

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (the “Agreement”) is entered into by and between **Awesome Doughnut, LLC** (referred to throughout this Agreement as “Respondent”) and **Alicia Hernandez** (“Claimant”). The term “Party” or “Parties” as used herein shall refer to Respondent, Claimant, or both, as may be appropriate.

1. Recitals.

This Agreement is made with reference to the following facts:

(a) Claimant was formerly employed by Respondent; Claimant’s last day of employment with Respondent was June 20, 2021 (“Separation Date”);

(b) On or about September 12, 2022, Claimant filed a Demand for Arbitration (the “Demand”) with JAMS Resolution Center (“JAMS”). In the Demand, Claimant asserts claims for meal and rest period violations, unpaid minimum and overtime wages, breach of contract/fraud in the inducement, and unpaid final wages; and

(c) There has been no determination on the merits of the Demand but, in order to avoid additional cost and the uncertainty of litigation, Claimant and Respondent have agreed, subject to the provisions in Paragraph 5 below, to resolve any and all claims, known and unknown, asserted and unasserted, which Claimant has or may have against Respondent and/or Respondent’s direct and indirect past, present, and future parent corporation, affiliates, subsidiaries, partners, divisions, predecessors, insurers, reinsurers, professional employment organizations, representatives, successors, and assigns, and their current and former employees, attorneys, officers, owners, members, managers, directors, shareholders, and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and their administrators and fiduciaries, both individually and in their business capacities (collectively referred to throughout the remainder of this Agreement as “Releasees”) as of the date of execution of this Agreement.

2. Consideration/Indemnification for Tax Consequences and Liens.

(a) In consideration for Claimant signing this Agreement, and complying with its terms and subject to the revocation language below, if any, Respondent agrees to pay the total gross sum of FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000) (the “Settlement Payment”), to be paid as follows:

(1) A gross payment of \$5,250.00 made payable to “Moss Bollinger, LLP Attorney Client Trust Account” for attorneys’ fees and costs, which shall be reported to taxing authorities on an IRS Form 1099;

(2) A gross payment of \$1,500.00 made payable to “Alicia Hernandez” for penalties and interest, which shall be reported to taxing authorities on an IRS Form 1099;

(3) A payment of \$8,250.00 made payable to "Alicia Hernandez", less applicable payroll/tax withholdings, in settlement of her claims for unpaid wages and back pay, for which Respondent shall issue an IRS Form W-2 to Claimant;

(b) Claimant understands and agrees Respondent is providing Claimant with no representations regarding tax obligations or consequences that may arise from this Agreement. Claimant, for Claimant and Claimant's dependents, successors, assigns, heirs, executors, and administrators (and Claimant's legal representatives of every kind), agrees to indemnify and hold the Releasees harmless for the amount of any taxes, penalties, or interest that may be assessed by any governmental tax authority against any of the Releasees in connection with such governmental authority's determination that Respondent or any of the other Releasees was required to, but failed to, withhold or report the correct amount of income or employment taxes from the payments made to Claimant or Claimant's Counsel pursuant to Paragraph 2(a) of this Agreement. Claimant agrees that Claimant shall indemnify the Releasees for the full amount of such liability within thirty (30) days after receipt of notice from Respondent or any of the other Releasees of the assessment of such taxes, penalties, or interest.

(c) The Settlement Payment (i.e. all three checks) will be delivered to Claimant's Counsel at 15300 Ventura Boulevard, Suite 207, Sherman Oaks, CA 91403.

3. No Consideration Absent Execution of this Agreement.

Claimant understands and agrees that Claimant would not receive the monies and/or benefits specified in Paragraph 2(a) above, except for Claimant's timely execution of this Agreement and the fulfillment of the promises contained herein.

4. Disbursal of Settlement Funds/Dismissal of Action.

(a) The Settlement Payment described in Paragraph 2(a) will be sent within thirty (30) business days after the latest of the following have occurred:

- (1) counsel for Respondent receives a copy of the Agreement signed by Claimant;
- (2) counsel for Respondent receives an executed W-9 Form from Claimant's Counsel;
- (3) counsel for Respondent receives an executed W-4 Form and W-9 Form from Claimant; and
- (4) receipt of an original fully-executed Request for Dismissal with prejudice of the Demand as to all parties and all causes of action.

(b) If the date by which the payment described herein is to be made available to Claimant's Counsel falls on a Saturday, Sunday, or legal holiday in the State of California, then the date said payment shall be made available to Claimant's Counsel shall be the next following day which is not a Saturday, Sunday, or legal holiday in the State of California.

