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Attorneys for Plaintiff, the Class, and Aggrieved Employees

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

JAMES JONES, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

TFC PARTNERS, INC., a Delaware
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: RG21087839

(Assigned to the Honorable Brad Seligman, Dept.
23)

**DECLARATION OF MAI TULYATHAN IN
SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: April 4, 2023
Time: 3:00 P.M.
Dept.: 23

Reservation ID: 820143419137

Complaint Filed: February 4, 2021

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1. I am an attorney at law, duly licensed to practice before all Courts in the State of California, and am with the law firm Diversity Law Group, P.C., counsel of record for Plaintiff Jones (“Plaintiff”). I have personal knowledge of the facts set forth below and if called to testify, I could and would do so competently.

plaintiff submitted his written notice to the California Labor
“LWDA”) alleging various wage and hour violations of
Attorneys General Act (“PAGA”), Labor Code § 2699.

4. Plaintiff's class and PAGA claims as pled in the Complaint are predicated upon the following allegations. With respect to Plaintiff's meal and rest period claims, Plaintiff alleges that Defendant routinely denied meal and rest breaks to Plaintiff and other employees. In this regard, Plaintiff alleges that Defendant required employees to keep their communication devices on and respond to any incoming calls during meal and rest breaks. Plaintiff further alleges that Defendant failed to pay meal and/or rest period premiums in lieu of off-duty meal and rest breaks.

6. Additionally, Plaintiff asserts derivative and independent wage statement claims

1 under Labor Code § 226(a). Specifically, as a result of the violations above, Plaintiff asserts that
2 the corresponding wage statements issued to Plaintiff and other employees failed to identify the
3 required information under Labor Code § 226(a). With respect to the independent 226(a) claim,
4 Plaintiff asserts that Defendant issued inaccurate wage statements whenever double time wages
5 were paid. In this regard, whenever double time wages were paid, Defendant allegedly failed to
6 accurately list the hourly rates of pay on wage statements in violation of Labor Code § 226(a).
7 As a result of these alleged violations, Plaintiff seeks unpaid wages, waiting time penalties,
8 statutory penalties, and civil penalties under the California Labor Code and PAGA, as well as
9 attorneys' fees and costs.

10 7. After filing the Complaint, the Parties exchanged an initial round of written
11 discovery. Plaintiff propounded written discovery requests to Defendant.

12 **MEDIATION**

13 8. In or about July 2021, the Parties agreed to participate in private mediation. In
14 connection therewith, the Parties agreed to conduct informal discovery for purposes of mediation
15 to allow Plaintiff to further assess liability and claims. In this regard, Defendant provided
16 Plaintiff with class data, including the number of putative class members, the number of
17 workweeks and wage statements at issue, payroll and timekeeping records for putative class
18 members, as well as relevant policy documents, that allowed Plaintiff to perform a detailed
19 damage analysis.

20 9. On January 10, 2022, the Parties participated in private mediation with Tripper
21 Ortman, Esq., a highly experienced and well-regarded neutral with extensive mediation
22 experience in wage and hour class actions. While the Parties did not resolve the claims at
23 mediation, the Parties continued settlement negotiations for several months facilitated by Mr.
24 Ortman. After thorough investigation and evaluation of the facts and claims, and further
25 negotiations with the assistance of Mr. Ortman, the Parties and their counsel ultimately reached
26 the current settlement.

27 10. As a result of the mediation, and based upon further negotiations between the
28 Parties, the Parties reached a class-wide settlement.

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15. As part of the Settlement Agreement, Defendant does not object to Class Counsel's request for attorney's fees up to one-third (1/3) of the Total Maximum Settlement Amount, *i.e.*, the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00), plus up to Fifteen Thousand Dollars (\$15,000.00) for reimbursement of actual litigation costs, subject to the Court finally approving this settlement. (*See* Stipulation at ¶ 3.) Also, as part of the Settlement Agreement, Defendant does not object to Plaintiff's request for a class representative service award of Ten Thousand Dollars (\$10,000.00). (*Id.* at ¶ 15.) Both Plaintiff and Class Counsel expressly acknowledge that the Court has final discretion in any fee award or the service award

1 to the Class Representative. (*Id.* at ¶¶ 42(d), 42(e).)

2 16. Finally, the Settlement Agreement provides for the payment of the fees and
3 expenses reasonably incurred by the Settlement Administrator. The Parties have received a
4 quote from Phoenix Settlement Administrators for a fee not to exceed Ten Thousand and Five
5 Hundred Dollars (\$10,500.00) to administer the settlement. (*See* Stipulation at ¶ 1.) Any portion
6 of the Settlement Administration Costs not used or approved by the Court shall be added to the
7 Net Settlement Amount. The Parties believe that the administration fee is reasonable and should
8 be approved.

9 **POTENTIAL STATUTORY AND CIVIL PENALTIES**

10 17. Plaintiff estimated the potential class damages/penalties based on data provided
11 by Defendant, including the number of employees in the putative class, the number of shifts and
12 workweeks at issue, and the hourly rates of pay applicable to the putative class members.

13 18. Based on the class data provided by Defendant, Plaintiff estimated that Defendant
14 could face potential liability of up to approximately \$5,703,044.00 for Plaintiff's class claims if
15 Plaintiff succeeded at trial. This amount represents the maximum class exposure for Plaintiffs'
16 meal and rest claims, waiting time penalties for unpaid wages, and wage statement claims.

17 19. Specifically, for Plaintiff's meal and rest break claim, Plaintiff estimated the
18 amount of unpaid wages at approximately \$3,738,926, based on an estimated 95,235 shifts
19 during the Class Period. This amount assumes a meal period violation and a rest period violation
20 every shift.

21 20. With respect to waiting time penalties for unpaid wages, Plaintiff calculated the
22 waiting time penalties under Labor Code § 203 at \$1,564,118, based on 332 former employees
23 and their average hourly rates of pay.

24 21. Plaintiff estimated statutory Labor Code § 226(e) penalties at \$400,000.00.

25 22. With respect to potential liability of Plaintiff's PAGA claims, Plaintiff estimated
26 that Defendant could face civil penalties of up to a maximum \$2,475,000.00 if Plaintiff were
27 successful at trial on all claims.

28 23. However, the trial court has the discretion to reduce PAGA civil penalties "if,

1 based on the facts and circumstances of the particular case, to do otherwise would result in an
2 award that is unjust, arbitrary and oppressive, or confiscatory.” *See* Cal. Labor Code §
3 2699(e)(2). Thus, the \$2,475,000.00 figure of PAGA penalties does not factor in the likelihood
4 that the Court would reduce the amount of penalties at trial.

5 24. Although Plaintiff believes in the merits of the alleged claims and maintains that
6 there is no reason for reducing PAGA penalties, Plaintiff is aware that Defendant may raise
7 defenses to the claims and further with respect to the reduction of PAGA penalties and that it
8 could be persuasive to the Court. Thus, even if Plaintiff were to successfully prove his claims at
9 trial, there is a possibility that the Court may only award a small percentage of PAGA penalties,
10 as the Court has discretion to do so. The Total Maximum Settlement Amount was premised with
11 this risk in mind, associated with the possibility of the Court significantly reducing Plaintiff’s
12 PAGA penalties, along with other attendant risks, even if Plaintiff was to prevail at trial.

13 25. Further, Defendant raised several defenses that presented risk as to liability on the
14 claims. In this regard, Defendant asserts that it has maintained lawful policies and practices in
15 place, including that it has provided opportunities to take meal and rest periods and that its meal
16 and rest period policies were facially compliant. Defendant also argues that the meal and rest
17 period claims are not suitable for class treatment because there is no common method of proof to
18 establish liability. Additionally, it is also Defendant’s position that Plaintiff cannot prove
19 willfulness and thus it would not be subject to waiting time penalties under Section 203. With
20 respect to the wage statement claim, it is Defendant’s position that its wage statements complied
21 with the law, and that employees did not suffer any injury as defined by Labor Code § 226(e).
22 Defendant further maintains that it would be unjust for the Court to award maximum PAGA
23 penalties as it has made good faith efforts to comply with the Labor Code.

24 26. In light of the above, the Settlement for each Class Member is fair, reasonable,
25 and adequate, given the inherent risks of litigation, including the substantial risks relative to class
26 certification and the merits of the claims, the costs of pursuing such litigation, and the risks
27 associated with the Court’s discretion to reduce PAGA penalties. The Settlement is the result of
28 extensive arm’s-length negotiations between the Parties and their counsel and was facilitated by

an experienced and neutral mediator.

27. Although Plaintiff believes that the class can be certified, Plaintiff also believes in the fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff involved in not prevailing on one or more of the causes of action or theories alleged in the operative Complaint, the possibility of non-certification, and the potential for appeals.

28. Based on the data provided by Defendant, I estimate that Defendant's maximum liability exposure of class and PAGA penalties collectively is approximately \$8,178,044.00. This number assumes that full PAGA penalties are awarded, and does not discount for potentially losing on any of the causes of action.

29. The Total Maximum Settlement Amount of \$750,000.00 is fair and reasonable as it is approximately 9.17% of the potential recovery of Plaintiff's class and PAGA claims if Plaintiff were to fully succeed at trial.

30. The Parties recognize the risk, expense, and delay in continuing litigation with the class and PAGA claims, and believe the Settlement to be fair, reasonable, and adequate.

THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

31. The Net Settlement Sum, calculated after deduction of attorneys' fees (up to \$250,000.00), litigation costs (up to \$15,000.00), the service award to the Class Representative (up to \$10,000.00), the PAGA Payment (\$40,000.00), and Settlement Administration costs (up to \$10,500.00), is estimated to be approximately **\$424,500.00**. (Stipulation at ¶ 16.)

32. Pursuant to the Stipulation, the Net Settlement Sum will be apportioned among the Class Members on a pro rata basis, based on the number of pay periods each Class Member was paid wages during the Class Period, as compared to the total number of pay periods Class Members were paid wages during the Class Period. (Stipulation at ¶¶ 12, 42(a).)

33. Based on the Net Settlement Sum, on a raw average, Class Members will be entitled to recover up to approximately \$849.00 each or \$32.65 per pay period. The amount any particular Class Member will be entitled to recover will be greater or lower than this average depending on the number of pay periods during which he or she received wages during the Class Period, with some entitled to receive more, and others less. This is fair, as it directly allocates

greater recovery to individual class members who have allegedly suffered greater harm.

