

1 Sarkis Sirmabekian [SBN 278588]
2 **SIRMABEKIAN LAW FIRM, PC**
3 3435 Wilshire Blvd., Suite 1710
4 Los Angeles, California 90010
5 Telephone: (818) 473-5003
6 Facsimile: (818) 476-5619
7 Email: *contact@slawla.com*

8 *Attorney for Plaintiff GISELLA M. HURTADO*

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ORANGE**
12

13 GISELLA M. HURTADO, an individual;

14 Plaintiff,

15 v.

16 BRASA ROTISSERIE, a business entity
17 form unknown; VICTOR BEGAZO, an
18 individual; FRANCESCA BEGAZO, an
19 individual; ANGELA KISHIJARA, an
20 individual; STEPHEN HALL a/k/a STEVE
21 HALL, an individual; and DOES 1 through
22 100, inclusive;

23 Defendants.

Case Number: 30-2022-01258759-CU-OE-CXC

[Honorable Peter J. Wilson; Department CX101]

**PLAINTIFF GISELLA M. HURTADO'S
NOTICE OF MOTION AND UNOPPOSED
MOTION FOR COURT APPROVAL OF PAGA
SETTLEMENT; MEMORANDUM OF POINTS
AND AUTHORITIES;**

**DECLARATION OF SARKIS SIRMABEKIAN,
ESQ. IN SUPPORT;**

Hearing:

Date: March 24, 2023

Time: 1:30 p.m.

Dept.: CX101

Complaint Filed: May 9, 2022

24 **TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:**

25 PLEASE TAKE NOTICE that, on March 24, 2023, at 1:30 p.m. or as soon thereafter as the
26 matter may be heard in department CX101 of the Orange County Superior Court Civil Complex Center,
27 located at 751 W Santa Ana Blvd, Santa Ana, California 92701, the honorable Peter J. Wilson presiding,
28 Plaintiff GISELLA M. HURTADO ("Plaintiff") will and hereby does apply for a Court order approving
the Private Attorneys General Act ("PAGA") settlement in this matter.

1 The basis for this motion is that the Parties have reached and fully executed a settlement of the
2 above-entitled case which includes settlement of the PAGA claims. One aspect of Plaintiff's claim
3 included a prayer for remedies under the PAGA. Pursuant to statute, settlement of PAGA claims
4 requires court approval. *See Labor Code section 2699(l)*. Thus, the Parties seek court approval of the
5 claim to PAGA penalties.

6 This motion is based on this notice, the memorandum of points and authorities, all the
7 declaration in support filed concurrently, and all exhibits attached thereto, as well as all records on file
8 with this Court and the argument that is presented at the time of the hearing.

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10
11 DATED: January 4, 2023

SIRMABEKIAN LAW FIRM, PC

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13 By: 

14 Sarkis Sirmabekian, Esq.
15 Attorneys for Plaintiff
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 On May 9, 2022, Plaintiff GISELLA M. HURTADO (“Plaintiff”) filed a Complaint against
4 Defendants BRASA ROTISSERIE, VICTOR BEGAZO, FRANCESCA BEGAZO, ANGELA
5 KISHIJARA, and STEPHEN HALL a/k/a STEVE HALL (“Defendants”), and DOES 1 through 100,
6 inclusive (collectively “Defendants”) for wage and hour violations under the California Labor Code.
7 *See Declaration of Sarkis Sirmabekian ¶2. (“Sirmabekian Decl.”)*

8 On February 4, 2022, Plaintiff filed with the Labor and Workforce Development Agency
9 (“LWDA”) the PAGA Notice Letter for alleged violations of the California Labor Code and violations
10 of the State’s Private Attorneys’ General Act, California Labor Code § 2698 *et seq.*, (“PAGA” or the
11 “PAGA Claim”) and concurrently therewith, a copy of Plaintiff’s PAGA Notice Letter was served via
12 certified mail to Defendants in this action. *Sirmabekian Decl. ¶3.* Attached to the Declaration of Sarkis
13 Sirmabekian, Esq. as “EXHIBIT 1” is a true and correct copy of Plaintiff’s PAGA Notice Letter.

14 Pursuant to *Labor Code §2698.3(a)(2)*, a PAGA Plaintiff is required to wait 65-days to allow
15 the LWDA to decide whether they shall investigate and/or handle the matter and *§2698.3(a)(2)(A)*
16 specifically authorizes the PAGA Plaintiff to pursue the PAGA action after 65-days has elapsed without
17 hearing from the LWDA. Here, after waiting 65-days the LWDA at no time notified PAGA Plaintiff
18 or his counsel that they intend to investigate or handle the matters involved in Plaintiff’s PAGA Notice.
19 A true and correct copy of Plaintiff’s PAGA Notice Letter was also attached with Plaintiff’s operative
20 Complaint in this action as Exhibit A thereto. To date, the LWDA has taken no action against
21 Defendants on the PAGA Notice, has not investigated and has not issued any citations against
22 Defendants on the PAGA Notice and the LWDA has not notified the Parties regarding any intention to
23 investigate, consistent with *Labor Code section 2699.3 (2) (A) or (2) (B)*. *Id. Sirmabekian Decl. ¶4.*

24 Under *Labor Code section 2699(l)* “[t]he Superior Court shall review and approve any penalties
25 sought” as part of the resolution of a case that involved PAGA claims.” *Labor Code § 2699(l)*. Pursuant
26 to *Labor Code section 2699(l)(2)*, a copy of Plaintiff’s Unopposed PAGA Approval Motion moving
27 papers, which includes a copy of the Parties’ PAGA Settlement Agreement document, was concurrently
28 filed/served to the LWDA at the time of filing with the Court, per the enclosed proof of service. *Id. ¶5.*

1 **Mediation and Settlement Agreement:**

2 On October 11, 2022, the Parties participated in a full-day mediation with mediator Mark A.
3 Lemke, Esq. a member of the Southern California Mediation Association (“SCMA”), at Lemke
4 Mediation. As a result of a series of arms-length negotiations, on October 26, 2022, the Parties reached
5 a binding agreement and executed a “Settlement Agreement and Release”, regarding the individual and
6 PAGA claims between the Parties in this action. A true and correct copy of the Settlement Agreement
7 may be found attached as “EXHIBIT 2” of the Declaration of Sarkis Sirmabekian, Esq. *Sirmabekian*
8 *Decl.* ¶6.

9 **PAGA Stipulation:**

10 On November 14, 2022, the Parties executed a Stipulation for Order Approving PAGA
11 Settlement document. Attached to the Declaration of Sarkis Sirmabekian, Esq. as “EXHIBIT 3” is a
12 true and correct copy of the Parties Stipulation for Order Approving PAGA Settlement. *Id.* ¶7. On
13 November 15, 2022, the Court rejected the Parties’ PAGA Stipulation and issued a “Notice of Rejection
14 of Electronic Filing” stating: “This request needs to be filed as a motion seeking court approval”. *Id.*

15 By this motion, the Parties request a Court Order approving the terms of the PAGA Settlement,
16 entering judgment on PAGA Claims, and dismissal, with prejudice, of Plaintiff’s individual claims.
17 Defendants do not oppose this motion. *Id.* ¶8.

18 **II. ARGUMENT**

19 **A. THE COURT SHOULD APPROVE THE PROPOSED SETTLEMENT**

20 **1. The Court’s duty to review and approve any settlement of PAGA penalties.**

21 PAGA permits an aggrieved employee to sue an employer for civil penalties associated with
22 the employer’s violation of various California Labor Code provisions. *Labor Code section 2699(a)*.
23 Pursuant to the statute, of the amount paid to settle a claim for PAGA penalties, twenty five percent
24 (25%) is payable to the employee prosecuting the action and seventy-five percent (75%) is payable to
25 the California Labor and Workforce Development Agency (“LWDA”). *Labor Code section 2699(i)*.
26 Under *Labor Code section 2699(l)*, “[t]he Superior Court shall review and approve any penalties
27 sought” as part of the resolution of a case that involved PAGA claims.” *Labor Code section 2699(l)*.

28 The Senate Daily Journal for the 2003-2004 Regular Session, pages 4754-55 contained the

1 following letter dated July 29, 2004, from Senator Joseph L. Dunn, regarding the intent of the PAGA:
2 “The purpose of the court review of penalties in subdivision (l) is to ensure that settlements involving
3 penalties arising under *Labor Code Section 2699* do not undercut the dual statutory purposes of
4 punishment and deterrence, or result in unjust, arbitrary and oppressive, or confiscatory settlements.”

5 **2. The Court should approve the proposed settlement of the PAGA penalties**
6 **because the settlement is fair and reasonable under the circumstances of this**
7 **case.**

8 For purposes of Plaintiff representative claims under PAGA, the alleged aggrieved individuals
9 (“Aggrieved Employees”) are defined by Plaintiff to be “a person employed by DEFENDANTS at
10 Brasa Rotisserie during the Covered Period”. The Covered Period is defined to be “the period
11 commencing from May 9, 2021 through the date of Court Approval”. Defendants represent that they
12 employed 21 employees at BRASA Rotisserie during the Period of May 9, 2021 to present.

13 Here, PAGA counsel reviewed a sampling of time and pay records for 21 Aggrieved
14 Employees. Based on the data produced pursuant to informal discovery, as well as PAGA Counsel’s
15 own independent investigation and evaluation and the Mediator’s efforts, PAGA Counsel believes that
16 the settlement with Defendants for the consideration and on the terms set forth in the PAGA Settlement
17 Agreement is fair, reasonable, and adequate and is in the best interest of the PAGA Members in light
18 of all known facts and circumstances, including the risk of significant delay and uncertainty associated
19 with litigation, various defenses asserted by Defendants, the risk of not prevailing at trial, and numerous
20 potential appellate issues, etc. Based on careful consideration of the strengths and weakness of this
21 action, the Parties firmly believes that this Settlement is fair and reasonable for Plaintiff, the PAGA
22 workforce, and the LWDA.

23 **Settlement Sums:**

24 “Gross Settlement Value” or “GSV” means the total amount of money DEFENDANTS will
25 pay in consideration for this Settlement, which is Eighty Thousand Dollars and Zero Cents (\$80,000.00)
26 Under no circumstances shall the GSV exceed \$80,000.00.

27 The GSV consists of the following allocations (“PAGA Payments”):

- 28 i. PLAINTIFF’S Counsel’s fees and costs;

- 1 ii. The Individual Settlement Value to PLAINTIFF totaling \$70,000.00;
- 2 iii. The total penalties allocated toward the PAGA Claims (“PAGA Value”) totaling Ten
3 Thousand Dollars (\$10,000.00). From the PAGA Value, 33.33% shall be paid to
4 Plaintiff’s Counsel for PAGA counsel fees, \$75.00 for PAGA costs, and a reasonable
5 sum to a settlement administrator. The remaining difference (“NET PAGA Value”) shall
6 be paid as follows: 75% shall be paid to the LWDA (“LWDA Penalty”), and 25% shall
7 be paid to Aggrieved Employees (“Employee Penalty”).
- 8 a. The Settlement Administrator will calculate each Individual PAGA Payment by
9 (a) dividing the amount of the Aggrieved Employees’ 25% share of NET PAGA
10 Value by the total number of PAGA Period Pay Periods worked by all Aggrieved
11 Employees during the PAGA Period and (b) multiplying the result by each
12 Aggrieved Employee’s PAGA Period Pay Periods. Aggrieved Employees
13 assume full responsibility for any taxes owed on their Individual PAGA
14 Payment.
- 15 b. The Settlement Administrator will report the Individual PAGA Payments on IRS
16 1099 Forms.
- 17 iv. DEFENDANTS agree that if during the PAGA Period (May 9, 2021 through Court
18 Approval) the actual employee count increases by more than 10% (i.e., there are more
19 than 2 Settlement employees at Brasa Rotisserie), then DEFENDANTS shall increase
20 the PAGA VALUE by an amount that mirrors the increase in the overall class size (e.g.,
21 if the number of Settlement Class Members increases above 20 by 15% as of the end of
22 the Class Period, DEFENDANTS shall increase the PAGA Value by 15%).

23 **Liability is Contested:**

24 The strength of Plaintiff’s PAGA claim is balanced by the fact that liability is contested,
25 Defendants are represented by talented counsel who are prepared to zealously litigate this case, and
26 there is no way to determine what would transpire at trial. In addition, the state of the law regarding
27 PAGA liability continues to evolve, and there could be further changes that could have a detrimental
28 impact on the viability of Plaintiff’s PAGA claim prior to trial. *See ZB, N.A. v. Superior Court of San*

1 *Diego Cty.*, No. S246711, 2019 WL 4309684, Cal. Sept. 12, 2019. In addition to the risks presented
2 by pursuing this matter to trial, there is also the likelihood that the non-prevailing party would appeal
3 any judgment rendered at trial. The Settlement is also in the best interest of judicial efficiency in this
4 case, as it would eliminate a complex representative action, which also alleges individual claims, from
5 this Court's calendar. (*Id.*) Therefore, based on the aforementioned reasons, the global Settlement
6 presented is fair and reasonable for Plaintiff, the PAGA workforce, and the LWDA.

