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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

ANGEL SARMIENTO, an individual, and on
behalf of all others similarly situated and
aggrieved,

Plaintiff,

v.

THE NEIL JONES FOOD COMPANY, a
Washington corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No.: 21CECG03825

*[Consolidated with Case No.
21CECG01408]*

*[Assigned for all purposes to the Hon. Kristi
Culver Kapetan in Dept. 403]*

**JOINT STIPULATION RE: CLASS
ACTION AND REPRESENTATIVE
ACTION SETTLEMENT**

ACTION FILED: April 16, 2021

FAC FILED: July 30, 2021

TRIAL DATE: None set

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1 This Joint Stipulation Re: Class Action and Representative Action Settlement
2 (“Settlement,” “Agreement” or “Settlement Agreement”) is made by and between plaintiffs
3 ANGEL SARMIENTO (“Sarmiento”), RAFAEL SANTIAGO-LUGO (“Lugo”) and TERESA
4 TATARAKIS (“Tatarakis,” and collectively with Sarmiento and Lugo, “Plaintiffs”), on behalf
5 of themselves and all others similarly situated and aggrieved, on one hand; and defendant THE
6 NEIL JONES FOOD COMPANY (“Defendant”), on the other hand, in the lawsuits entitled
7 *Sarmiento v. The Neil Jones Food Company*, filed in Fresno County Superior Court, Case No.
8 21CECG03825 (the “Sarmiento Class and PAGA Action” or the “Sarmiento Action”); *Tatarakis*
9 *v. The Neil Jones Food Company*, filed in Fresno County Superior Court, Case No. 22CEG00065
10 (the “Tatarakis Class Action”); *Tatarakis v. The Neil Jones Food Company*, filed in San Benito
11 County Superior Court, Case No. CU-22-00009 (the “Tatarakis PAGA Action”); and *Rafael*
12 *Santiago-Lugo v. The Neil Jones Food Company*, filed in Fresno County Superior Court, Case
13 No. 21CECG01408 (the “Lugo Class Action,” which was previously consolidated with the
14 Sarmiento Class and PAGA Action). Plaintiffs and Defendant shall be, at times, referred to as
15 the “Parties.” This Agreement is intended by the Parties to fully, finally and forever resolve the
16 claims as set forth herein, based upon and subject to the terms and conditions of this Agreement.

17 **1. DEFINITIONS**

18 **A.** **“Actions”** means the actions entitled *Sarmiento v. The Neil Jones Food Company*,
19 filed in Fresno County Superior Court, Case No. 21CECG03825 (the “Sarmiento Class and
20 PAGA Action” or the “Sarmiento Action”); *Tatarakis v. The Neil Jones Food Company*, filed in
21 Fresno County Superior Court, Case No. 22CEG00065 (the “Tatarakis Class Action”); *Tatarakis*
22 *v. The Neil Jones Food Company*, filed in San Benito County Superior Court, Case No. CU-22-
23 00009 (the “Tatarakis PAGA Action”); and *Rafael Santiago-Lugo v. The Neil Jones Food*
24 *Company*, filed in Fresno County Superior Court, Case No. 21CECG01408 (the “Lugo Class
25 Action,” which was previously consolidated with the Sarmiento Class and PAGA Action).

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1 **B. “Aggrieved Employees”** means all persons currently or formerly employed by
2 Defendant, either directly or through any subsidiary, staffing agency, or professional employer
3 organization, as non-exempt, hourly-paid employees during the PAGA Period in the State of
4 California.

5 **C. “Class Counsel”** means David D. Bibiyan, Jeffrey D. Klein, and Vedang J. Patel
6 of Bibiyan Law Group, P.C.; Douglas Han, Shunt Tatavos-Gharajeh, and Jason W. Rothman of
7 Justice Law Corporation; and Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,
8 and Nicholas J. De Blouw of Blumenthal Nordrehaug Bhowmik De Blouw LLP. The term “Class
9 Counsel” shall be used synonymously with the term “Plaintiffs’ Counsel.”

10 **D. “Class Members,” “Settlement Class,” or “Settlement Class Members”** means
11 all persons currently or formerly employed by Defendant, either directly or through any
12 subsidiary, staffing agency, or professional employer organization, as non-exempt, hourly-paid
13 employees during the Class Period in the State of California.

14 **E. “Class Period”** means the period from April 16, 2017 through February 29, 2024.

15 **F. “Class Notice”** means and refers to the notice sent to Class Members after
16 preliminary approval of the Settlement in the manner described in Paragraph 9(A) of this
17 Agreement.

18 **G. “Court”** means the Superior Court of the State of California for the County of
19 Fresno.

20 **H. “Defendant”** means defendant The Neil Jones Food Company.

21 **I. “Defendant’s Counsel”** means Michael E. Wilbur, Africa E. Davidson, and
22 Timothy W. Moppin of Apex Employment Law, LLP.

23 **J. “Employer Taxes”** means employer-funded taxes and contributions imposed on
24 the wage portions of the Individual Settlement Payments under the Federal Insurance
25 Contributions Act, the Federal Unemployment Tax Act, and any similar state and federal taxes
26 and contributions required of employers, such as for unemployment insurance.

27 **K. “Final Approval Date”** means the later of: (1) the date the Court signs an Order
28 granting final approval of this Settlement (“Final Approval”) and Judgment; (2) if there is an

1 objector, sixty (60) calendar days from the date of the Final Approval and Judgment; or (3) to
2 the extent any appeals have been filed, the date on which they have been resolved or exhausted.

3 **L. “General Release”** means the broader release of claims by Plaintiffs, which is in
4 addition to Plaintiffs’ limited release of claims as Participating Class Members.

5 **M. “Gross Settlement Amount”** means a non-reversionary fund in the sum of Six
6 Million Dollars and Zero Cents (\$6,000,000.00),¹ which shall be paid by Defendant, from which
7 all payments for the Individual Settlement Payments to Participating Class Members, the Court-
8 approved amounts for attorneys’ fees and reimbursement of litigation costs and expenses to Class
9 Counsel, Settlement Administration Costs, Service Awards, PAGA Payment, and LWDA
10 Payment shall be paid. It expressly excludes Employer Taxes, which shall be paid by Defendant,
11 separate, apart and in addition to the Gross Settlement Amount.

12 **N. “Individual PAGA Payment”** means a payment made to an Aggrieved Employee
13 for his or her share of the PAGA Payment, which may be in addition to his or her Individual
14 Settlement Share if he or she is also a Participating Class Member.

15 **O. “Individual Settlement Payment”** means a payment to a Participating Class
16 Member of his or her net share of the Net Settlement Amount.

17 **P. “Individual Settlement Share”** means the gross amount of the Net Settlement
18 Amount that a Participating Class Member is projected to receive based on the number of
19 Workweeks that he or she worked as a Settlement Class Member during the Class Period, which
20 shall be reflected in his or her Class Notice.

21 **Q. “LWDA Payment”** means the payment to the State of California Labor and
22 Workforce Development Agency (“LWDA”) for its seventy-five percent (75%) share of the total
23 amount allocated toward penalties under the PAGA, all of which is to be paid from the Gross
24 Settlement Amount. The Parties have agreed that One Hundred Twenty Thousand Dollars and
25 Zero Cents (\$120,000.00) shall be allocated toward PAGA penalties, of which Ninety Thousand
26 Dollars and Zero Cents (\$90,000.00) will be paid to the LWDA (*i.e.*, the LWDA Payment) and
27 Thirty Thousand Dollars and Zero Cents (\$30,000.00) will be paid to Aggrieved Employees on

28 ¹ As may be increased in accordance with Paragraph 17 below.

