

PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE §§ 2698 ET SEQ.)
SETTLEMENT AGREEMENT & RELEASE

Makaili S. Pepper v. Nor Cal Fast Foods, Inc.
Alameda County Superior Court
Case Number 21CV003706

George Seitz v. Nor Cal Fast Foods, Inc.
Butte County Superior Court
Case No. 22CV00303

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the settlement of the above-listed actions with respect to various claims brought in a representative capacity pursuant to the Private Attorneys General Act (“PAGA”) (Labor Code §§ 2698, *et seq.*) shall be effectuated upon and subject to the following terms and conditions. Capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this PAGA Settlement Agreement (“PAGA Settlement” or “Agreement”).

This Agreement is made by and between Defendant Nor Cal Fast Foods, Inc. (“Nor Cal” or “Defendant”) on the one hand, and Plaintiff Makaili Pepper (“Pepper”) and Plaintiff George Seitz (“Seitz”) (Pepper and Seitz together are the “Plaintiffs”) on the other hand, for themselves, the Aggrieved Employees (defined below), and on behalf of the State of California. Defendant and Plaintiffs, as defined herein, are sometimes collectively referred to as the “Parties.” This Agreement shall be effective upon the last date upon which it is signed by the Parties.

The Parties agree that all representative PAGA claims brought, or that could have been brought, based upon the facts alleged in Butte County Superior Court Case No. 22CV00303 (the “Seitz Action”) and Alameda County Superior Court Case No. 21CV003706 (the “Pepper Action”) (together, the “Actions”), including, but not limited to Plaintiffs’ claims that Nor Cal (1) failed to pay Plaintiff and Aggrieved Employees all wages owed, including minimum and overtime wages; (2) failed to provide Plaintiff and Aggrieved Employees compliant meal and rest periods or pay meal and rest period premiums in lieu thereof; (3) failed to issue Plaintiff and Aggrieved Employees accurate itemized wage statements and/or maintain accurate records; (4) failed to timely pay all wages owed during and upon separation of employment; (5) failed to provide one day’s rest in seven; (6) failed to pay reporting time pay; (7) failed to pay split-shift premiums; (8) failed to provide suitable resting facilities; (9) failed to provide suitable seating; (10) failed to provide reimbursement for necessary business expenses; (11) failed to provide notice of material terms of employment; and (12) failed to provide safety devices and safeguards shall be, and hereby are, fully, completely, and forever ended, settled, compromised, resolved, and concluded in exchange for and by agreement of Defendant to pay the gross sum of One Hundred Forty Thousand Dollars and Zero Cents (\$140,000.00) (hereinafter referred to as the “PAGA Settlement Sum”), subject to the payment provisions described herein, to Plaintiffs and the State of California in full and final settlement of all PAGA civil penalties sought in the Actions, the amount of which shall be inclusive of any and all attorney fees and costs for Plaintiffs’ Counsel, in connection with this Agreement and releases by Plaintiffs and the Aggrieved Employees.

Article I.

Definitions

Section 1.01 Definitions.

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

(a) “Aggrieved Employees” means all individuals who are, or previously were, employed by Nor Cal and classified as non-exempt employees in California during the PAGA Period. Nor Cal represents that the total number of Aggrieved Employees employed by Nor Cal from December 6, 2020 through April 30, 2022 is approximately 513 individuals who collectively worked approximately 5,584 pay periods during such time.

(b) “Court” means the Superior Court for the State of California, County of Butte.

(c) “Defendant’s Counsel” or “Counsel for Defendant” are:

Michael J. O’Connor, Jr., Esq.
Geoff D. La Val, Esq.
Atkinson, Andelson, Loya, Ruud & Romo
4275 Executive Square, Suite 700
La Jolla, California 92037

(d) “Effective Date” means the latter of:

- i. if no objections to the motion or stipulation to approve this Agreement are made in writing or at the hearing for Court approval, the latter of: (1) the date the Court enters an order granting approval of the Parties’ PAGA Settlement; and (2) the date the Pepper Action is dismissed with prejudice;
- ii. if objection is made in writing or at the hearing on the motion to approve the PAGA Settlement and overruled, and no appeal is taken of the Order granting approval or no motion to intervene or motion to vacate judgment is filed, then the Effective Date shall be three (3) calendar days after the deadline to file an appeal of the Order granting approval; or
- iii. if one or more appeals are taken from the Court’s overruling any objection to the PAGA Settlement in addition to an appeal of an order denying either intervention or a motion to vacate judgment, then the Effective Date shall be three (3) calendar days after any appeal is dismissed or the Order granting approval of the PAGA Settlement is affirmed after an appeal, and the Order granting approval is not subject to further review and becomes final.

