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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF LOS ANGELES**
10 **(UNLIMITED JURISDICTION)**

11 NORMA ANGELICA MARTINEZ,

12 Plaintiff,

13 vs.

14 ROBERT CHOW; UNION PLAZA
15 MARKET; and DOES 1 to 25, inclusive,

Case No.: 22STCV11902

Hon. Upinder S. Kalra

16 **MOTION FOR APPROVAL OF PAGA**
17 **SETTLEMENT AND RELEASE**

18 [Filed Concurrently with the Declaration of
19 Sevag Nigoghossian; [PROPOSED] Order]

Hearing Date: November 2, 2023

Hearing Time: 9:00am

Hearing Dept: 51

Complaint: April 7, 2022

Reservation No.: 951720125657

20 **I. INTRODUCTION**

21 Plaintiff, NORMA ANGELICA MARTINEZ (“Plaintiff”), and Defendants, ROBERT
22 CHOW (“CHOW”) and UNION PLAZA MARKET (“UNION”) (collectively “Defendants”) have
23 reached an agreement to settle the above-captioned action (the “Action”). The parties have
24 memorialized the terms of this settlement in a Settlement Agreement (the “Settlement
25 Agreement”). Attached as “**Exhibit A**” is a copy of the PAGA Settlement Agreement. By this
26 Stipulation and pursuant to California Labor Code § 2699(l), Plaintiff seeks an order permitting
27 settlement on the terms outlined in the Settlement Agreement. Plaintiff and Defendants are
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collectively referred to as the “Parties” and any one of them individually may be referred to as a “Party.”

Defendants adamantly deny any liability or wrongdoing of any kind whatsoever associated with the Action, and further deny that, for any purpose other than settling the Action, the Action is appropriate for representative treatment. It is the desire of the Parties to fully, finally, and forever compromise, and discharge all claims known or unknown related to those alleged in the Action.

II. ALLEGATIONS AND INVESTIGATION

Plaintiff had been an employee of Defendants, since 2018. Her employment ended on or around June 28, 2021. Throughout her employment tenure, Plaintiff was classified as an hourly, non-exempt employee. *See* Declaration of Sevag Nigoghosian, ¶4.

Plaintiff complied with the procedures of Labor Code § 2699.3 for bringing suit under the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.* (“PAGA”). *See* Declaration of Sevag Nigoghosian, ¶5. On July 31, 2021, Plaintiff, on behalf of herself and Defendants’ other California non-exempt hourly employees (hereafter collectively the “Aggrieved Employees”) gave written notice by electronic service to the California Labor and Workforce Development Agency (“LWDA”) and via certified mail to Defendants of her claims against Defendants. *See* Declaration of Sevag Nigoghosian, ¶5. In her notice to the LWDA, Plaintiff asserted on behalf of herself and the Aggrieved Employees that Defendants (1) failed to compensate for all hours worked and to pay minimum wages (Labor Code Sections 1194, 1197, 1197.1); (2) failed to pay overtime compensation (Labor Code Section 510); (3) failed to provide rest breaks (Labor Code Section 226.7); (4) failed to provide meal breaks (Labor Code Sections 512, 226.7); (5) failed to timely pay wages due during employment (Labor Code

1 Section 204); (6) failed to provide accurate itemized wage statements (Labor Code Section 226);
2 (7) failed to keep accurate and complete payroll records (Labor Code Section 1174/1174.5); (8)
3 failed to pay wages at the end of employment (Labor Code section 203); (9) failed to reimburse
4 business expenses (Labor Code Sections 2800, 2802); and (10) failed to provide sick pay (Labor
5 Code sections 232, 246). *See* Declaration of Sevag Nigoghosian, ¶5. Plaintiff updated her PAGA
6 notice on August 17, 2021. *See* Declaration of Sevag Nigoghosian, ¶5. Plaintiff filed her initial
7 lawsuit on April 7, 2022 in the Superior Court for the State of California, County of Los Angeles,
8 Case No. 22STCV11902 with 12 causes of action for penalties under the following legal
9 theories: 1) Failure To Compensate For All Hours Worked; 2) Failure To Pay Minimum Wages;
10 3) Failure To Pay Overtime; 4) Failure To Provide Accurate Itemized Wage Statements; 5)
11 Failure To Pay Wages When Employment Ends; 6) Failure To Pay Wages Owed Every Pay
12 Period; 7) Violation Of Labor Code § 558; 8) Failure To Maintain Accurate Records; 9) Failure
13 To Give Rest Breaks; 10) Failure To Give Meal Breaks; 11) Violation Of Ca B&P Code §
14 17200; and 12) Private Attorneys General Act (“Paga”). *See* Declaration of Sevag Nigoghosian,
15 ¶5.
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19 According to Defendants’ records, it has employed 29 Aggrieved Employees from
20 February 1, 2021 through June 16, 2023, and there are paychecks issued for a total of
21 approximately 2,569 pay periods worked for that same time period. *See* Declaration of Sevag
22 Nigoghosian, ¶5.
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24 Defendants deny any liability or wrongdoing of any kind whatsoever associated with the
25 lawsuit and the Representative PAGA Claim. It is the desire of the Parties to fully, finally, and
26 forever compromise, and discharge all claims known or unknown related to those alleged in
27 Plaintiff’s lawsuit.
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1 On June 16, 2023, the Parties attended a full day mediation session with experienced
2 wage-and-hour mediator Eleanor Barr. *See* Declaration of Sevag Nigoghossian, ¶7. At the
3 mediation, the Parties agreed to settle the entire action, including the Representative PAGA
4 claim for violation of Labor Code § 2698, *et seq.* *See* Declaration of Sevag Nigoghossian, ¶7.
5 Before agreeing to the terms of the Settlement, the Parties engaged in discovery regarding
6 Defendants' policies, practices, operations, time and payroll information and other topics. *See*
7 Declaration of Sevag Nigoghossian, ¶7. In advance of mediation, Defendants produced Plaintiff's
8 personnel file, including time and payroll data for Plaintiff and also produced the time records
9 and payroll records for a 34% representative group of aggrieved employees. *See* Declaration of
10 Sevag Nigoghossian, ¶7. Through extensive arm's length negotiations at the mediation and only
11 after discovery and investigation were performed, the Parties agreed to settlement terms. *See*
12 Declaration of Sevag Nigoghossian, ¶7.

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15 The Parties conducted investigation of the facts and law both before and after the lawsuit
16 was filed. *See* Declaration of Sevag Nigoghossian, ¶8. Counsel for the Parties have further
17 investigated the applicable law as applied to the facts discovered regarding Plaintiff's claims,
18 the defenses thereto, and the Labor Code violations claimed by Plaintiff. *See* Declaration of
19 Sevag Nigoghossian, ¶8. Based on their own independent investigations and evaluations, the
20 Parties and their respective counsel are of the opinion that the Settlement for the consideration
21 and on the terms set forth in this Stipulation are fair, reasonable and adequate and are in the best
22 interests of Plaintiff, the Aggrieved Employees, and Defendants in light of all known facts and
23 circumstances and the risks inherent in litigation, especially in this pandemic era when most
24 businesses are struggling to remain afloat, much less prosper and make a large profit. *See*
25 Declaration of Sevag Nigoghossian, ¶8.
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1 The Parties further recognize that the issues presented in the Representative PAGA
2 Claim are likely only to be resolved with extensive and costly pretrial and trial proceedings, and
3 that further litigation will cause inconvenience, distraction, disruption, delay, and expense
4 disproportionate to the maximum potential benefits, especially in light of the pandemic era and
5 the business climate. *See* Declaration of Sevag Nigoghosian, ¶9.

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7 **III. FAIRNESS OF THE SETTLEMENT**

8 While this lawsuit is a Representative PAGA Claim, the Parties are not obligated to
9 follow the class action procedural rules for obtaining approval of this settlement. *Arias v.*
10 *Superior Court (Angelo Dairy)* (2009) 46 Cal.4th 969.

11 Plaintiff alleges that the strongest claims are that Plaintiff and other Aggrieved
12 Employees were not provided timely, uninterrupted meal and rest breaks and were not paid the
13 correct amount of overtime compensation. *See* Declaration of Sevag Nigoghosian, ¶11. In terms
14 of Plaintiff's other claims for minimum wage violations and failure to compensate for all hours
15 worked, no rounding issues were observed. *See* Declaration of Sevag Nigoghosian, ¶11.
16 Furthermore, any further evidence of "off the clock" work would not appear in any pay
17 documents. *See* Declaration of Sevag Nigoghosian, ¶11. The other associated PAGA claims are
18 derivative to the meal/rest break and overtime allegations for which Defendants would not have
19 additional liability for inaccurate pay stubs, failure to pay all wages owed, failure to keep accurate
20 payroll records, and failure to pay wages at the end of employment. *See* Declaration of Sevag
21 Nigoghosian, ¶11.

