

DAVID YEREMIAN & ASSOCIATES, INC.
 David Yeremian (SBN 226337)
 david@yeremianlaw.com
 Roman Shkodnik (SBN 285152)
 roman@yeremianlaw.com
 2540 Foothill Blvd., Suite 201
 La Crescenta, California 91214
 Telephone: (818) 230-8380
 Facsimile: (818) 230-0308

DAVTYAN LAW FIRM, INC.
 Emil Davtyan (SBN 299363)
 emil@davtyanlaw.com
 400 N. Brand. Suite 700
 Glendale, CA 91203
 Telephone: (818) 875-2008
 Facsimile: (818) 722-3974

Attorneys for Plaintiff ROBERT BRITO
 on behalf of himself and on behalf of all other
 aggrieved employees

[Additional counsel and party listed on following page]

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

ROBERT BRITO, on behalf of himself and
 on behalf of all other aggrieved employees,

Plaintiff,

vs.

BROTHERS INTERNATIONAL DESSERTS
 dba BROTHERS INTERNATIONAL
 DESSERTS INC., a California Corporation;
 and DOES 1 through 50, inclusive,

Defendants.

Case No.: 30-2022-01242515-CU-OE-CXC

Assigned for All Purposes To:
 Hon. William D. Claster
 Dept.: CX104

PAGA SETTLEMENT AGREEMENT

Complaint Filed: January 26, 2022
 Trial Date: None Set

1 Lindley Fraley (CASBN 223421)
2 FORWARD COUNSEL LLP
3 4340 Von Karman Avenue, Suite 380
4 Newport Beach, California 92660
5 Telephone: (949) 258-9359
6 Facsimile: (949) 273-1070

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Attorneys for Defendant BROTHERS INTERNATIONAL DESSERTS dba BROTHERS
INTERNATIONAL DESSERTS INC., a California Corporation

1 This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Robert
2 Brito (“Plaintiff”) and defendant Brothers International Desserts dba Brothers International
3 Desserts Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as
4 “Parties,” or individually as “Party.”

5 **1. DEFINITIONS.**

6 1.1. “Action” means the Plaintiff’s PAGA lawsuit alleging wage and hour violations
7 against Defendant captioned *Robert Brito v. Brothers International Desserts dba Brothers*
8 *International Desserts Inc.* initiated on January 26, 2022 and pending in Superior Court of the
9 State of California, County of Orange.

10 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to
11 appoint to administer the Settlement.

12 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
13 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
14 with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of
15 this Settlement.

16 1.4. “Aggrieved Employee” means a person employed by Defendant in California and
17 classified as a non-exempt employee who worked for Defendant during the PAGA Period.

18 1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in
19 Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address,
20 Social Security number, and number of PAGA Pay Periods.

21 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and
22 search for current Aggrieved Employee mailing addresses using all reasonably available sources,
23 methods and means including, but not limited to, the National Change of Address database, skip
24 traces, and direct contact by the Administrator with Aggrieved Employees.

25 1.7 “Aggrieved Employees’ Notice” shall mean the Notice of Settlement and Approval, a
26 sample of which is attached hereto as Exhibit A. The Aggrieved Employees’ Notice shall further
27 contain (i) an Aggrieved Employee’s first and last name, (ii) last known address, (iii) employee
28

1 identification number, if applicable, (iv) the Aggrieved Employee's individual pay periods, and (v)
2 the Aggrieved Employee's individual share of the Aggrieved Employees' payment.

3 1.7. "Court" means the Superior Court of California, County of Orange.

4 1.8. "Defense Counsel" means Lindley Fraley of Forward Counsel LLP.

5 1.9. "Effective Date" means the date by when both of the following have occurred: (a) the
6 Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is
7 final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court
8 enters Judgment.

9 1.10. "Gross Settlement Amount" means \$245,000.00 which is the total amount Defendant
10 agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement
11 Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA
12 Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's
13 Expenses Payment.

14 1.11. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of
15 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved
16 Employee worked during the PAGA Period.

17 1.12. "Judgment" means the judgment entered by the Court based upon the Final
18 Approval.

19 1.13. "LWDA" means the California Labor and Workforce Development Agency, the
20 agency entitled, under Labor Code section 2699, subd. (i).

21 1.14. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA
22 under Labor Code section 2699, subd. (i).

