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 RESTAURANT PACIFIC GROUP, LLC

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

CESAR RODRIGUEZ VINLAY on
 behalf of himself and all others similarly
 situated,

Plaintiff,

v.

RESTAURANT PACIFIC GROUP, LLC, a
 California limited liability company; and
 DOES 1 through 50, inclusive,

Defendants.

Case No. 22CV000486

JOINT STIPULATION OF CLASS ACTION SETTLEMENT

Complaint Filed: February 18, 2022
 FAC Filed: April 26, 2022
 Trial Date: Not Set

JOINT STIPULATION OF CLASS ACTION SETTLEMENT

This Joint Stipulation of Class Action Settlement (“Agreement” or “Settlement”) is made
 and entered into by and between Plaintiff Cesar Rodriguez Vinalay (“Plaintiff”) and Defendant

1 Restaurant Pacific Group, LLC (“Defendant”). Plaintiff and Defendant are collectively referred
2 to as the “Parties” or a “Party”.

3 DEFINITIONS

4 The following definitions are applicable to this Agreement. Definitions contained
5 elsewhere in this Agreement shall also be effective:

6 1. “Action” means *Cesar Rodriguez Vinalay v. Restaurant Pacific Group, LLC, et*
7 *al.*, Monterey County Case No. 22CV000486 (filed on February 18, 2022, and amended on
8 April 26, 2022) and all pleadings filed therein, including the operative pleadings.

9 2. “Agreement” or “Settlement Agreement” means this Joint Stipulation of Class
10 Action Settlement.

11 3. “Aggrieved Employees” means all current and former non-exempt employees of
12 Defendant who worked for Defendant in the State of California at any time from February 18,
13 2021, through August 13, 2021. Defendant’s records indicate that there are approximately 123
14 Aggrieved Employees. Defendant represents that the Aggrieved Employees worked
15 approximately 1,010 pay periods during the Class Period.

16 4. “Class” or “Class Member(s)” mean all current and former non-exempt
17 employees of Defendant who worked for Defendant in the State of California at any time from
18 February 18, 2018 through August 13, 2021. Defendant’s records indicate that there are
19 approximately 315 Class Members. Defendant represents that the Class Members worked
20 approximately 12,756 workweeks during the Class Period.

21 5. “Class Counsel” means James R. Hawkins, Isandra Fernandez, and Lance Dacre
22 of James Hawkins APLC.

23 6. “Class Counsel Award” means such award of fees and costs and expenses as the
24 Court may authorize to be paid to Class Counsel for the services they have rendered and will
25 render to Plaintiff and the Class in the Action. Defendant agrees not to oppose Class Counsel
26 Award not to exceed one-third of the Gross Settlement Amount (\$275,000.00), *i.e.*, the sum of
27 Ninety-One Thousand Six Hundred Sixty-Six Dollars and Sixty-Six Cents (\$91,666.66), and
28 litigation costs in the amount of up to Fifteen Thousand Dollars (\$15,000.00), subject to the

1 Court finally approving this Settlement. Any portion of the Class Counsel Award not awarded
2 to Class Counsel shall be added to the Net Settlement Amount and shall be distributed to Class
3 Members as provided in this Agreement.

4 7. "Class List and Data" means information regarding all Class Members that
5 Defendant will diligently and in good faith compile from its records and provide to the
6 Settlement Administrator after Preliminary Approval of this Settlement. The Class List shall be
7 formatted as a Microsoft Office Excel spreadsheet and shall include: each Class Member's full
8 name, most recent mailing address, employee number, Social Security number, hire date,
9 separation date (if applicable), the estimated number of workweeks worked by each Class
10 Member during the Class Period, and the number of pay periods worked by each Aggrieved
11 Employee during the PAGA Period.

12 8. "Class Period" means the period from February 18, 2018, through August 13,
13 2021.

14 9. "Class Representative" means Plaintiff Cesar Rodriguez Vinalay.

15 10. "Class Representative Enhancement Payment" means the amount that the Court
16 authorizes to be paid to Plaintiff, in addition to Plaintiff's Individual Settlement Payment, in
17 recognition of Plaintiff's efforts and risks in assisting with the prosecution of the Action and in
18 consideration for providing a general release of all claims and a waiver under Civil Code § 1542.
19 Subject to the Court granting final approval, the Parties agree that Plaintiff shall be paid up to
20 Five Thousand Dollars (\$5,000.00) from the Gross Settlement Amount for Plaintiff's Class
21 Representative Enhancement Payment.

22 11. "Counsel for Defendant" or "Defense Counsel" means Christopher E. Panetta
23 and Marco A. Lucido of the law firm of Fenton & Keller.

24 12. "Court" means the Superior Court for the State of California, County of Monterey,
25 or any other court taking jurisdiction of the Action.

26 13. "Defendant" means Defendant Restaurant Pacific Group, LLC, including its
27 predecessors, if any, as well as each of its respective predecessors, successors, and all former,
28 current, related organizations, companies, divisions, subsidiaries, affiliates, insurers, and

1 parents, and collectively, their respective former, current and future owners, directors, officers,
2 employees, agents, representatives, attorneys, fiduciaries, assigns, heirs, executors,
3 administrators, beneficiaries, insurers, and trustees.

4 14. "Effective Date" means: (a) the date when the Final Approval Order is signed,
5 if there are no objections, or if an objection is withdrawn prior to the Final Approval hearing,
6 or (b) in the event there are objectors, sixty (60) days after service of notice of entry of the
7 Final Approval Order and Judgment on the Parties and all objectors to the Settlement without
8 any appeals or request for review being taken, or orders affirming said Final Approval Order
9 and Judgment or denying review after exhaustion of all appellate remedies, if appeals or
10 requests for review have been taken.

11 15. "Final Approval" means that the Final Approval Order and Judgment have been
12 entered by the Court.

13 16. "Gross Settlement Amount" means the all-inclusive maximum settlement amount
14 of Two Hundred Seventy-Five Thousand Dollars (\$275,000.00) to be paid by Defendant as a
15 result of this Stipulation. The Gross Settlement Amount includes all Individual Settlement
16 Payments to Participating Class Members, Class Representative Enhancement Payment to
17 Plaintiff, Settlement Administration Costs to the Settlement Administrator, PAGA Payment, and
18 Class Counsel Award. The Gross Settlement Amount shall also include any interest that accrues
19 in the escrow account created by the Settlement Administrator.

20 17. "Individual Settlement Payment" means the amount payable from the Net
21 Settlement Amount to each Participating Class Member and the amount payable from the PAGA
22 Payment to each Aggrieved Employee.

23 18. "Net Settlement Amount" means the balance of the Gross Settlement Amount
24 remaining after deduction of the approved Class Representative Enhancement Payment,
25 Settlement Administration Costs, the PAGA Payment, and Class Counsel Award. The entire
26 Net Settlement Amount is the maximum amount that will be available for distribution to
27 Participating Class Members.

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1 19. “Notice of Objection” means a Class Member’s valid and timely written objection
2 to the Settlement. For the Notice of Objection to be valid, it must include: (a) the objector’s full
3 name, address, and telephone number; (b) a written statement of basis for the objection; and (c)
4 the objector’s signature. The objector may include any copies of papers, briefs, or documents
5 upon which the objection is based. The Notice of Objection must be returned by mail or fax to
6 the Settlement Administrator at the specified address/facsimile indicated in the Notice Packet
7 and be postmarked by the Response Deadline.

8 20. “Notice Packet” means the Notice of Proposed Class Action Settlement,
9 substantially in the form attached as Exhibit A.