34. Additionally, \$40,000.00 of the Total Maximum Settlement Amount is allocated to the resolution of any Class Members' claims arising under PAGA. (Stipulation at ¶ 19.) Pursuant to the PAGA, 75% of the PAGA Payment, *i.e.*, the sum of \$30,000.00, shall be paid to the LWDA. The remaining 25% of the PAGA Payment, *i.e.*, the sum of \$10,000.00, shall be paid to Class Members for release of PAGA claims ("Individual PAGA Payment"). (*Id.* at ¶¶ 2, 42(b).) The Individual PAGA Payment will be calculated based on the number of pay periods where Class Members were paid wages by Defendant. (*Id.*)

35. Class Members may opt out of the class portion of the settlement if they so choose, with the exception of the PAGA portion of the settlement. (Stipulation at ¶¶ 6, 54.)

ATTORNEY'S EXPERIENCE

36. I am one of the primary attorneys on this matter. Based on my experience in class action litigation, I believe that the settlement for the consideration and on the terms set forth in the Stipulation is fair, reasonable, and adequate and is in the best interests of the class in light of all known facts and circumstances and the expenses and risks inherent in litigation.

37. I strongly believe that Plaintiff can prevail at trial. However, I also believe in the fairness of the settlement, which is based on factoring in the uncertainty and risks to Plaintiff involved in not prevailing on one or more of the causes of action or theories alleged in his Complaint and in the possibility of appeals. After taking into account sharply disputed factual and legal issues involved in this litigation, the risks attending further prosecution, and the substantial benefits to be received pursuant to the compromise and settlement of the litigation, I have concluded that settlement on the terms set forth in the Stipulation is appropriate and in the best interests of Plaintiff and the class.

38. I have no conflicts with the class and will adequately represent the class.

39. My qualifications are as follows: I received my JD from Loyola Law School in 2017. I received the First Honors Award in Legal Research and Writing, First Honors Award in Appellate Advocacy, and First Honors Award in Civil Litigation Practicum I for achieving the highest grade in those classes. During law school, I was a Staff Editor for Loyola Law Review. I

1 was also an extern at the U.S. District Court, Central District of California, for the Honorable
2 Christina A. Snyder, and a certified law clerk at the San Diego County District Attorney's
3 Office, Collaborative Courts Division, and the Los Angeles County District Attorney's Office,
4 Consumer Protection and Environmental Crimes Division. In 2016, I participated in Loyola Law
5 School's Scott Moot Court Competition, where I placed Top 16 and was awarded the Top
6 Ten Brief Award. In 2017, I participated in the Employment Rights Clinic, an extension of the
7 Division of Labor Standards Enforcement created to investigate retaliation complaints. Upon
8 graduation from law school, I was admitted to the California Bar in December 2017.

9 40. I am currently an associate at the law firm Diversity Law Group, P.C., an
10 employment law firm that has handled numerous wage and hour class and individual actions, on
11 both plaintiff and defense sides. The firm currently has cases in numerous state courts, including
12 the Santa Clara Superior Court, Los Angeles Superior Court, Orange County Superior Court, San
13 Diego County Superior Court, Monterey County Superior Court, as well as the United States
14 District Courts for the Central, Northern, Southern, and Eastern Districts of California.

15 41. I am currently handling and/or have handled numerous wage and hour class action
16 and PAGA lawsuits, including *Magadia v. Wal-Mart Associates, Inc., et al.* (Case Number 5:17-
17 cv-00062-LHK); *Garcia v. Wal-Mart Associates, Inc., et al.* (Case Number 3:18-cv-00500-L-
18 MDD); *Hernandez v. Wells Fargo Bank, N.A.* (Case Number 16CV299319); *Lao v. H & M*
19 *Hennes & Mauritz, L.P.* (Case Number 5:16-cv-333 EJD); *Arroyo v. Int'l Paper Company* (Case
20 Number 5:17-cv-06211-BLF); *Baker v. California Forensic Medical Group, Inc., et al.*, Judicial
21 Council Coordination Proceeding No. 4999 (Lead Case No. 17CV003723); and *Garcia v. Apex*
22 *Systems, LLC, et al.* (Case Number RG19014709).

23 42. In 2018, I argued before the California Court of Appeal, Second Appellate
24 District, in the case of *Lee v. California Commerce Club, Inc.* (California Court of Appeal Case
25 Number B276171, LASC Case Number BC596924), and *Perez v. Standard Drywall, Inc.*
26 (California Court of Appeal Case Number A146819, Alameda Sup. Ct. No. RG15761142). In
27 that same year, I also assisted the firm in successfully obtaining class certification and partial
28 summary judgment by the United States District Court, Central District of California in the case

1 of *Magadia v. Wal-Mart Associates, Inc.* (Case Number 17-CV-00062-LHK). I third chaired the
2 bench trial in that same case in December 2018.

3 43. I have also been certified and/or approved as class counsel in numerous other
4 wage/hour class actions. Most recently, I was certified as class counsel in the cases *Garcia v.*
5 *Wal-Mart Associates, Inc., et al.* (Case Number 3:18-cv-00500-L-MDD), *Richert v. Samaritan,*
6 *LLC, et al.* (Case Number 17CV314186), *Song v. THC – Orange County, Inc.* (Case No. 8-17-
7 cv-965-JLS (DFM)), *Hernandez v. Wells Fargo Bank National Ass’n, et al* (Case No. 16-CV-
8 299319), and *Sims v. QG Printing II, LLC, et al.* (Case No. ED CV 20-1632-DMG (KKx)), as
9 part of the Courts’ orders granting class certification pursuant to Rule 23 of the FRCP and
10 California Code of Civil Procedure § 382.

11 44. Moreover, I was granted final approval as class counsel in *Lao v. H & M Hennes*
12 *& Mauritz, L.P.* (Case No. 5:16:cv-333 EJD), *Abarca v. El Estero Car Wash, Inc. et al* (Case No.
13 18CV003398), *Valles v. Community Hospital of the Monterey Peninsula* (Case No.
14 17CV003452), *Chavez v. Hugo Boss Retail, Inc.* (Case No. 18CV322644), *Hernandez v. Wells*
15 *Fargo Bank National Ass’n, et al* (Case No. 16-CV-299319); *Baker v. California Forensic*
16 *Medical Group, Inc., et al.*, Judicial Council Coordination Proceeding No. 4999 (Lead Case No.
17 17CV003723); *Mendez v. Falcon Trading Company* (Case No. 19CV004512); *Truong v. DS*
18 *Services of America, Inc.* (Case No. FCS054399).

19 **LITIGATION COSTS**

20 45. The Parties have agreed to reimbursement of Plaintiff’s counsel’s actual litigation
21 costs not to exceed \$15,000.00. Plaintiff’s counsel have, at their own risk, expended costs, for
22 example, to file this instant action and other pleadings in the case, effect service of process,
23 participate in mediation, and advance other litigation-related costs. Plaintiff will submit a
24 summary of actual litigation costs and the costs report at final approval.

25 **NOTICE TO LWDA**

26 46. Concurrent with the filing of the Motion for Preliminary Approval of Class
27 Action Settlement, my office uploaded the Motion, Settlement Agreement, and proposed order to
28 the LWDA’s website.

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Executed on this 10th day of March 2023, at Los Angeles, California.

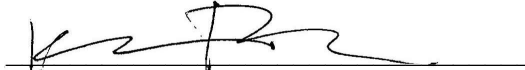
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5 Mai Tulyathan

EXHIBIT A

STIPULATION OF SETTLEMENT AND RELEASE

This stipulation of settlement and release (“Stipulation of Settlement”) is made and entered into by and between plaintiff James Jones (“Plaintiff”) and TFC Partners, Inc. (“Defendant”), and their respective counsel of record, subject to the terms and conditions hereof and the Court’s approval.

A. Definitions

1. “Administrator Payment” means the actual and direct costs reasonably charged by and paid to the Settlement Administrator for its services in administering the Settlement. The Administrator Payment is estimated to be no more than \$10,500.00.

2. “Aggrieved Employee PAGA Payment” means ten thousand dollars (\$10,000.00) that is allocated to pay Settlement Group Members as their portion of the PAGA Payment and in exchange for release of the Settlement Group Released PAGA Claims.

3. “Attorneys’ Fees and Costs Payment” means the fees and actual out-of-pocket expenses, subject to Court approval, to be paid to Settlement Group Counsel for the services they have rendered and will render to Plaintiff and the Settlement Group in the Lawsuit. The Attorneys’ Fees and Costs Payment shall not exceed \$250,000.00, plus Settlement Group Counsel’s actual out-of-pocket costs, which will not exceed \$15,000.00.

4. “Court” means the Alameda County Superior Court of California.

5. “Defendant’s Counsel” means the law firm Jackson Lewis P.C.

6. “Exclusion Letter” means a written, signed request to the Settlement Administrator by someone who otherwise would be a member of the Settlement Group to be excluded from the Settlement Group, which must be postmarked by the “Exclusion Deadline.”

7. “Final Approval” means that the Final Approval Order and Judgment have been entered by the Court.

8. “Final Approval Hearing” means the hearing, to be set by the Court, where the Court will evaluate the settlement and determine whether to enter Final Approval.

9. “Final Approval Order and Judgment” means the Order Granting Final Approval, in substantially the form attached as **Exhibit 1**, which shall be submitted with the motion for final approval.

10. “Individual Settlement Payment” means the portion of the Net Settlement Sum distributable to each Settlement Group Member who does not submit a valid and timely Exclusion Letter.

11. “Individual PAGA Payment” means the portion of the Aggrieved Employee PAGA Payment distributable to each Settlement Group Member, regardless of whether they submit a valid and time Exclusion Letter.

12. “Individual Pay Periods” means the pay periods that each Settlement Group Member was paid wages as reflected in Defendant’s corporate and business records during the Settlement Period. Defendant represents that the sum of the Individual Pay Periods for the Settlement Group is 13,000.

13. “Lawsuit” means the case *James Jones, individually and on behalf of all others similarly situated v. TF Partners, Inc.*, filed in the Alameda County Superior Court, Case No. RG21087839.

14. “Mediator” means Tripper Ortman.

15. “Named Plaintiff Award” means the sum paid to Plaintiff James Jones in recognition of his efforts in obtaining the benefits of the Settlement and providing a general release and waiver of California Civil Code § 1542, which shall not exceed \$10,000.00.

16. “Net Settlement Sum” means the portion left from the Total Maximum Settlement Amount after deducting the PAGA Payment, the Named Plaintiff Award, the Attorneys’ Fees and Costs Payment and the Administrator Payment.

17. “Notice” or “Notice Packet” means the Court-approved form of Notice of Class Action Settlement, substantially in the form attached as **Exhibit 2**, to be mailed to all members of the Settlement Group.

18. “Exclusion Deadline” means the date 45 days following the date on which the Settlement Administrator first mails the Notice to the Settlement Group Members.

19. “PAGA Payment” means the total sum of \$40,000.00, which shall be allocated from the Total Maximum Settlement Amount to pay PAGA penalties. 75% of this sum (\$30,000.00) will be paid to the California Labor and Workforce Development Agency (“LWDA”) and 25% of this sum (\$10,000.00) will be the Aggrieved Employee PAGA Payment and paid to the Settlement Group.

