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

24 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

25 **COUNTY OF ORANGE**

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

28 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

JOINT STIPULATION OF SETTLEMENT

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of
2 the Court pursuant to the California Rules of Court, that the Settlement of this Action shall be
3 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein
4 shall have the meanings set forth in Article I or as defined elsewhere in this Joint Stipulation of
5 Settlement ("Agreement" or "Settlement").

6 This Agreement is made by and between Plaintiff Celia Martinez ("Plaintiff") and the Class
7 Members, on the one hand, and Defendants Ruby Brothers III, Ruby Corp., MCRU, Inc., Ruby
8 Brothers, Ruby Brothers Too, E. Ruby Partners, LLC (erroneously sued as F Ruby Partners,
9 LLC)("Defendants"), on the other hand. Plaintiff and Defendants collectively are referred to in this
10 Agreement as "the Parties."

11 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and
12 concluded by agreement of Defendants to pay the settlement amount of One Million Two Hundred
13 Ninety Thousand Dollars (\$1,290,000.00) as provided in Section 3.06(a) below ("Gross Settlement
14 Amount") pursuant to the terms and conditions of this Agreement and for the consideration set forth
15 herein, including but not limited to, a release of all claims by Plaintiff and the Class Members as set
16 forth herein.

17 ARTICLE I

18 DEFINITIONS

19 Unless otherwise defined herein, the following terms used in this Agreement shall have the
20 meanings ascribed to them as set forth below:

21 a. "Action" means the actions described as follows: *Celia Martinez individually and on*
22 *behalf of all others similarly situated v. Ruby Brothers III.*, a California Corporation; *Ruby Corp.*, a
23 California corporation, *MCRU, Inc.*, a California corporation, *Ruby Brothers*, a California
24 corporation, *Ruby Brothers Too*, a California corporation, *F Ruby Partners, LLC*, a California
25 corporation; and DOES 1 through 50, inclusive, Case No. 30-2021-01204252-CU-OE-CXC,
26 commenced on June 4, 2021 in the Superior Court of the State of California, County of Orange.

27 b. "Agreement" means this Joint Stipulation of Settlement, including the attached
28 Exhibit(s).

1 c. "Class" means all current and former non-exempt employees who are or were
2 employed by Defendants in California at any time during the Class Period.

3 d. "Class Counsel" means the attorneys for the Class and the Class Members, who are:

4 **JACKSON LAW, APC**

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5 Andrea M. Fernandez-Jackson, State Bar No. 295924

6 Anthony S. Filer Jr., State Bar No. 337704

2 Venture Plaza, Ste. 240

7 Irvine, CA 92618

Phone: (949) 281-6857

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9
10 e. "Class List" means a list based on Defendants' business records that identifies each
11 Class Member's name, last known home or mailing address, Social Security number or, as
12 applicable, other taxpayer identification number, dates of employment, and the number of Qualifying
13 Workweeks worked during the Class Period.

14 f. "Class Member(s)" means all members of the Class.

15 g. "Class Period" means June 4, 2017, through June 17, 2022.

16 h. "Court" means the California Superior Court for the County of Orange, where the
17 Actions are currently pending.

18 i. "Date of Finality" means the later of the following: (1) the date the Final Order is
19 signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and no
20 appeal is taken of the Final Order, sixty-five (65) days after the Final Order; or (3) if an appeal or
21 other judicial review is taken from the Court's overruling of objections to the settlement, ten (10)
22 days after the appeal is withdrawn or after an appellate decision affirming the Final Order becomes
23 final.

24 j. "Defendants" means Defendants Ruby Brothers III, Ruby Corp., MCRU, Inc., Ruby
25 Brothers, Ruby Brothers Too, and E. Ruby Partners, LLC (erroneously sued as F Ruby Partners,
26 LLC).

27 k. "Defense Counsel" means counsel for Defendant:

28 **LEWIS BRISBOIS BISGAARD & SMITH LLP**

Katherine C. Den Bleyker, State Bar No. 257187

Samuel Knecht, State Bar No. 314693
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Facsimile: (213) 250-7900

l. "Disposition" means the method by which the Court approves the terms of the Settlement and retains jurisdiction over its enforcement, implementation, construction, administration, and interpretation.

m. "Final Order Approving Settlement of Class Action" or "Final Order" means the final formal court order signed by the Court following the Final Fairness and Approval Hearing in accordance with the terms herein, approving this Agreement.

n. "Gross Settlement Amount" means One Million Two Hundred Ninety Thousand Dollars (\$1,290,000.00) to be paid by Defendants as provided by this Agreement to settle these Actions. All payments to the Class, PAGA payments, expenses and administration costs, attorney's fees and costs, and Enhancement Awards, pursuant to Section 3.07(a) below, shall be paid out of the Gross Settlement Amount. The employer's share of payroll taxes arising from the payments made under this settlement shall be paid by Defendants separate from and in addition to the Gross Settlement Amount. The Gross Settlement Amount is subject to a pro rata increase pursuant to Section 3.04(e) below. No part of the Gross Settlement Amount shall revert to Defendant.

o. "Incentive Awards" means a monetary amount of up to Five Thousand Dollars (\$5,000) for Plaintiff Celia Martinez subject to Court approval, in recognition of her effort and work in prosecuting the Action on behalf of Class Members, and for her general release of claims.

p. "Individual Settlement Payment(s)" means each Participating Class Member's respective share of the Net Settlement Amount. Individual Settlement Payments will be determined by the calculations provided in this Agreement.

q. "LWDA" means The State of California Labor and Workforce Development Agency.

r. "LWDA Payment" means 75% of the \$50,000 allocated to the settlement of PAGA claims which, subject to Court approval, will be paid to the LWDA pursuant to Section 3.07(e) of this Agreement, as provided for below.

1 s. "Motion for Final Approval" means Plaintiff's submission of a written motion,
2 including any evidence as may be required for the Court to conduct an inquiry into the fairness of
3 the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and
4 to enter a Final Order in this Action.

5 t. "Motion for Preliminary Approval" means Plaintiff's submission of a written motion,
6 including any evidence as may be required for the Court to grant preliminary approval of the
7 Settlement as required by Rule 3.769 of the California Rules of Court.

8 u. "Plaintiff" means Celia Martinez.

9 v. "Net Settlement Amount" means the Gross Settlement Amount less Court-approved
10 administration costs, Class Counsels' attorney's fees and costs, Enhancement Awards, and LWDA
11 Payment, pursuant to Section 3.07(a)-(f) below.

12 w. "Non-Participating Class Member(s)" means any Class Member(s) who submit to the
13 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant
14 to Section 3.04(b) below.

15 x. "Notice Packet" means collectively and in a form substantially similar to, the Notice
16 of Class Action Settlement attached hereto as **Exhibit A** and the Dispute Form attached hereto as
17 **Exhibit B**, all subject to Court approval.

18 y. "PAGA" means the California Private Attorneys General Act of 2004, which is
19 codified in California Labor Code §§ 2698 *et seq.*

20 z. "PAGA Settlement Amount" means the portion of the Gross Settlement Amount
21 allocated to the resolution of PAGA Group Members' claims arising under PAGA. The Parties have
22 agreed that the PAGA Settlement Amount is Fifty Thousand Dollars (\$50,000), subject to Court
23 approval. Of the PAGA Settlement Amount, 75% will be considered the LWDA Payment, and the
24 remaining 25% will be added to the Net Settlement Amount and distributed to PAGA Group
25 Members.

26 aa. "PAGA Group Members" means all Class Members employed by Defendants at any
27 time between June 4, 2020, through June 17, 2022 ("PAGA Period").

1 bb. “Participating Class Member(s)” is defined as a Class Member who does not timely
2 exclude himself or herself from the Settlement and will therefore receive his or her share of the Net
3 Settlement Amount automatically without the need to return a claim form. Each Participating Class
4 Member will be paid his/her Individual Settlement Payment.