(c) Respondent's Counsel shall maintain custody of the original fully-executed Request for Dismissal of the Demand. Respondent's Counsel shall agree not to file the Request for Dismissal until confirmation of Claimant's Counsel's receipt of the settlement sums set forth in Section 2 above. Thereafter, Respondent's Counsel shall have the authority to immediately file the Request for Dismissal with the Court. No Party shall claim to be the prevailing party in the Demand.

5. General Release, Claims Not Released and Related Provisions.

(a) **General Release of All Claims.** Claimant and Claimant's heirs, executors, administrators, successors, and assigns knowingly and voluntarily release and forever discharge Releasees, of and from any and all claims, known and unknown, asserted or unasserted, which Claimant has or may have against Releasees as of the date of execution of this Agreement, including, but not limited to, any alleged violation of the following, as amended:

- Title VII of the Civil Rights Act of 1964;
- Sections 1981 through 1988 of Title 42 of the United States Code;
- The Employee Retirement Income Security Act of 1974 ("ERISA");
- The Internal Revenue Code of 1986;
- The Immigration Reform and Control Act;
- The Americans with Disabilities Act of 1990;
- The Worker Adjustment and Retraining Notification Act;
- The Fair Credit Reporting Act;
- The Family and Medical Leave Act;
- The Equal Pay Act;
- The Genetic Information Nondiscrimination Act of 2008;
- The Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA");
- Families First Coronavirus Response Act;
- California Family Rights Act – Cal. Gov't Code § 12945.2;
- California Fair Employment and Housing Act – Cal. Gov't Code § 12900 et seq.;
- California Unruh Civil Rights Act – Cal. Civ. Code § 51 et seq.;
- Statutory Provisions Regarding the Confidentiality of AIDS Information – Cal. Health & Safety Code § 120775 et seq.;
- California Confidentiality of Medical Information Act – Cal. Civ. Code § 56 et seq.;
- California Parental Leave Law – Cal. Lab. Code § 230.7 et seq.;
- California Military Personnel Bias Law – Cal. Mil. & Vet. Code § 394;
- The California Occupational Safety and Health Act, as amended, and any applicable regulations thereunder;
- The California Consumer Credit Reporting Agencies Act – Cal. Civ. Code § 1785 et seq.;
- California Investigative Consumer Reporting Agencies Act – Cal. Civ. Code § 1786 et seq.;
- Those provisions of the California Labor Code that lawfully may be released;
- any other federal, state or local law, rule, regulation, or ordinance;
- any public policy, contract, tort, or common law; or
- any basis for recovering costs, fees, or other expenses including attorneys' fees incurred in these matters.

(b) **Claims Not Released.** Claimant is not waiving any rights Claimant may have to: (i) Claimant's own vested or accrued employee benefits under Respondent's qualified retirement benefit plans as of the Separation Date; (ii) benefits or rights to seek benefits under applicable workers' compensation (except as to claims under Labor Code sections 132a and 4553) or unemployment insurance or indemnification statutes; (iii) pursue claims which by law cannot be waived by signing this Agreement; or (iv) enforce this Agreement.

(c) **Governmental Agencies.** Nothing in this Agreement prohibits, prevents, or otherwise limits Claimant from filing a charge or complaint with or participating, testifying, or assisting in any investigation, hearing, or other proceeding before any federal, state, or local government agency (e.g., EEOC, NLRB, SEC) or in any legislative or judicial proceeding nor does anything in this Agreement preclude, prohibit or otherwise limit, in any way, Claimant's rights and abilities to contact, communicate with or report unlawful conduct, or provide documents, to federal, state, or local officials for investigation or participate in any whistleblower program administered by any such agencies. In addition, nothing in this Agreement, including but not limited to the release of claims, affirmations, liquidated damages and return of property clauses, prohibits Claimant from: (1) reporting possible violations of federal or other law or regulations, including any possible securities laws violations, to any governmental agency or entity, including but not limited to the U.S. Department of Justice, the U.S. Securities and Exchange Commission, the Commodity Futures Trading Commission, the U.S. Congress, or any agency Inspector General; (2) making any other disclosures that are protected under the whistleblower provisions of federal or other law or regulations; or (3) filing a charge or complaint or otherwise fully participating in any governmental whistleblower programs, including but not limited to any such programs managed or administered by the U.S. Securities and Exchange Commission, the Commodity Futures Trading Commission and/or the Occupational Safety and Health Administration. Claimant is not required to notify or obtain permission from Respondent when filing a governmental whistleblower charge or complaint or engaging or participating in protected whistleblower activity. Moreover, nothing in this Agreement prohibits or prevents Claimant from receiving individual monetary awards or other individual relief by virtue of participating in such governmental whistleblower programs.

