISCO C&C/MEL'S DRIVE IN,
form unknown; and DOES 1 through 50,
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Defendants.

Case No. 20STCV41738

[Hon. Carolyn B. Kuhl, Department 12]

**JOINT STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT**

JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT

This Joint Stipulation of Class Action and PAGA Settlement is entered into by and between Plaintiff, Mario Romero, on the one hand, and Defendant, San Francisco C&C/Mel's Drive In, on the other hand.

1. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

1.1. Action. "Action" means the civil lawsuit originally entitled *Mario Romero v. San Francisco C&C/Mel's Drive In*, filed on or about October 27, 2020, in the Superior Court of the State of California for the County of Los Angeles designated as Case No. 20STCV41738.

1.2. Administrator. "Administrator" means the third-party settlement administrator approved by the Court to administer the settlement.

1.3. Agreement. "Agreement" means this Joint Stipulation of Class Action Settlement.

1.4. Class Counsel. "Class Counsel" means Larry W. Lee and Simon L. Yang of Diversity Law Group, P.C.

1.5. Class Member. "Class Member" means all current and former non-exempt employees of Defendant in the State of California during the Class Period.

1.6. Class Notice. "Class Notice" means the Notice of Class Action and PAGA Settlement, substantially in the form attached as Exhibit A.

1.7. Class Period. "Class Period" means October 20, 2016, through May 31, 2022.

1.8. Court. "Court" means the Superior Court of California for the County of Los Angeles.

1.9. Defendant. "Defendant" means San Francisco C & C dba Mel's Drive-In.

1.10. Defendant's Counsel. "Defendant's Counsel" means Matthew Wertheim of Law Offices of Matthew Wertheim .

1.11. Effective Date. "Effective Date" means: (a) if no objections to the settlement are filed, the date the Final Approval Order is signed by the Court; (b) if objections to the settlement are filed, the day following the expiration of the time for the filing of an appeal of the Final Approval Order; or (c) if any appeals of the Final Approval Order are filed, the day following the expiration of time to further appeal an order affirming the Final Approval Order.

1 **1.12. Final Approval Order.** “Final Approval Order” means an order granting final approval
2 of a settlement pursuant to this Agreement.

3 **1.13. Gross Settlement Amount.** “Gross Settlement Amount” means the maximum potential
4 settlement amount—inclusive of any Attorneys’ Fees and Costs Award, Class Representative Award,
5 Administration Costs, PAGA Penalty Fund, and allocations for Individual Settlement Payments—that
6 Defendant may be required to pay in connection with a Final Approval Order.

7 **1.13.1. Administration Costs.** “Administration Costs” means a Court approved payment
8 from the Gross Settlement Amount to the Administrator for administering the settlement, which includes
9 but is not limited to printing, distributing, or tracking Class Notices, processing any required tax
10 payments or reporting, providing any required tax forms, distributing payments pursuant to a Final
11 Approval Order, and providing necessary reports or declarations, as requested by the Court or Class
12 Counsel and Defendant’s Counsel.

13 **1.13.2. Attorneys’ Fees and Costs Award.** “Attorneys’ Fees and Costs Award” means a
14 Court approved payment from the Gross Settlement Amount for Class Counsel’s attorneys’ fees and
15 costs associated with the litigation and resolution of the Action (excluding third-party Administration
16 Costs).

17 **1.13.3. Class Representative Award.** “Class Representative Award” means a Court
18 approved payment from the Gross Settlement Amount to Plaintiff in recognition of his efforts and work
19 in prosecuting the Action on behalf of Class Members and PAGA Employees and in consideration of
20 Plaintiff’s additional general release of claims inapplicable to Settlement Class Members and PAGA
21 Employees.

22 **1.14. Individual Settlement Payment.** “Individual Settlement Payment” means a Class
23 Member’s potential payment from the Gross Settlement Amount, which may include an Individual Class
24 Payment and Individual PAGA Payment.

25 **1.14.1. Individual Class Payment.** “Individual Class Payment” means a Settlement
26 Class Member’s potential payment from the Net Settlement Amount for the class action settlement.

27 **1.14.2. Individual PAGA Payment.** “Individual PAGA Payment” means a PAGA
28 Employee’s potential payment from the PAGA Penalty Fund for the PAGA settlement.

1 **1.15. LWDA Payment.** “LWDA Payment” means a Court approved payment to the Labor &
2 Workforce Development Agency (“LWDA”) of 75% of the PAGA Penalty Fund.

3 **1.16. Net Settlement Amount.** “Net Settlement Amount” means the remainder of the Gross
4 Settlement Amount after Court approved deductions for the Attorneys’ Fees and Costs Award, Class
5 Representative Award, Administration Costs, and PAGA Penalty Fund.

6 **1.17. PAGA Employee.** “PAGA Employee” means all current and former non-exempt
7 employees of Defendant in the State of California during the PAGA Period.

8 **1.18. PAGA Period.** “PAGA Period” means October 14, 2019, through May 31, 2022.

9 **1.19. PAGA Penalty Fund.** “PAGA Penalty Fund” means the portion of the settlement
10 allocated to PAGA penalties.

11 **1.20. Parties.** “Parties” means Plaintiff and Defendant.

12 **1.21. Plaintiff.** “Plaintiff” means Mario Romero.

13 **1.22. Preliminary Approval Order.** “Preliminary Approval Order” means an order granting
14 preliminary approval of a settlement pursuant to this Agreement.

15 **1.23. Released Party.** “Released Party” means Defendant and its present and former parent
16 companies, subsidiaries, divisions, related or affiliated companies, and its shareholders, officers,
17 directors, employees, agents, attorneys, insurers, successors and assigns, counsel in the Action, and any
18 other individual or entity that could be liable for any of the Released Claims.

19 **1.24. Settlement Class Members.** “Settlement Class Members” means Class Members and
20 PAGA Employees who do not exclude themselves from the class action settlement by complying with
21 the procedures set forth in the Class Notice to opt out of the class action settlement.

