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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

JUANITA JUAREZ, individually, and on behalf
of other members of the general public similarly
situated, and as an aggrieved employee pursuant
to the Private Attorneys General Act (“PAGA”),

Plaintiff,

vs.

TWM/FRESNO, LLC, a California limited
liability company; T W M MANAGEMENT,
INC., a California corporation; THE
CHOWCHILLA CONNECTION, LLC, a
California limited liability company; VALLEY
CONNECTION, LLC, a California limited
liability company; MANTECA STAR, LLC, a
California limited liability company; and DOES
1 through 10, inclusive,

Defendants.

Case No.: STK-CV-UOE-2022-2562

**JOINT STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT AND RELEASE**

JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT AND RELEASE

This Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement” or “Settlement Agreement”) is made and entered into by and between Plaintiff Juanita Juarez (“Plaintiff” or “Class Representative”), as an individual and on behalf of all others similarly situated, and Defendant TWM/Fresno, LLC (“Defendant”) (collectively with Plaintiff, the “Parties”).

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. “Action” means *Juarez v. TWM/Fresno, LLC*, No. STK-CV-UOE-2022-2562 (San Joaquin County Superior Court).
2. “Attorneys’ Fees and Costs” means attorneys’ fees agreed upon by the Parties and approved by the Court for Class Counsel’s litigation and resolution of the Action, and all out-of-pocket costs incurred and to be incurred by Class Counsel in the Action, including but not limited to expert/consultant fees, investigation costs, and costs associated with documenting the Settlement, providing any notices required as part of the Settlement or Court order, securing the Court’s approval of the Settlement, administering the Settlement, and obtaining entry of a Judgment terminating the Action. Class Counsel will request attorneys’ fees not in excess of one-third (1/3) of the Gross Settlement Amount, or One Hundred Ninety-Four Thousand Three Hundred Fifty Dollars (\$194,350.00). The Attorneys’ Fees and Costs will also mean and include the additional reimbursement of any costs and expenses associated with Class Counsel’s litigation and settlement of the Action, up to Twenty Thousand Dollars (\$20,000.00), subject to the Court’s approval. Defendant has agreed not to oppose Class Counsel’s request for fees and reimbursement of costs as set forth above.
3. “Class Counsel” means Capstone Law APC.
4. “Class List” means a complete list of all Class Members that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator and Class Counsel within thirty (30) calendar days after Preliminary Approval. The Class List will be formatted in Microsoft Office Excel and will include each Class Member’s full name; most recent mailing address; Social Security number; dates of employment; the respective number of Workweeks/ PAGA Pay

1 Periods that each Class Member/PAGA worked during the Class Period/PAGA Period; and any other
2 relevant information needed to calculate settlement payments.

3 5. "Class Member(s)" or "Settlement Class" means all persons who worked for Defendant
4 in California as an hourly paid or non-exempt employee during the period from April 8, 2018 to the
5 Settlement Term Date, and who have not signed an arbitration agreement with Defendant.

6 6. "Class Notice" means the Notice of Class Action Settlement, substantially in the form
7 attached as Exhibit A.

8 7. "Class Period" means the period from April 8, 2018 to the Settlement Term Date.

9 8. "Class Representative Enhancement Payment" means the amount to be paid to Plaintiff
10 in recognition of her effort and work in prosecuting the Action on behalf of Class Members, and for her
11 general release of claims. Subject to the Court granting final approval of this Settlement Agreement and
12 subject to the exhaustion of any and all appeals, Plaintiff will request Court approval of a Class
13 Representative Enhancement Payment of up to Ten Thousand Dollars (\$10,000).

14 9. "Court" means the San Joaquin County Superior Court.

15 10. "Defendant" means Defendant TWM/Fresno, LLC.

16 11. "Effective Date" means the later of: (a) if no timely objections are filed, or are
17 withdrawn prior to Final Approval, then the date of Final Approval; or (b) if a Class Member files an
18 objection to the Settlement, the Effective Date shall be the sixty-first (61) calendar day after the date of
19 Final Approval, provided no appeal is initiated by an objector; or (c) if a timely appeal is initiated by an
20 objector, then the Effective Date will be the date of final resolution of that appeal (including any requests
21 for rehearing and/or petitions for certiorari), resulting in final judicial approval of the Settlement.

22 12. "Final Approval" means the date on which the Court enters an order granting final
23 approval of the Settlement Agreement.

24 13. "Gross Settlement Amount" means the amount of Five Hundred Eighty Three Thousand
25 Fifty Five Dollars (\$583,055.00), to be paid by Defendant in full and complete satisfaction of all
26 Released Class Claims and Released PAGA Claims arising from the Action, which includes all
27 Individual Settlement Payments, Attorneys' Fees and Costs, the Class Representative Enhancement
28 Payment, the PAGA Settlement Amount, and Settlement Administration Costs. This Gross Settlement

Amount has been agreed to by Plaintiff and Defendant based on the aggregation of the agreed-upon settlement value of individual claims. In no event will Defendant be liable for more than the Gross Settlement Amount except as otherwise explicitly set forth herein. There will be no reversion of the Gross Settlement Amount to Defendant. Defendant will be separately responsible for any employer payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions, which shall not be paid from the Gross Settlement Amount.

14. "Individual Settlement Payment" means each Participating Class Member's respective shares of the Net Settlement Fund and each PAGA Member's respective share of the PAGA Fund, minus applicable authorized withholdings, as set forth herein in this Agreement.

15. "Net Settlement Fund" means the portion of the Gross Settlement Amount remaining after deducting the Attorneys' Fees and Costs, the Class Representative Enhancement Payment, the PAGA Settlement Amount, and Settlement Administration Costs. The Net Settlement Fund will be distributed to Participating Class Members. There will be no reversion of the Net Settlement Fund to Defendant.

16. "Notice of Objection" means a Class Member's valid and timely written objection to the Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the objector's full name, signature, address, and telephone number, (b) a written statement of all grounds for the objection accompanied by any legal support for such objection; (c) copies of any papers, briefs, or other documents upon which the objection is based; and (d) a statement whether the objector intends to appear at the final fairness hearing. Any Class Member who does not submit a timely written objection to the Settlement, or who fails to otherwise comply with the specific and technical requirements of this section will be foreclosed from objecting to the Settlement and seeking any adjudication or review of the Settlement, by appeal or otherwise.

17. "PAGA Members" means all persons who worked for Defendant in California as an hourly paid or non-exempt employee during the period from February 1, 2021 to the Settlement Term Date.