1 a *pro rata* basis based on the Pay Periods worked in the PAGA Period, as further set out herein
2 (*i.e.* the PAGA Payment).

3 **R. “Net Settlement Amount”** means the portion of the Gross Settlement Amount
4 that is available for distribution to the Participating Class Members after deductions for the Court-
5 approved allocations for Settlement Administration Costs, Service Award to Plaintiffs, an award
6 of attorneys’ fees, reimbursement of litigation costs and expenses to Class Counsel, LWDA
7 Payment, and PAGA Payment.

8 **S. “Operative Complaint”** means the Second Amended Complaint to be filed in the
9 Sarmiento Action.

10 **T. “PAGA Payment”** is the twenty-five percent (25%) portion of the One Hundred
11 Twenty Thousand Dollars and Zero Cents (\$120,000.00) that is allocated toward PAGA penalties
12 (Thirty Thousand Dollars and Zero Cents (\$30,000.00)) that will be paid to Aggrieved
13 Employees on a *pro rata* basis based on the Pay Period worked as non-exempt, hourly paid
14 employees in California in the PAGA Period, which would be in addition to their Individual
15 Settlement Payment if they are Participating Class Members, as well.

16 **U. “PAGA Period”** means the period from April 20, 2020 through February 29,
17 2024.

18 **T. “Participating Class Members”** means all Settlement Class Members who do
19 not submit a timely and valid Request for Exclusion.

20 **U. “Participating Individual Settlement Share”** means the gross amount of the Net
21 Settlement Amount that a Participating Class Member is eligible to receive based on the number
22 of Workweeks that he or she worked as a Settlement Class Member during the Class Period once
23 all opt-outs have been factored in, excluding any Individual PAGA Payment to which he or she
24 may be entitled if he or she is also an Aggrieved Employee.

25 **V. “Pay Period”** means any pay period during which an Aggrieved Employee
26 worked for Defendant for at least one day during the PAGA Period, based on dates of
27 employment (*i.e.* hire dates, re-hire dates (as applicable), and termination dates (as applicable)).
28

1 **W. “Plaintiffs,” “Named Plaintiffs” or “Class Representatives”** shall refer to
2 plaintiffs Angel Sarmiento, Rafael Santiago-Lugo, and Teresa Tatarakis.

3 **W. “Preliminary Approval Date”** means the date on which the Court enters an Order
4 granting preliminary approval of the Settlement.

5 **X. “Released Parties”** shall mean Defendant and its past, present and/or future,
6 direct and/or indirect, owners, shareholders, officers, directors, members, managers, employees,
7 agents, representatives, attorneys, insurers, parent companies, subsidiaries, affiliates, successor,
8 and assigns.

9 **Y. “Response Deadline”** means the deadline for Settlement Class Members to mail
10 any Requests for Exclusion, Objections or Workweek Disputes to the Settlement Administrator,
11 which is forty-five (45) calendar days from the date that the Class Notice is first mailed in English
12 and Spanish by the Settlement Administrator, unless a Class Member’s notice is re-mailed. In
13 such an instance, the Response Deadline shall be fifteen (15) calendar days from the re-mailing
14 or forty-five (45) calendar days from the date of the initial mailing, whichever is later, in which
15 to postmark a Request for Exclusion, Workweek Dispute or Objection. The date of the postmark
16 shall be the exclusive means for determining whether a Request for Exclusion, Objection or
17 Workweek Dispute was submitted by the Response Deadline.

18 **Z. “Request for Exclusion”** means a written request to be excluded from the
19 Settlement Class pursuant to Paragraph 9(C) below.

20 **AA. “Service Awards”** means monetary amounts to be paid to Plaintiffs of up to Ten
21 Thousand Dollars and Zero Cents (\$10,000.00) each to Plaintiffs, for a total of Thirty Thousand
22 Dollars and Zero Cents (\$30,000.00), which, subject to Court approval, will be paid out of the
23 Gross Settlement Amount.

24 **BB. “Settlement Administration Costs”** means all costs incurred by the Settlement
25 Administrator in administration of the Settlement, including, but not limited to, translating the
26 Class Notice to Spanish, distribution of the Class Notice to the Settlement Class in English and
27 Spanish, calculating Individual Settlement Shares, Individual Settlement Payments, Individual
28 PAGA Payments and Participating Individual Settlement Shares, as well as associated taxes and

1 withholdings, providing declarations, generating Individual Settlement Payment checks and
2 related tax reporting forms, doing administrative work related to unclaimed checks, transmitting
3 payment to Class Counsel for the Court-approved amounts for attorneys' fees and reimbursement
4 of litigation costs and expenses, to Plaintiffs for their Service Awards and to the LWDA for the
5 LWDA Payment, providing weekly reports of opt-outs, objections and related information, and
6 any other actions of the Settlement Administrator as set forth in this Agreement, all pursuant to
7 the terms of this Agreement. The Settlement Administration Costs are estimated not to exceed
8 \$21,950.00. If the actual amount of the Settlement Administration Costs is less than \$21,950.00
9 the difference between \$21,950.00 and the actual Settlement Administration Costs shall be a part
10 of the Net Settlement Amount. If the Settlement Administration Costs exceed \$21,950.00 then
11 such excess will be paid solely from the Gross Settlement Amount and Defendants will not be
12 responsible for paying any additional funds in order to pay these additional costs.

13 **CC. "Settlement Administrator"** means the Third-Party Administrator selected by
14 the Plaintiffs that will be responsible for the administration of the Settlement including, without
15 limitation, translating the Class Notice in Spanish, distribution of the Individual Settlement
16 Payments to be made by Defendant from the Gross Settlement Amount and related matters under
17 this Agreement. The Settlement Administrator that was mutually selected by the Parties is ILYM
18 Group, Inc.

19 **DD. "Workweeks"** means any week during the Class Period in which any Class
20 Member performed any work for Defendant, based on hire dates, termination dates (as
21 applicable), and re-hire date(s) (as applicable).

22 **2. BACKGROUND**

23 **A.** On April 16, 2021, plaintiff Sarmiento filed a putative wage-and-hour class action
24 in the San Benito County Superior Court, Case No. CU-21-00066, alleging causes of action
25 against Defendant for: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3)
26 failure to provide meal periods or compensation in lieu thereof; (4) failure to provide rest periods
27 or compensation in lieu thereof; (5) failure to pay all wages due upon separation; (6) failure to
28 provide accurate wage statements; (7) failure to timely pay wages during employment; (8) failure

1 to indemnify for business expenses; and (9) engaging in unfair competition (the “Sarmiento Class
2 Action”).

3 **B.** On April 20, 2021, plaintiff Sarmiento filed with the LWDA and served on
4 Defendant a notice under Labor Code section 2699.3, stating that plaintiff Sarmiento intended to
5 serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for
6 alleged Labor Code violations (the “Sarmiento PAGA Notice”).

7 **C.** On May 18, 2021, plaintiff Lugo filed a putative wage-and-hour class action in
8 the Fresno County Superior Court, Case No. 21CECG01408 (the “Lugo Class Action”).

9 **D.** On July 30, 2021, plaintiff Sarmiento filed a First Amended Complaint in the
10 Sarmiento Class Action, adding PAGA claims alleged in the Sarmiento PAGA Notice (the
11 “Sarmiento Action”).