22 **2. RECITALS**

23 **2.1. Initiation of Action.** On or about August 27, 2020, Plaintiff filed the original complaint
24 initiating the Action on behalf of a putative class of current and former non-exempt employees of
25 Defendant in the State of California. The Action pursued class action and representative action claims
26 under the Labor Code Private Attorneys General Act of 2004 (“PAGA”) for Defendant’s alleged failures
27 to pay or timely pay all sick pay, wages and overtime, provide meal and rest breaks, and furnish accurate
28 itemized wage statements, as well as engage in unfair business practices.

1 **2.2. Class Counsel’s Investigation.** On November 24, 2020, and numerous dates thereafter,
2 Plaintiff and Defendant met and conferred about the alleged claims. On June 30, 2021, Plaintiff served
3 initial written discovery. On July 15, 2021, Defendant served initial written discovery. The Parties
4 supplemented formal discovery by continuing to exchange information and documentation pursuant to
5 informal methods to assist the Parties in exploring the possibility of a mediated resolution. Class
6 Counsel continued investigating the alleged claims and also analyzed any defenses raised by Defendant.

7 **2.3. Mediation and Settlement.** On March 31, 2022, the Parties attended a mediation with
8 Lynn Frank, an experienced mediator knowledgeable of both the wage and hour laws and class and
9 representative action claims at issue in the Action. With the mediator’s assistance and based upon the
10 mediator’s proposal, the Parties were able to agree to settlement terms, which were negotiated in light of
11 all known facts and circumstances—including the uncertainty associated with litigation, the risks of
12 significant delay, and numerous potential appellate issues. The settlement was achieved only after
13 extensive arm’s length negotiations both during and in the weeks leading up to the mediation. The
14 Parties agree to a settlement to resolve all disputes and litigation between the Parties. It is the desire of
15 the Parties to fully, finally, and forever settle, compromise, or discharge any and all class and PAGA
16 claims, rights, demands, charges, complaints, causes of action, obligations or liability of any and every
17 kind that were or could have been asserted in the Action or that arise out of the alleged facts,
18 circumstances, and occurrences underlying the allegations in the Action. The settlement represents the
19 Parties’ good-faith compromise of the claims raised in the Action, based upon their assessment of the
20 mutual risks and costs of further litigation.

21 **2.4. No Admission of Liability.** Defendant denied and continues to deny all of the allegations
22 made by Plaintiff in the Action. Defendant denies all of the allegations in the Action, including
23 specifically that it has violated any federal, state, or local law. Defendant maintains that it has complied
24 in good faith with California wage and hour law and dealt fairly and legally with Plaintiff, the Class
25 Members, and PAGA Employees. Nonetheless, Defendant has concluded that further proceedings in the
26 Action would be protracted and expensive, and that the Action be fully and finally settled in the manner
27 and upon the terms and conditions set forth in this Agreement in order to dispose of burdensome and
28 protracted litigation. Although Defendant denied and continues to deny all of the allegations made by

1 Plaintiff in the Action, Defendant—without admitting or conceding any liability or wrongdoing
2 whatsoever—has agreed to settle the Action on the terms and conditions set forth in this Agreement for
3 the sole purpose of avoiding the burden and distraction to its business, monetary expense, and
4 uncertainty of continuing the Action. Except as necessary in any proceeding to enforce the terms of this
5 Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in
6 any action or proceeding to establish any liability or admission on the part of Defendant or to establish
7 the existence of any condition constituting a violation of or non-compliance with federal, state, local or
8 other applicable law. The Parties understand and agree that this Agreement and all exhibits thereto are
9 settlement documents and shall be inadmissible for any purpose in any proceeding, except in an action
10 or proceeding to approve, interpret, or enforce the terms of this Agreement. The Parties agree that, to the
11 extent permitted by law, this Agreement may be pleaded as a full and complete defense to and may be
12 used as the basis for an injunction against or dismissal of any action, suit, or other proceeding that may
13 be instituted, prosecuted, or attempted in breach of this Agreement.

14 **2.5. Class Counsel's Evaluation.** Based on Class Counsel's ongoing investigation and
15 evaluation, Class Counsel is of the opinion that the terms set forth in this Agreement are fair, reasonable,
16 adequate, and in the best interests of Class Members.

17 **2.6. Certification of Settlement Class.** This Agreement is contingent upon the approval and
18 certification by the Court of a class for purposes of settlement. The Parties agree to cooperate and take
19 all steps necessary and appropriate to effectuate all aspects of this Agreement and to obtain a
20 Preliminary Approval Order and then a Final Approval Order.

21 **3. NOTICE TO CLASS MEMBERS**

22 **3.1. Administrator.** Plaintiff and Class Counsel shall request that the Court appoint Phoenix
23 Settlement Administrators as the Administrator for purposes of sending notice of the settlement to Class
24 Members.

25 **3.2. Class Data for Administrator.** Within 14 calendar days of the Preliminary Approval
26 Order, Defendant shall provide to the Administrator each Class Member's last known mailing address,
27 as well as data sufficient for the Administrator to perform all necessary responsibilities pursuant to this
28 Agreement.

1 **3.3. Mailing of Notice.** Within 14 calendar days of receipt of the Class Data, the
2 Administrator shall send Class Notice to each Class Member via First Class U.S. Mail, using the last
3 known mailing address for each Class Member, based on class data provided by Defendant. Any Class
4 Notice returned to the Administrator as undeliverable shall be sent promptly via First Class U.S. Mail to
5 the forwarding address affixed thereto. If no forwarding address is provided, the Administrator shall
6 promptly attempt to determine the correct address using a single skip-trace search and shall then
7 promptly send a single re-mailing. This shall be the sole means of notice to Class Members.