(e) “Pepper Complaint” means the operative Complaint filed by Plaintiff Pepper on December 6, 2021 and the First Amended Complaint filed by Plaintiff Pepper on

February 9, 2022 in Alameda County Superior Court, Case No. 21CV003706, inclusive of the PAGA notice submitted to the California Labor and Workforce Development Agency (“LWDA”) by Plaintiff Pepper on or around November 11, 2021 and the amended PAGA Notice submitted by Plaintiff Pepper on March 21, 2022, the filings of which were procedural prerequisites for Plaintiff Pepper to pursue recovery of civil penalties under PAGA.

- (f) “Seitz Complaint” means the operative Complaint filed by Plaintiff Seitz on February 14, 2022 in Butte County Superior Court, Case No. 22CV00303, inclusive of the PAGA notice submitted to the LWDA by Plaintiff Seitz on or around December 9, 2021, the filing of which was a procedural prerequisite for Plaintiff Seitz to pursue recovery of civil penalties under PAGA.

- (g) “Plaintiff Pepper’s Counsel” are:

Kane Moon
Allen Feghali
Brett Gunther
Julie Oh
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

- (h) “Plaintiff Seitz’s Counsel” are:

Robert Drexler
Molly DeSario
Jonathan Lee
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067
Telephone: (310) 556-4811
Facsimile: (310) 943-0396

- (i) “Plaintiffs’ Counsel” means Plaintiff Pepper’s Counsel and Plaintiff Seitz’s Counsel, together.
- (j) “Release Period” or “PAGA Period” means the time period of December 6, 2020 through the date the Court grants approval of the PAGA Settlement.
- (k) “Settlement Administrator” means ILYM Group, Inc.

Article II.

Background.

Section 2.01 Procedural Background.

- (a) On December 6, 2021, Plaintiff Pepper filed a putative class action complaint in the Superior Court of the State of California for the County of Alameda, entitled *Makaili S. Pepper v. Nor Cal Fast Foods, Inc.*, Case Number 21CV003706. On February 9, 2022, Plaintiff Pepper filed a First Amended Complaint, which added a cause of action seeking recovery under PAGA for Nor Cal's alleged violation of the California Labor Code, including sections 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1198, and 2802.
- (b) On February 14, 2022, Plaintiff Seitz filed a PAGA representative action complaint in the Superior Court of the State of California for the County of Butte, entitled *George Seitz v. Nor Cal Fast Foods, Inc.*, Case No. 22CV00303, which seeks recovery for Nor Cal's alleged violation of California Labor Code, including sections 201, 202, 204, 226, 226.7, 510, 512, 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, 2802, 2810.5, 6401, and 6403. As set forth in Section 3.01 below, the Parties will stipulate to the amendment of the Seitz Complaint to add Plaintiff Pepper as a named Plaintiff as part of the settlement process.
- (c) During the course of the Pepper and Seitz Actions, the Parties engaged in informal discovery and investigation into Plaintiffs' claims. The Parties reached this PAGA Settlement only after such discovery and investigation was performed, and after the Parties engaged in a full-day, arms-length mediation before mediator Steve Rottman, an experienced wage and hour mediator.
- (d) In connection with this PAGA Settlement, Plaintiffs' representative PAGA claims that were, or could have been brought, alleging violations of California Labor Code, including sections 201, 202, 204, 226, 226.7, 510, 512, 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, 2802, 2810.5, 6401, and 6403, will be dismissed with prejudice through the entry of the Order granting approval in the Seitz Action and through Plaintiff Pepper's filing of a request for dismissal of her action with prejudice no later than five (5) business days after entry of the Order granting approval of the PAGA Settlement in the Seitz Action.
- (e) This PAGA Settlement contemplates the entry of an order by the Court approving the payment allocated for settlement of the PAGA penalties sought in the Actions and dismissal of the Actions with prejudice in accordance with the paragraph above.

