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similarly situated and aggrieved,

[Additional Counsel on next page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE – CIVIL COMPLEX CENTER**

PRIMITIVO PEREZ, an individual and on
behalf of all others similarly situated and
aggrieved,

Plaintiff,

v.

D&G RESTAURANTS, LLC, a California
limited liability company, doing business as
“Tavern House”; GREGG SOLOMON, an
individual; and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 30-2021-01209638-CU-OE-
CXC

[Assigned to the Hon. Peter Wilson in Dept.
CX101]

CLASS ACTION

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

Action Filed: July 9, 2021
Trial Date: None Set

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13 D&G RESTAURANTS, LLC
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This Joint Stipulation re: Class Action and Representative Action Settlement (“Settlement” or “Agreement” or “Settlement Agreement”) is made by and between plaintiff Primitivo Perez (“Plaintiff”), individually and on behalf of the Settlement Class, as defined below, on the one hand; and defendant D&G Restaurants, LLC, doing business as “Tavern House” (“D&G” or “Defendant”), on the other hand; in the lawsuit entitled *Perez v. D&G Restaurants, LLC, et al.*, filed in Orange County Superior Court, Case No. 30-2021-01209638-CU-OE-CXC (the “Action”). Plaintiff and Defendant shall be, at times, collectively referred to as the “Parties” and individually as a “Party”. This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge and settle the claims as set forth herein, based upon and subject to the terms and conditions of this Agreement.

1. DEFINITIONS

A. “Action” means *Perez v. D&G Restaurants, LLC, et al.*, filed in Orange County Superior Court, Case No. 30-2021-01209638-CU-OE-CXC.

B. “Aggrieved Employees” means all other current and former workers as a non-exempt, hourly-paid employee employed by Defendant in California during the PAGA Period.

C. “Class Counsel” means: David D. Bibiyan and Jeffrey D. Klein of Bibiyan Law Group, P.C. as well as Jasmin K. Gill of J. Gill Law Group, P.C. The term “Class Counsel” shall be used synonymously with the term “Plaintiff’s Counsel.”

D. “Class Period” means the period from July 9, 2017 through the date preliminary approval is granted.

E. “Court” means the Superior Court of the State of California for the County of Orange.

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

G. “Defendant” shall refer collectively to defendant D&G Restaurants, LLC, doing business as “Tavern House.”

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

5 **I. “Final Approval Date”** means the later of: (1) the date the Court signs an Order
6 granting final approval of this Settlement (“Final Approval”) and Judgment; (2) if there is an
7 objector, 60 days from the date the Final Approval and Judgment; or (3) to the extent any appeals
8 have been filed, the date on which they have been resolved or exhausted.

9 **J. “General Release”** means the general release of claims by Plaintiff, which is in
10 addition to his limited release of claims as a Participating Class Member and Aggrieved
11 Employee, neither of which include and both of which expressly exclude any release for any and
12 all claims that may be brought, have been brought, or could have been brought by Plaintiff for
13 wrongful termination, discrimination, retaliation, harassment, failure to prevent harassment or
14 discrimination or under the Fair Employment and Housing Act, California Family Rights Act
15 and/or any other applicable state or federal laws or any and all claims that may be brought, have
16 been brought, or could have been brought by Plaintiff for wrongful termination,

17 **K. “Gross Settlement Amount”** means a non-reversionary fund in the sum of Two
18 Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00),¹ which shall be paid by
19 Defendant, and from which all payments for the Individual Settlement Payments to Participating
20 Class Members, Individual PAGA Payments to Aggrieved Employees and the Court-approved
21 amounts for attorneys’ fees and reimbursement of litigation costs and expenses to Class Counsel,
22 Settlement Administration Costs, a Service Award to Plaintiff, and the LWDA Payment for
23 resolution of Plaintiff’s cause of action for civil penalties under the Labor Code Private
24 Attorneys’ General Act, codified at Labor Code Section 2698, *et seq.* (“PAGA”), interest and
25 certain taxes shall be paid. It expressly excludes Employer Taxes, which shall be paid by
26 Defendant separate and apart from the Gross Settlement Amount.

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¹ As the same may be increased in accordance with Paragraph 17.

1 **L. “Individual PAGA Payment”** means a payment to an Aggrieved Employee of
2 his or her share of the PAGA Payment.

3 **M. “Individual Settlement Payment”** means a payment to a Participating Class
4 Member of his or her net share of the Net Settlement Amount, excluding any PAGA Payment to
5 which he or she may be entitled if he or she is also an Aggrieved Employee.

6 **N. “Individual Settlement Share”** means the gross amount of the Net Settlement
7 Amount that a Participating Class Member is projected to receive based on the number of
8 Workweeks that he or she worked as a Settlement Class Member during the Class Period if he or
9 she does not submit a timely and valid Request for Exclusion, excluding any PAGA Payment to
10 which he or she may be entitled if he or she is also an Aggrieved Employee.

11 **O. “LWDA Payment”** means the payment to the LWDA for its seventy-five percent
12 (75%) share of the total amount allocated toward penalties under the PAGA, which is to be paid
13 from the Gross Settlement Amount. The Parties have agreed that Twenty Thousand Dollars and
14 Zero Cents (\$20,000.00) shall be allocated toward PAGA penalties (“PAGA Payment”), of which
15 Fifteen Thousand Dollars and Zero Cents (\$15,000.00) will be paid to the LWDA (*i.e.*, the
16 LWDA Payment) and Five Thousand Dollars and Zero Cents (\$5,000.00) will remain a part of
17 the Net Settlement Amount for payment to Aggrieved Employees on a *pro rata* basis, based on
18 the pay periods worked for Defendant as a non-exempt, hourly-paid employee in California
19 during the PAGA Period.

20 **P. “Net Settlement Amount”** means the portion of the Gross Settlement Amount
21 that is available for distribution to Participating Class Members after deductions for the Court-
22 approved allocations for Settlement Administration Costs, a Service Award to Plaintiff, an award
23 of attorneys’ fees, reimbursement of litigation costs and expenses to Class Counsel, and the
24 LWDA Payment. It excludes the PAGA Payment.

25 **Q. “Operative Complaint or “Complaint”** means the First Amended Complaint
26 that was filed with the Court on August 11, 2021, in *Perez v. D&G Restaurants, LLC, et al.*, filed
27 in the Orange County Superior Court, Case No. 30-2021-01209638-CU-OE-CXC.

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1 **R. “PAGA Payment”** is the \$5,000.00 payment payable to Aggrieved Employees
2 in addition to their Individual Settlement Share if they do not opt out of the Settlement.

3 **S. “PAGA Period”** means the period from May 18, 2020 through the date
4 preliminary approval is granted .

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

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

12 **V. “Parties”** shall refer to Plaintiff and Defendant collectively.

13 **W. “Plaintiff”** shall refer to Plaintiff Primitivo Perez.

14 **X. “Preliminary Approval Date”** means the date on which the Court enters an
15 Order granting preliminary approval of the Settlement.

16 **Y. “Released Parties”** shall mean Defendant D&G as well as each of D&G’s present
17 and former respective affiliates, parents, subsidiaries, predecessors, successors, divisions, joint
18 venturers and assigns, and each of these entities’ past or present directors, officers, employees,
19 partners, members, principals, agents, insurers, shareholders, attorneys, and personal or legal
20 representatives.