18. "PAGA Pay Periods" means the number of weeks of employment for each PAGA Employee during the PAGA Period, dividing by two (2), and rounding up the nearest whole number. All

1 PAGA Employees will be credited with at least one PAGA Pay Period.

2 19. "PAGA Period" means the period from February 1, 2021 to the Settlement Term Date.

3 20. "PAGA Settlement Amount" means the amount that the Parties have agreed to pay to
4 the California Labor and Workforce Development Agency ("LWDA") and PAGA Members in
5 connection with Plaintiff's claim under the Labor Code Private Attorneys General Act of 2004 (Cal. Lab.
6 Code §§ 2698, *et seq.*, "PAGA") ("PAGA Settlement"). The Parties have agreed that Fifty Thousand
7 Dollars (\$50,000.00) of the Gross Settlement Amount will be allocated to the resolution of PAGA
8 Members' claims arising under PAGA, as the PAGA Settlement Amount. Pursuant to PAGA, Seventy-
9 Five Percent (75%), or Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00), of the PAGA
10 Settlement Amount will be paid to the LWDA ("LWDA Payment"), and Twenty-Five Percent (25%), or
11 Twelve Thousand Five Hundred Dollars (\$12,500.00) ("PAGA Fund"), of the PAGA Settlement will be
12 disbursed to PAGA Members, and regardless whether they request to be excluded from the Settlement
13 Class.

14 21. "Parties" means Plaintiff and Defendant collectively.

15 22. "Participating Class Members" means all Class Members who do not submit timely and
16 valid Requests for Exclusion.

17 23. "Plaintiff" means Plaintiff Juanita Juarez.

18 24. "Preliminary Approval" means the Court's order granting preliminary approval of the
19 Settlement Agreement.

20 25. "Released Class Claims" means any and all claims, rights, demands, liabilities, penalties,
21 wages, and causes of action, reasonably arising from, or reasonably related to, or that were asserted, or
22 that reasonably could have been asserted, based on the facts and matters in the operative Complaint, and
23 any future amendments to the operative Complaint, including but not limited to state wage and hour
24 claims for any and all violations of California's Labor Code and Unfair Competition Law based on
25 Defendant's alleged failure to pay for all hours worked (including minimum wages, straight time wages,
26 and overtime wages), failure to provide meal periods, failure to authorize and permit rest periods, failure
27 to timely pay all wages during employment and due at the time of termination, failure to reimburse
28 necessary business expenses, failure to furnish accurate, itemized wage statements, failure to maintain

1 payroll records, unfair business practices, and all damages, interest, penalties, attorneys' fees, costs, and
2 other amounts recoverable under said causes of action under California law based on the preceding
3 released claims, to the extent permissible, including but not limited to the California Labor Code and the
4 applicable Wage Orders based on the preceding released claims.

5 26. "Released PAGA Claims" means all claims for PAGA civil penalties under the
6 California Private Attorneys General Act of 2004, which were asserted in the operative Complaint and/or
7 PAGA notice letter, or any future amendments to the operative complaint or PAGA notice letter, or
8 which reasonably could have been asserted based on the facts alleged in the operative Complaint and
9 PAGA notice letter, or which are arising out of, or reasonably related to, the Released Class Claims.

10 27. "Released Parties" means Defendant, its past or present officers, directors, shareholders,
11 members, owners, employees, agents, principals, heirs, representatives, accountants, auditors,
12 consultants, insurers and reinsurers, and its respective successors and predecessors in interest,
13 subsidiaries, affiliates, parents, and attorneys, if any.

14 28. "Request for Exclusion" means a timely letter submitted by a Class Member indicating a
15 request to be excluded from the Settlement Class. The Request for Exclusion must: (a) set forth the
16 name, address, telephone number and last four digits of the Social Security Number of the Class
17 Member requesting exclusion; (b) be signed by the Class Member; (c) be returned to the Settlement
18 Administrator; (d) clearly state that the Class Member does not wish to be included in the Settlement;
19 and (e) be faxed or postmarked on or before the Response Deadline.

20 29. "Residuals Hearing" means the hearing at which the Court will direct Defendant to pay
21 the sum of the unpaid residual from the Individual Settlement Payments (if any), plus interest on that
22 sum at the legal rate of interest from the date of entry of the Final Order, to the non-profit organization
23 selected by the Parties in accordance with California Code of Civil Procedure section 384(b).

24 30. "Response Deadline" means the deadline by which Class Members must postmark or
25 fax to the Settlement Administrator Requests for Exclusion, disputes concerning the calculation of
26 Individual Settlement Payments, or Notices of Objection. The Response Deadline will be forty-five (45)
27 calendar days from the initial mailing of the Class Notice by the Settlement Administrator, unless the
28 forty-fifth (45th) calendar day falls on a Sunday or State holiday, in which case the Response Deadline

1 will be extended to the next day on which the U.S. Postal Service is open.

2 31. "Settlement Administration Costs" means the costs payable from the Gross Settlement
3 Amount to the Settlement Administrator for administering this Settlement, including, but not limited to,
4 printing, distributing, and tracking documents for this Settlement, tax reporting, distributing the Gross
5 Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The
6 Settlement Administration Costs will be paid from the Gross Settlement Amount, including, if necessary,
7 any such costs in excess of the amount represented by the Settlement Administrator as being the
8 maximum costs necessary to administer the Settlement. Based on an estimated Settlement Class of
9 approximately One Thousand Three Hundred (1,300) Class Members and Seven Hundred (700) PAGA
10 Members, the Settlement Administration Costs are currently estimated to be Fifteen Thousand Dollars
11 (\$15,000).

12 32. "Settlement Administrator" means CPT Group, Inc., or any other third-party class action
13 settlement administrator agreed to by the Parties and approved by the Court for the purposes of
14 administering this Settlement. The Parties each represent that they do not have any financial interest in
15 the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that
16 could create a conflict of interest.

17 33. "Settlement Term Date" means: (a) the date of Preliminary Approval, provided the
18 number of Workweeks on that date is less than Fifty-Eight Thousand Three Hundred Six (58,306), or (b)
19 if the Defendant elects to use the Escalator Clause to increase the Gross Settlement Amount to cover the
20 number of Workweeks occurring from April 8, 2018 to the date of Preliminary Approval, if that number
21 is greater than Fifty-Eight Thousand Three Hundred Six (58,306) Workweeks; or (c) the date that the
22 number of Workweeks reaches Fifty-Eight Thousand Three Hundred Six (58,306), if that date occurs
23 prior to the date of Preliminary Approval and Defendant elects not to use the Escalator Clause to increase
24 the Gross Settlement Amount to cover the number of Workweeks occurring from April 8, 2018 to the
25 date of Preliminary Approval.