22 Plaintiff contends that the civil penalty statutes applicable to the Representative PAGA
23 Claim are Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, 2802 and 2699(f)(2). *See* Declaration
24 of Sevag Nigoghosian, ¶12. Under these civil penalty statutes, an employee who suffers a Labor
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1 Code violation, may be awarded a sum of money for each pay period in which he or she was
2 underpaid. *See* Declaration of Sevag Nigoghosian, ¶12. However, under Labor Code §
3 2699(e)(2), the Court can reduce an award of civil penalties if the award is unjust, arbitrary,
4 oppressive, or confiscatory. *See* Declaration of Sevag Nigoghosian, ¶12.

5 Under the civil penalty formulas applicable under PAGA, Plaintiff estimated a maximum
6 exposure of approximately \$140,100 for civil penalties for Plaintiff's strongest disputed claims
7 of failure to provide meal and rest periods and a rounding issue with the work hours. *See*
8 Declaration of Sevag Nigoghosian, ¶13. Plaintiff's analysis, which Defendants vehemently
9 dispute, revealed a 26.6% violation rate for either late, short, or interrupted meal periods at shifts
10 of 5 hours or longer (with 89.9% of shifts being greater than 5 hours). *See* Declaration of Sevag
11 Nigoghosian, ¶13. As such, with the 26.6% violation rate of 89.9% of the shifts, the maximum
12 exposure would be \$30,700, which is calculated as \$50 penalty multiplied by 614 pay periods
13 (26.6% of the 2310 pay periods). *See* Declaration of Sevag Nigoghosian, ¶13. Plaintiff
14 extrapolated the same 26.6% for rest break violations, which would equate to an exposure of
15 \$68,300 (\$100 penalty per pay period multiplied by 683 pay periods, which is 26.6% of the total
16 pay periods of 2,569). *See* Declaration of Sevag Nigoghosian, ¶13. As far as the claim for
17 rounding, Plaintiff discovered that there was unfavorable rounding in 16% of the shifts, which
18 would equate to 411 shifts. *See* Declaration of Sevag Nigoghosian, ¶13. At \$100 per pay period
19 for failure to pay the minimum wage, the maximum exposure would be \$41,100. *See* Declaration
20 of Sevag Nigoghosian, ¶13. Assuming that Plaintiff's calculations and analysis is accurate, the
21 maximum exposure presumes that the Court will not reduce the penalty award as unjust, arbitrary,
22 oppressive, or confiscatory. *See* Declaration of Sevag Nigoghosian, ¶13.

23 Moreover, Plaintiff is aware of no California state courts awarding Plaintiffs multiple
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1 PAGA penalties for the same violation for the same pay period under different Labor Code
2 provisions. *See* Declaration of Sevag Nigoghosian, ¶13. As such, one of the risks Plaintiff faces
3 is that the Court would refuse to “stack” civil penalties arising under the various Labor Code
4 statutes. *See* Declaration of Sevag Nigoghosian, ¶13. Furthermore, judges have awarded
5 extremely small sums to PAGA claimants in the past. In addition, Defendants would make an
6 argument under *Naranjo v. Spectrum Security Services, Inc.*, 40 Cal. App. 5th 444 (Cal. App. 2d
7 Dist., Sept. 26, 2019) and other similar cases, which at the time of this settlement, held that meal
8 or rest period violations are not a predicate for civil penalties for improper wage statements and
9 untimely final wages under Labor Code secs.201-203, 226, 226.3, and 2699. *See* Declaration of
10 Sevag Nigoghosian, ¶13. Defendants also adamantly dispute all of Plaintiff’s allegations in the
11 operative Complaint. *See* Declaration of Sevag Nigoghosian, ¶13.

14 The source of penalties available is under PAGA, which allows employees to seek civil
15 penalties for certain violations of the Labor Code so long as the penalties are not unjust, arbitrary,
16 oppressive, or confiscatory. *See* Declaration of Sevag Nigoghosian, ¶14. There are no State Court
17 decisions under the PAGA to date with substantial awards of civil penalties. *See* Declaration of
18 Sevag Nigoghosian, ¶14. There is a substantial risk that the Court could reduce civil penalties to
19 an insignificant amount if it is unpersuaded by Plaintiff’s evidence of willful and intentional
20 conduct. *See* Declaration of Sevag Nigoghosian, ¶14. The PAGA expressly counsels against such
21 awards. *See Lab. Code* § 2699(e)(2) (“...a court may award a lesser amount than the maximum
22 civil penalty amount specified by this part if, based on the facts and circumstances of the
23 particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive,
24 or confiscatory.”). *See* Declaration of Sevag Nigoghosian, ¶14. Further, although, class
25 certification is not required for a PAGA claim, Defendants could contend that Plaintiff should
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1 show that the PAGA claims are manageable. *See* Declaration of Sevag Nigoghosian, ¶14.

2 As such, Defendants could also convince the Court to dismiss the claims due to
3 unmanageability. In *Ortiz v. CVS Caremark Corp.*, the court dismissed a PAGA claim because
4 it was unmanageable. 2014 WL 1117614, at *3–4 (N.D. Cal. 2014). The Ortiz court cited the
5 “multitude of individualized assessments” that case would have required in ordering dismissal.
6 *Id.* at *4. Several other courts have adopted *Ortiz*, and dismissed PAGA claims where, as here,
7 there are a large number of allegedly aggrieved individuals whose claims require individual
8 assessments. *See, e.g., Litty v. Merrill Lynch & Co.*, 2014 WL 5904904, at *3 (C.D. Cal. 2014);
9 *Bowers v. First Student, Inc.*, 2015 WL 1862914, at *4 (C.D. Cal. 2015); *see also Stafford v.*
10 *Dollar Tree Stores, Inc.*, 2014 WL 6633396, at *2–4 (E.D. Cal. 2014) (bifurcating trial of
11 plaintiff’s claim from representative claims: “in light of the number of potential aggrieved
12 employees, judicial economy favors deferring the representative portion of the PAGA claim”);
13 *Amey v. Cinemark USA Inc.*, 2015 WL 2251504, at *16 (N.D. Cal. May 13, 2015). DS, ¶ 24. The
14 risk of an unmanageable trial is heightened in a representative PAGA claim because the burden
15 of proof rests with the plaintiff to establish violations of the Labor Code “with respect to each
16 and every individual on whose behalf [they] seek[] to recover civil penalties.” *Molina v. Dollar*
17 *Tree Stores, Inc.*, 2013 U.S. Dist. LEXIS 138642, at *33-34 (C.D. Cal. Aug. 9, 2013); *Hibbs-*
18 *Rines v. Seagate Techs, LLC*, 2009 WL 513496, at *4 (N.D. Cal. Mar. 2, 2009). Moreover, in a
19 PAGA case the plaintiff must prove liability with respect to “each and every individual” through
20 representative evidence – but without sacrificing the defendant’s due process right to present
21 proof of their affirmative defenses. *Elkins v. Superior Court*, 41 Cal. 4th 1337, 1357 (2007);
22 *Walmart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2561 (2011); *Duran v. U.S. Bank Nat’l Ass’n*, 59
23 Cal. 4th 1, 33-34 (2014). Plaintiff is required to establish a violation of the Labor Code in each
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1 pay period of each and every one of the approximately 279 employees. The Court could find that
2 this is an impractical task and require the Eligible Employees to bring individual claims instead
3 of a PAGA representative claim.

4 The Parties further recognize that the issues presented in the Representative PAGA Claim
5 are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that
6 further litigation will cause inconvenience, distraction, disruption, delay, and expense
7 disproportionate to the maximum potential benefits to the Subject Employees and Plaintiff from
8 continued litigation, especially in the pandemic era where further and extensive litigation may
9 cause businesses to shut down, resulting in no monetary compensation to Plaintiff, Plaintiff's
10 attorneys, other Aggrieved Employees, and the State of California.

11 The settlement of the Representative PAGA Claim involves monetary relief to all
12 Aggrieved Employees, Plaintiff, her attorneys, and the State of California.