10 21. “PAGA Payment” means the portion of the Gross Settlement Amount that the
11 Parties have agreed will be allocated to resolve all claims and remedies under the Labor Code
12 Private Attorneys General Act of 2004 (Cal. Lab. Code § 2698, *et seq.*, “PAGA”). The amount
13 of the PAGA Payment is subject to Court approval pursuant to California Labor Code § 2699(l).
14 The Parties have agreed that Ten Thousand Dollars (\$10,000.00) of the Gross Settlement
15 Amount shall be allocated to the resolution of any Aggrieved Employees’ claims arising under
16 PAGA. Pursuant to the PAGA, 75% of the PAGA Payment, *i.e.*, the sum of Seven Thousand
17 Five Hundred Dollars (\$7,500.00), shall be paid to the California Labor and Workforce
18 Development Agency (“LWDA”), and 25% of the PAGA Payment, *i.e.*, the sum of Two
19 Thousand Five Hundred Dollars (\$2,500.00), shall be distributed to Aggrieved Employees
20 pursuant to Paragraph 44.

21 22. “PAGA Period” means the period from February 18, 2021, through August 13,
22 2021.

23 23. “Parties” means Plaintiff, on behalf of himself and the Class, and Defendant
24 collectively.

25 24. “Participating Class Members” means all Class Members who do not submit valid
26 and timely Requests for Exclusion. Participating Class Members does not include Aggrieved
27 Employees.

28 25. “Plaintiff” means Plaintiff Cesar Rodriguez Vinalay.

1 26. “Preliminary Approval” means the Court’s order granting preliminary approval of
2 the Settlement.

3 27. “Released Class Claims” means all claims that were alleged in the operative
4 complaint of the Action and any claims that could have been alleged based on the facts as
5 alleged in the operative complaints of the Action.

6 28. “Released Claims Period” means the period from February 18, 2018, through
7 August 13, 2021.

8 29. “Released PAGA Claims” means all claims under the Private Attorneys General
9 Act that were alleged in the operative complaint in the Action and any claims that could have
10 been alleged based on the facts as alleged in the operative complaint in the Action.

11 30. “Released Parties” means Defendant Restaurant Pacific Group, LLC and any of
12 its past and present affiliated entities, parents, subsidiaries, owners, officers, shareholders,
13 executives, managers, and employees.

14 31. “Request for Exclusion” means a timely written letter submitted by a Class
15 Member indicating a request to be excluded from/opt out of the Settlement. The Request for
16 Exclusion must: (a) state that the Class Member does not wish to be included in the Settlement;
17 (b) set forth the name, address, and telephone number of the Class Member requesting exclusion;
18 and (c) be signed by the Class Member. The Request for Exclusion must be returned by mail or
19 fax to the Settlement Administrator at the specified address/facsimile indicated in the Notice
20 Packet and must be postmarked on or before the Response Deadline. If a Class Member submits
21 both a valid Request for Exclusion and a valid Notice of Objection, the Request for Exclusion
22 shall control.

23 32. “Response Deadline” means forty-five (45) days after the Settlement
24 Administrator initially mails the Notice Packet to Class Members, and the last date on which
25 Class Members may submit Requests for Exclusion or Notices of Objections to the Settlement.
26 Those Class Members who receive a re-mailed Notice Packet shall have their Response
27 Deadline extended fifteen (15) calendar days from the original Response Deadline.

28 33. “Settlement” means the agreement among parties to resolve the Action, as set forth

1 in this Stipulation.

2 34. "Settlement Administration Costs" means the fees and expenses reasonably
3 incurred by the Settlement Administrator as a result of the procedures and processes expressly
4 required by this Agreement, which are not to exceed Eight Thousand Eight Hundred Fifty
5 Dollars (\$8,850). Any portion of the Settlement Administration Costs not approved by the Court
6 shall become part of the Net Settlement Amount.

7 35. "Settlement Administrator" means ILYM Group, Inc.

8 36. "Settlement Payment Check" means the payment to Participating Class Members
9 and/or Aggrieved Employees pursuant to this Settlement.

10 RECITALS

11 35. This Settlement is made and entered into by and between Plaintiff and Defendant,
12 and is subject to the terms and conditions hereof, and to the Court's approval. The Parties
13 expressly acknowledge that this Agreement is entered into solely for the purpose of
14 compromising significantly disputed claims and that nothing herein is an admission of liability
15 or wrongdoing by Defendant.

16 36. Procedural History. On February 18, 2022, Plaintiff initiated this Action in
17 Monterey County Superior Court. On April 26, 2022, Plaintiff filed a first amended class and
18 representative action complaint. Defendant timely answered Plaintiff's initial and amended
19 complaints.

20 37. On September 27, 2022, the Parties participated in private mediation with
21 experienced mediator Hon. John Leo Wagner of Judicate West. The matter did not immediately
22 settle. After mediation, Hon. John Leo Wagner continued settlement discussions with the
23 Parties, and on February 13, 2023, the Parties and their counsel agreed to settle the Action on
24 the terms set forth herein.

25 38. The Parties recognize the risk, expense, and delay in continuing the Action, and
26 therefore believe the Settlement to be fair, reasonable, and adequate. Accordingly, the Parties
27 desire to settle, compromise, and discharge all disputes and claims arising from or relating to
28 the Action.

1 **TERMS OF AGREEMENT**

2 Plaintiff, on behalf of himself and the Class, and Defendant agree as follows:

3 39. Settlement Consideration. Defendant shall pay the sum of the Gross Settlement
4 Amount as specified in this Agreement, which shall be used to pay: (1) Individual Settlement
5 Payments to Class Members; (2) Class Counsel Award; (3) Class Representative Enhancement
6 Payment; (4) Settlement Administration Costs to the Settlement Administrator; and (5) the
7 PAGA Payment. The Parties agree that this is a non-reversionary Settlement and that no portion
8 of the Gross Settlement Amount shall revert to Defendant. In no event shall Defendant be
9 required to pay more than the Gross Settlement Amount as specified in this Agreement, with the
10 exception of Defendant's share of employer payroll taxes, which shall be paid separate and in
11 addition to the Gross Settlement Amount.

12 40. Funding of the Gross Settlement Amount. Within fifteen (15) calendar days after
13 the Effective Date, Defendant shall make a one-time deposit of the Gross Settlement Amount
14 into a Qualified Settlement Account to be established by the Settlement Administrator.

15 41. Class Counsel Award. Defendant agrees not to oppose or impede any application
16 or motion by Class Counsel for attorneys' fees not to exceed one-third of the Gross Settlement
17 Amount (\$275,000.00), *i.e.*, the sum of Ninety-One Thousand Six Hundred Sixty-Six Dollars
18 and Sixty-Six Cents (\$91,666.66), and litigation costs in the amount of up to Fifteen Thousand
19 Dollars (\$15,000.00), which shall be paid from the Gross Settlement Amount. The Settlement
20 Administrator shall issue an IRS Form 1099 to Class Counsel reflecting the awarded attorneys'
21 fees and costs. Any portion of the Class Counsel Award not awarded to Class Counsel shall
22 become part of the Net Settlement Amount and shall be distributed to Class Members as
23 provided in this Agreement.

24 42. Class Representative Enhancement Payment. Defendant agrees not to oppose or
25 impede any application or motion by Plaintiff for a Class Representative Enhancement Payment
26 of up to Five Thousand Dollars (\$5,000.00). The Class Representative Enhancement Payment
27 shall be paid from the Gross Settlement Amount and shall be paid in addition to the Class
28 Representatives' Individual Settlement Payments as Class Members. The Settlement

1 Administrator shall issue an IRS Form 1099 to Plaintiff reflecting the Class Representative
2 Enhancement Payment. Plaintiff shall be solely and legally responsible to pay any and all
3 applicable taxes on Plaintiff's Class Representative Enhancement Award and shall hold
4 harmless Defendant from any claim or liability for taxes, penalties, or interest arising as a
5 result of the Class Representative Enhancement Award. Any portion of the Class
6 Representative Enhancement Payment not awarded to Plaintiff shall become part of the Net
7 Settlement Amount and shall be distributed to Class Members as provided in this Agreement.