5 cc. “Preliminary Approval Date” means the date the Court preliminarily approves the
6 Settlement embodied in this Agreement.

7 dd. “Qualified Settlement Fund” or “QSF” means a fund within the meaning of Treasury
8 Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement
9 Administrator for the benefit of Participating Class Members.

10 ee. “Qualifying Workweeks” means the number of weeks that Class Members worked
11 for Defendants as non-exempt employees during the Class Period.

12 ff. “Qualifying Pay Periods” means the number of weeks that PAGA Group Members
13 worked for Defendants as non-exempt employees during the PAGA Period.

14 gg. “Released Parties” means Defendants.

15 hh. “Response Deadline” means the deadline by which Class Members must postmark or
16 fax to the Settlement Administrator requests for exclusion or written notices of objection. The
17 Response Deadline will be sixty (60) calendar days after the initial mailing of the Notice Packet by
18 the Settlement Administrator, unless the sixth (60th) calendar day falls on a Sunday or federal
19 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.
20 Postal Service is open. The Response Deadline will be extended as set forth herein if there is a re-
21 mailing.

22 ii. “Settlement Administration Costs” means all costs incurred by the Settlement
23 Administrator in administration of the Settlement, including, but not limited to, mailing of notice to
24 the class, calculation of Individual Settlement Payments, generation of Individual Settlement
25 Payment checks and related tax reporting forms, administration of unclaimed checks, and generation
26 of checks to Class Counsel for attorneys’ fees and costs, to Plaintiff for their Enhancement Awards,
27 and to the LWDA. The Settlement Administration Costs shall be paid from the Gross Settlement
28 Amount.

jj. "Settlement Administrator" means ILYM Group, Inc., which the Parties have agreed will be responsible for the administration of the Individual Settlement Payments to be made by Defendants from the Gross Settlement Amount and related matters under this Agreement.

ARTICLE II

CONTINGENT NATURE OF THE AGREEMENT

Section 2.01: Stipulation of Class Certification for Settlement Purposes

Because the Parties have stipulated to the certification of the Class with respect to all causes of action alleged in the Action for settlement purposes only, this Agreement requires preliminary and final approval by the Court. Accordingly, the Parties enter into this Agreement on a conditional basis. This Agreement is contingent upon the approval and certification by the Court. If the Date of Finality does not occur, the fact that the Parties were willing to stipulate for the purposes of this Agreement to a Class shall have no bearing on, nor be admissible in connection with, the issue of certification of the Class with respect to all causes of action alleged in the Action. Defendants do not consent to certification of the Class for any purpose other than to effectuate settlement of the Action. If the Date of Finality does not occur, or if Disposition of this Action is not effectuated, any certification of the Class as to Defendants will be vacated and Plaintiff, Defendants, and the Class will be returned to their positions with respect to the Action as if the Agreement had not been entered into. In the event that the Date of Finality does not occur: (a) any Court orders preliminarily or finally approving certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity; and (b) the fact of the settlement reflected in this Agreement, the fact that Defendants did not oppose the certification of a Class under this Agreement, or that the Court preliminarily approved the certification of the Class, shall not be used or cited thereafter by any person or entity, including in any manner whatsoever, including without limitation any contested proceeding relating to the certification of any class. If the Date of Finality does not occur, this Agreement shall be deemed null and void, shall be of no force or effect whatsoever, and shall not be referred to or used for any purpose whatsoever. Defendants expressly reserve the right to challenge the propriety of class certification in the Action for any purpose, if the Date of Finality does not occur.

1 The Parties and their respective counsel shall take all steps that may be requested by the Court
2 relating to the approval and implementation of this Agreement and shall otherwise use their
3 respective best efforts to obtain Court approval and implement this Agreement. If the Court does not
4 grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties agree
5 to meet and confer to address the Court's concerns. If the Parties are unable to agree upon a
6 resolution, the Parties agree to seek the assistance of mediator Hon. Carl J. West (Ret.) to resolve the
7 dispute.

8 ARTICLE III

9 PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT

10 The procedure for obtaining Court approval of and implementing this Agreement shall be as
11 follows:

12 **Section 3.01: Motion for Conditional Class Certification and Preliminary Approval**

13 Plaintiff will bring a motion before the Court for an order conditionally certifying the Class
14 to include all claims pled in the Action based on the preliminary approval of this Agreement. The
15 date that the Court grants preliminary approval of this Agreement will be the "Preliminary Approval
16 Date."

17 **Section 3.02: The Settlement Administrator**

18 The Parties have chosen ILYM Group, Inc. to administer this Settlement and to act as the
19 Settlement Administrator, including but not limited to distributing and responding to inquiries about
20 the Notice Packet, determining the validity of exclusions/opt-outs, calculating the Net Settlement
21 Amount and the Individual Settlement Payments, issuing the Individual Settlement Payment checks
22 and distributing them to Participating Class Members, establishing and maintaining the QSF, and
23 issuing the payment to Class Counsel for attorneys' fees and costs, the Incentive Award checks to
24 Plaintiff, and the employer payroll taxes to the appropriate taxing authorities. The Settlement
25 Administrator shall expressly agree to all of the terms and conditions of this Agreement.

26 All costs of administering the Settlement, including but not limited to all costs and fees
27 associated with preparing, issuing and mailing any and all notices to Class Members and/or
28 Participating Class Members, all costs and fees associated with computing, processing, reviewing,

1 and mailing the Individual Settlement Payments, all costs and fees associated with preparing any tax
2 returns and any other filings required by any governmental taxing authority or agency, all costs and
3 fees associated with preparing any other checks, notices, reports, or filings to be prepared in the
4 course of administering disbursements from the Net Settlement Amount, and any other costs and fees
5 incurred and/or charged by the Settlement Administrator in connection with the execution of its
6 duties under this Agreement ("Settlement Administration Costs"), shall be paid to the Settlement
7 Administrator from the Gross Settlement Amount.

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

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

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

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

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

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

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

1 **Section 3.04: Responses to Notice**

2 **a. Class Member Disputes**

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

14 **b. Requests for Exclusion from Class**

15 In order for any Class Member to validly exclude himself or herself from the Class and this
16 Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the Class
17 Member or his or her authorized representative, and must be sent to the Settlement Administrator,
18 postmarked no later than the Response Deadline (or fifteen (15) days after the Settlement
19 Administrator re-mails the Notice to the Class Member, whichever is later). The Notice Packet shall
20 contain instructions on how to validly exclude himself or herself from the Class and this Settlement
21 (*i.e.*, opt out), including the language to be used in a request for exclusion. The date of the initial
22 mailing of the Notice Packet, and the date the signed request for exclusion was postmarked, shall be
23 conclusively determined according to the records of the Settlement Administrator. Any Class
24 Member who timely and validly requests exclusion from the Class and this Settlement will not be
25 entitled to any Individual Settlement Payment, will not be bound by the terms and conditions of this
26 Agreement, and will not have any right to object, appeal, or comment thereon.

27 Any Class Member who fails to timely submit a request for exclusion shall automatically be
28 deemed a Class Member whose rights and claims with respect to the issues raised in the Action are

1 determined by the Court's Final Order Approving Settlement of Class Action, and by the other
2 rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by the Action
3 and/or released in this Agreement will be extinguished.

4 Class Members shall not have the right to request exclusion from the PAGA portion of the
5 settlement, to the extent that Class Members are also members of the PAGA group, and shall receive
6 their pro rata share of the PAGA Settlement Amount regardless of whether they opt-out or not from
7 the class action portion of this case.

