

LIDMAN LAW, APC
Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Elizabeth Nguyen (SBN 238571)
enguyen@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
MAGALI MARTINEZ

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
MAGALI MARTINEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MADERA

MAGALI MARTINEZ, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

READY ROAST NUT COMPANY, L.L.C., a
California limited liability company; and
DOES 1 through 100, inclusive,
Defendants.

Case No.: MCV084692

*[Assigned for All Purposes to Hon. Katherine
Rigby, Dept. 45]*

**DECLARATION OF SCOTT M. LIDMAN
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: March 3, 2023
Time: 9:00 a.m.
Dept.: 45

1 I, SCOTT M. LIDMAN, declare as follows:

2 1. I am a shareholder and principal of the law firm Lidman Law, APC, and counsel
3 for the named Plaintiff Magali Martinez (“Plaintiff”) and the proposed Settlement Class in the
4 above-captioned matter. I am a member in good standing of the bar of the State of California and
5 am admitted to practice in this Court. I have personal knowledge of the facts stated in this
6 declaration and could testify competently to them if called upon to do so.

7 2. I am a 1998 graduate of Santa Clara University School of Law, where I graduated
8 *summa cum laude*. During law school, I worked as a summer associate for the international
9 employment law firm of Littler Mendelson, P.C., located in Los Angeles, California.

10 3. Since graduating from law school, my practice has focused exclusively on
11 employment litigation. In September 1998, I began working as an associate attorney at the
12 international law firm of Littler Mendelson P.C., at its Los Angeles office, which according to its
13 website is the largest law firm in the world exclusively devoted to representing management in
14 employment, employee benefits and labor law matters.

15 4. In 2000, I left Littler Mendelson to work at the Los Angeles office of Jones Day,
16 which was at the time one of the largest international firms in the world. During my employment
17 at Jones Day, I worked exclusively in the labor and employment department. In or around 2003,
18 I went to work at the law firm of Loeb & Loeb, again working exclusively in the Labor &
19 Employment department. In 2008, I returned to Littler Mendelson, was promoted to Shareholder
20 in 2009, and from 2008 until the end of 2017, I practiced exclusively labor and employment law,
21 with a strong emphasis and most of my time working on wage and hour class actions venued in
22 both state and federal courts. During that time and my legal career in general, I also worked on a
23 number of single and multi-plaintiff wage and hour matters as well.

24 5. During my employment at Littler Mendelson, I played a significant role in the class
25 actions that I was staffed on, and ran many on my own both as an Of Counsel and as a Shareholder.
26 In particular, I received a wide-array of wage and hour class action experience performing the
27 following types of tasks: drafting demurrers, motions to strike and/or dismiss; removing actions
28 from state court to federal court; drafting and responding to written discovery; drafting and

1 opposing discovery related motions; arguing discovery related motions; drafting motions to
2 consolidate related matters; interviewing putative class members and obtaining declarations in
3 connection with class certification; drafting oppositions to motions for class certification; drafting
4 motions for decertification following class certification; conducting exposure analyses to assess
5 the strengths and weaknesses of asserted claims, the likelihood of prevailing at class certification
6 and potential damages resulting from such claims; drafting mediation briefs; serving as the primary
7 contact to in-house counsel; deposing named plaintiffs and putative class members; deposing
8 retained expert witnesses; and defending the depositions of corporate witnesses. I also was
9 involved in the negotiations and settlements of many large wage and hour class actions. In short,
10 I played an integral role in all aspects of litigation from the inception of a matter through and
11 beyond class certification. I also supervised the work of several junior attorneys who were staffed
12 on the same wage and hour class actions.

13 6. Although not exhaustive, below is a list of many of the wage and hour class and
14 PAGA actions that I performed substantial work on while I was a shareholder at Littler Mendelson:

- 15 ► *Ortega v. J.B. Hunt Transport, Inc.*, Case No. 07-cv-8336-RGK-AFMx,
16 United States District Court, Central District of California, Honorable Gary
17 Klausner, presiding¹.
- 18 ► *Aceves v. J.B. Hunt Transport, Inc.*, Case No. CIVDS1306133, California
19 Superior Court, County of San Bernardino, Honorable Michael Sachs,
20 presiding.
- 21 ► *Moreno v. J.B. Hunt Transport, Inc.*, Case No. BC388612, California
22 Superior Court, County of Los Angeles, Honorable Mel Red Recana,
23 presiding.
- 24 ► *Newcomb v. J.B. Hunt Transport, Inc.*, Case No. RG16815734, California
25 Superior Court, County of Alameda, Honorable Winifred Smith, presiding.

27 ¹ My work on this matter including proceedings not only in District Court, but also work before the United States
28 Court of Appeals for the Ninth Circuit as well as the United States Supreme Court.

- 1 ▶ *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. 12-cv-08590-PA-
2 MAN, United States District Court, Central District of California,
3 Honorable Percy Anderson, presiding.
- 4 ▶ *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. BC388612,
5 California Superior Court, County of Los Angeles, Honorable Elihu Berle,
6 presiding.²
- 7 ▶ *Dugan v. Stoneledge Furniture, LLC*, Case No. 16-cv-01125-PA-FFMx,
8 United States District Court, Central District of California, Honorable Percy
9 Anderson, presiding.
- 10 ▶ *Klune v. Stoneledge Furniture, LLC*, Case No. 14-cv-03986-PA-FFMx,
11 United States District Court, Central District of California, Honorable Percy
12 Anderson, presiding.
- 13 ▶ *Diaz v. ABM Industries, Inc.; Ampco Parking*, Case No. BC362932,
14 California Superior Court, County of Los Angeles, Honorable Jane
15 Johnson, presiding.³
- 16 ▶ *Adams v. Luxottica Retail North America, Inc.*, Case No. 07CC01346,
17 California Superior Court, County of Orange, Honorable Thierry Patrick
18 Colaw, presiding.
- 19 ▶ *Sakkab v. Luxottica Retail North America, Inc.*, Case No. 12-cv-00436-
20 GPC-KSC, United States District Court, Southern District of California.⁴
- 21 ▶ *Page v. Oakley, Inc.*, Case No. FCS041512, California Superior Court,
22 County of Solano, Honorable Paul Berman, presiding.
- 23
24

25
26 ² My work on this matter included proceedings not only in the trial court, but also before the California Courts of
27 Appeal and the California Supreme Court.

28 ³ This matter was consolidated and litigated collectively with Case Nos. BC380923, BC 381523 and BC 406663.

⁴ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

- 1 ▶ *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00731617-CU-OE-CJC
2 California Superior Court, County of Orange, Honorable William Claster,
3 presiding.
- 4 ▶ *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00723846-CU-DE-CXC,
5 California Superior Court, County of Orange, Honorable William Claster,
6 presiding.
- 7 ▶ *Sierra v. Oakley, Inc.*, Case No. 13-cv-00319-AG-JPR, United States
8 District Court, Central District of California, Honorable Andrew Guilford,
9 presiding.⁵
- 10 ▶ *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx,
11 United States District Court, Central District of California, Honorable
12 Margaret Morrow, presiding.
- 13 ▶ *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx,
14 United States District Court, Central District of California, Honorable
15 Margaret Morrow, presiding.
- 16 ▶ *Khelghatian v. Comerica Bank, et al.*, Case No. 11-cv-7689-DSF-FFMx,
17 United States District Court, Southern District of California, Honorable
18 John A. Houston, presiding.
- 19 ▶ *Babasa v. Comerica Bank, et al.*, Case No. 11-cv-0595-JAH-BGS, United
20 States District Court, Central District of California, Honorable Margaret
21 Morrow, presiding.
- 22 ▶ *Bernal v. Comerica Bank, et al.*, Case No. 11-cv-01298-JAH-BGS, United
23 States District Court, Central District of California, Honorable Margaret
24 Morrow, presiding.
- 25 ▶ *Khalili v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx,
26 United States District Court, Northern District of California.

28 ⁵ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

- 1 ▶ *Granata v. Comerica Bank, et al.*, Case No. 37-2011-00086316-CU-OE-
2 CTL, California Superior Court, County of San Diego, Honorable Jeffrey
3 B. Barton, presiding.
- 4 ▶ *Mathews v. Comerica Bank, et al.*, Case No. 111CV194781, California
5 Superior Court, County of Santa Clara.
- 6 ▶ *Gallegos v. Comerica Bank, et al.*, Case No. BC455515, California Superior
7 Court, County of Los Angeles, Honorable Terry Green, presiding.
- 8 ▶ *Rumohr v. Comerica Bank, et al.*, Case No. CGC-11-508433, California
9 Superior Court, County of San Francisco.
- 10 ▶ *Smith v. Werner Enterprises*, Case No. 15-cv-02978-RS, United States
11 District Court, Northern District of California, Honorable Richard Seeborg,
12 presiding.

13 7. In January 2018, I voluntarily resigned from Littler Mendelson in order to open my
14 own law firm, Lidman Law, APC, to represent employees with work-related claims, including
15 primarily wage and hour claims and almost exclusively on a class-action basis. I am the President
16 and Shareholder of Lidman Law. Currently, over ninety percent (90%) of my practice is dedicated
17 exclusively to the prosecution of wage and hour class actions, and I am currently responsible for
18 prosecuting over sixty-five (65) wage and hour class actions filed in State courts throughout
19 California, with several of them having been removed to Federal courts. I believe that my
20 professional experience renders me more than qualified to serve as class counsel in this lawsuit
21 involving claims of underpaid overtime and minimum wages, meal and rest period violations, and
22 derivative penalty claims. Not only have I litigated dozens of wage and hour cases throughout my
23 career involving similar claims, including the wage and hour class actions identified above, I have
24 litigated similar claims from both plaintiff and defense perspectives. As a result, I am able to
25 realistically assess and evaluate the facts and legal arguments that can be made in pursuit and
26 defense of similar wage and hour claims, as well as those facts and arguments in support and in
27 opposition to class certification. Consequently, I am able to appreciate the significant risks,
28 uncertainties, and delay involved in wage and hour class action litigation.