8 **3.4. Proof of Mailing.** The Administrator shall provide Class Counsel and Defendant's
9 Counsel a declaration of due diligence and proof of mailing with regard to mailing of Class Notice.

10 **4. CLASS MEMBERS' RESPONSE OPTIONS**

11 **4.1. Consideration Period.** Class Members shall be provided 45 calendar days after the
12 postmark date of the initial mailing of Class Notice to exercise any rights to opt out of the settlement.
13 Except as provided herein, no Class Member responses that are postmarked more than 45 calendar days
14 after the initial mailing of Class Notice shall be considered. The Parties shall do nothing to encourage or
15 solicit Class Members or PAGA Employees to accept, opt out of, or object to the settlement.

16 **4.2. Objection Right and Effect.** Settlement Class Members shall be given the opportunity to
17 object to the terms of the class action settlement. Settlement Class Members may object to the class
18 action settlement by mailing to the Administrator an objection within 45 calendar days after the
19 postmark date of the initial mailing of Class Notice, which describes the objection and states any
20 intention to appear at the final approval hearing. Alternatively, Settlement Class Members may appear at
21 the final approval hearing to object to the settlement. Any Settlement Class Member who does not
22 comply with the objection procedures in the Class Notice shall be deemed to have waived any objections
23 and shall be foreclosed from making any objection, whether by appeal or otherwise, to the settlement.
24 Settlement Class Members who object to the settlement pursuant to the terms of the Class Notice shall
25 remain subject to being bound by the release provisions in this Agreement pursuant to a Final Approval
26 Order and shall remain eligible to receive an Individual Class Payment. Class Members do not have the
27 right to object to the terms of the PAGA settlement.
28

1 **4.3. Opt-Out Right and Effect.** Class Members shall be given the opportunity to opt out of
2 the settlement. Class Members may opt out of the settlement by mailing to the Administrator a Request
3 for Exclusion, which expresses their desire to be excluded from the Settlement Class. Any Request for
4 Exclusion that does not comply with the procedures in the Class Notice shall be deemed void and
5 ineffective. Class Members who opt out of the settlement pursuant to the terms of the Class Notice shall
6 not receive any Individual Class Payments, shall not be bound by the class action release provisions in
7 this Agreement pursuant to a Final Approval Order, and shall not be permitted to object to the settlement
8 or appeal. If a Class Member submits both a Request for Exclusion and an objection, the Administrator
9 shall attempt to determine whether the Class Member would like to withdraw either the Request for
10 Exclusion or the objection. If the Class Member does not withdraw a Request for Exclusion, or if the
11 Administrator cannot contact the Class Member who submits both a Request for Exclusion and an
12 objection, the Request for Exclusion shall be deemed valid and shall be deemed to invalidate the
13 objection. Class Members do not have the right to opt out of the PAGA settlement.

14 **4.4. Objection Response.** The Administrator must provide a copy of any objection received
15 to Class Counsel and Defendant's Counsel upon receipt. Either of the Parties may file a response to any
16 written objection no later than five court days before the Final Approval Hearing.

17 **4.5. Proof of Class Members' Responses.** As soon as practicable after the end of the
18 consideration period, the Administrator shall provide a declaration attesting to (by number of relevant
19 individuals), its mailing of Class Notice, its inability to deliver Class Notice due to invalid addresses,
20 and its receipt of valid Requests for Exclusion or objections. The Administrator shall prepare any
21 supplemental declarations regarding the administration of the settlement, as necessary or as jointly
22 requested by the Parties or the Court.

23 **5. SETTLEMENT PROCEEDS**

24 **5.1. Gross Settlement Amount.** Defendant agrees to pay a non-reversionary Gross
25 Settlement Amount of \$750,000.00. The Gross Settlement Amount was negotiated based on Defendant's
26 representation that there are approximately 1,580 Class Members during the Class Period. To the extent
27 that the actual number of Class Members exceeds 1,580 by more than 10.0% (i.e., 1,738), the Gross
28 Settlement Amount shall increase on a pro rata basis equal to the percentage increase exceeding 10.0%

(e.g., if the actual number were 11.0% greater than 1,580, then the Gross Settlement Amount would be increased by 1.0%). Under no other circumstances will Defendant's payment exceed the Gross Settlement Amount, except that Defendant will make additional payments to the Administrator representing its share of any employer payroll taxes to be paid in connection with the Settlement (e.g., FICA, FUTA, payroll taxes, or any similar tax or charge).

5.1.1. Attorneys' Fees and Costs. Class Counsel intends to request—and Defendant agrees not to oppose—that the Court approve an Attorneys' Fees and Costs Award in the amount of (a) 33 $\frac{1}{3}$ % of the Gross Settlement Amount, or \$250,000.00, and (b) litigation costs not to exceed \$20,000.

5.1.2. Class Representative Award. Class Counsel intends to request—and Defendant agrees not to oppose—that the Court approve a Class Representative Award of \$10,000.00. Any Class Representative Award is supplemental to Plaintiff's Individual Settlement Payment.

5.1.3. Administration Costs. Class Counsel intends to request—and Defendant agrees not to oppose—that the Court approve Administration Costs of up to \$15,000.00. The Parties agree to cooperate in the settlement administration process and to make all reasonable efforts to control and minimize Administration Costs.

5.1.4. PAGA Penalty Fund and LWDA Payment. The Parties allocate \$50,000.00 to the PAGA Penalty Fund, which shall be distributed pursuant to statute with 75% of the PAGA Penalty Fund payable from the Gross Settlement Amount as an LWDA Payment. The remaining 25% of the PAGA Penalty Fund is to be payable from the Gross Settlement Amount as Individual PAGA Payments to PAGA Employees.

5.1.5. Differences in Requested and Approved Payments. If the Court does not approve the requested amounts for the Attorneys' Fees and Costs Award, Class Representative Award, or Administration Costs, any requested but unapproved amounts shall be allocated to the Net Settlement Amount. If the Court does not approve the requested amount for the PAGA Penalty Fund, any difference in the requested and approved amount of the resulting LWDA Payment shall either be allocated to the Net Settlement Amount or from the Gross Settlement Amount.