(d) **Collective/Class Action Waiver and Jury Waiver.** If any claim regarding, relating to, or arising from Claimant's employment with Respondent, is not subject to release, to the extent permitted by law, Claimant waives any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective or multi-party action or proceeding based on such a claim in which Respondent or any other Releasee identified in this Agreement is a party. Similarly, as to any such claim against any Releasee that is not otherwise released, Claimant waives Claimant's right to a jury trial subject to applicable law.

(e) **Waiver of California Civil Code Section 1542.** To effect a full and complete general release as described above, Claimant expressly waives and relinquishes all rights and benefits of section 1542 of the Civil Code of the State of California, and does so understanding and acknowledging the significance and consequence of specifically waiving section 1542. Section 1542 of the Civil Code of the State of California states as follows:

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

Thus, notwithstanding the provisions of section 1542, and to implement a full and complete release and discharge of the Releasees, Claimant expressly acknowledges this Agreement is intended to include in its effect, without limitation, all claims Claimant does not know or suspect to exist in Claimant's favor at the time of signing this Agreement, and that this Agreement contemplates the extinguishment of any such claims. Claimant warrants Claimant has read this Agreement, including this waiver of California Civil Code section 1542, and that Claimant has consulted with or had the opportunity to consult with counsel of Claimant's choosing about this Agreement and specifically about the waiver of section 1542, and that Claimant understands this Agreement and the section 1542 waiver, and so Claimant freely and knowingly enters into this Agreement. Claimant further acknowledges that Claimant later may discover facts different from or in addition to those Claimant now knows or believes to be true regarding the matters released or described in this Agreement, and even so Claimant agrees that the releases and agreements contained in this Agreement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts. Claimant expressly assumes any and all risk of any mistake in connection with the true facts involved in the matters, disputes, or controversies released or described in this Agreement or with regard to any facts now unknown to Claimant relating thereto.

6. Acknowledgements and Affirmations.

(a) Claimant affirms that Claimant has not filed, caused to be filed, or presently is a party to any claim against Respondent, except the Demand, which is being dismissed with prejudice, and the PAGA representative matter entitled *Alicia Hernandez v. Awesome Doughnut LLC*, Case No. 22STCV02415, pending in Los Angeles County Superior Court. Nothing in this Agreement or these Affirmations is intended to impair Claimant's rights under whistleblower laws or cause Claimant to disclose Claimant's participation in any governmental whistleblower program or any whistleblowing statute(s) or regulation(s) allowing for anonymity.

(a) Claimant also affirms that Claimant has reported all hours worked as of the date Claimant signs this Agreement and has been paid and/or has received all compensation, wages, bonuses, commissions, paid sick leave, predictability pay, and/or benefits which are due and payable as of the date Claimant signs this Agreement and Claimant has been reimbursed for all necessary expenses or losses incurred by Claimant within the scope of Claimant's employment. Claimant further affirms that Claimant has submitted expense reports for all necessary expenses or losses incurred by Claimant within the scope of Claimant's employment. Claimant affirms that Claimant has been granted any leave to which Claimant was entitled under the Family and Medical Leave Act and state and local leave and disability accommodation laws.

(b) Claimant further affirms that Claimant has no known workplace injuries or occupational diseases.

(c) Claimant also affirms that Claimant has not divulged any proprietary or confidential information of Respondent and will continue to maintain the confidentiality of such information consistent with Respondent's policies and Claimant's agreement(s) with Respondent and/or common law. Under the federal Defend Trade Secrets Act of 2016, Claimant shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (a) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made to Claimant's attorney in relation to a Demand against Respondent for retaliation against Claimant for reporting a suspected violation of law; or (c) is made in a complaint or other document filed in a Demand or other proceeding, if such filing is made under seal.

(d) Claimant further affirms that Claimant has not reported internally to Respondent any allegations of wrongdoing by Respondent or its officers, including any allegations of corporate fraud, and Claimant has not been retaliated against for reporting or objecting to any such allegations internally to Respondent, except as alleged in the Demand and which claims are expressly released in Paragraph 5(a) above.

(e) Claimant affirms that all of Respondent's decisions regarding Claimant's pay and benefits through the date of Claimant's execution of this Agreement were not discriminatory based on age, disability, race, color, sex, religion, national origin or any other classification protected by law.

(f) Claimant and Respondent acknowledge Claimant's rights to make truthful statements or disclosures required by law, regulation, or legal process and to request or receive confidential legal advice, and nothing in this Agreement shall be deemed to impair those rights.

