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Attorneys for Defendant Ruby Brothers III, Ruby Corp., MCRU, Inc., Ruby Brothers, Ruby Brothers Too, and E. Ruby Partners, LLC (erroneously sued as F Ruby Partners, LLC).

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

CELIA MARTINEZ, as an individual and on
behalf of other members similarly situated,

Plaintiff,

vs.

RUBY BROTHERS III, a California corporation;
RUBY CORP., a California corporation, MCRU,
INC., a California corporation, RUBY
BROTHERS, a California corporation, RUBY
BROTHERS TOO, a California corporation, F
RUBY PARTNERS, LLC, a California
corporation, and DOES 1-50, inclusive,

Defendant.

CASE NO. 30-2021-01204252-CU-OE-CXC

Assigned for all Purposes to the Honorable
Peter Wilson, Dept. CX102

**AMENDMENT TO SETTLEMENT
AGREEMENT**

1 Per the Court's ruling on October 12, 2022, this Amendment to Settlement Agreement is
2 made by and between Plaintiff Celia Martinez, on behalf of herself and each of the other Class
3 Members as defined herein, and Defendants Ruby Brothers III, Ruby Corp., MCRU, Inc., Ruby
4 Brothers, Ruby Brothers Too, E. Ruby Partners, LLC ("Defendants"), by and through their
5 respective counsel of record, in the putative class actions and PAGA actions entitled *Celia Martinez*
6 *individually and on behalf of all others similarly situated v. Ruby Brothers III.*, a California
7 Corporation; *Ruby Corp.*, a California corporation, *MCRU, Inc.*, a California corporation, *Ruby*
8 *Brothers*, a California corporation, *Ruby Brothers Too*, a California corporation, *E Ruby Partners,*
9 *LLC*, a California corporation; and DOES 1 through 50, inclusive, Case No. 0-2021-01204252-CU-
10 OE-CXC, commenced on June 4, 2021 in the Superior Court of the State of California, County of
11 Orange, Judicial Counsel Coordination Proceedings No. JCCP 5176.

12 The parties hereby agree to the following amendments to the Settlement Agreement:

13
14 **Paragraph 3.03: Notice to Class Members is hereby deleted:**

15 **Section 3.03: Notice to Class Members**

16 No later than fifteen (15) business days after the Preliminary Approval Date, Defendants
17 will provide the Settlement Administrator with a "Class List" in electronic format based on its
18 business records, identifying the names of the Class Members, their last known home addresses,
19 Social Security numbers or, as applicable, other taxpayer identification number, their dates of
20 employment and weeks worked during the Class Period.

21 Within ten (10) business days of receiving a Class List from Defendants, the Settlement
22 Administrator will send Class Members, by first-class mail, at their last known address, the Court
23 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the
24 Settlement Class. The Notice Packet will include a calculation of the Class Member's approximate
25 share of the Net Settlement Amount. Class Members will have sixty (60) days from the date of
26 mailing in which to postmark objections or requests for exclusion. Prior to the initial mailing, the
27 Settlement Administrator will check all Class Member addresses against the National Change of
28 Address database and shall update any addresses before mailing. The Settlement Administrator will

1 skip trace and re-mail all returned, undelivered mail within five (5) days of receiving notice that a
2 Notice Packet was undeliverable. If a Class Member's notice is re-mailed, the Class Member shall
3 have fifteen (15) calendar days from the re-mailing, or sixty (60) calendar days from the date of the
4 initial mailing, whichever is later, in which to postmark objections or requests for exclusion. Class
5 Members shall not be required to submit claim forms in order to receive a proportional share of the
6 Net Settlement Amount.

7 If the Notice Packet is returned with a forwarding address, the Settlement Administrator
8 shall re-mail the Notice Packet to the forwarding address. With respect to those Class Members
9 whose Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement
10 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace
11 or mass search on LexisNexis or comparable databases based on set criteria and, if another address
12 is identified, shall mail the Notice Packet to the newly identified address. It is the intent of the parties
13 that reasonable means be used to locate Class Members and that the Settlement Administrator be
14 given discretion to take steps in order to facilitate notice of the Settlement and delivery of the
15 Individual Settlement Payments to all Participating Class Members.

16 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records
17 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a
18 weekly status report provided to the Parties.

19 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days
20 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class
21 Member's Individual Settlement Payment. The Settlement Administrator will hold the Class
22 Member's Individual Settlement Payment during the check cashing period on behalf of the Class
23 Member. If at the conclusion of the check cashing period the Class Member's Notice Packet and
24 Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the
25 Settlement Administrator will distribute the funds from unclaimed/uncashed checks in accordance
26 with the procedures set forth in Section 3.07(g) below.

27 No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the
28 Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration

1 attesting to completion of the notice process, including any attempts to obtain valid mailing
2 addresses for and re-sending of any returned Notice Packets, as well as the number of valid requests
3 for exclusion and objections that the Settlement Administrator received.