7 This proposed resolution of the alleged PAGA remedies is fair and reasonable given the facts
8 that:

- 9 a. The core claims asserted by the Plaintiff is independent of any PAGA remedies;
- 10 b. This was not a case where the PAGA penalties represent a significant portion of the
11 amount of damage in dispute. Rather, Plaintiff alleged numerous individual wage
12 and hour claims such as for unpaid wages, rest and meal break premiums, failure to
13 furnish accurate wage and hour statements, failure to pay wages, upon discharge,
14 failure to indemnify and illegal deductions from wages, etc., and for statutory
15 attorney's fees;
- 16 c. A primary claim in this case is for meal and rest break violations, however, Plaintiff
17 understands that establishing break violations under the Labor Code may require the
18 presentation of highly individualized evidence/testimony to establish the reason for
19 any violations.
- 20 d. Defendant has only 21 current and former employees in the PAGA Period. The
21 release for those 21 employees will be limited only to claims for PAGA penalties.
22 Those employees will not relinquish any other individual claims they may have.
23 Nothing here shall be construed as an admission that any employee has any valid
24 individual claim against Defendant.
- 25 e. Defendants vigorously dispute and deny the allegations and various causes of action
26 asserted in the Action, including, without limitation, Plaintiff's individual claims
27 and the Aggrieved Employees' claim for civil penalties pursuant to PAGA.
- 28 f. Plaintiff is mindful of the risks involved with pursuing claims against Defendants,

1 the economic future of which is uncertain. Plaintiff, the LWDA, and the aggrieved
2 employees gain much value from settling these PAGA claims at \$10,000 for 21
3 employees, which will result in above average distributions to each of them in this
4 time of need.

5 Moreover, a trial court does not abuse its discretion in approving the settlement of a case
6 involving PAGA claims even when the settlement allocates none of the settlement payment to PAGA
7 claims. *Nordstrom Commission Cases* (2010) 186 Cal.App.4th 576, 589. Nordstrom was a putative
8 wage an hour class action in which the employer agreed to pay up millions in cash plus another \$2.5
9 million in merchandise vouches to settle all claims (including PAGA claims). *Nordstrom*, 186
10 Cal.App.4th at 580. Certain class members objected to the settlement released those claims without any
11 consideration paid to the LWDA pursuant to them. *Id.* at 589. On Appeal, the appellate court held that
12 the trial court did not abuse its discretion in approving the class settlement even though it released
13 PAGA claims without any money paid to the LWDA for those claims. *Ibid.* (“We find no abuse of
14 discretion in the trial court’s approval of the settlement agreement containing these terms,” even though
15 the agreement released PAGA claims without any consideration paid to the LWDA for those releases).

16 Here, the parties have allocated a reasonable sum of \$10,000 to the PAGA claim to resolve the
17 PAGA claim. Under the circumstances of this case, this is a fair and reasonable allocation. Thus, the
18 parties request that the Court approve this aspect of the settlement.

19 **3. The Risk, Expense, Complexity, and Likely Duration of Further Litigation**

20 The Parties considered a number of risk factors in this action in determining what an acceptable
21 settlement would be after Defendants produced the core timekeeping and payroll documents during
22 settlement negotiations. Although Plaintiff’s counsel believes it is unlikely, Plaintiff faces the potential
23 risk of an adverse ruling at trial and being bound by a decision that awards no penalties on the many
24 claimed violations in light of Defendants’ vigorous dispute and denial of the allegations and various
25 causes of action asserted in the Action, including, without limitation, Plaintiff’s individual claims and
26 the Aggrieved Employees’ claim for civil penalties pursuant to PAGA. Conversely, Defendants face
27 substantial risk and liability if Plaintiff and the Aggrieved Employees are able to prove the underlying
28 violations under the Labor Code, leading to civil penalty liability under PAGA.

1 **4. The PAGA Settlement Furthers the Purposes of the PAGA.**

2 Finally, the Court should not place undue emphasis on the amount of the PAGA allocation since
3 PAGA does not require this focus and, as amended in July 2016, the statute expressly contemplates the
4 possibility of approval with no penalty payments.

5 The LWDA has the discretion not to assess penalties in favor of other enforcement proprieties.
6 *Scharwartz v. Poizner* (2010) 187 Cal.App.4th 592, 615 [an agency’s decision not to prosecute or
7 enforce, whether through civil or criminal process, is a decision generally committed to the agency’s
8 absolute discretion”]. The PAGA statute grants this Court the same discretion. *See Lab. Code section*
9 *2699(e)(2)*.

10 Moreover, some of the top enforcement proprieties of the LWDA are “to vigorously enforce
11 minimum labor standards in order to ensure employees are not required or permitted to work under
12 substandard unlawful conditions...” and “to protect employers who comply with the law from those
13 who attempt to gain a competitive advantage at the expense of their workers by failing to comply with
14 minimum labor standards.” Lab. Code section 90.5(a). The priorities include ensuring that overtime
15 compensation is paid and that unlawful pay practices stop. *See Lab. Code sections 1193.5 and 1194.5*
16 [referenced in the enforcement proprieties set forth in Labor Code section 90.5(b)].

17 Here, the settlement agreement furthers the LWDA’s enforcement of these priorities. Hence,
18 the PAGA settlement payment contributes to the enforcement of the Labor Code and should therefore
19 be approved under PAGA.

20 **5. Notice to Aggrieved Employees**

21 A notice to aggrieved employees will accompany the payment to PAGA members. The notice
22 informs the recipient as to the scope of the released claims, and as to the recipient’s responsibility for
23 any taxes payable on the amount received. *Sirmabekian Decl.* ¶9. A copy of such notice is attached as
24 “EXHIBIT 4” to the Declaration of Sarkis Sirmabekian, Esq.

25 **6. Plaintiff’s Motion for Court Approval of PAGA Settlement moving papers**
26 **were concurrently filed/served with the LWDA, in compliance with Labor**
27 **Code § 2699(l)(2)**

28 Plaintiff’s Motion for Court Approval of PAGA Settlement moving papers were concurrently

1 filed/served with the LWDA, in compliance with *Labor Code* § 2699(l)(2), per the attached proof of
2 service document on the last page of the Motion. *Sirmabekian Decl.* ¶10.

3 **B. ATTORNEYS' FEES AND COSTS INCURRED ARE REASONABLE**

4 **1. Attorneys' fees**

5 A customary award for attorney's fees in the amount of one-third (1/3) of the PAGA Gross
6 Settlement Amount ("PGSA"), \$3,333.33, plus \$75.00 for costs, totaling \$3,408.33, to be paid to
7 Plaintiff's counsel Sirmabekian Law Firm PC, for attorney's fees and costs incurred on the PAGA
8 claims are fair and reasonable. *Sirmabekian Decl.* ¶11. Work done by Plaintiff's counsel commenced
9 with the pre-filing case analysis and research since retaining Plaintiff in or around January 2022,
10 continued through Settlement in October 2022, and will continue until the conclusion of this matter.
11 Plaintiff's counsel's work has been necessary to successfully conclude this matter. Plaintiff's attorneys
12 will continue working on the matter after approval continuing to keep in contact with the Claims
13 Administrator to ensure proper administration of settlement checks. *Sirmabekian Decl.* ¶12. Plaintiff's
14 counsel believes that his hourly rate of \$600.00/hr. is comparable to the rates requested by and awarded
15 to other plaintiffs' attorneys with similar experience, background and levels of success achieved in
16 prosecuting similar types of class actions, and Plaintiff's counsel has been approved at that rate in other
17 complex cases. *Sirmabekian Decl.* ¶13.

18 **III. CONCLUSION**

19 Based on the foregoing, the Parties respectfully request that the Court grant the Parties' joint
20 request for approval of the PAGA settlement.

21
22
23 DATED: January 4, 2023

Respectfully submitted,

SIRMABEKIAN LAW FIRM, PC

24
25
26 By: 

Sarkis Sirmabekian, Esq.
Attorney for Plaintiff

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I, SARKIS SIRMABEKIAN, hereby declare as follows:

1. That I am an attorney at law, duly licensed to practice before all courts of the State of California. I am the attorney representing Plaintiff GISELLA M. HURTADO (“Plaintiff”) in this action. In that capacity, I am familiar with the day-to-day handling of this matter. If called upon to testify, I could and would competently attest to the following, which is submitted of my own personal knowledge, except as to those matters that are stated upon information and belief.

2. On May 9, 2022, Plaintiff GISELLA M. HURTADO (“Plaintiff”) filed a Complaint against Defendants BRASA ROTISSERIE, VICTOR BEGAZO, FRANCESCA BEGAZO, ANGELA KISHIJARA, and STEPHEN HALL a/k/a STEVE HALL (“Defendants”), and DOES 1 through 100, inclusive (collectively “Defendants”) for wage and hour violations under the California Labor Code. This matter involves Labor Code violations, which includes wage and hour claims. The Complaint alleges fourteen (14) substantive claims:

(1) Violation Of The Private Attorneys General Act Of 2004 (“PAGA”); (2) Failure to Pay Minimum Wage; (3) Failure to Compensate for All Hours Worked (4) Failure to Pay Overtime Compensation; (5) Failure To Pay Meal Period Compensation; (6) Failure To Rest Period Compensation; (7) Failure To Furnish Accurate Wage and Hour Statements; (8) Failure to Pay Wages Upon Discharge; (9) Statutory Penalties; (10) Failure to Indemnify and Illegal Deductions From Wages; (11) Disability Discrimination; (12) Wrongful Termination; (13) Retaliation; (14) Unfair Competition;

3. On February 4, 2022, Plaintiff filed with the Labor and Workforce Development Agency (“LWDA”) the PAGA Notice Letter for alleged violations of the California Labor Code and violations of the State’s Private Attorneys’ General Act, California Labor Code § 2698 et seq., (“PAGA” or the “PAGA Claim”) and concurrently therewith, a copy of Plaintiff’s PAGA Notice Letter was served via certified mail to Defendants in this action. Attached hereto as “**EXHIBIT 1**” is a true and correct copy of Plaintiff’s PAGA Notice Letter.

4. Pursuant to *Labor Code* §2698.3(a)(2), a PAGA Plaintiff is required to wait 65-days to allow the LWDA to decide whether they shall investigate and/or handle the matter and §2698.3(a)(2)(A)

1 specifically authorizes the PAGA Plaintiff to pursue the PAGA action after 65-days has elapsed without
2 hearing from the LWDA. Here, after waiting 65-days the LWDA at no time notified PAGA Plaintiff
3 or his counsel that they intend to investigate or handle the matters involved in Plaintiff's PAGA Notice.
4 A true and correct copy of Plaintiff's PAGA Notice Letter was also attached with Plaintiff's operative
5 Complaint in this action as Exhibit A thereto. To date, the LWDA has taken no action against
6 Defendants on the PAGA Notice, has not investigated and has not issued any citations against
7 Defendants on the PAGA Notice and the LWDA has not notified the Parties regarding any intention to
8 investigate, consistent with Labor Code section 2699.3 (2) (A) or (2) (B).

9 5. Under Labor Code section 2699(l) "[t]he Superior Court shall review and approve any penalties
10 sought" as part of the resolution of a case that involved PAGA claims." Labor Code § 2699(l). Pursuant
11 to Labor Code section 2699(l)(2), a copy of Plaintiff's Unopposed PAGA Approval Motion moving
12 papers, which includes a copy of the Parties' PAGA Settlement Agreement document, was concurrently
13 filed/served to the LWDA at the time of filing with the Court, per the enclosed proof of service.

14 6. On October 11, 2022, the Parties participated in a full-day mediation with mediator Mark A.
15 Lemke, Esq. a member of the Southern California Mediation Association ("SCMA"), at Lemke
16 Mediation. As a result of a series of arms-length negotiations, on October 26, 2022, the Parties reached
17 a binding agreement and executed a "Settlement Agreement and Release", regarding the individual and
18 PAGA claims between the Parties in this action. Attached hereto as "**EXHIBIT 2**" is a true and correct
19 copy of the Settlement Agreement.

20 7. On November 14, 2022, the Parties executed a Stipulation for Order Approving PAGA
21 Settlement document. Attached hereto as "**EXHIBIT 3**" is a true and correct copy of the Parties
22 Stipulation for Order Approving PAGA Settlement. On November 15, 2022, the Court rejected the
23 Parties' PAGA Stipulation and issued a "Notice of Rejection of Electronic Filing" stating: "This request
24 needs to be filed as a motion seeking court approval".

25 8. By this motion, the Parties request a Court Order approving the terms of the PAGA Settlement,
26 entering judgment on PAGA Claims, and dismissal, with prejudice, of Plaintiff's individual claims.
27 Defendants do not oppose this motion.
28

1 9. notice to aggrieved employees will accompany the payment to PAGA members. The notice
2 informs the recipient as to the scope of the released claims, and as to the recipient's responsibility for
3 any taxes payable on the amount received. Attached hereto as "EXHIBIT 4" is a true and correct copy
4 of the Notice to Aggrieved Employees document.