26 34. "Workweeks" means the number of days of employment for each Class Member during
27 the Class Period, subtracting days on leave of absence (if any), dividing by seven (7), and rounding up to
28 the nearest whole number with respect to Class Members. All Class Members will be credited with at

1 least one Workweek during the Class Period.

2 **TERMS OF AGREEMENT**

3 The Plaintiff, on behalf of herself and the Settlement Class, and Defendant agree as follows:

4 35. Funding of the Gross Settlement Amount. Within thirty (30) calendar days after the
5 Effective Date, Defendant will deposit half of the Gross Settlement Amount, or Two Hundred Ninety-
6 One Thousand Five Hundred Twenty-Seven Dollars and Fifty Cents (\$291,527.50), into a Qualified
7 Settlement Fund ("QSF") to be established by the Settlement Administrator ("Partial Funding Date").
8 Within one hundred and eighty (180) calendar days after the Partial Funding Date, Defendant will
9 deposit the remaining half of the Gross Settlement Amount, or Two Hundred Ninety-One Thousand
10 Five Hundred Twenty-Seven Dollars and Fifty Cents (\$291,527.50), and the employer's share of payroll
11 taxes, into the QSF established by the Settlement Administrator ("Full Funding Date").

12 36. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or
13 motion by Class Counsel for Attorneys' Fees and Costs of not more than One Hundred Ninety-Four
14 Thousand Three Hundred Fifty Dollars (\$194,350.00), plus the reimbursement of all out-of-pocket costs
15 and expenses associated with Class Counsel's litigation and settlement of the Action (including expert
16 fees, investigations costs, etc.), not to exceed Twenty Thousand Dollars (\$20,000.00), both of which will
17 be paid from the Gross Settlement Amount.

18 37. Class Representative Enhancement Payment. In exchange for a general release, and in
19 recognition of her effort and work in prosecuting the Action on behalf of Class Members, Defendant
20 agrees not to oppose or impede any application or motion for a Class Representative Enhancement
21 Payment of up to Ten Thousand Dollars (\$10,000.00). The Class Representative Enhancement Payment
22 will be paid from the Gross Settlement Amount and will be in addition to Plaintiff's Individual
23 Settlement Payment paid pursuant to the Settlement. Plaintiff will be solely and legally responsible to
24 pay any and all applicable taxes on the Class Representative Enhancement Payment. Plaintiff
25 understands and agrees that this Settlement Agreement shall remain in full force and effect even if the
26 full amount of Class Representative Enhancement Payment sought by Plaintiff is not ultimately awarded
27 by the Court.

28 38. Settlement Administration Costs. The Settlement Administrator will be paid for the

1 reasonable costs of administration of the Settlement and distribution of payments from the Gross
2 Settlement Amount, which is currently estimated to be Fifteen Thousand Dollars (\$15,000). These costs,
3 which will be paid from the Gross Settlement Amount, will include, *inter alia*, the required tax reporting
4 on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms, distributing Class
5 Notices, calculating and distributing the Gross Settlement Amount, and providing necessary reports and
6 declarations.

7 39. PAGA Settlement Amount. Subject to Court approval, the Parties agree that the amount
8 of Fifty Thousand Dollars (\$50,000.00) from the Gross Settlement Amount will be designated for
9 satisfaction of Plaintiff's, PAGA Members', and the State's PAGA claim. Pursuant to PAGA, Seventy-
10 Five Percent (75%), or Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00), of this sum will be
11 paid to the LWDA and Twenty-Five Percent (25%), or Twelve Thousand Five Hundred Dollars
12 (\$12,500.00), will be paid to PAGA Members in proportion to the number of PAGA Pay Periods
13 worked during the PAGA Period.

14 40. No Right to Exclusion or Objections to the PAGA Settlement. Because this settlement
15 resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private
16 Attorney General of, and for, the State of California and the LWDA, the Parties agree that no PAGA
17 Member has the right to exclude himself or herself from the release of the Released PAGA Claims, and
18 all PAGA Members will receive their shares of the PAGA Fund. The Parties also agree that no PAGA
19 Member has the right to object to the PAGA Settlement Amount.

20 41. Net Settlement Fund. The entire Net Settlement Fund will be distributed to Participating
21 Class Members. No portion of the Net Settlement Fund will revert to or be retained by Defendant.

22 42. PAGA Fund. The entire PAGA Fund will be distributed to all PAGA Members. No
23 portion of the PAGA Fund will revert to or be retained by Defendant.

24 43. Individual Settlement Payment Calculations. Individual Settlement Payments will be
25 calculated and apportioned from the Net Settlement Fund and PAGA Fund based on the number of
26 Workweeks a Class Member worked during the Class Period and the number of PAGA Pay Periods a
27 PAGA Member worked during the PAGA Period. Specific calculations of Individual Settlement
28 Payments will be made as follows:

1 43(a) Payments from the Net Settlement Fund. Defendant will calculate the total
2 number of Workweeks worked by each Class Member during the Class
3 Period and the aggregate total number of Workweeks worked by all Class
4 Members during the Class Period. To determine each Class Member's
5 estimated share of the Net Settlement Fund, the Settlement Administrator
6 will use the following formula: The Net Settlement Fund will be divided by
7 the aggregate total number of Workweeks, resulting in the "Workweek
8 Value." Each Class Member's share of the Net Settlement Fund will be
9 calculated by multiplying each individual Class Member's total number of
10 Workweeks by the Workweek Value. The Individual Settlement Payment
11 will be reduced by any required deductions for each Participating Class
12 Member as specifically set forth herein, including employee-side tax
13 withholdings or deductions. The entire Net Settlement Fund will be
14 disbursed to all Participating Class Members who do not submit timely and
15 valid Requests for Exclusion. If there are any valid and timely Requests for
16 Exclusion, the Settlement Administrator shall proportionately increase each
17 Participating Class Member's share of the Net Settlement Fund according to
18 the number of Workweeks worked, so that the amount actually distributed
19 to the Settlement Class equals one hundred percent (100%) of the Net
20 Settlement Fund.