13 Furthermore, Plaintiff recognizes that continued litigation presents significant risks that
14 support a significant downward departure from Plaintiff's estimated civil penalties amount. In
15 view of the risks, the Settlement represents a fair, adequate, and reasonable compromise amount
16 for these claims and is in the best interest of Plaintiff and Eligible Employees and thus, warrants
17 approval. *See Laguna v. Coverall N. Am., Inc.*, Case No. 12-55479 (9th Cir. June 3, 2014) 2014
18 WL 2465049, * 3. The PAGA settlement and its terms are fair, just, reasonable, adequate, and
19 equitable to Defendants, Plaintiff, and the State, especially in light of the current economic
20 climate, and are the product of good faith, and informed arms-length negotiations between the
21 Parties consistent with public policy and fully comply with applicable provisions of law.

22 **IV. TERMS AND PROCEDURES OF THE SETTLEMENT**

23 The Settlement covers any and all civil penalties claims arising from Plaintiff's
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1 allegations in her Complaint, as laid out above.

2 Defendants agrees to pay \$85,000.00 toward the Settlement (the “Gross Settlement
3 Amount” or “GSA”) which will be distributed by Defendants as follows:

4 a. \$28,333.33 (33 1/3% of the GSA) in attorneys’ fees to the Law Offices of
5 Sevag Nigoghossian;

6 b. \$9,053.94 (as of October 1, 2023) in attorney litigation costs to the Law
7 Offices of Sevag Nigoghossian;

8 c. \$2,500.00 in PAGA Settlement Administrator costs to Phoenix Settlement
9 Administrator;

10 d. \$45,112.73 (the “Net Settlement Amount” or “NSA”) will be divided as
11 follows:

12 i. \$33,834.55 (75% of “NSA”) to the LWDA, which represents civil
13 penalties payable to the LWDA under the Labor Code Private Attorneys
14 General Act (“PAGA”), Labor Code section 2698, *et seq.*; and

15 ii. \$11,278.18 (25% of NSA) (the “Aggrieved Employee Amount”) to the
16 Aggrieved Employees which represents civil penalties payable to the
17 Aggrieved Employees as compensation for civil penalties that are
18 allegedly owed on the Representative PAGA Claim for the period from
19 February 1, 2021 through June 16, 2023.

20 See Declaration of Sevag Nigoghossian, ¶20.

21 Plaintiff and each Aggrieved Employee shall receive a portion of the Aggrieved
22 Employee Amount on a pro-rata basis by multiplying the Aggrieved Employee Amount by the
23 ratio of (i) the number of pay periods worked by the Aggrieved Employee during the release
24 period and (ii) the total number of pay periods worked by all Aggrieved Employees during the
25 release period.

26 For purposes of computing taxes, one hundred percent (100%) of the Aggrieved Employee
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1 Settlement Award shall be considered to be a civil penalty and shall not be subject to withholding,
2 unless otherwise required by law. The Claims Administrator shall file proof of payment.

3 **V. THE PROPOSED ATTORNEYS' FEES AND COST ARE FAIR, ADEQUATE,**
4 **AND REASONABLE AND SHOULD BE APPROVED**

5 Plaintiff's counsel represents Plaintiff on a straight contingency basis. *See* Declaration of
6 Sevag Nigoghosian, ¶23. Plaintiff counsel's request for \$28,333.33 in attorney fees and \$9,053.94
7 in litigation costs is fair and reasonable. *See* Declaration of Sevag Nigoghosian, ¶23. "Empirical
8 studies show that, regardless of whether the percentage method or the lodestar method is used,
9 fee awards in class actions average around one-third of the recovery.
10 *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 47 fn. 11 (quoting *Shaw v. Toshiba America*
11 *Information Systems, Inc.* (E.D. Tex. 2000) 91 F.Supp.2d 942, 972; *See also Lafitte v. Robert Half*
12 *Int'l Inc.* (Cal. Aug. 11, 2016) 1 Cal.5th 480, 503, 376 P.3d 672, 686 (holding that courts can use
13 the percentage method for the calculation of attorneys' fees). *See* Declaration of Sevag
14 Nigoghosian, ¶23. This is also consistent with Plaintiff's Counsel's experience in cases involving
15 PAGA claims. *See* Declaration of Sevag Nigoghosian, ¶23. This award is justified here because
16 Plaintiff's counsel achieved a strong result for the Aggrieved Employees and the State while
17 bearing the substantial burdens of contingency representation. *See* Declaration of Sevag
18 Nigoghosian, ¶23.

19 It is an accepted practice in wage and hour class action settlements to award attorneys'
20 fees to Plaintiff's Counsel based on a percentage of the total settlement value agreed upon by the
21 parties. California courts have long recognized that an appropriate method for awarding attorneys'
22 fees in class actions is to award a percentage of the common fund. *See Serrano v. Priest* (1977),
23 20 Cal.3d. 25, 48-49 ["when a number of persons are entitled in common to a specific fund, and
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1 an action brought by a plaintiff or plaintiffs for the benefit of all results in the creation or
2 preservation of that fund, such plaintiff or plaintiffs may be awarded attorney's fees out of the
3 fund"]; *Wershba v. Apple Computer, Inc.* (2001), 91 Cal.App.4th, 230, 254; *Lealao v. Beneficial*
4 *California, Inc.* (2000) 82 Cal.App.4th 19, 26-30.)

5 The litigation costs expended to aid in the representation of the Aggrieved Employees
6 include the following: lawsuit filing fee of \$454.22, PAGA initial filing fee of \$75.00, a mediation
7 fee of \$6,500.00 (for Plaintiff's portion of the mediation); electronic filing fees 207.93; postage
8 \$14.40; Jury Fees \$161.39; Service of Process \$100.00; and expert data analysis fee of \$1,550.00
9 for a total of \$9,053.94. All of these costs are documented and reasonably incurred. *See*
10 Declaration of Sevag Nigoghosian, ¶24.

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13 **VI. NO ADMISSION OF LIABILITY OR WRONGDOING**

14 The payment of consideration or any other obligation are not and shall not be construed
15 in any way as an admission of wrongdoing or liability on the part of Defendants, or any other
16 person or business entity. Defendants adamantly denies all allegations of wrongdoing arising out
17 of the employment relationship between the Parties, including the Aggrieved Employees. The
18 Parties intend merely to avoid the expense, delay, uncertainty and burden of continued litigation.

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20 **VII. PAGA SETTLEMENT ADMINISTRATION**

21 The Parties agree to use PHOENIX SETTLEMENT ADMINISTRATOR to handle the
22 administration of this Settlement.

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24 PAGA Employee List. Defendants shall compile a list containing the following
25 information regarding each of the PAGA Employees: (1) full name; (2) last known mailing
26 address; (4) Social Security number; and (5) the total number of pay periods worked during the
27 PAGA Period ("PAGA Employee List"). The PAGA Employee List will be provided to the
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1 Settlement Administrator within fifteen (15) calendar days after the Court has signed and entered
2 the Approval Order. This information shall be treated as and remain confidential and shall be
3 used solely to manage the notice and payment process described herein, shall not be disclosed to
4 anyone other than the Settlement Administrator, except to applicable taxing authorities, or
5 pursuant to express written authorization of Defendants, the individual in question, or by order
6 of the Court.
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8 Funding of Settlement. Defendants shall fund the Gross Settlement Amount by way of
9 electronic transfer to the account to be established by the Settlement Administrator for purposes
10 of administration of the Settlement (“Settlement Administration Account”) within ten (10)
11 calendar days after the Court has signed and entered the Approval Order granting approval of the
12 PAGA Settlement but not before November 2, 2023. Defendants’ obligations for funding the
13 settlement are satisfied upon electronic transfer of the Gross Settlement Amount to the Settlement
14 Administrator pursuant to the Settlement Administrator’s instructions, provided, however, that
15 any unsuccessful electronic transfer of funds be of no fault of Defendants. In the event of an
16 unsuccessful electronic transfer of funds, the Parties agree to cooperate in good faith to resolve
17 the issues.
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20 Payments to LWDA, Plaintiff’s Counsel, Plaintiff, and Settlement Administrator. Within
21 fifteen (15) calendar days after Defendants funds the Gross Settlement Amount, the Settlement
22 Administrator shall pay the Court-approved LWDA Payment to the LWDA, Attorneys’ Fees and
23 Costs to Plaintiff’s Counsel, and Settlement Administration Costs to itself.
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25 Employee Notices and Payments to PAGA Employees. Within fifteen (15) calendar days
26 after Defendants funds the Gross Settlement Amount, the Settlement Administrator shall mail
27 via U.S. First Class mail to each PAGA Employee his or her Individual Settlement Check at the
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1 last known address in the PAGA Employee List or a more updated address from the National
2 Change of Address Database. A notice letter explaining why the check is being sent (“Employee
3 Notice”), in a mutually-agreed upon form that has been approved by the Court, in substantially
4 the form that is attached hereto as “**Exhibit B**” will be included in the mailing of each PAGA
5 Employee’s Individual Settlement Check. Together, an Individual Settlement Check that is
6 mailed to a PAGA Employee with the Employee Notice is referred to as a “Payment Packet.”
7 Prior to mailing the Payment Packets, the Settlement Administrator shall check the addresses
8 provided using the National Change of Address database. Should any of the Employee Notices
9 be returned as undeliverable, the Settlement Administrator will have ten (10) calendar days after
10 it receives the returned undeliverable mail to search for a more current address for the PAGA
11 Employee (via a skip trace or other reasonable method) and to re-mail Employee Notices to the
12 traced address. The Settlement Administrator will only be required to re-mail the Payment
13 Packets once by way of this process.