21 **Z. “Response Deadline”** means the deadline for Settlement Class Members to mail
22 any Requests for Exclusion, Objections, or Workweek Disputes to the Settlement Administrator,
23 which is forty-five (45) calendar days from the date that the Class Notice is first mailed in English
24 and Spanish by the Settlement Administrator, unless a Class Members’ notice is re-mailed. In
25 such an instance, the Response Deadline shall be fifteen (15) calendar days from the re-mailing,
26 or forty-five (45) calendar days from the date of the initial mailing, whichever is later, in which
27 to postmark a Request for Exclusion, Workweek Dispute or Objection. The date of the postmark
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1 shall be the exclusive means for determining whether a Request for Exclusion, Objection, or
2 Workweek Dispute was submitted by the Response Deadline.

3 **AA. “Request for Exclusion”** means a written request to be excluded from the
4 Settlement Class pursuant to Section 9.C below.

5 **BB. “Service Award”** means monetary amount to be paid to Plaintiff of up to Seven
6 Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00) which, subject to Court approval,
7 will be paid out of the Gross Settlement Amount.

8 **CC. “Settlement Administration Costs”** means all costs incurred by the Settlement
9 Administrator in administration of the Settlement, including, but not limited to, translating the
10 Class Notice to Spanish, the distribution of the Class Notice to the Settlement Class in English
11 and Spanish, calculating Individual Settlement Shares and Individual Settlement Payments and
12 associated taxes and withholdings, providing declarations, generating Individual Settlement
13 Payment checks and related tax reporting forms, doing administrative work related to unclaimed
14 checks, transmitting payment to Class Counsel for the Court-approved amounts for attorneys’
15 fees and reimbursement of litigation costs and expenses, to Plaintiff for his Service Award, and
16 to the LWDA from the LWDA Payment, providing weekly reports of opt-outs, objections and
17 related information, and any other actions of the Settlement Administrator as set forth in this
18 Agreement, all pursuant to the terms of this Agreement. The Settlement Administration Costs
19 are estimated not to exceed \$7,250. If the actual amount of the Settlement Administration Costs
20 is less than \$7,250, the difference between \$7,250 and the actual Settlement Administration Costs
21 shall be a part of the Net Settlement Amount. If the Settlement Administration Costs exceed
22 \$7,250, then such excess will be paid solely from the Gross Settlement Amount and Defendant
23 will not be responsible for paying any additional funds in order to pay these additional costs.

24 **DD. “Settlement Administrator”** means the Third-Party Administrator chosen to be
25 responsible for the administration of the Settlement including, without limitation, translating the
26 Class Notice in Spanish, the distribution of the Individual Settlement Payments to be made by
27 Defendant from the Gross Settlement Amount and related matters under this Agreement.

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1 **EE. “Settlement Class”, “Settlement Class Members” or “Class Members”** means
2 all current and former non-exempt, hourly-paid employees who worked in California for
3 Defendant at any time during the Class Period.

4 **FF. “Workweek”** means the number of weeks that a Settlement Class Member was
5 employed by Defendant in a non-exempt, hourly-paid position during the Class Period in
6 California, based on hire dates, re-hire dates (as applicable) and termination dates (as applicable),
7 in a non-exempt, hourly position during the Class Period.

8 **2. BACKGROUND**

9 **A.** On May 18, 2021, Plaintiff filed with the Labor and Workforce Development
10 Agency (“LWDA”) and served on Defendant a notice under Labor Code section 2699.3 (the
11 “PAGA Notice”) stating Plaintiff intended to serve as a proxy of the LWDA to recover civil
12 penalties for Aggrieved Employees. The PAGA Notice includes violations of law pled in the
13 Class Action, in addition to a request for penalties for failure to comply with Labor Code sections
14 204, 246, 432, 1174, 1198.5, and 2810.5.

15 **B.** On July 9, 2021, Plaintiff filed a putative wage-and-hour Class Action Complaint
16 in the Superior Court of California for the County of Orange, Case Number 30-2021-01206938-
17 CU-OE-CXC (the “Action”). Plaintiff alleged that during the Class Period, with respect to
18 Plaintiff and the Settlement Class Members’, Defendant, *inter alia*, failed to pay overtime and
19 minimum wages; failed to provide complaint meal and rest periods or compensation in lieu
20 thereof; waiting time penalties; wage statement violations; violated Labor Code section 2802;
21 failed to timely pay wages; and engaged in unfair competition based on the alleged Labor Code
22 violations, which was amended to include Plaintiff’s representative allegations and claims for
23 civil penalties under PAGA on August 11, 2021.

24 **C.** Shortly after the filing of this Action, the Parties agreed to exchange informal
25 discovery and attend an early mediation. Prior to mediation, Class Counsel was provided with,
26 among other things: (1) the number of current and former hourly-paid, non-exempt employees
27 of Defendant D&G working in California during the Class Period; (2) hire dates, separation dates
28 (as applicable), and final rates of pay for the one-hundred ninety-two (192) Class Members

1 working for Defendant during the Class Period along with their job titles; (3) a sampling of time
2 and payroll records for Class Members; (4) all relevant wage and hour policies in effect during
3 the Class Period; (5) exemplars of all purported arbitration agreements and meal waivers; (6)
4 class contact information for approximately 60% of former employees of Defendant in the Class
5 Period pursuant to a protective order; and (7) Plaintiff's personnel file.

6 **D.** On April 26, 2022, the Parties participated in a mediation before Mark S. Rudy,
7 Esq., a well-regarded mediator experienced in mediating complex civil disputes. With the aid of
8 the mediator's evaluation, the Parties reached the Settlement to resolve the Action shortly after
9 mediation.

10 **E.** Class Counsel has conducted significant investigation of the law and facts relating
11 to the claims asserted in the Action and the PAGA Notice, and have concluded that that the
12 Settlement set forth herein is fair, reasonable, adequate, and in the best interests of the Settlement
13 Class, taking into account the sharply contested issues involved, the expense and time necessary
14 to litigate the Action through trial and any appeals, the risks and costs of further litigation of the
15 Action, the risk of an adverse outcome, the uncertainties of complex litigation, the information
16 learned through informal discovery regarding Plaintiff's allegations, Defendant's financial state,
17 and the substantial benefits to be received by the Settlement Class Members.

18 **F.** Defendant has concluded that, because of the substantial expense of defending
19 against the Action, the length of time necessary to resolve the issues presented herein, and the
20 inconvenience involved, and the concomitant disruption to its business operations, it is in
21 Defendant's best interest to accept the terms of this Agreement. Defendant denies each of the
22 allegations and claims asserted against it in the Action. However, Defendant nevertheless desires
23 to settle the Action for the purpose of avoiding the burden, expense and uncertainty of continuing
24 litigation and for the purpose of putting to rest the controversies engendered by the Action.

25 **G.** This Agreement is intended to and does effectuate the full, final, and complete
26 resolution of all Class Released Claims of Plaintiff and Participating Class Members, and all
27 PAGA Released Claims of Plaintiff and, to the extent permitted by law, of the State of California
28 and Aggrieved Employees.

1 **3. JURISDICTION**

2 The Court has jurisdiction over the Parties and the subject matter of the Action. The
3 Action includes claims that, if proven, would authorize the Court to grant relief pursuant to the
4 applicable statutes. After the Court has granted Final Approval of the Settlement and entered
5 judgment, the Court shall retain jurisdiction over the Parties to enforce the terms of the judgment
6 pursuant to California Rule of Court, rule 3.769, subdivision (h).

7 **4. STIPULATION OF CLASS CERTIFICATION**

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

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

11 After full execution of this Agreement, Plaintiff will move for an order granting preliminary
12 approval of the Settlement, approving and directing the mailing of the proposed Notice of Class
13 Action Settlement (“Class Notice”) attached hereto as **Exhibit “A”**, conditionally certifying the
14 Settlement Class for settlement purposes only, and approving the deadlines proposed by the
15 Parties for the submission of Requests for Exclusion, Workweek Disputes, and Objections. If
16 and when the Court preliminarily approves the Settlement, and after administration of the Class
17 Notice in a manner consistent with the Court’s Preliminary Approval Order, Plaintiff will move
18 for an order finally approving the Settlement and seek entry of a Judgment in line with this
19 Settlement.