5 10. Motion for Court Approval of PAGA Settlement moving papers were concurrently filed/served
6 with the LWDA, in compliance with Labor Code § 2699(1)(2), per the attached proof of service
7 document on the last page of the Motion.

8 11. A customary award for attorney's fees in the amount of one-third (1/3) of the PAGA Gross
9 Settlement Amount ("PGSA"), \$3,333.33, plus \$75.00 for costs, totaling \$3,408.33, to be paid to
10 Plaintiff's counsel Sirmabekian Law Firm PC, for attorney's fees and costs incurred on the PAGA
11 claims are fair and reasonable.

12 12. Work done by Plaintiff's counsel commenced with the pre-filing case analysis and research
13 since retaining Plaintiff in or around January 2022, continued through Settlement in October 2022, and
14 will continue until the conclusion of this matter. Plaintiff's counsel's work has been necessary to
15 successfully conclude this matter. Plaintiff's attorneys will continue working on the matter after
16 approval continuing to keep in contact with the Claims Administrator to ensure proper administration
17 of settlement checks.

18 13. I believe that my hourly rate of \$600.00/hr. is comparable to the rates requested by and awarded
19 to other plaintiffs' attorneys with similar experience, background and levels of success achieved in
20 prosecuting similar types of class actions, and Plaintiff's counsel has been approved at that rate in other
21 complex cases.

22 I declare under the penalty of perjury under the laws of the State of California that the foregoing is
23 true and correct. Executed on January 4, 2023, in Los Angeles, California.

24
25 
26 _____
27 Sarkis Sirmabekian, Esq.
28 Declarant, Attorney for Plaintiff

EXHIBIT 1



SIRMABEKIAN
LAW FIRM

3435 Wilshire Blvd., Suite 1710
Los Angeles, CA 90010

6314 San Fernando Rd.
Glendale, CA 91201

T (818) 473-5003
F (818) 476-5619

sarkis@slawla.com
www.slawla.com

February 4, 2022

BRASA ROTISSERIE
3940 S. Bristol, Suite 111
Santa Ana, CA 92704

via U.S. Certified Mail

VICTOR BEGAZO
3940 S. Bristol, Suite 111
Santa Ana, CA 92704

via U.S. Certified Mail

FRANCESCA BEGAZO
3940 S. Bristol, Suite 111
Santa Ana, CA 92704

via U.S. Certified Mail

ANGELA KISHIJARA
3940 S. Bristol, Suite 111
Santa Ana, CA 92704

via U.S. Certified Mail

STEPHEN HALL a/k/a STEVE HALL
3940 S. Bristol, Suite 111
Santa Ana, CA 92704

via U.S. Certified Mail

Labor and Workforce Development Agency
("LWDA")
Department of Industrial Relations
Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

filed online at
<http://www.dir.ca.gov/>

RE: GISELLA M. HURTADO's Notice of Labor Code Violations Pursuant to California Labor Code Section 2699 et seq.

Dear Sir or Madam:

Please be advised that GISELLA M. HURTADO (hereinafter "Plaintiff") has retained the Sirmabekian Law Firm, PC to represent her and other aggrieved employees for various California Labor Code violations including wage and hour claims against BRASA ROTISSERIE, VICTOR BEGAZO, FRANCESCA BEGAZO, ANGELA KISHIJARA, and STEPHEN HALL A/K/A "STEVE HALL" (hereafter referred to as "Employer," "Defendant," or "You" and/or referred to with "Your" and "Yours", and "EMPLOYER" or "DEFENDANT").

EMPLOYER is hereby on notice that Plaintiff seeks compensation and all other available relief. Pursuant to the procedures specified in California Labor Code Section 2699.3, Plaintiff claims that EMPLOYER has violated, and/or caused to be violated, several Labor Code provisions, and is therefore liable for civil penalties under California Labor Code 2698 *et seq.*

The scope of this PAGA letter is intended to include Plaintiff and all other aggrieved employees of all positions against whom the below labor law violations have been committed. The scope includes each employee of each employer named above, whether or not such employee was also employed by any of the remaining employers. Plaintiff and other aggrieved employees engaged in working as a salsa preparer and other positions for Defendants, such as, but not limited to, dish washer, food preparer, or other duties as needed.

Defendant BRASA Rotisserie describes itself as a new and unique rotisserie chicken restaurant. Defendants Victor Begazo, Francesca Begazo, Angela J. Kishijara, and Stephen Hall, a/k/a "Steve Hall," are its principal, and managed the company's day to day operations, including controlling Plaintiff's and others' wages and work conditions.

Defendants employed Plaintiff from approximately January 2017 through approximately January 10, 2022. Defendants employed Plaintiff as a salsa preparer, then given more responsibilities: dish washer, cut vegetables, or anything needed.

The following facts support Plaintiff's allegations that Defendants violated the California Labor Codes outlined herein:

- Defendants failed to afford Plaintiff and others valid meal and rest breaks, and those violations are apparent in Defendants' time cards;
- Defendants regularly made work-related communications with their employees and fail to reimburse them for use of their cell phones;
- Defendants failed to provide adequate wage statements, e.g., Defendants' pay stubs failed to include the legal name of Defendants' entity, failed to include accurate hours worked; and failed to include the balance of sick leave available per LC246(i);
- Defendants unlawfully made "Loan" deductions from Plaintiff's pay in violation of Labor Code 221-224;
- Defendants' records of employees' hours worked were inaccurate, rounded, with auto-deducts for meal breaks. Those records failed to provide accurate in and out times as required by Wage Order 5, Section 7(A) and Labor Code 1174;
- Aggrieved employees include, but are not limited to, workers brought from a nearby restaurant called Inka Mama's, which, upon information and belief, has common owners with Defendant BRASA Rotisserie;

The term “aggrieved employees” is broadly defined as all employees of either Defendant, regardless of exempt or non-exempt status, and regardless of whether such employee was also employed by the remaining Defendant. All employees are included in this definition, including positions other than that of Plaintiff.

EMPLOYER deprived Plaintiff and other aggrieved employees of certain protections of the Industrial Welfare Commission Orders, including overtime pay, minimum wage, meal and rest periods, and sick pay and failure to reimburse under Labor Code 2802, among numerous other California Labor Code violations. Many other aggrieved employees were also treated as exempt from those protections.

Plaintiff and other aggrieved employees primarily engage(d) in duties that failed to meet the requirements of the various exemptions. Some aggrieved employees were misclassified as exempt, as they did not primarily engage in managerial duties. They lacked the requisite discretion and independent judgment required by the labor code and the IWC Orders (without limitation) to qualify as exempt from various labor law protections. By misclassifying aggrieved employees, EMPLOYER deprived them of many protections.

Unlawful Failure to Pay Overtime

EMPLOYER fails to maintain a policy that compensates Plaintiff and other employees for all hours worked, including overtime. Specifically, EMPLOYER only pays employees for the majority of time that they spend at work. Many employees, including Plaintiff, routinely worked work over eight (8) hours per day and/or forty (40) hours per week but are not paid one and one-half their regular rate of pay for overtime work. As a result of violations of California Labor Code §§ 510, 1194, and applicable Industrial Welfare Commission Wage Orders for failure to pay overtime, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Provide Unpaid Balance of Full Amount of Overtime Compensation

As described above, EMPLOYER has required employees to work hours in excess of eight hours in a day and forty hours in a week as a result of working their regular shifts, but EMPLOYER has not paid these employees overtime compensation. As a result, Plaintiff and other employees have been denied “the unpaid balance of the full amount of this ... overtime compensation” as required by California Labor Code § 1194, and EMPLOYER is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Unlawful Failure to Pay Minimum Wage

EMPLOYER has failed to maintain a policy that compensates Plaintiff and other employees an amount equal to or greater than the minimum wage for all hours worked, as required by California Labor Code §§ 1194, 1197, 1197.1 and applicable Industrial Welfare Commission Wage Orders. All hours must be paid at the statutory or agreed rate and no part of this rate may be used as a credit against a minimum wage obligation. EMPLOYER did not compensate Plaintiff and other employees for time spent working off the clock. As a result of violations of California Labor Code §§ 1194, 1197, 1197.1 and applicable Industrial Welfare Commission Wage Orders, for failure to pay minimum wage, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558, 1197.1, and 2698 *et seq.*

Unlawful Failure to Provide Uninterrupted Off-Duty Meal Periods

EMPLOYER has failed to maintain a policy that provides Plaintiff and other employees with off-duty meal periods as required by California law. Plaintiff and similarly situated employees regularly worked in excess of five (5) hours a day without being provided at least half-hour meal periods in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512, and applicable Industrial Welfare Commission Wage Orders. EMPLOYER failed to pay Plaintiff and other employees the premium compensation mandated by Labor Code § 226.7(b) for these missed meal periods. They would be required to work through their meal breaks, or take short meal breaks, and no premium compensation was provided. Many employees, including Plaintiff, were forced to skip or take untimely breaks without appropriate compensation. Here, Defendants failed to afford Plaintiff and others valid meal breaks, which violation is apparent in Defendants' time cards. As a result of violations of California Labor Code §§ 226.7 and 512 and applicable Industrial Welfare Commission Wage Orders, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Provide Uninterrupted Off-Duty Rest Periods

EMPLOYER has failed to maintain a policy that provides Plaintiff and other employees with off-duty rest periods as required by California law. Plaintiff and other employees regularly worked in excess of 3.5 hours or major fraction thereof during work days without being provided at least a ten-minute rest period in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512 and applicable Wage Orders. EMPLOYER failed to pay Plaintiff and other employees the premium compensation mandated by Labor Code § 226.7(b) for these missed rest periods. Many employees, including Plaintiff, were forced to skip or take untimely rest breaks without appropriate compensation. Here, Defendants failed to afford Plaintiff and others valid rest breaks, which violation is apparent in Defendants' time cards. As a result of violations of California Labor Code §§ 226.7, 512 and applicable Industrial Welfare Commission Wage Orders, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Reimburse Expenses

EMPLOYER has failed to indemnify Plaintiff and other employees for all necessary expenditures or losses incurred by Plaintiff. EMPLOYER did not reimburse Plaintiff for various work-related expenses. California Labor Code § 2802 requires the employer to indemnify employees for all necessary expenditures or losses incurred by employees in direct consequence of the discharge their duties. Here, employees were required to use their personal cell phones where Defendants regularly made work-related communications with their employees but were not reimbursed for such use. In addition, Defendants unlawfully made "loan" deductions from Plaintiff's pay in violation of California Labor Code §§ 221 to 224. As a result of violations of California Labor Code § 2802, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558, 2802 and 2698 *et seq.*

Unlawful Failure to Furnish Wage Statements

EMPLOYER has violated California Labor Code § 226(a) by willfully failing to furnish Plaintiff and other employees with required wage statement information. As a result of violations of California Labor Code § 226(a), EMPLOYER is liable for civil penalties pursuant to California Labor Code Labor Code §§ 226.3 and 2698 *et seq.*

Every employer shall, semimonthly or at the time of each payment of wages, furnish each of her or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of her or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

Plaintiff and others were deprived of wage statements altogether, or various necessary items of information such as total hours worked, applicable hourly rates, and the employers' address. Moreover, EMPLOYER's employees' work hours, overtime time hours and pay, missed rest or meal break premiums, wages, without limitation, were misreported on their wage statements. Here, Defendants failed to provide adequate wage statements, e.g., Defendants' pay stubs failed to include the legal name of Defendants' entity, failed to include accurate hours worked, and failed to include the balance of sick leave available per California Labor Code § 246(i). As a result of violations of California Labor Code § 226(a), EMPLOYER is liable for civil penalties pursuant to California Labor Code Labor Code §§ 226.3 and 2698 *et seq.*

Unlawful Failure to Keep Accurate Payroll Records of Daily Hours Worked

EMPLOYER has failed to keep payroll records showing total hours worked and wages paid to Plaintiff and other employees. Under California Labor Code § 1174(d), employers must keep "payroll records showing the hours worked daily by and the wages paid to ... employees "" Because EMPLOYER did not keep complete and accurate time records reflecting hours worked for Plaintiff and other employees, including, but not limited to, beginning work prior to the start of their shifts, working after the end of their shifts, and missed/short/late rest and meal breaks, it is liable for civil penalties pursuant to

California Labor Code §2698 *et seq.* Section 6 or 7 of the applicable wage order requires the recording of this time. EMPLOYER would not keep track of action time. Instead, Defendants' records of employees' hours worked were inaccurate, rounded, with auto-deduct for meal breaks and additionally failed to provide accurate clock in and clock out times as required by Wage Order 5, Section 7(A) and California Labor Code § 1174. To the extent that EMPLOYER's failure to keep accurate payroll records was willful, it is liable for civil penalties under California Labor Code § 1174.5.

Unlawful Violation of California Labor Code § 1199

Under California Labor Code §§ 1199(a) and (c) and 2699.5 *et seq.*, an employer who "requires or causes any employee to work for longer hours than those fixed" or "violates or refuses or neglects to comply with any provision of" the Labor Code regarding employees' wages, hours, and working conditions, is subject to PAGA penalties. As described above, EMPLOYER has required Plaintiff and other employees to work hours in excess of eight (8) in a day and forty (40) in a week (thereby violating § 1199(a)), failed to provide adequate rest and meal breaks, failed to pay minimum wage and has violated numerous provisions of the Labor Code pertaining to employee wages and hours (thereby violating § 1199(b)).