8 43. Settlement Administration Costs. The Settlement Administrator shall be paid for
9 the reasonable costs of administration of the Settlement from the Gross Settlement Amount, not
10 to exceed Eight Thousand Eight Hundred Fifty Dollars (\$8,850.00) except for a showing of good
11 cause and as approved by the Court. These costs, which shall be paid from the Gross Settlement
12 Amount, shall include, *inter alia*, distributing the Notice Packet, the required tax reporting on
13 the Individual Settlement Payments, the issuing of 1099 IRS Forms, establishing a Qualified
14 Settlement Fund, administering and distributing the Gross Settlement Amount and Class
15 Counsel Award, providing necessary reports and declarations, and providing notice to the
16 Participating Class Members of the Final Order and Judgment. Any portion of the Settlement
17 Administration Costs not approved by the Court shall become part of the Net Settlement Amount
18 and shall be distributed to Class Members as provided in this Agreement.

19 44. PAGA Payment. Subject to Court approval, the Parties agree that the amount of
20 Ten Thousand Dollars (\$10,000.00) of the Gross Settlement Amount shall be designated for
21 satisfaction of claims for civil penalties under the Labor Code Private Attorneys General Act of
22 2004. The Settlement Administration shall pay seventy-five percent (75%) of the PAGA
23 Payment, *i.e.*, the sum of Seven Thousand Five Hundred Dollars (\$7,500.00), shall be paid to
24 the California Labor and Workforce Development Agency ("LWDA"), and 25% of the PAGA
25 Payment, *i.e.*, the sum of Two Thousand Five Hundred Dollars (\$2,500.00), shall be distributed
26 to Aggrieved Employees on a pro rata basis, based on the number of pay periods each respective
27 Aggrieved Employee worked during the PAGA Period as compared to all aggregate pay periods
28 worked by all Aggrieved Employees during the PAGA Period.

1 45. Net Settlement Amount. The Net Settlement Amount shall be used to satisfy
2 Individual Settlement Payments to Participating Class Members in accordance with the terms
3 of this Agreement. The Settlement Administrator will allocate the Individual Settlement
4 Payments by first dividing the Net Settlement Amount by the total number of approximate
5 workweeks worked by Class Members during the Class Period. That value will then be
6 multiplied by the number of approximate workweeks each respective Participating Class
7 Member worked during the Class Period to arrive at the Individual Settlement Amount for
8 each respective Participating Class Member. Participating Class Members are entitled to
9 100% of the Net Settlement Amount. Defendant maintains no reversionary right to any portion
10 of the Net Settlement Amount. If there are any timely submitted Requests for Exclusion, the
11 Settlement Administrator shall proportionately increase the Individual Settlement Payments
12 for each Participating Class Member so that the amount actually distributed to Participating
13 Class Members equals 100% of the Net Settlement Amount.

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

22 47. Settlement Administration Process. The Parties agree to cooperate in the
23 administration of the Settlement and to make all reasonable efforts to control and minimize the
24 costs and expenses incurred in the administration of the Settlement. The Settlement
25 Administrator shall provide the following services:

- 26 a. Establish and maintain a Qualified Settlement Fund account;
27 b. Calculate the amount of the Settlement each Class Member/Aggrieved
28 Employee is eligible to receive;

1 c. Prior to mailing the Notice Packet, the Settlement Administrator will
2 verify the last known address for each Class Member through a generally utilized, national
3 address update database;

4 d. Translating, printing, and mailing the Notice Packet;

5 e. Establishing and maintaining a toll-free informational telephone support
6 line in English and Spanish to assist Class Members who have questions regarding the Notice
7 Packet;

8 f. Conducting additional address searches for mailed Notice Packets that are
9 returned as undeliverable, and to the extent new and more current addresses are found, the
10 Settlement Administrator will also reprint and re-mail Notice Packets accordingly;

11 g. Calculating Participating Class Members' settlement share, fielding
12 inquiries from Class Members, and administration of any Requests for Exclusion. This service
13 will include settlement proceed calculations, printing and issuance of checks, and preparation of
14 IRS Forms W-2 and 1099. Basic accounting for and payment of employee tax withholdings
15 will also be included as part of this service;

16 h. Providing declarations and/or other information to the Court as requested.

17 i. Providing notice to the Participating Class Members of the Final Order and
18 Judgment by posting the Final Order and Judgment, and other related documents as may be
19 necessary, on the administrator's website.

20 48. Delivery of the Class List and Data. Within fifteen (15) calendar days of
21 Preliminary Approval, Defendant shall provide the Class List and Data to the Settlement
22 Administrator.

23 49. Notice by First-Class U.S. Mail. Within seven (7) calendar days after receiving
24 the Class List and Data from Defendant, the Settlement Administrator shall mail the Notice
25 Packet to all Class Members via regular First-Class U.S. Mail, using the most current, known
26 mailing addresses identified in the Class List.

27 50. Confirmation of Contact Information in the Class List. Prior to mailing, the
28 Settlement Administrator shall perform a search based on the National Change of Address

Database for information to update and correct for any known or identifiable address changes.

51. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice Packet will include without limitation: (1) information regarding the nature of the Action; (2) a summary of the Settlement's principal terms; (3) each Class Member's estimated Individual Settlement Payment and the formula for calculating Individual Settlement Payments, if they do not request to be excluded; (4) information about the PAGA Payment and that the Aggrieved Employees have no right to opt out of the PAGA Payment; (5) instructions on how to submit valid opt outs or objections; (6) the deadlines by which the Class Member must submit their exclusions or objections to the Settlement; (7) the date for the final approval hearing; and (8) the claims to be released. The Notice Packet will also inform Class Members that in order to receive the Individual Settlement Payment, they do not need to do anything except keep the Settlement Administrator apprised of their current mailing addresses.

52. Re-Mailing of Returned Notices. Any Notice Packets returned to the Settlement Administrator as non-deliverable on or before the Response Deadline shall be re-sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator shall indicate the date of such re-mailing on the Notice Packet. If no forwarding address is provided, the Settlement Administrator shall 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 shall then perform a re-mailing. Those Class Members who receive a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15) calendar days from the original Response Deadline.

53. Request for Exclusion Procedures. Aggrieved Employees may not opt-out from the Settlement as to the PAGA Payment. However, any Class Member may opt-out from the Settlement as to the class claims and release by submitting a written Request for Exclusion to the Settlement Administrator postmarked by the Response Deadline. Requests for Exclusion must: (1) contain the name, address, and telephone number of the person requesting exclusion; (2) state that the Class Member does not wish to be included in the Settlement; and (3) be signed by the Class Member. The Request for Exclusion must be returned by mail or fax to the

1 Settlement Administrator at the specified address/facsimile number, and be postmarked on or
2 before the Response Deadline. The date of the postmark or date of the fax shall determine
3 whether a Request for Exclusion has been timely submitted. By submitting such a Request for
4 Exclusion, a Class Member shall be deemed to have exercised his or her option to opt out of the
5 Action and not be bound by this Agreement. Accordingly, a Class Member that timely submits
6 a valid Request for Exclusion will not be entitled to the Class Member's portion of the Net
7 Settlement Amount as to the Class Payments and will not be bound by this Agreement as to the
8 release of the class claims. However, if the same employee is also an Aggrieved Employee, the
9 employee will still receive his or her share of the PAGA Payment because Aggrieved Employees
10 cannot opt out of a PAGA. Any Class Member who fails to submit a valid and timely Request
11 for Exclusion on or before the Response Deadline shall be deemed a Participating Class
12 Member, and will be bound by all terms of the Settlement, if the Settlement is granted final
13 approval by the Court. If a Class Member submits both a valid Request for Exclusion and a valid
14 Notice of Objection, the Request for Exclusion shall control.