(g) Claimant represents, warrants and acknowledges that there are bona fide legal arguments and disputes between the Respondent and Claimant, and that the consideration described in Paragraph 2 reflects a full compromise for any such claims, including claims under the Fair Labor Standards Act (or applicable state or local wage law) as of the date of execution of the Agreement. Accordingly, the Parties have not found it necessary for the United States Department of Labor (the "USDOL") or any other federal, state or local governmental department or agency to supervise or approve this Agreement, but the Parties agree that if a USDOL or other proceeding is required to approve this Agreement, the Parties shall seek approval and enforcement hereof, including filing a motion or request for approval of this settlement as full consideration for the asserted claim from a court of competent jurisdiction and/or the USDOL (or applicable state or local agency). Further, if any claim regarding, relating to, or arising from Claimant's employment with Respondent or portion thereof is not subject to release, to the extent permitted by law, Claimant and Claimant's heirs, executors, administrators, and successors, waive any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective or multi-party action or proceeding based on such a claim in which any of the Releasees (as defined herein) is a party. If any claim regarding, relating to, or arising from Claimant's employment with Respondent is not barred by this Agreement, all monies paid hereunder shall be set-off against any relief or recovery. Consistent with this Agreement, in the event any class or collective claim is brought against Releasees, which includes or may include Claimant and/or Claimant's heirs, executors, administrators, and successors, immediately upon

learning of Releasee's inclusion, Claimant and/or Claimant's heirs, executors, administrators, and successors, as applicable, shall withdraw therefrom without obtaining or accepting any relief or recovery.

7. Return of Property.

Except as provided otherwise in this Agreement or by law, Claimant affirms that Claimant has returned all of Respondent's property, documents, and/or any confidential information in Claimant's possession or control.

Claimant also affirms that Claimant is in possession of all of Claimant's property that Claimant had at Respondent's premises and that Respondent is not in possession of any of Claimant's property.

8. Neutral Reference.

Claimant will direct all requests for references to Respondent's Human Resources Department, which shall provide Claimant's dates of employment and job title.

A failure by Claimant, or anyone seeking a reference at Claimant's direction or request, to direct requests for reference pursuant to this paragraph to Respondent's Human Resources Department as referenced above shall constitute a waiver by Claimant of the requirement that Respondent fulfill its obligations under this paragraph. Respondent's Human Resources Department shall only provide Claimant's dates of employment and job title.

9. Medicare Secondary Payer Rules.

Claimant affirms that as of the date Claimant signs this Agreement, Claimant is not Medicare eligible (i.e., is not 65 years of age or older; is not suffering from end stage renal failure; has not received Social Security Disability Insurance benefits for 24 months or longer, etc.). Nonetheless, if the Centers for Medicare & Medicaid Services (CMS) (this term includes any related agency representing Medicare's interests, as well as any insurance carrier providing benefits under Medicare Part C or Part D) determines that Medicare has an interest in the payment to Claimant under this settlement, Claimant agrees to (i) indemnify, defend and hold Releasees harmless from any action by CMS relating to medical expenses of Claimant, (ii) reasonably cooperate with Releasees upon request with respect to any information needed to satisfy the reporting requirements under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007, if applicable, and any claim that the CMS may make and for which Claimant is required to indemnify Releasees under this paragraph, and (iii) waive any and all future actions against Releasees for any private cause of action for damages pursuant to 42 U.S.C. § 1395y(b)(3)(A).

10. Governing Law and Interpretation.

This Agreement shall be governed and conformed in accordance with the laws of California without regard to its conflict of laws provision; provided, however, that parol evidence shall not be admissible to alter, vary, or supplement the terms of this Agreement. In the event of a breach of any provision of this Agreement, either Party may institute an action specifically to enforce any term or terms of this Agreement and/or to seek any damages for breach. However, the Party

instituting such an action must take steps to file this Agreement or any documents setting forth the terms of this Agreement with the court under seal. In an action to enforce any term or terms of this Agreement or to seek damages for breach of this Agreement, the prevailing party in that action shall be entitled to recover reasonable attorney's fees. Should any provision of this Agreement be declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable, excluding the general release language, such provision shall immediately become null and void, leaving the remainder of this Agreement in full force and effect. Should a court declare or find the general release in this Agreement to be unenforceable for any reason, Claimant agrees to sign a replacement release in a form provided by Respondent.

11. Nonadmission of Wrongdoing.

The Parties agree that neither this Agreement nor the furnishing of the consideration for this Agreement shall be deemed or construed at any time for any purpose as an admission by Releasees of wrongdoing or evidence of any liability or unlawful conduct of any kind.