Article III.

Approval and Implementation of Settlement.

Section 3.01 Court Approval of the PAGA Settlement; Mutual Cooperation.

As part of the settlement, and in connection with the approval process, the Parties agree to enter into a stipulation to file an amended complaint that will consolidate the claims raised in the Seitz action with those raised in the Pepper action into a single proceeding in Butte County Superior Court under the Seitz case name and number. Plaintiffs' Counsel shall be responsible for drafting the stipulation. The lawsuit and claims shall remain in Butte County.

Plaintiffs' Counsel shall also be responsible for preparing a Joint Stipulation for Approval of the PAGA Settlement in the Seitz matter, which shall be filed following the amendment of the Seitz complaint. The Parties will cooperate in obtaining through a joint stipulation, and in the event the Court does not permit approval by joint stipulation, through an unopposed motion by Plaintiffs, an Order from the Court approving the payment of the PAGA Settlement Sum as described in this Agreement at the earliest possible date.

Concurrently with the submission of this Agreement to the Court, Plaintiffs shall submit it to the LWDA, as required by PAGA. The Parties agree to use their best efforts to expedite the preparation and submission of the settlement approval documents. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents reasonably necessary to be prepared or filed in order to effectuate the approval and implementation of the PAGA Settlement and shall take all steps that may be requested by the Court relating to or that are otherwise necessary to obtain such approval, as described in this Agreement.

The Court's approval of the payment of the PAGA Settlement Sum as described in this Agreement shall be embodied in a written Order, which shall be transmitted to the LWDA by Plaintiffs' Counsel promptly upon entry, as required by PAGA. Plaintiff Pepper shall file a request for dismissal of her action, with prejudice, no later than five (5) business days after the Court's entry of the Order granting approval of the PAGA Settlement. Should the Court not grant approval of the PAGA Settlement as described in this Agreement or decline to dismiss either the Seitz Action or the Pepper Action with prejudice, as agreed by the Parties, this Agreement shall be null and void and have no further effect. The Parties shall be returned to their prior positions, with any and all rights and arguments intact and undisturbed.

Section 3.02 Settlement Payment Procedures.

(a) Payment of PAGA Settlement Sum.

- (1) Defendant agrees to pay the total, all in, maximum amount of One Hundred Forty Thousand Dollars and Zero Cents (\$140,000.00) (i.e. "the PAGA Settlement Sum") to fully and finally settle and compromise the Actions. The PAGA Settlement Sum shall be paid as described in Section 3.02(a)(2) below, shall cover, resolve, and fully and completely satisfy any and all amounts owed to the State of California, the Aggrieved Employees, and Plaintiffs' Counsel, including all amounts allocated to

attorney fees and costs, in settlement of all of Plaintiffs' claims pursuant to PAGA based on Plaintiffs' allegation that Nor Cal violated the California Labor Code, including but not limited to Sections 201, 202, 204, 226, 226.7, 510, 512, 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, 2802, 2810.5, 6401, and 6403, and all related or associated claims which were asserted, or which could have been asserted based upon the facts alleged, in the Seitz Complaint or the Pepper Complaint. In the event this Agreement is canceled, rescinded, terminated, voided or nullified, however that may occur, or the settlement is barred by operation of law, invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendant shall have no obligation to pay any of the PAGA Settlement Sum. The Parties agree there are no circumstances that would require Defendant to pay any amount greater than the PAGA Settlement Sum in connection with this Agreement.