20. “Parties” means Plaintiff and Defendant, collectively.

21. “Payments to the Settlement Group” means the pro rata portion of the Net Settlement Sum distributed to each Settlement Member based on each Settlement Member’s Individual Pay Periods during the Settlement Period.

22. “Payment Obligation Date” means the date the Notice of Entry of Order granting final approval is served, or, solely in the event that there are any objections to the settlement (the filing of an objection being a prerequisite to the filing of an appeal), the later of (a) the last date on which any appeal might be filed, or (b) the date of successful resolution of any appeal(s) – including expiration of any time to seek reconsideration or further review.

23. “Percentage Share” means each Settlement Group Member’s Individual Pay Periods divided by the Total Pay Periods.

24. “Preliminary Approval” means that the Court has entered an order in substantially the form attached as **Exhibit 3**, preliminarily approving the terms and conditions of this Stipulation of Settlement, including the manner of providing notice to the Settlement Group.

25. “Releasees” means Defendant TFC Partners, Inc. d/b/a NFC Amenity Management, including its past or present successors and predecessors in interest, subsidiaries, affiliates, parents, officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys.

26. “Settlement” means the terms and conditions set forth in this Stipulation of Settlement.

27. “Settlement Administrator” means Phoenix Class Action Administration Solutions.

28. “Settlement Group” means the class and PAGA group and consists of all current and former California non-exempt employees who worked for Defendant and who were paid wages during the Settlement Period of August 10, 2016 to August 31, 2022. Members of the Settlement Group are “Settlement Group Members.” Defendant represents that there are 500 Settlement Group Members.

29. “Settlement Group Counsel” means Plaintiff’s counsel of the law firm Diversity Law Group, P.C. and Webber Law Group.

30. “Settlement Group Release Date” means the date that Defendant has made all payments to the Settlement Administrator such that it has fully funded the Total Maximum Settlement Amount.

31. “Settlement Group Released Claims” means all claims, demands, rights, liabilities, and causes of action, whether known or unknown, that were or could have been asserted based on the facts of the operative complaint during the Settlement Period for violation of local, state and federal law arising out of, or relating to failure to provide meal periods or pay meal period premiums, failure to provide rest periods or provide rest period premiums, failure to furnish accurate wage statements, failure to pay minimum wage, failure to pay all wages earned, failure to pay overtime wages, failure to maintain required records, failure to timely pay earned wages upon termination or discharge, , unfair competition, including, but not limited to, claims for injunctive relief, punitive damages, liquidated damages, penalties of any nature, interest, fees, including fees under California Code of Civil Procedure section 1021.5, and costs premised on the violations described in this paragraph.

32. “Settlement Group Released PAGA Claims” means all claims, demands, rights, liabilities, and causes of action, whether known or unknown, that were or could have been asserted based on the facts of the operative complaint during the Settlement Period for violation and for penalties under the Private Attorneys General Act premised on the alleged Labor Code violations asserted in the Lawsuit, including: (a) failing to provide off-duty meal periods to employees, or pay meal period premium compensation in lieu thereof, in violation of Labor Code §§ 201-203, 226.7, and 512; (b) failing to provide off duty rest periods, or pay rest period

premium compensation in lieu thereof, in violation of Labor Code §§ 201-203 and 226.7; (c) failing to pay employees wages owed for all hours worked, to pay minimum wage, to pay overtime, and to timely pay wages upon termination or discharge, in violation of Labor Code §§ 201-203, 510, 558, 1194, 1197, and 1197.1; (d) failing to provide accurate itemized wage statements in violation of Labor Code § 226(a).

33. “Settlement Period” means the period from August 10, 2016 to August 31, 2022.

34. “Total Maximum Settlement Amount” means the maximum amount of \$750,000.00 that Defendant shall pay as a result of this Stipulation of Settlement. The Total Maximum Settlement Amount is non-reversionary; all of the money shall be paid out as set forth herein. It includes the: (1) PAGA Payment, (2) Payments to the Settlement Group, (3) Named Plaintiff Award, (4) Attorneys’ Fees and Costs Payment, and (5) Administrator Payment. Within ten (10) calendar days after the Final Approval, Defendant shall deposit the first payment of \$350,000.00 with the Settlement Administrator. Within nine months from the Final Approval, Defendant shall deposit the second payment of \$400,000.00 with the Settlement Administrator.

35. “Total Pay Periods” means the sum of all Individual Pay Periods for all Settlement Group Members.

B. General

36. Plaintiff filed a class and PAGA representative action complaint on February 4, 2021 in Alameda County Superior Court. Plaintiff alleged Defendant: (a) failed to provide off-duty meal periods to employees, or pay meal period premium compensation in lieu thereof, in violation of Labor Code §§ 201-203, 226.7, and 512; (b) failed to provide off duty rest periods, or pay rest period premium compensation in lieu thereof, in violation of Labor Code §§ 201-203 and 226.7; (c) failed to pay employees wages owed for all hours worked in violation of Labor Code §§ 201-203, 510, 558, 1194, 1197, and 1197.1; (d) failed to provide accurate itemized wage statements in violation of Labor Code § 226(a); and (e) engaged in unfair business practices in violation of the California Labor Code, the applicable IWC Wage Orders, and the UCL.

37. The Parties engaged in formal discovery, an informal discovery exchange, and participated in a private mediation with the Mediator on January 10, 2022. While the matter did not settle at the conclusion of the mediation, the Parties reached a settlement in principle after continued negotiation and assistance from the Mediator.

38. Defendant denies any liability and wrongdoing of any kind associated with the claims alleged in the Lawsuit, and further denies that the Lawsuit is appropriate for class treatment for any purpose other than this Settlement. Defendant contends that it has complied at all times with the California Labor Code, the Industrial Welfare Commission Wage Orders, and the California Business and Professions Code.

39. Plaintiff believes the Lawsuit is meritorious and that class certification is appropriate. Settlement Group Counsel does not currently represent any individual who asserts or plans to assert a claim for alleged violation of Labor Code § 2802, nor do they know of such claim.

40. Settlement Group Counsel conducted a thorough investigation into the facts of the Lawsuit, including formal written and informal discovery and a review of company documents and information, including Settlement Group data. Settlement Group Counsel is knowledgeable about and has done extensive research with respect to the applicable law and potential defenses to the claims of the Settlement Group. Settlement Group Counsel has diligently pursued an investigation of the Settlement Group Members' claims against Defendant. Based on the foregoing data and on their own independent investigation and evaluation, Settlement Group Counsel is of the opinion that the settlement with Defendant for the consideration and on the terms set forth in this Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest of the Settlement Group Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, various defenses asserted by Defendant, and numerous potential appellate issues. Defendant agrees not to dispute that the Settlement is fair, reasonable, and adequate.

41. The Parties stipulate and agree to the conditional certification of the Settlement Group as a class for purposes of this Settlement only. Should, for whatever reason, the Court not grant Final Approval, the Parties' stipulation to class certification as part of the Settlement shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible in connection with, the issue of whether or not certification would be appropriate in a non-settlement context. Defendant expressly reserves its right and declares that it intends to oppose class certification vigorously should this Settlement not be granted Final Approval.

C. Settlement Components

42. The monetary portion of the Settlement in this Lawsuit, which comprises the Total Maximum Settlement Amount, shall have five components: (1) PAGA Payment, (2) Payments to the Settlement Group, (3) Named Plaintiff Award, (4) Attorneys' Fees and Costs Payment, and (5) Administrator Payment.

(a) **Calculation of the Individual Settlement Payments:** The Settlement Administrator shall have the authority and obligation to calculate the amounts of Individual Settlement Payments in accordance with the methodology set forth in this Stipulation of Settlement and orders of the Court. The Parties agree that the formula for allocating the Individual Settlement Payments to each Settlement Group Member provided herein is reasonable and that the payments provided herein are designed to provide a fair settlement to such persons.

Individual Settlement Payments shall be allocated 80% to statutory penalties and interest in light of the claims and theories asserted by Plaintiff, which will be paid without withholding any amount. The remaining 20% of the Individual Settlement Payments shall be allocated to wages, which shall be paid subject to customary withholdings. Each portion of the Individual Settlement Payments shall be reported on an IRS Form 1099 and W2, respectively. It shall be the responsibility of the Settlement Administrator to prepare and deliver any necessary tax documentation. Each Settlement Group Member who receives an Individual Settlement Payment will be responsible for paying all applicable state, local, and federal income taxes on all amounts the Settlement Group Member receives pursuant to this Stipulation of Settlement.

The Parties have agreed that the Individual Settlement Payments will be calculated on the basis of the number of Individual Pay Periods. The Individual Settlement Payments for the Settlement Group Members will be calculated by multiplying the Net Settlement Sum by each Settlement Group Member's Percentage Share, and the result of this multiplication will be the Settlement Group Member's Individual Settlement Payment, which will be subject to the allocation of any unclaimed funds as described in this Stipulation of Settlement.

(b) **Calculation of the Individual PAGA Payments:** The Settlement Administrator shall have the authority and obligation to calculate the amounts of Individual PAGA Payments in accordance with the methodology set forth in this Stipulation of Settlement and orders of the Court. The Parties agree that the formula for allocating the Individual PAGA Payments to each Settlement Group Member provided herein is reasonable and that the payments provided herein are designed to provide a fair settlement to such persons.

Individual PAGA Payments shall be allocated 100% to statutory penalties and interest in light of the claims and theories asserted by Plaintiff under the PAGA, which will be paid without withholding any amount and reported on an IRS Form 1099. It shall be the responsibility of the Settlement Administrator to prepare and deliver any necessary tax documentation. Each Settlement Group Member who receives an Individual PAGA Payment will be responsible for paying all applicable state, local, and federal income taxes on all amounts the Settlement Group Member receives pursuant to this Stipulation of Settlement.

The Parties have agreed that the Individual PAGA Payments will be calculated on the basis of the number of Individual Pay Periods. The Individual PAGA Payments for the Settlement Group Members will be calculated by multiplying the Aggrieved Employee PAGA Payment by each Settlement Group Member's Percentage Share, and the result of this multiplication will be the Settlement Group Member's Individual PAGA Payment, which will be subject to the allocation of any unclaimed funds as described in this Stipulation of Settlement.

(c) **Allocation of Unclaimed Funds:** If Settlement Group Members submit Exclusion Letters, those individuals' share of the Settlement shall revert to the Net Settlement Sum for distribution to the Settlement Group Members who did not submit Exclusion Letters.