12 **E.** On October 8, 2021, plaintiff Tatarakis filed with the LWDA and served on
13 Defendant a notice under Labor Code section 2699.3, stating that plaintiff Tatarakis intended to
14 serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for
15 alleged Labor Code violations (the “Tatarakis PAGA Notice”). The Sarmiento PAGA Notice and
16 the Tatarakis PAGA Notice shall be referred to herein as the “PAGA Notices.”

17 **F.** On October 21, 2021, the Sarmiento Action was transferred to the Fresno County
18 Superior Court, Case No. 21CECG03825.

19 **G.** On January 10, 2022, Tatarakis filed the Tatarakis Class Action in this Court.

20 **H.** On January 13, 2022, after sixty-five (65) days had passed since plaintiff Tatarakis
21 filed and served the Tatarakis PAGA Notice, without any action by the LWDA with respect to
22 the alleged Labor Code violations, plaintiff Tatarakis filed a separate representative action in the
23 San Benito County Superior Court, Case No. CU-22-00009, seeking PAGA civil penalties
24 against Defendant for Labor Code violations alleged in the Tatarakis PAGA Notice (the
25 “Tatarakis PAGA Action”).

26 **I.** On July 14, 2022, the Superior Court for the County of San Benito granted
27 Defendant’s motion to stay the Tatarakis PAGA Action.
28

1 **J.** On October 25, 2022, this Court entered an order sustaining Defendant’s demurrer
2 to the Tatarakis Class Action on the ground that there was another action pending between the
3 same parties on the same cause of action and held that the Tatarakis Class Action was abated by
4 the earlier-filed Sarmiento Action and Lugo Class Action.

5 **K.** On January 13, 2023, parties to the Sarmiento Action and Lugo Class Action filed
6 a stipulation to consolidate the Sarmiento Action with the Lugo Class Action. On January 18,
7 2023, the Court ordered the two (2) cases consolidated, with the Sarmiento Action to be the lead
8 action.

9 **L.** Prior to mediation, Plaintiffs were provided, through informal discovery, with: (1)
10 class data points, including the estimated number of class members during the Class Period, the
11 estimated number of Workweeks during the Class Period, the estimated number of Aggrieved
12 Employees during the PAGA Period, the estimated number of Pay Periods during the PAGA
13 Period, the number of employees separated from employment during the relevant statutory
14 period; (2) collective bargaining agreements (CBAs); (3) Defendant’s employee handbooks and
15 orientation materials; and (4) Plaintiffs’ personnel records.

16 **M.** On November 28, 2023, the Parties participated in a full-day mediation with Marc
17 Feder, Esquire, a well-regarded mediator, experienced in mediating complex labor and
18 employment matters. With the aid of the mediator’s evaluation, the Parties reached the Settlement
19 to resolve the Action. As part of this Agreement, the Parties agree to stipulate to plaintiff
20 Sarmiento’s filing of a Second Amended Complaint in the Sarmiento Action, adding all
21 allegations brought in the Tatarakis Class Action and Tatarakis PAGA Action, and plaintiff
22 Tatarakis as a named representative, and plaintiff Tatarakis’ request for dismissal of the Tatarakis
23 Class Action and Tatarakis PAGA Action, without prejudice, thereby effectively consolidating
24 the Sarmiento Action and Tatarakis PAGA Action for purposes of this Settlement. The Second
25 Amended Complaint in the Sarmiento Action is the “Operative Complaint.”

26 **N.** Class Counsel have conducted significant investigation of the law and facts
27 relating to the claims asserted in the Action and the PAGA Notices, and have concluded that the
28 Settlement set forth herein is fair, reasonable, adequate and in the best interests of the Settlement

1 Class, taking into account the sharply contested issues involved, the expense and time necessary
2 to litigate the Action through trial and any appeals, the risks and costs of further litigation of the
3 Action, the risk of an adverse outcome, the uncertainties of complex litigation, the information
4 learned through discovery regarding Plaintiffs' allegations, and the substantial benefits to be
5 received by Settlement Class Members.

6 **O.** Defendant has concluded that, because of the substantial expense of defending
7 against the Action, the length of time necessary to resolve the issues presented herein, the
8 inconvenience involved and the concomitant disruption to its business operations, it is in its best
9 interest to accept the terms of this Agreement. Defendant denies each of the allegations and
10 claims asserted against them in the Action and the PAGA Notices. However, Defendant desires
11 to settle the Action for the purpose of avoiding the burden, expense, and uncertainty of continuing
12 litigation, and for the purpose of putting to rest the controversies engendered by the Action.

13 **P.** This Agreement is intended to and does effectuate the full, final, and complete
14 resolution of all Class Released Claims of Plaintiffs and Participating Class Members, and all
15 PAGA Released Claims of Plaintiffs and, to the extent permitted by law, of the State of California
16 and Aggrieved Employees.

17 **3. JURISDICTION**

18 The Court has jurisdiction over the Parties and the subject matter of the Action. The
19 Action includes claims that, if proven, would authorize the Court to grant relief pursuant to the
20 applicable statutes. After the Court has granted Final Approval of the Settlement and entered
21 judgment, the Court shall retain jurisdiction over the Parties to enforce the terms of the judgment
22 pursuant to California Rules of Court, rule 3.769, subdivision (h).

23 **4. STIPULATION OF CLASS CERTIFICATION**

24 The Parties stipulate to the certification of the Settlement Class under this Agreement for
25 purposes of settlement only.

26 **5. MOTIONS FOR APPROVAL OF SETTLEMENT**

27 The Parties hereby stipulate to plaintiff Sarmiento's filing of a Second Amended
28 Complaint in the Sarmiento Action, that includes all of the allegations in the Tatarakis Class

1 Action and Tatarakis PAGA Action, and plaintiff Tatarakis as a named representative on the
2 condition that both Tatarakis actions are dismissed concurrently with the filing of the Second
3 Amended Complaint. To accomplish the dismissal of both Tatarakis actions along with the filing
4 of the Second Amended Complaint, the parties stipulate and jointly request that the Court order
5 that the Tatarakis Class Action, which is pending in this Court, be dismissed immediately upon
6 the filing of the Second Amended Complaint. The parties further stipulate and jointly request
7 that the order granting leave to file the Second Amended Complaint be subject to the followign
8 conditions and provisions: (a) within five (5) business days after the Second Amended Complaint
9 in the Sarmiento Action is filed, plaintiff Tatarakis will file a request to dismiss the Tatarakis
10 PAGA Action in San Benito County Superior Court; and (b) the Tatarakis PAGA Action must
11 be dismissed by the San Benito County Superior Court within ten (10) days after the filing of the
12 Second Amended Complaint. If the Tatarakis PAGA action is not dismissed within ten (10) days
13 after the Second Amended Complaint, the Second Amended Complaint shall be withdrawn and
14 will be of no force and effect. The purpose of this paragraph is to effectively consolidate all the
15 allegations in the Tatarakis Class Action and Tatarakis PAGA Action into the Sarmiento Action.

16 The Parties hereby expressly agree that whether or not the Court finally approves the
17 Settlement, plaintiff Tatarakis' allegations from the Tatarakis PAGA Action will be effectively
18 consolidated into the Sarmiento Action and will relate back to the date on which plaintiff
19 Tatarakis filed the Tatarakis PAGA Notice.