15 54. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class
16 Member who does not affirmatively opt-out of the Settlement by submitting a valid and timely
17 Request for Exclusion shall be bound by all of its terms, including those pertaining to the
18 Released Claims, as well as any Judgment that may be entered by the Court.

19 55. No PAGA Opt-Out. The Parties acknowledge and agree that for purposes of the
20 Settlement, all Aggrieved Employees were allegedly aggrieved in the same manner pursuant to
21 Labor Code § 2698, *et seq.*, in that each Aggrieved Employee allegedly suffered at least one of
22 the alleged Labor Code violations asserted in the operative Complaint for which the PAGA
23 provides an available remedy. In light of the binding nature of a PAGA judgment on non-party
24 employees pursuant to *Arias v. Superior Ct. (Dairy)*, 46 Cal. 4th 969 (2009), and *Cardenas v.*
25 *McLane Foodservice, Inc.*, 2011 WL 379413 at *3 (C.D. Cal. Jan. 31, 2011), individuals
26 otherwise meeting the definition of Aggrieved Employees who exclude themselves from the
27 Settlement, nonetheless shall be bound by the Judgment of the Released PAGA Claims and will
28 receive their proportionate share of the PAGA Payment. All Aggrieved Employees shall be

1 bound by the Judgment entered herein and will have released the Released PAGA Claims upon
2 the final approval of this Settlement and the payment of the Settlement Payment Check.

3 56. Objection Procedures. Any Class Member who does not opt-out of this Settlement
4 shall be entitled to object to the Settlement. To submit a written objection or Notice of Objection
5 to the Settlement, a Class Member should return by mail or fax a written statement of objection
6 to the Settlement Administrator at the specified address or facsimile by the Response Deadline.
7 The Notice of Objection must include: (a) the objector's full name, address, and telephone
8 number; (b) a written statement of basis for the objection; and (c) the objector's signature. The
9 objector may include any copies of papers, briefs, or documents upon which the objection is
10 based. The Notice of Objection must be returned by mail and/or fax to the Settlement
11 Administrator at the specified address/facsimile indicated in the Notice Packet, and should be
12 postmarked and/or fax stamped on or before the Response Deadline. The date of the
13 postmark/fax stamp on the Notice of Objection shall be deemed the exclusive means for
14 determining that a Notice of Objection is timely. Any Class Member who does not submit a
15 Notice of Objection in compliance with this paragraph may nevertheless appear at the final
16 approval hearing and present an oral objection to the Settlement. An attorney who will represent
17 an individual objecting to this Settlement who has not filed a written objection must file a notice
18 of appearance with the Court and serve Class Counsel and counsel for Defendant with this notice
19 no later than the Response Deadline. Any Class Member who does not submit a Notice of
20 Objection in compliance with this section, or who does not appear at the final approval hearing
21 and present an oral objection to the Settlement, shall be deemed to have waived any objection(s),
22 shall be conclusively deemed a Participating Class Member, and shall be precluded from making
23 any objection (including by appeal or otherwise) to the Settlement. At no time shall any of the
24 Parties or their counsel seek to solicit or otherwise encourage Class Members to object to the
25 Settlement or appeal from the Order and Judgment. Class Counsel shall not represent any Class
26 Members with respect to any such objections to this Settlement. Any Class Member who
27 submits a valid Request for Exclusion shall not be allowed to object to this Settlement. If a Class
28 Member submits both a valid Request for Exclusion and a valid Notice of Objection, the Request

1 for Exclusion shall control.

2 57. Defendant's Right to Rescind. If the number of Class Members opting out of the
3 Settlement by submitting valid and timely Requests for Exclusion account for more than ten
4 percent (10%) of the total approximate workweeks worked by Class Members during the Class
5 Period, Defendant has the right in its sole discretion to elect to rescind the Parties' Settlement.
6 The Parties agree that they will not encourage any Class Member to object or to opt out. If
7 Defendant exercises its option to rescind, Defendant shall: (a) provide written notice to Class
8 Counsel at least ten (10) business days prior to the final approval hearing. In the event the
9 Settlement is terminated, the Parties shall proceed in all respects as if this Agreement had not
10 been executed.

11 58. Certification Reports Regarding Individual Settlement Payment Calculations.
12 The Settlement Administrator shall provide Defense Counsel and Class Counsel a weekly report
13 which certifies the number of Class Members who have submitted valid Requests for Exclusion.
14 Additionally, the Settlement Administrator will provide to counsel for both Parties any updated
15 reports regarding the administration of the Settlement as needed or requested.

16 59. Distribution Timing of Individual Settlement Payments. Within seven (7)
17 calendar days of Defendant funding the Gross Settlement Amount, the Settlement Administrator
18 shall issue respective payments to (1) Participating Class Members; (2) Aggrieved Employees;
19 (3) the Labor and Workforce Development Agency; (4) Plaintiff; and (5) Class Counsel. The
20 Settlement Administrator shall also issue a payment to itself for services performed in
21 connection with the Settlement.

22 60. Uncashed Settlement Payment Checks. Any checks issued by the Settlement
23 Administrator to Class Members shall be negotiable for not less than one hundred and eighty
24 (180) days from the date of their issuance. In the event an Individual Settlement Payment check
25 has not been cashed within one hundred and eighty (180) days, all funds represented by such
26 uncashed checks, shall be transmitted by the Settlement Administrator to the California
27 Controller's Unclaimed Property Fund in the name of the Class Member, thereby leaving no
28 "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384,

1 subd. (b). In such event, those Class Members will nevertheless remain bound by the Settlement.

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

5 62. Administration Costs if Settlement Fails or is Delayed. If an objection to the
6 Settlement is filed with the Court, regardless of the ultimate outcome of any appeals taken, or if
7 the Settlement is voided or rescinded, any costs incurred by the Settlement Administrator shall
8 be borne equally by Defendant and Plaintiff, unless otherwise specified in this Agreement.

9 63. Treatment of Individual Settlement Payments. All Individual Settlement
10 Payments to Class Members shall be allocated as follows: 10% as payment for wages, of which
11 an IRS Form W-2 shall issue, and 90% as penalties and interest, of which an IRS Form 1099
12 shall issue. 100% of the PAGA Payment distributed to Aggrieved Employees shall be allocated
13 as penalties and reported on IRS Form 1099.

14 64. Administration of Taxes by the Settlement Administrator. The Settlement
15 Administrator shall be responsible for issuing to Plaintiff, Participating Class Members, and
16 Class Counsel, 1099 forms or other tax forms as may be required by law for all amounts paid
17 pursuant to this Agreement.

18 65. Tax Liability. Defendant makes no representation as to the tax treatment or legal
19 effect of the payments called for hereunder, and Plaintiff and Participating Class Members are
20 not relying on any statement, representation, or calculation by Defendant or by the Settlement
21 Administrator in this regard. Plaintiff and Participating Class Members understand and agree
22 that they will be solely responsible for the payment of any employee's payroll withholdings and
23 taxes (*i.e.*, Social Security, Medicare, federal and state income taxes, SDI, etc.) assessed on their
24 respective payments described herein and will defend, indemnify, and hold Defendant free and
25 harmless from and against any claims, taxes, penalties, and/or assessments resulting from
26 treatment of such payments as wages or non-taxable damages.