20 **6. STATEMENT OF NO ADMISSION**

21 Defendant denies any wrongdoing of any sort and further denies any liability to Plaintiff,
22 the Settlement Class and Aggrieved Employees with respect to any claims or allegations asserted
23 in the Action. This Agreement shall not be deemed an admission by Defendant of any claims or
24 allegations asserted in the Action. Except as set forth elsewhere herein, in the event that this
25 Agreement is not approved by the Court, or any appellate court, is terminated, or otherwise fails
26 to be enforceable, Plaintiff will not be deemed to have waived, limited or affected in any way
27 any claims, rights or remedies, or defenses in the Action, and Defendant will not be deemed to
28 have waived, limited, or affected in any way any of its objections or defenses in the Action. The

Parties shall be restored to their respective positions in the Action prior to the entry of this Settlement.

7. RELEASE OF CLAIMS

A. Release by All Participating Class Members.

Effective only upon the entry of an Order granting Final Approval of the Settlement, entry of Judgment, and payment by Defendant to the Settlement Administrator of the full Gross Settlement Amount and Employer's Taxes necessary to effectuate the Settlement, Plaintiff and all Participating Class Members release the Released Parties of all claims against the Released Parties asserted in the Operative Complaint, or any and all claims that may be asserted against the Released Parties based on the factual allegations in the Operative Complaint, as follows: For Participating Class Members, the release includes, for the duration of the Class Period: (a) all claims for failure to pay earned wages; (b) all claims for failure to pay minimum wages; (c) all claims for failure to pay overtime wages; (d) all claims for failure to provide compliant meal and rest periods or compensation in lieu thereof; (e) failure to timely pay all wages due upon termination or resignation; (f) all claims for non-compliant wage statements; (g) failure to reimburse business expenses; and (h) all claims asserted through California Business & Professions Code § 17200 *et seq.* arising out of the Labor Code violations referenced in the Operative Complaint; and (i) all claims for injunctive relief, liquidated damages, penalties of an nature, interest, fees, including fees under California Code of Civil Procedure section 1021.5, and costs (the "Class Released Claims").

B. Release by All Aggrieved Employees

For Aggrieved Employees, the release includes, for the duration of the PAGA Period, all claims asserted in the PAGA Notice submitted to the LWDA and alleged in the Operative Complaint, including all claims for civil penalties under PAGA arising out of Labor Code Sections 226.3, 558, 1174.5, 1197.1, and 2699 based on the factual allegations and Labor Code sections alleged to have been violated in the PAGA Notice and Operative Complaint, which includes, without limitation, Labor Code sections 226, 432, 1174, and 1198.5, unlawful restraint on trade, unlawful restraint of legal activities under Labor Code section 98.6(k), failure to pay

1 wages pursuant to Labor Code section 204, and retaliation in violation of Labor Code section
2 1102.5, failure to provide notice under Labor Code section 2810.5, failure to provide sick leave
3 and an accounting of accrued sick leave, penalties of any nature, including civil penalties under
4 PAGA, fees, and costs (the "PAGA Released Claims"). The Class Released Claims and PAGA
5 Released Claims shall be referred to herein as the "Released Claims".

6 **C. Claims Not Released**

7 The releases above as well as the General Release below expressly exclude all other
8 claims, including claims for vested benefits, wrongful termination, unemployment insurance,
9 disability, social security, workers' compensation, and any other claims outside of the Class
10 Released Claims of Participating Class Members, including Plaintiff, arising during the Class
11 Period and the PAGA Released Claims of Aggrieved Employees including Plaintiff (and, to the
12 extent permitted by law, the State of California) arising outside of the PAGA Period.

13 **D. General Release.**

14 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry
15 of Judgment, and payment by Defendant to the Settlement Administrator of the full Gross
16 Settlement Amount and Employers' Taxes necessary to effectuate the Settlement, in addition to
17 the Released Claims, Plaintiff makes the additional following General Release: Plaintiff releases
18 the Released Parties from all claims, demands, rights, liabilities and causes of action of every
19 nature and description whatsoever, known or unknown, asserted or that might have been asserted,
20 whether in tort, contract, or for violation of any state or federal statute, rule, law or regulation
21 arising out of, relating to, or in connection with any act or omission of the Released Parties
22 through the date of full execution of this Agreement in connection with his employment or the
23 termination thereof. With respect to the General Release, Plaintiff stipulates and agrees that,
24 through the Final Approval Date, Plaintiff shall be deemed to have, and by operation of the Final
25 Judgment and payment to the Settlement Administrator shall have, expressly waived and
26 relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section
27 1542 of the California Civil Code, or any other similar provision under federal or state law, which
28 provides:

1 A general release does not extend to claims that the creditor or
2 releasing party does not know or suspect to exist in his or her favor
3 at the time of executing the release and that, if known by him or
4 her, would have materially affected his or her settlement with the
5 debtor or released party.

6 Plaintiff's Limited Release of Claims as a Participating Class Member and Aggrieved
7 Employee as well as Plaintiff's General Release and Civil Code section 1542 waiver do not
8 include and expressly exclude any release or waiver for any and all claims that may be brought,
9 have been brought, or could have been brought by Plaintiff for wrongful termination,
10 discrimination, retaliation, harassment, failure to prevent harassment or discrimination or
11 under the Fair Employment and Housing Act, California Family Rights Act and/or any
12 other applicable state or federal laws.

13 **8. SETTLEMENT ADMINISTRATOR**

14 Plaintiff and Defendant, through their respective counsel, have selected Phoenix
15 Settlement Administrators to administer the Settlement, which includes but is not limited to
16 translating the Class Notice to Spanish, distributing and responding to inquiries about the Class
17 Notice and calculating all amounts to be paid from the Gross Settlement Amount. Charges and
18 expenses of the Settlement Administrator, currently estimated to be \$7,250 will be paid from the
19 Gross Settlement Amount. If the actual amount of the Settlement Administration Costs is less
20 than \$7,250, the difference between \$7,250 and the actual Settlement Administration Costs shall
21 be a part of the Net Settlement Amount. If the Settlement Administration Costs exceed \$7,250,
22 then such excess will be paid solely from the Gross Settlement Amount and Defendant will not
23 be responsible for paying any additional funds in order to pay these additional costs.

24 **9. NOTICE, WEEKLY PAY PERIOD DISPUTE, OBJECTION, AND EXCLUSION**
25 **PROCESS**

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

27 (1) Within fourteen (14) calendar days after the Preliminary Approval Date,
28 Defendant's Counsel shall provide the Settlement Administrator with information with respect
to each Settlement Class Member, including his or her: (1) full name and last known address
currently in Defendant's possession, custody, or control; (2) Social Security Number in

1 Defendant's possession, custody, or control; and (3) the hire dates, re-hire dates (if applicable)
2 and termination dates (if applicable) for each Settlement Class Member ("Class List"). The
3 Settlement Administrator shall perform an address search using the United States Postal Service
4 National Change of Address ("NCOA") database and update the addresses contained on the Class
5 List with the newly found addresses, if any. Within seven (7) calendar days of receiving the Class
6 List from Defendant, the Settlement Administrator shall mail the Class Notice in English and
7 Spanish to the Settlement Class Members via first-class regular U.S. Mail using the most current
8 mailing address information available. The Settlement Administrator shall maintain a list with
9 names and all addresses to which notice was given, and digital copies of all the Settlement
10 Administrator's records evidencing the giving of notice to any Settlement Class Member, for at
11 least four (4) years from the Final Approval Date. Such information shall be available to Class
12 Counsel and Defendant's Counsel upon request.