20 After full execution of this Agreement, Plaintiffs will move for an order granting
21 preliminary approval of the Settlement, approving and directing the mailing of the proposed
22 Notice of Proposed Class Action Settlement and Date for Final Approval Hearing ("Class
23 Notice"), attached hereto as **Exhibit A**, conditionally certifying the Settlement Class for
24 settlement purposes only, and approving the deadlines proposed by the Parties for the submission
25 of Requests for Exclusion, Workweek Disputes and Objections. If and when the Court
26 preliminarily approves the Settlement, and after administration of the Class Notice in a manner
27 consistent with the Court's Preliminary Approval Order, Plaintiffs will move for an order finally
28 approving the Settlement and seek entry of a Judgment in line with this Settlement. The Parties

1 may both respond to any Objections lodged to final approval of the Settlement up to five (5) court
2 days before the Final Approval Hearing.

3 **6. STATEMENT OF NO ADMISSION**

4 Defendant denies any wrongdoing of any sort and further denies any liability to Plaintiffs
5 and the Settlement Class with respect to any claims or allegations asserted in the Action and the
6 PAGA Notices. This Agreement shall not be deemed an admission by Defendant of any claims
7 or allegations asserted in the Action or the PAGA Notices. Except as set forth elsewhere herein,
8 in the event that this Agreement is not approved by the Court or any appellate court, is terminated,
9 or otherwise fails to be enforceable, Plaintiffs will not be deemed to have waived, limited or
10 affected in any way any claims, rights or remedies, or defenses in the Action or the PAGA
11 Notices, and Defendant will not be deemed to have waived, limited or affected in any way any
12 of their objections or defenses in the Action and the PAGA Notices. The Parties shall not stipulate
13 to class certification and shall be restored to their respective positions in the Action prior to the
14 entry of this Settlement. Payment of wages under this Settlement neither extends nor alter the
15 Class Members' period of employment with Defendant for any purpose.

16 **7. RELEASE OF CLAIMS**

17 **A. Release by All Participating Class Members**

18 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry
19 of Judgment and payment by Defendant to the Settlement Administrator of the full Gross
20 Settlement Amount and Employers Taxes necessary to effectuate the Settlement, Plaintiffs and
21 all Participating Class Members, for the duration of the Class Period, release all claims that were
22 alleged or reasonably could have been alleged based on the facts stated in the Operative
23 Complaint, including, but not limited to: (a) all claims for failure to pay overtime wages; (b) all
24 claims for failure to pay minimum wages; (c) all claims for failure to provide compliant meal
25 periods or compensation in lieu thereof; (d) all claims for failure to provide compliant rest periods
26 or compensation in lieu thereof; (e) all claims for failure to pay all wages due upon separation
27 from employment; (f) all claims for failure to provide accurate wage statements; (g) all claims
28 for failure to timely pay wages during employment; (h) all claims for failure to indemnify for

1 business expenses; and (i) all claims asserted through California Business & Profession Code *et*
2 *seq.*, arising out of the Labor Code violations referenced in the Operative Complaint (the “Class
3 Released Claims”).

4 **B. Release by All Aggrieved Employees**

5 Effective only upon the entry of an Order granting Final Approval of the
6 Settlement, entry of Judgment and payment by Defendant to the Settlement Administrator
7 of the full Gross Settlement Amount and Employers Taxes necessary to effectuate the
8 Settlement, for Aggrieved Employees and, to the extent permitted by law, the State of California,
9 the release includes for the duration of the PAGA Period, all claims for PAGA civil penalties
10 asserted in the PAGA Notices and the Operative Complaint or that could have been based on the
11 factual allegations asserted in the Operative Complaint and the PAGA Notices for PAGA civil
12 penalties, including, pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1 and 2699
13 *et seq.*, in connection with alleged violations of Labor Code sections 96, 98.6, 200, 201, 202, 203,
14 204 *et seq.*, 210, 221, 223, 226, 226.7, 227.3, 232, 232.5, 246 *et seq.*, 432, 510, 512, 1102.5,
15 1174, 1182.12, 1194, 1194.2, 1197, 1197.5, 1198, 1198.5, 2802, and 2810.5, California Code of
16 Regulations Title 8 Section 11040, Subdivisions 5(A)-(B), California Code of Regulations Title
17 8 Section 1 1070(14), California Code of Regulations Title 8 Section 110404(5)(A), and all
18 applicable Wage Orders (the “PAGA Released Claims”). The Class Released Claims and the
19 PAGA Released Claims shall be referred to herein as the “Released Claims.”

20 **C. Claims Not Released**

21 The release of Class Released Claims and PAGA Released Claims above expressly
22 exclude all other claims, including claims for vested benefits, wrongful termination,
23 unemployment insurance, disability, social security, workers’ compensation, and any other
24 claims outside of the Class Released Claims of Participating Class Members arising during the
25 Class Period and PAGA Released Claims of Aggrieved Employees (and, to the extent permitted
26 by law, the State of California) arising outside of the PAGA Period.

27 **D. General Release**
28

Effective only upon the entry of an Order granting Final Approval of the Settlement, entry of Judgment and payment by Defendant to the Settlement Administrator selected of the full Gross Settlement Amount and Employer's Taxes necessary to effectuate the Settlement, in addition to the Released Claims, Plaintiffs make the additional following General Release: Plaintiffs release the Released Parties from all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule, law or regulation arising out of, relating to, or in connection with any act or omission of the Released Parties through the date of full execution of this Agreement in connection with Plaintiffs' employment with Defendant or termination thereof, except for any and all other claims that may not be released as a matter of law through this Agreement. To the extent of the General Release provided herein, Plaintiffs stipulate and agrees that, upon entry of an Order granting Final Approval of the Settlement, entry of Judgment and payment by Defendant to the Settlement Administrator selected of the full Gross Settlement Amount and Employer's Taxes necessary to effectuate the Settlement, they shall have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or 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.

8. SETTLEMENT ADMINISTRATOR

A. The Parties, through their respective Counsel, have mutually selected ILYM Group, Inc. to administer the Settlement, which includes, but is not limited to, translating the Class Notice to Spanish, distributing, and responding to inquiries about the Class Notice, and calculating all amounts to be paid from the Gross Settlement Amount. Charges and expenses of the Settlement Administrator, currently estimated to be \$21,950.00 will be paid from the Gross Settlement Amount. If the actual amount of the Settlement Administration Costs is less than \$21,950.00, the difference between \$21,950.00 and the actual Settlement Administration Costs

1 shall be a part of the Net Settlement Amount. If the Settlement Administration Costs exceed
2 \$21,950.00 then such excess will be paid solely from the Gross Settlement Amount and
3 Defendant will not be responsible for paying any additional funds in order to pay these additional
4 costs.

5 **9. NOTICE, WORKWEEK DISPUTE, OBJECTION AND EXCLUSION**
6 **PROCESS**

7 **A. Notice to the Settlement Class Members**

8 (1) Within seven (7) calendar days after the Preliminary Approval Date,
9 Defendant's Counsel shall provide the Settlement Administrator only with information with
10 respect to each Settlement Class Member, including his or her: (a) name; (b) last known
11 address(es) currently in Defendants' possession, custody or control; (c) last known telephone
12 number(s) currently in Defendants' possession, custody or control; (d) last known Social Security
13 Number(s) in Defendants' possession, custody or control; and (e) the dates of employment (*i.e.*,
14 hire dates and, if applicable, re-hire date(s) and/or separation date(s)) for each Settlement Class
15 Member ("Class List"). The Settlement Administrator shall perform an address search using the
16 United States Postal Service National Change of Address ("NCOA") database and update the
17 addresses contained on the Class List with the newly found addresses, if any. Within seven (7)
18 calendar days or soon thereafter of receiving the Class List from Defendant, the Settlement
19 Administrator shall mail the Class Notice in English and Spanish to the Settlement Class
20 Members via first-class regular U.S. Mail using the most current mailing address information
21 available. The Settlement Administrator shall maintain the Class List and digital copies of all the
22 Settlement Administrator's records evidencing the giving of notice to any Settlement Class
23 Member for at least four (4) years from the Final Approval Date.