- (2) Defendant's funding of the PAGA Settlement Sum is conditioned upon the Court's approval of the PAGA Settlement and dismissal of the Pepper Action with prejudice, after which Defendant shall deliver the PAGA Settlement Sum to the Settlement Administrator no later than July 1, 2023.
- (3) The "Net Settlement Fund" or "Net PAGA Penalties" shall be calculated by deducting from the PAGA Settlement Sum the following: (1) up to, but not exceeding 33.33% of the PAGA Settlement Sum \$46,662.00 for the payment of Plaintiffs' Counsel's attorney fees; (2) up to, but not exceeding, \$20,000.00 for the payment of Plaintiffs' Counsel's costs; (3) \$5,000.00 as service awards to each Plaintiff, respectively in exchange for a 1542 general release; and (4) up to, but not exceeding, \$20,000 for the payment of the Parties' chosen and approved Settlement Administrator. The Net PAGA Penalties are currently estimated to total approximately \$43,338.00. The Net PAGA Penalties will be allocated and distributed pursuant to Labor Code section 2699(i) with 75% (i.e. \$32,503.50) paid to the LWDA and 25% (i.e. \$10,834.50) paid to the Aggrieved Employees on a pro-rata basis according to the number of pay periods they worked in the PAGA Period. If the Court does not approve the full amount of any of the items in this paragraph, such amount(s) not approved shall be re-allocated into the Net PAGA Penalties for distribution to the LWDA and the Aggrieved Employees consistent with PAGA.

(b) Distribution of the PAGA Settlement Sum.

- (1) Distribution of the PAGA Settlement Sum shall be conditioned upon the Effective Date first occurring, then it will proceed as follows:
 - a) The Settlement Administrator shall distribute the amounts described in paragraph 3.02(a)(3) within fifteen (15) calendar days of Defendant's deposit of the PAGA Settlement Sum, which shall be deposited within fifteen (15) calendar days after the Effective Date.
 - i) The 25% portion of the Net PAGA Penalties to be distributed to the Aggrieved Employees will be divided pro-rata among and paid to all

Aggrieved Employees according to the total number of pay periods that each Aggrieved Employee worked during the PAGA Period.

- ii) All interest accrued on the PAGA Settlement Sum shall be distributed 75% to the LWDA and 25% to the Aggrieved Employees. The Settlement Administrator shall transmit the settlement checks to the Aggrieved Employees, with no claims process required, by first-class United States mail, postage prepaid, to the last known address of each recipient with directions to the Postmaster to return all undeliverable settlement checks.
- (2) For each settlement check that is returned as undeliverable, the Settlement Administrator shall promptly attempt to locate the Aggrieved Employee by using an address refresher database. Any settlement checks that remain uncashed more than 180 calendar days after issuance shall be paid to the California State Controller, with the identity of the Aggrieved Employee(s) to whom the funds belong, to be held for the Aggrieved Employee(s) per the California Unclaimed Property Law, in the interest of justice. The money paid to the State Controller will remain each of the Aggrieved Employee's property to the extent permitted by law.
- (3) The entire amount of the PAGA Settlement Sum is considered penalties or attorney fees/costs and will not be subject to local, state, or federal tax withholdings. All recipients of payments under this PAGA Settlement shall have their payments reported on an IRS Form 1099 via the Settlement Administrator if required.

Article IV.

Limitations On Use Of This Settlement.

Section 4.01 No Admission.

This Agreement, and compliance with this Agreement, shall not be construed as an admission by Defendant of any liability whatsoever, or as an admission by Defendant of any violations of Plaintiffs' or Aggrieved Employees' rights, violation of any order, law, statute, duty or contract whatsoever. Defendant specifically disclaims any liability to Plaintiffs or any other allegedly Aggrieved Employee for any alleged violation of his/her rights, or for any alleged violation of any order, law, statute, duty or contract. Defendant further denies, for any purpose other than settling these matters, that this action is appropriate for representative treatment.

Section 4.02 No Use; Non-Evidentiary Use.

Neither this Agreement, nor any of its terms, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or anything else associated with it, shall be publicized, marketed, reported, published, posted, or advertised by Plaintiffs or their counsel, nor offered or used as evidence by any of the Parties or their respective counsel in the Actions or in any other action or proceeding, including to establish any liability or admission on the part of Defendant or any Released Parties (defined below in Section 5.01) or to establish the existence of any condition constituting a violation of, or noncompliance with, federal, state, local or other applicable law; provided, however, this shall not prevent this Agreement from being used,

offered, or received in evidence in any proceeding to enforce, construe, or finalize this Agreement. Defendant and the Released Parties may also use this Agreement as an affirmative defense and bar, in whole or in part, to any future or subsequent claims or suits by the Aggrieved Employees or others, based on any of the Released Claims during the PAGA Period and the terms contained herein, in whole or in part, to the extent applicable. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or other events associated with it, shall be construed as an admission or concession by Defendant or any Released Parties or establishment of any such violation(s) or failure(s) to comply with any applicable law. Defendant specifically retains the right to defend, on the merits, against any non-settled claims brought by any allegedly Aggrieved Employees.