13 (2) The Class Notice will set forth:

- 14 (a) the Settlement Class Member's estimated Individual Settlement
15 Payment and Individual PAGA Payment, and the basis for each;
- 16 (b) the information required by California Rule of Court, rule 3.766,
17 subdivision (d);
- 18 (c) the material terms of the Settlement, including the Service Award
19 to Plaintiff, the Attorneys' Fees and Cost Award to be paid to Class
20 Counsel, and the LWDA Payment, as specified in this Agreement;
- 21 (d) the proposed Settlement Administration Costs;
- 22 (e) the definitions of the Settlement Class and Aggrieved Employees;
- 23 (f) a statement that the Court has preliminarily approved the
24 Settlement;
- 25 (g) how the Settlement Class Member or Aggrieved Employee may
26 obtain additional information, including contact information for
27 Class Counsel;
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- 1 (h) information regarding opt-out and objection procedures to the
2 class settlement;
- 3 (i) the date and location of the Final Approval Hearing; and
- 4 (j) that the Settlement Class Member must notify the Settlement
5 Administrator no later than the Response Deadline if the
6 Settlement Class Member disputes the accuracy of the number of
7 Workweeks or pay periods as set forth on his or her Class Notice
8 (“Workweek Dispute”). If a Settlement Class Member fails to
9 timely dispute the number of Workweeks or pay periods attributed
10 to him or her in conformity with the instructions in the Class
11 Notice, then he or she shall be deemed to have waived any
12 objection to its accuracy and any claim to any additional settlement
13 payment based on different data.

14 (3) If a Class Notice from the initial notice mailing is returned as
15 undeliverable, the Settlement Administrator will attempt to obtain a current address for the
16 Settlement Class Member to whom the returned Class Notice had been mailed, within five (5)
17 calendar days of receipt of the returned Class Notice, by undertaking skip tracing. If the
18 Settlement Administrator is successful in obtaining a new address, it will promptly re-mail the
19 Class Notice to the Settlement Class Member. Further, any Class Notices that are returned to the
20 Settlement Administrator with a forwarding address before the Response Deadline shall be
21 promptly re-mailed to the forwarding address affixed thereto.

22 (4) No later than seven (7) calendar days from the Response Deadline, the
23 Settlement Administrator shall provide counsel for the Parties with a declaration attesting to the
24 completion of the notice process, including the number of attempts to obtain valid mailing
25 addresses for and re-sending of any returned Class Notices, as well as the number of, and copies
26 of all Requests for Exclusion and objections/comments received by the Settlement Administrator.

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1 **B. Objections.**

2 Only Participating Class Members may object or comment regarding the Settlement. In
3 order for any Settlement Class Member to object to this Settlement in writing, or any term of it,
4 he or she must do so by mailing a written objection to the Settlement Administrator at the address
5 or phone number provided on the Class Notice no later than the Response Deadline. The
6 Settlement Administrator shall email a copy of the objection forthwith to Class Counsel and
7 Defendant's counsel. The objection should set forth in writing: (1) the Objector's name; (2) the
8 Objector's address; (3) the last four digits of the Objector's Social Security Number; (4) the
9 Objector's signature; (5) a statement of whether the Objector plans to appear at the Final
10 Approval Hearing; and (6) the reason(s) for the Objection, along with whatever legal authority,
11 if any, the Objector asserts in support of the Objection. If a Settlement Class Member objects to
12 the Settlement, the Settlement Class Member will remain a member of the Settlement Class and
13 if the Court approves this Agreement, the Settlement Class Member will be bound by the terms
14 of the Settlement in the same way and to the same extent as a Settlement Class Member who
15 does not object. The date of mailing of the Class Notice to the objecting Settlement Class
16 Member shall be conclusively determined according to the records of the Settlement
17 Administrator. Settlement Class Members need not object in writing to be heard at the Final
18 Approval Hearing; they may object or comment in person at the hearing at their own expense.
19 Class Counsel and Defendant's Counsel may respond to any objection lodged with the Court up
20 to five (5) court days before the Final Approval Hearing.

21 **C. Requesting Exclusion.**

22 Any Settlement Class Member may request exclusion from (*i.e.*, "opt out" of) the
23 Settlement by mailing a written request to be excluded from the Settlement ("Request for
24 Exclusion") to the Settlement Administrator, postmarked on or before the Response Deadline.
25 To be valid, a Request for Exclusion must include: (1) the Class Member's name; (2) the Class
26 Member's Social Security Number; (3) the Class Member's signature; and (4) the following
27 statement or something to its effect: "Please exclude me from the Settlement Class in the
28 *Primitivo Perez v. D&G Restaurants, LLC, et al.* matter" or any statement of similar meaning

standing for the proposition that the Class Member does not wish to participate in the Settlement. The Settlement Administrator shall immediately provide copies of all Requests for Exclusion to Class Counsel and Defendant's Counsel and shall report the number of Requests for Exclusions that it receives, to the Court, in its declaration to be provided in advance of the Final Approval Hearing. Any Settlement Class Member who requests exclusion using this procedure will not be entitled to receive any payment from the Settlement and will not be bound by the Settlement Agreement or have any right to object to, appeal, or comment on the Settlement. Any Settlement Class Member who does not opt out of the Settlement by submitting a timely and valid Request for Exclusion will be bound by all terms of the Settlement, including those pertaining to the Released Claims, as well as any Judgment that may be entered by the Court if Final Approval of the Settlement is granted. A Settlement Class Member cannot submit both a Request for Exclusion and an objection. If a Settlement Class Member submits an objection and a Request for Exclusion, the Request for Exclusion will control and the Objection will be void. Settlement Class Members who worked during the PAGA Period that submit a valid Request for Exclusion will still be deemed Aggrieved Employees, will still receive their Individual PAGA Payment, and will be bound by the release encompassed in the PAGA Released Claims.

D. Disputes Regarding Settlement Class Members' Workweeks and Pay Periods Data.

Class Members will have an opportunity to dispute the information provided in their Class Notice. To the extent Class Members dispute the number of Workweeks or Pay Periods to which they have been credited, Class Members may produce evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendant's records, Defendant's records will be presumed determinative. However, if a Class Member produces evidence to the contrary, the Settlement Administrator will evaluate the evidence submitted by the Class Member and will make the final decision as to the number of Workweeks or Pay Periods that should be applied. All such disputes are to be resolved not later than ten (10) calendar days after the Response Deadline.

///

E. Extension of Response Deadline for Remailing

If a Class Member's notice is re-mailed, the Class Member shall have fifteen (15) days from the re-mailing, or forty-five (45) days from the date of the initial mailing, whichever is later, in which to postmark a Request for Exclusion, written Objection or to dispute their attributed workweek or pay period count in the Class Period and/or PAGA Period.

10. INDIVIDUAL SETTLEMENT PAYMENTS AND INDIVIDUAL PAGA PAYMENTS TO PARTICIPATING CLASS MEMBERS

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

A. The Settlement Administrator will determine the total number of Workweeks worked by each Settlement Class Member during the Class Period ("Class Member's Workweeks"), as well as the aggregate number of Workweeks worked by all Settlement Class Members during the Class Period ("Class Workweeks"). Additionally, the Settlement Administrator will determine the total number of pay periods worked by each Aggrieved Employee during the PAGA Period ("Aggrieved Employee's Pay Periods"), as well as the aggregate number of pay periods worked by all Aggrieved Employees during the PAGA Period ("PAGA Pay Periods").