(d) **Named Plaintiff Award:** Defendant agrees not to oppose Settlement Group Counsel's request for the Named Plaintiff Award to the Plaintiff. The Named Plaintiff Award will be paid in addition to Plaintiff's Individual Settlement Payment. Should the Named Plaintiff Award approved by the Court be less than the amount sought, the difference shall be added to the Net Settlement Sum. An IRS Form 1099 will be issued to the Plaintiff in connection with the Named Plaintiff Award. Plaintiff agrees not to object to the Settlement, request exclusion from the Settlement, or appeal any aspect of the Settlement, with the exception of Plaintiff retaining the ability to appeal the Attorneys' Fees and Costs Payment. Any such objection, request for exclusion, or appeal shall therefore be void and of no force or effect, except as specifically excluded.

(e) **Settlement Group Counsel's Fees and Costs:** Defendant agrees not to oppose Settlement Group Counsel's request for its Attorneys' Fees and Costs Payment, which shall not exceed \$250,000.00 plus up to \$15,000.00 in actual out-of-pocket costs. Should the

Attorneys' Fees and Costs Payment approved by the Court be less than the amount sought, the difference shall be added to the Net Settlement Sum. A Form 1099 will be issued to Settlement Group Counsel. The Attorneys' Fees and Costs Payment to Settlement Group Counsel shall constitute full satisfaction of any obligation to pay any amounts to any person, attorney or law firm for attorneys' fees, expenses or costs in the Lawsuit incurred by any attorney on behalf of Plaintiff or the Settlement Group, and shall relieve Defendant and Defendant's Counsel of any other claims or liability to any other attorney or law firm for any attorneys' fees, expenses and/or costs to which any of them may claim to be entitled on behalf of Plaintiff and/or the Settlement Group.

D. Release by the Settlement Group

43. Upon the passing of the latter of the Payment Obligation Date or Settlement Group Release Date, the Settlement Group Members (other than those who submit a timely and valid Exclusion Letter) will fully release the Settlement Group Released Claims and agree not to sue or otherwise make a claim against any of the Releasees for the Settlement Group Released Claims. The Individual Settlement Payments shall be paid to Settlement Group Members specifically in exchange for the release of the Releasees from the Settlement Group Released Claims and the covenant not to sue concerning the Settlement Group Released Claims.

44. Upon the passing of the latter of the Payment Obligation Date or Settlement Group Release Date, the Settlement Group Members (including those who submit a timely and valid Exclusion Letter) will fully release the Settlement Group Released PAGA Claims and agree not to sue or otherwise make a claim against any of the Releasees for the Settlement Group Released PAGA Claims. The Individual PAGA Payments shall be paid to Settlement Group Members specifically in exchange for the release of the Releasees from the Settlement Group Released PAGA Claims and the covenant not to sue concerning the Settlement Group Released PAGA Claims

E. Release of Additional Claims and Rights by Plaintiff

45. Upon the passing of the latter of the Payment Obligation Date or the Settlement Group Release Date, as a condition of receiving any portion of his Named Plaintiff Award, Plaintiff agrees to the following General Release: Plaintiff hereby fully releases the Releasees from any and all claims, demands, obligations, causes of action, rights, or liabilities of any kind under local, state or federal law, which have been or could have been asserted against the Releasees arising out of or relating to Plaintiff's employment with Defendant and termination thereof, and/or any other event, act, occurrence, or omission related to Defendant taking place on or before the date the Court grants Preliminary Approval of this Settlement.

46. This release specifically includes any and all claims, demands, obligations and/or causes of action for damages, restitution, penalties, interest, and attorneys' fees and costs relating to or in any way connected with the matters referred to herein, whether or not known or suspected to exist, and whether or not specifically or particularly described herein. Plaintiff expressly waives all rights and benefits afforded by California Civil Code Section 1542: "A general release does not extend to claims which the creditor or releasing party does

not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”

F. Preliminary Approval

47. As soon as is practicable Plaintiff will file a Motion for Preliminary Approval of the Settlement. In conjunction with such motion, Settlement Group Counsel shall submit this Stipulation of Settlement, together with Exhibits 1-3 attached hereto, and any other documents necessary to implement the Settlement. Settlement Group Counsel shall provide a copy of the draft motion for preliminary approval to Defendant’s Counsel for review a reasonable period before filing it with the Court.

G. Notice Process

48. Within 7 business days after entry of the order granting Preliminary Approval, Defendant shall provide to the Settlement Administrator a list of all Settlement Group Members, including their name, social security number, last known address, last known telephone number, and number of Individual Pay Periods.

49. Within 7 business days after receiving the list of all Settlement Group Members from Defendant, the Settlement Administrator shall send the Notice Packet via first class mail to each Settlement Group Member. Prior to the initial mailing, the Settlement Administrator will check the addresses provided by Defendant through the National Change of Address System.

50. If an original Notice is returned as undeliverable with a forwarding address provided by the United States Postal Service, the Settlement Administrator will promptly resend a Notice to that forwarding address. If an original Notice is returned as undeliverable without a forwarding address, the Settlement Administrator will make reasonable efforts to locate forwarding addresses, including a skip trace, and if it obtains a more recent address, will resend a Notice.

51. At least 10 business days prior to the final approval hearing, the Settlement Administrator will provide a declaration of due diligence and proof of mailing with regard to the mailing of the Notice to counsel for the Parties.

52. To the extent a Settlement Group Member disputes the Individual Pay Periods shown in his or her Notice, he or she may produce evidence by the Exclusion Deadline to the Settlement Administrator establishing the dates he or she contends to have worked for Defendant and been paid wages by Defendant as a Settlement Group Member. Defendant’s records will be presumed determinative. The Settlement Administrator shall notify counsel for the Parties of any disputes. Defendant shall review its records and provide further information to the Settlement Administrator, as necessary. The Settlement Administrator shall resolve any disputes and notify counsel for the Parties of its decision prior to distribution of the Individual Settlement Payments.

53. The Settlement Administrator's determination of eligibility for any Individual Settlement Payments and Individual PAGA Payments under the terms of this Stipulation of Settlement shall be conclusive, final and binding on all Parties and all Settlement Group Members, so long as the Settlement Administrator has first consulted with the Parties regarding any disputes or questions as to eligibility.

54. The Notice shall provide that Settlement Group Members who wish to exclude themselves from the Settlement must submit an Exclusion Letter. Any Settlement Group Member who properly requests exclusion using this procedure will not be entitled to any payment from the Settlement except the Individual PAGA Payment and will not release the Settlement Group Released Claims or have any right to object, appeal, or comment thereon. Settlement Group Members who fail to submit an Exclusion Letter shall be bound by all terms of the Stipulation of Settlement and any judgment entered in the Lawsuit if the Settlement is approved by the Court. In order to request exclusion from the Settlement, a Settlement Group Member must submit a completed Exclusion Letter no later than the Exclusion Deadline, or 15 days after the re-mailing of the Notice to that Settlement Group Member, whichever is later. The timeliness of the Exclusion Letters will be determined by valid postmark. In the event that the postmark is illegible or missing, the Exclusion Letter shall be deemed timely if it is received within 5 days of the Exclusion Deadline. Even if a Settlement Group Member submits a valid and timely Exclusion Letter, he or she will still release the Settlement Group PAGA Released Claims.

55. In order to object to the Settlement, a Settlement Group Member must file his or her objection with the Court and serve it on all Parties no later than the Exclusion Deadline, or 15 days after the re-mailing of the Notice to that Settlement Group Member, whichever is later. Alternatively, a Settlement Group Member may appear the Final Approval Hearing and present his or her objection to the Court orally, even without written objection.

56. The Settlement Administrator will mail or wire all required payments no later than 10 business days after the passing of the latter of the Payment Obligation Date or the Settlement Group Release Date. If a Settlement Group Member's check is returned to the Settlement Administrator, the Settlement Administrator will make all reasonable efforts to re-mail it to the Settlement Group Member at his or her correct address. The checks for the Individual Settlement Payments and Individual PAGA Payments will become void and no longer available if not cashed within 180 days after mailing. The amounts represented by checks remaining uncashed after the 180-day deadline will be forwarded by the Settlement Administrator to the California Secretary of State's Unclaimed Property Division for further handling on behalf of the Settlement Group Member. Upon completion of administration of the Settlement, the Settlement Administrator shall provide written certification of such completion to the Court and counsel for the Parties.

57. No person shall have any claim against Defendant, the Releasees, Defendant's Counsel, Plaintiff, the Settlement Group, Settlement Group Counsel or the Settlement Administrator based on mailings, distributions and payments made in accordance with this Stipulation of Settlement.

I. Motion for Final Approval

58. Plaintiff shall timely file the motion for final approval and request entry of the Final Approval Order and Judgment. Settlement Group Counsel shall provide a draft of the motion to Defendant's Counsel for review a reasonable period prior to filing the motion for final approval of the Settlement.

J. Publicity

59. Neither Plaintiff nor Settlement Group Counsel shall directly or indirectly engage in any publicity or disparagement of any type related to the Lawsuit, Defendant or the Settlement. This does not prevent Plaintiff and Settlement Group Counsel from obtaining Court approval of the Settlement.

K. Voiding the Agreement

60. In the event that ten (10) percent or more of the Settlement Group Members submit an Exclusion Letter (*i.e.*, opt-out of the Settlement), Defendant may elect to reject this Settlement and, in the event Defendant elects to reject this Settlement, the Stipulation of Settlement shall be null and void *ab initio* and any order or judgment entered by the Court in furtherance of this Settlement shall be treated as withdrawn or vacated by stipulation of the Parties. In such case, the Settlement Group Members and Defendant shall be returned to their respective statuses as of the date immediately prior to the execution of this Stipulation of Settlement, and Defendant shall be responsible for all costs associated with the administration of the Settlement incurred to the date of rejection. In the event an appeal is filed from the Final Approval Order and Judgment, or any other appellate review is sought prior to the Payment Obligation Date or Settlement Group Release Date, administration of the Settlement shall be stayed pending final resolution of the appeal or other appellate review.

L. Parties' Authority

61. The signatories hereto represent that they are fully authorized to enter into this Stipulation of Settlement and bind the Parties to the terms and conditions hereof.

M. Mutual Full Cooperation

62. The Parties and their counsel agree to fully cooperate with each other to accomplish the terms of this Stipulation of Settlement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Stipulation of Settlement. The Parties to this Stipulation of Settlement shall use their best efforts, including all efforts contemplated by this Stipulation of Settlement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Stipulation of Settlement and the terms set forth herein. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions or actions that may become necessary to effectuate the terms of this Stipulation of Settlement, the Parties shall seek the assistance of the Mediator to resolve such disagreement.

N. No Prior Assignments

63. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights released and discharged by this Stipulation of Settlement.

O. No Admission

64. Nothing contained herein, nor the consummation of this Stipulation of Settlement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or any of the other Releasees. Each of the Parties hereto has entered into this Stipulation of Settlement with the intention of avoiding further disputes and litigation with the attendant risk, inconvenience and expenses. This Stipulation of Settlement is a settlement document and shall, pursuant to California Evidence Code Section 1152 and/or Federal Rule of Evidence 408 and/or any other similar law, be inadmissible as evidence in any proceeding, except an action or proceeding to approve the settlement, and/or interpret or enforce this Stipulation of Settlement.