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16 Expiration of Settlement Checks. All Individual Settlement Checks will expire one
17 hundred and eighty (180) calendar days after the initial mailing of the original Payment Packets
18 to the PAGA Employees, and thereafter, shall be cancelled. If any funds remain in the Settlement
19 Administration Account as a result of cancelled Individual Settlement Checks, such funds shall
20 be transmitted to the California State Controller’s Office Unclaimed Property Fund in the name
21 of each PAGA Employee whose check is voided. All duties set forth herein shall be included in
22 the Settlement Administration Costs and paid from the Gross Settlement Amount. Irrespective
23 of whether a PAGA Employee’s Individual Settlement Check has been actually received and/or
24 cashed, he or she will be deemed to be bound to this Settlement, the release provided herein, and
25 the Court’s Approval Order.
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1 Disputes Relating to Settlement Administration. Any disputes concerning administration
2 of the Settlement which cannot be resolved by the Parties shall be submitted to and resolved by
3 the Court.

4 Settlement Administrator's Tax Reporting. The Settlement Administrator shall be
5 responsible for providing the requisite Form 1099's as required by this Agreement, and the
6 completion of any other steps necessary for compliance with any tax obligations of the Settlement
7 under federal, state, and/or local law, as applicable.

8 Confirmation of Administration of Settlement. Within twenty-one (21) calendar days of
9 distributing the Gross Settlement Fund, the Settlement Administrator shall provide to Plaintiff's
10 Counsel and Counsel for Defendants a written declaration verifying that it effected disbursement
11 of the Gross Settlement Fund pursuant to the terms of this Agreement.

12 Notice Regarding Settlement Compliance. Within fourteen (14) calendar days of receipt
13 of the Settlement Administrator's declaration confirming Defendants' funding of the Settlement
14 and the Settlement Administrator's disbursement of the Gross Settlement Fund, and provided
15 Defendants has also issued payment to Plaintiff as set forth in Plaintiff's General Release
16 Agreement, Plaintiff shall file a notice informing the court of compliance with the terms of the
17 Settlement and satisfaction of the Judgment, and requesting formal closure of the Action.

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21 **VIII. TAXES**

22 Plaintiff and each Aggrieved Employee bear full responsibility for the payment of any
23 taxes or withholdings arising from the Aggrieved Employee Settlement Awards paid to them.

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25 **IX. RELEASED CLAIMS**

26 Upon the approval by the Court of this Settlement, Plaintiff, the State of California and
27 each Aggrieved Employee shall fully release and forever discharge Defendants and the Released
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Parties from any and all claims, rights, demands, liabilities for violation of PAGA (Labor Code § 2699, et seq.) that arose during the Release Period as it relates to Labor Code section 2698, et seq. for alleged violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, and all applicable Wage Orders, and all claims for attorneys' fees and costs and statutory interest in connection therewith.

Plaintiff entered into a confidential individual settlement agreement with Defendants to settle her individual claims. As part of this confidential agreement, Plaintiff also provided Defendants with a general release of all claims, whether known or unknown, including unknown claims covered by Civil Code Section 1542. *See*, Declaration of Sevag Nigoghosian at ¶ 23.

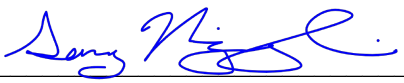
X. CONCLUSION

The Parties respectfully request the Court grant this Motion and approve the settlement.

Respectfully Submitted,

Dated: October 6, 2023

LAW OFFICES OF SEVAG NIGOGHOSIAN

By 
Sevag Nigoghosian, Esq.
Attorneys for Plaintiff,
NORMA ANGELICA MARTINEZ

Dated: October 6, 2023

LAW OFFICES OF CHANHO JOO

By 
Frank E. Marchetti
Attorneys for Defendants, ROBERT
CHOW and UNION PLAZA MARKET

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“EXHIBIT A”

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT

AGREEMENT AND RELEASE

This Private Attorneys General Act Settlement Agreement and Release ("Agreement") is made by and between Norma Angelica Martinez ("Plaintiff"), on behalf of herself, on behalf of the PAGA Employees (as defined below), and as a proxy/agent for the California Labor Workforce Development Agency ("LWDA"), and Defendants Robert Choi (erroneously sued as "Robert Chow") and Union Plaza Market (collectively "Defendant"), to resolve the Action and Released Claims, subject to the terms and conditions hereof and the approval of the Court. Plaintiff and Defendant are collectively referred to herein as the "Parties" and each may be individually referred to as a "Party."

I. REPRESENTATIONS AND DEFINITIONS

1. "Action" means and refers to the civil action filed in the Superior Court of the State of California for the County of Los Angeles, entitled *Norma Angelica Martinez v. Robert Chow; Union Plaza Market*, Los Angeles County Superior Court, Case No. 22STCV11902 alleging causes of action for (1) Failure To Compensate For All Hours Worked, (2) Failure To Pay Minimum Wages, (3) Failure To Pay Overtime, (4) Failure To Provide Accurate Itemized Wage Statements, (5) Failure To Pay Wages When Employment Ends, (6) Failure To Pay Wages Owed Every Pay Period, (7) Violation of Labor Code §558, (8) Failure To Maintain Accurate Records, (9) Failure To Give Rest Breaks, (10) Failure To Give Meal Breaks, (11) Violation of CA B&P Code §17200, and (12) Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *et seq.*
2. "Agreement" or "Settlement" means the arm's-length settlement agreement reached between the Parties as set forth in this Private Attorneys General Act Settlement Agreement and Release, and the terms, conditions and requirements set forth herein, including any attached exhibits.
3. "Counsel for Defendant" means and refers to Law Offices of Chanhoo C. Joo, Chanhoo C. Joo, Esq. and Frank E. Marchetti, Esq. (Of Counsel).
4. "Court" means and refers to the Superior Court of California for the County of Los Angeles. Court shall also mean any other Court that acquires proper jurisdiction of this Action.
5. "Defendant" means and refers to Robert Choi and Union Plaza Market.
6. "Effective Date" means and refers to the date by which all of the following have occurred: (1) the Court has signed and entered the Approval Order (as defined below), and (2) Defendant has fully funded the Settlement.
7. "LWDA" means and refers to the California Labor and Workforce Development Agency.
8. "Operative Complaint" means and refers to: the Complaint for Damages filed by Plaintiff against Defendant on April 7, 2022 in the Action.
9. "PAGA" means and refers to the Private Attorneys General Act of 2004, codified at California Labor Code § 2698, *et seq.*
10. "PAGA Employees" or singularly "PAGA Employee" means and refers to Plaintiff and all current and former non-exempt employees who worked for Defendant within the State of California during the PAGA Period.
11. "PAGA Period" means the time period from February 1, 2021 through June 16, 2023.

12. "Parties" means and refers to, collectively, Plaintiff and Defendant, and "Party" means and refers to Parties individually.

13. "Pay Periods" means and refers to the total number of pay periods that each PAGA Employee worked as a non-exempt employee for Defendant during the PAGA Period.

14. "Plaintiff" means Norma Angelica Martinez.

15. "Plaintiff's Counsel" means and refers to Sevag Nigoghosian, Esq. of LAW OFFICES OF SEVAG NIGOGHOSIAN.