8 **c. Objections to Settlement**

9 For any Class Member to object to this Agreement, or any term of it, the person making the
10 objection must not submit a request for exclusion (*i.e.*, must not opt out), and should send to the
11 Settlement Administrator, postmarked or faxed no later than the Response Deadline (or fifteen (15)
12 days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later),
13 a written statement of the grounds of objection, signed by the objecting Class Member or his or her
14 attorney, along with all supporting papers. The date of the initial mailing of the Notice Packet, and
15 the date the signed objection was postmarked, shall be conclusively determined according to the
16 records of the Settlement Administrator. The Settlement Administrator shall send any objections it
17 receives to Defense Counsel and Class Counsel within three (3) business days of receipt. Class
18 Members may also appear at the final approval hearing to object. The Court retains final authority
19 with respect to the consideration and admissibility of any Class Member objections.

20 **d. Encouragement of Class Members**

21 The Parties to this Agreement and the counsel representing such Parties shall not, directly or
22 indirectly, through any person, encourage or solicit any Class Member to exclude him or herself from
23 this Settlement (opt out), or to object to it. However, Class Counsel may respond to inquiries from
24 Class Members.

25 **e. Right of Plaintiff to Adjust Gross Settlement Amount**

26 Defendants have estimated the number of workweeks in the Class Period is 135,733. If the
27 number of workweeks increases by 10% or 149,306 workweeks or more, as of the end of the Class
28 Period, there will be a pro rata adjustment to the Net Settlement Amount by the same proportion as

1 the increase (e.g., if the number of workweeks increases by 11%, the Net Settlement Amount shall
2 increase 1%).

3 **f. Termination for Lack of Sufficient Participation**

4 If five percent (5%) or more of the Class Members makes a valid request to be excluded from
5 the Class, Defendants will have the right, but not the obligation, to void the Agreement within thirty
6 (30) days of the Response Deadline. If Defendants exercise that right to void the Agreement, then
7 the Parties will have no further obligations under the Agreement, including any obligation by
8 Defendants to pay the Gross Settlement Amount, or any amounts that otherwise would have been
9 owed under this Agreement, except that Defendants will pay the Settlement Administrator's
10 reasonable fees and expenses incurred as of the date that Defendants exercise the right to void the
11 Agreement.

12 **Section 3.05: Final Fairness and Approval Hearing**

13 On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final
14 Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement
15 and determine whether the Court should give it final approval, and (2) consider any objections made
16 and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the
17 Parties shall ask the Court to grant final approval to this Agreement and shall submit to the Court a
18 Proposed Final Order Approving Settlement of Class Action.

19 **Section 3.06: Settlement Payment Procedures**

20 **a. Settlement Amount**

21 In exchange for the Released Claims set forth in this Agreement, Defendants agree to pay the
22 Gross Settlement Amount in the amount of One Million Two Hundred Ninety Thousand Dollars
23 (\$1,290,000.00), subject to a pro rata increase under the condition set forth in Section 3.04(e). The
24 Gross Settlement Amount includes all Individual Settlement Amounts to Participating Class
25 Members, all administration costs, Class Counsel's attorney's fees and costs, PAGA Settlement
26 Amount, and the Enhancement Payments.

27 Within thirty (30) days after the Court signs the Final Order, Defendants shall transfer the
28 Gross Settlement Amount plus Defendants' share of employer-side payroll taxes, as set forth herein,

1 into a QSF established by the Settlement Administrator either directly or by sending the funds to the
2 Settlement Administer to be deposited and distributed. The Settlement Administrator will use these
3 funds to fund payment of the Individual Settlement Payments to Participating Class Members, Class
4 Counsel's attorneys' fees and costs, the Enhancement Awards, the LWDA Payment, and the
5 Settlement Administration Costs.

6 Within ten (10) court days after receiving Defendants' final payment, funding the Gross
7 Settlement Amount in full, the Settlement Administrator will pay the Individual Settlement Payments
8 to Participating Class Members, Class Counsel's attorneys' fees and costs, LWDA Payment, the
9 Incentive Awards, and employer and employee tax withholdings applicable to the Net Settlement
10 Amount allocated to wages. Prior to this distribution, the Settlement Administrator will perform a
11 search based on the National Change of Address Database to update and correct for any known or
12 identifiable address changes.

13 **b. Payment of Attorneys' Fees and Costs**

14 Class Counsel shall submit an application for an award of attorneys' fees of up to one-third
15 of the Gross Settlement Amount, which, based on the current Gross Settlement Amount, is Four-
16 Hundred Twenty-Nine Thousand Nine-Hundred Fifty-Seven Dollars (\$429,957.00). Class Counsel
17 shall submit an application for an award of costs not to exceed \$20,000 Thousand Dollars
18 (\$20,000.00). Such application for attorneys' fees and costs shall be heard by the Court at the Final
19 Fairness and Approval Hearing. Defendants shall not object to or oppose any such application in
20 these amounts. Class Counsel shall serve Defendants with copies of all documents submitted in
21 support of their application for an award of attorneys' fees and costs.

22 Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the
23 Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys'
24 fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs,
25 and expenses related to the investigation, prosecution, and settlement of the Action incurred through
26 the Date of Finality. To the extent that the Court approves less than the amount of attorney's fees
27 and/or costs that Class Counsel requests, the difference between the requested and awarded amounts
28 will be reallocated to the Net Settlement Amount.

1 **c. Payment of Settlement Administration Costs**

2 The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and
3 shall not constitute payment to any Participating Class Member(s). The amount shall not exceed
4 Twenty-Thousand Dollars (\$20,000).

5 **d. Payment of Enhancement Award to Plaintiff**

6 Subject to Court approval, the Plaintiff Celia Martinez shall receive an Enhancement Award
7 of up to Five Thousand Dollars (\$5,000), the request for which Defendants will not object to or
8 oppose. The Enhancement Award shall be paid out of the Gross Settlement Amount and shall not
9 constitute payment to any Participating Class Member(s) other than Plaintiff. To the extent that the
10 Court approves less than the amount of incentive award that Class Counsel request, the difference
11 between the requested and awarded amounts will be reallocated to the Net Settlement Amount.

12 Because it is the intent of the Parties that the Enhancement Award represents payment to
13 Plaintiff for her service to the Class Members, and not wages, the Settlement Administrator will not
14 withhold any taxes from the Enhancement Award. The Enhancement Award will be reported on a
15 Form 1099, which the Settlement Administrator will provide to Plaintiff and to the pertinent taxing
16 authorities as required by law.

17 **e. Payment to the Labor and Workforce Development Agency**

18 In consideration of claims made under PAGA, Class Counsel will request that the Court
19 approve allocation of Fifty Thousand Dollars (\$50,000) of the Gross Settlement Amount to these
20 claims. Seventy-five percent (75%) of this payment will be paid to the California Labor and
21 Workforce Development Agency ("LWDA Payment"), and twenty-five percent (25%) will be paid
22 to the Net Settlement Amount for distribution to PAGA Group Members. Defendants will not oppose
23 this request. The entire PAGA Settlement Amount will be paid out of the Gross Settlement Amount.
24 The Court's adjustment, if any, of the amount allocated to Plaintiff's PAGA claim in the Action, will
25 not invalidate this Agreement.

26 **f. Payment of Individual Settlement Payments to Participating Class Members**

27 The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement
28 Payments. The Parties agree that the Net Settlement Amount shall be divided between all

1 Participating Class Members in proportion to the number of individual Qualifying Workweeks for
2 each Class Member. To calculate the minimum amount each Class Member will receive based on
3 their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the total
4 number of Qualifying Workweeks by all Class Members during the Class Period and then allocated
5 on a pro rata basis. Each Class Member's approximate Individual Settlement Payment amount will
6 be included in his or her Notice Packet. After final approval by the Court, the Net Settlement Amount
7 will be dispersed to Participating Class Members (those who did not exclude themselves) on a pro
8 rata basis based on the individual Qualifying Workweeks worked during the Class Period by each
9 Participating Class Member.