5.2. Net Settlement Amount. After deducting the approved Attorneys' Fees and Costs Award, Class Representative Award, Administration Costs, and PAGA Penalty Fund from the Gross

1 Settlement Amount, the Net Settlement Amount shall be allocated entirely to Settlement Class
2 Members.

3 **5.3. Individual Settlement Payments.** Individual Settlement Payments shall be distributed to
4 PAGA Employees and Settlement Class Members, without the need to submit a claim form. The
5 Administrator shall calculate the amounts of payments described below. Defendant's employee data will
6 be presumed to be correct. If a Class Member disputes any employee data, disputes will be resolved and
7 decided by the Administrator, and the Administrator's decision on all disputes will be final and non-
8 appealable.

9 **5.3.1. Individual PAGA Payments.** The 25% portion of the PAGA Penalty Fund shall
10 be distributed to PAGA Employees as Individual PAGA Payments and proportionally allocated among
11 PAGA Employees on a pro rata basis. Individual PAGA Payments shall be subject to IRS Form 1099
12 reporting.

13 **5.3.2. Individual Class Payments.** The Net Settlement Amount shall be distributed to
14 Settlement Class Members and PAGA Employees as Individual Class Payments and proportionally
15 allocated among Settlement Class Members and PAGA Employees based on the total number of
16 workweeks reported by Defendant for each Settlement Class Member and PAGA Employee during the
17 Class Period. 15% of Individual Class Payments shall be allocated to wages and subject to IRS Form W-
18 2 reporting; the remainder of Individual Class Payments shall be allocated to interest and penalties and
19 subject to IRS Form 1099 reporting.

20 **5.4. No Tax Advice or Liability.** The Administrator shall issue an IRS Form 1099 to Plaintiff
21 for any Class Representative Award, to Class Counsel for any Attorneys' Fees and Costs Award, to the
22 LWDA for any LWDA Payment, and to the Administrator for any Administration Costs. The Parties
23 have had an opportunity to consult with independent tax counsel. The Parties are not giving any tax
24 advice in connection with the settlement or any payments to be made pursuant to the Agreement. The
25 Parties do not intend anything contained in this Agreement to constitute legal advice regarding the
26 taxability of any amount paid hereunder, nor shall anything in this Agreement be relied upon as such. By
27 participating in the settlement, each Class Member shall agree to be solely and legally responsible for
28 paying any applicable taxes on their respective Individual Settlement Payments and shall indemnify and

1 hold harmless the Parties from any claim or liability for taxes, penalties, or interest arising as a result of
2 the payments.

3 **5.5. Funding and Distribution.** Within 21 calendar days after the Effective Date, Defendant
4 shall deposit the Gross Settlement Amount with the Administrator. By seven calendar days after the
5 Effective Date, the Administrator shall distribute all amounts to be paid pursuant to the Final Approval
6 Order. Upon completion of administration of the settlement, the Administrator shall provide written
7 certification of such completion to Class Counsel and Defendant's Counsel.

8 **5.6. Effect of Payments.** All Individual Settlement Payments to Class Members and PAGA
9 Employees shall be deemed to be paid in the year in which such payments actually are mailed to the
10 Class Member or PAGA Employee. It is expressly understood and agreed that the receipt of such
11 Individual Settlement Payments shall not entitle any Class Member or PAGA Employee to additional
12 compensation or benefits under any company bonus, contest, or other compensation or benefit plan or
13 agreement in place during the period covered by the Agreement, nor will it entitle any individual to any
14 increased retirement, 401K benefits or matching benefits, or deferred compensation benefits. It is the
15 intent of this Settlement that the individual settlement awards provided for in this Settlement are the sole
16 payments to be made by Defendant to the Class Members and PAGA Employees, and that the Class
17 Members and PAGA Employees are not entitled to any new or additional compensation or benefits as a
18 result of having received the individual settlement awards (notwithstanding any contrary language or
19 agreement in any benefit or compensation plan document that might have been in effect during the
20 period covered by this Agreement).

21 **5.7. Undeliverable or Uncashed Checks.** All uncashed or undeliverable settlement checks
22 will expire 180 days after the postmarked date of their initial mailing. After 180 days, the sum value of
23 all expired checks will be tallied by the Administrator. The Administrator shall direct the principal for
24 any expired checks in accordance with the Final Approval Order. The Parties shall request that the Court
25 order that the principal for any expired checks escheat to the State of California's Unclaimed Property
26 Fund in the name of the Settlement Class Member.

1 **6. RELEASES**

2 **6.1. Releases by Settlement Class Members.** By operation of the entry of the Final Approval
3 Order, and except as to such rights or claims as may be created by this Agreement, all Settlement Class
4 Members fully release Defendant and each Released Party from any and all claims during the Class
5 Period that were pleaded in the Action or that could have been pleaded based on the facts alleged in the
6 Action, including claims for (1) failure to pay or timely pay sick pay wages, (2) failure to pay or timely
7 pay overtime wages, (3) failure to provide rest breaks, (4) failure to provide meal periods, (5) failure to
8 furnish accurate itemized wage statements, (6) failure to timely pay wages during employment or upon
9 termination, and (7) unfair business practices based on these violations. Plaintiff agrees that, upon entry
10 of the Final Approval Order, Plaintiff and all Settlement Class Members will be forever barred from
11 pursuing any and all of the claims covered by this Release that arose during the Class Period against the
12 Defendant and all Released Parties.