B. To determine each Settlement Class Member's Individual Settlement Share, the Settlement Administrator will use the following formula: Individual Settlement Share = (Settlement Class Member's Workweeks ÷ Class Workweeks) × Net Settlement Amount.

C. To determine each Participating Class Member's Participating Individual Settlement Share, the Settlement Administrator will determine the aggregate number of Workweeks worked by all Participating Class Members during the Class Period ("Participating

Class Workweeks”) and use the following formula: Individual Settlement Share = (Participating Class Member’s Workweeks ÷ Participating Class Workweeks) × Net Settlement Amount.

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

E. To determine each Aggrieved Employee’s Individual PAGA Payment, the Settlement Administrator will use the following formula: Aggrieved Employee’s Individual PAGA Payment = ([Aggrieved Employee’s Pay Periods ÷ PAGA Pay Periods] x \$5,000.00) (the “PAGA Payment”).

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

11. DISTRIBUTION OF PAYMENTS

A. Distribution of Individual Settlement Payments.

Participating Class Members will receive an Individual Settlement Payment. All Aggrieved Employees, regardless of whether they submit a valid Request for Exclusion or not, will receive their Individual PAGA Payment. Individual Settlement Payment checks and Individual PAGA Payment checks shall remain valid and negotiable for one hundred and eighty (180) calendar days after the date of their issuance. For any check not cashed after 180 calendar days, the Settlement Administrator will pay over the amount represented by the check to the California State Controller’s Office, with the identity of the Participating Class Member and/or Aggrieved Employee to whom the funds belong, to be held for the Participating Class Member and/or Aggrieved Employee per California Unclaimed Property Law, in the interest of justice. The money paid to the California State Controller’s Office will remain the Participating Class Member’s and Aggrieved Employee’s property. This will allow Participating Class Members and Aggrieved Employees who did not cash their checks to collect their Individual Settlement

1 Payments and Individual PAGA Payments at any time in the future. Therefore, there will be
2 no unpaid residue or unclaimed or abandoned class member or aggrieved employee funds and
3 California Code of Civil Procedure § 384 shall not apply.

4 **B. Funding of Settlement.**

5 No later than thirty (30) calendar days after the Preliminary Approval Date (the “First
6 Payment Date”), Defendant shall deposit half of the Gross Settlement Amount—One Hundred
7 and Twenty-Five Thousand Dollars and Zero Cents (\$125,000.00)—unless the same is escalated
8 pursuant to Paragraph 17 below (and in such event, half of the escalated gross settlement
9 amount), in addition to related Employer’s Taxes pursuant to Internal Revenue Code section
10 1.468B-1 for deposit in an interest-bearing qualified settlement account (“QSA”) with an FDIC
11 insured banking institution, to the Settlement Administrator. Thereafter, Defendant shall pay the
12 remaining half of the Gross Settlement Amount as follows: No later than one hundred eighty
13 (180) calendar days after the First Payment Date (the “Second Payment Date”), Defendant shall
14 deposit the remaining portion of the Gross Settlement Amount of Two-Hundred Fifty Thousand
15 Dollars and Zero Cents (\$250,000.00)² pursuant to Internal Revenue Code section 1.468B-1 for
16 deposit in an interest-bearing QSA with an FDIC insured banking institution, for distribution in
17 accordance with this Agreement and the Court’s orders and subject to the conditions described
18 herein.

19 Individual Settlement Payments and Individual PAGA Payments shall be paid
20 exclusively from the QSA, pursuant to the settlement formula set forth herein. Payments from
21 the QSA shall be made for (1) the Service Award to Plaintiff as specified in this Agreement and
22 approved by the Court; (2) the Attorneys’ Fees and Cost Award to be paid to Class Counsel, as
23 specified in this Agreement and approved by the Court; (3) the Settlement Administrator Costs,
24 as specified in this Agreement and approved by the Court; and (4) the LWDA Payment, as
25 specified in this Agreement. \$5,000 shall be allocated to payment to Aggrieved Employees of
26

27 ² The Gross Settlement Amount, and all Employer’s Taxes for each of the payments made, must be paid
28 in full within 210-day period commencing upon Preliminary Approval. If escalated pursuant to Paragraph
17 of this Agreement, the escalated amount and all Employer’s Taxes for each of the payments made,
must be paid in full within a 210-day period commencing upon Preliminary Approval.

Individual PAGA Payments as set forth herein. The balance and any accrued interest thereon remaining shall constitute the Net Settlement Amount from which Individual Settlement Payments shall be made to Participating Class Members, less applicable taxes and withholdings. All interest accrued shall be for the benefit of Participating Class Members and distributed on a *pro rata* basis.

C. Time for Distribution.

No more than fourteen (14) calendar days after payment of the full Gross Settlement Amount (as the same may be increased to in accordance with Paragraph 17) by Defendant, as well as Employer Taxes, or after the Final Order and Judgment following a Final Fairness and Approval hearing, whichever is later, the Settlement Administrator shall distribute all payments due under the Settlement, including the Individual Settlement Payments to Participating Class Members and Individual PAGA Payments to Aggrieved Employees, as well as the Court-approved payments for the Service Award to Plaintiff, attorneys' fees and litigation costs and expenses to Class Counsel, administration costs to the Settlement Administrator, and the LWDA Payment to the LWDA.

12. ATTORNEYS' FEES AND LITIGATION COSTS

Class Counsel shall apply for, and Defendant shall not oppose, an award of attorneys' fees of up to thirty-five percent (35%) of the Gross Settlement Amount, which, unless increased pursuant to Paragraph 17, shall amount to Eighty-Seven Thousand Five Hundred Dollars and Zero Cents (\$87,500.00). Class Counsel shall further apply for, and Defendant shall not oppose, an application or motion by Class Counsel for reimbursement of actual costs associated with Class Counsel's prosecution of this matter as set forth by declaration testimony in an amount up to Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). Awards of attorneys' fees and costs shall be paid out of the Gross Settlement Amount, for all past and future attorneys' fees and costs necessary to prosecute, settle, and obtain Final Approval of the settlement in the Action. The "future" aspect of the amounts stated herein includes, without limitation, all time and expenses expended by Class Counsel (including any appeals therein), except for any matters that arise from Defendant's failure to materially comply with the terms of this Agreement. There will

1 be no additional charge of any kind to either the Settlement Class Members or request for
2 additional consideration from Defendant for such work unless, in the event of a material breach
3 of this Agreement by Defendant, Plaintiff is required to move the Court for enforcement of this
4 Agreement. Should the Court approve attorneys' fees and/or litigation costs and expenses in
5 amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall
6 be a part of the Net Settlement Amount.

7 **13. SERVICE AWARD TO PLAINTIFF**

8 Plaintiff shall seek, and Defendant shall not oppose, a Service Award in an amount not to
9 exceed Seven Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00) for participation in
10 and assistance with the Action. Any Service Award awarded to Plaintiff shall be paid from the
11 Gross Settlement Amount and shall be reported on an IRS Form 1099. If the Court approves a
12 Service Award to Plaintiff in less than the amounts sought herein, then the unapproved portion(s)
13 shall be a part of the Net Settlement Amount.

14 **14. TAXATION AND ALLOCATION**

15 A. Each Individual Settlement Share shall be allocated as follows: 20% as wages
16 (to be reported on an IRS Form W2); and 80% as interest and penalties (to be reported on an
17 IRS Form 1099). The Individual PAGA Payments to the Aggrieved Employees shall be
18 allocated entirely as penalties (to be reported on an IRS Form 1099). The Parties agree that the
19 employee's share of taxes and withholdings with respect to the wage-portion of the Individual
20 Settlement Share will be withheld from the Individual Settlement Share in order to yield the
21 Individual Settlement Payment. The amount of federal income tax withholding will be based
22 upon a flat withholding rate for supplemental wage payments in accordance with Treas. Reg.
23 § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be made
24 pursuant to applicable state and/or local withholding codes or regulations.