1 8. I have been appointed Class Counsel in: *Guardado v. Wesley Allen, Inc.*, Case No.
2 BC683027, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl
3 presiding; *Rodriguez v. Satco, Inc.*, Case No. BC682137, California Superior Court, County of
4 Los Angeles, Honorable Judge Ann I. Jones presiding; *Ong v. Howard's Appliances, Inc.*, Case
5 No. 30-2017-00964213-CU-OE-CXC, California Superior Court, County of Orange, Honorable
6 Judge William Claster presiding; *Hanke v. C&W Facility Services, Inc.*, Case No.
7 CIVDS1814412, California Superior Court, County of San Bernardino, Honorable Judge David
8 Cohn presiding; *Molina v. Mader News, Inc.*, Case No. BC685960, California Superior Court,
9 County of Los Angeles, Honorable Judge Yvette M. Palazuelos presiding; *Alvarez v.*
10 *Salamander Fire Protection, Inc.*, Case No. BC688326, California Superior Court, County of Los
11 Angeles, Honorable Judge William F. Highberger presiding; *Rodriguez v. H.F. Cox, Inc.*, Case
12 No. BC653164, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B.
13 Kuhl presiding; *Fregoso v. Amerigas Propane, Inc.*, Case No. BC697973, California Superior
14 Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Teran v. Western*
15 *Plastics, Inc.*, Case No. RIC1722619, California Superior Court, County of Riverside, Honorable
16 Judge Sunshine Sykes presiding; *Villegas de Torres v. El Monte Superstore Inc.*, Case No.
17 BC688477, California Superior Court, County of Los Angeles, Honorable Judge Daniel J.
18 Buckley presiding; *Huynh v. Polypeptide Laboratories, Inc.*, Case No. BC680872, California
19 Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Guzman*
20 *v. Century Blinds*, Case No. RIC1723654, California Superior Court, County of Riverside,
21 Honorable Judge Sunshine S. Sykes presiding; *George v. Convergence Marketing*, Case No.
22 CIVDS1901039, California Superior Court, County of San Bernardino, Honorable Judge David
23 S. Cohn presiding; *Coffee, et al. v. Flyers Transportation Energy, LLC*, Case No. 34-2017-
24 00222084, California Superior Court, County of Sacramento, Honorable Judge Alan G. Perkins
25 presiding; *Romero v. Fillmore Hospitality, LLC*, Case No. BC705667, California Superior Court,
26 County of Los Angeles, Honorable Judge Maren E. Nelson presiding; *Wennerstrom, et al. v.*
27 *Giant Inland Empire R.V. Center*, Case No. CIVDS1617291, California Superior Court, County
28 of San Bernardino, Honorable Judge David S. Cohn presiding; *Contreras, et al. v. Letter Ride*,

1 *LLC*, Case No. 37-2018-00020841-CU-OE-CTL, California Superior Court, County of San
2 Diego, Honorable Judge Eddie C. Sturgeon presiding; *Davis v. WeDriveU*, Case No.
3 18CV322578, California Superior Court, County of Santa Clara, Honorable Judge Brian C. Walsh
4 presiding; *Acuna v. Canton Food Co., Inc.*, Case No. BC685001, California Superior Court,
5 County of Los Angeles, Honorable Judge David S. Cunningham presiding; and *Contreras v.*
6 *Worldwide Flight Services, Inc.*, Case No. 2:18-cv-06036-PSG-SS, United States District Court
7 for the Central District of California, the Honorable Judge Philip S. Gutierrez presiding.

8 9. As co-lead counsel for Plaintiff and the proposed Settlement Class, I have been
9 intimately involved in every aspect of this case from its inception through the present, and I believe
10 that the proposed Settlement is a favorable result for the Settlement Class Members under the
11 circumstances presented.

12 10. On February 17, 2021, Plaintiff filed a class action Complaint against Defendant in
13 Madera County Superior Court. After exhausting her administrative requirements under the
14 PAGA, Plaintiff filed a First Amended Class and Representative Action Complaint on June 17,
15 2021 adding one cause of action for civil penalties under the PAGA. On September 12, 2022,
16 Plaintiff submitted to the LWDA a supplemental letter alleging additional claims against
17 Defendant and expressing her intent to further amend the operative complaint in the Action to seek
18 civil penalties for these additional claims. On October 17, 2022, pursuant to a September 27, 2022
19 Order from the Court, Plaintiff filed a Second Amended Complaint, the operative complaint in the
20 action, alleging the following claims: (i) failure to provide meal periods; (ii) failure to authorize
21 and permit rest periods; (iii) failure to provide accurate, itemized wage statements; (iv) failure to
22 timely pay all wages upon termination; (v) failure to pay all minimum wages; (vi) failure to pay
23 all overtime wages; (vii) failure to reimburse necessary business expenses; (viii) unfair
24 competition; and (ix) violations of the PAGA.

25 11. After agreeing to participate in mediation, Defendant informally produced time
26 records and payroll data for the putative class as well as its wage and hour policies and other
27 relevant documents and information relevant to the claims alleged in advance of mediation.
28 Plaintiff conducted an analysis of the payroll data and time records produced by Defendant. After

1 the detailed review of the payroll and time records and other documents and policies produced by
2 Defendant, Class Counsel drew on their extensive experience in similar cases to assess the
3 strengths and weaknesses of Plaintiff's case.

4 12. On May 6, 2022, after extensive research and analysis, including a detailed analysis
5 of Defendant's potential exposure by Plaintiff, a mediation was held with Mark J. Keppler, a well-
6 respected wage and hour class action mediator. During mediation, the Parties vigorously debated
7 their opposing legal positions, the likelihood of certification of Plaintiff's claims, and the legal
8 basis for the claims and defenses, as well as the legal basis for the claims and defenses. The Parties
9 were unable to reach a settlement at mediation. After the Parties' unsuccessful mediation, Ready
10 Roast produced information and records regarding its financial condition. As a result of the
11 foregoing, Plaintiff's counsel confirmed that Ready Roast's representations regarding its financial
12 condition and ability to pay issues were supported by the financial documents and other
13 information provided by Ready Roast during mediation and further settlement discussions.
14 Ultimately, after months of further settlement negotiations, the Parties agreed in principle on a
15 class-wide resolution. Thereafter, in the weeks that followed, the Parties signed the Stipulation of
16 Settlement ("Settlement"). Additionally, as part of the agreement, Ready Roast provided a
17 declaration filed concurrently herewith confirming its representations concerning its financial
18 condition. A true and correct copy of the Settlement is attached hereto as **Exhibit 1**. The proposed
19 Notice of Pendency of Class Action and Proposed Settlement and Notice of Individual Settlement
Award are attached as Exhibit C to the Settlement.

20 13. If the Court approves this Settlement, Defendant will pay a Gross Settlement
21 Amount ("GSA") of \$325,000.00.⁶ Significantly, this Settlement is **non-reversionary**, and no
22 Settlement Class member will have to submit a claim form to receive a Settlement Award. Each
23 Settlement Class member will automatically receive a Settlement Award unless he or she
24 affirmatively opts out of the Settlement. Each Settlement Class member will automatically
25

26 ⁶ Defendant represents that there are an estimated 38,000 workweeks worked by the Class Members during the Class
27 Period. If the number of weeks worked by the Class Members during the Class Period is more than 10% greater than
28 this figure (i.e., if there are 41,800 or more workweeks worked by the settlement Class Members during the Class
Period), Defendant agrees to increase the Gross Settlement Amount on a proportional basis (i.e., if there was 12%
increase in the number workweeks worked during the Class Period, Defendant would agree to increase the Gross
Settlement Amount by 12%). See Settlement ¶ 4.D.

receive a Settlement Award unless he or she affirmatively opts out of the Settlement. *Id.* The monetary terms of the Settlement are summarized below:

Gross Settlement Amount (“GSA”):	\$325,000.00
Minus Court-approved attorneys’ fees (1/3 of GSA):	\$108,333.33
Minus Court-approved, verified costs (up to):	\$15,000.00
Minus Court-approved Class Representative Service Award (up to):	\$5,000.00
Minus Settlement Administration Costs:	\$10,000.00
Minus PAGA civil penalties to LWDA:	\$7,500.00
Net Settlement Amount (“NSA”):	\$179,166.67

The Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund set up by the Settlement Administrator for the benefit of participating Settlement Class members and PAGA Employees. Defendant agrees to deposit the Gross Settlement Amount with the Settlement Administrator within thirty (30) calendar days after this Agreement is executed by all Parties. If the Settlement is not finally approved by the Court, the Gross Settlement Amount shall be returned to Defendant.

After deducting amounts for the Court-approved attorneys’ fees and verified costs, Service Award to Plaintiff, Settlement Administrator costs, and the PAGA civil penalties to the LWDA, the Settlement requires Defendant to pay a Net Settlement Amount (“NSA”) of at least **\$179,166.67** to all Settlement Class Members who do not timely opt out. This amount does not include the \$2,500.00 PAGA Amount to be paid to the PAGA Employees.

14. According to Defendant, there are approximately 470 total Settlement Class members defined as:

All former non-exempt employees of Defendant Ready Roast Nut Company, L.L.C. who worked for Defendant at any time in California during the period of August 23, 2016 through September 27, 2020.

Thus, the average Individual Settlement Awards (assuming there are no opt-outs) is projected to be approximately **\$381.21, exclusive of any PAGA civil penalties.**

1 In addition, PAGA Employees is defined as: “All former non-exempt employees of
2 Defendant Ready Roast Nut Company, L.L.C. who worked for Defendant at any time in California
3 during the period of February 17, 2020 through September 27, 2020.” The average individual
4 portion of PAGA Amount is approximately \$5.32, if all 470 Settlement Class Members are also
5 PAGA Employees. Thus, including the PAGA Amount, the average individual payment
6 (assuming no opt outs) is **\$386.52**.

7 15. Settlement Class members’ claims arise from Defendant’s common, uniform
8 policies and practices that applied to Settlement Class members during the class period.
9 Specifically, Plaintiff alleged that Defendant’s common and uniform policies and practices
10 resulted in the following violations: (1) failure to pay all minimum wages owed; (2) failure to pay
11 all overtime wages owed; (3) failure to provide all legally required meal periods; (4) failure to
12 authorize and permit all legally required rest periods; (5) failure to reimburse necessary business
13 expenses; (6) failure to provide accurate, itemized wage statements; (7) failure to timely pay all
14 wages upon separation; (8) unlawful business practices; and (9) liability for civil penalties under
15 the PAGA.

16 16. As described in the accompanying Motion for Preliminary Approval, Plaintiff
17 alleges that Defendant failed to compensate its non-exempt employees for all time worked.
18 Specifically, Plaintiff alleges she would spend approximately 5 minutes before her scheduled start
19 time putting on her protective gear and approximately 5 minutes after her scheduled end time
20 taking off her protective gear. Despite being under Ready Roast’s direction and control during
21 these times, Plaintiff alleges Ready Roast required employees to don/doff off-the-clock. As a
22 result of Defendant’s failure to properly track the time worked by Plaintiff and other non-exempt
23 employees, Defendant failed to pay Plaintiff and other non-exempt employees for all minimum
24 and overtime wages owed. Accordingly, based on 10 minutes of unpaid time each shift, or .83
25 hours per workweek, and based on a review of the time punch data and payroll records, Plaintiff
26 estimates Defendant’s exposure for unlawful rounding at the overtime rate (as overwhelming
27 majority of shifts were 8+ hours) at approximately \$712,173 [38,000 workweeks x .83 per
28 workweek x \$22.58 (average overtime rate)].