4 **Paragraph 3.03: Notice to Class Members is hereby replaced with the following:**

5 **Section 3.03: Notice to Class Members**

6 No later than five (5) business days after the Preliminary Approval Date, Defendants will
7 provide the Settlement Administrator with a "Class List" in electronic format based on its business
8 records, identifying the names of the Class Members, their last known home addresses, Social
9 Security numbers or, as applicable, other taxpayer identification number, their dates of employment
10 and weeks worked during the Class Period.

11 Within ten (10) business days of receiving a Class List from Defendants, the Settlement
12 Administrator will send Class Members, by first-class mail, at their last known address, the Court
13 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the
14 Settlement Class. The Notice Packet will include a calculation of the Class Member's approximate
15 share of the Net Settlement Amount. Class Members will have sixty (60) days from the date of
16 mailing in which to postmark objections or requests for exclusion. Prior to the initial mailing, the
17 Settlement Administrator will check all Class Member addresses against the National Change of
18 Address database and shall update any addresses before mailing. The Settlement Administrator will
19 skip trace and re-mail all returned, undelivered mail within five (5) days of receiving notice that a
20 Notice Packet and/or Dispute Form was undeliverable. If a Class Member's notice and/or Dispute
21 Form is re-mailed, the Class Member shall have fifteen (15) calendar days from the re-mailing, or
22 sixty (60) calendar days from the date of the initial mailing, whichever is later, in which to postmark
23 objections, disputes or requests for exclusion. Class Members shall not be required to submit claim
24 forms in order to receive a proportional share of the Net Settlement Amount.

25 If the Notice Packet is returned with a forwarding address, the Settlement Administrator
26 shall re-mail the Notice Packet including Dispute Forms to the forwarding address. With respect to
27 those Class Members whose Notice Packet is returned to the Settlement Administrator as
28 undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address

1 by performing a skip trace or mass search on LexisNexis or comparable databases based on set
2 criteria and, if another address is identified, shall mail the Notice Packet including Dispute Forms
3 to the newly identified address. It is the intent of the parties that reasonable means be used to locate
4 Class Members and that the Settlement Administrator be given discretion to take steps in order to
5 facilitate notice of the Settlement and delivery of the Individual Settlement Payments to all
6 Participating Class Members.

7 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records
8 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a
9 weekly status report provided to the Parties.

10 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days
11 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class
12 Member's Individual Settlement Payment. The Settlement Administrator will hold the Class
13 Member's Individual Settlement Payment during the check cashing period on behalf of the Class
14 Member. If at the conclusion of the check cashing period the Class Member's Notice Packet and
15 Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the
16 Settlement Administrator will distribute the funds from unclaimed/uncashed checks in accordance
17 with the procedures set forth in Section 3.07(g) below.

18 No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the
19 Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration
20 attesting to completion of the notice process, including any attempts to obtain valid mailing
21 addresses for and re-sending of any returned Notice Packets, as well as the number of valid requests
22 for exclusion and objections that the Settlement Administrator received.

23 **Paragraph 3.04 (a) Class Member Disputes is hereby deleted:**

24 **Paragraph 3.04 (a) Class Member Disputes**

25 **a. Class Member Disputes**

26 If any Class Member disagrees with Defendants' records as to his or her Qualifying
27 Workweeks during the Class Period as reflected in the Notice Packet, the Class Member shall set
28 forth in writing the Qualifying Workweeks he/she claims to have worked during the Class Period

1 and submit such writing to the Settlement Administrator by the Response Deadline, along with any
2 supporting documentation. The Notice Packet shall contain a Dispute Form substantially in the form
3 attached hereto as **Exhibit B**. The Notice of Class Action Settlement will also provide a method for
4 the Class Member to challenge the employment data on which his or her Individual Settlement
5 Payment is based. The Settlement Administrator shall contact the Parties regarding the dispute and
6 the Parties will work in good faith to resolve it. If the Parties are unable to resolve the dispute, the
7 Settlement Administrator will be the final arbiter of the Qualifying Workweeks for each Class
8 Member during the Class Period based on the information provided to it.

9 **Paragraph 3.04 (a) Class Member Disputes is hereby replaced with the following:**

10 **Paragraph 3.04 (a) Class Member Disputes**

11 **a. Class Member Disputes**

12 If any Class Member disagrees with Defendants' records as to his or her Qualifying
13 Workweeks during the Class Period as reflected in the Notice Packet, the Class Member shall set
14 forth in writing the Qualifying Workweeks he/she claims to have worked during the Class Period
15 and submit such writing to the Settlement Administrator by the Response Deadline, along with any
16 supporting documentation. The Notice Packet shall contain a Dispute Form substantially in the form
17 attached hereto as **Exhibit B**. The Notice of Class Action Settlement will also provide a method for
18 the Class Member to challenge the employment data on which his or her Individual Settlement
19 Payment is based. The Settlement Administrator shall contact the Parties regarding the dispute and
20 the Parties will work in good faith to resolve it. If the Parties are unable to resolve the dispute, the
21 Settlement Administrator will be the final arbiter of the Qualifying Workweeks for each Class
22 Member during the Class Period based on the information provided to it. The Parties shall file with
23 the Court all disputes submitted by class members, the evidence submitted, and the resolution of
24 those disputes. The Court shall have the right to review and reverse any decision made by the
25 Settlement Administrator regarding a claim dispute.