25 B. Forms W-2 and/or Forms 1099 will be distributed by the Settlement
26 Administrator at times and in the manner required by the Internal Revenue Code of 1986 (the
27 "Code") and consistent with this Agreement. If the Code, the regulations promulgated
28 thereunder, or other applicable tax law, is changed after the date of this Agreement, the

processes set forth in this Section may be modified in a manner to bring Defendant into compliance with any such changes.

C. All Employer Taxes shall be paid by Defendant separate, apart and above from the Gross Settlement Amount. Defendant shall remain liable to pay the employer's share of payroll taxes as described above.

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

15. PRIVATE ATTORNEYS' GENERAL ACT ALLOCATION

The Parties agree to allocate Twenty Thousand Dollars and Zero Cents (\$20,000.00) of the Gross Settlement Amount toward PAGA penalties. Pursuant to the PAGA, seventy-five percent (75%) of the amount allocated toward PAGA (\$15,000.00) will be paid to the LWDA (*i.e.*, the LWDA Payment), and twenty-five percent (25%) of the amount allocated toward PAGA (\$5,000.00) shall be deemed the "PAGA Payment" and distributed to Aggrieved Employees on a *pro rata* basis based upon their respective pay periods worked during the PAGA Period (*i.e.*, the Individual PAGA Payments).

16. COURT APPROVAL

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

1 **17. INCREASE IN WORKWEEKS**

2 Defendant represents and warrants that there are no more than one hundred and ninety-
3 two (192) Settlement Class Members and that there are no more than nine thousand four
4 hundred thirty-five (9,435) Workweeks worked by one hundred ninety-two (192) Settlement
5 Class Members during the Class Period. In the event the number of Workweeks worked is
6 more than 10% greater than this figure (i.e., if there are more than 10,378 Workweeks [9,435
7 Workweeks x 1.10 = 10,378 Workweeks] worked by Class Members using hire dates,
8 termination dates (as applicable) and re-hire dates (as applicable)), then Defendant agrees to
9 increase the Gross Settlement Amount proportionally over the 10% increase in the number of
10 Workweeks worked during the Class Period. By way of example, if the number of Workweeks
11 worked by Class Members during the Class Period increases by 11%, the Gross Settlement
12 Amount will increase by 1%. Likewise, if the number of Workweeks worked by Class
13 Members during the Class Period increases by 12%, the Gross Settlement Amount will increase
14 by 2%. The Workweek Value shall be calculated by dividing the Gross Settlement Amount
15 (\$250,000.00) by 9,435. The Parties agree that the Workweek Value amounts to \$26.50
16 (\$250,000.00 / 9,435 workweeks). Thus, for example, should there be 11,039 workweeks in
17 the Class Period, then the Gross Settlement Amount shall be increased by \$17,516.50. (11,039
18 workweeks – 10,378 workweeks x \$26.50.)

19 **18. VOIDING OF SETTLEMENT AND RETURN OF GROSS SETTLEMENT**
20 **AMOUNT AND EMPLOYERS' TAXES**

21 Defendant have the option of voiding this Agreement within ten (10) calendar days after
22 expiration of the opt-out period if ten percent (10%) of the Settlement Class members opt out of
23 the Settlement and/or if the combined workweeks worked by Class Members who timely exclude
24 themselves amounts to more than ten percent (10%) of the total workweeks worked by all Class
25 members, which option shall be exercised by providing written notice to Class Counsel and the
26 Settlement Administrator. If the foregoing occurs, this Agreement shall be null and void *ab*
27 *initio*, no Party shall be bound by the terms thereof, and this Agreement shall not be admissible
28 or offered into evidence in the litigation or any other action for any purpose whatsoever, and any

order or judgment entered by the Court in furtherance of this Agreement shall be treated as withdrawn or vacated by stipulation of the Parties. In such case, the Parties shall be returned to their respective positions as of the date immediately prior to the execution of this Agreement, the Parties shall proceed in all respects as if this Agreement had not been executed, Defendant shall have no obligation to make any payments to Plaintiff, Counsel for Plaintiff, the LWDA, or any Class Member, and the Settlement Administrator shall return the entirety of the Gross Settlement Amount and Employers' Taxes to Defendant within seven (7) calendar days of receipt of Defendant's written notice exercising the option to void this Agreement. In the event that Defendant voids the Settlement pursuant to the terms of this Agreement, any amounts owed to the Settlement Administrator shall be paid by Defendant solely.

19. NOTICE OF JUDGMENT

In addition to any duties set out herein, the Settlement Administrator shall provide notice of the Final Judgment entered in the Action by posting the same on its website for at least four (4) years after the Judgment becomes final.

20. MISCELLANEOUS PROVISIONS

A. Interpretation of the Agreement.

This Agreement constitutes the entire agreement between Plaintiff and Defendant with respect to its subject matter. Except as expressly provided herein, this Agreement has not been executed in reliance upon any other written or oral representations or terms, and no such extrinsic oral or written representations or terms shall modify, vary or contradict its terms. In entering into this Agreement, the Parties agree that this Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and enforced under the laws of the State of California, both in its procedural and substantive aspects, without regard to its conflict of law provisions. Any claim arising out of or relating to the Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior Court of the State of California for the County of Orange, and Plaintiff and Defendant hereby consent to the personal jurisdiction of the Court in the Action over it solely in connection therewith. Plaintiff, on Plaintiff's own behalf and on behalf of the Settlement Class,

1 and Defendant participated in the negotiation and drafting of this Agreement and had available
2 to them the advice and assistance of independent counsel. As such, neither Plaintiff nor
3 Defendant may claim that any ambiguity in this Agreement should be construed against the other.
4 The Agreement may be modified only by a writing signed by counsel for the Parties and approved
5 by the Court.

6 **B. Further Cooperation.**

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

18 **C. Counterparts.**

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

22 **D. Authority.**

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

25 **E. No Third-Party Beneficiaries.**

26 Plaintiff, Participating Class Members, Aggrieved Employees, Class Counsel, and
27 Defendant are direct beneficiaries of this Agreement, but there are no third-party beneficiaries.

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F. Deadlines Falling on Weekends or Holidays.

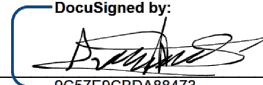
To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or legal holiday, that deadline shall be continued until the following business day.