10 Each Individual Settlement Payment will represent wages and penalties allocated using the
11 following formula: 33% allocated to wages and 34% allocated to penalties and 33% allocated
12 interest. The amounts paid as wages shall be subject to all tax withholdings customarily made from
13 an employee's wages and all other authorized and required withholdings and shall be reported by W-
14 2 forms. The employer-side taxes will be paid separate from and in addition to the Gross Settlement
15 Amount. The amounts paid as penalties and interest shall be subject to all authorized and required
16 withholdings other than the tax withholdings customarily made from employees' wages and shall be
17 reported by IRS 1099 forms.

18 No later than ten (10) business days after receiving the Gross Settlement Amount from
19 Defendants, the Settlement Administrator shall prepare and mail the checks for the Individual
20 Settlement Payments to Participating Class Members. Individual Settlement Payments paid from the
21 Net Settlement Amount allocated to wages will be reduced by applicable employer and employee
22 tax withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of
23 the Individual Settlement Payments. The Settlement Administrator will issue a Form 1099 to the
24 extent required by law for the interest and penalty portions of the Individual Settlement Payments.
25 Participating Class Members shall have 180 days from the date their Individual Settlement Payment
26 checks are dated to cash their Settlement checks. Any checks that are not cashed upon the expiration
27 of that 180-day time period will be void, and the uncashed funds shall be paid to the State Controller
28 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

1 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
2 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
3 a mass search on LexisNexis or comparable databases based on set criteria and, if another address is
4 identified, the Settlement Administrator shall mail the check to the newly identified address. If the
5 Settlement Administrator is unable to obtain a valid mailing address through this process, the
6 Settlement Administrator will tender the funds from the undeliverable checks to the State Controller
7 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

8 **g. Payment of Individual Settlement Payments to Participating PAGA Group**
9 **Members**

10 The Parties agree that the PAGA Settlement Amount, less the LWDA Payment, shall be used
11 to fund Individual Settlement Payments to PAGA Group Members. The Parties agree that the PAGA
12 Settlement Amount, less the LWDA Payment, shall be divided between all PAGA Group Members
13 in proportion to the number of individual Qualifying Pay Periods for each PAGA Group Member.
14 To calculate the minimum amount each PAGA Group Member will receive based on their individual
15 Qualifying Pay Periods, the PAGA Settlement Amount, less the LWDA Payment, will be divided by
16 the total number of Qualifying Pay Periods worked by all PAGA Group Members during the PAGA
17 Period and then allocated on a pro rata basis. Qualifying Pay Periods will be rounded up to the next
18 whole integer. Each PAGA Group Member's approximate Individual Settlement Payment amount
19 from the PAGA Settlement Amount will be included in his or her Notice Packet. After final approval
20 by the Court, the PAGA Settlement Amount, less the LWDA Payment, will be dispersed to PAGA
21 Group Members on a pro rata basis based on the individual Qualifying Pay Periods worked during
22 the PAGA Period by each Participating PAGA Group Member. PAGA Group Members shall not
23 have the right to opt-out or exclude themselves from the PAGA Settlement.

24 Each Individual PAGA Payment will represent penalties and shall be subject to all authorized
25 and required withholdings other than the tax withholdings customarily made from employees' wages
26 and shall be reported by IRS 1099 forms.

27 No later than ten (10) business days after receiving the Gross Settlement Amount from
28 Defendants, the Settlement Administrator shall prepare and mail the checks for the Individual PAGA

1 Payments to PAGA Group Members. The Settlement Administrator will issue a Form 1099 to the
2 extent required by law for the Individual PAGA Payments. PAGA Group Members shall have 180
3 days from the date their Individual PAGA Payment checks are dated to cash their Settlement checks.
4 Any checks that are not cashed upon the expiration of that 180-day time period will be void, and the
5 PAGA Group Member for whom the funds are designated.

6 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
7 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
8 a mass search on LexisNexis or comparable databases based on set criteria and, if another address is
9 identified, the Settlement Administrator shall mail the check to the newly identified address. If the
10 Settlement Administrator is unable to obtain a valid mailing address through this process, the
11 Settlement Administrator will tender the funds from the undeliverable checks to the State Controller
12 Unclaimed Property Fund in the name of the PAGA Group Member for whom the funds are
13 designated.

14 **h. Default on Payment.**

15 Defendants' failure to fund the Gross Settlement Amount within thirty (30) days after the
16 date that the Court grants final approval of the Settlement shall be considered a default. In the event
17 Defendants fail to timely fund the Gross Settlement Amount, the Settlement Administrator will
18 provide notice to Class Counsel and Defendants' counsel within three (3) business days of the missed
19 payment. Thereafter, Defendants will have seven (7) days to cure the default and tender payment to
20 the Settlement Administrator. In the event Defendants fail to cure the default within the times set
21 forth herein, Plaintiff may elect to enter judgment against Defendants, on an ex parte basis, for the
22 balance of the unpaid Gross Settlement Amount to date.

23 **i. No Credit Toward Benefit Plans.**

24 The Individual Settlement Payments made to Participating Class Members under this
25 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to
26 calculate any additional benefits under any benefit plans to which any Class Members may be
27 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase
28 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'

1 intention that this Agreement will not affect any rights, contributions, or amounts to which any Class
2 Members may be entitled under any benefit plans.

3 **ARTICLE IV**

4 **LIMITATIONS ON USE OF THIS SETTLEMENT**

5 **Section 4.01: No Admission**

6 Defendants dispute the allegations in the Action and disputes that, but for this Settlement, a
7 Class should not have been certified in the Action. This Agreement is entered into solely for the
8 purpose of settling highly disputed claims. Nothing in this Agreement is intended nor will be
9 construed as an admission of liability or wrongdoing by Defendants.

10 **Section 4.02: Non-Evidentiary Use**

11 Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor
12 the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or
13 deemed to be evidence for any purpose adverse to Defendants or any other of the Released Parties,
14 including but not limited to, evidence of a presumption, concession, indication, or admission by any
15 of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or
16 (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further
17 proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this
18 Agreement or for Defendants to establish that a Class Member has resolved any of his or her claims
19 released through this Agreement.

20 **Section 4.03: Nullification**

21 The Parties have agreed to the certification of the Class encompassing all claims alleged in
22 the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason
23 fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this
24 Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order
25 is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the
26 Action in its entirety, then (i) this Agreement shall be considered null and void; (ii) neither this
27 Agreement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all
28 Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had

1 been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing to
2 stipulate to class certification of all causes of action pled in the Action as part of the Settlement will
3 have no bearing on, and will not be admissible in connection with, the issue of whether the Class
4 should be certified by the Court in a non-settlement context in this Action or any other action, and in
5 any of those events, Defendants expressly reserve the right to oppose certification of the Class.

6 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the
7 Gross Settlement Amount shall not be distributed pending the completion of the appeal.

8 **ARTICLE V**

9 **RELEASES**

10 **Section 5.01: Released Claims by Class Members**

11 Upon the Date of Finality, Plaintiff and Participating Class Members who do not opt out of
12 the Settlement, release the Released Parties from, and will be forever barred from pursuing against
13 the Released Parties, any and all claims, demands, rights, liabilities and causes of action alleged in
14 Plaintiff's Operative Complaints, or which could have been alleged in Plaintiff's Operative
15 Complaints based on the factual allegations therein, that arose during the Class Period, including but
16 not limited to causes of action for failure to provide meal periods, and applicable provisions of the
17 relevant Industrial Wage Order; failure to permit rest breaks, and applicable provisions of the relevant
18 Industrial Wage Order; failure to provide accurate itemized wage statements, and applicable
19 provisions of the relevant Industrial Wage Order; failure to pay all wages due upon separation of
20 employment, and applicable provisions of the relevant Industrial Wage Order; failure to pay for
21 unreimbursed business expenses, and applicable provisions of the relevant Industrial Wage Order;
22 violation of California Business and Professions Code §§17200, *et seq.*, based on the preceding
23 claims ("Released Claims"); and all claims for attorneys' fees and costs relating to the Released
24 Claims by Class Members, that could have been premised on the facts, claims, causes of action or
25 legal theories described above or that could have been premised on the facts, claims, causes of action
26 or legal theories described above.