P. Construction

65. The Parties hereto agree that the terms and conditions of this Stipulation of Settlement are the result of lengthy, intensive, arms' length negotiations between the Parties and that this Stipulation of Settlement shall not be construed in favor of or against any of the Parties by reason of the extent to which any Party or his or its counsel participated in the drafting of this Stipulation of Settlement.

Q. Jurisdiction of the Court

66. Except for those matters to be resolved by the Mediator or the Settlement Administrator as expressly stated, any dispute regarding the interpretation or validity of or otherwise arising out of this Stipulation of Settlement, or relating to the Lawsuit or the Settlement Group Released Claims, shall be subject to the exclusive jurisdiction of the Court, and the Plaintiff, Settlement Group Members, and Defendant agree to submit to the personal and exclusive jurisdiction of the Court. The Parties agree to first try and resolve such disputes with the Mediator. The Court shall retain jurisdiction solely with respect to the interpretation, implementation and enforcement of the terms of this Stipulation of Settlement and all orders and judgments entered in connection therewith, and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement embodied in this Stipulation of Settlement and all orders and judgments entered in connection therewith. The prevailing party to an enforcement action shall be entitled to recover its reasonable attorneys' fees and costs incurred in connection with such an enforcement action.

R. California Law Governs

67. All terms of this Stipulation of Settlement and the exhibits hereto shall be governed by and interpreted according to the laws of the State of California, regardless of its conflict of laws.

S. Invalidity of Any Provision

68. The Parties request that before declaring any provision of this Stipulation of Settlement invalid, the Court shall first attempt to construe all provisions valid to the fullest extent possible consistent with applicable precedents.

T. Headings

69. The headings contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Stipulation of Settlement or any provision hereof.

U. Exhibits

70. The terms of this Stipulation of Settlement include the terms set forth herein and the attached Exhibits 1-3, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Stipulation of Settlement are an integral part of the Settlement, provided, however, that the Parties agree that the Court may provide comment on the Notice Packet as part of its ruling on the Motion for Preliminary Approval.

V. Amendment or Modification

71. This Stipulation of Settlement may be amended or modified only by a written instrument signed by counsel for all Parties.

W. Entire Agreement.

72. This Stipulation of Settlement, including Exhibits 1-3 attached hereto, contains the entire agreement between the Parties relating to the Settlement and transactions contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel. No rights hereunder may be waived except in writing.

X. Binding on Assigns

73. This Stipulation of Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

Y. No Solicitation re: Objections, Exclusions or Appeals

74. The Parties agree to leave the choice of whether to participate in the Settlement up to the Settlement Group Members. The Parties and their counsel shall not solicit, directly or indirectly, or otherwise encourage Settlement Group Members to submit written objections to the Settlement, to request exclusion or to appeal from the Court's Final Approval Order and Judgment.

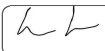
Z. Interim Stay of Proceedings

75. The Parties agree to hold in abeyance all proceedings in the Lawsuit, except such proceedings necessary to implement and complete the Settlement, pending the final approval hearing to be conducted by the Court.

AA. Counterparts

76. This Stipulation of Settlement may be executed in counterparts, and when each of the Parties has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully-signed Stipulation of Settlement, which shall be binding upon and effective as to all Parties.

Accepted and agreed to on December 21, 2022.


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James Jones
Plaintiff



Larry Lee
DIVERSITY LAW GROUP, P.C.
Counsel for Plaintiff


James Scott

On behalf of Defendant TFC Partners, Inc.
Corporation



Shannon B. Nakabayashi
JACKSON LEWIS P.C.
Counsel for Defendant

EXHIBIT 1

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Attorneys for Plaintiff, the Class, and Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF ALAMEDA

JAMES JONES, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

TFC PARTNERS, INC., a Delaware
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. RG21087839

**[PROPOSED] ORDER FINALLY
APPROVING CLASS ACTION
SETTLEMENT AND JUDGMENT
THEREON**

Complaint Filed: February 4, 2021

1 Named Plaintiff James Jones and Defendant TFC Partners, Inc. (collectively, the
2 “Parties”) have entered into a Stipulation of Settlement and Release (“Stipulation of Settlement”)
3 to settle the above-captioned class and PAGA representative action subject to the Court’s final
4 approval (the “Settlement”). The Settlement provides for the payment of compensation to each
5 Settlement Group Member who does not opt out of the Settlement.

6 **I. BACKGROUND**

7 **A. Procedural History**

8 Plaintiff James Jones filed a class and PAGA representative complaint against Defendant
9 TFC Partners, Inc. on February 4, 2021 (“Complaint”). Plaintiff alleges that Defendant: (a) failed
10 to provide off-duty meal periods to employees, or pay meal period premium compensation in lieu
11 thereof, in violation of Labor Code §§ 201-203, 226.7, and 512; (b) failed to provide off-duty rest
12 periods, or pay rest period premium compensation in lieu thereof, in violation of Labor Code §§
13 201-203 and 226.7; (c) failed to pay employees wages owed for all hours worked in violation of
14 Labor Code §§ 201-203, 510, 558, 1194, 1197, and 1197.1; (d) failed to provide accurate
15 itemized wage statements in violation of Labor Code § 226(a); and (e) engaged in unfair business
16 practices in violation of the California Labor Code, the applicable IWC Wage Orders, and the
17 UCL. Plaintiff seeks penalties under the California Private Attorneys General Act. Plaintiff seeks
18 to represent all current and former California non-exempt employees who worked for Defendant
19 and who were paid wages during the Settlement Period of August 10, 2016 to August 31, 2022.

20 The Parties exchanged formal and informal discovery, including Settlement Group data,
21 and engaged in an early mediation of Plaintiff’s claims with well-respected private mediator,
22 Tripper Ortman. With the assistance of the mediator, the parties reached a Settlement in principle
23 of all of Plaintiff’s class and representative claims. On [REDACTED], the Parties executed the
24 Stipulation of Settlement setting forth the terms of the Settlement.

25 **B. Investigation in the Class Action**

26 Settlement Group Counsel conducted a thorough investigation into the facts of the
27 Lawsuit, including formal and informal discovery and a review of company documents and
28 information, including Settlement Group data. Settlement Group Counsel is knowledgeable

1 about and has done extensive research with respect to the applicable law and potential defenses
2 to the claims of the Settlement Group.

3 **C. Benefits of the Settlement to Settlement Group Members**

4 Plaintiff has considered the expense, risk and length of continued proceedings necessary
5 to continue the Lawsuit against Defendant through certification, trial, and any possible appeals.
6 Plaintiff has also considered the uncertainty and risk of the outcome of further litigation,
7 Defendant's opposition to any motion for class certification, and the difficulties and delays
8 inherent in such litigation, including those involved in class certification. Plaintiff is also aware of
9 the burdens of proof necessary to establish liability for the claims asserted in the Lawsuit and
10 Defendant's defenses thereto. Plaintiff has also considered the settlement negotiations conducted
11 by the Parties and the recommendations of the Mediator, who is highly experienced in
12 employment litigation, including wage and hour class actions. Based on the foregoing, Plaintiff
13 has determined that the Settlement set forth in the Stipulation of Settlement is fair, adequate and
14 reasonable, and is in the best interests of the Settlement Group.

15 **D. Settlement Group**

16 "Settlement Group" means the class and the PAGA group and consists of all current and
17 former California non-exempt employees who worked for Defendant and who were paid wages
18 during the Settlement Period of August 10, 2016 to August 31, 2022. Members of the Settlement
19 Group are "Settlement Group Members."

20 **E. Settlement Group Released Claims**

21 The Settlement fully releases and discharges the Releasees from the "Settlement Group
22 Released Claims," which are all claims, demands, rights, liabilities, and causes of action, whether
23 known or unknown, that were or could have been asserted based on the facts of the operative
24 complaint during the Settlement Period for violation of local, state and federal law arising out of,
25 or relating to failure to provide meal periods or pay meal period premiums, failure to provide rest
26 periods or provide rest period premiums, failure to furnish accurate wage statements, failure to pay
27 minimum wage, failure to pay all wages earned, failure to pay overtime wages, failure to maintain
28 required records, failure to timely pay earned wages upon termination or discharge, unfair

1 competition, including, but not limited to, claims for injunctive relief, punitive damages, liquidated
2 damages, penalties of any nature, interest, fees, including fees under California Code of Civil
3 Procedure section 1021.5, and costs premised on the violations described in this paragraph.

4 The Settlement fully releases and discharges the Releasees from the “PAGA Released
5 Claims,” which are all claims, demands, rights, liabilities, and causes of action, whether known or
6 unknown, that were or could have been asserted based on the facts of the operative complaint
7 during the Settlement Period for violation and for penalties under the Private Attorneys General
8 Act premised on the alleged Labor Code violations asserted in the Lawsuit, including: (a) failing
9 to provide off-duty meal periods to employees, or pay meal period premium compensation in lieu
10 thereof, in violation of Labor Code §§ 201-203, 226.7, and 512; (b) failing to provide off duty rest
11 periods, or pay rest period premium compensation in lieu thereof, in violation of Labor Code §§
12 201-203 and 226.7; (c) failing to pay employees wages owed for all hours worked, to pay
13 minimum wage, to pay overtime, and to timely pay wages upon termination or discharge, in
14 violation of Labor Code §§ 201-203, 510, 558, 1194, 1197, and 1197.1; (d) failing to provide
15 accurate itemized wage statements in violation of Labor Code § 226(a).

16 The “Releasees” are Defendant TFC Partners, Inc. d/b/a NFC Amenity Management,
17 including its past or present successors and predecessors in interest, subsidiaries, affiliates,
18 parents, officers, directors, shareholders, employees, agents, principals, heirs, representatives,
19 accountants, auditors, consultants, insurers and reinsurers, and their respective successors and
20 predecessors in interest, subsidiaries, affiliates, parents and attorneys.

21 **F. Defendant’s Denials of Wrongdoing**

22 Defendant denies any liability and wrongdoing of any kind associated with the claims
23 alleged in the Lawsuit and believes it has valid defenses to Plaintiff’s claims. Defendant further
24 denies that the Lawsuit is appropriate for class treatment for any purpose other than this
25 Settlement. Defendant contends that it has complied at all times with the California Labor Code,
26 the Industrial Welfare Commission Wage Orders, and the California Business and Professions
27 Code. Neither the Stipulation of Settlement, nor any document referred to or contemplated herein,
28 nor any action taken to carry out the Stipulation of Settlement, may be construed as, or may be

1 used as an admission, concession or indication by or against Defendant of any fault, wrongdoing
2 or liability whatsoever, or of any concession that certification of a class other than for purposes of
3 this Settlement would be appropriate in this or any other case.