27 66. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
28 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY

1 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER
2 PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
3 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN
4 OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR
5 WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR
6 DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX
7 ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT
8 CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING
9 PARTY (A) HAS RELIED EXCLUSIVELY UPON HER OR ITS OWN, INDEPENDENT
10 LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN
11 CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS
12 AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR
13 ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED
14 TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR
15 ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE
16 IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR
17 ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
18 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S
19 TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY
20 BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX
21 TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY
22 TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

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

27 68. Release of Claims by Participating Class Members. Upon the Effective Date and
28 funding of the Gross Settlement Amount, all Participating Class Members, on behalf of

1 themselves and their heirs, executors, representatives, administrators, trustees, and/or permitted
2 assigns, hereby do and shall be deemed to have fully, finally and forever released, settled,
3 compromised, relinquished and discharged any and all of the Released Parties of and from any
4 and all Released Class Claims that accrued during the Released Claims Period.

5 69. Release of Claims by Aggrieved Employees. Upon the Effective Date and funding
6 of the Gross Settlement Amount, all Aggrieved Employees, on behalf of themselves and the
7 State of California, hereby do and shall be deemed to have fully, finally and forever released,
8 settled, compromised, relinquished and discharged any and all of the Released Parties of and
9 from any and all Released PAGA Claims that accrued during the PAGA Period.

10 70. Release of Claims by Class Representative. Upon the Effective Date and funding
11 of the Gross Settlement Amount, Plaintiff Cesar Rodriguez Vinalay, on behalf of himself and
12 his heirs, executors, administrators, and representatives, will and hereby does forever release,
13 discharge, and agree to hold harmless the Released Parties from any and all charges, complaints,
14 claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of
15 action, suits, rights, demands, costs, losses, debts and expenses (including attorney fees and
16 costs), known or unknown, at law or in equity, which they may now have or may have after the
17 signing of this Agreement, against the Released Parties including, but not limited to, the
18 Released Claims, claims that were asserted or could have been asserted in the Complaint, and
19 claims of any kind related to any and all transactions, occurrences, or matters between the parties
20 occurring prior to and through the Effective Date. Without limiting the generality of the
21 foregoing, this release shall include, but not be limited to, any and all claims under the (a)
22 Americans With Disabilities Act, as amended; (b) Title VII of the Civil Rights Act of 1964, as
23 amended; (c) the Civil Rights Act of 1991; (d) 42 U.S.C. § 1981, as amended; (e) the Age
24 Discrimination in Employment Act, as amended; (f) the Fair Labor Standards Act, as amended;
25 (g) the Equal Pay Act; (h) the Employee Retirement Income Security Act, as amended; (i) the
26 Consolidated Omnibus Budget Reconciliation Act; (j) the Rehabilitation Act of 1973; (k) the
27 Family and Medical Leave Act; (l) the Civil Rights Act of 1966; (m) the California Fair
28 Employment and Housing Act; (n) the California Constitution; (o) the California Labor Code;

(p) the California Government Code; (q) the California Civil Code; and (r) any and all other federal, state and local statutes, ordinances, regulations, rules and other laws, and any and all claims based on constitutional, statutory, common law or regulatory grounds as well as any other claims based on theories of wrongful or constructive discharge, breach of contract or implied contract, fraud, misrepresentation, promissory estoppel or intentional and/or negligent infliction of emotional distress, or damages under any other federal, state or local statutes, ordinances, regulations, rules or laws. This release is for any and all relief, no matter how denominated, including, but not limited to, back pay, front pay, vacation pay, bonuses, compensatory damages, tortious damages, liquidated damages, punitive damages, damages for pain and suffering, and attorney fees and costs, and Plaintiff hereby forever releases, discharges, and agrees to hold harmless Defendant and the Released Parties from any and all claims for attorney fees and costs arising out of the matters released in this Agreement.

Plaintiff specifically acknowledges that Plaintiff is aware of and familiar with the provisions of Civil Code § 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.

Plaintiff, being aware of Section 1542, hereby expressly waives and relinquishes all rights and benefits they may have under Section 1542 as well as any other statutes or common law principles of a similar effect. Plaintiff understands that Plaintiff may hereafter discover facts in addition to or different from those which Plaintiff now knows or believes to be true with respect to the subject matter of all the claims referenced herein, but stipulates and agrees that, upon the Effective Date, Plaintiff shall and hereby does fully, finally, and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, contingent or non-contingent, that were asserted or could have been asserted upon any theory of law or equity without regard to the subsequent discovery of existence of such different or

1 additional facts.

2 71. Nullification of Settlement. If the Settlement does not become final for any
3 reason, then this Agreement, and any documents generated to bring it into effect, shall be null
4 and void. Any order or judgment entered by the Court in furtherance of this Agreement shall
5 likewise be treated as void from the beginning.

6 72. Disputes Regarding Individual Settlement Payments. If Class Members have a
7 dispute as to the data provided by the Defendant, Class Members will have the opportunity to
8 provide documentation and/or an explanation. If there is a dispute, the Settlement Administrator
9 will consult with the Parties to determine whether an adjustment is warranted. The Settlement
10 Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement
11 Payments under the terms of this Agreement, and that determination shall be binding, subject to
12 final resolution by the Court if the Court decides to rule on the dispute. If the Court does not
13 issue a ruling on the dispute, the Settlement Administrator's determination of the dispute will
14 be binding upon Class Members.

15 73. Disputes Regarding Administration of Settlement. Any disputes not resolved by
16 the Settlement Administrator concerning the administration of the Settlement will be resolved
17 by the Court under the laws of the State of California. Prior to any such involvement of the
18 Court, counsel for Parties will confer in good faith to resolve the disputes without the necessity
19 of involving the Court.

20 74. Preliminary Approval Hearing. Plaintiff shall obtain a hearing before the Court
21 to request the Preliminary Approval of the Settlement, and the entry of a Preliminary Approval
22 Order: (i) approving of the proposed Settlement, and (ii) setting a date for a Final
23 Approval/Settlement Fairness Hearing. The Preliminary Approval Order shall provide for the
24 Notice Packet to be sent to all Class Members as specified herein. In conjunction with the
25 Preliminary Approval hearing, Plaintiff shall submit this Agreement, which sets forth the terms
26 of this Settlement, and will include the proposed Notice Packet, attached to this Agreement as
27 Exhibit A.

28 75. Final Settlement Approval Hearing. Upon expiration of the deadlines to submit

1 Requests for Exclusion or Notices of Objections to the Settlement, and with the Court's
2 permission, a Final Approval/Settlement Fairness Hearing shall be conducted to determine the
3 Final Approval of the Settlement along with the amounts properly payable for (i) Individual
4 Settlement Payments; (ii) the payment to the Labor and Workforce Development Agency; (ii)
5 the Class Counsel Award; (iii) the Class Representative Enhancement Payment; and (iv)
6 Settlement Administration Costs. Class Counsel will be responsible for drafting all documents
7 necessary to obtain final approval. Class Counsel will also be responsible for drafting the
8 attorneys' fees and costs application to be heard at the final approval hearing.

9 76. Entry of Judgment and Continued Jurisdiction of the Court. Concurrent with the
10 Motion for Final Approval, the Parties shall also jointly seek the entry of Judgment consistent
11 with the terms of this Agreement. After entry of the Judgment, the Court shall have continuing
12 jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms
13 of the Settlement, (ii) Settlement administration matters, and (iii) such post-Judgment matters
14 as may be appropriate under court rules or as set forth in this Agreement.

15 77. Mutual Non-Disparagement. Neither Party shall disparage or defame one another
16 to any third parties with or through any written or oral statement or image (including, but not
17 limited to, any statements made via websites, blogs, postings to the internet, or emails).