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

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

10 **ARTICLE VI**

11 **MISCELLANEOUS PROVISIONS**

12 **Section 6.01: Amendments or Modification**

13 The terms and provisions of this Agreement may be amended or modified only by an express
14 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel,
15 and approved by the Court.

16 **Section 6.02: Assignment**

17 None of the rights, commitments, or obligations recognized under this Agreement may be
18 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written
19 consent of each other Party and their respective counsel. The representations, warranties, covenants,
20 and agreements contained in this Agreement are for the sole benefit of the Parties under this
21 Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

22 **Section 6.03: Governing Law**

23 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties
24 shall be determined, in accordance with the laws of the State of California, without regard to conflicts
25 of laws.

26

27

28

1 **Section 6.04: No Publicity**

2 The Parties, Defense Counsel, and Class Counsel shall not issue any press release, contact
3 the press, respond to any press inquiry or have any communication with the press about the fact,
4 amount or terms of this Settlement. The Parties, Defense Counsel, and Class Counsel shall not
5 engage in any advertising or marketing relating to the settlement of these Actions in any manner that
6 identifies or that is suggestive of Defendants (i.e., a manager of McDonald's franchises), including
7 but not limited to any postings on any websites maintained by Class Counsel. However, Class
8 Counsel may identify this Settlement in court filings in other matters to demonstrate their adequacy
9 as counsel in connection with the prosecution or settlement of other class actions. Nothing in this
10 Section is intended to interfere with Class Counsel's duties and obligations to faithfully discharge
11 their duties as Class Counsel, including but not limited to, communicating with Class Members
12 regarding the Settlement.

13 **Section 6.05: Entire Agreement**

14 This Agreement, including the Exhibits referred to herein, which form an integral part hereof,
15 contains the entire understanding of the Parties with respect to the subject matter contained herein.
16 In case of any conflict between text contained in Articles I through VI of this Agreement and text
17 contained in the Exhibits to this Agreement, the former (i.e., Articles I through VI) shall be
18 controlling, unless the Exhibits are changed by or in response to a Court order. There are no
19 restrictions, promises, representations, warranties, covenants, or undertakings governing the subject
20 matter of this Agreement other than those expressly set forth or referred to herein. This Agreement
21 supersedes all prior agreements and understandings among the Parties with respect to the settlement
22 of the Action, including correspondence between Class Counsel and Defense Counsel and drafts of
23 prior agreements or proposals.

24 **Section 6.06: Waiver of Compliance**

25 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
26 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived
27 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective
28 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or

1 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or
2 condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

3 **Section 6.07: Counterparts and Fax/PDF Signatures**

4 This Agreement, and any amendments hereto, may be executed in any number of counterparts
5 and any Party and/or their respective counsel may execute any such counterpart, each of which when
6 executed and delivered shall be deemed to be an original. All counterparts taken together shall
7 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original
8 signature.

9 **Section 6.08: Meet and Confer Regarding Disputes**

10 Should any dispute arise among the Parties or their respective counsel regarding the
11 implementation or interpretation of this Agreement, a representative of Class Counsel and a
12 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior
13 to submitting such disputes to the Court.

14 **Section 6.09: Agreement Binding on Successors**

15 This Agreement will be binding upon, and inure to the benefit of, the successors in interest
16 of each of the Parties.

17 **Section 6.10: Cooperation in Drafting**

18 The Parties have cooperated in the negotiation and preparation of this Agreement. This
19 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,
20 was the drafter or participated in the drafting of this Agreement.

21 **Section 6.11: Fair and Reasonable Settlement**

22 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of
23 the Action and have arrived at this Agreement through arm's-length negotiation and in the context
24 of adversarial litigation, taking into account all relevant factors, current and potential. The Parties
25 further believe that the Settlement is and is consistent with public policy, and fully complies with
26 applicable law.

1 **Section 6.12: Headings**

2 The descriptive heading of any section or paragraph of this Agreement is inserted for
3 convenience of reference only and does not constitute a part of this Agreement and shall not be
4 considered in interpreting this Agreement.

5 **Section 6.13: Notice**

6 Except as otherwise expressly provided in the Agreement, all notices, demands, and other
7 communications under this Agreement must be in writing and addressed as follows:

8 *To Plaintiff and the Class:*

9 Armond M. Jackson
10 Andrea Fernandez-Jackson
11 Anthony S. Filer Jr.
12 JACKSON LAW, APC
13 2 Venture Plaza, Ste. 240
14 Irvine, CA 92618
15 Phone: (949) 281-6857
16 Fax: (949) 777-6218

15 And

16 *To Defendants:*

17 Katherine C. Den Bleyker
18 Samuel Knecht
19 LEWIS BRISBOIS BISGAARD & SMITH LLP
20 633 West 5th Street, Suite 4000
21 Los Angeles, California 90071
22 Telephone: (213) 250-1800
23 Facsimile: (213) 250-7900

22 **Section 6.14: Enforcement of Settlement and Continuing Court Jurisdiction**

23 To the extent consistent with class action procedure, this Agreement shall be enforceable by
24 the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court
25 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the
26 liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the
27 terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall
28 retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest

1 extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more
2 of the Parties institutes any legal action or other proceeding against any other Party or Parties to
3 enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover
4 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness
5 fees incurred in connection with any enforcement actions.

6 **Section 6.15: Mutual Full Cooperation**

7 The Parties agree fully to cooperate with each other to accomplish the terms of this
8 Agreement, including but not limited to the execution of such documents, and the taking of such
9 other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties
10 to this Agreement shall use their best efforts, to effectuate and implement this Agreement and its
11 terms. In the event the Parties are unable to reach agreement on the form or content of any document
12 needed to implement the Settlement, or on any supplemental provisions that may become necessary
13 to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

14 **Section 6.16: Authorization to Act**

15 Class Counsel warrants and represents that they are authorized by Plaintiff, and Defense
16 Counsel warrants that they are authorized by Defendants, to take all appropriate action required to
17 effectuate the terms of this Agreement, except for signing documents, including but not limited to
18 this Agreement, that are required to be signed by the Parties themselves. Defendants represent and
19 warrant that the individual executing this Agreement on its behalf has the full right, power, and
20 authority to enter into this Agreement and to carry out the transactions contemplated herein.

21 **Section 6.17: No Reliance on Representations**

22 The Parties have made such investigation of the facts and the law pertaining to the matters
23 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,
24 on any statement, promise, or representation of fact or law, made by any of the other parties, or any
25 of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted
26 rights, or with regard to the advisability of entering into and executing this Agreement, or with respect
27 to any other matters. No representations, warranties, or inducements, except as expressly set forth
28 herein, have been made to any party concerning this Agreement.

1 **EXECUTION BY PARTIES AND COUNSEL**

2 The Parties and their counsel hereby execute this Agreement.

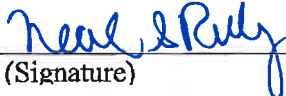
3
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5 Dated: Jul 12 - 22

CELIA MARTINEZ

6 By: 
7 Named Plaintiff

8
9
10
11 Dated: 7-25-2022

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

12
13 By: 
14 (Signature)
15 Neal S. Ruby
16 (Printed Name)
17 President
18 (Title)

19 **APPROVED AS TO FORM ONLY:**

20
21
22 Dated: July 13, 2022

JACKSON LAW, APC

23
24 By: 
25 Armond M. Jackson
26 Andrea M. Fernandez-Jackosn
27 Anthony S. Filer Jr.