13 **6.2. Releases by PAGA Employees.** By operation of the entry of the Final Approval Order,
14 and except as to such rights or claims as may be created by this Agreement, Plaintiff as a proxy for the
15 State and the LWDA, as well as PAGA Employees who are Settlement Class Members, fully releases
16 Defendant and each Released Party from any and all claims during the PAGA Period for civil penalties
17 pleaded in the Action or that could have been pleaded based on the facts alleged in the Action. Plaintiff
18 agrees that upon entry of the Final Approval Order, all Settlement Class Members will release any/all
19 claims covered by this Release against the Defendant and all Released Parties that arose during the
20 PAGA Period and Plaintiff and all Settlement Class Members will be forever barred from pursuing any
21 and all claims covered by this Release which arose during the PAGA Period against the Defendant and
22 all Released Parties.

23 **6.3. Additional Release by Plaintiff.** In addition to the above releases applicable to Plaintiff
24 as a Settlement Class Member and PAGA Employee, Plaintiff also generally releases all claims, known
25 or unknown, in favor of each Released Party, including a waiver of Civil Code section 1542. Plaintiff
26 expressly waives all rights provided by Civil Code section 1542 that Plaintiff may have against each
27 Released Party. Civil Code section 1542 states:
28

1 **A general release does not extend to claims that the creditor or releasing party does**
2 **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**
4 **settlement with the debtor or released party.**

5 Plaintiff acknowledges that he has read the entirety of the Agreement, including the above language
6 from the Civil Code, and that she fully understands both the Agreement and Civil Code section 1542. By
7 executing this Agreement, Plaintiff expressly waives any benefits and rights granted pursuant to Civil
8 Code section 1542.

9 **7. COURT APPROVAL**

10 **7.1. Preliminary Approval.** Plaintiff shall submit a motion seeking a Preliminary Approval
11 Order, which would, among other things: (i) preliminarily approve the proposed settlement according to
12 the terms of this Agreement; (ii) set a date for a final approval hearing; and (iii) provide for Class Notice
13 to be sent to Class Members as specified herein.

14 **7.2. Final Approval.** Not later than 16 court days before the date set by the Court for a final
15 approval hearing, or such other time as the Court requires, Plaintiff shall submit a motion seeking a
16 Final Approval Order, which would, among other things: (i) approve the settlement, (ii) deem the terms
17 to be fair, reasonable, and adequate, (iii) approve the releases, (iv) direct that the settlement's terms and
18 provisions be carried out; (v) enter final judgment; and (vi) retain jurisdiction to oversee administration
19 and enforcement of the terms of this Agreement and the Court's orders.

20 **7.3. Effect of Failure to Obtain Final Approval.** In the event the Court effects a material
21 change or fails to enter a Final Approval Order in accordance with this Agreement, or such Final
22 Approval Order is vacated, then this entire Agreement shall be void and unenforceable, subject to the
23 Parties' agreement to the contrary, and the costs of administration shall be split equally between the
24 Parties. The Action shall proceed as if no settlement has been attempted, subject to the Parties'
25 agreement to the contrary, and this Agreement and any documents in furtherance of this Agreement shall
26 be admissible in any future proceedings in this Action or any other action.

27 **8. MISCELLANEOUS**

28 **8.1. Entire Agreement.** This Agreement constitutes the entire agreement between the Parties
with regard to the subject matter contained herein, and all prior and contemporaneous negotiations and

1 understandings between the Parties shall be deemed merged into this Agreement. The signatories
2 represent that they are fully authorized to enter into this Agreement and are fully authorized to bind the
3 Parties to all terms stated herein.

4 **8.1.1. Counterparts and Signatures.** This Agreement may be executed in counterparts,
5 and when all signatories have signed and delivered at least one such counterpart, each counterpart shall
6 be deemed an original, and when taken together with other signed counterparts, shall constitute one
7 signed Agreement, which shall be binding upon and effective as to all Parties. Any party may sign and
8 deliver this Agreement by signing on the designated signature block and transmitting that signature page
9 via e-mail to counsel for the other party. Any signature transmitted via e-mail shall be deemed an
10 original signature and shall be binding upon the party who transmits the signature page.

11 **8.1.2. Waivers, Modifications, Etc. to Be in Writing.** No waiver, modification, or
12 amendment of the terms of this Agreement, whether purportedly made before or after the Court's
13 approval of this Agreement, shall be valid or binding unless in writing, signed by or on behalf of all
14 Parties and then only to the extent set forth in such written waiver, modification, or amendment, subject
15 to any required Court approval. Any failure by any Party to insist upon the strict performance by the
16 other Party of any of the provisions of this Agreement shall not be deemed a waiver of future
17 performance of the same provisions or of any of the other provisions of this Agreement, and such Party,
18 notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of
19 any and all of the provisions of this Agreement.

20 **8.1.3. Construction.** The determination of the terms and conditions of this Agreement
21 has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this
22 Agreement, and the terms and conditions of this Agreement are not intended to be, and shall not be,
23 construed against any party by virtue of draftsmanship. The captions of paragraphs of this Agreement
24 have been inserted for convenience of reference only and shall have no effect upon the construction or
25 interpretation of any part of this Agreement.

26 **8.1.4. Invalidity of Any Provision.** Before declaring any provision of this Agreement
27 invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible so as to
28 render all provisions of this Agreement valid and enforceable.

1 **8.2. Further Acts and Cooperation Between the Parties.** The Parties shall cooperate and
2 use their best efforts to obtain the Court's approval of this Agreement and its terms. Each of the Parties,
3 upon the request of another, agrees to perform such further acts and to execute and deliver such other
4 documents as are reasonably necessary to carry out the provisions of this Agreement. Plaintiff's Counsel
5 shall comply with all requirements and reportings to the LWDA for a PAGA settlement. Plaintiff's
6 Counsel shall submit this any necessary documentation, including this Agreement and any Final
7 Approval Order, to the LWDA, in compliance with Labor Code § 2699(1)(2)

8 **8.3. Continuing Jurisdiction.** The Court shall retain jurisdiction over the implementation of
9 this Agreement as well as any and all matters arising out of, or related to, the implementation of this
10 Agreement and of the settlement contemplated thereby.