16. "Released Claims" means and refers to any and all claims, demands, rights, liabilities and causes of action under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.*, that are based upon or arise from the factual allegations in the Operative Complaint and the Notice to the LWDA, arising during and/or with respect to the PAGA Period, including without limitation, claims for civil penalties under the PAGA for the alleged failure to: properly pay for all hours worked, pay all minimum wages, pay all overtime wages, provide lawful meal periods or provide meal premium compensation in lieu thereof, authorize or permit lawful rest breaks or provide rest premium compensation in lieu thereof, reimburse necessary business expenses, provide sick pay pursuant to Labor Code section 246, timely pay all wages during employment and upon separation of employment, provide compliant wage statements, and keep requisite work records, and for civil penalties for violation of and/or based on California Labor Code §§ 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, and all applicable Wage Orders, and all claims for attorneys' fees and costs and statutory interest in connection therewith.

17. "Released Parties" means and refers to Defendant, and its respective agents, attorneys, insurers, past, present and future divisions, affiliates, DBAs (if any), predecessors, successors, shareholders, officers, directors, managers, employees, trustees, representatives, administrators, fiduciaries, assigns, subrogees, executors, partners, parents, owners, subsidiaries, privies, and/or any and all persons and/or corporate entities acting by, through, under or in concert with any of them..

18. "Settlement Administrator" means and refers to Phoenix Settlement Administrators.

II. NATURE OF ACTION

1. On August 17, 2021, Plaintiff sent a letter to the LWDA, Defendant giving notice of her intent to pursue a representative action pursuant to the PAGA, on behalf of herself and the State of California, as well as on behalf of a proposed group of aggrieved employees. This letter is referred to as "Notice to the LWDA."

2. On April 7, 2022, Plaintiff Filed her Complaint alleging a cause of action for enforcement under the Private Attorneys General Act, California Labor Code § 2698, *et seq.*

3. The parties engaged in significant investigation and exchange of data and documents, as well as private mediation that took place on June 16, 2023, with mediator Eleanor Barr, Esq., and with the benefit of the mediator's evaluation, the Parties reached the Settlement described herein.

4. This Settlement relates solely to the PAGA claims on behalf of Plaintiff and the State of California with respect to Plaintiff and all PAGA Employees. Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Action, denies liability for the Released Claims, and further denies that the Action is appropriate for representative treatment for any purpose other than settling this Action. Defendant contends, among other things, that it has complied at all times with the California Labor Code and the related

Industrial Welfare Commission Wage Orders, all other state and federal wage laws, and further contends that all of their respective employees were and are paid properly and that the Action is without merit. Defendant has denied and continues to deny each and every material factual allegation and all alleged claims asserted against it in the Action.

5. The Parties recognize that the issues presented in the Action are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay and expense disproportionate to the potential benefits of litigation. The Parties have taken into account the risk and uncertainty of the outcome inherent in any litigation.

6. Based on their own independent investigations and evaluations, the Parties and their respective counsel are of the opinion that the settlement for the consideration and on the terms set forth in this Agreement is fair, reasonable, adequate, and is in the best interests of Plaintiff, PAGA Employees, the State of California, and Defendant in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Further, Plaintiff's Counsel believes that the settlement amount entered into is in the best interests of the PAGA Employees and the State of California, and fair, reasonable, and adequate given the inherent risk of litigation.

III. TERMS OF SETTLEMENT

1. In consideration of the mutual covenants, promises and representations set forth in this Agreement, Plaintiff, on behalf of herself, the State of California, and all PAGA Employees, and Defendant agree to settle and compromise the Action and the Released Claims.

2. The Gross Settlement Amount. As consideration for the settlement described herein and the release provided herein, Defendant agrees to pay the all inclusive total amount of Eighty Five Thousand Dollars and zero cents (\$85,000.00) ("Gross Settlement Amount"). Except in the event that the Escalator Clause is triggered, as provided for in Section III Paragraph 8 below, Defendant will not be responsible for anything more than the Gross Settlement Amount under this Agreement. Defendant shall fund the Gross Settlement Amount as set forth herein. The Gross Settlement Amount will include payments as follows, which Plaintiff will seek approval of from the Court, in conformity with this Agreement:

- a. Payment of Attorneys' Fees and Costs to Plaintiff's Counsel, as set forth herein;
- b. Payment to the Settlement Administrator, Phoenix Settlement Administrators, not to exceed the amount of two thousand five hundred dollars and zero cents (\$2,500.00) ("Settlement Administration Costs"); and
- c. The PAGA Penalties to be paid to the LWDA and PAGA Employees, as set forth herein.

3. Allocation and Calculation of the PAGA Penalties. The amount available for distribution to the LWDA and PAGA Employees ("PAGA Penalties") is the Gross Settlement Amount less the Court-approved Attorneys' Fees and Costs to Plaintiff's Counsel and the Settlement Administration Costs to the Settlement Administrator. Seventy Five Percent (75%) of the PAGA Penalties will be paid to the LWDA ("LWDA Payment"), and Twenty Five Percent (25%) of the PAGA Penalties will be paid to the PAGA Employees ("Employee Amount"), as required by California Labor Code § 2699(i).

4. Allocation and Calculation of the Individual Settlement Payments. Each PAGA Employee will receive a *pro rata* portion of the Employee Amount, determined based on the pay periods that he or she worked

for Defendant in the State of California during the PAGA Period, to be calculated as follows: the Employee Amount will be divided by the total number of Pay Periods of all PAGA Employees to yield the "Per Pay Period Amount," and then each PAGA Employee's individual number of Pay Periods will be multiplied by the Per Pay Period Amount to yield his or her "Individual Settlement Payment." Individual Settlement Payments shall be paid to PAGA Employees by way of a single check to each PAGA Employee ("Individual Settlement Check").

5. Tax Treatment of Individual Settlement Payments to PAGA Employees. The Parties agree that Individual Settlement Payments sent to PAGA Employees will be characterized One Hundred Percent (100%) as penalties and Form 1099s will be issued. Nothing in this Agreement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Plaintiff and PAGA Employees shall be deemed to acknowledge that they have not obtained any tax advice from Defendant, Counsel for Defendant, or Plaintiff's Counsel, and that neither Defendant, Counsel for Defendant, nor Plaintiff's Counsel have made any representation concerning the tax consequences, if any, of any payments made pursuant to this Agreement. To the extent that this Agreement or its attachment(s) are interpreted to contain or constitute advice regarding any U.S. or Federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Plaintiff and PAGA Employees are solely responsible for any tax obligations in connection with any payments made pursuant to this Agreement.

6. Plaintiff's Counsel's Attorneys' Fees and Costs. As part of the request for approval of this Settlement, Plaintiff will request that the Court award the following to Plaintiff's Counsel: up to one-third (1/3) of the Gross Settlement Amount, or Twenty-Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$28,333.33), for attorneys' fees and up to Ten Thousand Dollars and zero cents (\$10,000.00) for reimbursement of actual costs and expenses of litigating the Action (together, "Attorneys' Fees and Costs"). The Attorneys' Fees and Costs shall be paid from the Gross Settlement Amount, subject to approval by the Court. Should Plaintiff's Counsel request a lesser amount for attorneys' fees and costs and/or the Court approve a lesser amount, the difference shall be a part of the PAGA Penalties to be distributed to the LWDA and PAGA Employees as described above. Payment of Attorneys' Fees and Costs will be made by the Settlement Administrator and reflected in a Form 1099 to Plaintiff's Counsel who shall assume full responsibility and liability for the payment of taxes due on such payments.

7. No Effect on Employee Benefits. The payments made to Plaintiff and other PAGA Employees pursuant to this Agreement are not intended to count as earnings by Plaintiff or the PAGA Employees, and will not entitle Plaintiff or the PAGA Employees to any additional compensation and/or benefits under any retirement, benefit, bonus, incentive, pension, welfare, and/or any other plan of or sponsored by Defendant. Defendant shall not make as part of this Agreement, nor be required to make, any deductions, nor pay any monthly contributions for any insurance, retirement, bonuses, 403(b), or profit sharing plans related to monies paid as a result of this Agreement. The Individual Settlement Payments paid to PAGA Employees shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g. bonuses, vacation, holiday pay, retirement plans, etc.) of PAGA Employees. The Parties agree that any Individual Settlement Payments paid to PAGA Employees under the terms of this Agreement do not represent any modification of PAGA Employees' previously credited hours of service or other eligibility criteria under an employee benefit plan sponsored by Defendant. Further, any Individual Settlement Payments are penalties and thus shall not be considered "compensation" in

any year for purposes of determining eligibility for, or benefit accrual within, any employee benefit plan or bonus plan sponsored by Defendant.