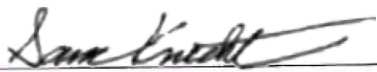
Attorneys for Plaintiff Celia Martinez

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Dated:

July 25, 2022

**LEWIS BRISBOIS BISGAARD & SMITH
LLC**

By: 
Katherine C. Den Bleyker
Samuel Knecht

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

EXHIBIT A

NOTICE OF PROPOSED CLASS ACTION AND PAGA SETTLEMENT

SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF ORANGE

**MARTINEZ V. RUBY BROTHERS III ET AL.,
ORANGE COUNTY COURT CASE NO. 30-2021-01204252-CU-OE-CXC**

A court authorized this notice. This is not a solicitation from a lawyer.

ATTENTION: IF YOU HAVE BEEN EMPLOYED BY WATERMARK SERVICES, IV, LLC. AS A NON-EXEMPT EMPLOYEE IN CALIFORNIA DURING THE PERIOD BEGINNING JUNE 4, 2017 AND ENDING ON JUNE 17, 2022, YOU ARE ENTITLED TO A SHARE OF A PROPOSED CLASS ACTION SETTLEMENT.

TO UNDERSTAND YOUR RIGHTS, PLEASE READ THIS NOTICE CAREFULLY.

A proposed class action settlement (“the Settlement”) has been reached between Plaintiff Celia Martinez (“Plaintiff”), on behalf of themselves and the below-defined Class Members, and Defendants Ruby Brothers III, Ruby Corp., MCRU, Inc., Ruby Brothers, Ruby Brothers Too, E. Ruby Partners, LLC. (“Defendants”).

The Settlement resolves the above class action lawsuit (the “Action”) about claims related to allegations that Defendants (1) failed to provide required rest breaks; (2) failed to provide required meal breaks; (3) failed to pay all wages upon termination; (4) failed to furnish accurate itemized wage statements; (5) failed to reimburse for business expenses; and (6) engaged in unfair business practices. Plaintiffs also assert a claim for civil penalties under the Private Attorneys General Act (“PAGA”) based on the foregoing alleged violations by Defendants. Defendants deny and continue to deny all of Plaintiffs’ claims, and maintain that they have complied with all applicable laws and regulations. Defendants have entered into the Settlement solely for purposes of resolving this dispute.

The Settlement provides for Individual Settlement Payments based on the number of workweeks you performed work for Defendants in California as a non-exempt employee during the period from June 4, 2017 to June 17, 2022 as well as PAGA Payments based on the pay periods you performed work for Defendants in California as a non-exempt employee during the period from June 4, 2017 to June 17, 2022.

OVERVIEW OF YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT	
DO NOTHING	You will automatically receive an Individual Settlement Payment in exchange for which, whether or not you cash or deposit the payment, you will be bound by all terms of the Settlement and any Final Judgment entered in the Action if the Settlement receives final approval by the Court, and you will give up your rights to be part of any other lawsuit against Defendant and/or the Released Parties involving the same or similar legal claims as the ones in the Action for the period beginning on June 4, 2017 to

	June 17, 2022. If you are a PAGA Group Member, you will also receive a PAGA Payment. You will be mailed a settlement check at the address where this Notice was mailed (unless you timely provide a forwarding address to the Settlement Administrator).
EXCLUDE YOURSELF	The only way for you to be part of any other lawsuit against Defendants and/or the Released Parties involving the same or similar legal claims as the ones in the Action for the period beginning on June 4, 2017 to June 17, 2022 is to submit a valid Exclusion Form to the Settlement Administrator postmarked no later than [+60 days from date of mailing] . If you submit an Exclusion Form, you will <u>not</u> receive an Individual Settlement Payment, but you will receive a PAGA Payment if you are a PAGA Group Member.
OBJECT	If you wish to object to the Settlement, you must submit a written Objection, and supporting papers, to the Settlement Administrator that is postmarked or fax stamped no later than [+60 days from date of mailing] . This option is available only if you do <u>not</u> exclude yourself. Class members may also appear at the final approval hearing to object, this hearing will take place on [Final Approval Hearing Date and location].

These rights and options, and how to exercise them, are explained in more detail in this notice.

The Court handling this case has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate, and reasonable, and the Court still has to make a final determination of those issues at the Final Approval Hearing. Settlement payments will only be issued if the Court grants final approval of the Settlement.

Additional information regarding the Settlement is available through the Settlement Administrator or Class Counsel, whose contact information is provided in this notice.

BASIC INFORMATION

1. Why did I get this notice?

On **[insert preliminary approval date]**, the Superior Court of California, County of Orange (“the Court”) preliminarily approved a class action settlement of the Action on behalf of all persons who were employed by Defendants in California as non-exempt employees (“Class Members”) during the period beginning on **June 4, 2017 to June 17, 2022** (the “Class Period”). According to Defendants’ records, you are a Class Member. This notice explains the Action, the Settlement, and your legal rights.

The Action is pending as case captioned *Martinez v. Ruby Brothers, et al* and is pending in the Superior Court of California for the County of Orange (the “Action”). Celia Martinez is the Plaintiffs, and the companies they sued, Defendants Ruby Brothers III, Ruby Corp., MCRU, Inc., Ruby Brothers, Ruby Brothers Too, E. Ruby Partners, LLC, are the Defendants.

2. What is the Action about?

The Action generally involves claims under California’s wage and hour laws. Plaintiff is a former non-exempt employees of Defendants. They allege that Defendants did not provide proper meal or rest breaks, failed to timely pay wages, failed to pay all wages at termination, failed to provide compliant wage statements, failed to reimburse for business expenses, and violated California’s Business and Professions Code. As a result, Plaintiff alleges that they and the Class Members are entitled to recover unpaid meal and rest period premiums, reimbursement of expenses, interest, and statutory and civil penalties. Defendants deny that they engaged in any wrongful conduct or violated the law in any way, and believe Plaintiffs and the Class Members were properly and timely compensated and provided proper meal and rest breaks and reimbursed for any expenses. However, both Plaintiffs and Defendants believe the Settlement is fair, adequate, and reasonable, and that it is in the best interest of the Class Members.

3. Why is this lawsuit a class action?

In a class action, one or more people called “Plaintiff(s)” (in this case, Celia Martinez) sue on behalf of people who have similar alleged claims. All of these people are a “class” or “class members.” The Court resolves the issues for all class members, except for those who exclude themselves from the class. On **[insert date]**, the Honorable Peter Wilson issued an order conditionally certifying the Settlement Class for purposes of settlement only.

4. Who is in the Settlement Class?

“Class Members” or “Class” means all persons employed by Defendant in the State of California at any time during the period from on **June 4, 2017 to June 17, 2022** as a non-exempt employee. “PAGA Group Members” means all persons employed by Defendant in the State of California at any time during the period from **June 4, 2017 to June 17, 2022** as a non-exempt employee.

5. Why is there a settlement?

After conducting substantial investigation, including review of Defendants’ policies, timekeeping records, and payroll records, both sides agreed to the Settlement to avoid the cost and risk of further litigation. The Settlement does not mean that any laws were broken. Defendants deny all of the claims asserted in the Action and deny that they have violated any laws. Plaintiffs and their lawyers think the Settlement is in the best interests of all Class Members.