21 43(b) Payments from the PAGA Fund. Defendant will calculate the total number
22 of PAGA Pay Periods worked by each PAGA Member during the PAGA
23 Period and the aggregate total number of PAGA Pay Periods worked by all
24 PAGA Members during the PAGA Period. To determine each PAGA
25 Member's estimated "share of the PAGA Fund, the Settlement
26 Administrator will use the following formula: The PAGA Fund will be
27 divided by the aggregate total number of PAGA Pay Periods, resulting in
28 the "PAGA Pay Period Value." Each PAGA Member's share of the PAGA

Fund will be calculated by multiplying each individual PAGA Member's total number of PAGA Pay Periods by the PAGA Pay Period Value. The entire PAGA Fund will be disbursed to all PAGA Members.

44. No Credit Toward Benefit Plans. The Individual Settlement Payments made to Participating Class Members under this Settlement, as well as any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

45. Administration Process. The Parties agree to cooperate in the administration of the settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement.

46. Notice by First-Class U.S. Mail. Within ten (10) calendar days after receiving the Class List from Defendant, the Settlement Administrator will mail a Class Notice to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

47. Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any Class Notices returned to the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Class Notice. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address and/or Social Security number of the Class Member involved, and will then perform a single re-mailing. Those Class Members who receive a re-mailed Class Notice, whether by skip-trace or by request, will have either (a) an additional fifteen (15) calendar days or (b) until the Response Deadline, whichever is later, to submit a Request for Exclusion or an

1 objection to the Settlement.

2 48. Class Notices. All Class Members will be mailed a Class Notice. Each Class Notice will
3 provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's principal
4 terms; (c) the Settlement Class and PAGA Member definitions; (d) the total number of Workweeks each
5 respective Class Member, and PAGA Pay Periods that each PAGA Member, worked for Defendant
6 during the Class Period and PAGA Period, respectively; (e) each Class Member's and PAGA Member's
7 estimated Individual Settlement Payment and the formulae for calculating Individual Settlement
8 Payments; (f) the dates which comprise the Class Period and PAGA Period; (g) instructions on how to
9 submit Requests for Exclusion or Notices of Objection; (h) the deadlines by which the Class Member
10 must postmark or fax Requests for Exclusions, or postmark Notices of Objection to the Settlement; and
11 (i) the claims to be released.

12 49. Disputed Information on Class Notices. Class Members will have an opportunity to
13 dispute the information provided in their Class Notices. To the extent Class Members dispute their
14 employment dates or the number of Workweeks on record, Class Members may produce evidence to the
15 Settlement Administrator showing that such information is inaccurate. Defendant's records will be
16 presumed correct, but the Settlement Administrator will evaluate the evidence submitted by the Class
17 Member and will make the final decision as to the merits of the dispute. All disputes must be submitted
18 by the Response Deadline, and will be decided within ten (10) business days after the Response
19 Deadline.

20 50. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the
21 requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The
22 Settlement Administrator will mail the Class Member a cure letter within three (3) business days of
23 receiving the defective submission to advise the Class Member that his or her submission is defective
24 and that the defect must be cured to render the Request for Exclusion valid. The Class Member will have
25 until (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter,
26 whichever date is later, to postmark or fax a revised Request for Exclusion. If the revised Request for
27 Exclusion is not postmarked or received by fax within that period, it will be deemed untimely.

28 51. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the

1 Settlement Agreement must sign and fax or postmark a written Request for Exclusion to the Settlement
2 Administrator within the Response Deadline. In the case of Requests for Exclusion that are mailed to the
3 Settlement Administrator, the postmark date will be the exclusive means to determine whether a Request
4 for Exclusion has been timely submitted.

5 52. Escalator Clause. Defendant's best estimate for the number of Workweeks at issue for
6 the Class Members from April 8, 2018 to March 13, 2023 is Fifty-Three Thousand Five (53,005)
7 Workweeks. If the amount of Workweeks during the Class Period is determined to be more than Ten
8 Percent (10%) higher than this estimate (i.e., 58,306 or more Workweeks) on the date of Preliminary
9 Approval, then, at Defendant's option, the Class Period will end either: (a) on the date that the Class
10 reaches 58,306 Workweeks if that date is prior to the date of Preliminary Approval and Defendant elects
11 not to use the Escalator Clause, or (b) end on the date of Preliminary Approval and the Gross Settlement
12 Amount shall be increased via this Escalator Clause by the average gross payout to the Class Members
13 based on the 53,005 Workweeks ("Escalator Clause"). For example, if there are Eleven Percent (11%)
14 more Workweeks than the initial figure of 53,005 Workweeks on the date of Preliminary Approval, then
15 at Defendant's option, the Parties can increase the Gross Settlement Amount by Eleven Percent (11%),
16 and the Class Period will end on the date of Preliminary Approval. The Gross Settlement Amount will
17 not be reduced due to Defendant's estimate.

18 53. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member
19 who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid
20 Request for Exclusion will be bound by all of its terms, including those pertaining to the Released Class
21 Claims, as well as any Judgment that may be entered by the Court if it grants final approval to the
22 Settlement.

23 54. Releases by Participating Class Members. Upon the Effective Date, Plaintiff and each
24 Participating Class Member, together and individually, on their behalf and on behalf of their respective
25 heirs, executors, administrators, agents, and attorneys, shall fully and forever release and discharge all of
26 the Released Parties, or any of them, from each of the Released Class Claims arising during the Class
27 Period to the fullest extent permitted by law. Upon the Effective Date, Plaintiffs and all Participating
28 Class Members who do not affirmatively opt out of the Settlement Agreement by submitting a timely

1 and valid Request for Exclusion will be bound by all of the terms of this Settlement Agreement,
2 including those pertaining to the Released Class Claims, as well as any Judgment that may be entered by
3 the Court if it grants Final Approval. The Participating Class Members agree not to sue or otherwise
4 make a claim against any of the Released Parties for any of the Released Class Claims. The Participating
5 Class Members may discover facts in addition to or different from those they now know or believe to be
6 true with respect to the subject matter of the Released Class Claims. Nevertheless, the Participating Class
7 Members, on the Effective Date, shall be deemed to have, and by operation of the Final Approval or
8 judgment, shall have fully, finally, and forever settled and released all of the Released Class Claims.