Accordingly, EMPLOYER is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Unlawful Failure to Pay Wages Due Upon Termination

EMPLOYER has violated California Labor Code §§ 201 and 202 by willfully failing to pay all compensation due and owing to Plaintiff and other employees at the time employment was terminated, EMPLOYER willfully failed to pay Plaintiff and other employees who are no longer employed by it all compensation due upon termination of employment as required under California Labor Code §§ 201 and 202 including, but not limited to, missing wages due to inaccurate tracking of employees' time records and failing to properly track their hours worked and premium pay for missed/short/late meal and rest breaks. Plaintiff's and other employees' final wages were deliberately ignored, and payment avoided by EMPLOYER. Pursuant to §§ 203 and 256 of the Labor Code, Plaintiffs and other employees are now also entitled to recover up to thirty (30) days of wages due to EMPLOYER's "willful" failure to comply with the statutory requirements of sections 201 and 202 of the Labor Code.

Additionally, because EMPLOYER violated California Labor Code §§ 201, 201and 203 of the Labor Code, EMPLOYER is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Conclusion

EMPLOYER has violated or has caused to be violated a number of California wage and hour laws. Plaintiff therefore intends to file civil claims for the aforementioned violations of the Labor Code and other law. Plaintiff requests the agency review this notice per PAGA's provisions.

Sincerely,

SIRMABEKIAN LAW FIRM, PC

A handwritten signature in black ink, appearing to read 'Sarkis Sirmabekian', with a stylized, overlapping loop at the end.

Sarkis Sirmabekian, Esq.

EXHIBIT 2

Settlement Agreement and Release

This Settlement Agreement and Release (hereinafter “Agreement”) is entered into by and between GISELLA MARIA HURTADO (hereinafter “PLAINTIFF” or “Releasor”) on behalf of herself and on behalf of the State of California as a Private Attorney General, on the one hand, and BRASA ROTISSERIE, FRANCESCA BEGAZO, VICTOR BEGAZO, ANGELA KISHIJARA, AND STEPHEN HALL (“DEFENDANTS”; collectively DEFENDANT and PLAINTIFF shall be referred to individually as a “Party” or collectively as the “Parties”), subject to the approval of the Court in accordance with California Labor Code section 2699 subd. (1)(2).

Recitals

WHEREAS, on May 9, 2022, PLAINTIFF filed a Complaint in Orange County Superior Court, Case No. Case No. 30-2022-01258759-CU-OE-CXC (“the Action”), against DEFENDANTS alleging the following claims for, inter alia, minimum wage violations; unpaid overtime; meal and rest period violations; wage statement violations, disability discrimination under FEHA; wrongful termination under FEHA; and civil penalties under the Private Attorney General Act of 2004, California Labor Code section 2698 et seq. (“AGA”);

WHEREAS, prior to initiating the Action, on February 4, 2022, PLAINTIFF submitted a letter to the LWDA via the LWDA’s website, and mailed a copy to DEFENDANTS via certified mail, in accordance with the requirements of California Labor Code section 2699.3;

WHEREAS, DEFENDANTS deny and dispute all of PLAINTIFF’S allegations and contend that neither the PLAINTIFF nor any other individual has incurred any loss or damages as a result of any conduct alleged in the Action;

WHEREAS, DEFENDANTS represent they employed 21 employees at BRASA Rotisserie during the Period of May 9, 2021 to present;

WHEREAS, the Parties desire to avoid the disruption, inconvenience, uncertainty, and costs associated with further litigation of any claims that the PLAINTIFF has, had, or may claim to have arising out of his employment with Defendants;

WHEREAS, the Parties believe and agree that this Agreement provides for a fair, adequate, and reasonable resolution of all the PAGA claims and non-PAGA claims, and have arrived at the settlement after extensive, arms-length negotiations, taking into account all relevant factors, present and potential.

NOW, THEREFORE, in consideration of the obligations upon PLAINTIFF and DEFENDANTS as set forth in this Agreement, the sufficiency of which is hereby acknowledged by all Parties, the Parties agree as follows:

1. DEFINITIONS

- a. This Agreement shall be effective when it is fully executed by all Parties (“Effective Date”).
- b. “Court” means, the Superior Court for the State of California, County of Orange, in which the Action is currently pending before The Honorable Peter Wilson in department CX102. “Court” shall also mean any other court that acquires proper jurisdiction of this Action.

- c. “Court Approval” means the Court’s approval of the settlement of the PAGA Claims (as defined below) under this Agreement, as required under California Labor Code section 2699, subd (1)(2).
- d. “Complaint” means the operative complaint in the Action filed with the Court by the Plaintiff.
- e. “Plaintiff’s Counsel” means Sarkis Sirmabekian of the Sirmabekian Law Firm, PC, 3435 Wilshire Blvd., Ste. 1710, Los Angeles, CA 90010.
- f. “Defense Counsel” means Idin Kashefipour of Messner Reeves, LLP, 650 Town Center Drive, Ste. 700, Costa Mesa, CA 92626.
- g. “Covered Period” shall mean the period commencing from May 9, 2021 through the date of Court Approval.
- h. “Aggrieved Employee” shall mean a person employed by DEFENDANTS at Brasa Rotisserie during the Covered Period.
- i. “LWDA” means the State of California Labor and Workforce Development Agency.
- j. “Releasees” means DEFENDANTS BRASA ROTISSERIE, FRANCESCA BEGAZO, VICTOR BEGAZO, ANGELA KISHIJARA, AND STEPHEN HALL and all of their respective past, present and future directors, officers, owners, board members, employees, employers, agents, partners, joint venturers, affiliates, representatives, business entities, dbas, subsidiary, parent and affiliate corporations or companies, successors, insurers, attorneys, volunteers and assigns, and each of them (hereinafter “Releasees”) from any and all claims of whatever nature, whether known or unknown, which exist or may exist
- k. “PAGA Claims” means Aggrieved Employee’s claims for PAGA penalties during the Covered Period that were alleged in the Complaint, as well as any and all claims for PAGA penalties that could have been asserted in the Complaint based on the facts alleged therein. “PAGA Claims” does not include any individual claims of an Aggrieved Employee.
- l. “Individual Settlement Value” means the amount of money DEFENDANTS will pay the PLAINTIFF in exchange for her general releases of her individual, non-PAGA, claims, as described herein, which Seventy Thousand Dollars and Zero Cents (\$70,000.00).
- m. “Gross Settlement Value” or “GSV” means the total amount of money DEFENDANTS will pay in consideration for this Settlement, which is Eighty Thousand Dollars and Zero Cents (\$80,000.00) Under no circumstances shall the GSV exceed \$80,000.00. The GSV consists of the following allocations (“PAGA Payments”):
 - i. PLAINTIFF’S Counsel’s fees and costs;
 - ii. The Individual Settlement Value to PLAINTIFF totaling \$70,000.00;

- iii. The total penalties allocated toward the PAGA Claims (“PAGA Value”) totaling Ten Thousand Dollars (\$10,000.00). From the PAGA Value, 33.33% shall be paid to Plaintiff’s Counsel for PAGA counsel fees, \$75.00 for PAGA costs, and a reasonable sum to a settlement administrator. The remaining difference (“NET PAGA Value”) shall be paid as follows: 75% shall be paid to the LWDA (“LWDA Penalty”), and 25% shall be paid to Aggrieved Employees (“Employee Penalty”).
 - a. The Settlement Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees’ 25% share of NET PAGA Value by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee’s PAGA Period Pay Periods. Aggrieved Employees assume full responsibility for any taxes owed on their Individual PAGA Payment.
 - b. The Settlement Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- iv. DEFENDANTS agree that if during the PAGA Period (May 9, 2021 through Court Approval) the actual employee count increases by more than 10% (i.e., there are more than 2 Settlement employees at Brasa Rotisserie), then DEFENDANTS shall increase the PAGA VALUE by an amount that mirrors the increase in the overall class size (e.g., if the number of Settlement Class Members increases above 20 by 15% as of the end of the Class Period, DEFENDANTS shall increase the PAGA Value by 15%).

2. PAYMENT TO PLAINTIFF

Within thirty (30) days of Court Approval of this Agreement, DEFENDANTS shall deliver to PLAINTIFF’S Counsel the Gross Settlement Value, which shall be payable to “Sirmabekian Law Firm Client Trust Account” and will be reported on IRS Form 1099.

Payment of the Gross Settlement Value shall be due to PLAINTIFF within thirty (30) days of the latest date each of the conditions in the Agreement have been met. PLAINTIFF specifically acknowledges and understands that the thirty (30) day clock shall not begin to run until the last date upon which all of the conditions below have been met:

- a. Full execution of this Agreement;
- b. Full approval by the Orange County Superior Court of any PAGA settlement;
- c. Receipt by DEFENDANTS of PLAINTIFF’s properly completed IRS W-9 Form on the current, October 2018 revision;
- d. Receipt by DEFENDANTS of PLAINTIFF’s counsel’s properly completed IRS W-9 Form on the current, October 2018 revision
- e. Expiration of the seven (7) day revocation period referenced in paragraph 15 (entitled “Release of Rights and Claims Under the ADEA”) and absent a revocation and receipt of written confirmation from CLAIMANT’S counsel that CLAIMANT did not exercise his right to revocation.

PLAINTIFF acknowledges that she has obtained no advice from the Releasees and that neither the Releasees nor their attorneys have made any representations regarding the tax consequences, if any, to her regarding the payment provided for in this section. PLAINTIFF understands that the taxability of the payment provided for in this section shall be governed by applicable federal, state and local tax laws and regulations, and that she shall be solely responsible for any taxes, interest and penalties that she might owe with respect to such payment. PLAINTIFF further agrees that, in the event that PLAINTIFF fails to pay the taxes that are due as a result of the payment made pursuant to this Agreement and any taxing authority looks to Releasees for satisfaction of any tax liability, penalties, fines, interest or withholdings associated with the payment provided for in this section, she shall indemnify and hold harmless Releasees for all taxes, penalties, interest, withholdings, amounts paid in settlement to any taxing authority, and expenses, including but not limited to, defense expenses and attorneys' fees, with regard to the payments.

3. COURT APPROVAL, COOPERATION, AND PLAINTIFFS' COUNSELS' ATTORNEYS' FEES AND COSTS.

PLAINTIFF shall motion the Court for approval within 60 days of the Effective Date of this Settlement Agreement, or by notice deadline of the earliest hearing date available with the Court, whichever is later. In requesting Court Approval of this Agreement, PLAINTIFF shall file a noticed motion with the Court. One week prior to filing the motion, PLAINTIFF'S Counsel shall send a draft to Defense Counsel for comments. The motion will include a declaration from PLAINTIFF'S Counsel explaining why the Settlement of the PAGA Claims should be approved by the Court as fair, reasonable, and adequate. DEFENDANT shall not oppose the motion so long as it is consistent with the terms of this Agreement.

The Parties acknowledge that the PAGA Payments are not guaranteed and could be denied by the Court. Thus, the PAGA Payments are expressly conditioned upon Court Approval. Should the Court deny the PAGA Payments, this entire Agreement shall be voidable by any Party.

The Parties agree to fully cooperate with each other to accomplish the terms of this Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Agreement. The Parties shall use their best efforts, including all efforts contemplated by this Agreement and other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Agreement and the terms set forth herein. As soon as practicable after execution of this Agreement, PLAINTIFF'S Counsel shall, with the assistance and cooperation of DEFENSE counsel, take all necessary steps to secure Court Approval.

4. NOTIFYING THE LWDA OF THIS AGREEMENT AND SENDING THE LWDA PAYMENT; ADMINISTRATION

Prior to requesting Court Approval of this Settlement, PLAINTIFF'S Counsel shall submit a copy of this Agreement to the LWDA, as required by California Labor Code section 2699 subd. (1)(2). Verification of the submission to the LWDA shall be included as an exhibit to PLAINTIFF'S Counsel's declaration in support of the motion for Court Approval.

The Parties select Phoenix Administrators as the settlement administrator, who shall ensure timely distribution of the PAGA penalties to the LWDA and aggrieved employees.

5. NOTICE OF SETTLEMENT.

Counsel for PLAINTIFF shall file a Notice of Settlement of this Action in the Superior Court of California, County of Orange within five (5) days of the full execution of this Agreement.

6. DISMISSAL.

Counsel for PLAINTIFF shall provide counsel for DEFENDANT with an executed Request for Dismissal with Prejudice suitable for filing in the Superior Court of California, County of Orange within five (5) days of court approval and receipt and clearance of the GSV.