11 **8.4. Disputes.** If the Parties have a dispute with regard to the language of this Agreement,
12 they agree to engage mediator Lynn Frank to mediate any such dispute. The Parties will split the costs of
13 the mediator, and the Parties will bear their own fees and costs.

14 **8.5. Governing Law and Enforcement Actions.** All terms of this Agreement shall be
15 governed by and interpreted according to the laws of the State of California.

16 **8.6. Confidentiality, Non-Disparagement, and No Cooperation.** Except as provided below,
17 to the extent necessary to effectuate this Agreement or as required by court or legal process, Plaintiff
18 will keep the terms of this Agreement confidential. Neither Plaintiff nor Plaintiff's Counsel shall issue a
19 press release, hold a press conference, publish information about the terms of the Agreement, including
20 the Gross Settlement Amount, on any website or through any social media, engage in any
21 communications, take any other action that would otherwise directly or indirectly solicit additional
22 clients, publicize, or promote the filing of this Action, the Agreement or terms of settlement or
23 communicate its terms in public or in private, unless ordered by the Court. Plaintiff agrees that he will
24 not make any statements, written or oral, including but not limited to, posting comments, videos, or
25 audio recordings on social media websites or applications (including, but not limited to, Facebook,
26 Twitter, Instagram, Glassdoor, Snapchat, LinkedIn, WhatsApp, Photobucket, Yelp, YouTube, and
27 Reddit) or cause or encourage others, including current and/or former employees of Released Parties, to
28 make any such statements that defame, disparage, or in any way criticize the personal and/or business

1 reputations, practices, or conduct of any of the Released Parties. Plaintiff agrees that he will not act in
2 any manner that may damage the business or reputation of any of the Released Parties. Plaintiff also
3 agrees that he will not use name, image, or likeness of any of the Released Parties in any statements,
4 written or oral, including but not limited to, posting comments, videos, or audio recordings on social
5 media websites. Plaintiff agrees that he will not counsel or assist any attorneys or their clients in the
6 presentation or prosecution of any disputes, differences, grievances, claims, charges or complaints by
7 any third party against any of the Released Parties, unless under a subpoena or other court order to do
8 so. However, for the limited purpose of establishing adequacy of counsel in future actions, Plaintiff's
9 Counsel may reference the Action by name and case number in a declaration establishing adequacy as
10 class or representative counsel. Notwithstanding the foregoing, Defendant each shall have the right to
11 disclose the settlement and Settlement Agreement terms as may be required under federal and/or state or
12 local laws, under generally accepted accounting principles, or in Defendant's sole judgment, may be
13 required to respond in general terms to inquiries from the media, investment-related entities, and as may
14 be required under the ordinary course of business.

15
16
17 **[SIGNATURES ON FOLLOWING PAGE]**
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PLAINTIFF

Dated: November 18, 2022

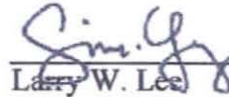
DocuSigned by:



Mario Romero

COUNSEL FOR PLAINTIFF AND CLASS

Dated: November 17, 2022



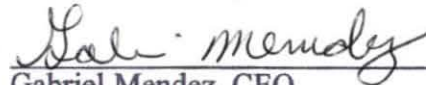
Larry W. Lee

Simon L. Yang

DIVERSITY LAW GROUP, P.C.

DEFENDANT

Dated: November 20, 2022



Gabriel Mendez, CEO

San Francisco C&C dba Mel's Drive-In

COUNSEL FOR DEFENDANT

Dated: November 19, 2022



Matthew Wertheim

LAW OFFICES OF MATTHEW WERTHEIM

EXHIBIT A

This notice is being sent pursuant to court order. This is not a solicitation from a lawyer.

NOTICE OF CLASS ACTION AND PAGA SETTLEMENT

Mario Romero v. San Francisco C&C/Mel's Drive In,
Superior Court of the State of California for the County of Los Angeles Case No. 20STCV41738

If you were a non-exempt employee for San Francisco C & C dba Mel's Drive-In in the State of California and paid shift differential wages at any time from October 26, 2016, through May 31, 2022, you could receive a payment from a class action settlement (the "Settlement").

Read this notice carefully, as your legal rights could be affected whether you act or not.

The Superior Court of the State of California for the County of Los Angeles (the "Court") has preliminarily approved a Settlement that could affect your rights. The proposed Settlement resolves a class action and Labor Code Private Attorneys General Act of 2004 ("PAGA") action filed by Plaintiff, Mario Romero, against Defendant, San Francisco C & C dba Mel's Drive-In, which has been designated Case No. 20STCV41738 (the "Action").

- The Action alleges Defendant failed to pay or timely pay all sick pay wages and overtime, provide meal and rest breaks, and furnish accurate itemized wage statements. On this basis, the Action pursues class action and PAGA claims.
- Defendant denies Plaintiff's allegations and maintains it has fully complied with the law. By agreeing to the Settlement, Defendant in no way admits any violation of law or any liability whatsoever to Plaintiff or others and expressly denies all such liability. Both Plaintiff and Defendant have agreed to the Settlement in light of all known facts and circumstances—including the uncertainty associated with litigation.
- If the Court grants final approval of the settlement, it would provide cash payments to Class Members, based on the number of relevant workweeks that they worked during the Class Period.
- Based on Defendant's records, you worked XXXX relevant workweeks during the Class Period. An *estimate* of the amount that could be allocated to you is \$XXX. Whether you receive a payment depends on whether the Court grants final approval of the class action settlement, and the amount you ultimately receive depends on the terms the Court finally approves and whether you opt out of the class action settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS CLASS ACTION SETTLEMENT:	
DO NOTHING	You do not have to do anything in response to this notice. If you do nothing and the Court grants final approval of the class action settlement, you will remain eligible to automatically receive an Individual Class Payment and will be bound by the class action release provisions of the Settlement.
OPT OUT	You may opt out of the class action settlement by submitting a Request for Exclusion. If you opt out, you may not object to the class action settlement, will not be eligible to receive an Individual Class Payment, and will not be bound by the class action release provisions of the Settlement.
OBJECT	You may object to the class action settlement by submitting a written objection. If you object and the Court grants final approval of the class action settlement despite your objection, you will remain eligible to automatically receive an Individual Class Payment and will be bound by the class action release provisions of the Settlement.