9 55. Releases by PAGA Members. Upon the Effective Date, and except as to such rights or
10 claims as may be created by this Settlement Agreement, each PAGA Member, together and individually,
11 on their behalf and on behalf of their respective heirs, executors, administrators, agents, and attorneys,
12 shall fully and forever release and discharge all of the Released Parties, or any of them, from each of the
13 Released PAGA Claims during the PAGA Period to the fullest extent permitted by law, regardless of
14 whether this Settlement Agreement is fully approved by the Court as it pertains to the class terms. The
15 PAGA Members agree not to sue or otherwise make a claim against any of the Released Parties for any
16 of the Released PAGA Claims. The Participating PAGA Members may discover facts in addition to or
17 different from those they now know or believe to be true with respect to the subject matter of the
18 Released PAGA Claims. Nevertheless, the Participating PAGA Members, on the Effective Date, shall
19 be deemed to have, and by operation of the Final Approval or judgment, shall have fully, finally, and
20 forever settled and released all of the Released PAGA Claims.

21 56. Defendant's Right to Rescind. Defendant will have, in its sole discretion, the right to
22 void and withdraw from the Settlement if, at any time prior to Final Approval, Ten Percent (10%) or
23 more of Class Members opt out of the settlement. Defendant must exercise this right of rescission in
24 writing to Class Counsel within fourteen (14) calendar days after the Response Deadline. If the option to
25 rescind is exercised, then Defendant will be solely responsible for all Settlement Administration Costs
26 incurred to the date of withdrawal or rescission.

27 57. Objection Procedures. To object to the Settlement Agreement, a Class Member may
28 either postmark a valid Notice of Objection to the Settlement Administrator on or before the Response

1 Deadline, or appear in person at the Final Approval Hearing. The Notice of Objection must be signed by
2 the Class Member and contain all information required by this Settlement Agreement. The postmark will
3 be deemed the exclusive means for determining that the Notice of Objection is timely. Class Members
4 who fail to object either by submitting a valid Notice of Objection or appearing in person at the Final
5 Approval Hearing will be deemed to have waived all objections to the Settlement and will be foreclosed
6 from making any objections, whether by appeal or otherwise, to the Settlement Agreement. At no time
7 will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit
8 written objections to the Settlement Agreement or appeal from the Final Approval or judgment. Class
9 Counsel will not represent any Class Members with respect to any such objections to this Settlement. If a
10 Class Member timely submits both a Notice of Objection and a Request for Exclusion, the Request for
11 Exclusion will be given effect and considered valid, the Notice of Objection shall be rejected, and the
12 Class Member shall not participate in or be bound by the Settlement.

13 58. Certification Reports Regarding Individual Settlement Payment Calculations. The
14 Settlement Administrator will provide Defendant's counsel and Class Counsel a weekly report that
15 certifies the number of Class Members who have submitted valid Requests for Exclusion or objections to
16 the Settlement, and whether any Class Member has submitted a challenge to any information contained
17 in their Class Notice. Additionally, the Settlement Administrator will provide to counsel for both Parties
18 any updated reports regarding the administration of the Settlement Agreement as needed or requested.

19 59. Distribution Timing of Individual Settlement Payments. Within ten (10) calendar days
20 of the Full Funding Date, the Settlement Administrator will issue payments to: (a) Participating Class
21 Members and PAGA Members; (b) the LWDA; (c) Plaintiff; and (d) Class Counsel. The Settlement
22 Administrator will also issue a payment to itself for Court-approved services performed in connection
23 with the Settlement.

24 60. Un-cashed Settlement Checks. Funds represented by Individual Settlement Payment
25 checks returned as undeliverable and Individual Settlement Payment checks remaining un-cashed or not
26 deposited for more than one hundred eighty (180) calendar days after issuance will be tendered to
27 California Rural Legal Assistance ("CRLA"). The Parties do not have a connection to or a relationship
28 with CRLA that could reasonably create the appearance of impropriety as between the selection of

1 CRLA as the recipient of the unclaimed residuals and the interests of the class.

2 61. Certification of Completion. Upon completion of administration of the Settlement, the
3 Settlement Administrator will provide a written declaration under oath to certify such completion to the
4 Court and counsel for all Parties.

5 62. Treatment of Individual Settlement Payments. All Individual Settlement Payments will
6 be allocated as follows: (a) Twenty-Five Percent (25%) of each Individual Settlement Payment will be
7 allocated as wages for which IRS Forms W-2 will be issued; and (b) Seventy-Five Percent (75%) will be
8 allocated as non-wages (i.e., penalties and interest) for which IRS Forms 1099-MISC will be issued.

9 63. Administration of Taxes by the Settlement Administrator. The Settlement Administrator
10 will be responsible for issuing to Plaintiff, Participating Class Members, PAGA Members, and Class
11 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to
12 this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes
13 and penalties to the appropriate government authorities.

14 64. Tax Liability. Defendant makes no representation as to the tax treatment or legal effect
15 of the payments called for hereunder, and Plaintiff and Participating Class Members are not relying on
16 any statement, representation, or calculation by Defendant or by the Settlement Administrator in this
17 regard.

18 65. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES
19 OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS
20 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”)
21 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND
22 NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES
23 OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR
24 WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED
25 OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
26 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
27 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS
28 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX

1 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS
2 AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY
3 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY
4 UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO
5 ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
6 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
7 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF
8 ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER
9 SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
10 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
11 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
12 AGREEMENT.

13 66. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
14 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
15 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
16 action or right herein released and discharged.

17 67. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally
18 approve the Settlement as provided herein; or (b) the Settlement does not become final for any other
19 reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null
20 and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will
21 likewise be treated as void from the beginning. The Parties agree in such instance to meet and confer to
22 address the Court's concerns, and to use their best efforts to effect the implementation of the Settlement
23 Agreement, including the use of a mediator to resolve the dispute, if desired.

24 68. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to request
25 the Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order
26 for: (a) conditional certification of the Settlement Class for settlement purposes only, (b) preliminary
27 approval of the proposed Settlement Agreement, and (c) setting a date for a final fairness hearing. The
28 Preliminary Approval Order will provide for the Class Notice to be sent to all Class Members as

1 specified herein. In conjunction with the Preliminary Approval hearing, Plaintiff will submit this
2 Settlement Agreement, which sets forth the terms of this Settlement, and will include the proposed
3 Notice of Class Action Settlement, attached as Exhibit A. Class Counsel will be responsible for drafting
4 all documents necessary to obtain preliminary approval.