24 (2) The Class Notice will set forth:

- 25 (a) the Settlement Class Member's estimated Individual
26 Settlement Payment and Individual PAGA Payment,
27 and the basis for each;
28

- 1 (b) the information required by California Rules of Court,
2 rule 3.766, subdivision (d);
3 (c) the material terms of the Settlement;
4 (d) the proposed Settlement Administration Costs;
5 (e) the definition of the Settlement Class;
6 (f) a statement that the Court has preliminarily approved
7 the Settlement;
8 (g) how the Settlement Class Member can obtain
9 additional information, including contact information
10 for Class Counsel;
11 (h) information regarding opt-out and objection
12 procedures;
13 (i) the date and location of the Final Approval Hearing;
14 and
15 (j) that the Settlement Class Member must notify the
16 Settlement Administrator no later than the Response
17 Deadline if the Settlement Class Member disputes the
18 accuracy of the number of Workweeks worked as set
19 forth on his or her Class Notice (“Workweek Dispute”).
20 If a Settlement Class Member fails to timely dispute the
21 number of Workweeks attributed to him or her in
22 conformity with the instructions in the Class Notice,
23 then he or she shall be deemed to have waived any
24 objection to its accuracy and any claim to any
25 additional settlement payment based on different data.

26 (3) If a Class Notice from the initial notice mailing is returned as
27 undeliverable, the Settlement Administrator will attempt to obtain a current address for the
28 Settlement Class Member to whom the returned Class Notice had been mailed, within five (5)

1 calendar days of receipt of the returned Class Notice, by: (a) contacting the Settlement Class
2 Member by phone, if possible, and (b) undertaking skip tracing. If the Settlement Administrator
3 is successful in obtaining a new address, it will re-mail the Class Notice to the Settlement Class
4 Member within three (3) business days. Further, any Class Notices that are returned to the
5 Settlement Administrator with a forwarding address before the Response Deadline shall be
6 promptly re-mailed to the forwarding address affixed thereto.

7 (4) No later than seven (7) calendar days from the Response Deadline, the
8 Settlement Administrator shall provide counsel for the Parties with a declaration attesting to the
9 completion of the notice process, including the number of attempts to obtain valid mailing
10 addresses for and re-sending of any returned Class Notices, as well as the identities, number of,
11 and copies of all Requests for Exclusion and Objections received by the Settlement
12 Administrator.

13 **B. Objections**

14 Only Participating Class Members may object to the Settlement. In order for any
15 Settlement Class Member to object to this Settlement in writing, or any term of it, he or she must
16 do so by mailing a written objection to the Settlement Administrator at the address provided on
17 the Class Notice no later than the Response Deadline. The Settlement Administrator shall email
18 a copy of the Objection forthwith to Class Counsel and Defendants' Counsel and attach copies
19 of all Objections to the declaration it provides Class Counsel, which Class Counsel shall file in
20 support of Plaintiffs' Motion for Final Approval. The Objection should set forth in writing: (a)
21 the Objector's name; (b) the Objector's address; (c) the last four digits of the Objector's Social
22 Security Number; (d) the Objector's signature; (e) a statement of whether the Objector plans to
23 appear at the Final Approval Hearing; and (f) the reason(s) for the Objection, along with whatever
24 legal authority, if any, the Objector asserts in support of the Objection. If a Settlement Class
25 Member objects to the Settlement, the Settlement Class Member will remain a member of the
26 Settlement Class and if the Court approves this Agreement, the Settlement Class Member will be
27 bound by the terms of the Settlement in the same way and to the same extent as a Settlement
28 Class Member who does not object. The date of mailing of the Class Notice to the objecting

1 Settlement Class Member shall be conclusively determined according to the records of the
2 Settlement Administrator. Settlement Class Members need not object in writing to be heard at
3 the Final Approval Hearing; they may object or comment in person at the hearing at their own
4 expense. Class Counsel and Defendant's Counsel may respond to any objection lodged with the
5 Court up to five (5) court days before the Final Approval Hearing.

6 **C. Requesting Exclusion**

7 Any Settlement Class Member may request exclusion from (*i.e.*, "opt out" of) the
8 Settlement by mailing a written request to be excluded from the Settlement ("Request for
9 Exclusion") to the Settlement Administrator, postmarked on or before the Response Deadline.
10 To be valid, a Request for Exclusion must include: (1) the Class Member's name; (2) the last
11 four (4) digits of the Class Member's Social Security Number; (3) the Class Member's signature;
12 and (4) the following statement: "Please exclude me from the Settlement Class in the *Sarmiento,*
13 *et al. v. The Neil Jones Food Company* matter," or any statement of similar meaning standing for
14 the proposition that the Class Member does not wish to participate in the Settlement. The
15 Settlement Administrator shall immediately provide copies of all Requests for Exclusion to Class
16 Counsel and Defendant's Counsel and shall report the Requests for Exclusions that it receives,
17 to the Court, in its declaration to be provided in advance of the Final Approval Hearing. Any
18 Settlement Class Member who requests exclusion using this procedure will not be entitled to
19 receive any payment from the Settlement and will not be bound by the Settlement Agreement or
20 have any right to object to, appeal, or comment on the Settlement. Any Settlement Class Member
21 who does not opt out of the Settlement by submitting a timely and valid Request for Exclusion
22 will be bound by all terms of the Settlement, including those pertaining to the Released Claims,
23 as well as any Judgment that may be entered by the Court if Final Approval of the Settlement is
24 granted. A Settlement Class Member cannot submit both a Request for Exclusion and an
25 objection. If a Settlement Class Member submits an Objection and a Request for Exclusion, the
26 Request for Exclusion will control, and the Objection will be overruled. Settlement Class
27 Members who worked during the PAGA Period as Aggrieved Employees that submit a valid
28

Request for Exclusion will still be deemed Aggrieved Employees, will still receive their Individual PAGA Payments, and will be bound by the release of the PAGA Released Claims.

D. Disputes Regarding Settlement Class Members' Workweek Data

Each Settlement Class Member may dispute the number of Workweeks attributed to him or her on his or her Class Notice. Any such disputes must be mailed to the Settlement Administrator by the Settlement Class Member, postmarked on or before the Response Deadline. The Settlement Administrator shall immediately provide copies of all disputes to Class Counsel and counsel for Defendant and shall immediately attempt to resolve all such disputes directly with relevant Settlement Class Member(s) with the assistance of Defendant and Class Counsel. If the dispute cannot be resolved in this manner, the Court shall adjudicate the dispute.