1 17. Ready Roast contends that it compensated Settlement Class members for all of
2 their time worked and any unpaid time was *de minimis* and therefore non-compensable. Ready
3 Roast further asserts that Plaintiff would be unable to certify an off the clock class given the
4 individualized inquiries that would be required. Further, Ready Roast contends that Plaintiff's
5 assessment of the claim at the overtime rate is incorrect. In light of these defenses, Plaintiff
6 discounted the maximum exposure by 60% for the risk of non-certification, and an additional
7 65% to account for Defendant's defenses on the merits to arrive at an estimated exposure of
8 approximately \$99,704.22.

9 18. Plaintiff alleges that she and Settlement Class Members were not provided with all
10 legally-required meal periods in compliance with California law due to Defendant's unlawful meal
11 period policies/practices. Due to Plaintiff's job duties, Plaintiff was often prevented from taking
12 meal periods that commenced before the end of the 5th hour of work and/or which were at least
13 30 minutes in length. Specifically, Plaintiff alleges that Ready Roast had a policy of requiring its
14 employees to clock out/in for their meal periods, even when they could not actually take them. As
15 such, the reliability and accuracy of the timesheets are questionable. Therefore, based on a review
16 of the time punch data and payroll records, Plaintiff calculated Defendant's maximum exposure
17 for the alleged meal period violations at approximately \$2,802,310 [38,000 workweeks x 5
18 shifts/week x .98 (% of shifts over 6.0) x \$15.05 (average hourly rate)].

19 19. Ready Roast counters that it has always provided non-exempt employees with an
20 opportunity to take legally compliant meal periods, and any non-compliant meal periods reflected
21 in employee timekeeping records were solely the result of employee choice, rather than any policy
22 or practice of Ready Roast. Ready Roast also points out that it is only required to "provide" the
23 opportunity to take meal periods, not "ensure" meal periods are taken, and that they have always
24 done so. Finally, Ready Roast contends Plaintiff's meal period claim is not suited for class
25 certification and individual inquiries would be required to assess which employees took non-
26 compliant meal periods, how many meal periods were non-compliant or missed, and the reasons
27 why a particular employee took a non-compliant meal period or missed a meal period during a
28 particular shift. Accordingly, Plaintiff discounted the maximum exposure by 65% for the risk of

1 non-certification, and an additional 55% to account for Ready Roast's defenses on the merits to
2 arrive at an estimated exposure of \$441,363.83.

3 20. Plaintiff alleges that she and other Settlement Class Members were not authorized
4 and permitted to take all required rest periods due to Ready Roast's rest period policies/practices
5 which fail to authorize and permit all rest periods for every four hours worked, *or major fraction*
6 *thereof*. Specifically, Plaintiff alleges she worked shifts in excess of 3.5 hours, but was not
7 authorized or permitted to take a ten-minute paid rest period for every four (4) hour period worked,
8 *or major fraction thereof* as a result of the work demands imposed by Defendant. In addition,
9 Defendant's policy and practice required employees to remain on the work premises during rest
10 periods, failing to relinquish all control of employees and restricting their movement during
11 required rest periods, and thereby failed to authorize and permit off-duty rest periods. Accordingly,
12 Plaintiff calculated Defendant's maximum exposure at approximately \$2,859,500 (38,000
workweeks x 5 shifts over 3.5 hours x \$15.05 average hourly rate).

13 21. Ready Roast contends it has always maintained and enforced lawful rest period
14 policies and practices, and that Settlement Class Members were authorized and permitted to take
15 all off-duty rest periods in compliance with California law. Ready Roast argues that Plaintiff's
16 rest period claims are inherently unsuited for class treatment as it requires an individualized
17 inquiry into whether each Settlement Class member was in fact authorized and permitted to take
18 a compliant rest period, which would devolve into an unmanageable series of mini-trials.
19 Accordingly, Plaintiff discounted the maximum exposure by 50% for the risk of non-certification,
20 and an additional 55% to account for Defendant's defenses on the merits to arrive at an estimated
21 exposure of \$643,387.75.

22 22. Plaintiff alleges that Ready Roast failed to reimburse her and Settlement Class
23 members for necessary business expenditures, including the use of their personal cellular phones
24 for work purposes, as required under Labor Code section 2802. Plaintiff contends that Ready
25 Roast also required her and other non-exempt employees to spend about \$60.00 on protective
26 shoes and did not reimburse them. Accordingly, Plaintiff estimates employees should have been
27 reimbursed approximately \$25.00/month or about \$6.25/week for reasonable cellular phone
28 related expenses and \$60 per employee. Accordingly, Plaintiff calculates Ready Roast's

1 maximum exposure for this claim at approximately \$265,700.00 ((38,000 workweeks x \$6.25) +
2 (\$60 x 470 employees)).

3 23. Ready Roast contends that any purportedly necessary expenses incurred by
4 employees were minimal. Ready Roast also argues that this claim is not suitable for class
5 treatment, it maintained a lawful expense reimbursement policy, Plaintiff did not submit a request
6 to be reimbursed, and individualized determinations would be required as to how often each
7 employee used their personal cellular phone and/or replaced their protective shoes. Accordingly,
8 Plaintiff discounted the maximum exposure by 65% for the risk of non-certification, and an
9 additional 55% to account for Ready Roast's defenses on the merits and financial condition, to
10 arrive at an estimated exposure of \$41,847.75.

11 24. Plaintiff further alleges that Ready Roast issued inaccurate wage statements in
12 violation of Labor Code § 226 as a result of the alleged unpaid wages and meal and rest period
13 premium wages described above. Specifically, Plaintiff contends that this conduct violated Labor
14 Code § 226(a) because the wage statements issued to Settlement Class Members did not include
15 all hours worked and the rate at which they were being paid. Therefore, Plaintiff calculated Ready
16 Roast's maximum exposure for wage statement violations at approximately \$276,500.00 [(\$50.00
x 470 employees) + (\$100.00 x 2,530 subsequent wage statements)].

17 25. Ready Roast argued that meal and rest period claims could not support a claim for
18 wage statement penalties. Ready Roast further argues that its alleged wage statement violations
19 could not be shown to be "knowing and intentional," and that Plaintiff cannot show that she or
20 any other employee "suffer[ed] injury" as a result of the alleged wage statement violations, as
21 required by Lab. Code § 226(e) for imposition of penalties. Further, since Ready Roast sold and
22 closed its operations on September 27, 2020, it contended that the liability period for the wage
23 statement claim was substantially truncated. As such, Plaintiff discounted the calculated exposure
24 by 45% for a risk of non-certification and an additional 60% for a risk of being unsuccessful on
25 the merits to arrive at an estimated total of \$60,830.00.

26 26. Plaintiff alleges that Ready Roast is also liable for waiting time penalties under
27 Labor Code section 203 as a result of its failure to pay all wages upon separation of employment.
28 Based on the data provided by Ready Roast, there were approximately 470 Settlement Class

Members who have separated their employment with Defendant during the relevant time period who could be entitled to waiting time penalties. Therefore, Plaintiff calculated Ready Roast's maximum exposure for waiting time penalties at approximately \$1,697,640 (470 former employees x \$15.05 [average regular rate] x 30 days x 8 hours/day).

27. Ready Roast asserts it has strong defenses to the waiting time claim because there exist good-faith disputes as to Plaintiff's underlying claims, precluding imposition of penalties. Accordingly, Plaintiff discounted the maximum exposure by 60% for the risk of non-certification, and an additional 55% to account for Ready Roast's defenses on the merits to arrive at an estimated exposure of approximately \$305,575.20.

28. Plaintiff also seeks civil penalties under the PAGA as a result of the foregoing alleged Labor Code violations. Plaintiff calculated Ready Roast's exposure at approximately \$300,000 (3,000 pay periods x \$100 initial violation rate).

29. Ready Roast argues that Plaintiff's PAGA claim will fail for the same reasons that her underlying claims will fail. Ready Roast also maintains that, given its good faith defenses, this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find Ready Roast liable for any of Plaintiff's claims. Further, since Ready Roast sold and closed its operations on September 27, 2020, it contended that the liability period for the wage statement claim was substantially truncated. Therefore, Plaintiff discounted the maximum exposure figure by 50% for a risk of being unsuccessful on the merits, and an additional 65% to account for the possibility of this Court reducing penalties, to arrive at an estimated exposure of approximately \$52,500.00.

30. Using these estimated figures for each of the claims described above, Plaintiff predicted the realistic total recovery for the Settlement Class would be approximately \$1,645,208.50. The proposed settlement of \$325,000.00 therefore represents approximately 20% of the reasonably forecasted recovery for the Settlement Class. Preliminary approval is appropriate as the settlement will provide tangible monetary relief to Settlement Class Members, and will still provide an average recovery to Settlement Class Members of over \$380.00 which is a good result in light of Ready Roast's financial condition and the possibility that Ready Roast would not have

1 been able to pay any final judgment if this case proceeded to through trial.

2 31. Here, Class Counsel will also apply for an attorneys' fees award of one-third of
3 the GSA, which is currently estimated to be \$108,333.33, and up to \$15,000 in verified costs
4 reimbursement. Plaintiff submits the requested fee is fair compensation for undertaking complex,
5 risky, expensive, and time-consuming litigation on a purely contingent fee basis. Class Counsel
6 has incurred substantial attorney fees conducting pre-filing investigation, analyzing Plaintiff's
7 claims, conducting legal research, reviewing Defendant's documents and policies, analyzing
8 Settlement Class Members' timekeeping data and payroll records, preparing for and attending
9 mediation, reviewing Ready Roast's financials, engaging in direct settlement negotiations,
10 negotiating and revising the MOU, long-form Settlement, preparing this Motion, and otherwise
11 litigating the case. Class Counsel expect to expend additional attorney time in attending the
12 hearing on this Motion, overseeing the Notice process and fielding questions from Settlement
13 Class members, preparing the final approval papers and attending the Final Approval hearing.

14 32. Plaintiff has provided written approval of the split of attorneys' fees in this action:
15 26.66% to Lidman Law, APC, 40% to Haines Law Group, APC, and 33.33% to Davtayan Law
16 Firm. Davtayan Law Firm is the referring attorney.