8. Escalator Clause. Defendant estimates that there are 29 Aggrieved Employees who worked an estimated 2569 total pay periods during the PAGA Period. In the event that the total number of pay periods in the PAGA Period is determined to be more than 10% higher than 2569 (i.e., more than 2825), Defendants will have an option of either: a. increasing the Gross Settlement Amount by a pro-rata dollar value equal to the number of pay periods in excess of 2,569 pay periods; or b. ending the PAGA Period on the first date the number of pay periods exceeds 2,569.

IV. RELEASE OF CLAIMS

1. Release by Plaintiff, PAGA Employees and LWDA. Upon the Effective Date, Plaintiff and each PAGA Employee, shall fully release and forever discharge the Released Parties from the Released Claims during the PAGA Period, and the State of California shall fully release and forever discharge the Released Parties from the Released Claims as they pertain to Plaintiff and PAGA Employees during the PAGA Period.

2. The Parties have, contemporaneously with this agreement, executed a separate Plaintiff's Confidential Settlement Agreement and General Release ("Plaintiff's General Release Agreement") which resolves, *inter alia*, Plaintiff's individual claims, and includes a waiver by Plaintiff of the provisions of California Civil Code Section 1542. Any consideration provided for by Plaintiff's General Release Agreement will be paid separate from, and in addition to, the Maximum Settlement Amount. The terms of Plaintiff's General Release Agreement do not become effective or enforceable unless and until the Court approves this Private Attorneys General Act Settlement Agreement and Release.

V. DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

1. Settlement Approval by Court. The Parties recognize that Court approval is required in the event of any settlement of a PAGA action, in accordance with California Labor Code § 2699(1)(2), and that a judgment with respect to the PAGA action is binding with respect to non-party aggrieved employees upon Court approval, pursuant to California Labor Code § 2699(1) and *Arias v. Superior Ct.* (2009) 46 Cal.4th 969. The Parties further recognize that a settlement of a PAGA action is not subject to class action procedural rules, and that PAGA Employees do not have the right to opt-out of or otherwise exclude themselves from the Settlement, or object to the Settlement, and upon approval of the Settlement by the Court and funding of the Settlement, all PAGA Employees will have released the Released Parties of and for the Released Claims and PAGA Employees will be entitled to receive payment, in conformity with the Settlement. Plaintiff's Counsel shall, with the assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the approval of this Settlement from the Court. Plaintiff's Counsel shall prepare, file and serve a motion (or stipulation, if permitted by the Court) requesting that the Court approve the Settlement, including and not limited to the PAGA Penalties, Attorneys' Fees and Costs, and Settlement Administration Costs, and apply to the Court for the entry of an order approving the Settlement and all of the requested payments and entering judgment ("Approval Order"). The motion shall advocate that the penalties are fair, adequate, and reasonable, which will draw no opposition from Defendant or Counsel for Defendant. On the same date that Plaintiff applies to the Court for approval of the Settlement,

Plaintiff's Counsel shall submit the Agreement to the LWDA in conformity with California Labor Code § 2699(1)(2).

2. With Plaintiff's motion for approval of Settlement, Plaintiff shall submit a proposed Approval Order which shall seek, *inter alia*: (1) approval of this Settlement and the terms herein; (2) permanent bar of all PAGA Employees from prosecuting any of the Released Claims released in this Agreement against the Released Parties; and (3) that no individualized notice of entry of the Approval Order is required to be provided to the PAGA Employees. Prior to filing, Plaintiff's Counsel will provide Counsel for Defendant a courtesy copy of the proposed Approval Order. Upon entry of the Approval Order by the Court, Plaintiff's Counsel shall submit the Approval Order to the LWDA in conformity with California Labor Code § 2699(1)(2).

VI. ADMINISTRATION OF THE SETTLEMENT

1. PAGA Employee List. Defendant shall compile a list containing the following information regarding each of the PAGA Employees: (1) full name; (2) last known mailing address; (4) Social Security number; and (5) the total number of pay periods worked during the PAGA Period ("PAGA Employee List"). The PAGA Employee List will be provided to the Settlement Administrator within fifteen (15) calendar days after the the Court has signed and entered the Approval Order. This information shall be treated as and remain confidential and shall be used solely to manage the notice and payment process described herein, shall not be disclosed to anyone other than the Settlement Administrator, except to applicable taxing authorities, or pursuant to express written authorization of Defendant, the individual in question, or by order of the Court.

2. Funding of Settlement. Defendant shall fund the Gross Settlement Amount by way of electronic transfer to the account to be established by the Settlement Administrator for purposes of administration of the Settlement ("Settlement Administration Account") within ten (10) calendar days after the Court has signed and entered the Approval Order granting approval of the PAGA Settlement, but not before November 1, 2023. Defendant's obligations for funding the settlement are satisfied upon electronic transfer of the Gross Settlement Amount to the Settlement Administrator pursuant to the Settlement Administrator's instructions, provided, however, that any unsuccessful electronic transfer of funds be of no fault of Defendant. In the event of an unsuccessful electronic transfer of funds, the Parties agree to cooperate in good faith to resolve the issues.

3. Payments to LWDA, Plaintiff's Counsel, Plaintiff, and Settlement Administrator. Within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount, the Settlement Administrator shall pay the Court-approved LWDA Payment to the LWDA, Attorneys' Fees and Costs to Plaintiff's Counsel, and Settlement Administration Costs to itself.

4. Employee Notices and Payments to PAGA Employees. Within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount, the Settlement Administrator shall mail via U.S. First Class mail to each PAGA Employee his or her Individual Settlement Check at the last known address in the PAGA Employee List or a more updated address from the National Change of Address Database. A notice letter explaining why the check is being sent ("Employee Notice"), in a mutually-agreed upon form that has been approved by the Court, in substantially the form that is attached hereto as "Exhibit A." will be included in the mailing of each PAGA Employee's Individual Settlement Check. Together, an Individual Settlement Check that is mailed to a PAGA Employee with the Employee Notice is referred to as a "Payment Packet." Prior to mailing the Payment Packets, the Settlement Administrator shall check the addresses provided using the National Change of Address

database. Should any of the Employee Notices be returned as undeliverable, the Settlement Administrator will have ten (10) calendar days after it receives the returned undeliverable mail to search for a more current address for the PAGA Employee (via a skip trace or other reasonable method) and to re-mail Employee Notices to the traced address. The Settlement Administrator will only be required to re-mail the Payment Packets once by way of this process.

5. Expiration of Settlement Checks. All Individual Settlement Checks will expire one hundred and eighty (180) calendar days after the initial mailing of the original Payment Packets to the PAGA Employees, and thereafter, shall be cancelled. If any funds remain in the Settlement Administration Account as a result of cancelled Individual Settlement Checks, such funds shall be transmitted to the California State Controller's Office Unclaimed Property Fund in the name of each PAGA Employee whose check is voided. All duties set forth herein shall be included in the Settlement Administration Costs and paid from the Gross Settlement Amount. Irrespective of whether a PAGA Employee's Individual Settlement Check has been actually received and/or cashed, he or she will be deemed to be bound to this Settlement, the release provided herein, and the Court's Approval Order.

6. Disputes Relating to Settlement Administration. Any disputes concerning administration of the Settlement which cannot be resolved by the Parties shall be submitted to and resolved by the Court.

7. Settlement Administrator's Tax Reporting. The Settlement Administrator shall be responsible for providing the requisite Form 1099's as required by this Agreement, and the completion of any other steps necessary for compliance with any tax obligations of the Settlement under federal, state, and/or local law, as applicable.

8. Confirmation of Administration of Settlement. Within twenty-one (21) calendar days of distributing the Gross Settlement Fund, the Settlement Administrator shall provide to Plaintiff's Counsel and Counsel for Defendant a written declaration verifying that it effected disbursement of the Gross Settlement Fund pursuant to the terms of this Agreement.

9. Notice Regarding Settlement Compliance. Within fourteen (14) calendar days of receipt of the Settlement Administrator's declaration confirming Defendant's funding of the Settlement and the Settlement Administrator's disbursement of the Gross Settlement Fund, and provided Defendant has also issued payment to Plaintiff as set forth in Plaintiff's General Release Agreement, Plaintiff shall file a notice informing the court of compliance with the terms of the Settlement and satisfaction of the Judgment, and requesting formal closure of the Action.