12. Amendment.

This Agreement may not be modified, altered or changed except in writing and signed by both Parties wherein specific reference is made to this Agreement.

13. Entire Agreement.

This Agreement sets forth the entire agreement between the Parties hereto, and fully supersedes any prior agreements or understandings between the Parties, except for any arbitration, intellectual property, noncompete, restrictive covenant, non-solicitation, nondisclosure, or confidentiality agreements between Respondent and Claimant, which shall remain in full force and effect according to their terms. Claimant acknowledges that Claimant has not relied on any representations, promises, or agreements of any kind made to Claimant in connection with Claimant's decision to accept this Agreement, except for those set forth in this Agreement.

14. Counterparts and Signatures.

This Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, taken together shall constitute the same instrument. A signature made on a faxed or electronically mailed copy of the Agreement or a signature transmitted by facsimile or electronic mail, or which is made electronically, will have the same effect as the original signature.

15. Mutual Negotiation.

This Agreement was the result of negotiations between the Parties and their respective counsel. In the event of vagueness, ambiguity, or uncertainty, this Agreement shall not be construed against the Party preparing it, but shall be construed as if both Parties prepared it jointly.

16. Third Party Beneficiaries.

All Releasees are third party beneficiaries of this Agreement for purposes of the protections offered by this Agreement, and they shall be entitled to enforce the provisions of this Agreement applicable to any such Releasee as against Claimant or any party acting on Claimant's behalf.

17. No Transfer/Assignment of Claims.

Claimant warrants and represents that Claimant has not assigned or transferred or purported to assign or transfer to any person or entity all or any part of or any interest in any claim released under this Agreement. Claimant and Claimant's Counsel agree that they solely are responsible for the satisfaction of any assignment or lien to any lien holder and will indemnify and hold the Releasees harmless against any liens, damages, penalties, fines, fees, assessments, taxes, or attorneys' fees that may be imposed against or incurred by any of the Releasees as a result of the actions of any lien holder or any lien claimant or any taxing authority or any court in relation to any interest which any third-party may have in any claim which Claimant is releasing under this Agreement or any interest in any of the proceeds paid to Claimant or Claimant's Counsel under this Agreement.

CLAIMANT ACKNOWLEDGES THAT CLAIMANT HAS HAD A REASONABLE PERIOD OF TIME TO CONSIDER THIS AGREEMENT. CLAIMANT FURTHER ACKNOWLEDGES THAT CLAIMANT HAS BEEN ADVISED TO CONSULT WITH AN ATTORNEY PRIOR TO SIGNING THIS AGREEMENT AND HAS IN FACT OBTAINED LEGAL REPRESENTATION ABOUT THE DECISION TO ENTER INTO THIS AGREEMENT BY CLAIMANT'S COUNSEL MOSS BOLLINGER LLP, AND SO DOING, ENTERS INTO THIS AGREEMENT.

CLAIMANT AGREES THAT ANY MODIFICATIONS, MATERIAL OR OTHERWISE, MADE TO THIS AGREEMENT, DO NOT RESTART OR AFFECT IN ANY MANNER THE ORIGINAL CONSIDERATION PERIOD.

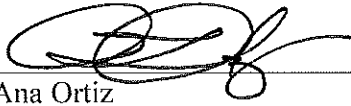
CLAIMANT FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTERS INTO THIS AGREEMENT INTENDING TO WAIVE, SETTLE AND RELEASE ALL CLAIMS CLAIMANT HAS OR MIGHT HAVE AGAINST RELEASEES.

The Parties knowingly and voluntarily sign this Agreement as of the date(s) set forth below:

ALICIA HERNANDEZ

AWESOME DOUGHNUT, LLC

By: _____

By:  _____

Ana Ortiz

Director of Human Resources

Date: _____

Date: 08/11/2023

Approved as to form and content:

By: _____

Name: Dennis Moss
Firm: Moss Bollinger LLP

By:  _____

Name: Adam Y. Siegel
Firm: Jackson Lewis P.C.

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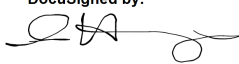
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ALICIA HERNANDEZ

AWESOME DOUGHNUT, LLC

By: _____

DocuSigned by:

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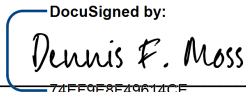
By: _____

Ana Ortiz
 Director of Human Resources

Date: 8/11/2023

Date: _____

Approved as to form and content:

By:  _____
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Name: Dennis Moss
Firm: Moss Bollinger LLP

By: _____

Name: Adam Y. Siegel
Firm: Jackson Lewis P.C.

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