7. RELEASE OF INDIVIDUAL CLAIMS

Release by PLAINTIFF. PLAINTIFF hereby releases and forever discharges DEFENDANTS and all of their respective past, present and future directors, officers, owners, board members, employees, employers, agents, partners, joint venturers, affiliates, representatives, business entities, dbas, subsidiary, parent and affiliate corporations or companies, successors, insurers, attorneys, volunteers and assigns, and each of them (hereinafter "Releasees") from any and all claims of whatever nature, whether known or unknown, which exist or may exist on PLAINTIFF behalf against Releasees as of the date of this Agreement, including but not limited to any and all tort claims, contract claims, equitable claims, breach of fiduciary duty claims, ERISA claims, wrongful termination claims, public policy claims, retaliation claims, discrimination claims, harassment claims, statutory claims, personal injury claims, emotional distress claims, invasion of privacy claims, defamation claims, fraud claims, quantum meruit claims, and any and all claims arising under any federal, state or other governmental statute, law, regulation or ordinance covering discrimination, harassment or retaliation in employment or the payment of wages and benefits, including but not limited to Title VII of the Civil Rights Act of 1964, as amended, the American with Disabilities Act, the Age Discrimination in Employment Act, the Equal Pay Act, the Fair Labor Standards Act, the California Labor or Government Code, the Employee Retirement Income Security Act, the California Family Rights Act, the Private Attorney General Act, and the California Fair Employment and Housing Act.

DEFENDANTS agree to release and forever discharge PLAINTIFF from any and all claims, causes of action and liabilities of any kind (including attorney's fees, interest, expenses and costs actually incurred) of any nature whatsoever, known or unknown, suspected or unsuspected which DEFENDANTS now has or had, or which DEFENDANTS at any time hereafter may have or allege to have against PLAINTIFF.

8. WAIVER OF RECOVERY.

PLAINTIFF will not engage in or assist in any litigation against DEFENDANTS or any Releasee relating to anything occurring prior to the effective date of this Agreement, except as compelled by order of a court or as necessary to participate in an investigation or proceeding conducted by the EEOC, the DFEH, or other governmental agency. PLAINTIFF further acknowledges and understands that this Agreement does not prohibit PLAINTIFF from filing an administrative charge or claim with: (a) the EEOC or DFEH or any state or local agency authorized to accept such charge or claim, or (b) the United States National Labor Relations Board. This Agreement does, however, preclude PLAINTIFF from receiving any monetary, injunctive, or other personal relief related in whole or in part to claims released in this Agreement. Should any individual or entity who is not subject to this Agreement bring an administrative charge, claim, or action against DEFENDANTS or any Releasee that results in assignable recovery or relief for

PLAINTIFF, PLAINTIFF waives any right to such recovery or relief and specifically assigns to DEFENDANT and/or any Releasee, as the case may be, the right to any such recovery or relief arising from such proceeding.

9. ATTORNEY'S FEES.

Each party shall be responsible for bearing their own costs, expenses and attorneys' fees incurred in connection with the parties' dispute as well as the negotiation and the completion of this settlement.

10. NO FILING OF CLAIMS.

PLAINTIFF represents and warrants that she does not presently have on file any claims, charges, grievances, actions, appeals or complaints against Releasees in or with any administrative, state, federal or governmental entity, agency, board or court, or before any other tribunal or arbitrator(s), public or private, based upon any actions occurring prior to the date of this Agreement other than the present action and the corresponding DFEH and LDWA notices. PLAINTIFF agrees, represents, and warrants that she shall not file any new claims, charges, grievances, actions, appeals or complaints against Releasees in or with any administrative, state, federal or governmental entity, agency, board or court, or before any other tribunal or arbitrator(s), public or private, based upon any actions occurring prior to the date of this Agreement.

11. WAIVER OF UNKNOWN CLAIMS.

It is further understood and agreed by the Parties that as a condition of this Agreement, the Parties hereby expressly waive and relinquish any and all claims, rights or benefits that PLAINTIFF may have against DEFENDANTS, and DEFENDANTS may have against PLAINTIFF under California *Civil Code* section 1542, which provides 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.”

In connection with such waiver and relinquishment, the Parties hereby acknowledge that they or their attorneys may hereafter discover claims or facts in addition to, or different from, those that the Parties now know or believe to exist, but that the Parties expressly agree to fully, finally and forever settle and release any and all claims, known or unknown, suspected or unsuspected, which exist or may exist on her behalf against each other at the time of execution of this Agreement, including, but not limited to, any and all claims of whatever nature relating to PLAINTIFF'S alleged employment with DEFENDANTS and her separation therefrom. The Parties further acknowledge, understand and agree that this representation and commitment is essential to the Parties and that this Agreement would not have been entered into were it not for this representation and commitment.

12. NON-ADMISSION OF LIABILITY.

PLAINTIFF acknowledges that Releasees deny any wrongdoing whatsoever in connection with PLAINTIFF and that the settlement agreement made pursuant to this Agreement is made

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solely for the purpose of compromising disputed claims and avoiding the time, expense and uncertainty of further litigation. It is expressly understood and agreed that nothing contained in this Agreement shall constitute or be treated as an admission of any wrongdoing or liability on the part of Releasees.

13. CONFIDENTIALITY.

The Parties agree that they will not hereafter, without compulsion of legal process, disclose to others, either directly, indirectly or by implication, the fact or terms of this settlement or the amounts referred to or involved in any way in this Agreement (either by specific dollar amount, by number of “figures”, or otherwise), except that they may disclose such information as is necessary to their spouses, attorneys, accountants, other professional advisors, or where disclosure is required by law. Moreover, the Parties may disclose this agreement in full in filings with the Court in seeking Court Approval of the PAGA Settlement. If the Parties are asked a question about the status of the lawsuit, they shall be authorized to state “the matter has been resolved” or “no comment” and no more.

PLAINTIFF further agrees that she will instruct her attorneys not to disclose the terms of this agreement other than as necessary for tax purposes. The Parties further acknowledge and agree that in no way are their respective attorneys’ parties to this agreement.

In the event that any of the Parties believe they are legally obligated by statutory or regulatory requirements (including compulsory legal process), to make such disclosures, they shall so notify the opposing party in writing immediately, and in no event less than ten (10) days prior to the date for disclosure. If it is not possible to do so at least ten (10) days in advance, PLAINTIFF will notify Idin Kashefipour, counsel for DEFENDANTS, at (949) 612-9349, while DEFENDANT will notify Sarkis Sirmabekian, counsel for PLAINTIFF, at (818) 473-5003, within twenty-four (24) hours of receiving notice that they are so obligated. If the party receiving such notice takes any action to challenge such disclosure, the party who believes they are legally obligated to make the disclosure shall defer making such disclosure until the opposing party’s challenge is finally resolved, unless ordered by a Court to give the information notwithstanding the challenge.

The Parties understand and expressly agree that the confidentiality of this Agreement and its terms is essential and that this Agreement would not have been entered into were it not for this confidentiality.

14. ACKNOWLEDGEMENT OF WAGES PAID AND NO OTHER AMOUNTS DUE.

PLAINTIFF acknowledges that upon receipt of the Payment she has been paid any and all wages, salary, bonuses, commissions or other amounts due from DEFENDANT, and that no other amounts are due to PLAINTIFF from DEFENDANT. Consequently, California Labor Code Section 206.5 is not applicable to the resolution of this matter by the PARTIES hereto. Section 206.5 provides in pertinent part as follows:

“An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an

advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee. Violation of this section by the employer is a misdemeanor.”

15. RELEASE OF RIGHTS AND CLAIMS UNDER THE ADEA.

PLAINTIFF understands and agrees that:

- A. In consideration of the payment provided for in this Agreement, PLAINTIFF specifically waives all existing rights and claims he may have against Releasees under the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq. This waiver does not extend to rights or claims that may arise after the date this Agreement is executed;
- B. She has had a reasonable amount of time after receipt of this Agreement within which to review and consider the Agreement;
- C. She is receiving on behalf of DEFENDANTS good and sufficient consideration in addition to anything of value to which she is already entitled;
- D. She has been advised to consult with an attorney of her own choosing before executing this Agreement, which he has done;
- E. This Agreement is written in a manner designed to be understood by her and that she has read it carefully and fully understands its terms;
- F. She is, through and in accordance with the terms set forth in this Agreement, releasing Releasees from any and all claims she has or may come to have against Releasees except those that may arise after the date he executes this Agreement;
- G. She is knowingly and voluntarily agreeing to all of the terms set forth in this Agreement; and
- H. She has, if she wishes, 21 days to consider this Agreement prior to signing it, and seven (7) days after signing this Agreement to revoke his signature. Revocation can be made by delivering a written notice of revocation to Idin Kashefipour at Messner Reeves, LLP, 650 Town Center Drive, Suite 700, Costa Mesa, California 92626. For this revocation to be effective, written notice must be received by Idin Kashefipour no later than the close of business on the seventh (7th) calendar day after the date PLAINTIFF signed this Agreement. If PLAINTIFF revokes this Agreement, it shall not be effective or enforceable and PLAINTIFF will not receive the benefits provided herein.

16. NON-DISPARAGEMENT.

The Parties agree that they will not hereafter without compulsion of legal process make any disparaging remarks against or about one another or any of their officers, board members, directors, volunteers or employees. Nothing in this agreement prevents you from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that you have reason to believe is unlawful.

17. NEUTRAL REFERENCE.

In the event DEFENDANTS are contacted with respect to a request for employment references relating to PLAINTIFF, DEFENDANTS hereby agree that the only information that will be disclosed will include the fact of employment, the tenure of employment and the position held.

18. LIENS.

Releasor agrees to defend, indemnify, protect and hold harmless Releasees from any and all liens, rights of subrogation, indemnification claims, contribution claims, defense claims, losses, liability, actions, damages, causes of action, judgments, costs and expenses, including attorneys' fees, whatsoever made by or sustained by or arising from any person, corporation, partnership, state or federal government, governmental agency, hospital, or any other medical provider, health care provider, disability or insurance benefits providers, workers compensation carrier, Medicare, Medicaid, or any other entity arising in whole or in part out of the care and treatment, or in any way connected to the care and treatment, provided to the Releasor for the injury/injuries alleged in the Claim. Releasor expressly agrees and warrants that Releasor has disclosed all liens on her recovery in the Claim to Releasees, and agrees to defend, indemnify, protect and hold harmless Releasees from any and all claims, losses, actions, damages, settlements, judgments, causes of actions, subrogation claims, indemnification claims, or contribution claims, including attorney's fees and costs of suit, from any lienholders not disclosed to Releasees. Releasor understands and acknowledges that any and all payments made to Medicare, Medicaid, or child support liens from the Payment will be paid directly to the appropriate lienholder by the payor(s) of the Payment.

19. OWNERSHIP OF CLAIMS.

PLAINTIFF represents and warrants that she is the sole and lawful owner of all rights, title and interest in and to all released matters, claims and demands referred to herein. PLAINTIFF further represents and warrants that there has been no assignment or other transfer of interest in any such matters, claims or demands that she may have against Releasees. PLAINTIFF agrees to indemnify Releasees and shall hold them harmless from and against: (1) any such liability, claim, demand, action, cause of action, or right which has been assigned or transferred contrary to the foregoing representations; and (2) any and all liability, loss, claim, expense and/or obligation arising out of any breach of the foregoing warranty.

20. SUCCESSORS AND ASSIGNS.

It is expressly understood and agreed by the PARTIES that this Agreement and all of its terms shall be binding upon each PARTIES' representatives, heirs, executors, administrators, successors and assigns.

21. CALIFORNIA LAW APPLIES.

This Agreement, in all respects, shall be interpreted, enforced and governed by and under the laws of the State of California.

22. JURISDICTION.

The PARTIES agree that the Court will maintain jurisdiction over the enforcement of this settlement pursuant to California *Code of Civil Procedure* Section 664.6.

23. DRAFTING.

Each PARTY has cooperated in some fashion in the drafting and/or preparation of this Agreement. Regardless of the extent of drafting or preparation, the language in all parts of this instrument shall be in all cases construed simply according to its fair meaning and not strictly for or against any of the Parties hereto and without regard to which Party arranged for the final draft of this Agreement.

24. NOT EVIDENCE.

This Agreement shall not be used as evidence in any proceeding other than one to enforce this Agreement, or one seeking damages arising from a breach of this Agreement.

25. EXECUTION OF ADDITIONAL DOCUMENTS.

The PARTIES agree to execute such other, further and different documents as reasonably may be required to effectuate this Agreement.

26. CONSULTATION WITH COUNSEL.

The PARTIES and each of them acknowledge that they have had the opportunity to consult with legal counsel of their choice prior to execution and delivery of this Agreement, and that they have in fact done so. PLAINTIFF acknowledges that she has been specifically advised by counsel of the consequences of signing the Releases contained in this Agreement.

27. HEADINGS.

The headings in each paragraph herein are for convenience of reference only and shall be of no legal effect in the interpretation of the terms hereof.

28. INTEGRATION.

This Agreement constitutes a single, integrated, written contract, expressing the entire agreement between the PARTIES. It supersedes all prior agreements between the PARTIES. The PARTIES represent and warrant that they are not relying on any promises or representations that do not appear written herein. The PARTIES further understand and agree that this Agreement can be amended or modified only by a written agreement, signed by all of the PARTIES hereto.

29. SEVERABILITY.

If any provision in this Agreement is found to be unenforceable, it shall not affect the enforceability of the remaining provisions and the court shall enforce the remaining provisions to the extent permitted by law.