VII. ADDITIONAL TERMS.

1. No Prior Assignments. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

2. No Admission. Nothing contained herein, nor is the consummation of this Settlement, to be construed or deemed an admission with respect to liability, culpability, negligence, or wrongdoing on the part of Defendant, Released Parties, Plaintiff, Plaintiff's Counsel, PAGA Employees, or the LWDA. Each of the Parties hereto has entered into this Agreement with the intention to avoid further disputes and litigation with the attendant

inconvenience and expenses. Defendant denies that it has engaged in any unlawful activity, that it has failed to comply with the law in any respect, that it has any liability to anyone under the claims asserted in the Action. The Parties agree that this Agreement does not constitute an admission by Defendant or any of the Released Parties of any of the matters alleged in the Action or of any violation by any of them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Neither this Agreement nor anything in this Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Plaintiff, Defendant or any of the Released Parties.

3. Nullification. If the Court should fail to approve the Settlement as agreed upon by the Parties, the Parties shall coordinate efforts to address the Court's questions or concerns and work jointly to make reasonable efforts to remedy the Settlement in order to obtain the Court's approval. If the Parties cannot resolve the issues identified by the Court in denying approval, the Parties shall be restored to their litigation positions and all funds returned to Defendant. If, after the Parties make a second attempt to obtain approval of the material terms of the Settlement, unless the Parties specifically agree to continue with their coordinated efforts to obtain Court approval, the Court fails to approve the material terms of the settlement in the form agreed to by the Parties (except for the amount of Attorneys' Fees and Costs requested by Plaintiff's Counsel), or if the Court's approval of this Agreement is materially modified or reversed, or declared or rendered void, then: (a) this Agreement shall be considered null and void; (b) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; and (c) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court. Invalidity of any material portion of this Agreement, except for the amount of the Attorneys' Fees and Costs, shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

4. Attorneys' Fees, Costs And Expenses. Except as specifically set forth herein, each Party shall bear its/his/her own attorneys' fees, costs and expenses, taxable or otherwise, incurred by him/her/it/them arising out of the Action, and shall not seek reimbursement thereof from any other party to this Agreement, unless otherwise specifically stated.

5. Enforcement And Continuing Jurisdiction Of The Court. The Parties agree that upon approval by the Court, this Agreement shall be enforceable by the Court, and the Court shall retain exclusive and continuing equity jurisdiction pursuant to California Code of Civil Procedure §664.6 over the Action, all Parties, and PAGA Employees to interpret and enforce the terms, conditions, and obligations set forth in this Agreement.

6. Severability. The Parties agree that if any immaterial provision of this Agreement is held to be invalid by a court of competent jurisdiction, that provision shall be deemed severed and deleted from this Agreement, and neither that provision nor its severance and deletion shall affect the validity of the remaining provisions, and the remaining provisions shall be deemed enforceable.

7. Construction. The Parties hereto agree that the terms and conditions of this Agreement are the result of lengthy, intensive arm's-length negotiations between the Parties and that this Agreement constitutes the entire agreement between Plaintiff and Defendant regarding the settlement of the Released Claims and that this Agreement supersedes all prior agreements, written or oral, between or among the Parties regarding the resolution of the Released Claims.

8. Given that all Parties hereto had the opportunity to draft, review, and edit the language of this Agreement, no presumption for or against any Party arising out of drafting all or any part of this Agreement may be applied in any action relating to, connected to, or involving this Agreement. Accordingly, the Parties hereby waive the benefit of any legal principle or rule providing that, in cases of uncertainty, the language of a contract should be interpreted against the Party who caused the uncertainty to exist

9. Non-Evidentiary Use. Neither the existence of this Agreement, the terms of this Agreement, the negotiation and execution of this Agreement, all acts performed or documents executed pursuant to or in furtherance of this Agreement, nor the settlement of the Action shall be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Plaintiff, the LWDA, Defendant or any other of the Released Parties, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, culpability, fault, wrongdoing, omission, concession, or damage, or of the truth of any of the factual allegations in the Operative Complaint in the Action; (b) disclosed, referred to, or offered in evidence against Plaintiff, the LWDA, or any of the Released Parties in any further proceeding in the Action, or any other civil, criminal, or administrative action or proceeding in any court, administrative agency or other tribunal except for the purposes of effectuating the Settlement pursuant to this Agreement or for Defendant to attempt to establish that a PAGA Employee has resolved or been compensated for any claims made by that employee; and (c) deemed to be, nor used as, an admission or evidence of the appropriateness of these or similar claims for representative treatment, class certification or administration other than for purposes of administering this Settlement. Nothing herein shall constitute an admission by Defendant that the Action was properly brought as a representative action other than for settlement purposes.

10. Choice Of Law. The rights and obligations of the Parties under this Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of California. California law shall govern the interpretation of this Agreement even if a choice of law analysis under state or federal law would dictate that another forum's law be applied.

11. Cooperation. Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees that they will abide by this Agreement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Agreement.

12. Captions And Headings. Paragraph titles, captions, or headings contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provision hereof.

13. Modification. This Agreement may not be changed, altered, waived, or modified, except in writing and signed by counsel for the Parties hereto, and approved by the Court. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

14. Binding. This Agreement is binding upon, and shall inure to the benefit of, the Parties hereto and their respective agents, employees, representatives, officers, directors, parents, subsidiaries, assigns, heirs, executors, administrators, insurers, and successors in interest.

15. No Publication. The Parties will, and will cause all their respective current or past counsel to: (i) maintain in confidence and not publish or otherwise disclose to any third party the terms of this Agreement or any related information, except as necessary to obtain Court approval as contemplated by this Agreement; (ii) not

publish the fact and/or terms of this Agreement or any related information on their website(s), for advertising purposes and/or in publication materials generally available to the public. Notwithstanding the foregoing, the Parties acknowledge and agree that this Agreement will be admissible and subject to disclosure in any proceeding to enforce its terms.

16. Electronic Signatures and Counterparts. This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all Parties. The counterparts may be executed and/or transmitted electronically or by facsimile.

IN WITNESS WHEREOF, the parties knowingly and voluntarily executed this Private Attorneys General Act Settlement Agreement and Release as of the date set forth below.

PLAINTIFF Norma Angelica Martinez

DATED: _____

Norma Angelica Martinez

DEFENDANT Robert Choi

DATED: 10/04/23

By: Robert Choi (erroneously sued as "Robert Chow")

DEFENDANT Union Plaza Market

DATED: 10/04/23

By:

APPROVED AS TO FORM AND CONTENT:

DATED: _____

LAW OFFICES OF SEVAG NIGOGHOSIAN

By: _____
Sevag Nigoghossian, Esq.
Attorneys for Plaintiff

DATED: 10/6/23

LAW OFFICES OF CHANHO C. JOO

By: Je
Chanho C. Joo, Esq.
Frank E. Marchetti, Esq.
Attorneys for Defendants

publish the fact and/or terms of this Agreement or any related information on their website(s), for advertising purposes and/or in publication materials generally available to the public. Notwithstanding the foregoing, the Parties acknowledge and agree that this Agreement will be admissible and subject to disclosure in any proceeding to enforce its terms.

16. Electronic Signatures and Counterparts. This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all Parties. The counterparts may be executed and/or transmitted electronically or by facsimile.

IN WITNESS WHEREOF, the parties knowingly and voluntarily executed this Private Attorneys General Act Settlement Agreement and Release as of the date set forth below.

PLAINTIFF Norma Angelica Martinez

DATED: 10-09-23

Norm A. Martinez
Norma Angelica Martinez

DEFENDANT Robert Choi

DATED: 10/04/23

Robert Choi
By: Robert Choi (erroneously sued as "Robert Chow")

DEFENDANT Union Plaza Market

DATED: 10/04/23

Robert Choi
By:

APPROVED AS TO FORM AND CONTENT:

DATED: 10-9-23

LAW OFFICES OF SEVAG NIGOGHOSIAN

By: Sevag Nigoghossian
Sevag Nigoghossian, Esq.
Attorneys for Plaintiff

DATED: 10/6/23

LAW OFFICES OF CHANHO C. JOO

By: Chanho C. Joo
Chanho C. Joo, Esq.
Frank E. Marchetti, Esq.
Attorneys for Defendants

EXHIBIT "A"

To: <<First Name>><<Last Name>>
<<Address>>
<<City>> <<State>> <<Zip>>

Re: Individual Settlement Payment from *Norma Angelica Martinez v. Robert Chow; Union Plaza Market*, Los Angeles County Superior Court, Case No. 22STCV11902

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of <<amount of payment>> ("Individual Settlement Check"). This check is your payment from the settlement of a lawsuit entitled *Norma Angelica Martinez v. Robert Chow; Union Plaza Market*, Case No. 22STCV11902 ("Action"), pending in the Superior Court of California for the County of Los Angeles ("Court").