17 33. Plaintiff will seek a service award of \$5,000.00 at the time of seeking final
18 approval, and I believe this is reasonable given Plaintiff's efforts in this case and the risks he
19 undertook on behalf of the Settlement Class members, including the risk that she could be liable
20 for Defendant's costs if this case was unsuccessful, and because this amount is consideration for
21 Plaintiff's general release and 1542 waiver against Defendant. Plaintiff was integral in the
22 prosecution of this action, by, among other things, providing substantial factual information and
23 documents to Class Counsel, attending multiple meetings and conferences with Class Counsel to
24 discuss the claims and theories at issue in the litigation, and otherwise actively participating in
25 the prosecution of her claims.

26 34. Although the parties engaged in informal discovery throughout this action, the
27 parties still had significant discovery to complete in formal litigation had the matter not settled.
28 Moreover, Plaintiff still had to file for class certification, and faced the prospect of appeals in the

1 wake of a disputed class certification ruling for Plaintiff and/or an adverse summary judgment
2 ruling. Even if the classes sought to be certified by Plaintiff were in fact certified, the parties
3 would incur considerably more attorneys' fees and costs through a possible decertification motion,
4 trial, and possible appeal. This Settlement avoids those risks and the accompanying expense.
5 Further, Ready Roast's financial condition and ability to pay an eventual judgment was a large
6 factor in the settlement decision. Thus, this factor supports preliminary approval.

7 35. I have directed my office to submit a copy of the instant Motion for Preliminary
8 Approval and all supporting documents via the LWDA's website on the same date concurrently
9 herewith and will have a supplemental proof of service filed after the Motion for Preliminary
10 Approval and all supporting documents are submitted to the LWDA.

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

13 Executed on February 7, 2023 at El Segundo, California.

14
15
16 

17 Scott M. Lidman
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

EXHIBIT 1

STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Magali Martinez (“Plaintiff”), individually and on behalf of all members of the Settlement Class and PAGA Employees (both terms defined below), on the one hand, and Defendant Ready Roast Nut Company, L.L.C. (“Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff, the Settlement Class and the PAGA Employees are represented by Paul K. Haines of Haines Law Group, APC and Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC (collectively, “Class Counsel”). Defendant is represented by Susan K. Hatmaker of Hatmaker Law Group.

Effective September 27, 2020, Defendant sold its operations and no longer employed any non-exempt employees in California.

On February 17, 2021, Plaintiff filed a class action Complaint against Defendant in Madera County Superior Court, in the matter entitled *Magali Martinez v. Ready Roast Nut Company, L.L.C., a California corporation; and Does 1 through 100, inclusive*, Case No. MCV084692 (the “Action”).

After having exhausted her administrative remedies with the California Labor & Workforce Development Agency (“LWDA”) by way of a letter submitted to the LWDA on February 17, 2021 (a true and correct copy of which is attached hereto as **Exhibit A**), on June 17, 2021, Plaintiff filed a First Amended Complaint (“FAC”) against Defendant which added a claim under the Labor Code Private Attorney General Act of 2004 (“PAGA”) seeking civil penalties premised on the facts, claims, causes of action and legal theories described in the original Complaint in the Action.

On September 12, 2022, Plaintiff submitted to the LWDA a supplemental letter (a true and correct copy of which is attached hereto as **Exhibit B**) alleging additional claims against Defendant and expressing her intent to further amend the operative complaint in the Action to seek civil penalties for these additional claims.

On October 17, 2022, pursuant to a September 27, 2022 Order from the Court, Plaintiff filed a Second Amended Complaint, the operative complaint in the action, alleging the following claims: (i) failure to provide meal periods; (ii) failure to authorize and permit rest periods; (iii) failure to provide accurate, itemized wage statements; (iv) failure to timely pay all wages upon termination; (v) failure to pay all minimum wages; (vi) failure to pay all overtime wages; (vii) failure to reimburse necessary business expenses; (viii) unfair competition; and (ix) violations of the PAGA.

Given the uncertainty of litigation and Defendant’s denial of Plaintiff’s claims, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class, PAGA Employees and the State of California. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the certification of the following Settlement Class:

All former non-exempt employees of Defendant Ready Roast Nut Company, L.L.C. who worked for Defendant at any time in California during the period of August 23, 2016 through September 27, 2020.

For purposes of this Settlement Agreement, the “Class Period” shall mean the time period of August 23, 2016 through September 27, 2020.

The Parties agree that certification for purposes of this Settlement Agreement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **PAGA Employees.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the following definition of PAGA Employees:

All former non-exempt employees of Defendant Ready Roast Nut Company, L.L.C. who worked for Defendant at any time in California during the period of February 17, 2020 through September 27, 2020.

For purposes of this Settlement Agreement, the “PAGA Period” and release under the PAGA shall mean the time period between February 17, 2020 and September 27, 2020.

3. **Release by Settlement Class Members and Plaintiff.** Plaintiff and every member of the Settlement Class (except those who timely and properly submit a Request for Exclusion as set forth below) will fully and forever completely release and discharge Defendant, its past and present owners, officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents, insurers and attorneys, (collectively the “Released Parties”), as follows:

- A. Settlement Class Members’ Release: Settlement Class members and Plaintiff will release Released Parties from all claims, demands, rights, liabilities, and any and all claims and causes of action under state, federal and local law, known or unknown, that were pled or could have been pled in the operative Second Amended Complaint in the Action arising out of the factual allegations made in the operative complaint and that reasonably arise or could have arisen out of the facts alleged in the operative complaint, that arose during the Class Period defined above with respect to the following claims: (i) failure to provide meal periods; (ii) failure to authorize and permit rest periods; (iii) failure to provide accurate, itemized wage statements; (iv) failure to timely pay all wages upon termination; (v) failure to pay all minimum wages; (vi) failure to pay all overtime wages; (vii) failure to reimburse necessary business expenses; and (viii) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above; and (ix) all other claims for damages, penalties, liquidated damages, punitive damages, interest, attorney fees, litigation costs, restitution, or

equitable relief that allegedly arise out of the aforementioned claims (collectively, the “Released Claims”). These Released Claims include, but are not limited to, all claims for damages, penalties and/or attorney fees and costs under Labor Code §§ 201-204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2698, et. seq., (PAGA), 2802, Wage Order No. 8, Code of Civil Procedure §1021.5 and Business and Professions Code § 17200 based on the facts as alleged in the Second Amended Complaint that accrued at any time during the Class Period.

- B. The time period for the release of the Released Claims shall be the same time period as the Class Period.
- C. PAGA Release: PAGA Employees, including Plaintiff (and including those who opt-out from the Class portion of the Settlement), will release and forever discharge the Released Parties from all claims, demands, rights, liabilities and causes of action for civil penalties under California Labor Code Private Attorneys General Act of 2004 which were pled, asserted and/or described in the letters to the Labor & Workforce Development Agency (“LWDA”) dated February 17, 2021 and September 12, 2022 and the operative Second Amended Complaint in the Action, or which could have been pled in the operative Second Amended Complaint in the Action based on the factual allegations pled therein that arose during the PAGA Period (collectively, “PAGA Released Claims”). These PAGA Released Claims include, but are not limited to, all civil penalties and attorney fees and costs recoverable under 2698, et. seq., (PAGA) based on allegations of violations under Labor Code §§ 201-204, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 2802, based on the facts as alleged in the Second Amended Complaint and Plaintiffs’ notices submitted to the LWDA that accrued at any time during the PAGA Period. The PAGA Period and the time period of the PAGA Released Claims is defined as the time period of February 17, 2020 through September 27, 2020 (“PAGA Period”).
- D. In light of the Class Representative Service Award, Plaintiff agrees to release, in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. Notwithstanding the foregoing, Plaintiff understands that this release includes unknown claims, which includes waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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.

- E. Notwithstanding the above, nor anything else in this Settlement, the waiver and release in this Settlement does not apply to (i) those rights that as a matter of law cannot be waived, including, but not limited to, workers’ compensation claims,

pending or otherwise and/or benefits to be received by Plaintiff in workers' compensation pursuant to the jurisdiction of workers' compensation; and (ii) rights or claims arising out of this Settlement.

- F. The releases identified herein will only be effective upon the date that Defendant fully funds the Gross Settlement Amount or the Effective Date, whichever is later. The "Effective Date" is defined as the latter of: (a) the Court's final approval of the settlement if no objections by or on behalf of Settlement Class members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been filed.

4. **Gross Settlement Amount.** As consideration, Defendant agrees to pay a "Gross Settlement Amount" of Three Hundred Twenty-Five Thousand Dollars and Zero Cents (\$325,000.00) (unless such Gross Settlement Amount is increased pursuant to Paragraph 4.D. below) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrators as the "Settlement Administrator" to administer this Settlement. All administrative costs due and owing to the Settlement Administrator shall be paid from the Gross Settlement Amount.
- B. With the exception of the Settlement Administrator's fees, if required by the Settlement Administrator, the Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund set up by the Settlement Administrator for the benefit of participating Settlement Class members and PAGA Employees. Defendant agrees to deposit the Gross Settlement Amount with the Settlement Administrator within thirty (30) calendar days after this Agreement is executed by all Parties. If the Settlement is not finally approved by the Court, the Gross Settlement Amount shall be returned to Defendant.
- C. This is a non-reversionary settlement. The Gross Settlement Amount includes:
- (1) All payments (including interest) to the Settlement Class members;
 - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Ten Thousand Dollars and Zero Cents (\$10,000.00);
 - (3) Up to Five Thousand Five Hundred Dollars and Zero Cents (\$5,000.00) for Plaintiff's Class Representative Service Award, in recognition of her contributions to the Action, and her service to the Settlement Class. In the event that the Court reduces or does not approve the requested Class Representative Service Award, Plaintiff shall not have the right to revoke this Settlement Agreement, and this Settlement shall remain binding;
 - (4) Up to one-third of the Gross Settlement Amount in Class Counsel's attorneys' fees [estimated to be One Hundred Eight Thousand Three

Hundred Thirty Three Dollars and Thirty Three Cents (\$108,333.33), unless the Gross Settlement Amount is increased pursuant to Paragraph 4.D. below], plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than Fifteen Thousand Dollars and Zero Cents (\$15,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees and/or costs, Class Counsel shall not have the right to revoke this Settlement Agreement, and it will remain binding; and

- (5) Ten Thousand Dollars and Zero Cents (\$10,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00), will be payable to certain Settlement Class members as the "PAGA Amount," as described below.