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

21 79. Entire Agreement. This Agreement and any attached Exhibits constitute the
22 entirety of the Parties' Settlement terms. No other prior or contemporaneous written or oral
23 agreements may be deemed binding on the Parties.

24 80. Amendment or Modification. This Agreement may be amended or modified only
25 by a written instrument signed by the Parties, their counsel, or their successors-in-interest.

26 81. Authorization to Enter Into Agreement. Counsel for all Parties warrant and
27 represent they are expressly authorized by the Parties whom they represent to negotiate this
28 Agreement and to take all appropriate action required or permitted to be taken by such Parties

1 pursuant to this Agreement to effectuate its terms and to execute any other documents required
2 to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with
3 each other and use their best efforts to effect the implementation of the Settlement. If the Parties
4 are unable to reach agreement on the form or content of any document needed to implement the
5 Settlement, or on any supplemental provisions that may become necessary to effectuate the
6 terms of this Settlement, the Parties may seek the assistance of the Court to resolve such
7 disagreement.

8 82. Binding on Successors and Assigns. This Agreement shall be binding upon, and
9 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

10 83. California Law Governs. All terms of this Agreement and Exhibits hereto shall
11 be governed by and interpreted according to the laws of the State of California.

12 84. Execution and Counterparts. This Agreement is subject only to the execution of
13 all Parties. However, the Agreement may be executed in one or more counterparts, including
14 by electronic scan, .pdf, or DocuSign. All executed counterparts and each of them, including
15 facsimile and scanned or electronic copies of the signature page, shall be deemed to be one and
16 the same instrument provided that counsel for the Parties shall exchange among themselves
17 original signed counterparts.

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

24 86. Invalidity of Any Provision. Before declaring any provision of this Agreement
25 invalid, the Court shall first attempt to construe the provision as valid to the fullest extent
26 possible consistent with applicable precedents so as to define all provisions of this Agreement
27 valid and enforceable. Any invalid, illegal, or unenforceable provision determined by the Court
28 shall in no way affect any other provision if Defendant and Class Counsel, on behalf of the

1 Parties and the Class, mutually elect in writing to proceed as if such invalid, illegal, or
2 unenforceable provision had never been included in this Agreement.

3 87. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however,
4 that Plaintiff or Class Counsel may appeal any reduction in the Class Counsel's Award below
5 the amount Class Counsel requests, and either party may appeal any order that materially alters
6 the Agreement's terms.

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

21 89. Captions. The captions and section numbers in this Agreement are inserted for
22 the reader's convenience, and in no way define, limit, construe, or describe the scope or intent
23 of the provisions of this Agreement.

24 90. Waiver. No waiver of any condition or covenant contained in this Agreement or
25 failure to exercise a right or remedy by any of the Parties hereto shall be considered to imply or
26 constitute a further waiver by such party of the same or any other condition, covenant, right, or
27 remedy.

28 //

1 91. Enforcement Actions. Pursuant to California Code of Civil Procedure § 664.6,
2 the Court shall retain jurisdiction with respect to the interpretation, implementation, and
3 enforcement of the terms of this Agreement and all orders and judgments entered in connection
4 therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for
5 purposes of interpreting, implementing, and enforcing the settlement embodied in this
6 Agreement and all orders and judgments entered in connection therewith. In the event that one
7 or more of the Parties institutes any legal action or other proceeding against any other Party or
8 Parties to enforce the provisions of this Settlement, or to declare rights and/or obligations under
9 this Settlement, the prevailing Party or Parties shall be entitled to recover from the non-
10 prevailing Party or Parties reasonable attorneys' fees and costs, including expert witness fees
11 incurred in connection with any enforcement actions.

12 92. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
13 and conditions of this Agreement. Accordingly, this Agreement shall not be construed more
14 strictly against one party than another merely by virtue of the fact that it may have been prepared
15 by counsel for one of the Parties, it being recognized that, because of the arm's-length
16 negotiations between the Parties, all Parties have contributed to the preparation of this
17 Agreement.

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

23 94. Cooperation and Execution of Necessary Documents. All Parties shall cooperate
24 in good faith and execute all documents to the extent reasonably necessary to effectuate the
25 terms of this Agreement.

26 95. Binding Agreement. The Parties warrant that they understand and have full
27 authority to enter into this Agreement, and further intend that this Agreement shall be fully
28 enforceable and binding on all Parties, and agree that it shall be admissible and subject to

disclosure in any proceeding to enforce its terms.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action Settlement Between Plaintiff and Defendant as of the date(s) set forth below:

SIGNATURES
READ CAREFULLY BEFORE SIGNING

DATED: May 22, 2023

PLAINTIFF CESAR RODRIGUEZ VINALAY

DocuSigned by:

B4AC4B06F4298FF...
Cesar Rodriguez Vinalay

DATED: May __, 2023

DEFENDANT RESTAURANT PACIFIC GROUP, LLC

Please Print Name of Authorized Signatory

APPROVED AS TO FORM

DATED: May 22, 2023

JAMES HAWKINS APLC


James R. Hawkins
Isandra Fernandez
Lance Dacre
Attorneys for Plaintiff Cesar Rodriguez Vinalay

DATED: May __, 2023

FENTON & KELLER

Christopher E. Panetta
Marco A. Lucido
Attorneys for Defendant Restaurant Pacific Group, LLC

disclosure in any proceeding to enforce its terms.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action Settlement Between Plaintiff and Defendant as of the date(s) set forth below:

**SIGNATURES
READ CAREFULLY BEFORE SIGNING**

DATED: May __, 2023

**PLAINTIFF CESAR RODRIGUEZ
VINALAY**

Cesar Rodriguez Vinalay

DATED: May 10, 2023

**DEFENDANT RESTAURANT PACIFIC
GROUP, LLC**

Chair Shake

en

Please Print Name of Authorized Signatory

APPROVED AS TO FORM

DATED: April __, 2023

JAMES HAWKINS APLC

James R. Hawkins
Isandra Fernandez
Lance Dacre
Attorneys for Plaintiff Cesar Rodriguez Vinalay

May
DATED: April 11, 2023

FENTON & KELLER

Christopher E. Panetta
Marco A. Lucido
Attorneys for Defendant Restaurant Pacific
Group, LLC

Exhibit A

NOTICE OF CLASS ACTION AND PAGA SETTLEMENT

[CLASS MEMBER NAME]

Cesar Rodriguez Vinalay v. Restaurant Pacific Group, LLC

Superior Court of the State of California, County of Monterey
Case No.: 22CV000486

If you are a current or former employee of Restaurant Pacific Group, LLC dba Scales Restaurant (“Restaurant Pacific Group” or “Defendant”), a class action lawsuit may affect your rights and you may be entitled to benefits under the settlement.

You are not being sued. A court authorized this notice. This is not a solicitation from a lawyer.

PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.

**YOUR ESTIMATED TOTAL INDIVIDUAL SETTLEMENT PAYMENT AMOUNT
FROM THIS CLASS ACTION SETTLEMENT IS \$ [REDACTED].**

According to Restaurant Pacific Group’s records, the total number of workweeks that you worked as an employee in California between February 18, 2018, through and including August 13, 2021, is [REDACTED]. Based on this number, your Individual Settlement Payment Amount as a member of the Class is estimated to be \$[REDACTED].

[PAGA MEMBERS ONLY:]

**YOUR ESTIMATED TOTAL PAGA PAYMENT AMOUNT FROM THIS CLASS
ACTION SETTLEMENT IS \$ [REDACTED].**

According to Restaurant Pacific Group’s records, the total number of pay periods that you worked as an employee in California between February 18, 2021, through and including August 13, 2021, is [REDACTED]. Based on this number, your PAGA Payment is estimated to be \$[REDACTED].