5 69. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
6 deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement, and with the
7 Court's permission, a final fairness hearing will be conducted to determine the Final Approval of the
8 Settlement Agreement along with the amounts properly payable for: (a) Attorneys' Fees and Costs; (b)
9 the Class Representative Enhancement Payment; (c) Individual Settlement Payments; (d) the LWDA
10 Payment; and (e) all Settlement Administration Costs. The final fairness hearing will not be held earlier
11 than thirty (30) calendar days after the Response Deadline. Class Counsel will be responsible for drafting
12 all documents necessary to obtain final approval. Class Counsel will also be responsible for drafting the
13 attorneys' fees and costs application to be heard at the final approval hearing.

14 70. Residual Approval Hearing. The Court shall set a date for the Residuals Hearing
15 pursuant to California Code of Civil Procedure section 384(b). The Residuals Hearing shall be held thirty
16 (30) calendar days after the deadline for Class Members to cash or deposit their Individual Settlement
17 Payment checks, or as soon thereafter as the Court's schedule permits. Within ten (10) calendar days
18 after the deadline for Class Members to cash or deposit their Individual Settlement Payment checks, the
19 Settlement Administrator shall submit a declaration to the Parties' counsel reporting the total unpaid
20 residual from the Individual Settlement Payments (if any), plus interest on that sum at the legal rate from
21 the date of Final Approval. To aid the Court at the Residuals Hearing, Class Counsel shall provide the
22 information regarding the residual (if any) to the Court ten (10) calendar days prior to the Residuals
23 Hearing, together with a proposed order regarding the distribution of the residual, plus interest, to CRLA.

24 71. Judgment and Continued Jurisdiction. Upon Final Approval or after the final fairness
25 hearing, the Parties will present the proposed Judgment to the Court for its approval. After entry of the
26 Judgment, the Court will have continuing jurisdiction solely for purposes of addressing: (a) the
27 interpretation and enforcement of the terms of the Settlement, (b) Settlement administration matters, and
28 (c) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement

1 Agreement, including an order regarding the distribution of the residual to CRLA. A copy of the
2 Judgment will be posted to the Settlement Administrator's website.

3 72. Release by Plaintiff. Upon the Effective Date, in addition to the claims being released by
4 all Participating Class Members, Plaintiff will release and forever discharge the Released Parties, to the
5 fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and not
6 asserted, suspected or unsuspected, which Plaintiff has or may have against the Released Parties as of the
7 date of execution of this Settlement Agreement. To the extent the foregoing release is a release to which
8 Section 1542 of the California Civil Code or similar provisions of other applicable law may apply,
9 Plaintiff expressly waives any and all rights and benefits conferred upon her by the provisions of Section
10 1542 of the California Civil Code or similar provisions of applicable law which are as follows:

11 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
12 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
13 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
14 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
15 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
16 PARTY.

17 73. Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the
18 terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth
19 herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.

20 74. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the
21 entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements
22 may be deemed binding on the Parties. The Parties expressly recognize California Civil Code Section
23 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is
24 to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and
25 the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or
26 contradict the terms of this Settlement Agreement.

27 75. Amendment or Modification. No amendment, change, or modification to this Settlement
28 Agreement will be valid unless in writing and signed, either by the Parties or their counsel, and approved

1 by the Court.

2 76. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
3 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
4 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant
5 to this Settlement Agreement to effectuate its terms and to execute any other documents required to
6 effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each
7 other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to
8 reach agreement on the form or content of any document needed to implement the Settlement, or on any
9 supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties
10 may seek the assistance of the Court to resolve such disagreement.

11 77. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,
12 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

13 78. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto
14 will be governed by and interpreted according to the laws of the State of California.

15 79. Execution and Counterparts. This Settlement Agreement is subject only to the execution
16 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All
17 executed counterparts and each of them, including electronic (e.g., DocuSign), facsimile, and scanned
18 copies of the signature page, will be deemed to be one and the same instrument.

19 80. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
20 Settlement Agreement is a fair, adequate and reasonable settlement of the Action and have arrived at this
21 Settlement after arm's-length negotiations, including mediation before Michael D. Young, and in the
22 context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties
23 further acknowledge that they are each represented by competent counsel and that they have had an
24 opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

25 81. Invalidity of Any Provision. Before declaring any provision of this Settlement
26 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
27 possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement
28 valid and enforceable.

1 82. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
2 certification for purposes of this Settlement only; except, however, that Plaintiff or Class Counsel may
3 appeal any reduction to the Attorneys' Fees and Costs below the amount they request from the Court,
4 and either party may appeal any court order that materially alters the Settlement Agreement's terms.

5 83. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to
6 class action certification for purposes of the Settlement only. If, for any reason, the Settlement is not
7 approved, the stipulation to certification will be void. The Parties further agree that certification for
8 purposes of the Settlement is not an admission that class action certification is proper under the standards
9 applied to contested certification motions and that this Settlement Agreement will not be admissible in
10 this or any other proceeding as evidence that either (a) a class action should be certified or (b) Defendant
11 is liable to Plaintiff or any Class Member, other than according to the Settlement's terms.

12 84. Non-Admission of Liability. The Parties enter into this Settlement to resolve the dispute
13 that has arisen between them and to avoid the burden, expense and risk of continued litigation. In
14 entering into this Settlement, Defendant does not admit, and specifically denies, that it violated any
15 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or
16 any other applicable laws, regulations or legal requirements; breached any contract; violated or breached
17 any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with
18 respect to its employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any
19 of the negotiations connected with it, will be construed as an admission or concession by Defendant of
20 any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to
21 enforce the terms of this Settlement, this Settlement Agreement and its terms and provisions will not be
22 offered or received as evidence in any action or proceeding to establish any liability or admission on the
23 part of Defendant or to establish the existence of any condition constituting a violation of, or a non-
24 compliance with, federal, state, local or other applicable law.

25 85. No Public Comment. The Parties and their counsel agree that they will not issue any
26 press releases, initiate any contact with the press, respond to any press inquiry, or have any
27 communication with the press about the fact, amount or terms of the Settlement.

28 86. Privacy of Documents and Information. Plaintiff and Class Counsel agree that none of

the documents and information provided by Defendant in the above-captioned action shall be used for any purpose other than the prosecution of this Action. Plaintiff and Class Counsel further agree to destroy all originals and copies of confidential documents produced or provided by Defendant in connection with this Action, other than information provided by the Class Administrator in connection with the administration of this Settlement Agreement, within thirty (30) days after the Effective Date.

87. Interim Stay of Proceedings. The Parties agree to hold all proceedings in this Action, except such proceedings necessary to implement and complete the Settlement Agreement and Final Approval, in abeyance pending the Final Approval.

88. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

89. Enforcement Actions. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

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

91. Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

92. All Terms Subject to Final Court Approval. All amounts and procedures described in this Settlement Agreement herein will be subject to final Court approval.

93. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good

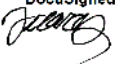
1 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
 2 Settlement Agreement.

3 94. Binding Agreement. The Parties warrant that they understand and have full authority to
 4 enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully
 5 enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in
 6 any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that
 7 otherwise might apply under federal or state law.

8 **READ CAREFULLY BEFORE SIGNING**

9 **PLAINTIFF**

10 Dated: 5/5/2023

DocuSigned by:

 79483CC60C2F4DD...Z

12 **DEFENDANT TWM/FRESNO, LLC**

13 Dated: _____

14 _____
 15 Jeffrey Casaretto
 16 Managing Member

17 **APPROVED AS TO FORM**

18 **CAPSTONE LAW APC**

19 Dated: May 5, 2023

20 By: _____


 Raul Perez

21 Attorneys for Plaintiff Juanita Juarez

22 **CALL & JENSEN, APC**

23 Dated: _____

24 By: _____

Jacqueline Beaumont, Esq.

25 Attorneys for Defendant TWM/Fresno, LLC
 26
 27
 28

1 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
2 Settlement Agreement.

3 94. Binding Agreement. The Parties warrant that they understand and have full authority to
4 enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully
5 enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in
6 any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that
7 otherwise might apply under federal or state law.

8 **READ CAREFULLY BEFORE SIGNING**

9 **PLAINTIFF**

10 Dated: _____

11 _____
12 Juanita Juarez

13 **DEFENDANT TWM/FRESNO, LLC**

14 Dated: 5/1/23

15 Jeffrey Casaretto
16 Jeffrey Casaretto
17 Managing Member

18 **APPROVED AS TO FORM**

19 **CAPSTONE LAW APC**

20 Dated: _____

21 By: _____
22 Raul Perez

23 Attorneys for Plaintiff Juanita Juarez

24 **CALL & JENSEN, APC**

25 Dated: May 1, 2023

26 By: Jacqueline Beaumont
27 Jacqueline Beaumont, Esq.

28 Attorneys for Defendant TWM/Fresno, LLC

Exhibit A

Juarez v. TWM/Fresno, LLC, No. STK-CV-UOE-2022-2562
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF SAN JOAQUIN
NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully

To: All persons who worked for Defendant TWM/Fresno, LLC (“Defendant”) in California as an hourly paid or non-exempt employee during the period from April 8, 2018 to [the Settlement Term Date], and who have not signed an arbitration agreement with Defendant (“Class Members”).

All persons who worked for Defendant in California as an hourly paid or non-exempt employee during the period from February 1, 2021 to [the Settlement Term Date] (“PAGA Members”).

On _____, the Honorable Barbara Kronlund of the San Joaquin County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendant’s records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at __:00 __m. on _____, 2023 in Department 10-D of the San Joaquin County Superior Court located at 180 E. Weber Avenue, Stockton, California 95202.

Please also note that the Final Fairness Hearing may be rescheduled by the Court to another date and/or time. Please visit [settlement website] for any scheduling changes. You are not required to attend the hearing, but you are welcome to do so.

If you move, you must send the Settlement Administrator your new address; otherwise, you may never receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don’t Have to Do Anything to Participate in the Settlement	If you do nothing, you will be deemed a “Participating Class Member,” and will be eligible for a payment from the Net Settlement Fund as a Class Member, and from the PAGA Fund if you are a PAGA Member. In exchange, you will be bound by the terms of the proposed Settlement and give up your right to assert wage and hour claims and PAGA penalty claims against Defendant based on the facts alleged in the Action during the applicable Class Period and PAGA Period.
You Can Opt-out of the Class Settlement but not the PAGA Settlement	If you don’t want to fully participate in the proposed Settlement, you can opt-out of the class settlement by sending the Settlement Administrator a written Request for Exclusion. Once excluded, you will no longer be eligible for a payment from the Net Settlement Fund and will not be bound by the terms of the proposed class settlement.
The Opt-out Deadline is [DATE]	You cannot opt-out of the PAGA portion of the proposed Settlement. PAGA Members remain eligible to receive a payment from the PAGA Fund and must give up their rights to pursue PAGA penalty claims against Defendants based on the facts alleged in the Action during the PAGA Period.

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by [DATE]	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed class settlement, but not the PAGA settlement.
You Can Participate in the [DATE] Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on [DATE] in Department 10-D of the San Joaquin County Superior Court located at 180 E. Weber Avenue, Stockton, California 95202. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. If the Court grants final approval of the Settlement despite your objection, you will receive a payment from the Net Settlement Fund and you will be bound by the terms of the Settlement.

Summary of the Litigation

Plaintiff Juanita Juarez, on her behalf and on behalf of other current and former non-exempt employees, alleges that Defendant violated California state labor laws as a result of its alleged failure, among other things: (1) to pay minimum and overtime wages to employees for all hours worked; (2) to provide employees with meal and rest breaks; (3) to timely pay all wages owed to employees during each pay period and upon termination of their employment; (4) to reimburse employees for necessary business expenses; and (5) to provide employees with accurate, itemized wage statements.

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On March 22, 2023, the parties participated in a mediation with Michael Young, Esq., an experienced and well-respected class action mediator. With Mr. Young’s guidance, the parties were able to negotiate a complete settlement of Plaintiff’s claims.

Counsel for Plaintiff, and the attorneys appointed by the Court to represent the class, Capstone Law APC (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendant has denied, and continues to deny the factual and legal allegations in the case and believes that it has valid defenses to Plaintiff’s claims. By agreeing to settle, Defendant is not admitting liability on any of the factual allegations or claims in the Action or that the Action can or should proceed as a class action. Defendant has agreed to settle the case as part of a compromise with Plaintiff.

Summary of The Proposed Settlement Terms

Plaintiff and Defendant have agreed to settle the underlying class claims in exchange for a Gross Settlement Amount of \$583,055. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members and PAGA Members; (2) a Class Representative Enhancement Payment of \$10,000 to Juanita Juarez for her services on behalf of the class, and for a release of all claims arising out of her employment with Defendant; (3) \$194,350 in attorneys’ fees and up to \$20,000 in litigation costs and expenses; (4) a \$50,000 settlement of claims (“PAGA Settlement Amount”) under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), inclusive of a \$37,500 payment to the California Labor

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

and Workforce Development Agency (“LWDA”) in connection with the PAGA, and a \$12,500 payment (“PAGA Fund”) to all PAGA Members; and (5) reasonable Settlement Administrator’s fees and expenses currently estimated at \$15,000. After deducting the Class Representative Enhancement Payment, attorneys’ fees and costs, the PAGA Settlement Amount, and the Settlement Administrator’s fees and expenses, a total of approximately \$_ will be allocated to Class Members who do not opt out of the Settlement Class (“Net Settlement Fund”). Additionally, all PAGA Members will receive a proportional share of the \$12,500 PAGA Fund, regardless whether they opt out of the Settlement Class.