- D. **Unexpected Workweeks/Escalator Clause.** Defendant represents that there are an estimated 38,000 workweeks worked by the Class Members during the Class Period. If the number of weeks worked by the Class Members during the Class Period is more than 10% greater than this figure (i.e., if there are 41,800 or more workweeks worked by the settlement Class Members during the Class Period), Defendant agrees to increase the Gross Settlement Amount on a proportional basis (i.e., if there was 12% increase in the number workweeks worked during the Class Period, Defendant would agree to increase the Gross Settlement Amount by 12%).

5. **Financial Status of Defendant.** Insofar as Defendant's financial condition was considered as part of the settlement of the Action, Defendant agrees to provide a declaration to Plaintiff confirming the statements made regarding its financial condition during settlement negotiations, to be filed in connection with Plaintiff's Motion for Preliminary Approval.

6. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Settlement Award") from the Settlement. Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, Plaintiff's Class Representative Service Award, the Settlement Administrator's fees and expenses for administration, and the amount designated as PAGA civil penalties payable to the LWDA. The remaining amount shall be known as the "Net Settlement Amount."
- B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member's Settlement Award based on the following formula:

- i. The Net Settlement Amount shall be allocated to Settlement Class members who worked during the Class Period, as follows: each participating Settlement Class member shall receive a proportionate settlement share based upon the number of weeks worked as a non-exempt employee during the Class Period, the numerator of which is the Settlement Class member's total weeks worked as a non-exempt employee during the Class Period, and the denominator of which is the total weeks worked as non-exempt employees by all Settlement Class members (who do not opt out) who worked during the Class Period.
- C. PAGA Amount: Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) of the Gross Settlement Amount has been designated as the "PAGA Amount" as described above. Each PAGA Employee shall receive a portion of the PAGA Amount proportionate to the number of workweeks that he or she worked during this PAGA Period which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Employee's number of workweeks worked as a non-exempt employee during this time period, and the denominator of which is the total number of workweeks worked by all PAGA Employees.
- D. Within ten (10) calendar days following the Effective Date, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for the Parties for review and approval. Within seven (7) calendar days of approval by counsel for the Parties, the Settlement Administrator will prepare and mail Settlement Awards to participating Settlement Class members.
- E. For purposes of calculating applicable taxes, each Settlement Award made under this Settlement will be attributed 33.33% as wages and paid via IRS Form W-2 with all appropriate deductions and 66.67% as penalties and interest and paid via IRS Form 1099 issued to each Class Member and PAGA Employee. Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement. Each Settlement Class member who receives a Settlement Award will be responsible for correctly characterizing the payment for tax purposes and for payment of any taxes owing on said amount. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- F. Each member of the Settlement Class who receives a Settlement Award and/or each PAGA Employee who receives a portion of the PAGA Amount must cash the check(s) within 180 days from the date the Settlement Administrator mails it/them. Any funds payable to Settlement Class members and/or PAGA employees whose checks were not cashed within 180 days after mailing will escheat to the California Secretary of State - Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class member and/or PAGA Employee.

7. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Gross Settlement Amount, which is currently estimated to be One Hundred Eight Thousand Three Hundred Thirty-Three Dollars and Thirty Three Cents (\$108,333.33), unless the Gross Settlement Amount is increased pursuant to Paragraph 4.D. above, in which case the attorneys' fees shall increase accordingly. Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00) from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court. The Settlement Administrator shall be authorized to pay The Attorneys' Fees and Costs from the Gross Settlement Amount only after Settlement Awards have been mailed to all participating Settlement Class members.

8. **Class Representative Service Award.** Defendant will not object to a request for a Class Representative Service Award of up to Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff for her time and risk in prosecuting this case, her service to the Settlement Class, and her execution of a general release. This award will be in addition to Plaintiff's Settlement Award as a Settlement Class member and shall be reported on an IRS Form 1099 issued by the Settlement Administrator. Even in the event that the Court reduces or does not approve the requested Class Representative Service Award, Plaintiff shall not have the right to revoke this Settlement, and it will remain binding. The Settlement Administrator shall be authorized to pay the Class Representative Service Award from the Gross Settlement Amount only after Settlement Awards have been mailed to all participating Settlement Class members.

9. **Settlement Administrator.** Defendant will not object the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiff seeking permission to pay up to Ten Thousand Dollars and Zero Cents (\$10,000.00) to the Settlement Administrator for its services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices, calculating Settlement Awards, preparing all checks and mailings, calculating Defendant's share of taxes payable on the wages, which shall be paid by Defendant separate and apart from the Gross Settlement Amount, and other duties as described in this Settlement Agreement and/or otherwise required by the Court. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount only after Settlement Awards have been mailed to all participating Settlement Class members.

10. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Paul K. Haines of Haines Law Group, APC and Scott M. Lidman, Milan Moore and Elizabeth Nguyen of Lidman Law, APC as Class Counsel;

- C. Appointing Magali Martinez as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Notice of Pendency of Class Action and Settlement and Notice of Settlement Award, drafts of which are attached collectively hereto as **Exhibit C**), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

11. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within fifteen (15) calendar days after entry of an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, the number of weeks worked (or information allowing the Settlement Administrator to calculate same) as a non-exempt employee by each Settlement Class member while employed during the Class Period and PAGA Period (the "Class Data"). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.
- B. Within ten (10) business days from receipt of the Class Data, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the "Response Deadline").
 - i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response

Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion not containing a Class Member's telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery of a Settlement Award and will not be bound by the terms of the Settlement nor have any right to object, appeal or comment thereon.

- ii. Notwithstanding Paragraph 11.C.i above, the Parties agree there is no statutory or other right for any Settlement Class member to opt out or otherwise exclude himself or herself from the PAGA portion of the Settlement. A Settlement Class member who submits a valid and timely Request for Exclusion shall still receive his or her proportionate share of the PAGA Amount and shall be deemed to have released the PAGA Released Claims.

D. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by mailing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel). Class Counsel shall file any objections with the Court. Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval. To be valid, any written objection must: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence, if any; and (4) be postmarked no later than the Response Deadline. Members of the Settlement Class who do not request exclusion may also object to the Settlement by appearing at the Final Approval Hearing in person or virtually irrespective of whether they submitted any written objections.

E. Notice of Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Settlement Award as well the Settlement Class member's number of weeks worked as a non-exempt employee during the Class Period and PAGA Period. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement

Awards under the terms of this Settlement Agreement. If a resolution cannot be reached by and among the Parties and the Settlement Administrator, the Court will render all final decisions on disputes.

- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a “skip trace,” to obtain an updated mailing address within three (3) business days of receiving the returned Notice Packet. If an updated mailing address is identified before the Response Deadline, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within three (3) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member’s Notice Packet is returned to the Settlement Administrator more than once before the Response Deadline, the Settlement Administrator shall continue to make reasonable efforts to obtain an updated mailing address. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant’s Counsel to provide notice of the proposed settlement.

12. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff’s and Class Counsel’s application for attorneys’ fees and costs, Class Representative Service Award, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769 and posting notice of the judgment on a static website created and maintained by the Settlement Administrator.

13. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. In particular, but without limiting the generality of the foregoing, nothing about this Settlement Agreement shall be offered or construed as an admission of liability, wrongdoing, impropriety, responsibility, or fault whatsoever on the part of Defendant and/or the Released Parties, and it shall not be construed as or deemed to be evidence of, or an admission or concession that the any Settling Class member has suffered any damage. Each of the Parties has

entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

14. **Non-disclosure and Non-publication.** Prior to the filing of the Motion for Preliminary Approval, Plaintiff and Class Counsel agree not to disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel. Class Counsel may also include a general description of the Settlement on their respective websites but may not include the name(s) of any of the Parties, or the case name or case number of the Action.

15. **Legal Developments.** The Parties agree that Plaintiff will submit to the Court a motion for preliminary approval and motion for final approval of this Settlement containing all of the terms and conditions contained herein notwithstanding any new legal developments regarding the Released Claims or PAGA Released Claims.

16. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

17. **Attorneys' Fees:** In the event of any dispute arising out of the interpretation, performance, or breach of any provision of this Settlement Agreement, the prevailing party in such dispute(s) shall be entitled to recover her and/or its reasonable attorneys' fees and costs incurred arising from such dispute.

18. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Susan K. Hatmaker, Hatmaker Law Group, 7522 N. Colonial Avenue, Suite 105, Fresno, California 93711; susan@hatmakerlaw.com

if to Plaintiff: Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC, 2155 Campus Drive, Suite 150, El Segundo, California 90245; slidman@lidmanlaw.com and enguyen@lidmanlaw.com and mmoore@lidmanlaw.com

Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive,
Suite 180, El Segundo, California 90245;
phaines@haineslawgroup.com

19. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed.

20. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

21. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

DATED:

DEFENDANT READY ROAST NUT COMPANY,
L.L.C.

By: _____

Its: _____

DATED: Dec 6, 2022

PLAINTIFF MAGALI MARTINEZ

By:  _____
Magali Martinez (Dec 6, 2022 17:14 PST)

Plaintiff and Settlement Class Representative

Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive,
Suite 180, El Segundo, California 90245;
phaines@haineslawgroup.com

19. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed.

20. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

21. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

DATED:

DEFENDANT READY ROAST NUT COMPANY,
L.L.C.

By: 

Its: Manager

DATED: Dec 6, 2022

PLAINTIFF MAGALI MARTINEZ

By:  Magali Martinez (Dec 6, 2022 17:14 PST)

Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: December 27, 2022

HATMAKER LAW GROUP

By: 
Susan K. Hatmaker
Attorneys for Defendant Ready Roast Nut
Company, L.L.C.

DATED:

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Attorneys for Plaintiff Magali Martinez

DATED:

LIDMAN LAW, APC

By: _____
Scott M. Lidman
Attorneys for Plaintiff Magali Martinez

APPROVED AS TO FORM:

DATED:

HATMAKER LAW GROUP

By: _____
Susan K. Hatmaker
Attorneys for Defendant Ready Roast Nut
Company, L.L.C.