If the Court approves the Settlement, you will receive an Individual PAGA Payment and will be bound by the PAGA release provisions of the Settlement, regardless of whether you opt out of the class action settlement.

**THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION FROM THE COURT
AS TO THE MERITS OF THE CLAIMS.**

NOTICE OF CLASS ACTION AND PAGA SETTLEMENT
Questions? Please contact the Administrator at (xxx) xxx-xxxx.

www.*****.com

Page 1 of 5

1. Why Did I Receive This Notice?

You are receiving this Notice of Class Action and PAGA Settlement (the “Notice”) because Defendant’s records show that you were a Class Member because you were employed as a non-exempt employee by Defendant in the State of California at some time from October 26, 2016, through May 31, 2022 (the “Class Period”). Class Members who worked from at some time from October 26, 2016, through May 31, 2022 are also “PAGA Employees” under PAGA and may be entitled to share in the funds allocated to the PAGA settlement.

Because the Settlement preliminarily approved by the Court would affect Settlement Class Members’ legal rights, the Court ordered that this Notice be sent to you. This Notice provides a brief description of the Action, informs you of the settlement terms preliminarily approved by the Court, and advises you of your legal rights with respect to the Settlement. If the Court finally approves the Settlement, the Settlement will fully resolve the Action, and your legal rights may be affected by the Settlement.

The Court has preliminary approved Larry W. Lee and Simon L. Yang of Diversity Law Group, P.C. as Class Counsel. Based on their investigation and evaluation, they are of the opinion that the terms of Settlement are fair, reasonable, adequate, and in the best interests of Class Members. The terms of the Settlement are set forth in detail in the Joint Stipulation of Class Action and PAGA Settlement (“Agreement”). You may obtain a copy of the Agreement from Phoenix Settlement Administrators, a neutral third-party appointed by the Court to administer the settlement (the “Administrator”).

2. What Is the Action About?

On August 27, 2020, Plaintiff filed a complaint in Court that alleged that Defendant failed to pay or timely pay all sick pay wages and overtime, provide meal and rest breaks, and furnish accurate itemized wage statements to Plaintiff and other non-exempt employees. Specifically, Plaintiff alleged that employees were paid sick pay at their base rates of pay, did not have certain compensation considered when calculating their overtime rates, denied meal and rest periods, and furnished wage statements that failed to accurately itemize and show hourly rates of pay, hours worked, gross wages earned, net wages earned, and the name of the legal entity that was the employer.

Defendant denies and continues to deny (i) all of the allegations made by Plaintiff, (ii) that it violated any applicable laws, or (iii) that it is liable or owes damages, penalties, or other compensation or remedies to anyone with respect to the alleged facts or claims asserted in the Action. Nonetheless, without admitting or conceding any liability or wrongdoing whatsoever, Defendant has agreed to settle the Action, to avoid the burden, expense, and uncertainty of continuing the Action.

3. What Are the Payments Under the Settlement?

Defendant agrees to pay a Gross Settlement Amount of \$750,000.00, which is inclusive of any Administration Costs, Attorneys’ Fees and Costs Award, Class Representative Award, PAGA Penalty Fund, and Individual Class Payments awarded by the Court. The Court may approve payment of (i) Administration Costs to the Administrator for administering the settlement (e.g., printing, distributing, or tracking Notices, distributing payments, etc.); (ii) an Attorneys’ Fees and Costs Award to Class Counsel for litigation and resolution of the Action; (iii) a Class Representative Award to Plaintiff both for his efforts in prosecuting the Action for Class Members and for Plaintiff’s additional general release of claims inapplicable to Class Members; and (iv) a PAGA Penalty Fund.

PAGA Penalty Fund: The Settlement requests that the Court approve a PAGA Penalty Fund of \$50,000.00. Pursuant to Labor Code requirements, 75% of the PAGA Penalty Fund, or \$37,500.00, will be allocated to the LWDA as an LWDA Payment. The remainder of the PAGA Penalty Fund, or \$12,500, will be allocated and entirely payable to PAGA Employees on a pro rata basis. These payments shall be classified for tax reporting purposes as penalties.

Individual Class Payments: Individual Class Payments shall be distributed to Settlement Class Members, without the need to submit a claim form. Individual Class Payments and allocated among Settlement Class

Members on a pro rata basis, based on the number of workweeks reported by Defendant for each Settlement Class Member during the Class Period. 15% of Individual Class Payments shall be allocated to wages and subject to IRS Form W-2 reporting; the remainder of Individual Class Payments shall be classified for tax reporting purposes as interest and penalties.

Through this settlement, each Class Member shall agree to be solely and legally responsible for paying all other applicable taxes on their respective Individual Settlement Payments and shall indemnify and hold harmless the Parties from any claim or liability for taxes, penalties, or interest arising as a result of the payments.

All uncashed or undeliverable settlement checks will expire 180 days after the postmarked date of their initial mailing. After 180 days, the sum value of all expired checks will be tallied by the Administrator. The Administrator shall direct the principal for any expired checks in accordance with the Final Approval Order. The Parties shall request that the Court order that the principal for any expired checks escheat to the State of California's Unclaimed Property Fund in the name of the Class Member.