Payments from Net Settlement Fund. Defendant will calculate the total number of Workweeks worked by each Class Member from April 8, 2018 through [the Settlement Term Date] (“Class Period”) and the aggregate total number of Workweeks worked by all Class Members during the Class Period. To determine each Class Member’s estimated share of the Net Settlement Fund, the Settlement Administrator will use the following formula: The Net Settlement Fund will be divided by the aggregate total number of Workweeks, resulting in the “Workweek Value.” Each Class Member’s share of the Net Settlement Fund will be calculated by multiplying each individual Class Member’s total number of Workweeks by the Workweek Value. The Individual Settlement Payment will be reduced by any required deductions for each Class Members as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member’s share of the Net Settlement Fund according to the number of Workweeks worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Fund.

According to Defendant’s records, you worked during the Class Period in a non-exempt position for a total of ____ Workweeks. Accordingly, your estimated payment from the Net Settlement Fund is approximately \$ ____.

Payments from PAGA Fund. Defendant will calculate the total number of weeks worked by each PAGA Member from February 1, 2021 through [the Settlement Term Date] (“PAGA Period”), divide by two, and round up to the nearest whole number to determine the number of PAGA pay periods (“PAGA Pay Periods”). Defendant will also determine the aggregate total number of weeks worked by all PAGA Members during the PAGA Period. To determine each PAGA Member’s estimated share of the PAGA Fund, the Settlement Administrator will use the following formula: The PAGA Fund will be divided by the aggregate total number of PAGA Pay Periods, resulting in the “PAGA Pay Period Value.” Each PAGA Member’s share of the PAGA Fund will be calculated by multiplying each individual PAGA Member’s total number of PAGA Pay Periods by the PAGA Pay Period Value. A Request for Exclusion does not exclude a PAGA Member from the release of claims under California Labor Code §§ 2698, *et seq.* and the PAGA Member will receive their portion of the PAGA fund even if he or she submits a valid Request for Exclusion.

According to Defendant’s records, you worked during the PAGA Period in a non-exempt position for a total of ____ Workweeks. Accordingly, your estimated payment from the PAGA Fund is approximately \$ ____.

Your Estimated Payment: Based on the above, your estimated payment from the settlement is approximately \$ _____. If you believe the Workweek information provided above is incorrect, please contact the Settlement Administrator to dispute the calculation. You must attach all documentation in support of your dispute (such as check stubs, W2s, or letters from HR). All disputes must be postmarked or faxed on or before [insert date of Response Deadline] and must be sent to:

Settlement Administrator
c/o _____
Fax No. _____

If you dispute the information stated above, Defendant’s records will control unless you are able to provide documentation that establishes otherwise.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 25% of each settlement payment will be allocated as wages for which IRS Forms W-2 will be issued, and 75% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

To the extent that a check is (1) undeliverable, or (2) uncashed 180 days after the date listed on the check, the check shall be sent to the charitable organization California Rural Legal Assistance.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the Released Class Claims and Released PAGA Claims:

Released Class Claims: Any and all claims, rights, demands, liabilities, penalties, wages, and causes of action, reasonably arising from, or reasonably related to, or that were asserted, or that reasonably could have been asserted, based on the facts and matters in the operative Complaint, and any future amendments to the operative Complaint, including but not limited to state wage and hour claims for any and all violations of California's Labor Code and Unfair Competition Law based on Defendant's alleged failure to pay for all hours worked (including minimum wages, straight time wages, and overtime wages), failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay all wages during employment and due at the time of termination, failure to reimburse necessary business expenses, failure to furnish accurate, itemized wage statements, failure to maintain payroll records, unfair business practices, and all damages, interest, penalties, attorneys' fees, costs, and other amounts recoverable under said causes of action under California law based on the preceding released claims, to the extent permissible, including but not limited to the California Labor Code and the applicable Wage Orders based on the preceding released claims.

Released PAGA Claims: All claims for PAGA civil penalties under the California Private Attorneys General Act of 2004, which were asserted in the operative Complaint and/or PAGA notice letter, or any future amendments to the operative complaint or PAGA notice letter, or which reasonably could have been asserted based on the facts alleged in the operative Complaint and PAGA notice letter, or which are arising out of, or reasonably related to, the Released Class Claims.

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. You must sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Settlement Administrator

c/o _____

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

The Request for Exclusion must be postmarked or faxed not later than _____, 2023. If you submit a Request for Exclusion which is not postmarked or faxed by _____, 2023, your Request for Exclusion will be rejected, and you will be included in the settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will:

- Not Receive a Payment from the Net Settlement Fund.
- Not release the Released Class Claims.
- If you are a PAGA Member, you will still release the Released PAGA Claims, and will receive a payment from the PAGA Fund.

Option 3 – Object to the Settlement

If you decide to object to the settlement because you find it unfair or unreasonable, you may submit a written objection stating why you object to the settlement, or you may instead appear at the Final Fairness Hearing to object to the Settlement. Written objections must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed to the administrator at [administrator's address].

All written objections must be received by the administrator by not later than _____ 2023. Late objections will not be considered. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for _____ at _____ a.m./p.m. in the Superior Court of the State of California, for the County of San Joaquin and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Class Claims and Released PAGA Claims.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case, which may be accessed at the San Joaquin Superior Court's website at <https://www.sjcourts.org/case-management-search/>

All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel.

Settlement Administrator

Attorneys for Plaintiffs

Raul Perez

Capstone Law APC

1875 Century Park E., Suite 1000

Los Angeles, CA 90067

Phone: 1 (888) 250-8295

If you are a current employee, this settlement will not affect your employment. Neither this settlement nor this lawsuit affects your ongoing employment with Defendant.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Who are the attorneys representing the parties?

Attorneys for Plaintiff

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Phone: (949) 717-3000

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, OR DEFENDANT'S ATTORNEYS
WITH INQUIRIES.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******