23 1.15. "Net Settlement Amount" means the Gross Settlement Amount, less the following
24 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
25 Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the
26 Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as
27 Individual PAGA Payments.
28

1.16. "PAGA Counsel" means David Yeremian and Roman Shkodnik of David Yeremian & Associates, Inc. and Emil Davtyan of Davtyan Law Firm, Inc., the attorneys representing the Plaintiff in the Action.

1.17. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.

1.18. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.19. "PAGA Period" means the period from November 21, 2020 to April 30, 2023.ii

1.20. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.21. "PAGA Notice" means Plaintiff's October 21, 2021 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.22. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$34,670.84) and the 75% to LWDA (\$104,012.50) in settlement of PAGA claims.

1.23. "Plaintiff" means Robert Brito, the named plaintiff in the Action.

1.24. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.

1.25. "Released PAGA Claims" means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.

1.26. "Released Parties" means: Defendant and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns, and subsidiaries.

1.27. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.28. "Defendant" means named Defendant Brothers International Desserts dba Brothers International Desserts Inc.

2. RECITALS.

2.1. On January 26, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for violations of PAGA. The Complaint is the operative complaint in the Action the "Operative Complaint.". Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.

2.3. On February 28, 2023, the Parties participated in an all-day mediation presided over by Gig Kyriacou which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery, and then in further discovery to prepare for mediation, which included: (a) analysis by the Parties of certain records, data, and policies pertaining to Plaintiff, Aggrieved Employees, and the claims asserted in the Action; (b) research of the law applicable to Plaintiff's claims and Defendant's affirmative defenses, as well as the damages alleged by Plaintiff; (c) examination and analysis of information and documents; and (d) consideration of information disclosed at and in connection with mediation.

2.5. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$245,000.00 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement.iii The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

1 3.2. Payments from the Gross Settlement Amount. The Administrator will make and
2 deduct the following payments from the Gross Settlement Amount, in the amounts specified by
3 the Court in the Final Approval:

4 3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one-third
5 which is currently estimated to be \$81,666.66 and PAGA Counsel Litigation Expenses Payment of
6 not more than \$20,000.00. Defendant will not oppose requests for Court approval of these
7 payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file
8 an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses
9 Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel
10 Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the
11 remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA
12 Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel
13 Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the
14 PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS
15 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA
16 Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant
17 harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or
18 sharing of any of these Payments.

19 3.2.2. To the Administrator: An Administrator Expenses Payment not to exceed \$4,650.00
20 except for a showing of good cause and as approved by the Court. To the extent the
21 Administration Expenses are less or the Court approves payment less than \$4,650.00, the
22 Administrator will retain the remainder in the Net Settlement Amount.

23 3.2.3. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
24 \$138,683.34 to be paid from the Gross Settlement Amount, with 75% (\$104,012.50) allocated to
25 the LWDA PAGA Payment and 25% (\$34,670.84) allocated to the Individual PAGA Payments.

26 3.2.3.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing
27 the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$34,670.84) by the total
28 number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA

1 Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods.
2 Aggrieved Employees assume full responsibility and liability for any taxes owed on their
3 Individual PAGA Payment.

4 3.2.3.2. If the Court approves PAGA Penalties of less than the amount requested, the
5 Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will
6 report the Individual PAGA Payments on IRS 1099 Forms.

7
8 **4. SETTLEMENT FUNDING AND PAYMENTS.**

9 4.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant
10 estimates there are 160 Aggrieved Employees who worked a total 6,450 of PAGA Pay Periods.

11 4.2. Aggrieved Employee Data. Within 15 days, Defendant will simultaneously deliver the
12 Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To
13 protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved
14 Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this
15 Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to
16 Administrator employees who need access to the Aggrieved Employee Data to effect and perform
17 under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it
18 discovers that the Aggrieved Employee Data omitted employee identifying information and to
19 provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without
20 any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the
21 Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to
22 reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee
23 Data.

24 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement
25 Amount by transmitting the funds to the Administrator no later than 60 days after the Effective
26 Date.

27 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds
28 the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA

1 Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA
2 Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment
3 shall not precede disbursement of Individual PAGA Payments.

4 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send
5 them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each
6 check shall prominently state the date (not less than 180 days after the date of mailing) when the
7 check will be voided. The Administrator will cancel all checks not cashed by the void date. Before
8 mailing any checks, the Settlement Administrator must update the recipients' mailing addresses
9 using the National Change of Address Database.