Section 4.03 Nullification.

Invalidation of any material provision of this Agreement shall invalidate this Agreement in its entirety unless the Parties subsequently agree in writing that the remaining provisions shall remain in full force and effect.

Article V.

Release and Waiver of Claims; Non-Disparagement.

Section 5.01 Limited Release of Claims by Aggrieved Employees.

Upon approval of the PAGA Settlement by the Court, Plaintiffs, on behalf of themselves and their heirs, executors, and assigns, and the State of California, fully release and discharge Defendant, and each of its present and former parent companies, subsidiaries, divisions, affiliates, successors, predecessors, and assigns, and each of its respective past and present owners, officers, directors, operators, managing agents, members, shareholders, partners, employees, agents, franchisors, franchisees, attorneys, insurers, successors, assigns, representatives, accountants, payroll providers, benefits providers, and all persons acting jointly, under, by, through, or in concert with any of them (collectively, "Released Parties") from any and all claims under PAGA which were asserted in the Pepper Complaint or the Seitz Complaint, or which could have been asserted in either Complaint based on the facts pleaded therein, for and relating to alleged violations of California Labor Code, including sections 201, 202, 204, 226, 226.7, 510, 512, 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, 2802, 2810.5, 6401, and 6403 ("Released Claims") that accrued during the PAGA Period.

As a result of this release, the State of California and the Aggrieved Employees will be unable to bring or recover a claim against any of the Released Parties under the California Private Attorneys General Act, California Labor Code section 2698 et seq., for any violations of the Released Claims that took place during the PAGA Period. Defendant and the Released Parties shall have no liability for payment of civil penalties arising out of the Released Claims in this Action except as set forth in this Agreement.

Section 5.02 General Release of Any and All Claims by Plaintiffs.

Upon their receipt of their service awards and their pro-rata portion of the PAGA Settlement Sum based upon the number of pay periods they worked in the PAGA Period, Plaintiff Pepper and Plaintiff Seitz, individually, each release the Released Claims against the Released Parties and makes the additional following General Release in favor of the Released Parties:

Plaintiffs each individually hereby unconditionally waives, forever releases, and discharges any and all demands, damages, debts, liabilities, contracts, obligations, actions, causes of action and claims of every kind, nature, and description whatsoever, whether now known or unknown, suspected or unsuspected, including in equity or otherwise, which he or she ever had or now has against the Released Parties arising or accruing at any time prior to the Effective Date, including without limitation any matter, cause or claim arising out of or related to facts or events occurring prior to the execution of this Settlement Agreement, and/or related to each of their employment with Nor Cal and his or her separation therefrom. At a minimum, the claims released by the Plaintiffs include but are not limited to: (a) any claims that were or could have been brought under California Labor Code, including sections 201, 202, 204, 226, 226.7, 510, 512, 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, 2802, 2810.5, 6401, 6403, the applicable Industrial Welfare Commission Wage Orders, the FLSA, and all related or corresponding federal laws, and all implementing regulations and interpreting guidance; (b) any claims that were or could have been brought under California Corporations Code, and California Business and Professions Code, including but not limited to California Business and Professions Code section 17200 et seq. as unlawful, fraudulent or misleading based on the claims, facts and allegations alleged in the Action (including, but not limited to, claims of conduct unlawful under state or federal law); (c) any other causes of action, including those seeking premiums, penalties, interest, punitive damages, costs, attorney fees, injunctive relief, declaratory relief, or accounting, whether such causes of action are in tort, contract, equity, statute, or common law; (d) any claims under the Fair Employment and Housing Act, Americans with Disabilities Act, Age Discrimination in Employment Act, and Title VII of the Civil Rights Act of 1964, and (e) any other claims the Class Representatives could have made related to her employment with Nor Cal. Plaintiffs may hereafter discover facts in addition to or different from those which he or she now knows or believes to be true, but stipulates and agrees that, upon their receipt of their service awards from the PAGA Settlement Sum funding, he or she fully, finally, and forever settles and releases any and all claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity and without regard to the subsequent discovery or existence of such different or additional facts. Plaintiffs are deemed, by operation of the Order granting Court approval of the PAGA Settlement, to have agreed not to sue or otherwise make a claim against any of the Released Parties for any claim.