10. INDIVIDUAL SETTLEMENT PAYMENTS AND INDIVIDUAL PAGA PAYMENTS

Individual Settlement Payments will be calculated and distributed to Participating Class Members from the Net Settlement Amount on a *pro rata* basis, based on the Participating Class Members' respective number of Workweeks worked during the Class Period. Individual PAGA Payments to Aggrieved Employees will be calculated and distributed to Aggrieved Employees from the PAGA Payment on a *pro rata* basis based on Aggrieved Employees' respective number of Workweeks worked during the PAGA Period. Calculations of Individual Settlement Shares and Individual PAGA Payments to Aggrieved Employees will be made as follows:

A. The Settlement Administrator will determine the total number of Workweeks worked by each Settlement Class Member during the Class Period ("Class Member's Workweeks") and aggregate number of Workweeks worked by all Settlement Class Members during the Class Period ("Class Workweeks"). The Settlement Administrator will determine the total number of Workweeks worked by each Aggrieved Employee during the PAGA Period ("Aggrieved Employee's Workweeks") and aggregate number of Workweeks worked by all Aggrieved Employees during the PAGA Period ("PAGA Workweeks").

B. To determine each Settlement Class Member's Individual Settlement Share, the

Settlement Administrator will use the following formula: Individual Settlement Share = (Settlement Class Member's Workweeks worked ÷ Class Workweeks) × Net Settlement Amount.

C. To determine each Participating Class Member's Participating Individual Settlement Share, the Settlement Administrator will determine the aggregate number of Workweeks worked by all Participating Class Members during the Class Period ("Participating Class Workweeks") and use the following formula: Individual Settlement Share = (Participating Class Member's Workweeks worked ÷ Participating Class Workweeks) × Net Settlement Amount.

D. The net amount of the Participating Individual Settlement Share is to be paid out to Participating Class Members by way of check and is referred to as "Individual Settlement Payment(s)".

E. To determine each Aggrieved Employee's Individual PAGA Payment, the Settlement Administrator will use the following formula: Aggrieved Employee's Individual PAGA Payment = (Aggrieved Employee's Workweeks worked ÷ PAGA Workweeks) x \$30,000.00 (the PAGA Payment).

F. Individual Settlement Payments and Individual PAGA Payments shall be paid to Participating Class Members and/or Aggrieved Employees by way of check. When a Participating Class Member is also an Aggrieved Employee, one (1) check may be issued that aggregates both the Individual Settlement Payment and Individual PAGA Payment.

11. DISTRIBUTION OF PAYMENTS

A. Distribution of Individual Settlement Payments

Participating Class Members will receive an Individual Settlement Payment. Individual Settlement Payment checks shall remain valid and negotiable for one hundred and eighty (180) calendar days after the date of their issuance. Checks for such payments shall be canceled and funds associated with such checks shall be considered unpaid, unclaimed, or abandoned cash residue pursuant to Code of Civil Procedure section 384 ("Unpaid Residue"). The Unpaid Residue plus accrued interest, if any, as provided in Code of Civil Procedure section 384, shall

1 be transmitted as follows: to the *cy pres* recipient Legal Aid at Work, 180 Montgomery St., Suite
2 600, San Francisco, California 94104 for use in Fresno County. The Settlement Administrator
3 shall prepare a report regarding the distribution plan pursuant to Code of Civil Procedure section
4 384 and the report shall be presented to the Court by Class Counsel along with a proposed
5 amended judgment that is consistent with the provisions of Code of Civil Procedure section 384.
6 The Parties, Class Counsel and Defensdant’s Counsel represent that they have no interest or
7 relationship, financial or otherwise, with the intended Cy Pres Recipient

8 **B. Funding of Settlement**

9 Defendant shall, within sixty-five (65) calendar days of the Final Approval Date make
10 payment of the Gross Settlement Amount (as the same may be increased pursuant to Paragraph
11 17 of this Agreement) and Employer Taxes to the Settlement Administrator pursuant to Internal
12 Revenue Code section 1.468B-1 for deposit in an interest-bearing qualified settlement account
13 (“QSA”) with an FDIC insured banking institution, for distribution in accordance with this
14 Agreement and the Court’s Orders, and subject to the conditions described herein.

15 In the event of an appeal of the order granting final approval, Defendant will not be
16 required to fund any portion of the settlement until sixty (60) calendar days after all appeals are
17 exhausted and the order granting final approval becomes final.

18 **C. Time for Distribution**

19 Within seven (7) calendar days after payment of the full Gross Settlement Amount and
20 Employer Taxes by Defendant, or as soon thereafter as practicable, the Settlement Administrator
21 shall distribute all payments due from the QSA for: (1) Service Award to Plaintiffs, as specified
22 in this Agreement and approved by the Court; (2) Attorneys’ Fees and Litigation Costs to be paid
23 to Class Counsel, as specified in this Agreement and approved by the Court; (3) Settlement
24 Administrator Costs, as specified in this Agreement and approved the Court; (4) LWDA
25 Payment, as specified in this Agreement and approved by the Court; (5) Individual PAGA
26 Payments to Aggrieved Employees, as specified in this Agreement and approved by the Court;
27 and (6) Individual Settlement Payments to Participating Class Members, less applicable taxes
28 and withholdings, as specified in this Agreement and approved by the Court. All interest accrued

1 shall be for the benefit of the Class Members and distributed on a *pro rata* basis to Participating
2 Class Members based on the number of Workweeks worked by them in the Class Period.

3 **12. ATTORNEYS' FEES AND LITIGATION COSTS**

4 Class Counsel shall apply for, and Defendant shall not oppose, an award of attorneys'
5 fees of up to one-third (1/3) of the Gross Settlement Amount, which, unless escalated pursuant
6 to Paragraph 17 of this Agreement, amounts to Two Million Dollars and Zero Cents
7 (\$2,000,000.00). Class Counsel shall further apply for, and Defendant shall not oppose, an
8 application or motion by Class Counsel for reimbursement of actual costs associated with Class
9 Counsel's prosecution of this matter as set forth by declaration testimony in an amount up to
10 Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00). Awards of attorneys' fees and costs
11 shall be paid out of the Gross Settlement Amount, for all past and future attorneys' fees and costs
12 necessary to prosecute, settle and obtain Final Approval of the settlement in Action. The "future"
13 aspect of the amounts stated herein includes, without limitation, all time and expenses expended
14 by Class Counsel (including any appeals therein). There will be no additional charge of any kind
15 to either the Settlement Class Members or request for additional consideration from Defendant
16 for such work unless, Defendant materially breach this Agreement, including any term regarding
17 funding, and further efforts are necessary from Class Counsel to remedy said breach, including,
18 without limitation, moving the Court to enforce the Agreement. Should the Court approve
19 attorneys' fees and/or litigation costs and expenses in amounts that are less than the amounts
20 provided for herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.
21 The attorneys' fees awarded by the Court shall be allocated 22% to Blumenthal Nordrehaug
22 Bhowmik De Blouw LLP, 34% to Justice Law Corporation, and 44% to Bibiyan Law Group P.C.
23 The attorneys' costs awarded shall be allocated based upon the costs detailed in Class Counsel's
24 respective declarations.

25 **13. SERVICE AWARD TO PLAINTIFFS**

26 Named Plaintiffs shall seek, and Defendant shall not oppose, a Service Award in an
27 amount not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00) each to Plaintiffs, for
28 a total of Thirty Thousand Dollars and Zero Cents (\$30,000.00), for participation in and

1 assistance with the Action. Any Service Award and additional consideration awarded and/or paid
2 to Plaintiffs shall be paid from the Gross Settlement Amount and shall be reported on an IRS
3 Form 1099. If the Court approves the Service Award in less than the amounts sought herein, then
4 the unapproved portion(s) shall be a part of the Net Settlement Amount.