Attorneys' Fees and Costs Award: You do not need to individually pay any portion of Class Counsel's attorneys' fees and costs. Any payments for those attorneys' fees and costs will be determined by the Court. Class Counsel intends to request that the Court approve an Attorneys' Fees and Costs Award in the amount of (a) 33⅓% of the Gross Settlement Amount (or \$250,000.00) and (b) litigation costs of up to \$20,000.00.

Class Representative Award: Any Class Representative Award is to be determined by the Court and would be supplemental to Plaintiff's Individual Settlement Payments. Class Counsel intends to request that the Court approve a Class Representative Award of \$10,000.00 for Plaintiff's efforts in prosecuting the Action for Class Members and for Plaintiff's additional general release of claims inapplicable to Class Members.

Administration Costs: Class Counsel intends to request that the Court approve Administration Costs of up to \$15,000.00, payable to the Administrator for administering the settlement, including, but not limited to, printing, distributing, or tracking Notices, providing any required tax forms, processing any required tax payments, or reporting, and calculating and distributing all payments under the Settlement.

All Payments Subject to Court Approval: The above payments will be made if and only if the Court concludes the settlement is reasonable, fair, and adequate for the Class. The Court may adjust the amounts of certain payments.

4. What Do I Release Under the Settlement?

If the Court grants final approval of the class action settlement and concludes it is reasonable, fair, and adequate for Class Members, Settlement Class Members would release Defendant and its present and former parent companies, subsidiaries, divisions, related or affiliated companies, and its shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, counsel in the Action, and any other individual or entity that could be liable for any of the Released Claims ("Released Parties") from any and all claims for violations any and all claims during the Class Period that were pleaded in the Action or that could have been pleaded based on the facts alleged in the Action, including claims for (1) failure to pay or timely pay sick pay wages, (2) failure to pay or timely pay overtime wages, (3) failure to provide rest breaks, (4) failure to provide meal periods, (5) failure to furnish accurate itemized wage statements, (6) failure to timely pay wages during employment or upon termination, and (7) unfair business practices based on these violations.

This means that, if you do not timely and formally exclude yourself from the class action settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

Upon approval, Plaintiff as a proxy for the State and the LWDA, as well as PAGA Employees who are Settlement Class Members, fully releases Defendant and each Released Party from any and all claims during the PAGA Period for civil penalties pleaded in the Action or that could have been pleaded based on the facts alleged in the Action.

5. How Do I Object to the Class Action Settlement?

If you want to participate in the Settlement, you do not have to do anything and do not have to appear at the final approval hearing before the Court. You will automatically receive your Individual Settlement Payment if the Court grants final approval of the class action settlement and approves the PAGA settlement.

If you want to object to the class action settlement, you may appear at the final approval hearing to object to the class action settlement. Alternatively, you must take the steps below:

- (1) You must mail a written statement to the Administrator listed below.
- (2) The written statement must include: your name, address, last four digits of your Social Security number, and the basis for your objection.
- (3) If you object, you may but are not required to appear at the final approval hearing either in person or through counsel, paid for at your own expense.
- (4) The written statement must be postmarked by [45 calendar days after the initial mailing of Notice].

If you object, you will remain bound by the class action settlement if finally approved and bound by the PAGA settlement if approved. If you do not want to be bound by the class action settlement if finally approved, you must opt out of the class action settlement. Regardless of whether you object to the class action settlement, you will be bound by the PAGA settlement if approved.

The final approval hearing is currently scheduled for _____, 2023, at x:x0 a./p.m., in Department 12 of the Los Angeles Superior Court located at 312 N. Spring Street, Los Angeles, California 90012. Any Final Approval Order issued at or after the final approval hearing will be posted on the Settlement Administrator's website pursuant to Rule 3.771(b) of the California Rules of Court. The Court may modify the time or date of the final approval hearing. Any changes to the time or date of the final approval hearing will be posted to the Settlement Administrator's website.¹

6. How Do I Opt Out of the Class Action Settlement?

If you do not want to participate in the class action settlement, you may opt out of the class action settlement. If you opt out of the class action settlement, you may not object to the class action settlement, will not receive any Individual Class Payment, and will not be bound by the class action release provisions of the Settlement.

In order to opt out, you MUST express your desire to be excluded from the class action settlement by mailing to the Administrator a "Request for Exclusion," which must state "Request for Exclusion," include your name, current address, current telephone number, and last four digits of your social security number. Any such Request for Exclusion must be postmarked by [45 calendar days after the initial mailing of Notice].

Any Request for Exclusion that does not include all required information or that is not submitted on a timely basis will be deemed null, void, and ineffective. A Request for Exclusion shall be deemed to be submitted as of the postmarked date. If you submit both a Request for Exclusion and an objection, your Request for Exclusion will be valid and be deemed to invalidate the objection.

7. Where Can I Get Additional Information?

This Notice summarizes the Settlement. For more information, please contact the Administrator or Class Counsel:

¹ Any Class Member who elects to appear personally at the Court for any reason related to this Lawsuit must comply with the Court's social distancing and mandatory face covering requirements, as well as any other orders related to COVID-19. All such rules and orders can be located at the Court's website: www.lacourt.org. For more information on how to appear remotely, please visit the Court's website at www.lacourt.org/division/civil/CI0040.aspx and www.lacourt.org/lacc/.

Administrator: xxx xxx xxx, California xxx Telephone: (xxx) xxx-xxxx	Class Counsel (Abogados de la Clase): DIVERSITY LAW GROUP, P.C. Larry W. Lee (lwlee@diversitylaw.com) Simon L. Yang (sly@diversitylaw.com) 515 S. Figueroa St., Suite 1250 Los Angeles, California 90071 Telephone: (213) 488-6555
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If you need any assistance with translating this notice, please contact Class Counsel who will assist.

Si necesita ayuda para traducir este aviso, comuníquese con los Abogados de la Clase, quienes lo ayudarán.

PLEASE DO NOT TELEPHONE THE COURT OR DEFENDANT’S COUNSEL FOR INFORMATION REGARDING THIS SETTLEMENT.