Plaintiffs each individually acknowledge that they have had the opportunity to review, and have reviewed, California Civil Code section 1542, which provides:

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 RELEASING PARTY.

Being fully informed of this provision of the Civil Code and understanding its provisions, Plaintiffs each individually agrees to waive any rights under that section, and acknowledges that this Settlement Agreement and the release contained herein extends to all claims that he or she has or might have against the Released Parties, including those which are presently unknown to him or her or that he or she does not know or suspect to exist, which, if known by him or her, might have affected his or her settlement with, and release of, the Released Parties or might have affected his or her decision.

Section 5.03 Non-Disparagement by Plaintiffs.

Plaintiffs agree they will not, orally or in writing, publicly or privately, post, publish, make or express any comment, view or opinion which criticizes, is adverse to, brings disrepute in the eyes of the public, defames, derogates or disparages Defendant or the Released Parties in any manner, nor shall Plaintiffs authorize any agent or representative to make or express any such comment, view or opinion.

Article VI.

Miscellaneous Provisions.

Section 6.01 Drafting.

The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Party shall be considered the "drafter" of this Settlement Agreement for purposes of having terms construed against that Party.

Section 6.02 No Impact on Benefit Plans.

Neither the Settlement Agreement nor any amounts paid to Plaintiffs or any Aggrieved Employee under the Settlement Agreement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Defendant's sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement Agreement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of Defendant's benefit plans, policy, or bonus program. Defendant retains the right, if necessary, to modify the language of its benefit plans, policies and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement Agreement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement Agreement.

Section 6.03 Acknowledgement that the Settlement is Fair and Reasonable.

The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement Agreement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement Agreement.

Section 6.04 Mutual Preparation.

The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties; it being recognized that, because of the arm's length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

Section 6.05 Representation By Counsel.

The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed in full.

Section 6.06 Waiver of Right to Appeal.

Provided that the Court's Order granting approval of this PAGA Settlement is consistent with the terms and conditions of the Settlement Agreement, Plaintiffs, Aggrieved Employees, the LWDA, and Defendant, inclusive, hereby waive any and all rights to appeal in connection with any issue in the Court's Order, including, but not limited to, all rights to any post-judgment proceeding and/or appellate proceeding, such as a motion to vacate or set-aside judgment, a motion for new trial, and any extraordinary writ, and the Order will become final and non-appealable at the time it is entered. This provision does not in any way impact Plaintiffs', Defendant's, nor Plaintiffs' Counsel's right to appeal any adverse rulings entered as a result of any objections and/or other collateral attacks. However, should the Court approve an award of attorneys' fees of less than 25% of the PAGA Settlement Sum, Plaintiffs' Counsel retains the right to appeal that decision.

Section 6.07 Voluntariness.

This Agreement is executed voluntarily and without duress or undue influence on the part of, or on behalf of, any of the Parties, or of any other person, firm or other entity.

Section 6.08 Amendments.

The terms and provisions of this Agreement may be amended only by a written agreement that is both: (a) signed by the Plaintiffs and Defendant who executed this Agreement; and (b) approved by the Court. Any waiver of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement unless expressly so indicated otherwise.

Section 6.09 Assignment.

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Aggrieved Employee, without the express written consent of each other Party and their respective counsel hereto. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement and shall not be construed to confer any right or to avail any remedy to any other person. Plaintiffs expressly warrant that they has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

Section 6.10 Governing Law.

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California.

Section 6.11 Entire Agreement.

This Agreement contains the entire understanding of the Parties hereto with respect to the subject matter contained herein. This Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the settlement of the Actions.

Section 6.12 Waiver of Compliance.