G. Severability.

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

IT IS SO AGREED:

Dated: 12/1/2022, 2022

DocuSigned by:

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PRIMITIVO PEREZ
 Plaintiff and Class Representative

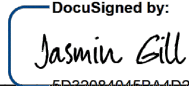
Dated: _____, 2022

D&G RESTAURANTS, LLC, dba "Tavern House"
 Defendant
 Gregg Solomon
 Partner

Dated: _____, 2022

D&G RESTAURANTS, LLC, dba "Tavern House"
 Defendant
 David Wilhelm
 Partner

Dated: 11/29/2022, 2022

DocuSigned by:

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JASMIN K. GILL
 J. Gill Law Group, P.C.
Counsel for Plaintiff Primitivo Perez

Dated: _____, 2022

PETER J. WOO
VINCENT L. CHEN
 Jackson Lewis, P.C.
Counsel for Defendant D&G Restaurants, LLC, doing business as "Tavern House"

F. Deadlines Falling on Weekends or Holidays.

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

G. Severability.

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

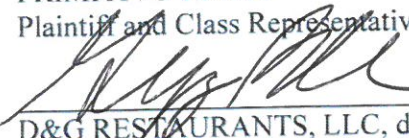
IT IS SO AGREED:

Dated: 12/1/2022, 2022

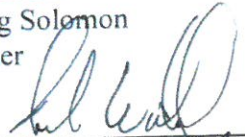
DocuSigned by:

PRIMITIVO PEREZ
Plaintiff and Class Representative

Dated: 12-10-2022, 2022


D&G RESTAURANTS, LLC, dba "Tavern House"
Defendant
Gregg Solomon
Partner

Dated: 12-6, 2022


D&G RESTAURANTS, LLC, dba "Tavern House"
Defendant
David Wilhelm
Partner

Dated: 11/29/2022, 2022

DocuSigned by:

JASMIN K. GILL
J. Gill Law Group, P.C.
Counsel for Plaintiff Primitivo Perez

Dated: December 12,, 2022


PETER J. WOO
VINCENT L. CHEN
Jackson Lewis, P.C.
Counsel for Defendant D&G Restaurants, LLC, doing business as "Tavern House"

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EXHIBIT A

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL APPROVAL
FOR FINAL APPROVAL**

Primitivo Perez v. D&G Restaurants, LLC, et al.
(County of Orange, California Superior Court Case No. 30-202101209638-CU-OE-CXC)

As a current or former non-exempt, hourly-paid California employee for D&G Restaurants, LLC you are entitled to receive money from a class action settlement.

Please read this Notice carefully. This Notice relates to a proposed settlement of class action litigation. If you are a Class Member, it contains important information about your right to receive a payment from the Settlement fund.

You have received this Notice of Class Action Settlement because the records of D&G Restaurants, LLC (“Defendant” or “D&G”) show you are a “Class Member,” and therefore entitled to a payment from this class action Settlement. Class Members are all persons currently or formerly employed by D&G Restaurants, LLC as non-exempt, hourly-paid employees in the State of California any time from July 9, 2017 through **[Preliminary Approval Date]**.

- The settlement resolves a class action lawsuit, *Primitivo v. D&G Restaurants, LLC, et al.* (the “Lawsuit”), which alleges Defendant: (1) failed to pay Class Members overtime wages, (2) failed to pay Class Members minimum wages, (3) failed to provide Class Members legally-compliant meal and rest breaks under California law, (4) failed to provide Class Members with legally compliant wage statements, (5) failed to timely pay all wages due upon termination or resignation, (6) failed to reimburse employees for business expenses, and (7) , engaged in unfair business practices. Based on these and other alleged Labor Code violations, Plaintiff also seek penalties under the California Labor Code Private Attorney Generals Act (“PAGA”) pursuant to Labor Code sections 226.3, 558, 1174.5, 1197.1, and 2699.
- On **[REDACTED]**, the Los Angeles County Superior Court granted preliminary approval of this class action Settlement and ordered that all Class Members be notified of the Settlement. The Court has not made any determination of the validity of the claims in the Lawsuit. Defendant vigorously denies the claims in the Lawsuit and contend that they fully complied with all applicable laws.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment, and give up your legal rights to pursue claims released by the settlement of the Lawsuit.
OPT OUT OF THE SETTLEMENT	Exclude yourself from the Settlement, get no payment for settlement of the class claims, and retain your legal rights to individually pursue the class claims that would otherwise be released by the settlement of the Lawsuit. If you worked from May 18, 2020 through and including the end of the Class Period ("PAGA Period") as a non-exempt, hourly-paid employee of Defendant, as well, then you will be deemed an “Aggrieved Employee” and you will still receive your share of the proceeds available from the settlement of the PAGA Released Claims, defined below, (your “Individual PAGA Payment”) regardless of whether you opt out of the class settlement.

Questions? Contact the Settlement Claims Administrator toll free at **[PHONE NUMBER]**

OBJECT TO THE SETTLEMENT	If you do not opt out, you may write to the Settlement Administrator, Phoenix Settlement Administrators, about why you object to the settlement and they will forward your concerns to counsel which will then be provided to the Court. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement. If you timely object, you or your attorney may also address the Court during the Final Approval hearing scheduled for [DATE AND TIME] in the Civil Complex Center of Orange County Superior Court, located at 751 West Santa Ana Blvd., Santa Ana, California 92701.
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The Final Fairness and Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at [REDACTED] .m. on [REDACTED], in the Civil Complex Center of the Orange County Superior Court, located at 751 West Santa Ana Blvd., Department CX-101, Santa Ana, California 92701. You are not required to attend the Hearing, but you are welcome to do so.

Why Am I Receiving This Notice?

Defendant's records show that you currently work, or previously worked, for Defendant as a non-exempt, hourly-paid employee in the State of California any time from July 9, 2017 through [Preliminary Approval Date]. You were sent this Class Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options before the Court decides whether to finally approve the settlement. If the Court approves the settlement and then any objections and appeals are resolved, a "Settlement Administrator" appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

What Is This Case About?

Primitivo Perez was a non-exempt, hourly-paid employee for Defendant in California. He is the "Plaintiff" in this case and is suing on behalf of himself and Class Members for Defendant's alleged failure to pay overtime wages, failure to pay minimum wages, failure to provide legally-compliant meal and rest breaks under California law, failure to provide compliant wage statements, failure to timely pay all wages due upon termination or resignation, failure to reimburse employees for business expenses, and engagement in unfair business practices. Based on these and other alleged Labor Code violations, Plaintiff also seeks to recover penalties under the California Labor Code Private Attorney Generals Act pursuant to Labor Code sections 226.3, 558, 1174.5, 1197.1, and 2699.

Defendant denies all of the allegations made by Plaintiff and denies that it violated any law. The Court has made no ruling on the merits of Plaintiff's claims. The Court has only preliminarily approved this Class Action Settlement. The Court will decide whether to give final approval to the Settlement at the Final Fairness and Approval Hearing.

Summary of the Settlement Terms

Plaintiff and Defendant have agreed to settle this case on behalf of themselves and the Class Members for the Gross Settlement Amount of \$250,000.00, unless the Gross Settlement Amount is escalated pursuant to the Agreement. The Gross Settlement includes: (1) Administration Costs of up to \$[REDACTED].00; (2) a service payment of up to \$7,500.00 to Plaintiff for his time and effort in pursuing this case and in exchange for a broader release of claims against Defendant; (3) up to 35% in attorneys' fees which, unless the Gross Settlement Amount is escalated pursuant to the Agreement, amounts to \$87,500.00 in attorneys' fees; (4) actual litigation costs up to \$25,000.00 to Class Counsel;

Questions? Contact the Settlement Claims Administrator toll free at [PHONE NUMBER]

and (5) payment allocated to PAGA penalties in the amount of \$20,000.00, \$15,000.00 of which will be payable to the Labor and Workforce Development Agency (“LWDA”) and \$5,000.00 of which will be payable to Aggrieved Employees. After deducting these sums, a total of approximately \$.00 will be available for distribution to Class Members (“Net Settlement Amount”), and an additional \$5,000.00 to Aggrieved Employees. In addition to the Gross Settlement, Defendant will separately pay all employer-side payroll tax payments due and payable to federal and state tax authorities as a result of this Settlement.