- This lawsuit involves a class defined as: All current and former non-exempt employees employed by Restaurant Pacific Group in the State of California from February 18, 2018, through August 13, 2021. It also asserts claims on behalf of aggrieved employees from February 18, 2021, through August 13, 2021.

- You are receiving this Notice because the records reflect that you may be a class member.
- In the lawsuit, Plaintiff *Cesar Rodriguez Vinalay* (“Plaintiff”) alleged that Defendant failed to pay wages for all hours worked, provide proper meal and rest breaks, pay premiums for missed meal and rest breaks, reimburse work-related expenses, provide accurate itemized wage statements, and timely pay all wages at the time owed and upon separation of employment, and that Defendant engaged in unfair business practices. Based on these allegations, Plaintiff sought unpaid wages and penalties. Defendant denies Plaintiff’s allegations. After the exchange of relevant information and evidence, the parties agreed to enter settlement negotiations in an attempt to resolve the claims in the case.
- There has been a settlement that affects your rights. Although the Court has authorized the Parties to provide this notice of the proposed settlement, the Court has expressed no opinion on the merits of Plaintiff’s claims or Defendant’s defenses.
- You will not be penalized or retaliated against by Restaurant Pacific Group for participating in this settlement.
- You have several options available to you, which are explained in the chart below:

DO NOTHING	By doing nothing, you <u>will</u> receive a share of the settlement proceeds. In exchange for the settlement proceeds, you will give up any rights to sue Restaurant Pacific Group separately for claims based on the facts pled in the operative Complaint, which are or could be the basis of claims that Restaurant Pacific Group failed to pay wages for all hours worked, provide proper meal and rest breaks, pay premiums for missed meal and rest breaks, reimburse work-related expenses, provide accurate itemized wage statements, and timely pay all wages at the time owed and upon separation of employment. See Section 8 below for an explanation of the claims you are giving up. If you move, you must notify the Settlement Administrator of your new address.
ASK TO BE EXCLUDED (OPT OUT)	You can exclude yourself from this lawsuit. If you ask to be excluded, you will not receive a share of the class settlement proceeds, but you keep any rights you may have to bring your own separate suit against Restaurant Pacific Group for the same legal claims in this lawsuit that are released in this settlement. You cannot ask to be excluded <u>and</u> still get a settlement payment for the class claims. If you ask to be excluded from the settlement, you cannot object to the settlement.

	Even if you request to be excluded from the class settlement, you may not exclude yourself from the settlement of claims under the Private Attorneys' General Act ("PAGA") and will receive your portion of the PAGA Payment and give up your right to pursue the Released PAGA Claims.
OBJECT	If you do not agree with the settlement, you can object to the terms of this settlement. The Court may or may not agree with your objection. If you object to the settlement and the Court does not agree with your objection, you will still be bound by the terms of the settlement and will receive a settlement payment. Objecting to the settlement will not exclude you from the settlement.
ATTEND THE FINAL APPROVAL HEARING	You can ask to speak in Court about the fairness of the settlement at the Final Approval Hearing. The Court will hold a Final Approval Hearing to determine whether the settlement is fair, reasonable, and adequate on [DATE] , 2023 at [TIME] . More information regarding this hearing is set forth in Section 12.

**Your options are explained in this notice.
To opt out or object, you must act by **XXXXX**.**

1. Why did I get this notice?

A proposed settlement has been reached in a class action lawsuit that was brought on behalf of Restaurant Pacific Group's non-exempt employees. You have received this notice because Restaurant Pacific Group's records indicate that you are a member of the settlement class or are an aggrieved employee.

2. What is this lawsuit about?

Plaintiff filed this lawsuit on February 18, 2022, on behalf of individuals who are employed or have been employed by Restaurant Pacific Group as non-exempt employees in the State of California, during the Class Period. Plaintiff amended his lawsuit on April 26, 2022.

"Class Period" is defined as the period from February 18, 2018, through August 13, 2021. The operative complaint alleges class and representative PAGA claims against Restaurant Pacific Group for (1) failure to pay wages for all hours worked including overtime and minimum wage in violation of Labor Code sections 210, 1194, and 1199 and applicable Wage Orders; (2) failure to provide meal periods or meal period premiums in violation of Labor Code sections 226.7, 512 and applicable Wage Orders; (3) failure to provide rest periods or rest period premiums in violation of

Labor Code sections 226.7 and applicable Wage Orders; (4) failure to reimburse work-related expenses in violation of Labor Code section 2802 and applicable Wage Orders; (5) failure to timely pay wages during employment in violation of Labor Code section 204 and applicable Wage Orders; (6) failure to timely pay wages upon separation of employment in violation of Labor Code sections 201-203 and applicable Wage Orders; (7) failure to provide accurate itemized wage statements in violation of Labor Code section 226 and applicable Wage Orders; (8) unfair competition in violation of Business and Professions Code section 17200 et seq.; and (9) PAGA penalties under Labor Code section 2699 et seq.

3. Has the Court decided who is right?

No. The Court has made no decision regarding the merits of Plaintiff's allegations or Restaurant Pacific Group's defenses.

4. Why did this case settle?

The Parties reached a settlement in order to avoid the risk, inconvenience, and expense of further litigation. Plaintiff and his attorneys believe the proposed settlement is fair, adequate, and in the best interest of the class members to whom it applies given the outcome of their investigation, and the consumption of time and resources required in connection with further litigation. Although Restaurant Pacific Group disputes Plaintiff's claims and asserts that it has complied with all of its legal obligations toward its employees, Defendant has also concluded that further litigation would be expensive and would divert management and employee time.

5. What are the terms of the settlement and how much will I receive?

The Gross Settlement Amount is \$275,000.00. Under the proposed settlement, the following amounts will be deducted before any payments are made to employees, subject to final approval by the Court:

- Attorneys' fees: \$91,666.66
- Litigation Costs: \$15,000.00
- Settlement Administration Costs to the Settlement Administrator: \$8,850.00
- Class Representative Enhancement Award to Class Representative: \$5,000.00
- Payment to the Labor and Workforce Development Agency ("LWDA") and Aggrieved Employees: \$10,000.00, representing its share of the settlement payment for the PAGA claims made in this lawsuit, pursuant to the California Labor Code section 2699.

After these deductions, and to the extent that the Court approves these amounts in full, approximately \$125,516.66 is estimated to be available for payment to the Class Members receiving this notice ("Net Settlement Amount"). These amounts may change and are subject to Court approval.

Each class member's Individual Settlement Payment shall be determined as follows:

- The Net Settlement Amount will be apportioned among Class Members on a pro rata basis,

based on the number of workweeks worked by each respective Class Member during the Class Period.

All Individual Settlement Payments will be treated as follows: 10% as payment for wages (subject to withholding of employment taxes and to be reported on IRS Forms W-2, and 90% as penalties and interest (not subject to withholding of employment taxes and to be reported on IRS Forms 1099).

According to Restaurant Pacific Group's records, the total number of workweeks you worked during the Class Period is [REDACTED].

If you disagree with the above information regarding your number of workweeks worked and would like someone to look into the matter, please follow the procedure below. Based on the above information, your estimated Individual Settlement Payment from the class settlement is [REDACTED].