The lawsuit was filed by Norma Angelica Martinez ("Plaintiff"), a former employee of Robert Choi and Union Plaza Market ("Defendants"), on behalf of the State of California with respect to herself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the California Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* ("PAGA"). Plaintiff alleged that Defendants violated multiple provisions of the California Labor Code and Industrial Welfare Commission Wage Orders by failing to properly pay for all hours worked, pay all minimum wages, pay all overtime wages, provide lawful meal periods or provide meal premium compensation in lieu thereof, authorize or permit lawful rest breaks or provide rest premium compensation in lieu thereof, reimburse necessary business expenses, provide sick pay pursuant to Labor Code section 246, timely pay all wages during employment and upon separation of employment, provide compliant wage statements, and keep requisite work records. Defendants deny these allegations and deny any wrongdoing of any kind associated with these allegations.

A settlement was reached between Plaintiff and Defendants, on behalf of Plaintiff, the State of California, and the following aggrieved employees: all current and former non-exempt employees who worked for Defendants within the State of California between February 1, 2021 through June 16, 2023 ("PAGA Employees").

On <<Approval Date>>, the settlement was approved by the Court, with a portion to be paid to the State of California and a portion to be paid to the PAGA Employees. You are receiving a portion of the settlement (the enclosed Individual Settlement Check) because you have been identified as a PAGA Employee. Your Individual Settlement Check is based on the total number of pay periods that you worked as a PAGA Employee during the period between February 1, 2021 through June 16, 2023 ("PAGA Period"). The Individual Settlement Check is considered to be 100% penalties, which will be reported on an IRS Form 1099. You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

By way of the settlement, you are deemed to fully release and forever discharge the Released Parties from the Released Claims. The "Released Parties" means and refers to Defendants, and its respective agents, attorneys,

insurers, past, present and future divisions, affiliates, DBAs (if any), predecessors, successors, shareholders, officers, directors, managers, employees, trustees, representatives, administrators, fiduciaries, assigns, subrogees, executors, partners, parents, owners, subsidiaries, privies, and/or any and all persons and/or corporate entities acting by, through, under or in concert with any of them, including, without limitation, Robert Choi and Union Plaza Market. The "Released Claims" means and refers to any and all claims, demands, rights, liabilities and causes of action under the Private Attorneys General Act of 2004, California Labor Code § 2698, et seq., that are based upon or arise from the factual allegations in the Operative Complaint and the Notice to the LWDA, arising during and/or with respect to the PAGA Period, including without limitation, claims for civil penalties under the PAGA for the alleged failure to: properly pay for all hours worked, pay all minimum wages, pay all overtime wages, provide lawful meal periods or provide meal premium compensation in lieu thereof, authorize or permit lawful rest breaks or provide rest premium compensation in lieu thereof, reimburse necessary business expenses, provide sick pay pursuant to Labor Code section 246, timely pay all wages during employment and upon separation of employment, provide compliant wage statements, and keep requisite work records, and for civil penalties for violation of and/or based on California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1194, 1197, 1197.1, 2800, 2802, and all applicable Wage Orders, and all claims for attorneys' fees and costs and statutory interest in connection therewith. By cashing your Individual Settlement Check, you are not giving up any right to sue for damages arising out of any individual claims that you may have against Defendants.

Your Individual Settlement Check is valid for 180 calendar days from the date of issuance, and if you do not cash, deposit, or otherwise negotiate the check within the 180-day timeframe, your Individual Settlement Check will be cancelled, and the funds will be transmitted to the State Controller's Office Unclaimed Property Fund in the name of the PAGA Employee whose check is voided.

Do not call or write the Court or Office of the Clerk of the Court to ask questions about the settlement. If you have any questions concerning the settlement, you may contact the Settlement Administrator at <<INSERT CONTACT INFORMATION>>.

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“EXHIBIT B”

To: <<First Name>><<Last Name>>
<<Address>>
<<City>> <<State>> <<Zip>>

Re: Individual Settlement Payment from *Norma Angelica Martinez v. Robert Chow; Union Plaza Market*, Los Angeles County Superior Court, Case No. 22STCV11902

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of <<amount of payment>> (“Individual Settlement Check”). This check is your payment from the settlement of a lawsuit entitled *Norma Angelica Martinez v. Robert Chow; Union Plaza Market*, Case No. 22STCV11902 (“Action”), pending in the Superior Court of California for the County of Los Angeles (“Court”).

The lawsuit was filed by Norma Angelica Martinez (“Plaintiff”), a former employee of Robert Chow and Union Plaza Market (“Defendants”), on behalf of the State of California with respect to herself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the California Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”). Plaintiff alleged that Defendants violated multiple provisions of the California Labor Code and Industrial Welfare Commission Wage Orders by failing to properly pay for all hours worked, pay all minimum wages, pay all overtime wages, provide lawful meal periods or provide meal premium compensation in lieu thereof, authorize or permit lawful rest breaks or provide rest premium compensation in lieu thereof, reimburse necessary business expenses, provide sick pay pursuant to Labor Code section 246, timely pay all wages during employment and upon separation of employment, provide compliant wage statements, and keep requisite work records. Defendants denies these allegations and denies any wrongdoing of any kind associated with these allegations.

A settlement was reached between Plaintiff and Defendants, on behalf of Plaintiff, the State of California, and the following aggrieved employees: all current and former non-exempt employees who worked for Defendants within the State of California between February 1, 2021 through June 16, 2023 (“PAGA Employees”).

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1 By way of the settlement, you are deemed to fully release and forever discharge the Released
2 Parties from the Released Claims. The “Released Parties” means and refers to Defendants, and
3 its respective agents, attorneys, insurers, past, present and future divisions, affiliates, DBAs (if
4 any), predecessors, successors, shareholders, officers, directors, managers, employees, trustees,
5 representatives, administrators, fiduciaries, assigns, subrogees, executors, partners, parents,
6 owners, subsidiaries, privies, and/or any and all persons and/or corporate entities acting by,
7 through, under or in concert with any of them, including, without limitation, Robert Chow and
8 Union Plaza Market. The “Released Claims” means and refers to any and all claims, demands,
9 rights, liabilities and causes of action under the Private Attorneys General Act of 2004,
10 California Labor Code § 2698, et seq., that are based upon or arise from the factual allegations
11 in the Operative Complaint and the Notice to the LWDA, arising during and/or with respect to
12 the PAGA Period, including without limitation, claims for civil penalties under the PAGA for
13 the alleged failure to: properly pay for all hours worked, pay all minimum wages, pay all
14 overtime wages, provide lawful meal periods or provide meal premium compensation in lieu
15 thereof, authorize or permit lawful rest breaks or provide rest premium compensation in lieu
16 thereof, reimburse necessary business expenses, provide sick pay pursuant to Labor Code
17 section 246, timely pay all wages during employment and upon separation of employment,
18 provide compliant wage statements, and keep requisite work records, and for civil penalties for
19 violation of and/or based on California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3,
20 226.7, 246, 510, 512, 558, 558.1, 1174, 1194, 1197, 1197.1, 2800, 2802, and all applicable
21 Wage Orders, and all claims for attorneys’ fees and costs and statutory interest in connection
22 therewith. **By cashing your Individual Settlement Check, you are not giving up any right
23 to sue for damages arising out of any individual claims that you may have against
24 Defendants.**

25 Your Individual Settlement Check is valid for 180 calendar days from the date of issuance, and
26 if you do not cash, deposit, or otherwise negotiate the check within the 180-day timeframe,
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28 State Controller’s Office Unclaimed Property Fund in the name of the PAGA Employee whose
check is voided.

**Do not call or write the Court or Office of the Clerk of the Court to ask questions about
the settlement.** If you have any questions concerning the settlement, you may contact the
Settlement Administrator at <<INSERT CONTACT INFORMATION>>.