5 **14. TAXATION AND ALLOCATION**

6 a. Each Individual Settlement Share shall be allocated as follows: twenty percent
7 (20%) as wages (to be reported on an IRS Form W2) and eighty (80%) as interest and penalties
8 (to be reported on an IRS Form 1099). Each Individual PAGA Payment shall be allocated entirely
9 as penalties. The Parties agree that the employees' share of taxes and withholdings with respect
10 to the wage portion of the Individual Settlement Share will be withheld from the Individual
11 Settlement Share to yield the Individual Settlement Payment. The amount of federal income tax
12 withholding will be based upon a flat withholding rate for supplemental wage payments in
13 accordance with Treasury Regulation section 31.3402(g)-1(a)(2) as amended or supplemented.
14 Income tax withholding will also be made pursuant to applicable state and/or local withholding
15 codes or regulations.

16 b. Forms W-2 and/or Forms 1099 will be distributed by the Settlement
17 Administrator at times and in the manner required by the Internal Revenue Code of 1986 (the
18 "Code") and consistent with this Agreement. If the Code, the regulations promulgated
19 thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes
20 set forth in this Section may be modified in a manner to bring Defendants into compliance with
21 any such changes.

22 c. All Employer Taxes shall be paid by Defendant separate, apart, and in addition to
23 the Gross Settlement Amount. Defendant shall remain liable to pay the employer's share of
24 payroll taxes as described above.

25 d. Neither Counsel for Plaintiffs nor Defendant intend anything contained in this
26 Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Agreement
27 be relied upon as such within the meaning of United States Treasury Department Circular 230
28 (31 C.F.R. Part 10, as amended) or otherwise.

1 **15. PRIVATE ATTORNEYS' GENERAL ACT ALLOCATION**

2 The Parties agree to allocate One Hundred Twenty Thousand Dollars and Zero Cents
3 (\$120,000.00) of the Gross Settlement Amount toward PAGA penalties. Pursuant to the PAGA,
4 seventy-five percent (75%) of the amount allocated toward PAGA penalties (\$90,000.00) will be
5 paid to the LWDA and twenty-five percent (25%) or \$30,000.00 will be distributed to Aggrieved
6 Employees on a *pro rata* basis based upon their respective Workweeks worked as Aggrieved
7 Employees during the PAGA Period.

8 **16. COURT APPROVAL**

9 This Agreement is contingent upon an order by the Court granting Final Approval of the
10 Settlement, and that the LWDA does not intervene and object to the Settlement. In the event it
11 becomes impossible to secure approval of the Settlement by the Court and the LWDA, the Parties
12 shall be restored to their respective positions in the Action prior to entry of this Settlement. If
13 this Settlement Agreement is voided, not approved by the Court or approval is reversed on appeal,
14 it shall have no force or effect and no Party shall be bound by its terms except to the extent: (1)
15 the Court reserves any authority to issue any appropriate orders when denying approval; and/or
16 (2) there are any terms and conditions in this Settlement Agreement specifically stated to survive
17 the Settlement Agreement being voided or not approved, and which control in such an event.

18 **17. INCREASE IN WORKWEEKS**

19 This settlement is based on the Parties' understanding that there will be approximately
20 265,000 Workweeks in the Class Period. In the event the number of Workweeks exceeds this
21 estimate by ten percent (10%) or less (*i.e.*, no more than 291,500 Workweeks in the Class Period),
22 there shall be no change to any of the terms of this agreement. In the event the number of
23 Workweeks exceeds 291,500 in the Class Period (an increase of more than 10% in the estimated
24 265,000 Workweeks), then Defendant will have the option of either: (1) increasing the Gross
25 Settlement Amount to account for the additional number of Workweeks above 291,500; or (2)
26 shortening the Class Period so that the total Workweeks is 291,500 or less. If Defendant exercises
27 option (1), the Gross Settlement Amount shall be increased in an amount equal to the number of
28 Workweeks in excess of 291,500 multiplied by the Workweek Value, with the Workweek Value

1 being calculated for this purpose by dividing the Gross Settlement Amount by 265,000. The
2 Parties agree that the Workweek Value is \$22.64 per Workweek (\$6,000,000 / 265,000
3 Workweeks). For example, should there be 300,000 Workweeks in the Class Period, then the
4 exercise of option (1) would require that the Gross Settlement Amount be increased by \$192,440
5 ((300,000 Workweeks – 291,500 Workweeks) x \$22.64/Workweek.) If Defendant exercises
6 option (b), the Gross Settlement Amount will not be increased but the Class Period will be
7 shortened to an end date earlier than February 29, 2024, so that the number of Workweeks in the
8 revised Class Period does not exceed 291,500.

9 **18. DEFENDANT’S RIGHT TO WITHDRAW**

10 If the number of valid Requests for Exclusion identified in the Exclusion List exceeds
11 ten percent (10%) of the total of all Class Members, Defendant may, but is not obligated, elect
12 to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement
13 shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any
14 further obligation to perform under this Agreement, provided Defendant will remain
15 responsible for paying all Settlement Administration Expenses incurred to that point.
16 Defendant must notify Class Counsel and the Court of its election to withdraw not later than
17 seven (7) calendar days after the Administrator sends the final Exclusion List to Defendant’s
18 Counsel. Late elections will have no effect.

19 **19. NOTICE OF JUDGMENT**

20 In addition to any duties set out herein, the Settlement Administrator shall provide
21 notice of the Final Judgment entered in the Action by posting the same on its website for a
22 period of no less than four (4) years.

23 **20. MISCELLANEOUS PROVISIONS**

24 **A. Interpretation of the Agreement**

25 This Agreement constitutes the entire agreement between the Parties with respect to its
26 subject matter. Except as expressly provided herein, this Agreement has not been executed in
27 reliance upon any other written or oral representations or terms, and no such extrinsic oral or
28 written representations or terms shall modify, vary, or contradict its terms. In entering this

1 Agreement, the Parties agree this Agreement is to be construed according to its terms and may
2 not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and
3 enforced under the laws of the State of California, both in its procedural and substantive aspects,
4 without regard to its conflict of law provisions. Any claim arising out of or relating to the
5 Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior
6 Court of the State of California for the County of Fresno, and Plaintiffs and Defendant consent
7 to the personal jurisdiction of the Court in the Action over it solely in connection therewith. The
8 foregoing is only limited to disputes concerning this Agreement. The Parties, and each of them,
9 participated in the negotiation and drafting of this Agreement and had available to them the
10 advice and assistance of independent counsel. As such, neither Plaintiffs nor Defendant may
11 claim that any ambiguity in this Agreement should be construed against the other. The Agreement
12 may be modified only by a writing signed by counsel for the Parties and approved by the Court.

13 **B. Further Cooperation**

14 The Parties and their respective attorneys shall proceed diligently to prepare and execute
15 all documents, to seek the necessary approvals from the Court, and to do all things reasonably
16 necessary to consummate the Settlement as expeditiously as possible. The Parties agree that they
17 will not take any action inconsistent with this Agreement, including, without limitation,
18 encouraging Class Members to opt out of the Settlement. If the Court finds that any Party has
19 taken actions inconsistent with the Settlement, including, without limitation, encouraging Class
20 Members to opt out of the Settlement, the Court may take any corrective actions, including
21 enjoining any Party from communicating regarding the Settlement on an *ex parte* basis, issuing
22 corrective notice(s), awarding monetary, issue, evidentiary and/or terminating sanctions against
23 that Party, and/or enforcing this Agreement despite the presence of opt-outs and/or objections.