30. COUNTERPARTS.

This Agreement may be executed in separate counterparts and each such counterpart shall be deemed an original with the same effect as if all PARTIES had signed the same document.

31. VOLUNTARY AGREEMENT.

PLAINTIFF understands and agrees that she may be waiving significant legal rights by signing this Agreement, and represents that she has entered into this Agreement voluntarily, after consulting with her attorneys, with a full understanding of and in agreement with all of its terms.

32. FACSIMILE SIGNATURE.

Facsimile signatures on this Agreement shall be treated as original signatures.

33. MAILING DISCLAIMER.

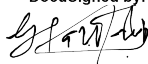
Without discharging the Releasees from their ultimate obligation to ensure the full Settlement Payment is delivered to and received by PLAINTIFF, the PARTIES agree that the Releasees will be considered to have fulfilled their obligations regarding timely issuance of the Settlement Payment by submitting the checks listed herein, together with appropriate packaging and postage, to either the custody and control of a United States Postal Service employee, a United States Postal Service Mailbox, or any other receptacle authorized for receipt of United States Postal Service Mail, on or before the deadline for issuance of the Settlement Payment as contemplated herein. The PARTIES agree that any delay in delivery of the Settlement Amount that is caused by, or may be attributed in whole or in part, to any act or omission of the United States Postal Service or other mail carrier, shall toll the deadline for issuance of the Settlement Amount as contemplated herein, and shall not be considered a breach of this agreement on behalf of the Releasees in any way.

For your protection California law requires the following to appear on this form. Any person who knowingly presents false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison

READ THIS SETTLEMENT AGREEMENT CAREFULLY BEFORE SIGNING

Dated: 10/25/2022

GISELLA MARIA HURTADO

DocuSigned by:

0BE7FEB144554BF...

GISELLA MARIA HURTADO, PLAINTIFF

Dated: _____

BRASA ROTISERIE

By: _____
DEFENDANT

{06806937 / 1}

Page 1 of 11

GISELLA M. HURTADO v. BRASA ROTISERIE, ET AL.

This Agreement may be executed in separate counterparts and each such counterpart shall be deemed an original with the same effect as if all PARTIES had signed the same document.

31. VOLUNTARY AGREEMENT.

PLAINTIFF understands and agrees that she may be waiving significant legal rights by signing this Agreement, and represents that she has entered into this Agreement voluntarily, after consulting with her attorneys, with a full understanding of and in agreement with all of its terms.

32. FACSIMILE SIGNATURE.

Facsimile signatures on this Agreement shall be treated as original signatures.

33. MAILING DISCLAIMER.

Without discharging the Releasees from their ultimate obligation to ensure the full Settlement Payment is delivered to and received by PLAINTIFF, the PARTIES agree that the Releasees will be considered to have fulfilled their obligations regarding timely issuance of the Settlement Payment by submitting the checks listed herein, together with appropriate packaging and postage, to either the custody and control of a United States Postal Service employee, a United States Postal Service Mailbox, or any other receptacle authorized for receipt of United States Postal Service Mail, on or before the deadline for issuance of the Settlement Payment as contemplated herein. The PARTIES agree that any delay in delivery of the Settlement Amount that is caused by, or may be attributed in whole or in part, to any act or omission of the United States Postal Service or other mail carrier, shall toll the deadline for issuance of the Settlement Amount as contemplated herein, and shall not be considered a breach of this agreement on behalf of the Releasees in any way.

For your protection California law requires the following to appear on this form. Any person who knowingly presents false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison

READ THIS SETTLEMENT AGREEMENT CAREFULLY BEFORE SIGNING

Dated: _____

GISELLA MARIA HURTADO

GISELLA MARIA HURTADO, PLAINTIFF

Dated: Oct 20, 2022

BRASA ROTISSERIE



Francesca Begazo (Oct 20, 2022 13:55 PDT)

By: Francesca Begazo
DEFENDANT

{06806937 / 1}

Page 1 of 11

GISELLA M. HURTADO v. BRASA ROTISERRIE, ET AL.

Dated: Oct 20, 2022

FRANCESCA BEGAZO



Francesca Begazo (Oct 20, 2022 13:55 PDT)

DEFENDANT

Dated: Oct 26, 2022

VICTOR BEGAZO



Victor Begazo (Oct 26, 2022 08:25 PDT)

DEFENDANT

Dated: Oct 26, 2022

ANGELA KISHIJARA



Angela kishijara (Oct 26, 2022 09:45 PDT)

DEFENDANT

Dated: Oct 20, 2022

STEPHEN HALL



Stephen Hall (Oct 20, 2022 13:49 MDT)

DEFENDANT

APPROVED AS TO FORM:

Dated: _____

SIRMABEKIAN LAW FIRM

Sarkis Sirmabekian
Counsel for PLAINTIFF

Dated: _____

MESSNER REEVES, LLP



Idin Kashefipour
Counsel for DEFENDANTS

Dated: _____

FRANCESCA BEGAZO

DEFENDANT

Dated: _____

VICTOR BEGAZO

DEFENDANT

Dated: _____

ANGELA KISHIJARA

DEFENDANT

Dated: _____

STEPHEN HALL

DEFENDANT

APPROVED AS TO FORM:

Dated: 10/20/2022

SIRMABEKIAN LAW FIRM

DocuSigned by:

Sarkis Sirmabekian

847C4C6AA169454...

Sarkis Sirmabekian
Counsel for PLAINTIFF

Dated: _____

MESSNER REEVES, LLP

Idin Kashefipour
Counsel for DEFENDANTS

EXHIBIT 3

1 Sarkis Sirmabekian [SBN 278588]
2 **SIRMABEKIAN LAW FIRM, PC**
3 3435 Wilshire Blvd., Suite 1710
4 Los Angeles, California 90010
5 Telephone: (818) 473-5003
6 Facsimile: (818) 476-5619
7 Email: *contact@slawla.com*

8 *Attorney for Plaintiff GISELLA MARIA HURTADO*

9 Idin Kashefipour, Esq. [SBN 280402]
10 **MESSNER REEVES LLP**
11 650 Town Center Drive, Suite 700
12 Costa Mesa, California 92626
13 Email: *ikashefipour@messner.com*
14 Email: *dlarenas@messner.com*

15 *Attorney for Defendants,*
16 *BRASA ROTISserie, VICTOR BEGAZO, FRANCESCA BEGAZO,*
17 *ANGELA KISHIJARA, and STEPHEN HALL*

18
19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
20
21 **FOR THE COUNTY OF ORANGE**
22

23 GISELLA M. HURTADO, an individual;

24 Plaintiff,

25 v.

26 BRASA ROTISserie, a business entity form
27 unknown; VICTOR BEGAZO, an individual;
28 FRANCESCA BEGAZO, an individual;
ANGELA KISHIJARA, an individual;
STEPHEN HALL a/k/a STEVE HALL, an
individual; and DOES 1 through 100, inclusive;

Defendants.

Case Number: 30-2022-01258759-CU-OE-CXC

*[Honorable Peter J. Wilson; Department
CX102]*

**STIPULATION BY ALL PARTIES FOR
ORDER APPROVING SETTLEMENT
PURSUANT TO CALIFORNIA LABOR
CODE PRIVATE ATTORNEYS' GENERAL
ACT AND ENTERING JUDGMENT**

[filed concurrently with [Proposed] Order]

Complaint Filed: May 9, 2022

Plaintiff GISELLA M. HURTADO ("Plaintiff") and Defendants BRASA ROTISserie,
VICTOR BEGAZO, FRANCESCA BEGAZO, ANGELA KISHIJARA and STEPHEN HALL a/k/a

STEVE HALL (“Defendants”) (collectively, “the Parties”), by and through their respective counsel of record, hereby stipulate as follows:

WHEREAS, on or about February 4, 2022, Plaintiff by and through Plaintiff’s counsel, served a notice to the California Labor Workforce Development Agency (“LWDA”) and Defendants alleging that Defendants engaged in violations of the California Labor Code and California Wage Orders, seeking civil penalties pursuant to the California Labor Code Private Attorneys’ General Act (“PAGA”);

WHEREAS, on or about May 9, 2022, Plaintiff filed a Complaint in the California Superior Court for the County of Orange entitled Gisella M. Hurtado v. Brasa Rotisserie, et al., case number 30-2022-01258759-CU-OE-CXC (the “Action”);

WHEREAS, on or about February 19, 2021, Plaintiff by and through Plaintiff’s counsel, served an PAGA Notice to the California Labor Workforce Development Agency (“LWDA”) and Defendants (the “PAGA Notice”) alleging that Defendants engaged in violations of the California Labor Code and California Wage Orders, seeking civil penalties pursuant to the California Labor Code Private Attorneys’ General Act (“PAGA”);

WHEREAS, on or about May 9, 2022, Plaintiff filed a Complaint, alleging the following causes of action: (1) Violation Of The Private Attorneys General Act OF 2004 (“PAGA”); (2) Failure to Pay Minimum Wage; (3) Failure to Compensate for All Hours Worked (4) Failure to Pay Overtime Compensation; (5) Failure To Pay Meal Period Compensation; (6) Failure To Rest Period Compensation; (7) Failure To Furnish Accurate Wage and Hour Statements; (8) Failure to Pay Wages Upon Discharge; (9) Statutory Penalties; (10) Failure to Indemnify and Illegal Deductions From Wages; (11) Disability Discrimination; (12) Wrongful Termination; (13) Retaliation; (14) Unfair Competition;

WHEREAS, for purposes of Plaintiff representative claims under PAGA, and for purposes of the Action (as defined below) and this PAGA Agreement, the alleged aggrieved individuals (“Aggrieved Employees”) are defined by Plaintiff to be: “a person employed by Defendants in California who worked for Defendants during the PAGA Period”. The PAGA Period is defined to be from May 9, 2021 through the date of Court Approval;

1 **WHEREAS**, Defendants estimates there are twenty-one (21) Aggrieved Employees who
2 worked during the PAGA Period;

3 **WHEREAS**, Defendants vigorously dispute and deny the allegations and various causes of
4 action asserted in the Action, including, without limitation, Plaintiff's individual claims and the
5 Aggrieved Employees' claim for civil penalties pursuant to PAGA;

6 **WHEREAS**, the Parties engaged in an informal exchange of documents and information
7 including Defendants' financial records. The Parties have also conducted extensive independent
8 investigation and evaluations of the claims and defenses in this matter. Both Plaintiff's counsel and
9 Defendants' counsel have significant experience litigating and resolving the type of wage-and-hour
10 claims alleged in the Action, including claims for civil penalties under PAGA;

11 **WHEREAS**, the parties will work together to obtain court approval for the PAGA Settlement
12 Payment, including cooperating in the drafting of a stipulation regarding settlement of the PAGA
13 Claim and PAGA Settlement Payment. Plaintiff's counsel will provide an initial draft of the PAGA
14 stipulation within a reasonable time after the acceptance of this proposal by both parties;

15 **WHEREAS**, according to the PAGA Settlement Agreement, Plaintiff's "PAGA Claims" are
16 defined as any and all claims for civil penalties pursuant to PAGA based on the allegations in
17 Plaintiff's Complaints and/or PAGA Notices, broadly construed, including, but not limited to, civil
18 penalties based on or arising from California Labor Code Sections 98.6, 200, 201, 201.5, 202, 203,
19 204, 205.5, 206, 206.5, 208, 210, 215, 216, 218.5, 221, 223, 224, 225.5, 226, 226(a)(1), 226(a)(5),
20 226(a)(8), 226(a)(9), 226(c), 226(e)(1), 226(f), 226.3, 226.6, 226.7, 226.8, 227.3, 233 *et seq.*, 246,
21 247, 432.5, 450, 500, 510, 512, 512(a), 551, 552, 553, 558, 558(a)(3), 558.1, 1102.5, 1174, 1174.5,
22 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 1198.5, 1198.5(k), 1199, 1776, 2698 *et seq.*,
23 2699.3(c)(1), 2699(i), 2802 and 2810.5 *et seq.*, California Code of Civil Procedure Section 1021.5,
24 3294, California Constitution Article I § 8, Government Code Section 12926.1, 12940 *et seq.*,
25 12940(h) *et seq.*, 12940(m), 12940(n), 12945.2, 12945.2(c)(3)(C), 12965(b), 12965(c) California
26 Business and Professions Code Section 17200 *et seq.*, and the California Wage Orders, whether known
27 or unknown, suspected or unsuspected, concealed or hidden, that were alleged in the Action and/or
28 the PAGA Notice, or that could have been alleged in the Action and/or PAGA Notices, which Plaintiff

1 and any Aggrieved Employee have or had at any time through and including the Approval Date,
2 against any of the Releasees identified in the PAGA Settlement Agreement. A true and correct copy
3 of the PAGA Settlement Agreement is attached hereto as “**EXHIBIT 1**”, and its defined terms are
4 hereby incorporated by reference;

5 Defendants agree to release and forever discharge Plaintiff from any and all claims, causes of
6 action and liabilities of any kind (including attorney’s fees, interest, expenses and costs actually
7 incurred) of any nature whatsoever, known or unknown, suspected or unsuspected which Defendants
8 now has or had, or which Defendants at any time hereafter may have or allege to have against Plaintiff.