4 **G. Operation of the Settlement**

5 Pursuant to the Preliminary Approval Order dated [REDACTED], this Court
6 conditionally certified the Settlement Group as a class and granted preliminary approval of the
7 Settlement. The Preliminary Approval Order also approved of the proposed forms of Notice and
8 procedure for providing notice. The Court entered the Preliminary Approval Order after review
9 and consideration of all of the pleadings filed in connection therewith, and the oral presentations
10 made by counsel at the hearing.

11 In compliance with the Preliminary Approval Order, the Notice Packets were sent to all
12 Settlement Group Members via first class mail. Furthermore, follow-up mailings were performed
13 for returned Notice Packets. The notice procedure was timely completed.

14 This matter is now before the Court on Plaintiff's Motion for Final Approval of the class
15 action Settlement, including approval of PAGA Payment to the LWDA, Named Plaintiff Award,
16 the Settlement Administrator Payment, and Settlement Group Counsel's Attorneys' Fees and
17 Costs Payment. The Court has read, heard, and considered all the pleadings and documents
18 submitted, and the presentations made in connection with the Motion for Final Approval and
19 related papers, which came for hearing on [REDACTED].

20 This Court finds that the Settlement appears to be the product of serious, informed, non-
21 collusive negotiations, has no deficiencies, and does not improperly grant preferential treatment
22 to any individuals. The Court further finds that the Settlement is fair, reasonable, and adequate
23 and that Plaintiff has satisfied the standards for final approval of a class action settlement under
24 California law. Under the provisions of California Code of Civil Procedure section 382 and
25 Federal Rule of Civil Procedure 23, as approved for use by the California state court in *Vasquez v.*
26 *Superior Court*, 4 Cal. 3d 800, 821 (1971), the trial court has discretion to certify a class where:

27 [Q]uestions of law or fact common to the members of the class predominate over
28 any questions affecting only individual members, and that a class action is

1 superior to the available methods for the fair and efficient adjudication of the
2 controversy ... Fed. R. Civ. Proc. 23.

3 Certification of a settlement class is the appropriate judicial device under these
4 circumstances. Based on the foregoing, **IT IS HEREBY ORDERED THAT:**

5 This Court has jurisdiction over the claims of the Settlement Group Members asserted in
6 this proceeding and over all Parties to the Lawsuit.

7 For the reasons set forth in the Preliminary Approval Order and preliminary approval
8 hearing, which are adopted and incorporated herein by reference, this Court finds that the
9 applicable requirements of the California Code of Civil Procedure § 382, and Rule 3.769 of the
10 California Rules of Court have been satisfied with respect to the Settlement Group and the
11 proposed Settlement. The Court hereby makes final its earlier provisional certification of the
12 Settlement Group as a class, as set forth in the Preliminary Approval Order.

13 The Notice given to the Settlement Group Members fully and accurately informed the
14 Settlement Group Members of all material elements of the proposed Settlement and of their
15 opportunity to object to or comment thereon; was the best notice practicable under the
16 circumstances; was valid, due and sufficient notice to all Settlement Group Members; and
17 complied fully with the laws of the State of California, the United States Constitution, due
18 process and other applicable law. The Notice fairly and adequately described the Settlement and
19 provided Settlement Group Members adequate instructions and a variety of means to obtain
20 additional information. A full opportunity has been afforded to the Settlement Group Members to
21 participate in this hearing, and all Settlement Group Members and other persons wishing to be
22 heard, if any, have been heard. Accordingly, the Court determines that all Settlement Group
23 Members who did not timely and validly submit an Exclusion Form are bound by this Order.

24 Pursuant to California law, the Court hereby grants final approval of the Settlement and
25 finds it reasonable and adequate, and in the best interests of the Settlement Group as a whole.
26 More specifically, the Court finds that the Settlement was reached following a meaningful
27 investigation conducted by Settlement Group Counsel; that the Settlement is the result of serious,
28 informed, adversarial, and arms-length negotiations between the Parties; and that the terms of the

1 Settlement are in all respects fair, adequate, and reasonable. In so finding, the Court has
2 considered all of the evidence presented, including evidence regarding the strength of the
3 Plaintiff's case; the risk, expense, and complexity of the claims presented; the likely duration of
4 further litigation; the amount offered in Settlement; the extent of investigation and discovery
5 completed; and the experience and views of Settlement Group Counsel.

6 The Court further has considered the absence of objection to the Settlement by Settlement
7 Group Members, as well as the [insert number] exclusion letters from the Settlement submitted
8 by: [REDACTED]. Accordingly, the Court hereby directs that the Settlement be affected in
9 accordance with the Stipulation of Settlement and the following terms and conditions.

10 It is hereby ordered that the Settlement Administrator shall pay the Individual Settlement
11 Payments to the Settlement Group Members who did not opt out according to the methodology
12 set forth in the Stipulation of Settlement.

13 It is hereby ordered that the Settlement Administrator shall pay the Named Plaintiff
14 Award of \$10,000.00 to named Plaintiff James Jones because the Court finds the Named Plaintiff
15 Award is fair and reasonable for the work he provided to the Settlement Group Members and in
16 exchange for a general release.

17 It is hereby ordered that the Settlement Administrator shall pay the PAGA Payment of
18 \$30,000.00 to the Labor and Workforce Development Agency and \$10,000.00 distributed pro rata
19 to the Settlement Group to pay all applicable penalties under the California Labor Code's Private
20 Attorneys General Act.

21 It is hereby ordered that the Settlement Administrator, Phoenix Class Action
22 Administration Solutions shall pay itself a payment of \$10,500.00 for the services performed in
23 administering the Settlement.

24 The Court hereby awards \$250,000.00 in attorneys' fees, costs, plus its actual out-of-
25 pocket costs, \$ [REDACTED].00 to Settlement Group Counsel, Diversity Law Group, P.C. and Polaris
26 Law Group LLP. The Court finds that the requested award is reasonable for a contingency fee in
27 a class and representative action such as this; i.e., one-third of the Total Maximum Settlement
28 Amount of \$750,000.00. In addition, the Court finds that the requested Attorneys' Fees and Costs

1 Payment is reasonable in light of the lodestar crosscheck. In conjunction with making these
2 findings and doing a lodestar analysis, the Court has determined that the billing rates of
3 Settlement Group Counsel are reasonable and commensurate with market rates in Alameda
4 County and approves those rates. No other costs or fees relief shall be awarded, either against
5 Defendant or the Releasees, or from the award to the Settlement Group.

6 Within ten (10) calendar days after the Final Approval, Defendant shall deposit the first
7 payment of \$350,000.00 with the Settlement Administrator. Within nine months from the Final
8 Approval, Defendant shall deposit the second payment of \$400,000.00 with the Settlement
9 Administrator. The Settlement Administrator shall then distribute the Settlement according to its
10 terms.

11 With this Final Approval of the proposed Settlement, it is hereby ordered that Settlement
12 Group Members and their successors shall conclusively be deemed to have given a release, as set
13 forth in the Stipulation of Settlement and above, against the Releasees, and all such Settlement
14 Group Members and their successors shall be permanently enjoined and forever barred from
15 asserting any claim related to this Lawsuit against the Releasees.

16 Neither the making of the Stipulation of Settlement nor the entry into the Stipulation of
17 Settlement constitutes an admission by Defendant, nor is this Order a finding of the validity of
18 any claims in the Complaint or of any other wrongdoing. Further, the Stipulation of Settlement is
19 not a concession, and shall not be used as an admission of any wrongdoing, fault, or omission of
20 any entity or persons; nor may any action taken to carry out the terms of the Stipulation of
21 Settlement be construed as an admission or concession by or against Defendant or any related
22 person or entity.

23 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

24
25 Dated: _____

Judge of the Superior Court of California

EXHIBIT 2

James Jones v. TFC Partners, Inc.
Superior Court of the State of California, County of Alameda
Case No. RG21087839

NOTICE OF CLASS ACTION SETTLEMENT

To: All current and former California non-exempt employees who worked for TFC Partners, Inc. d/b/a NFC Amenity Management (“NFC”) and who were paid wages during the Settlement Period of August 10, 2016 to August 31, 2022. Members of the Settlement Group are “Settlement Group Members (the “Settlement Group”).

*A court has authorized this Notice. It is not a solicitation from a lawyer.
This is not a lawsuit against you and you are not being sued.*

However, your legal rights may be affected by a class action settlement described in this Notice.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT AND LAWSUIT	
DO NOTHING TO RECEIVE A PAYMENT	The estimated amount of your Individual Settlement Payment is shown in Section I. If you wish to receive it, no further action is required.
CHANGE CONTACT INFORMATION	If you need to change your contact information, you must provide the Settlement Administrator with your updated contact information to ensure your Individual Settlement Payment is mailed to the correct mailing address. Please call or write to the Settlement Administrator as soon as possible.
EXCLUDE YOURSELF	You can exclude yourself from the Settlement. If you request to be excluded, you will not receive an Individual Settlement Payment, but will maintain the right to file your own lawsuit. If you wish to exclude yourself from the Settlement, please send a letter to the Settlement Administrator. Be sure to include your name, address, telephone number, last four digits of your Social Security Number, and your signature. It must be postmarked on or before [REDACTED], 2023.
OBJECT	If you think the Settlement is not fair, you can submit a written objection to the Settlement Administrator and it will be considered by the Court. In order to be considered, your objection must state your name, contact information, and the grounds for objecting, and be postmarked on or before

	[REDACTED], 2023. You may then appear in Court and explain why you think the Settlement is not fair at the Final Approval Hearing. If the Settlement is approved, you will be bound by the terms of the Settlement and the Settlement Group Released Claims described in this Notice.
--	---

I. YOUR INDIVIDUAL PAY PERIODS AND ESTIMATED INDIVIDUAL SETTLEMENT PAYMENT

According to NFC's records, your total number of Individual Pay Periods in which NFC paid you wages during the period from August 10, 2016 to August 31, 2022 ("Settlement Period") is: [insert number]. Based on this information, your Individual Settlement Payment is estimated to be \$ [REDACTED].

The number of Individual Pay Periods shown above was determined based upon NFC's records. If you believe the number of Individual Pay Periods is not right, you may send a letter to the Settlement Administrator stating what you believe the correct number of Individual Pay Periods are, together with any information or documentation that supports your belief.

To be considered, you must mail your dispute letter to the Settlement Administrator at the address shown in Section V below of this Notice, postmarked on or before [REDACTED], 2023 [45 days after initial mailing]. Your dispute must contain: (1) your full name and address; (2) the case name and number (*Jones v. TFC Partners, Inc.*, Case No. RG21087839); and (3) a clear statement indicating you wish to dispute the number of Individual Pay Periods attributed to you, together with any supporting documents or information. The Settlement Administrator will resolve any dispute regarding your Individual Pay Periods based on NFC's records and any information you provide.