Any failure of any Party hereto to comply with any obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties hereto entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

Section 6.13 Counterparts.

The Parties hereby acknowledge that this Agreement may be executed in counterpart originals with like effect as if executed in a single original document. The Parties also agree that a facsimile, scanned, or electronically signed (provided it complies with California Civil Code sections 1633.1, et seq. and the party provides appropriate verification) copy of the signed Agreement shall have the same force and effect as an original signed Agreement.

Section 6.14 Attorney Fees and Costs.

With respect to this Agreement, neither Plaintiffs' Counsel nor any other attorneys acting for, or purporting to act for the Aggrieved Employees, or Plaintiffs may recover, or seek to recover, any amounts for fees, costs, or disbursements from the Released Parties or the PAGA Settlement Sum except as expressly provided herein. Defendant shall bear its own attorney fees and costs, and neither Plaintiffs' Counsel, the Aggrieved Employees, nor Plaintiffs shall be responsible for Defendant's attorney fees and costs. The Court shall retain jurisdiction to enforce this Agreement pursuant to Code of Civil Procedure section 664.6; if any party moves the Court

to enforce this Agreement, the prevailing party shall be entitled to recover from the other party all attorney fees and costs incurred to enforce this Agreement.

Section 6.15 Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, the Parties shall submit any such dispute(s) to the Court. To the extent any Party seeks to enforce any of the terms of this Agreement in Court or before the Court, the prevailing party shall be entitled to recover reasonable attorney fees and costs.

Section 6.16 No Other Claims or Actions; Defendants' Right to Cancel If Plaintiffs' Counsel Files Action Against Released Parties

Plaintiffs represent that they have not filed any complaints, claims, or actions against Defendant or the Released Parties with any court or administrative agency other than the Actions, and the related notice(s) filed with the LWDA. If any agency or court has or assumes jurisdiction of any complaint, claim, or action against Defendant or the Released Parties on behalf of Plaintiffs, Plaintiffs will request that agency or court to withdraw from or dismiss the matter. Plaintiffs and their Counsel agree to fully defend this Agreement and this Settlement in the event that a third party objects to, undermines, attacks, or attempts to otherwise intervene or interfere with the process and approval of this settlement or this Agreement.

Section 6.17 Binding.

This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.

Section 6.18 Default, Notice and Cure; Time is of the Essence.

If Defendant fails to timely make any payment required herein, it shall be in default. Plaintiffs shall give Counsel for Defendant notice of the default by e-mail and Defendant shall have fifteen (15) business days thereafter to cure the default. The Parties agree that time is of the essence with respect to all provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Private Attorneys General Act Settlement Agreement on the date set forth below.

APPROVED AND ACCEPTED.

Dated: 10/28/2022

NOR CAL FAST FOODS, INC.

DocuSigned by:
By amir saheballyamany
B5A16D101271431...
Title _____

Dated: 10/20/2022

MAKAILI PEPPER

DocuSigned by:
By Makaili Pepper
C508099A74CC413...
Plaintiff Makaili Pepper

Dated:

GEORGE SEITZ

By _____
Plaintiff George Seitz

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated:

CAPSTONE LAW APC

By _____
Molly DeSario, Esq.
Attorney for Plaintiff Seitz

Dated: 10/20/2022

MOON & YANG, APC

By [Signature]
Lane Moon, Esq.
Attorney for Plaintiff Pepper

APPROVED AND ACCEPTED.

Dated:

NOR CAL FAST FOODS, INC.

By _____
Title _____

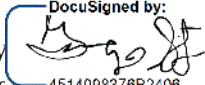
Dated:

MAKAILI PEPPER

By _____
Plaintiff Makaili Pepper

Dated: 10/14/2022

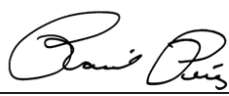
GEORGE SEITZ

By  _____
Plaintiff George Seitz

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: October 14, 2022

CAPSTONE LAW APC

By  _____
Raul Perez
Molly DeSario
Attorney for Plaintiff Seitz

Dated:

MOON & YANG, APC

By _____
Kane Moon, Esq. Attorney
for Plaintiff Pepper