9 **WHEREAS**, California Labor Code Section 2699(l)(2) requires that this Court review and
10 approve any settlement pursuant to PAGA;

11 **WHEREAS**, each party shall be responsible for bearing their own costs, expenses and
12 attorneys’ fees incurred in connection with the parties’ dispute as well as the negotiation and the
13 completion of this settlement

14 **WHEREAS**, prior to requesting Court Approval of this Settlement, Plaintiff’s Counsel shall
15 submit a copy of this Agreement to the LWDA, as required by California Labor Code section 2699
16 subd. (1)(2). Verification of the submission to the LWDA shall be included as an exhibit to Plaintiff’s
17 Counsel’s declaration in support of the motion for Court Approval;

18 **WHEREAS**, Defendants promises to pay \$80,000.00 and no more as the Gross Settlement
19 Amount (“Gross Settlement Amount”).

20 **WHEREAS**, in consideration of the terms and conditions set forth in the PAGA Settlement
21 Agreement, the Parties agree to be bound to the terms and conditions set forth in the PAGA Settlement
22 Agreement, including that:

- 23 A. Plaintiff’s Counsel’s fees and costs.
- 24 B. The Individual Settlement Value to Plaintiff totaling \$70,000.00.
- 25 C. The total penalties allocated toward the PAGA Claims (“PAGA Value”)
26 totaling Ten Thousand Dollars (\$10,000.00). From the PAGA Value, 33.33% shall be paid to
27 Plaintiff’s Counsel for PAGA counsel fees, \$75.00 for PAGA costs, and a reasonable sum to a
28 settlement administrator. The remaining difference (“NET PAGA Value”) shall be paid as follows:

1 75% shall be paid to the LWDA (“LWDA Penalty”), and 25% shall be paid to Aggrieved Employees
2 (“Employee Penalty”):

3 i. The Settlement Administrator will calculate each Individual PAGA
4 Payment by (a) dividing the amount of the Aggrieved Employees’ 25% share of NET PAGA Value
5 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the
6 PAGA Period and (b) multiplying the result by each Aggrieved Employee’s PAGA Period Pay
7 Periods. Aggrieved Employees assume full responsibility for any taxes owed on their Individual
8 PAGA Payment.

9 ii. The Settlement Administrator will report the Individual PAGA
10 Payments on IRS 1099 Forms.

11 D. Defendants agree that if during the PAGA Period (May 9, 2021 through Court
12 Approval) the actual employee count increases by more than 10% (i.e., there are more than 2 additional
13 Settlement employees at Brasa Rotisserie), then Defendants shall increase the PAGA VALUE by an
14 amount that mirrors the increase in the overall class size (e.g., if the number of Settlement Class
15 Members increases above 21 by 15% as of the end of the Class Period, Defendants shall increase the
16 PAGA Value by 15%).

17 **WHEREAS**, within thirty (30) days of Court Approval of this Agreement, Defendants shall
18 deliver to Plaintiff’s Counsel the Gross Settlement Value, which shall be payable to “Sirmabekian
19 Law Firm Client Trust Account” and will be reported on IRS Form 1099.

20 Payment of the Gross Settlement Value shall be due to Plaintiff within thirty (30) days of the
21 latest date each of the conditions in the Agreement have been met. Plaintiff specifically acknowledges
22 and understands that the thirty (30) day clock shall not begin to run until the last date upon which all
23 of the conditions below have been met:

- 24 a. Full execution of this Agreement;
- 25 b. Full approval by the Orange County Superior Court of any PAGA settlement;
- 26 c. Receipt by Defendants of Plaintiff’s properly completed IRS W-9 Form;
- 27 d. Receipt by Defendants of Plaintiff’s counsel’s properly completed IRS W-9 Form on the
28 current, October 2018 revision

1 e. Expiration of the seven (7) day revocation period referenced below (entitled "Release of
2 Rights and Claims under the ADEA") and absent a revocation and receipt of written
3 confirmation from CLAIMANT'S counsel that CLAIMANT did not exercise his right to
4 revocation.

5 **WHEREAS**, Plaintiff acknowledges that she has obtained no advice from the Releasees and
6 that neither the Releasees nor their attorneys have made any representations regarding the tax
7 consequences, if any, to her regarding the payment provided for in this section. PLAINTIFF
8 understands that the taxability of the payment provided for in this section shall be governed by
9 applicable federal, state and local tax laws and regulations, and that she shall be solely responsible for
10 any taxes, interest and penalties that she might owe with respect to such payment. PLAINTIFF further
11 agrees that, in the event that Plaintiff fails to pay the taxes that are due as a result of the payment made
12 pursuant to this Agreement and any taxing authority looks to Releasees for satisfaction of any tax
13 liability, penalties, fines, interest or withholdings associated with the payment provided for in this
14 section, she shall indemnify and hold harmless Releasees for all taxes, penalties, interest,
15 withholdings, amounts paid in settlement to any taxing authority, and expenses, including but not
16 limited to, defense expenses and attorneys' fees, with regard to the payments

17 **WHEREAS**, Plaintiff shall motion the Court for approval within 60 days of the Effective Date
18 of this Settlement Agreement, or by notice deadline of the earliest hearing date available with the
19 Court, whichever is later. In requesting Court Approval of this Agreement, Plaintiff shall file a noticed
20 motion with the Court. One week prior to filing the motion, Plaintiff's Counsel shall send a draft to
21 Defense Counsel for comments. The motion will include a declaration from Plaintiff's Counsel
22 explaining why the Settlement of the PAGA Claims should be approved by the Court as fair,
23 reasonable, and adequate. Defendant shall not oppose the motion so long as it is consistent with the
24 terms of this Agreement.

25 The Parties acknowledge that the PAGA Payments are not guaranteed and could be denied by
26 the Court. Thus, the PAGA Payments are expressly conditioned upon Court Approval. Should the
27 Court deny the PAGA Payments, this entire Agreement shall be voidable by any Party.

1 The Parties agree to fully cooperate with each other to accomplish the terms of this Agreement,
2 including but not limited to, execution of such documents and to take such other action as may
3 reasonably be necessary to implement the terms of this Agreement. The Parties shall use their best
4 efforts, including all efforts contemplated by this Agreement and other efforts that may become
5 necessary by order of the Court, or otherwise, to effectuate this Agreement and the terms set forth
6 herein. As soon as practicable after execution of this Agreement, Plaintiff's Counsel shall, with the
7 assistance and cooperation of Defense counsel, take all necessary steps to secure Court Approval.

8 The Parties agree Phoenix Administrators as the settlement administrator, who shall
9 ensure timely distribution of the PAGA penalties to the LWDA and aggrieved employees at a rate of
10 not exceeding \$2,500.00 for 25 class members.

11 Counsel for Plaintiff shall file a Notice of Settlement of this Action in the Superior Court of
12 California, County of Orange within five (5) days of the full execution of this Agreement.

13 Plaintiff will not engage in or assist in any litigation against Defendants or any Releasee
14 relating to anything occurring prior to the effective date of this Agreement, except as compelled by
15 order of a court or as necessary to participate in an investigation or proceeding conducted by the
16 EEOC, the DFEH, or other governmental agency. Plaintiff further acknowledges and understands that
17 this Agreement does not prohibit Plaintiff from filing an administrative charge or claim with: (a) the
18 EEOC or DFEH or any state or local agency authorized to accept such charge or claim, or (b) the
19 United States National Labor Relations Board. This Agreement does, however, preclude Plaintiff from
20 receiving any monetary, injunctive, or other personal relief related in whole or in part to claims
21 released in this Agreement. Should any individual or entity who is not subject to this Agreement bring
22 an administrative charge, claim, or action against Defendants or any Releasee that results in assignable
23 recovery or relief for Plaintiff, Plaintiff waives any right to such recovery or relief and specifically
24 assigns to Defendant and/or any Releasee, as the case may be, the right to any such recovery or relief
25 arising from such proceeding.

26 It is further understood and agreed by the Parties that as a condition of this Agreement, the
27 Parties hereby expressly waive and relinquish any and all claims, rights or benefits that Plaintiff may
28

1 have against Defendants, and Defendants may have against Plaintiff under California Civil Code
2 section 1542, which provides as follows:

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

7 In connection with such waiver and relinquishment, the Parties hereby acknowledge that they
8 or their attorneys may hereafter discover claims or facts in addition to, or different from, those that the
9 Parties now know or believe to exist, but that the Parties expressly agree to fully, finally and forever
10 settle and release any and all claims, known or unknown, suspected or unsuspected, which exist or
11 may exist on her behalf against each other at the time of execution of this Agreement, including, but
12 not limited to, any and all claims of whatever nature relating to Plaintiff’s alleged employment with
13 Defendants and her separation therefrom. The Parties further acknowledge, understand and agree that
14 this representation and commitment is essential to the Parties and that this Agreement would not have
15 been entered into were it not for this representation and commitment.

16 **WHEREAS**, Plaintiff represents and warrants that she does not presently have on file any
17 claims, charges, grievances, actions, appeals or complaints against Releasees in or with any
18 administrative, state, federal or governmental entity, agency, board or court, or before any other
19 tribunal or arbitrator(s), public or private, based upon any actions occurring prior to the date of this
20 Agreement other than the present action and the corresponding DFEH and LDWA notices. Plaintiff
21 agrees, represents, and warrants that she shall not file any new claims, charges, grievances, actions,
22 appeals or complaints against Releasees in or with any administrative, state, federal or governmental
23 entity, agency, board or court, or before any other tribunal or arbitrator(s), public or private, based
24 upon any actions occurring prior to the date of this Agreement.

25 Plaintiff acknowledges that Releasees deny any wrongdoing whatsoever in connection with
26 Plaintiff and that the settlement agreement made pursuant to this Agreement is made solely for the
27 purpose of compromising disputed claims and avoiding the time, expense and uncertainty of further
28

1 litigation. It is expressly understood and agreed that nothing contained in this Agreement shall
2 constitute or be treated as an admission of any wrongdoing or liability on the part of Releasees.

3 Plaintiff acknowledges that upon receipt of the Payment she has been paid any and all wages,
4 salary, bonuses, commissions or other amounts due from Defendant, and that no other amounts are
5 due to Plaintiff from Defendant. Consequently, California Labor Code Section 206.5 is not applicable
6 to the resolution of this matter by the PARTIES hereto. Section 206.5 provides in pertinent part as
7 follows:

8 “An employer shall not require the execution of a release of a claim or
9 right on account of wages due, or to become due, or made as an advance
10 on wages to be earned, unless payment of those wages has been made.
11 A release required or executed in violation of the provisions of this
12 section shall be null and void as between the employer and the employee.
13 Violation of this section by the employer is a misdemeanor.”

14 **WHEREAS**, the Parties agree that they will not hereafter, without compulsion of legal
15 process, disclose to others, either directly, indirectly or by implication, the fact or terms of this
16 settlement or the amounts referred to or involved in any way in this Agreement (either by specific
17 dollar amount, by number of “figures”, or otherwise), except that they may disclose such information
18 as is necessary to their spouses, attorneys, accountants, other professional advisors, or where
19 disclosure is required by law. Moreover, the Parties may disclose this agreement in full in filings with
20 the Court in seeking Court Approval of the PAGA Settlement. If the Parties are asked a question about
21 the status of the lawsuit, they shall be authorized to state “the matter has been resolved” or “no
22 comment” and no more.

23 Plaintiff further agrees that she will instruct her attorneys not to disclose the terms of this
24 agreement other than as necessary for tax purposes. The Parties further acknowledge and agree that in
25 no way are their respective attorneys’ parties to this agreement.

26 **WHEREAS**, in the event Defendants are contacted with respect to a request for employment
27 references relating to Plaintiff, Defendants hereby agree that the only information that will be disclosed
28 will include the fact of employment, the tenure of employment and the position held.

1 **WHEREAS**, in the event that any of the Parties believe they are legally obligated by statutory
2 or regulatory requirements (including compulsory legal process), to make such disclosures, they shall
3 so notify the opposing party in writing immediately, and in no event less than ten (10) days prior to
4 the date for disclosure. If it is not possible to do so at least ten (10) days in advance, Plaintiff will
5 notify Idin Kashefipour, counsel for Defendants, at (949) 612-9349, while Defendant will notify Sarkis
6 Sirmabekian, counsel for Plaintiff, at (818) 473-5003, within twenty-four (24) hours of receiving
7 notice that they are so obligated. If the party receiving such notice takes any action to challenge such
8 disclosure, the party who believes they are legally obligated to make the disclosure shall defer making
9 such disclosure until the opposing party's challenge is finally resolved, unless ordered by a Court to
10 give the information notwithstanding the challenge.

11 The Parties understand and expressly agree that the confidentiality of this Agreement and its
12 terms is essential and that this Agreement would not have been entered into were it not for this
13 confidentiality.