Before any payments can be made pursuant to the terms of the Settlement discussed in this Notice, the Court must first decide whether to finally approve it. The Court will consider the fairness of the Settlement at the Final Approval Hearing, which has been set for [REDACTED], 2023, at _____ a.m./p.m. in Department 23 of the above-captioned Court located at 1225 Fallon Street, Oakland, California 94612. The date and time of the hearing may change without notice.

II. BACKGROUND INFORMATION

1. What is this Lawsuit about?

Plaintiff James Jones sued NFC on behalf of himself and the Settlement Group Members. His Lawsuit alleges that NFC: (a) failed to provide off-duty meal periods to employees, or pay meal period premium compensation in lieu thereof, in violation of Labor Code §§ 201-203, 226.7, and 512; (b) failed to provide off-duty rest periods, or pay rest period premium compensation in lieu thereof, in violation of Labor Code §§ 201-203 and 226.7; (c) failed to pay employees wages

owed for all hours worked in violation of Labor Code §§ 201-203, 510, 558, 1194, 1197, and 1197.1; (d) failed to provide accurate itemized wage statements in violation of Labor Code § 226(a); and (e) engaged in unfair business practices in violation of the California Labor Code, the applicable IWC Wage Orders, and the UCL. He also seeks penalties under the California Labor Code's Private Attorneys General Act ("PAGA"). NFC denies Plaintiff's allegations and that it has committed any wrongdoing. NFC asserts that it has properly paid its employees for all hours worked, and furnished meal and rest periods in accordance with the law.

2. What is a class action and why is this case a class action?

In a class action, one or more people, called class representatives, sue on behalf of a group of people who they allege have similar claims. The group is called a "Class." Claims are litigated and resolved for everyone in the Class at once, except for those people who exclude themselves from the Settlement Group. In this case, Mr. Jones is the class representative. He alleges his claims involve legal and factual questions common to the group of current and former non-exempt California employees who worked for NFC and were paid wages by NFC during the period from August 10, 2016 to August 31, 2022.

3. Has the Court decided who is right?

No. NFC denies the allegations in the Lawsuit, and the Court has NFC made no determination as to which party is right. By preliminarily approving the Settlement and authorizing this Notice, the Court is not suggesting either side would win or lose if this case went to trial. Instead of a trial, the Parties agreed to the Settlement described in this Notice. That way, they avoid the cost, risk and uncertainty of trial, and the former and current non-exempt employees who were allegedly affected receive compensation. Mr. Jones and Counsel for him and the Settlement Group believe the Settlement is fair, reasonable and adequate and in the best interests of all members of the Settlement Group.

4. How do I participate in the Settlement as a Settlement Group Member?

If you want to receive your share of the Settlement monies paid under the Settlement, you do not need to do anything. The amount estimated for you is shown in Section I above.

5. How do I ask to be excluded?

If you exclude yourself, referred to as "opting out" of the Settlement Group, you will not receive a share in the money paid under the Settlement, but you would keep your right to sue any or all of the Releasees (defined below) on your own. If you file your own lawsuit against any of the Releasees after you exclude yourself, you will have to prove your own claims. There are time limits for filing individual claims that might have already expired. If you wish to be excluded from the Settlement, you must send a letter to the Settlement Administrator stating that you do not want to be part of the Settlement Group ("Exclusion Form"). Be sure to include your name, address, telephone number, last four digits of your Social Security Number, the date, and your signature. The letter must be postmarked on or before [REDACTED], 2023. *[45 days of initial mailing]*. If you do not timely submit a letter

requesting to exclude yourself, you will remain a member of the Settlement Group, will be bound by the terms of the Settlement, and will be issued the Individual Settlement Payment referenced in Section I above.

If you exclude yourself from the settlement, as described above, the amount of your Individual Settlement Payment will remain with the Net Settlement Sum and distributed on a pro-rata basis to the participating members of the Settlement Group. No portion of the Total Maximum Settlement Amount will be returned to NFC under any circumstances.

Even if you exclude yourself from the settlement, you will still receive an Individual PAGA Payment, which is the amount you are entitled to as an “aggrieved employee” under the PAGA. Under the PAGA, 75% of the civil penalties assessed are distributed to the State of California, and 25% of the civil penalties are distributed to aggrieved employees like you. You cannot exclude yourself from receiving your Individual PAGA Payment.

6. May I object to the Settlement?

If you do not think the Settlement is fair, you can object to the Settlement and tell the Court you do not agree with the Settlement or some part of it. The Court will consider your views when deciding whether to grant final approval of the Settlement. This is the process to tell the Court if you think the Settlement as a whole is unfair. If you only believe your Individual Settlement Payment was miscalculated, please use the process shown in Section I of this Notice.

To object to the Settlement, you should send a letter to the Settlement Administrator at the address shown in Section V. To be valid, your letter must (a) state the case name and number (*Jones v. TFC Partners, Inc.*, Case No. RG21087839); (b) explain the basis for the objection, (c) include your name, contact information and the last four digits of your Social Security number, and (d) be signed by you. You must submit your letter to be postmarked on or before [REDACTED], 2023. [45 days of the initial mailing].

You may then appear at the Final Approval hearing on the Settlement, set for [REDACTED], at [REDACTED] in Department 23, at [REDACTED] a.m./p.m. of the Superior Court of California, County of Alameda located at 1225 Fallon Street, Oakland, CA 94612 to state your objection. The date and time of the hearing may change without notice.

If you choose to object, you will still receive an Individual Settlement Payment if the Court grants Final Approval of the Settlement. If the Court overrules your objection, you will continue to be a Settlement Group Member, subject to the terms of the Settlement, and you will be mailed your Individual Settlement Payment.

You may not object to the PAGA Payment.

7. **What happens if I do nothing at all?**

By doing nothing, should the Court grant final approval of the proposed Settlement, your Individual Settlement Payment will be mailed by the Settlement Administrator to you and you will be bound by the terms of the Settlement.

III. **SUMMARY OF SETTLEMENT TERMS**

8. **Total Maximum Settlement Amount.**

NFC will pay a total of \$750,000.00 to fully resolve the claims in the Lawsuit, which will be subject to the following Court-approved deductions:

- **Administrator Payment:** The Court has tentatively approved a payment of \$10,500.00 to the appointed Settlement Administrator, Phoenix Class Action Administration Solutions, for the costs it has incurred in administering the Settlement.
- **Attorneys' Fees and Costs Payment:** The Court has preliminarily appointed Diversity Law Group, P.C. and Webber Law Group as attorneys to represent Mr. Jones and the Settlement Group, ("Settlement Group Counsel") in this Lawsuit. Settlement Group Counsel will ask the Court to approve an award of Attorneys' Fees in the amount of \$250,000.00, plus actual out-of-pocket litigation costs, which shall not exceed \$15,000.00. Settlement Group Counsel has been prosecuting the Lawsuit on behalf of the Settlement Group on a contingency fee basis (that is, without being paid to date) while advancing litigation costs and expenses.
- **Named Plaintiff Award:** Settlement Group Counsel will also ask the Court to approve a service payment in the amount of \$10,000.00 to Plaintiff James Jones to compensate him for acting as the sole representative of the Settlement Group, initiating the lawsuit, his work, the risks undertaken for payment of NFC's costs of suit in the event this case had been lost, and his agreement to provide a general release.
- **PAGA Payment:** A payment of \$40,000.00 will be attributed to penalties under PAGA, which will be apportioned pursuant to the PAGA as follows: \$30,000.00 (75%) to be paid to the California's Labor and Workforce Development Agency and \$10,000.00 (25%) to remain with the Net Settlement Sum and distributed to all Settlement Group Members.

Because of the size of the Settlement, NFC will make pay the Total Maximum Settlement Amount in two parts. Within ten (10) calendar days after the Final Approval, NFC will deposit the first payment of \$350,000.00 with the Settlement Administrator. Within nine months from the Final Approval, NFC will deposit the second payment of \$400,000.00 with the Settlement Administrator.

9. Allocation to Settlement Group Members.

After the Court-approved deductions described above, the Net Settlement Sum, estimated to be \$424,500.00, will be distributed to all participating Settlement Group Members, based on the number of their Individual Pay Periods during the Settlement Period. Unless you timely exclude yourself from the Settlement, as described above, this Individual Settlement Check will be mailed to your approximately two to three months after NFC makes its second installment payment.

For tax purposes, the Individual Settlement Payment will be allocated 80% to statutory penalties and interests with the remaining 20% of the Individual Settlement Payments allocated to wages, which shall be subject to customary withholdings. The Individual PAGA Payment will be allocated 100% as statutory penalties and interests, which will be paid without withholding any amount and reported on an IRS Form 1099. Settlement Group Members should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

IV. RELEASED CLAIMS

If approved by the Court, the Settlement will bar any Settlement Group Member who does not exclude themselves from the Settlement from bringing certain claims against the Releasees. "Releasees" means Defendant NFC Partners, Inc. d/b/a NFC Amenity Management, including its past or present successors and predecessors in interest, subsidiaries, affiliates, parents, officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys.

The Settlement will fully release and discharge the Releasees from all claims, demands, rights, liabilities, and causes of action, whether known or unknown, that were or could have been asserted based on the facts of the operative complaint during the Settlement Period for violation of local, state and federal law arising out of, or relating to failure to provide meal periods or pay meal period premiums, failure to provide rest periods or provide rest period premiums, failure to furnish accurate wage statements, failure to pay minimum wage, failure to pay all wages earned, failure to pay overtime wages, failure to maintain required records, failure to timely pay earned wages upon termination or discharge, , unfair competition, including, but not limited to, claims for injunctive relief, punitive damages, liquidated damages, penalties of any nature, interest, fees, including fees under California Code of Civil Procedure section 1021.5, and costs premised on the violations described in this paragraph. ("Settlement Group Released Claims").

The Settlement will fully release and discharge the Releasees from all claims, demands, rights, liabilities, and causes of action, whether known or unknown, that were or could have been asserted based on the facts of the operative complaint during the Settlement Period for violation and for penalties under the Private Attorneys General Act premised on the

alleged Labor Code violations asserted in the Lawsuit, including: (a) failing to provide off-duty meal periods to employees, or pay meal period premium compensation in lieu thereof, in violation of Labor Code §§ 201-203, 226.7, and 512; (b) failing to provide off duty rest periods, or pay rest period premium compensation in lieu thereof, in violation of Labor Code §§ 201-203 and 226.7; (c) failing to pay employees wages owed for all hours worked, to pay minimum wage, to pay overtime, and to timely pay wages upon termination or discharge, in violation of Labor Code §§ 201-203, 510, 558, 1194, 1197, and 1197.1; (d) failing to provide accurate itemized wage statements in violation of Labor Code § 226(a) (“Settlement Group Released PAGA Claims”).