DATED: December 6, 2022

HAINES LAW GROUP, APC

By:  _____
Paul K. Haines
Attorneys for Plaintiff Magali Martinez

DATED: December 6, 2022

LIDMAN LAW, APC

By:  _____
Scott M. Lidman
Attorneys for Plaintiff Magali Martinez

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

February 17, 2021

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

**VIA U.S. CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

Ready Roast Nut Company, L.L.C.
Jason Okabayashi, Agent for Service of Process
2805 Falcon Drive
Madera, CA 93637

Re: *Magali Martinez v. Ready Roast Nut Company, L.L.C.*

To Whom It May Concern:

Please be advised that this law firm represents Magali Martinez in claims arising from her employment with Ready Roast Nut Company, L.L.C., a California limited liability company (“Defendant”). Ms. Magali Martinez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Ms. Martinez intends to pursue a lawsuit on behalf of other “aggrieved employees”, which should be considered to include all current and former hourly employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Ms. Martinez, a former employee, first started working for Defendant through a staffing agency as a temporary, hourly, non-exempt employee on or around April 4, 2018. Ms. Martinez then was directly hired by Defendant as a permanent employee from approximately October 10, 2018 through approximately August 19, 2020. During her employment with Defendant, Ms. Martinez performed various job duties, including without limitation, grading, sampling, and testing products at Defendant’s facility in Madera, California.

Throughout Ms. Martinez’s employment with Defendant, Ms. Martinez was generally scheduled to work Monday through Friday, during one of three different shifts: 5:00 a.m. to 2:00/2:30 p.m., 2:00 p.m. to 11:00 p.m., or 9:30 p.m. to 6:00 a.m.

During her employment with Defendant, Ms. Martinez was not provided with all required meal periods in compliance with California law due to Defendant’s unlawful meal period policies/practices. Specifically, due to the work demands imposed by Defendant and the nature of Defendant’s assembly line, Ms. Martinez was often prevented from taking a duty-free 30-minute meal period before the end of the fifth hour of work. Furthermore, Defendant failed to maintain policies and practices of scheduling meal periods for non-exempt employees. Instead, Defendant required Ms. Martinez to ask permission

and ensure that another employee was present to cover Ms. Martinez's shift before receiving a meal period. As a result of Defendant's unlawful meal period policies and practices, Ms. Martinez meal periods were often late, less than 30 minutes in length, or otherwise unlawful. Additionally, during times when Ms. Martinez worked in excess of 10.0 hours per shift, Defendant failed to provide Ms. Martinez with a second, timely meal period of at least 30 minutes in length. On those occasions when Ms. Martinez was not provided with all legally-compliant meal periods to which she was entitled, Ms. Martinez was not always compensated with the required meal period premium for each workday in which she experienced a meal period violation as mandated by Labor Code § 226.7.

Ms. Martinez was also not authorized and permitted to take all legally required and compliant rest periods due to Defendant's rest period policies and practices. Defendant's rest period policies and practices fail to authorize and permit duty-free rest periods for every four hours worked, or major fraction thereof. Specifically, Defendant's written policies and practices required Ms. Martinez and the other non-exempt employees to remain on the premises during their rest periods. Because Defendant's rest period policy or practice requires employees to remain on the work premises during rest periods, Defendant's rest period policy fails to relinquish control over how employees spend their time during rest periods in violation of California law. In addition, due to the work demands imposed by Defendant and the nature of Defendant's assembly line, Ms. Martinez was often prevented from taking rest periods in compliance with California law. Furthermore, Defendant failed to maintain policies and practices of scheduling rest periods for non-exempt employees. Instead, Defendant required Ms. Martinez and other non-exempt employees to ask permission and ensure that another employee was present cover their shift in order to receive a rest period. As a result, Defendant's rest period policy fails to authorize and permit legally-compliant duty-free rest periods.

On those occasions when Ms. Martinez was not authorized and permitted to take all legally-compliant rest periods to which she was entitled, Defendant failed to compensate Ms. Martinez with the required rest period premium for each workday in which she experienced a rest period violation as mandated by Labor Code § 226.7. Further, upon information and belief, during at least a portion of the class period, Defendant maintained no payroll code or other mechanism for paying rest period premiums when Defendant failed to provide a legally compliant rest period.

As a result of Defendant's failure to pay all meal and rest period premium wages owed, Defendant issued inaccurate wage statements to Ms. Martinez and other non-exempt employees. Accordingly, such wage statements were in violation of Labor Code section 226.

As a further result of Defendant's failure to pay all meal and rest period premium wages owed, Defendant failed to pay Ms. Martinez all wages owed upon her separation of employment.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 8 ("Wage Order 8"):

Meal Period Violations

As alleged above, Defendant failed to provide Ms. Martinez and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 8, § 11. As described above, due to the work demands imposed by Defendant and the nature of Defendant's assembly line, Ms. Martinez was often prevented from taking a duty-free 30-minute meal period before the end of the fifth hour of work. Further, Defendant failed to maintain policies and practices of

scheduling meal periods for non-exempt employees. Instead, Defendant required Ms. Martinez to ask permission and ensure that another employee was present to cover Ms. Martinez's shift before receiving a meal period. As a result of Defendant's unlawful meal period policies and practices, Ms. Martinez meal periods were often late, less than 30 minutes in length, or otherwise unlawful. Additionally, during times when Ms. Martinez worked in excess of 10.0 hours per shift, Defendant failed to provide Ms. Martinez with a second, timely meal period of at least 30 minutes in length. As a result, Ms. Martinez and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."). Although Ms. Martinez was not provided with all legally-compliant meal periods to which she was entitled, Defendant failed to compensate Ms. Martinez and other aggrieved employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant also failed to authorize and permit Ms. Martinez and other aggrieved employees to take all required paid rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 8, § 12. As alleged above, Defendant's written policies and practices required Ms. Martinez and the other non-exempt employees to remain on the premises during their rest periods. Because Defendant's rest period policy or practice requires employees to remain on the work premises during rest periods, Defendant's rest period policy fails to relinquish control over how employees spend their time during rest periods in violation of California law. In addition, due to the work demands imposed by Defendant and the nature of Defendant's assembly line, Ms. Martinez was often prevented from taking rest periods in compliance with California law. Further, Defendant failed to maintain policies and practices of scheduling rest periods for non-exempt employees. Instead, Defendant required Ms. Martinez and other non-exempt employees to ask permission and ensure that another employee was present cover their shift in order to receive a rest period. As such, Ms. Martinez and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Ms. Martinez and other similarly aggrieved employees all of their final wages at the time of separation, which included, among other things, meal and rest period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Ms. Martinez and similarly aggrieved employees was willful and, consequently, entitles Ms. Martinez and other similarly aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendant failed to pay their final wages after their separation, up to a maximum of thirty days.

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Martinez and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, total gross wages earned, total net wages earned, and meal and rest period premium wages in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Ms. Martinez and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, unpaid meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

As an "aggrieved employee," Ms. Martinez will initiate a civil action on behalf of herself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Martinez own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a. Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Martinez and other aggrieved employees;
- b. Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Ms. Martinez and other aggrieved employees;
- c. Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Martinez and other aggrieved employees;
- d. Defendant violated Labor Code § 226 by failing to furnish Ms. Martinez and other aggrieved employees with accurate and compliant itemized wage statements;
- e. Defendant violated Labor Code § 204 by failing to pay Ms. Martinez and other aggrieved employees all earned wages at least twice during each calendar month; and
- f. Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Martinez and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT B

EXHIBIT B

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

September 12, 2022

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

**VIA U.S. CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

**HATMAKER LAW GROUP
A Professional Corporation**

Susan S. Hatmaker
Robert Branch
7522 N. Colonial Avenue, Suite 105
Fresno, California 93711

Attorneys for Ready Roast Nut Company, L.L.C.

Re: *Magali Martinez v. Ready Roast Nut Company, L.L.C.*

To Whom It May Concern:

Please be advised that this law firm represents Magali Martinez in claims arising from her employment with Ready Roast Nut Company, L.L.C., a California limited liability company (“Defendant”). Ms. Magali Martinez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Ms. Martinez intends to pursue a lawsuit on behalf of other “aggrieved employees”, which should be considered to include all current and former hourly employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

By this letter, Ms. Martinez hereby supplements her correspondence to the LWDA dated February 17, 2021 (the “LWDA letter”). Attached hereto as **Exhibit A** is a true and correct copy of the LWDA letter and is incorporated herein by reference. In addition to the Labor Code violations identified in the LWDA letter, Ms. Martinez alleges Defendant is also liable for the following:

Overtime Violations

Defendant was required to pay Ms. Martinez and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 8, § 3. According to Labor Code § 510(a), “Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.” This Section further

provides, “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked.” During at least a portion of Ms. Martinez’s employment, Defendant would keep track of Ms. Martinez’s time worked such that Ms. Martinez would not be fully paid for all time worked. Specifically, Defendant required Ms. Martinez and other non-exempt employees to don their protective gear, including without limitation, smocks, hairnets, earplugs and shoes prior to clocking in for their shifts and doff after clocking out at the end of their shifts. Since Ms. Martinez and other non-exempt employees would typically work more than eight (8) hours per day and/or forty (40) hours per week, Defendant’s time-keeping policies and practices deprived Ms. Martinez and other non-exempt employees of overtime wages owed to them.

Minimum Wage Violations

Defendant was required to pay Ms. Martinez and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 8, § 4. During at least a portion of Ms. Martinez’s employment, Defendant would keep track of Ms. Martinez’s time worked such that Ms. Martinez would not be fully paid for all time worked. As a result, Ms. Martinez and other non-exempt employees were routinely unpaid at least minimum wages for their time worked. Specifically, Defendant required Ms. Martinez and other non-exempt employees to don their protective gear, including without limitation, smocks, hairnets, earplugs and shoes prior to clocking in for their shifts and doff after clocking out at the end of their shifts. As such, Ms. Martinez and other aggrieved employees were not paid for all hours worked due to Defendant’s timekeeping and compensation practices.

Failure to Reimburse Business Expenses

Defendant failed to reimburse Ms. Martinez and other aggrieved employees for necessary work expenses. Defendant’s policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 8, § 9, and Labor Code § 2802 (“An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”) Ms. Martinez and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest. Specifically, Ms. Martinez and other non-exempt employees were required to use their personal cellular phones to stay in constant contact with their Lead, Supervisor, and/or Production Manager. Moreover, Defendant had a practice of only providing one pair of work shoes per year and thus, Ms. Martinez and other non-exempt employees were required to purchase their own any other time of year without any reimbursement.