24 **C. Counterparts**

25 The Agreement may be executed in one or more actual or non-original counterparts, all
26 of which will be considered one and the same instrument and all of which will be considered
27 duplicate originals.

28 **E. Authority**

1 Each individual signing below warrants that he or she has the authority to execute this
2 Agreement on behalf of the Party for whom or which that individual signs.

3 **F. No Third-Party Beneficiaries**

4 Plaintiffs, Participating Class Members, Aggrieved Employees, State of California, Class
5 Counsel, and Defendant are direct beneficiaries of this Agreement, but there are no third-party
6 beneficiaries.

7 **G. Deadlines Falling on Weekends or Holidays**

8 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday,
9 or legal holiday, that deadline shall be continued until the following business day.

10 **H. Jurisdiction of the Court**

11 Pursuant to Code of Civil Procedure section 664.6, the Court shall retain jurisdiction with
12 respect to the interpretation, implementation, and enforcement of the terms of this Settlement
13 Agreement and all orders and judgments entered in connection therewith. The Parties and their
14 counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing,
15 and enforcing the settlement embodied in this Settlement Agreement and all orders and judgments
16 entered in connection therewith.

17 **I. Severability**

18 In the event that one or more of the provisions contained in this Agreement shall for any
19 reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
20 unenforceability shall in no way effect any other provision if Defendant's Counsel and Class
21 Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed
22 as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

23 **J. No Prior Assignments**

24 The Parties each represent, covenant, and warrant that they have not directly or indirectly
25 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or
26 entity any portion of any liability, claim, demand, action, cause of action, or right herein released
27 and discharged.
28

1 **IT IS SO AGREED:**

2
3 Dated: **03/20**, 2024


Angel Sarmiento (Mar 20, 2024 16:28 PDT)

ANGEL SARMIENTO
Plaintiff and Class Representative

4
5
6 Dated: _____, 2024

RAFAEL SANTIAGO-LUGO
Plaintiff and Class Representative

7
8
9 Dated: _____, 2024

TERESA TATARAKIS
Plaintiff and Class Representative

10
11
12 Dated: _____, 2024

THE NEIL JONES FOOD COMPANY
Defendant

By: _____

Its: _____

1 **IT IS SO AGREED:**

2
3 Dated: _____, 2024

ANGEL SARMIENTO
Plaintiff and Class Representative

4
5
6 Dated: 03/20/2024, 2024

Rafael Santiago-Lugo

RAFAEL SANTIAGO-LUGO
Plaintiff and Class Representative

7
8
9 Dated: _____, 2024

TERESA TATARAKIS
Plaintiff and Class Representative

10
11
12 Dated: _____, 2024

THE NEIL JONES FOOD COMPANY
Defendant
By: _____
Its: _____

1 **IT IS SO AGREED:**

2
3 Dated: _____, 2024

ANGEL SARMIENTO
Plaintiff and Class Representative

4
5
6 Dated: _____, 2024

RAFAEL SANTIAGO-LUGO
Plaintiff and Class Representative

7
8 Mar 22, 2024
9 Dated: _____, 2024



Teresa Tatarakis . (Mar 22, 2024 11:44 PDT)

TERESA TATARAKIS
Plaintiff and Class Representative

10
11 Dated: _____, 2024

THE NEIL JONES FOOD COMPANY
Defendant

By: _____

Its: _____

1 IT IS SO AGREED:

2
3 Dated: _____, 2024

ANGEL SARMIENTO
Plaintiff and Class Representative

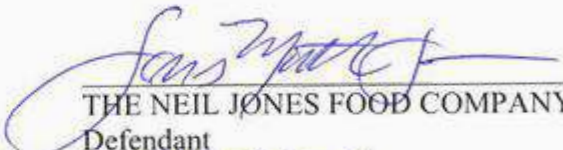
4
5
6 Dated: _____, 2024

RAFAEL SANTIAGO-LUGO
Plaintiff and Class Representative

7
8
9 Dated: _____, 2024

TERESA TATARAKIS
Plaintiff and Class Representative

10
11 Dated: Mar 25th, 2024



THE NEIL JONES FOOD COMPANY
Defendant

12
13 By: 
14 Its: CEO

AGREED AS TO FORM:

Dated: April 3, 2024

Vedang J. Patel

DAVID D. BIBIYAN
VEDANG J. PATEL
Counsel for Plaintiff ANGEL SARMIENTO

Dated: _____, 2024

DOUGLAS HAN
SHUNT TATAVOS-GHARAJEH
JASON W. ROTHMAN
Counsel for Plaintiff RAFAEL SANTIAGO-
LUGO

Dated: _____, 2024

KYLE R. NORDREHAUG
Counsel for Plaintiff TERESA TATARAKIS

Dated: _____, 2024

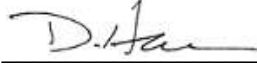
MICHAEL E. WILBUR
TIMOTHY W. MOPPIN
Counsel for Defendant THE NEIL JONES
FOOD COMPANY

AGREED AS TO FORM:

Dated: _____, 2024

DAVID D. BIBIYAN
VEDANG J. PATEL
Counsel for Plaintiff ANGEL SARMIENTO

Dated: March 21, 2024



DOUGLAS HAN
SHUNT TATAVOS-GHARAJEH
JASON W. ROTHMAN
Counsel for Plaintiff RAFAEL SANTIAGO-
LUGO

Dated: _____, 2024

KYLE R. NORDREHAUG
Counsel for Plaintiff TERESA TATARAKIS

Dated: _____, 2024

MICHAEL E. WILBUR
TIMOTHY W. MOPPIN
Counsel for Defendant THE NEIL JONES
FOOD COMPANY

AGREED AS TO FORM:

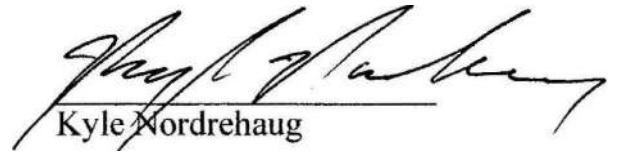
Dated: _____, 2024

DAVID D. BIBIYAN
VEDANG J. PATEL
Counsel for Plaintiff ANGEL SARMIENTO

Dated: _____, 2024

DOUGLAS HAN
SHUNT TATAVOS-GHARAJEH
JASON W. ROTHMAN
Counsel for Plaintiff RAFAEL SANTIAGO-
LUGO

Dated: March 25, 2024



Kyle Nordrehaug
Counsel for Plaintiff TERESA TATARAKIS

Dated: _____, 2024

MICHAEL E. WILBUR
TIMOTHY W. MOPPIN
Counsel for Defendant THE NEIL JONES
FOOD COMPANY

1 **AGREED AS TO FORM:**

2 Dated: _____, 2024

3 _____
4 DAVID D. BIBIYAN
5 VEDANG J. PATEL
6 Counsel for Plaintiff ANGEL SARMIENTO

7 Dated: _____, 2024

8 _____
9 DOUGLAS HAN
10 SHUNT TATAVOS-GHARAJEH
11 JASON W. ROTHMAN
12 Counsel for Plaintiff RAFAEL SANTIAGO-
13 LUGO

14 Dated: _____, 2024

15 _____
16 KYLE R. NORDREHAUG
17 Counsel for Plaintiff TERESA TATARAKIS

18 Dated: March 29, 2024

19 _____
20 MICHAEL E. WILBUR
21 TIMOTHY W. MOPPIN
22 Counsel for Defendant THE NEIL JONES
23 FOOD COMPANY
24
25
26
27
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