10 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all
11 Aggrieved Employees whose checks are returned undelivered without USPS forwarding address.
12 Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS
13 forwarding address provided or to an address ascertained through the Aggrieved Employee
14 Address Search. The Administrator need not take further steps to deliver checks to Aggrieved
15 Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly
16 send a replacement check to any Aggrieved Employee whose original check was lost or
17 misplaced, requested by the Aggrieved Employee prior to the void date.

18 4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed
19 and cancelled after the void date, the Administrator shall transmit the funds represented by such
20 checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved
21 Employee.

22 4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer
23 any additional benefits or make any additional payments to the Aggrieved Employees (such as
24 401(k) contributions or bonuses) beyond those specified in this Agreement.

25 **5. RELEASES OF CLAIMS.**

26 Effective on the date when Defendant fully funds the entire Gross Settlement Amount
27 Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:
28

1 5.1 Plaintiff's Release. Plaintiff and his or her respective former and present spouses,
2 representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors,
3 and assigns generally, release and discharge Released Parties from all claims, transactions, or
4 occurrences that occurred during the PAGA Period, including, but not limited to: all claims,
5 including individual claims, that were, or reasonably could have been, alleged, based on the
6 Factual Background contained in any or all of paragraphs 9-27 of the Operative Complaint and/or
7 any of the allegations in the PAGA Notice, as well as any violations of the IWC wage orders
8 relevant to the claims pled in the Operative Complaint ("Plaintiff's Release"). Plaintiff's Release
9 does not extend to any claims or actions to enforce this Agreement, or to any claims for vested
10 benefits, unemployment benefits, disability benefits, social security benefits, workers'
11 compensation benefits that arose at any time, or based on occurrences outside the PAGA Period.
12 Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the
13 facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's
14 Release shall be and remain effective in all respects, notwithstanding such different or additional
15 facts or Plaintiff's discovery of them.

16 5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542.

17 For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the
18 provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:
19 "A general release does not extend to claims that the creditor or releasing party does not know or
20 suspect to exist in his or her favor at the time of executing the release, and that if known by him or
21 her would have materially affected his or her settlement with the debtor or Released Party."

22 5.2 Release by Aggrieved Employees:

23 All Aggrieved Employees are deemed to release, on behalf of themselves and their
24 respective former and present representatives, agents, attorneys, heirs, administrators, successors,
25 and assigns, the Released Parties from all claims, transactions, or occurrences that occurred during
26 the PAGA Period, for: all claims, including individual claims, that were, or reasonably could have
27 been, alleged, based on the Factual Background contained in any or all of paragraphs 9-27 of the
28 Operative Complaint and/or any of the allegations in the PAGA Notice, as well as any violations

1 of the IWC wage orders relevant to the claims pled in the Operative Complaint (“Aggrieved
2 Employees’ Release”). The Aggrieved Employees’ Release does not extend to any claims or
3 actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits,
4 wrongful termination, violation of the Fair Employment and Housing Act, disability benefits,
5 social security benefits, workers’ compensation benefits that arose at any time, or any claims
6 based on occurrences outside the PAGA Period.

7 5.3 Release by PAGA Counsel:

8 PAGA Counsel release on behalf of their present and former attorneys, employees, agents,
9 successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection
10 with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and
11 the PAGA Notice.

12 **6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.**

13 The Parties agree to jointly prepare and file an application or motion for approval of this
14 Settlement.

15 6.1 Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all
16 documents necessary for obtaining approval of this Settlement under Labor Code Section 2699,
17 subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a
18 signed declaration from the Administrator attaching its “not to exceed” bid for administering the
19 Settlement and attesting to its willingness to serve; competency; operative procedures for
20 protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data
21 breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential
22 conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any
23 financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration
24 from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA
25 documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative
26 Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699,
27 subd. (l)(2)); (iv) a redlined version of the parties’ Agreement showing all modifications made to
28 the Model Agreement ready for filing with the Court; and (v) all facts relevant to any actual or

1 potential conflict of interest with Aggrieved Employees and/or the Administrator. In their
2 Declarations, Plaintiff and PAGA shall aver that they are not aware of any other pending matter or
3 action asserting claims that will be extinguished or adversely affected by the Settlement.

4 6.2 Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly
5 responsible for expeditiously finalizing and filing the application or motion for approval of this
6 Settlement no later than 30 days after the full execution of this Agreement and, if necessary,
7 obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the
8 motion. PAGA Counsel is responsible for delivering the Court's Preliminary Approval to the
9 Administrator.