As an “aggrieved employee,” Ms. Martinez will initiate a civil action on behalf of herself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Martinez own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Ms. Martinez and other aggrieved employees the statutory minimum wage for all hours worked;

- b) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Martinez and other aggrieved employees all overtime compensation earned; and
- c) Defendant violated Labor Code § 2802 by failing to reimburse Ms. Martinez and other aggrieved employees for necessary work expenditures.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

February 17, 2021

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

**VIA U.S. CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

Ready Roast Nut Company, L.L.C.
Jason Okabayashi, Agent for Service of Process
2805 Falcon Drive
Madera, CA 93637

Re: *Magali Martinez v. Ready Roast Nut Company, L.L.C.*

To Whom It May Concern:

Please be advised that this law firm represents Magali Martinez in claims arising from her employment with Ready Roast Nut Company, L.L.C., a California limited liability company (“Defendant”). Ms. Magali Martinez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Ms. Martinez intends to pursue a lawsuit on behalf of other “aggrieved employees”, which should be considered to include all current and former hourly employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Ms. Martinez, a former employee, first started working for Defendant through a staffing agency as a temporary, hourly, non-exempt employee on or around April 4, 2018. Ms. Martinez then was directly hired by Defendant as a permanent employee from approximately October 10, 2018 through approximately August 19, 2020. During her employment with Defendant, Ms. Martinez performed various job duties, including without limitation, grading, sampling, and testing products at Defendant’s facility in Madera, California.

Throughout Ms. Martinez’s employment with Defendant, Ms. Martinez was generally scheduled to work Monday through Friday, during one of three different shifts: 5:00 a.m. to 2:00/2:30 p.m., 2:00 p.m. to 11:00 p.m., or 9:30 p.m. to 6:00 a.m.

During her employment with Defendant, Ms. Martinez was not provided with all required meal periods in compliance with California law due to Defendant’s unlawful meal period policies/practices. Specifically, due to the work demands imposed by Defendant and the nature of Defendant’s assembly line, Ms. Martinez was often prevented from taking a duty-free 30-minute meal period before the end of the fifth hour of work. Furthermore, Defendant failed to maintain policies and practices of scheduling meal periods for non-exempt employees. Instead, Defendant required Ms. Martinez to ask permission

and ensure that another employee was present to cover Ms. Martinez's shift before receiving a meal period. As a result of Defendant's unlawful meal period policies and practices, Ms. Martinez meal periods were often late, less than 30 minutes in length, or otherwise unlawful. Additionally, during times when Ms. Martinez worked in excess of 10.0 hours per shift, Defendant failed to provide Ms. Martinez with a second, timely meal period of at least 30 minutes in length. On those occasions when Ms. Martinez was not provided with all legally-compliant meal periods to which she was entitled, Ms. Martinez was not always compensated with the required meal period premium for each workday in which she experienced a meal period violation as mandated by Labor Code § 226.7.

Ms. Martinez was also not authorized and permitted to take all legally required and compliant rest periods due to Defendant's rest period policies and practices. Defendant's rest period policies and practices fail to authorize and permit duty-free rest periods for every four hours worked, or major fraction thereof. Specifically, Defendant's written policies and practices required Ms. Martinez and the other non-exempt employees to remain on the premises during their rest periods. Because Defendant's rest period policy or practice requires employees to remain on the work premises during rest periods, Defendant's rest period policy fails to relinquish control over how employees spend their time during rest periods in violation of California law. In addition, due to the work demands imposed by Defendant and the nature of Defendant's assembly line, Ms. Martinez was often prevented from taking rest periods in compliance with California law. Furthermore, Defendant failed to maintain policies and practices of scheduling rest periods for non-exempt employees. Instead, Defendant required Ms. Martinez and other non-exempt employees to ask permission and ensure that another employee was present cover their shift in order to receive a rest period. As a result, Defendant's rest period policy fails to authorize and permit legally-compliant duty-free rest periods.

On those occasions when Ms. Martinez was not authorized and permitted to take all legally-compliant rest periods to which she was entitled, Defendant failed to compensate Ms. Martinez with the required rest period premium for each workday in which she experienced a rest period violation as mandated by Labor Code § 226.7. Further, upon information and belief, during at least a portion of the class period, Defendant maintained no payroll code or other mechanism for paying rest period premiums when Defendant failed to provide a legally compliant rest period.

As a result of Defendant's failure to pay all meal and rest period premium wages owed, Defendant issued inaccurate wage statements to Ms. Martinez and other non-exempt employees. Accordingly, such wage statements were in violation of Labor Code section 226.

As a further result of Defendant's failure to pay all meal and rest period premium wages owed, Defendant failed to pay Ms. Martinez all wages owed upon her separation of employment.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 8 ("Wage Order 8"):

Meal Period Violations

As alleged above, Defendant failed to provide Ms. Martinez and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 8, § 11. As described above, due to the work demands imposed by Defendant and the nature of Defendant's assembly line, Ms. Martinez was often prevented from taking a duty-free 30-minute meal period before the end of the fifth hour of work. Further, Defendant failed to maintain policies and practices of

scheduling meal periods for non-exempt employees. Instead, Defendant required Ms. Martinez to ask permission and ensure that another employee was present to cover Ms. Martinez's shift before receiving a meal period. As a result of Defendant's unlawful meal period policies and practices, Ms. Martinez meal periods were often late, less than 30 minutes in length, or otherwise unlawful. Additionally, during times when Ms. Martinez worked in excess of 10.0 hours per shift, Defendant failed to provide Ms. Martinez with a second, timely meal period of at least 30 minutes in length. As a result, Ms. Martinez and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."). Although Ms. Martinez was not provided with all legally-compliant meal periods to which she was entitled, Defendant failed to compensate Ms. Martinez and other aggrieved employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant also failed to authorize and permit Ms. Martinez and other aggrieved employees to take all required paid rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 8, § 12. As alleged above, Defendant's written policies and practices required Ms. Martinez and the other non-exempt employees to remain on the premises during their rest periods. Because Defendant's rest period policy or practice requires employees to remain on the work premises during rest periods, Defendant's rest period policy fails to relinquish control over how employees spend their time during rest periods in violation of California law. In addition, due to the work demands imposed by Defendant and the nature of Defendant's assembly line, Ms. Martinez was often prevented from taking rest periods in compliance with California law. Further, Defendant failed to maintain policies and practices of scheduling rest periods for non-exempt employees. Instead, Defendant required Ms. Martinez and other non-exempt employees to ask permission and ensure that another employee was present cover their shift in order to receive a rest period. As such, Ms. Martinez and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Ms. Martinez and other similarly aggrieved employees all of their final wages at the time of separation, which included, among other things, meal and rest period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Ms. Martinez and similarly aggrieved employees was willful and, consequently, entitles Ms. Martinez and other similarly aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendant failed to pay their final wages after their separation, up to a maximum of thirty days.

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Martinez and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, total gross wages earned, total net wages earned, and meal and rest period premium wages in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Ms. Martinez and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, unpaid meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

As an "aggrieved employee," Ms. Martinez will initiate a civil action on behalf of herself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Martinez own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a. Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Martinez and other aggrieved employees;
- b. Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Ms. Martinez and other aggrieved employees;
- c. Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Martinez and other aggrieved employees;
- d. Defendant violated Labor Code § 226 by failing to furnish Ms. Martinez and other aggrieved employees with accurate and compliant itemized wage statements;
- e. Defendant violated Labor Code § 204 by failing to pay Ms. Martinez and other aggrieved employees all earned wages at least twice during each calendar month; and
- f. Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Martinez and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT C

EXHIBIT C

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MADERA

MAGALI MARTINEZ, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

READY ROAST NUT COMPANY, L.L.C., a
California corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. MCV084692

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

To: All former non-exempt employees of Defendant Ready Roast Nut Company, L.L.C. who worked for Defendant at any time in California during the period of August 23, 2016 through September 27, 2020. Collectively, these employees will be referred to as "Settlement Class Members."

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the "Settlement") entitled *Magali Martinez v. Ready Roast Nut Company, L.L.C.*, Madera County Superior Court Case No. MCV084692 (the "Lawsuit"). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendant Ready Roast Nut Company, LLC ("Defendant") records show that you were employed by Defendant as a non-exempt employee in California at some time between August 23, 2016 and September 27, 2020 (the "Class Period"). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Magali Martinez ("Plaintiff") brought this Lawsuit against Defendant, seeking to assert claims on behalf of a class of former non-exempt employees who worked for Defendant in California at any time on or after August 23, 2016 through September 27, 2020. Plaintiff Magali Martinez is known as the "Class Representative," and her attorneys, who also represent the interests of all Settlement Class members, are known as "Class Counsel."

The Lawsuit alleges that Defendant failed to provide meal periods, failed to authorize and permit rest periods, failed to provide accurate, itemized wage statements, failed to timely pay all wages upon termination, failed to pay all minimum wages, failed to pay all overtime wages, and failed to reimburse necessary business expenses, all in violation of California law. As a result of the foregoing alleged violations, Plaintiff also alleges that Defendant engaged in unfair competition and is liable for civil penalties under the California Labor Code Private Attorney General Act ("PAGA").

Defendant denies that it has done anything wrong. Defendant further denies that it owes Settlement Class members

any wages, restitution, penalties, or other damages. No Court has made any determination as to the factual allegations in the Lawsuit. Rather, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, and it expressly denies all liability.

The Court has not ruled that Defendant violated any laws or whether Plaintiff or any other person is entitled to damages or other relief. However, to avoid additional expense, inconvenience, and interference with their business operations, Defendant has concluded that it is in their best interests and the interests of Settlement Class members to settle the Lawsuit on the terms summarized in this Notice. After Defendant provided relevant information to Class Counsel, the Settlement was reached after mediation and arm's-length negotiations between the Parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendant, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

Who are the Attorneys?

Attorneys for the Plaintiff / Settlement Class Members: LIDMAN LAW, APC Scott M. Lidman slidman@lidmanlaw.com Elizabeth Nguyen enguyen@lidmanlaw.com Milan Moore mmoore@lidmanlaw.com 2155 Campus Drive, Suite 150 El Segundo, California 90245 Tel: (424) 322-4772 Fax: (424) 322-4775 www.lidmanlaw.com HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com 155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com	Attorneys for Defendant Pacific Drayage Services, LLC HATMAKER LAW GROUP Susan S. Hatmaker susan@hatmakerlaw.com 7522 N. Colonial Avenue, Suite 105 Fresno, California 93711 Tel: (559) 374-0077 Fax: (559) 374-0078
--	---

What are the terms of the Settlement?

On **[INSERT DATE OF PRELIMINARY APPROVAL]**, the Court preliminarily certified a class, for settlement purposes only, of all former non-exempt employees of Defendant Ready Roast Nut Company, L.L.C. who worked for Defendant at any time in California during the period of August 23, 2016 through September 27, 2020. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Defendants as described below.

Defendant has agreed to pay \$325,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Lawsuit, which includes payments to Settlement Class members, attorneys' fees and expenses, payment to the Labor Workforce Development Agency ("LWDA"), settlement administration costs, and the Class Representative Service Award.