THE SETTLEMENT BENEFITS—WHAT YOU GET

6. What does the settlement provide?

Under the terms of the Settlement, Defendant agrees to pay a Maximum Settlement Amount of One Million Two Hundred Ninety Thousand Dollars (\$1,290,000.00). Deducted from this Maximum Settlement Amount will be sums approved by the Court for attorneys’ fees (not to exceed \$429,957.00), or 33.33% of the Maximum Settlement Amount, attorneys’ litigation costs (not to exceed \$20,000.00), a Class Representative Service Award to Plaintiff Celia Martinez in

the amount of (\$5,000) for their services, the PAGA Settlement Amount (i.e., a payment of Fifty Thousand Dollars (\$50,000.00) to the State of California Labor and Workforce Development Agency for alleged penalties and a Six Thousand Dollars (\$12,500.00) *pro rata* distribution to PAGA Group Members as their PAGA Payment), and the fees and expenses of the Settlement Administrator, xxxx. (estimated not to exceed \$XX,000.00), which will result in a maximum amount payable by Defendants for distribution to Class Members who do not opt out (the “Net Settlement Amount”). Defendants’ share of payroll taxes will be paid separately from and in addition to the Maximum Settlement Amount. No portion of the Maximum Settlement Amount shall revert to Defendants.

The Net Settlement Amount will be distributed to Class Members who do not opt out of the Settlement (“Participating Class Members”) on a *pro rata* basis, based on the number of workweeks that each Participating Class Member performed work for Defendants as a non-exempt employee in California during the Class Period (“Qualified Workweeks”). To determine a Participating Class Member’s estimated settlement payment (“Individual Settlement Payment”), the Net Settlement Amount will be divided by the total number of Qualified Workweeks worked by all Participating Class Members during the Class Period, multiplied by the number of Qualified Workweeks worked by that Participating Class Member, according to the following formula:

$$\text{[Net Settlement Amount} \div \text{Total Qualified Pay Periods for all Participating Class Members]} \times \text{Participating Class Member's Individual Qualified Pay Periods} = \text{estimated Individual Settlement Payment}$$

Class Members’ Individual Settlement Payments will be reduced by any required legal deductions. No benefit, including but not limited to pension benefits and/or 401(k), shall increase or accrue as a result of any payment made as a result of this Settlement.

The Parties recognize that the Class Members’ Individual Settlement Payments are for wages, interest, and penalties. The Parties agree that 33% of the Individual Settlement Payments shall be reported as wages subject to all applicable tax withholdings on IRS Form W-2 and its state and local equivalents, 33% shall be reported as non-wage interest not subject to payroll tax withholdings on IRS Form 1099, and 34% shall be reported as penalties not subject to payroll tax withholdings on IRS Form 1099 and its state and local equivalents.

The Parties are neither providing tax nor legal advice, nor making representations regarding tax obligations or consequences, if any, related to any settlement amounts to be paid to the Participating Class Members. Each Participating Class Member will assume any tax obligations or consequences that may arise from any settlement amount paid to him or her and should consult with a tax expert if he or she has any questions. Each Participating Class Member’s *pro rata* distribution amount prior to legal deductions will be reduced by the amount of any required payroll-related deductions.

Class Members who were employed by Defendants in the State of California at any time during the PAGA Period as a non-exempt employee (“PAGA Group Members”) will also receive a PAGA Payment. “PAGA Payment” means the amount payable from the PAGA Settlement Amount to each PAGA Group Member. “PAGA Settlement Amount” means the portion of the

Maximum Settlement Amount allocated to the resolution of PAGA claims in the Action. The PAGA Settlement Amount is Fifty Thousand Dollars (\$50,000.00). Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00) shall be paid by the Settlement Administrator directly to the LWDA. The remaining Twelve Thousand Five Hundred Dollars (\$12,500.00) shall be distributed to PAGA Group Members as their PAGA Payment. The “PAGA Period” is the period of time from June 4, 2020 to June 17, 2022. PAGA Payments shall be paid by the Settlement Administrator from the Maximum Settlement Amount. PAGA Payments shall be allocated as non-wage penalties not subject to payroll tax withholdings. The Settlement Administrator shall issue an IRS Form 1099 to each PAGA Group Member for their PAGA Payment. Each PAGA Group Member’s PAGA Payment shall be calculated solely by the Settlement Administrator according to the following formula: Defendants shall provide the Settlement Administrator with the Total Qualified PAGA Pay Periods; the Settlement Administrator shall then (1) divide Twelve Thousand Five Hundred Dollars (\$12,500.00) by the Total Qualified PAGA Pay Periods and then (2) multiply each PAGA Group Member’s number of Qualified PAGA Pay Periods by the result in (1) to obtain the amount of each PAGA Group Member’s PAGA Payment. “Qualified PAGA Pay Periods” means the total number of pay periods during the PAGA Period that PAGA Group Members performed work for Defendants as a non-exempt employee.

To the extent any Participating Class Member or PAGA Group Member disputes any aspect of his or her payment, number of Qualified Workweeks, or number of Qualified PAGA Pay Periods, that Participating Class Member or PAGA Group Member may submit supporting evidence to the Settlement Administrator. Defendants’ records will be presumed determinative.

7. What is my approximate Individual Settlement Payment?

According to payroll records maintained by Defendants, the total number of weeks you worked in California for Defendants as a non-exempt employee during the Class Period is [REDACTED]. The total number of pay periods you worked in California for Defendants as a non-exempt employee during the PAGA Period is [REDACTED].

Based on information provided above, anticipated court-approved deductions, and preliminary calculations Qualified Workweeks, it is estimated your share of the settlement will be \$ [REDACTED], less applicable taxes and withholdings. This amount includes your share of the PAGA Group Payment, which is estimated to be \$ [REDACTED].

You do not need to do anything further to receive your Individual Settlement Payment, other than to ensure that the Settlement Administrator has an accurate mailing address for you. It is important that you contact and inform the Settlement Administrator listed in Section 11, below, of any changes to your mailing address for timely payment.

8. What am I giving up in exchange for the settlement benefits?

In exchange for the consideration provided, and upon the Settlement Administrator’s receipt of the total Maximum Settlement Amount from Defendants, Plaintiffs and each Participating Class Member who does not submit a valid Exclusion Form (defined in response to Question 11

below) will release all claims for civil penalties that could have been sought by the Labor Commissioner and all claims alleged in the Complaint, including but not limited to (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods (4) failure to permit rest breaks (5) failure to provide accurate itemized wage statements (6) failure to pay all wages due upon separation of employment (7) violation of California Business and Professions Code §§17200, *et seq.*, based on the preceding claims against Defendants (the “Released Parties”). The PAGA Group Member will release PAGA claims regardless of whether they opt-out.

HOW TO GET A SETTLEMENT PAYMENT

9. How do I get a settlement payment?

You will automatically receive an Individual Settlement Payment in exchange for which, whether or not you cash or deposit the payment, you will be bound by all terms of the Settlement and any Final Judgment entered in the Action if the Settlement receives final approval by the Court, and you will give up your rights to be part of any other lawsuit against Defendants and/or the Released Parties involving the same or similar legal claims as the ones in the Action arising during the Class Period. You will be mailed a settlement check at the address where this notice was mailed (unless you timely provide a forwarding address to the Settlement Administrator).

Additionally, if you are a PAGA Group Member, you will also receive a PAGA Payment, regardless of whether you submit an Exclusion Form. Your Individual Settlement Payment and PAGA Payment will be issued in one check.

10. When will I get my check?

Checks will be mailed to Participating Class Members and PAGA Group Members eligible to receive benefits under the Settlement after the Court grants “final approval” of the Settlement. If the judge approves the settlement after a hearing on **insert date** (see “The Court’s Final Approval Hearing” below), there may be appeals. If there are any appeals, resolving them could take some time, so please be patient.

If the Court approves the settlement and if you do not opt out, your individual payment is expected to be distributed after Defendants make payment to the Settlement Administrator. Defendants have within (b) thirty days after the Court signs the Final order to make the full payment to the Settlement Administrator.

Please also be advised that you will only have 180 days from the date that the check is issued to cash it. If you do not cash your check within 180 days of the date of its mailing, your check shall be voided, and your share of the settlement proceeds will be distributed by the Settlement Administrator to the California State Controller’s Office Unclaimed Property Fund in your name.