10 6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or
11 motion for approval of this Settlement and/or the supporting declarations and documents, PAGA
12 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting
13 in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not
14 grant the motion for approval of this Settlement or conditions its approval on any material change
15 to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on
16 behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the
17 Agreement and otherwise satisfy the Court's concerns.

18 **7. SETTLEMENT ADMINISTRATION.**

19 7.1 Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to
20 serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc.
21 agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
22 Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel
23 represent that they have no interest or relationship, financial or otherwise, with the Administrator
24 other than a professional relationship arising out of prior experiences administering settlements.

25 7.2 Employer Identification Number. The Administrator shall have and use its own
26 Employer Identification Number for purposes of calculating payroll tax withholdings and
27 providing reports state and federal tax authorities.
28

1 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that
2 meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation
3 section 468B-1.

4 7.4 Administrator Duties. The Administrator has a duty to perform or observe all tasks to
5 be performed or observed by the Administrator contained in this Agreement or otherwise.

6 **8. AGGRIEVED EMPLOYEE SIZE ESTIMATES**

7 Based on its records, Defendant estimates that, as of the date of this Settlement Agreement,
8 (1) there are 160 Aggrieved Employees who worked 6,450 Pay Periods during the PAGA Period.

9 **9. CONTINUING JURISDICTION OF THE COURT.**

10 The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the
11 Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or
12 Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-
13 Judgment matters as are permitted by law.

14 9.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
15 conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA
16 Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to
17 appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the
18 right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals.
19 The waiver of appeal does not include any waiver of the right to oppose such motions, writs or
20 appeals. If another party appeals the Judgment, the Parties' obligations to perform under this
21 Agreement will be suspended until such time as the appeal is finally resolved and the Judgment
22 becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

23 **10. ADDITIONAL PROVISIONS.**

24 10.1 No Admission of Liability or Representative Manageability for Other Purposes. This
25 Agreement represents a compromise and settlement of highly disputed claims. Nothing in this
26 Agreement is intended or should be construed as an admission by Defendant that any of the
27 allegations in the Operative Complaint have merit or that Defendant has any liability for any
28 claims asserted; nor should it be intended or construed as an admission by Plaintiff that

1 Defendant's defenses in the Action have merit. The Parties agree that representative treatment is
2 for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement,
3 Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the
4 right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to
5 settle the Action will have no bearing on, and will not be admissible in connection with, any
6 litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

7 10.2 Integrated Agreement. Upon execution by all Parties and their counsel, this
8 Agreement together with its attached exhibits shall constitute the entire agreement between the
9 Parties relating to the Settlement, superseding any and all oral representations, warranties,
10 covenants, or inducements made to or by any Party.

11 10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and
12 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate
13 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
14 its terms, and to execute any other documents reasonably required to effectuate the terms of this
15 Agreement including any amendments to this Agreement.

16 10.4 Cooperation. The Parties and their counsel will cooperate with each other and use
17 their best efforts, in good faith, to implement the Settlement by, among other things, modifying the
18 Settlement Agreement, submitting supplemental evidence and supplementing points and
19 authorities as requested by the Court. In the event the Parties are unable to agree upon the form or
20 content of any document necessary to implement the Settlement, or on any modification of the
21 Agreement that may become necessary to implement the Settlement, the Parties will seek the
22 assistance of a mediator and/or the Court for resolution.

23 10.5 No Prior Assignments. The Parties separately represent and warrant that they have not
24 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
25 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
26 action, or right released and discharged by the Party in this Settlement.

27 10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel
28 are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be

1 relied upon as such within the meaning of United States Treasury Department Circular 230 (31
2 CFR Part 10, as amended) or otherwise.

3 10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended,
4 modified, changed, or waived only by an express written instrument signed by all Parties or their
5 representatives, and approved by the Court.

6 10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure
7 to the benefit of, the successors of each of the Parties.

8 10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be
9 governed by and interpreted according to the internal laws of the state of California, without
10 regard to conflict of law principles.

11 10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation
12 of this Agreement. This Agreement will not be construed against any Party on the basis that the
13 Party was the drafter or participated in the drafting.

14 10.11 Confidentiality. To the extent permitted by law, all agreements made, and orders
15 entered during Action and in this Agreement relating to the confidentiality of information shall
16 survive the execution of this Agreement.