26 **Paragraph 5.02 Released Claims by PAGA Group Members is hereby deleted:**

27 **Section 5.02: Released Claims by PAGA Group Members**

1 Upon the Date of Finality, the State of California and PAGA Group Members release the
2 Released Parties from all claims, demands, rights, liabilities and causes of action for penalties under
3 California Labor Code Private Attorneys General Act of 2004 based on the letter to the Labor &
4 Workforce Development Agency on May 21, 2021, that arose during the PAGA Period, including
5 but not limited to claims for civil penalties for violations of Labor Code 201, 202, 203, 204, 226(a),
6 226.7, 510, 512, 558, 2802, and applicable Wage Orders of the Industrial Welfare Commission,
7 including but not limited to Industrial Welfare Commission Wage Order No. 5-2001, and all related
8 claims for attorneys' fees and costs.

9 **Paragraph 5.02 Released Claims by PAGA Group Members is hereby replaced with**
10 **the following:**

11 **Section 5.02: Released Claims by PAGA Group Members**

12 Upon the Date of Finality, the State of California and PAGA Group Members release the
13 Released Parties from all claims, demands, rights, liabilities and causes of action for penalties under
14 California Labor Code Private Attorneys General Act of 2004 based on the letter to the Labor &
15 Workforce Development Agency on May 21, 2021, that arose during the PAGA Period, including
16 but not limited to claims for civil penalties for violations of Labor Code 201, 202, 203, 204, 226(a),
17 226.7, 512, 558, 2802, and applicable Wage Orders of the Industrial Welfare Commission, including
18 but not limited to Industrial Welfare Commission Wage Order No. 5-2001, and all related claims
19 for attorneys' fees and costs.

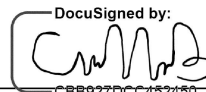
20
21 **EXECUTION BY PARTIES AND COUNSEL**

22 The Parties and their counsel hereby execute this Agreement.

23
24 Dated: 11/15/2022 _____

CELIA MARTINEZ

25
26 By: _____

DocuSigned by:

CBB927DCC432430...

Named Plaintiff

1 Dated:

RUBY BROTHERS III, RUBY CORP., MCRU,
2 INC., RUBY BROTHERS, RUBY BROTHERS
3 TOO, and E. RUBY PARTNERS, LLC

4 By: _____

(Signature)

5 _____
(Printed Name)

6 _____
(Title)

7
8
9 **APPROVED AS TO FORM ONLY:**

10
11 Dated:

November 15, 2022

JACKSON LAW, APC

12
13 By: _____

Armond M. Jackson

Andrea M. Fernandez-Jackson

Anthony S. Filer Jr.

14
15 Attorneys for Plaintiff Celia Martinez

16
17
18
19
20 Dated:

**LEWIS BRISBOIS BISGAARD & SMITH
21 LLC**

22
23 By: _____

Katherine C. Den Bleyker

Samuel Knecht

24
25 Attorneys for Defendants Ruby Brothers III,
26 Ruby Corp., MCRU, Inc., Ruby Brothers, Ruby
27 Brothers Too, and E. Ruby Partners, LLC

1 Dated:

2 11-15-22

RUBY BROTHERS III, RUBY CORP., MCRU,
INC., RUBY BROTHERS, RUBY BROTHERS
TOO, and E. RUBY PARTNERS, LLC

3 By:

4 Neal S. Ruby
(Signature)

5 Neal S. Ruby
(Printed Name)

6 owner
(Title)

8
9 **APPROVED AS TO FORM ONLY:**

10
11 Dated:

12 _____

JACKSON LAW, APC

13 By:

14 Armond M. Jackson
Andrea M. Fernandez-Jackson
Anthony S. Filer Jr.

15 Attorneys for Plaintiff Celia Martinez

16
17
18
19
20 Dated:

21 November 14, 2022

**LEWIS BRISBOIS BISGAARD & SMITH
LLC**

22
23 By:

24 Samuel Knecht
Katherine C. Den Bleyker
Samuel Knecht

25 Attorneys for Defendants Ruby Brothers III,
26 Ruby Corp., MCRU, Inc., Ruby Brothers, Ruby
27 Brothers Too, and E. Ruby Partners, LLC