Distribution to Class Members and Aggrieved Employees

Class Members who do not opt out will receive a *pro rata* payment based on the number of verified actual weeks worked by Class Members for Defendants during the Class Period (“Eligible Workweeks”). Specifically, Class Members’ payments will be calculated by dividing the number of Eligible Workweeks attributed to the Class Member by all Eligible Workweeks attributed to members of the Settlement Class, multiplied by the Net Settlement Amount. Otherwise stated, the formula for a Class Member is: (individual’s Eligible Workweeks ÷ total Settlement Class Eligible Workweeks) x Net Settlement Amount. In addition, Class Members who worked during the PAGA Period will receive a pro rata share of the \$5,000 allocated as PAGA penalties, whether or not they opt out, based on the number of workweeks worked by the Class Member during the PAGA Period.

Defendant’s records indicate that you worked [Eligible Workweeks] as a non-exempt, hourly-paid employee in California during the Class Period and [Eligible Pay Periods] during the PAGA Period. Based on these records, your estimated payment as a Class Member would be [\$Estimated Award] and your estimated payment for PAGA civil penalties would be [\$Estimated Award]. If you believe this information is incorrect and wish to dispute it, you must mail a dispute to the Settlement Administrator no later than [RESPONSE DEADLINE]. Please include any documentation you have that you contend supports your dispute.

Tax Reporting

100% of the payments for PAGA penalties to Aggrieved Employees will be allocated as penalties reported on an IRS Form 1099; 20% of each Settlement Payment will be allocated as wages and reported on an IRS Form W-2; and 80% will be allocated as penalties and interest reported on an IRS Form 1099. This notice is not intended to provide legal or tax advice on your Settlement Share.

Your Options Under the Settlement

Option 1 – Do Nothing and Receive Your Payment

If you do not opt out, you are automatically entitled to your Settlement Check because you are a Class Member. If you do not dispute your settlement share calculation and do not opt out of the settlement, you will be bound by the settlement and receive a settlement payment. **In other words, if you are a Class Member, you do not need to take any action to receive the settlement payment set forth above.**

Settlement payment checks must be cashed soon after receipt. The Settlement checks will be able to be cashed for 180 days after they are issued. Within 7 days after expiration of the 180-day period, the Settlement checks will no longer be able to be cashed. Any funds represented by Settlement checks remaining uncashed for more than 180 days after issuance shall be paid over to the California State Controller’s Office, with the identity of Class Member to whom the funds belong, to be held for the Class Member per California’s Unclaimed Property Law.

Class Members who do not submit a valid and timely opt out (pursuant to Section 2 below), will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Claims he or she may have or had upon final approval of this Settlement, entry of judgment, and payment by

Questions? Contact the Settlement Claims Administrator toll free at [PHONE NUMBER]

Defendant to the Settlement Administrator of the full Gross Settlement Amount and Employer's Taxes pursuant to the Agreement.

"Released Claims" means all claims against the Released Parties asserted in the Operative Complaint, or any and all claims that may be asserted against the Released Parties based on the factual allegations in the Operative Complaint, as follows: For Participating Class Members, the release includes, for the duration of the Class Period: (a) all claims for failure to pay earned wages; (b) all claims for failure to pay minimum wages; (c) all claims for failure to pay overtime wages; (d) all claims for failure to provide compliant meal and rest periods or compensation in lieu thereof; (e) failure to timely pay all wages due upon termination or resignation; (f) all claims for non-compliant wage statements; (g) failure to reimburse business expenses; and (h) all claims asserted through California Business & Professions Code § 17200 *et seq.* arising out of the Labor Code violations referenced in the Operative Complaint; and (i) all claims for injunctive relief, liquidated damages, penalties of an nature, interest, fees, including fees under California Code of Civil Procedure section 1021.5, and costs (the "Class Released Claims").

For Aggrieved Employees, the release includes, for the duration of the PAGA Period, all claims asserted in the PAGA Notice and alleged in the Operative Complaint, including all claims for civil penalties under PAGA arising out of Labor Code sections 226.3, 558, 1174.5, 1197.1 and 2699 based on the factual allegations and Labor Code sections alleged to have been violated in the PAGA Notice and Operative Complaint, which includes, without limitation, Labor Code sections 226, 432, 1174, and 1198.5, unlawful restraint on trade, unlawful restraint of legal activities under Labor Code section 98.6(k), failure to pay wages pursuant to Labor Code section 204, and retaliation in violation of Labor Code section 1102.5, failure to provide notice under Labor Code section 2810.5, failure to provide sick leave and an accounting of accrued sick leave, penalties of any nature, including civil penalties under PAGA, fees, and costs (the "PAGA Released Claims").

"Class Period" means the period from July 9, 2017 through [Preliminary Approval Date]

"PAGA Period" means the period from May 18, 2020 through the end of the Class Period.

"Released Parties" shall mean Defendant D&G Restaurants, LLC as well as each of D&G's present and former respective affiliates, parents, subsidiaries, predecessors, successors, divisions, joint venturers and assigns, and each of these entities' past or present directors, officers, employees, partners, members, principals, agents, insurers, shareholders, attorneys, and personal or legal representatives.

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the Settlement, you may exclude yourself by submitting a written request to be excluded from the Class. Your written request must expressly and clearly indicate that you do not want to participate in the Settlement, and you desire to be excluded from the Settlement. The written request for exclusion must include your name, your Social Security Number, your signature, and the following statement or something to its effect: "Please exclude me from the Settlement Class in the *Primitivo Perez v. D&G Restaurants, LLC, et al.* matter". Sign, date, and mail your written request for exclusion by U.S. First-Class Mail to the address below.

The proposed settlement includes the settlement of the PAGA Released Claims. An employee may not request exclusion from the settlement of the PAGA Released Claims. Thus, if the court approves the settlement, then even if you request exclusion from the settlement, you will still receive an individual settlement share for the PAGA Released Claims and will be deemed to have released the PAGA Released Claims. A request for exclusion will preserve your right to individually pursue only the remaining Class Released Claims.

Questions? Contact the Settlement Claims Administrator toll free at [PHONE NUMBER]

[Settlement Administrator]
[Mailing Address]

The written request to be excluded from the Settlement must be postmarked or received by the Administrator not later than **[RESPONSE DEADLINE]**. If you exclude yourself from the Settlement then you will get no payment, and retain your legal rights to pursue claims that would otherwise be released by the settlement of the Lawsuit.

Option 3 – File an Objection to the Settlement

If you wish to object to the Settlement, you may file an objection in writing stating why you object to the Settlement. Your objection must provide your full name, your address, the last 4 digits of your social security number, your signature, a statement of whether you plan to appear at the Final Fairness and Approval Hearing, and your reasons for why you think the Court should not approve the Settlement, along with any legal authority, if any, you assert supports your objection. Your objection must be mailed to the Administrator no later than **[RESPONSE DEADLINE]**. Please note that you cannot both object to the Settlement and exclude yourself. If the Court overrules your objection, you will be bound by the Settlement and will receive your Settlement Share.

Final Fairness Hearing

You may, if you wish, also appear at the Final Fairness and Approval Hearing set for [REDACTED] at [REDACTED] .m. in the Civil Complex Center of the Orange County Superior Court, located at 751 West Santa Ana Blvd., Department CX-101, Santa Ana, California 92701, and discuss your objections with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the Hearing at your own expense.

Additional Information

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may visit **www.[REDACTED].com**, call the Settlement Administrator at **[PHONE NUMBER]** or Class Counsel, who may be reached as follows:

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You may also refer to the pleadings, the Settlement Agreement, and other papers filed in this case, which may be inspected at the Office of the Clerk of the Orange County Superior Court, located at **[ADDRESS]**, during regular business hours of each court day.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE,
DEFENDANTS, OR DEFENDANTS' ATTORNEYS WITH INQUIRIES.**

Questions? Contact the Settlement Claims Administrator toll free at **[PHONE NUMBER]**