Even if you decide to exclude yourself from the settlement as described in Paragraph 5, you will still release the Settlement Group Released PAGA Claims and receive your Individual PAGA Payment.

Settlement Group Members give up their right to sue or otherwise make a claim against any of the Releasees for the Settlement Group Released Claims, in exchange for their Individual Settlement Payments.

V. ADDITIONAL INFORMATION

This Notice is only a summary of the Lawsuit and the Settlement. Any questions about this Notice, your estimated Individual Settlement Payment, objections or requests for exclusion may be made to the Settlement Administrator at the address shown immediately below. The Administrator’s toll-free number is also provided. You may also contact Settlement Group Counsel at the addresses and telephone numbers shown below.

<u>Settlement Administrator</u>	<u>Settlement Group Counsel</u>
Jones v. TFC/NFC Class Action Settlement Administrator c/o _____ P.O. Box _____ _____, California _____ (800) xxx-xxxx	Diversity Law Group, P.C. Larry W. Lee Mai Tulyathan Max W. Gavron 515 S. Figueroa Street, Suite 1250 Los Angeles, California 90071 (213) 488-6555 Webber Law Group Kelsey A. Webber 333 University Ave., Suite 200 Sacramento, CA 95825 (916) 588-0683

Checks not cashed or deposited after 180 days will be voided and the funds represented by those uncashed checks will be forwarded by the Settlement Administrator to California Secretary of State's Unclaimed Property Division.

For more information, you may also:

- Inspect the Court's files about the Lawsuit at the Office of the Clerk of the Court, Superior Court of California for the County of Alameda, 1225 Fallon Street, Oakland, California 94612, from 8:30 a.m. to 4:00 p.m., Monday through Friday.
- You may also access the Court's electronic case file using the following steps:
 1. Go to <http://www.alameda.courts.ca.gov/Pages.aspx/domainWeb>;
 2. Click on the "Domain Web" blue button in the middle of page;
 3. Click the "Case Number Search" in the middle of the page;
 4. When prompted, enter case number RG21087839 and click "Search;" and
 5. Once on the case page, you can access documents, upcoming hearings, and other information.

PLEASE DO NOT CONTACT THE COURT, NFC AND/OR NFC'S ATTORNEYS OR ANY OF THE RELEASEES WITH INQUIRIES.

4888-3653-9209, v. 1

EXHIBIT 3

Larry W. Lee (State Bar No. 228175)
Mai Tulyathan (State Bar No. 316704)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
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Kelsey A. Webber (State Bar No. 303721)
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WEBBER LAW GROUP
1610 R Street, Suite 300
Sacramento, California 95811
Telephone: (916) 588-0683

Attorneys for Plaintiff, the Class, and Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF ALAMEDA

JAMES JONES, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

TFC PARTNERS, INC., a Delaware
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. RG21087839

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: April 4, 2023
Time: 3:00 P.M.
Dept.: 23

Reservation ID: 820143419137

Complaint Filed: February 4, 2021

1 Plaintiff James Jones filed a class and PAGA representative complaint against Defendant
2 TFC Partners, Inc. on February 4, 2021 (“Complaint”). Plaintiff alleges that Defendant: (a) failed
3 to provide off-duty meal periods to employees, or pay meal period premium compensation in lieu
4 thereof, in violation of Labor Code §§ 201-203, 226.7, and 512; (b) failed to provide off-duty rest
5 periods, or pay rest period premium compensation in lieu thereof, in violation of Labor Code §§
6 201-203 and 226.7; (c) failed to pay employees wages owed for all hours worked in violation of
7 Labor Code §§ 201-203, 510, 558, 1194, 1197, and 1197.1; (d) failed to provide accurate
8 itemized wage statements in violation of Labor Code § 226(a); and (e) engaged in unfair business
9 practices in violation of the California Labor Code, the applicable IWC Wage Orders, and the
10 UCL. Plaintiff seeks penalties under the California Private Attorneys General Act. Plaintiff seeks
11 to represent all current and former California non-exempt employees who worked for Defendant
12 and who were paid wages during the Settlement Period of August 10, 2016 to August 31, 2022.

13 The Parties exchanged formal and informal discovery, including providing Settlement
14 Group data, and engaged in an early mediation of Plaintiff’s claims with well-respected private
15 mediator, Tripper Ortman. With the assistance of the mediator, the parties reached a Settlement in
16 principle of all of Plaintiffs class and representative claims. On December 21, 2022, the Parties
17 executed the Stipulation of Settlement and Release (“Stipulation of Settlement”), setting forth the
18 terms of the Settlement. A preliminary approval hearing was held before this Court on April 4,
19 2023 for the purpose of determining, among other things, whether the terms of the Stipulation of
20 Settlement were within the range of possible approval and whether Notice to the Settlement
21 Group Members of its terms and conditions, and the scheduling of a formal fairness hearing, also
22 known as a final approval hearing, will be worthwhile.

23 Appearing at the hearing were counsel for Defendant, and counsel on behalf of Plaintiff
24 and the Settlement Group Members. The Court, having reviewed the papers and documents
25 presented, having heard the statements of counsel, having considered the matter, and having made
26 findings and rulings at the hearing, **HEREBY ORDERS:**

27 1. The Court grants preliminary approval of the terms and conditions contained in the
28 Stipulation of Settlement. The Court preliminarily finds that the terms of the Stipulation of

1 Settlement appear to be within the range of possible approval, pursuant to the provisions of
2 Section 382 of the California Code of Civil Procedure.

3 2. It appears to the Court on a preliminary basis that: (1) based on the papers and
4 information submitted to the Court in support of Plaintiff's motion for preliminary approval, the
5 proposed Settlement amount is fair and reasonable to the Settlement Group Members when
6 balanced against the risks of further litigation relating to class certification, the potential value of
7 Plaintiff's asserted claims, Defendant's asserted defenses, potential liability and damages issues,
8 and potential appeals; (2) significant investigation and research has been conducted such that
9 counsel for the Parties at this time are able to reasonably evaluate their respective positions; (3)
10 settlement at this time will avoid substantial costs, delay and risks that would be presented by the
11 further prosecution of the litigation; and (4) the proposed Settlement has been reached as the
12 result of intensive, serious and non-collusive negotiations between the Parties. Accordingly, the
13 Court preliminarily finds that the Stipulation of Settlement was entered into in good faith.

14 3. The Court grants conditional certification of the Settlement Group as a class, in
15 accordance with the Stipulation of Settlement for the purposes of this Settlement only. The
16 Settlement Group includes: "All current and former California non-exempt employees who
17 worked for Defendant and who were paid wages during the Settlement Period of August 10, 2016
18 to August 31, 2022."

19 4. The Court authorizes the retention of Phoenix Class Action Administration
20 Solutions as Settlement Administrator for the purpose of this Settlement.

21 5. The Court preliminarily finds named plaintiff James Jones is a suitable class
22 representative for settlement purposes only and preliminarily appoints him class representative for
23 the Settlement Group conditionally certified by this Order.

24 6. The Court preliminarily appoints Diversity Law Group, P.C. and Webber Law
25 Group as Settlement Group Counsel for settlement purposes only. The Court preliminarily finds
26 that counsel has demonstrable experience litigating, certifying, and settling class actions, and will
27 serve as adequate counsel for the Settlement Group conditionally certified by this Order.
28

1 7. The Court approves the Notice of Class Action Settlement (the “Notice”) attached
2 as **EXHIBIT A**. The Court finds that the Notice along with the related notification materials in
3 the Notice Packet constitutes the best notice practicable under the circumstances and are in full
4 compliance with the laws of the State of California, to the extent applicable, the United States
5 Constitution, and the requirements of due process. The Court further finds that the Notice appears
6 to fully and accurately inform the Settlement Group Members of all material elements of the
7 Stipulation of Settlement, the proposed fees and costs of administration, the Settlement Group
8 Members’ right to be excluded from the class, each Settlement Group Member’s right and
9 opportunity to object to the Settlement, details about the court hearing on settlement approval,
10 and how the Settlement Group Members may obtain additional information. The Notice shall be
11 mailed via first class mail to the most recent known address of each Settlement Group Member in
12 accordance with the Stipulation of Settlement.

13 8. The Court approves the proposed procedure for exclusion from the class by
14 submitting an exclusion letter to the Settlement Administrator no later than 45 days following the
15 date on which the Settlement Administrator first mails the Notice to Settlement Group Members.
16 Any Settlement Group Member who submits a valid and timely exclusion letter shall no longer be
17 a member of the class, shall be barred from participating in the Settlement and shall receive no
18 benefit from the Settlement.

19 9. The Court orders that Settlement Group Counsel shall file by at least sixteen (16)
20 court days before _____ (hearing date) a motion for Final Approval of the Settlement
21 and Settlement Group Counsel’s Attorneys’ Fees and Costs Payment, the Named Plaintiff Award
22 and the Settlement Administrator’s Payment, with the appropriate declaration(s) and supporting
23 evidence.

24 10. A Final Approval Hearing is hereby set for _____ at 9:30 a.m. in
25 Department 23 of the Alameda County Superior Court, located at 1225 Fallon St, Oakland,
26 California 94612. Any Settlement Group Member seeking to object to the proposed Settlement
27 may send a letter to the Settlement Administrator as set forth in the Notice and/or appear at the
28 Final Approval Hearing to make such objection.

1 11. The Court orders that pending further order of this Court, all proceedings in this
2 Lawsuit except those contemplated herein and in the Stipulation of Settlement are stayed.

3 12. The Court orders that to facilitate administration of this Settlement, all Settlement
4 Group Members, including Plaintiff, are hereby enjoined from filing or prosecuting any claims,
5 cases, suits or administrative proceedings (including filing or pursuing claims with the California
6 Division of Labor Standards Enforcement) regarding claims released by the Settlement unless and
7 until such Settlement Group Members have submitted a valid and timely exclusion letter with the
8 Settlement Administrator and the time for filing claims with the Settlement Administrator has
9 lapsed.

10 13. If the Court grants final approval of this Settlement, Settlement Group Members
11 and their successors shall conclusively be deemed to have given a release, as set forth in the
12 Stipulation of Settlement and Notice, against the Releasees, and all Settlement Group Members
13 and their successors shall be permanently enjoined and forever barred from asserting any claim
14 related to this Lawsuit against the Releasees. If for any reason the Court does not execute and file
15 a Final Approval Order, the proposed Settlement subject to this Order and all evidence and
16 proceedings had in connection with the Settlement, including condition certification of the
17 Settlement Group as a class, shall be null and void.

18 **IT IS SO ORDERED.**

19
20 Dated: _____

Judge of the Superior Court of California