17 10.12 Use and Return of Aggrieved Employee Data. Information provided to PAGA
18 Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data
19 provided to PAGA Counsel by Defendant in connection with the mediation, other settlement
20 negotiations, or in connection with the Settlement, may be used only with respect to this
21 Settlement, and no other purpose, and may not be used in any way that violates any existing
22 contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator
23 discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and
24 electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the
25 Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA
26 Counsel for the return, rather than the destructions, of Aggrieved Employee Data.

27 10.13 Headings. The descriptive heading of any section or paragraph of this Agreement is
28 inserted for convenience of reference only and does not constitute a part of this Agreement.

1 10.14 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement
2 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
3 weekend or federal legal holiday, such date or deadline shall be on the first business day
4 thereafter.

5 10.15 Notice. All notices, demands or other communications between the Parties in
6 connection with this Agreement will be in writing and deemed to have been duly given as of the
7 third business day after mailing by United States mail, or the day sent by email or messenger,
8 addressed as follows:

9 To Plaintiff:

10 DAVID YEREMIAN & ASSOCIATES, INC.

David Yeremian

11 david@yeremianlaw.com

Roman Shkodnik

12 roman@yeremianlaw.com

2540 Foothill Blvd., Suite 201

13 La Crescenta, CA 91214

Telephone: (818) 230-8380

14 Facsimile: (818) 230-0308

15 DAVTYAN LAW FIRM, INC.

Emil Davtyan (SBN 299363)

16 emil@davtyanlaw.com

400 N. Brand. Suite 700

17 Glendale, CA 91203

Telephone: (818) 875-2008

18 Facsimile: (818) 722-3974

19 To Defendant:

20 Lindley Fraley (CASBN 223421)

FORWARD COUNSEL LLP

21 4340 Von Karman Avenue, Suite 380

Newport Beach, California 92660

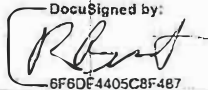
22 Telephone: (949) 258-9359

Facsimile: (949) 273-1070

23 10.16 Execution in Counterparts. This Agreement may be executed in one or more
24 counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this
25 Agreement shall be accepted as an original. All executed counterparts and each of them will be
26 deemed to be one and the same instrument if counsel for the Parties will exchange between
27 themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove
28 the existence and contents of this Agreement.

10.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

DATED: April ¹² __, 2023

By: 
Robert Brito
Plaintiff

DATED: April __, 2023

BROTHERS INTERNATIONAL DESSERTS
dba BROTHERS INTERNATIONAL
DESSERTS INC.

By: 
Defendant

DATED: April ¹² __, 2023

DAVID YEREMIAN & ASSOCIATES, INC.

By: 
David Yeremian

Attorneys for Plaintiff
Robert Brito

DATED: April __, 2023

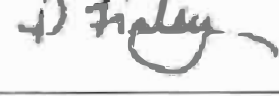
DAVTYAN LAW FIRM, INC.

By: 
Emil Davtyan

Attorneys for Plaintiff
Robert Brito

DATED: May 11, 2023

FORWARD COUNSEL LLP

By:  
Lindley Fraley

Attorneys for Defendant
Defendant Brothers International Desserts dba
Brothers International Desserts Inc.

1 10.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement the
2 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
3 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the
4 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
5 process.

6
7 DATED: April __, 2023

8 By: _____
9 Robert Brito
10 Plaintiff

11 DATED: April __, 2023

BROTHERS INTERNATIONAL DESSERTS
dba BROTHERS INTERNATIONAL
DESSERTS INC.

12
13 By: _____
14 Defendant

15 DATED: April __, 2023

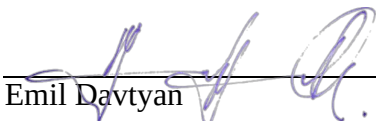
DAVID YEREMIAN & ASSOCIATES, INC.

16
17 By: _____
David Yeremian

18 Attorneys for Plaintiff
19 Robert Brito

20 DATED: April __, 2023
21 May 17, 2023

DAVTYAN LAW FIRM, INC.

22 By:  _____
Emil Davtyan

23 Attorneys for Plaintiff
24 Robert Brito

25 DATED: April __, 2023

FORWARD COUNSEL LLP

26 By: _____
Lindley Fraley

27 Attorneys for Defendant
28 Defendant Brothers International Desserts dba
Brothers International Desserts Inc.