14 Plaintiff acknowledges that Releasees deny any wrongdoing whatsoever in connection with
15 Plaintiff and that the settlement agreement made pursuant to this Agreement is made solely for the
16 purpose of compromising disputed claims and avoiding the time, expense and uncertainty of further
17 litigation. It is expressly understood and agreed that nothing contained in this Agreement shall
18 constitute or be treated as an admission of any wrongdoing or liability on the part of Releasees.

19 **WHEREAS**, Plaintiff understands and agrees that:

- 20 A. In consideration of the payment provided for in this Agreement, Plaintiff specifically
21 waives all existing rights and claims he may have against Releasees under the Age
22 Discrimination in Employment Act, 29 U.S.C. § 621 et seq. This waiver does not extend
23 to rights or claims that may arise after the date this Agreement is executed;
- 24 B. She has had a reasonable amount of time after receipt of this Agreement within which to
25 review and consider the Agreement;
- 26 C. She is receiving on behalf of Defendants good and sufficient consideration in addition to
27 anything of value to which she is already entitled;
- 28

- 1 D. She has been advised to consult with an attorney of her own choosing before executing this
2 Agreement, which he has done;
- 3 E. This Agreement is written in a manner designed to be understood by her and that she has
4 read it carefully and fully understands its terms;
- 5 F. She is, through and in accordance with the terms set forth in this Agreement, releasing
6 Releasees from any and all claims she has or may come to have against Releasees except
7 those that may arise after the date he executes this Agreement;
- 8 G. She is knowingly and voluntarily agreeing to all of the terms set forth in this Agreement;
9 and
- 10 H. She has, if she wishes, 21 days to consider this Agreement prior to signing it, and seven
11 (7) days after signing this Agreement to revoke his signature. Revocation can be made by
12 delivering a written notice of revocation to Idin Kashefipour at Messner Reeves, LLP, 650
13 Town Center Drive, Suite 700, Costa Mesa, California 92626. For this revocation to be
14 effective, written notice must be received by Idin Kashefipour no later than the close of
15 business on the seventh (7th) calendar day after the date Plaintiff signed this Agreement.
16 If Plaintiff revokes this Agreement, it shall not be effective or enforceable and Plaintiff will
17 not receive the benefits provided herein.

18 **WHEREAS**, Releasor agrees to defend, indemnify, protect and hold harmless Releasees from
19 any and all liens, rights of subrogation, indemnification claims, contribution claims, defense claims,
20 losses, liability, actions, damages, causes of action, judgments, costs and expenses, including
21 attorneys' fees, whatsoever made by or sustained by or arising from any person, corporation,
22 partnership, state or federal government, governmental agency, hospital, or any other medical
23 provider, health care provider, disability or insurance benefits providers, workers compensation
24 carrier, Medicare, Medicaid, or any other entity arising in whole or in part out of the care and treatment,
25 or in any way connected to the care and treatment, provided to the Releasor for the injury/injuries
26 alleged in the Claim. Releasor expressly agrees and warrants that Releasor has disclosed all liens on
27 her recovery in the Claim to Releasees, and agrees to defend, indemnify, protect and hold harmless
28 Releasees from any and all claims, losses, actions, damages, settlements, judgments, causes of actions,

1 subrogation claims, indemnification claims, or contribution claims, including attorney's fees and costs
2 of suit, from any lienholders not disclosed to Releasees. Releasor understands and acknowledges that
3 any and all payments made to Medicare, Medicaid, or child support liens from the Payment will be
4 paid directly to the appropriate lienholder by the payor(s) of the Payment.

5 **WHEREAS**, the Parties agree that they will not hereafter without compulsion of legal process
6 make any disparaging remarks against or about one another or any of their officers, board members,
7 directors, volunteers or employees. Nothing in this agreement prevents you from discussing or
8 disclosing information about unlawful acts in the workplace, such as harassment or discrimination or
9 any other conduct that you have reason to believe is unlawful.

10 It is expressly understood and agreed by the parties that this Agreement and all of its terms
11 shall be binding upon each parties' representatives, heirs, executors, administrators, successors and
12 assigns.

13 **WHEREAS**, Plaintiff represents and warrants that she is the sole and lawful owner of all
14 rights, title and interest in and to all released matters, claims and demands referred to herein.
15 PLAINTIFF further represents and warrants that there has been no assignment or other transfer of
16 interest in any such matters, claims or demands that she may have against Releasees. Plaintiff agrees
17 to indemnify Releasees and shall hold them harmless from and against: (1) any such liability, claim,
18 demand, action, cause of action, or right which has been assigned or transferred contrary to the
19 foregoing representations; and (2) any and all liability, loss, claim, expense and/or obligation arising
20 out of any breach of the foregoing warranty.

21 The parties agree that the Court will maintain jurisdiction over the enforcement of this
22 settlement pursuant to California Code of Civil Procedure Section 664.6.

23 This Agreement shall not be used as evidence in any proceeding other than one to enforce this
24 Agreement, or one seeking damages arising from a breach of this Agreement.

25 **WHEREAS**, each party has cooperated in some fashion in the drafting and/or preparation of
26 this Agreement. Regardless of the extent of drafting or preparation, the language in all parts of this
27 instrument shall be in all cases construed simply according to its fair meaning and not strictly for or
28

1 against any of the Parties hereto and without regard to which Party arranged for the final draft of this
2 Agreement.

3 This Agreement constitutes a single, integrated, written contract, expressing the entire
4 agreement between the parties. It supersedes all prior agreements between the parties. The parties
5 represent and warrant that they are not relying on any promises or representations that do not appear
6 written herein. The parties further understand and agree that this Agreement can be amended or
7 modified only by a written agreement, signed by all of the parties hereto.

8 This Agreement may be executed in separate counterparts and each such counterpart shall be
9 deemed an original with the same effect as if all parties had signed the same document.

10 Facsimile signatures on this Agreement shall be treated as original signatures.

11 **WHEREAS**, Plaintiff understands and agrees that she may be waiving significant legal rights
12 by signing this Agreement, and represents that she has entered into this Agreement voluntarily, after
13 consulting with her attorneys, with a full understanding of and in agreement with all of its terms.

14 Without discharging the Releasees from their ultimate obligation to ensure the full Settlement
15 Payment is delivered to and received by Plaintiff, the parties agree that the Releasees will be
16 considered to have fulfilled their obligations regarding timely issuance of the Settlement Payment by
17 submitting the checks listed herein, together with appropriate packaging and postage, to either the
18 custody and control of a United States Postal Service employee, a United States Postal Service
19 Mailbox, or any other receptacle authorized for receipt of United States Postal Service Mail, on or
20 before the deadline for issuance of the Settlement Payment as contemplated herein. The parties agree
21 that any delay in delivery of the Settlement Amount that is caused by, or may be attributed in whole
22 or in part, to any act or omission of the United States Postal Service or other mail carrier, shall toll the
23 deadline for issuance of the Settlement Amount as contemplated herein, and shall not be considered a
24 breach of this agreement on behalf of the Releasees in any way.

25 **NOW THEREFORE**, the Parties jointly request that the Court approve the PAGA Settlement
26 set forth in the PAGA Settlement Agreement and enter judgment accordingly to its terms.

27 *[SIGNATURE PAGE FOLLOWS]*

1 DATED: November 14, 2022

SIRMABEKIAN LAW FIRM PC

2 By:



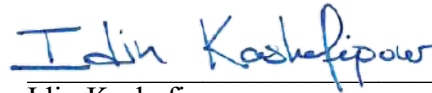
3 Sarkis Sirmabekian, Esq.

4 *Attorney for Plaintiff GISELLA MARIA*
5 *HURTADO*

6
7
8 **MESSNER REEVES, LLP**

9 DATED: November 11, 2022

10 By:



11 Idin Kashefipour

12 *Attorney for Defendants,*
13 *BRASA ROTISSERIE, VICTOR BEGAZO,*
14 *FRANCESCA BEGAZO, ANGELA*
15 *KISHIJARA, and STEPHEN HALL*

EXHIBIT 4

Re: NOTICE OF SETTLEMENT

**GISELLA M. HURTADO vs. BRASA ROTISserie, et al.
Superior Court of California for the County of Orange
Case Number: 30-2022-01258759-CU-OE-CXC**

Date:

SIMID
Name
Address

Dear Name:

A settlement was reached between Plaintiff Gisella M. Hurtado (“Plaintiff”) and Defendants BRASA Rotisserie, Victor Begazo, Francesca Begazo, Angela Kishijara, and Stephen Hall a/k/a/ Steve Hall (“Defendants”) (collectively the “Parties”) in *Gisella M. Hurtado vs. BRASA Rotisserie, et al.*, filed in the Superior Court of California for the County of Orange (Case Number: 30-2022-01258759-CU-OE-CXC) (the “Action”). On , the Superior Court of California for the County of Orange issued an Order approving the Settlement, which was brought pursuant to the Private Attorneys General Act of 2004 (“PAGA”). An action under PAGA is an enforcement action in which an aggrieved employee acts as a private attorney general to collect penalties from employers. In reaching this settlement, Defendants made no admission of liability and denied the truth of the allegations in the Action. However, to avoid additional expense, inconvenience, and interference with Defendants’ business operations, the Parties have concluded that it is in the best interests of the Parties to settle.

This settlement affects certain employees and former employees of Defendants. You are receiving this Notice of Settlement because you worked for Defendants at some point from May 9, 2021 through (the date the Court approved the PAGA Settlement and entered a final order and/or Judgment) (“Claims Period”). Pursuant to the Settlement, enclosed is a check for your share of a portion of the civil penalties. This check will remain valid for 180 days from the date of issuance. If you do not cash your check within 180 days of issuance, the funds will be deposited by the Settlement Administrator with the California State Controller to be deposited in the Unclaimed Property Fund in your name. If you are still employed by Defendants, your decision to cash the check will not affect your employment.

Payment of this settlement includes a release of any and all claims pursuant to the *California Labor Code § 2698*, which were alleged based on the facts in the operative Complaint or notice for the California Labor Workforce Development Agency (“LWDA”) on behalf of Plaintiff and all aggrieved employees during the Claims Period. The release includes all claims, rights, demands, liabilities and causes of action that arose during the period from May 9, 2021 through the date of the final order (the “PAGA Period”), for civil penalties under the PAGA, based on the allegations pled by Plaintiff in the Action: (1) Violation of The Private Attorneys General

Act of 2004 (“PAGA”); (2) Failure to Pay Minimum Wage; (3) Failure to Compensate for All Hours Worked (4) Failure to Pay Overtime Compensation; (5) Failure To Pay Meal Period Compensation; (6) Failure To Rest Period Compensation; (7) Failure To Furnish Accurate Wage and Hour Statements; (8) Failure to Pay Wages Upon Discharge; (9) Statutory Penalties; (10) Failure to Indemnify and Illegal Deductions From Wages; (11) Disability Discrimination; (12) Wrongful Termination; (13) Retaliation; (14) Unfair Competition; including any related claims for attorneys’ fees, costs, penalties or interest resulting there from, during the PAGA Period). This release only waives, and is limited to, the aggrieved employee’s rights to collect civil penalties under PAGA (2698 *et seq.*).

If you have any questions, you can contact Phoenix Settlement Administrators, the Settlement Administrator, at 1.XXX.XXX.XXXX.

PROOF OF SERVICE
(§ 1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am a citizen of the United States of America; I am over the age of eighteen years and not a party to the within entitled action; my business address is: 3435 Wilshire Boulevard, Suite 1710, Los Angeles, California 90010.

On the below-indicated date, I served the following document:

PLAINTIFF GISELLA M. HURTADO'S NOTICE OF MOTION AND UNOPPOSED MOTION FOR COURT APPROVAL OF PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES;

DECLARATION OF SARKIS SIRMABEKIAN, ESQ. IN SUPPORT;

on the interested parties in said action by placing:

___X___ a true and correct copy,

and addressed as set forth on the attached Service List and delivered by one or more of the means set forth below:

☒ **BY ELECTRONIC SERVICE IN LIEU OF SERVICE BY MAIL, EXPRESS MAIL, OVERNIGHT DELIVERY, OR FACSIMILE TRANSMISSION:** In accordance with California Code of Civil Procedure section 1010.6, I caused the document to be sent to the person(s) below at the e-mail address(es) listed below.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

EXECUTED: January 4, 2023
At Los Angeles, California

Grigor Gregg Sirmabekian
Grigor Gregg Sirmabekian

[SERVICE LIST ON THE FOLLOWING PAGE]

SERVICE LIST

Idin Kashefipour, Esq. [SBN 280402] MESSNER REEVES LLP 650 Town Center Drive, Suite 700 Costa Mesa, California 92626 Email: ikashefipour@messner.com Email: dlarenas@messner.com	<i>Attorney for Defendants BRASA ROTISSERIE, VICTOR BEGAZO, FRANCESCA BEGAZO, ANGELA KISHIJARA, and STEPHEN HALL</i>
Labor and Workforce Development Agency ("LWDA") Department of Industrial Relations Attn. PAGA Administrator 1515 Clay Street, Ste. 801 Oakland, California 94612	<i>Labor and Workforce Development Agency: filed/served online at:</i> <i><u>https://www.dir.ca.gov/Private-Attorneys- General-Act/Private-Attorneys-General- Act.html</u></i>