EXCLUDING YOURSELF FROM THE SETTLEMENT

11. How do I ask the Court to exclude me from the Settlement Class?

If you do not wish to participate in the Settlement, you must complete and send a timely Exclusion Form. The Exclusion Form must be completed, signed, dated and mailed by First Class U.S. Mail, or the equivalent, postmarked no later than **[+60 days from date of mailing]** to:

INSERT SETTLEMENT ADMIN INFO

Exclusion Forms that do not include all required information and/or that are not timely submitted will be deemed null, void, and ineffective, unless otherwise ordered by the Court. If you do not submit a valid and timely Exclusion Form on or before **[+60 days from date of mailing]**, you will be bound by all terms of the Settlement and any Final Judgment entered in the Action if the Settlement is approved by the Court.

12. If I exclude myself, can I get anything from the settlement?

Not unless you are also a PAGA Group Member. If you exclude yourself now you will not get anything from the Settlement unless you are a PAGA Group Member. If you ask to be excluded, you will not get an Individual Settlement Payment and you will not be bound by the Settlement, but you will still receive a PAGA Payment if you are a PAGA Group Member.

13. If I don't exclude myself, can I sue later?

No. Unless you exclude yourself, you give up the right to sue Defendants for the Released Claims arising during the Class Period. You must exclude yourself from the Settlement Class to start or continue your own lawsuit.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

The Court has appointed the following lawyers to serve as Class Counsel for the Class Members:

JACKSON LAW, APC
Armond M. Jackson
Andrea M. Fernandez-Jackson
Anthony S. Filer Jr.
2 Venture Plaza, Suite 240
Irvine, CA 92618
Phone: (949) 281-6857
Fax: (949) 777-6218

15. How will the costs of the lawsuit and the settlement be paid?

Subject to court approval, Class Counsel has requested one-third (33 1/3%) of the sum of the Maximum Settlement Amount in attorneys' fees (currently equal to \$429,957.00) plus actual

litigation costs and expenses (not to exceed \$20,000.00). The Court may award less than these amounts. If lesser amounts are awarded, the difference will be returned to the Net Settlement Amount.

In addition, and subject to Court approval, Defendants also agree to pay, as part of the Maximum Settlement Amount, up to Five Thousand Dollars (\$5,000.00) to Plaintiff Celia Martinez as Enhancement Awards for their participation in the Action and for taking on the risk of litigation. Subject to Court approval, Defendant also agrees to pay Eighteen Thousand Dollars (\$37,500.00) to the State of California Labor and Workforce Development Agency for alleged civil penalties. Defendant also agrees to pay, as part of the Maximum Settlement Amount, the Settlement Administrator's costs and fees associated with administering the Settlement, estimated not to exceed **XX Thousand Dollars (\$XX,000.00)**. The Court may award less than these amounts. If lesser amounts are awarded, the difference will be included in the Net Settlement Amount and will be available for distribution to Participating Class Members.

OBJECTING TO THE SETTLEMENT

16. How do I object to the Settlement?

If you do not submit an Exclusion Form, you may object to the proposed Settlement, or any portion thereof, by completing a written objection ("Objection Form"). The Objection Form must be signed and mailed by regular U.S. Mail, postmarked no later than **[+60 days from date of mailing]**, to the Settlement Administrator at the following address:

[Settlement Administrator]
[insert info]

The Objection Form must (1) state your full name; (2) be signed by you; (3) state the grounds for the objection; and (4) must be postmarked by **[+60 days from date of mailing]** and returned to the Settlement Administrator at the specified address above. If you wish to appear at the Court's Final Approval Hearing (see response to Question 17 below) and orally present your objection to the Court, you may do so whether or not you submitted an Objection Form to the Settlement Administrator. Any Class Member who submits an Objection Form or appears at the Final Approval Hearing to submit a verbal objection remains eligible to receive monetary compensation from the Settlement. A Class Member who submits an Exclusion Form may not object to the proposed Settlement.

17. What's the difference between objecting and asking to be excluded?

Objecting is simply telling the Court you do not like something about the Settlement. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend the hearing and you may ask to speak, but you don't have to.

18. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Approval Hearing on **[insert time/date]** in Department CX102 of the **Orange County Superior Court, located at 751 W. Santa Ana, Blvd, Santa Ana, California 92701**. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

19. Do I have to come to the hearing?

No. Class Counsel will answer any questions the judge may have. But you are welcome to come. If you submit an Objection Form to the Settlement Administrator, you do not have to come to Court to talk about it. You may also pay another lawyer to attend, but it is not required. Class Counsel will not represent you in connection with any objection. You may appear by audio or video at the final approval hearing. Please visit the Court's website for further instructions: <https://www.occourts.org/directory/civil/complex-civil/calendar-schedule/civil-panel-schedule.html>

20. May I speak at the hearing?

If you wish to appear at the Final Approval Hearing and orally present your objection to the Court, you may do so regardless of whether or not you submitted an Objection Form. Please adhere to the latest COVID-19 courthouse protocol.

IF YOU DO NOTHING

21. What happens if I do nothing at all?

If you do nothing, you will automatically receive an Individual Settlement Payment and PAGA Payment, if applicable, as described above and you will be bound by the release of Released Claims against the Released Parties.

GETTING MORE INFORMATION

22. How do I get more information?

This notice summarizes the Settlement. More details are in the Stipulation of Class Action and PAGA Settlement, which is attached as **Exhibit X** to the Declaration of Armond M. Jackson in Support of Plaintiffs Celia Martinez's Motion for Preliminary Approval of Class Action and PAGA Settlement, filed on **[INSERT DATE]**. The case is assigned to Department CX102 of the Orange County Superior Court, located at 751 W. Santa Ana, Blvd, Santa Ana, California 92701. The case file may be viewed online at <https://www.occourts.org/online-services/case-access/> and select "Civil Case & Document Access."

You may also contact Class Counsel or the Settlement Administrator for more information.

[Settlement Administrator]

[insert info]

The Settlement Administrator has set up a settlement website where you may also obtain up-to-date information on the matter including any change of the date or location of any hearings in connection with this Settlement. The settlement website URL is **XXXXXX**

Please do not contact the Court for more information about the Settlement.

EXHIBIT B

**MARTINEZ V. RUBY BROTHERS III,
ORANGE COUNTY COURT CASE NO. 30-2021-01204252-CU-OE-CXC**

OBJECTION FORM

IF YOU WANT TO PARTICIPATE IN THE SETTLEMENT, BUT YOU **OBJECT** TO THE TERMS OF THE SETTLEMENT, YOU MUST SIGN AND COMPLETE THIS FORM ACCURATELY AND IN ITS ENTIRETY, AND YOU MUST SUBMIT THIS FORM BY FIRST CLASS U.S. MAIL OR FAX TO THE SETTLEMENT ADMINISTRATOR AT THE ADDRESS OR FAX NUMBER BELOW SO THAT IT IS POSTMARKED OR FAX STAMPED ON OR BEFORE .

The Court will consider your objection at the Final Approval Hearing if you submit a timely and valid written statement of objection. All of the information on this form is required. If you do not provide all of the information below, your objection will be deemed null and void. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Claims, unless the Court does not approve the Settlement.** You cannot object to the Settlement if you request exclusion from the Settlement.

☐ I OBJECT to the *Celia Martinez. v. Ruby Brothers III*, Settlement on the following grounds:

(Attach additional pages if need.)

(Signature)

(Date)

(Print Name)

(Address)

(Telephone Number)

(City / State / Zip Code)

All Objection Forms must be postmarked or fax stamped no later than . Mail or fax your fully completed and signed Objection Form to:

[Settlement Administrator]
Re: <i>Celia Martinez. v. Ruby Brothers III</i>
[Address]
[City, State, Zip]
[Telephone Number; Fax Number]