[PAGA MEMBERS ONLY: In addition, you are also eligible to receive a payment under the PAGA, California Labor Code section 2698, *et seq.* Your PAGA payment constitutes 100% penalties, not wages. Restaurant Pacific Group's records indicate that you worked for Restaurant Pacific Group as a non-exempt employee from February 18, 2021, through August 13, 2021 (the "PAGA Period"). Individual payments under the PAGA will be paid to employees who worked during the PAGA Period on a pro rata basis, based on the number of pay periods each respective employee worked during the PAGA Period. Based Restaurant Pacific Group's records, it has been determined that you worked a total of [REDACTED] pay periods during the PAGA Period. Based on that, your individual share of the PAGA Payment is \$ [REDACTED].]

6. What if I disagree with information or the number of workweeks shown above?

If you believe the information in the notice is incorrect regarding the number of workweeks or number of pay periods you worked, you can provide documentation or explanation to the Settlement Administrator to show contrary information. You can write a letter setting forth the number of workweeks or pay periods that you believe you worked as a non-exempt employee in California during the Class Period or the PAGA Period that you believe are correct. You may attach any relevant documentation in support thereof. You must mail or fax your letter to:

ILYM Group, Inc.

[INSERT SETTLEMENT ADMINISTRATION INFORMATION]

You must submit such information by [REDACTED]. Class Counsel and the Settlement Administrator will work together in good faith and do their best to promptly resolve the dispute based on available records. The Settlement Administrator shall review all information, material and documents and make a decision regarding the dispute, subject to the final resolution by the Court if the Court decides to rule on the dispute. If the Court does not issue a ruling on the dispute, the Settlement Administrator's determination of the number of workweeks you worked will be binding.

7. What do I have to do to receive a share of the settlement?

If you would like to receive an award under the terms of this settlement, **you do not have to do anything**. However, it is advisable to confirm your current mailing address with the Settlement Administrator in order to ensure you receive your settlement share. If you move, you must notify the Settlement Administrator of your new address. You will be covered by the release summarized in Section 8, below.

8. What rights am I giving up?

The class claims you will release by doing nothing and participating in the settlement are as follows:

All claims that were alleged in the operative complaints of the Action and any claims that could have been alleged based on the facts as alleged in of the operative complaints of the Action.

This includes claims that accrued during the Class Period for (1) failing to pay wages for all hours worked including overtime and minimum wage; (2) failing to provide compliant meal or rest periods or pay meal or rest period premiums; (3) failing to reimburse work-related expenses; (4) failing to timely pay all wages owed during employment or upon separation of employment; (5) failing to provide accurate itemized wage statements, and (6) engaging in unfair business practices.

PAGA MEMBERS ONLY: If you are an Aggrieved Employee, you are also giving up the right to sue for the Released PAGA Claims, which means all claims under the Private Attorneys General Act that were alleged in the operative complaints in the Action and any claims that could have been alleged based on the facts as alleged in the operative complaints in the Action.

This includes claims under the PAGA premised on Defendant's alleged failure to: (1) pay wages for all hours worked including overtime and minimum wage; (2) provide compliant meal or rest periods or pay meal or rest period premiums; (3) reimburse work-related expenses; (4) timely pay all wages owed during employment or upon separation of employment; or (5) provide accurate itemized wage statements.

Class Members and PAGA Members will be releasing these claims against Restaurant Pacific Group and any and all of its past and present affiliated entities, parents, subsidiaries, owners, officers, shareholders, executives, managers, and employees.

9. What if I do not wish to be involved?

Anyone not wishing to participate in the settlement may exclude himself or herself ("opt out") by completing, signing, and mailing/faxing a letter indicating that they do not want to participate in the settlement to the Settlement Administrator, ILYM Group, Inc., at the following address by **XXXX**.

ILYM Group, Inc.

[INSERT SETTLEMENT ADMINISTRATION INFORMATION]

Your letter must include (1) your name, address, and telephone number; (2) a statement indicating

that you wish to be excluded from the settlement; and (3) your signature. Your letter must be postmarked or fax stamped on or before XXX.

If your Request for Exclusion is postmarked or fax stamped after XXX, it will be rejected as untimely, and you will be a Settlement Class Member and be bound by the settlement terms and release. Anyone who submits a timely and valid Request for Exclusion shall not be deemed a Settlement Class Member and will not receive any payment as part of this settlement. Such individuals will keep any right to sue Restaurant Pacific Group separately about the claims made in this lawsuit. If a Class Member submits both a valid Request for Exclusion and a valid Notice of Objection, the Request for Exclusion shall control. Aggrieved Employees cannot opt out of the PAGA Settlement.

10. What if I have an objection?

A class member may object to the settlement in writing or in person. Written objections and all supporting briefs or other materials must be submitted to the Settlement Administrator, ILYM Group, Inc., by mail or fax no later than XXXX. The Court will decide on the objections at the Final Approval Hearing. If your objection is overruled at the Final Approval Hearing, you will still be bound by the terms of this settlement and will receive a settlement payment. If a Class Member submits both a valid Request for Exclusion and a valid Notice of Objection, the Request for Exclusion shall control.

For written objections to be valid, it must contain (1) your name, address, and phone number; (2) the written basis of your objection, and (3) your signature. You may include copies of any papers, briefs, or documents upon which the objection is based. The written objection must be post marked or fax stamped on or before XXX. The postmark or fax stamp date shall be the exclusive means for determining that a written objection is timely and valid.

Any class member may nevertheless appear and make an objection at the Final Approval Hearing. The class member may appear personally or through an attorney, at his or her own expense, at the Final Approval Hearing to present his or her objection directly to the Court. Any attorney who will represent an individual objecting to this Settlement who has not filed a written objection must file a notice of appearance with the Court and serve Class Counsel and Defense Counsel no later than . The Final Approval Hearing will be held in Dept. 15 of the Monterey County Superior Court, Monterey Courthouse, located at 1200 Aguajito Road, Monterey, California 93940 on , 2023, at XXX (Pacific Time). Information on appearing remotely can be found here: <https://www.monterey.courts.ca.gov/remote>.

11. Do I need a lawyer? Who are the lawyers in this case?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. However, if you want your own lawyer, you are free to hire one at your own expense.

The below are Class Counsel:

James R. Hawkins (SBN 192925)
Isandra Fernandez (SBN220482)

Lance Dacre (SBN190305)
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, CA 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676

12. What happens next in the case?

The Settlement has only been preliminarily approved. The Court will hold a hearing in Dept. 15 of the Monterey County Superior Court, Monterey Courthouse, located at 1200 Aguajito Road, Monterey, California 93940 at _____, 2023, at XXX (Pacific Time), to determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs, Plaintiff's enhancement award, and the costs of settlement administration. At the Final Approval Hearing, the Court will hear all objections, as well as arguments for and against the proposed settlement. You have a right to attend this hearing, **but you are not required to do so**. You also have the right to hire an attorney to represent you, at your own expense, or to enter an appearance and represent yourself. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing.

13. How can I receive more information?

This Notice is a summary of the basic terms of the settlement. For further information, you may telephone ILYM Group, Inc. [INSERT SETTLEMENT ADMINISTRATION INFORMATION], or you may go to the Administrator's website at _____ admin website. This website will contain pertinent documents including the operative Complaint, the Settlement Agreement, and the Final Approval and Judgment. You may also contact Class Counsel (listed above). You may also review the settlement agreement and other filed documents, which are on file with the Clerk of the Monterey Superior Court, 1200 Aguajito Road, Monterey, California 93940.

ALL INQUIRIES REGARDING THIS LITIGATION SHOULD BE MADE TO PLAINTIFF'S ATTORNEYS:

James R. Hawkins (SBN 192925)
Isandra Fernandez (SBN220482)
Lance Dacre (SBN190305)
JAMES HAWKINS APLC
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Irvine, CA 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676

Please do not telephone the Court, the Office of the Clerk, or Restaurant Pacific Group's counsel for information regarding this settlement.