The following deductions from the Gross Settlement Amount will be requested by the Parties:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” which is sending this Notice to you and which will perform many other duties relating to the Settlement. The Court has approved setting aside an amount not to exceed \$10,000.00 from the Gross Settlement Amount to pay the Settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of the Settlement Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to one-third of the Gross Settlement Amount, which is estimated to be \$108,333.33, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement in an amount not to exceed \$15,000.00 for verified costs Class Counsel incurred in connection with the Lawsuit.

Service Award to Class Representative. Class Counsel will ask the Court to award the Class Representative a service award in the amount not to exceed \$5,000.00, to compensate her for her service and extra work provided on behalf of the Settlement Class members.

LWDA Payment. Class Counsel will ask the Court to approve a payment in the total amount of \$10,000.00 as and for alleged civil penalties, payable pursuant to the California Labor Code Private Attorney General Act (“PAGA”). Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) will be payable to the LWDA, and the remaining twenty-five percent (25%), or Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00), will be payable to certain Settlement Class members as the “PAGA Amount,” as described below.

Calculation of Individual Settlement Class Members’ Settlement Award. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount (“NSA”), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated at approximately \$<< >>, to be shared among an up to << >> estimated Settlement Class members. The NSA will be divided as follows:

- (i) The Net Settlement Amount shall be allocated to Settlement Class members who worked during the Class Period, as follows: each participating Settlement Class member shall receive a proportionate settlement share based upon the number of weeks worked as a non-exempt employee during the Class Period, the numerator of which is the Settlement Class member’s total weeks worked as a non-exempt employee during the Class Period, and the denominator of which is the total weeks worked as non-exempt employees by all Settlement Class members (who do not opt out) who worked during the Class Period.

In addition, Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) of the Gross Settlement Amount has been designated as the “PAGA Amount” as described above. All PAGA Employees shall receive a portion of the PAGA. “PAGA Employees” include all former non-exempt employees of Defendant who worked in California (including those who submit a Request for Exclusion) at any time between February 17, 2020 and September 27, 2020 (“PAGA Period”). A PAGA Employee shall receive a portion of the PAGA Amount proportionate to the number of weeks that he or she worked during this PAGA Period which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Employee’s number of weeks worked as a non-exempt employee during the PAGA Period, and the denominator of which is the total number of weeks worked by all PAGA Employees during the PAGA Period.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Settlement Awards will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion.

If you submit a Request for Exclusion, you will still receive a proportionate share of the PAGA Payment regardless of whether you exclude yourself from the Settlement if you are a PAGA Employee.

Each member of the Settlement Class who receives a Settlement Award must cash the check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class Members whose checks were not cashed within 180 days after mailing will be transferred to the California Secretary of State - Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class Member.

Payment by Defendant of Gross Settlement Amount. The Gross Settlement Amount has already been deposited by Defendant into a qualified settlement fund established by the Settlement Administrator.

Within ten (10) calendar days following the Effective Date, the Settlement Administrator will calculate Individual Settlement Award amounts and provide the same to the Parties' counsel for review and approval. Within seven (7) calendar days of approval by the Parties' counsel, the Settlement Administrator will prepare and mail Individual Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members. The "Effective Date" is defined as the latter of: (a) the Court's final approval of the settlement if no objections by or on behalf of Settlement Class members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been filed.

Allocation and Taxes. For tax purposes, each Settlement Award shall be allocated as follows: 66.67% as penalties and interest; and 33.33% as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Settlement Class members are responsible for the proper income tax treatment of the Individual Settlement Awards. The Settlement Administrator, Defendant and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, the Settlement Class, and each Settlement Class member who has not submitted a timely and valid Request for Exclusion, will fully and forever completely release and discharge Defendant, its past and present owners, officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents, insurers and attorneys (collectively the "Released Parties"), from all claims and causes of action that were pled or could have been pled in the operative Second Amended Complaints in the Action arising out of the factual allegations made in the operative complaint and that reasonably arise or could have arisen out of the facts alleged in the operative complaint, that arose during the Class Period defined above with respect to the following claims: (i) failure to provide meal periods; (ii) failure to authorize and permit rest periods; (iii) failure to provide accurate, itemized wage statements; (iv) failure to timely pay all wages upon termination; (v) failure to pay all minimum wages; (vi) failure to pay all overtime wages; (vii) failure to reimburse necessary business expenses; (viii) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above; and (ix) all other claims for damages, penalties, liquidated damages, punitive damages, interest, attorney fees, litigation costs, restitution, or equitable relief that allegedly arise out of the aforementioned claims (collectively, the "Released Claims"). These Released Claims include, but are not limited to, all claims for damages, penalties and/or attorney fees and costs under Labor Code §§ 201-204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2698, et. seq., (PAGA), 2802, Wage Order No. 8, Code of Civil Procedure §1021.5 and Business and Professions Code § 17200 based on the facts as alleged in the Second Amended Complaint that accrued at any time during the Class Period.

The time period of the Released Claims shall be the same time period as the Class Period.

PAGA Release and PAGA Employees. If the Court approves the Settlement, all PAGA Employees will release and forever discharge the Released Parties from all claims, demands, rights, liabilities and causes of action for civil penalties under California Labor Code Private Attorneys General Act of 2004 which were pled, asserted and/or described in the letters to the Labor & Workforce Development Agency ("LWDA") dated February 17, 2021 and September 12, 2022 and the operative Second Amended Complaint in the Action, or which could have been pled in the operative Second Amended Complaint in the Action based on the factual allegations pled therein that arose during the PAGA Period (collectively, "PAGA Released Claims"). These PAGA Released Claims include, but are not limited to, all civil penalties and attorney fees and costs recoverable under 2698, et. seq., (PAGA) based on allegations of violations under Labor Code §§ 201-204, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 2802, based

on the facts as alleged in the Second Amended Complaint and Plaintiffs' notices submitted to the LWDA that accrued at any time during the PAGA Period.

The time period of the PAGA Released Claim is February 17, 2020 through September 27, 2020 ("PAGA Period").

The Parties acknowledge that under the release, the right of the LWDA to investigate the PAGA Released claim is not released, but the PAGA Released Claim does include any claims for penalties by a PAGA Employee as a result of any such LWDA investigation, and PAGA Employees are barred from their right to act as a private attorney general as to the PAGA Released Claims.

You cannot submit a Request for Exclusion from the PAGA Release.

The releases identified herein shall become effective on the date on which Defendant fully funds the Settlement and/or the Effective Date, whichever is later ("Effective Date of the Release"). Upon the Effective Date of the Release, all Class Members who do not request exclusion shall be deemed to have, and by operation of Judgment shall have, released, waived and relinquished the Released Claims.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks you worked during the Class Period (as explained above), and as stated in the accompanying Notice of Individual Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Individual Settlement Award. Your award is based on the proportionate number of pay periods you worked during the Class Period, and whether you have worked between February 17, 2020 and September 27, 2020. The information contained in Defendant's records regarding all of these factors, along with your estimated Settlement Award, is listed on the accompanying Notice of Settlement Award. If you disagree with the information in your Notice of Individual Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Individual Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>.

DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator's decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written "Request for Exclusion from the Class Action Settlement" letter or card postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, your signature, and a statement indicating that you would like to be excluded from the Class Action Settlement. The Request for Exclusion should state:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE MARTINEZ V. READY ROAST NUT COMPANY LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT."

Send the Request for Exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who files a timely Request for Exclusion from the Settlement shall, upon receipt by

the Settlement Administrator, no longer be a Settlement Class member, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement.

If you submit a Request for Exclusion, you will only be excluded from the Released Claims. You cannot submit a Request for Exclusion from the PAGA Release. You will receive a proportionate share of the PAGA Payment regardless of whether you exclude yourself from the Settlement if you were employed between February 17, 2020 and September 27, 2020.

Do not submit both a Dispute and a Request for Exclusion. If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail a written objection to the Settlement Administrator. Your written objection must include your name, address, as well as contact information for any attorney representing you regarding your objection, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection. Written objections must be postmarked on or before <<RESPONSE DEADLINE>>.

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department 45 of the Madera County Superior Court, located at 200 South “G” Street, Madera, California 93637. You have the right to appear either remotely, in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. All objections or other correspondence must state the name and number of the case (*Magali Martinez v. Ready Roast Nut Company, L.L.C.*, Madera County Superior Court, Case No. MCV084692).

Any Settlement Class Member who elects to appear personally at the Court for any reason related to this Lawsuit must comply with the Court’s social distancing and mandatory face covering requirements, as well as other orders related to COVID-19. All such rules and orders can be located at the Court’s website: <https://www.madera.courts/ca/gov/general-information/covid-19-information>.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department 45 of the Madera County Superior Court, located at 200 South “G” Street, Madera, California 93637. The Court also will be asked to rule on Class Counsel’s request for attorneys’ fees and reimbursement of documented costs and expenses and the Service Award to the Class Representative. The Final Approval Hearing may be postponed without further notice to Settlement Class members. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

Any changes to date, time, or location of the Final Approval Hearing will be posted on the Settlement Administrator’s website (<http://.com>). The Court’s final judgment will also be posted on the Settlement Administrator’s website.

How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court’s files and the Settlement Agreement at the Office of the Clerk of the Madera County Superior Court, located at 200 South “G” Street, Madera, California 93637. Due to COVID-19, please visit the Court’s website at <https://www.madera.courts/ca/gov/general-information/covid-19-information> for information on accessing the Court

and potential modified service hours due to COVID. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANT OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

BY ORDER OF THE COURT ENTERED ON <<PRELIM APPROVAL DATE>>.

NOTICE OF SETTLEMENT AWARD

Magali Martinez v. Ready Roast Nut Company, L.L.C., et al
MADERA COUNTY SUPERIOR COURT CASE NO. MCV084692

Please complete, sign, date and return this form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Individual Settlement Award:

According to the records of Ready Roast Nut Company, L.L.C. ("Defendant"):

(a) You were employed by Defendant and worked a total of [] workweeks between August 23, 2016 and September 27, 2020; and

(b) You were employed by Defendant and worked a total of [] workweeks between February 17, 2020 and September 27, 2020.

Based on the above, your Individual Settlement Award is estimated to be \$ [].

(IV) If you disagree with item (a) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this form:

If you dispute the above information from Defendant's records, Defendant's records will control unless you are able to provide documentation that establishes that Defendant's records are mistaken. If there is a dispute about whether Defendant's information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Parties and the Settlement Administrator as described in the "Notice of Pendency of Class Action and Proposed Settlement" that accompanies this Form. Any unresolved disputes will be submitted to the Court for a final determination.

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED
NO LATER THAN <<RESPONSE DEADLINE>>**