

1 SAMY M. HARMOUSH, ESQ. Bar No. 309966
2 *samy@workersadvocate.law*
3 **WORKERS' ADVOCATE LAW GROUP PC**
4 10866 Washington Blvd. #835
5 Culver City, CA 90232
6 Telephone: (844) 400-7269

7 Attorney for Plaintiff, JOSÉ CHÁVEZ,
8 on behalf of himself, the State of California, and all others similarly situated

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

13 JOSÉ CHÁVEZ, on behalf of himself
14 and other similarly situated.

15 Plaintiff,

16 vs.

17 CONEJITO CORP. a California Corporation,
18 doing business as THE
19 ORIGINAL RED ONION RESTAURANT
20 and THE GREEN
21 ONION RESTAURANT; JEFF EARLE,
22 an individual; NERI ARROLLO, an
23 individual, ALONSO ANGEL, an
24 individual; IVAN FLORES, an individual,
25 and DOES 1 through 100,
26 inclusive,

27 Defendants.
28

Case No.: 22STCV27285

*Assigned for all purposes to Hon. Stuart M.
Rice, Dept. 1*

JOINT STIPULATION OF SETTLEMENT

ACTION FILED: AUGUST 22, 2022

Joanne Leighton

Tracy Lee

ARTIANO & ASSOCIATES, APC

3828 Carson Street, Suite 102

Torrance, CA 90503

Phone: (310) 944-0226

jleighton@artianolaw.com

tlee@artianolaw.com

Kathleen Choe

Ryan Stearns

Michael Ryan

STEARNS & RYAN

21250 Hawthorne Boulevard, Suite 310

Torrance, CA 90503 Tel: (310) 793-9570

Fax: (310) 793-9575

kchoe@sksrlyawyers.com

rstearns@sksrlyawyers.com

mryan@sksrlyawyers.com

Attorneys for Defendants, Conejito Corp., et al.

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of the
2 Court pursuant to the California Rules of Court, that the Settlement of this Action shall be effectuated upon
3 and subject to the following terms and conditions. Capitalized terms used herein shall have the meanings
4 set forth in Article I or as defined elsewhere in this Joint Stipulation of Settlement (“Agreement” or
5 “Settlement”).

6 This Agreement is made by and between Named Plaintiff Jose Chavez (“Named Plaintiff”) and the
7 Class Members, on the one hand, and Defendant Conejito Corp. (“Conejito Corp.” or “Defendant”), on the
8 other hand. Named Plaintiff and Defendant collectively are referred to in this Agreement as “the Parties.”

9 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and concluded
10 by agreement of Defendant to pay the settlement amount of Two Hundred Thousand Dollars (\$200,000.00)
11 as provided in Section 3.06(a) below (“Gross Settlement Amount”) pursuant to the terms and conditions of
12 this Agreement and for the consideration set forth herein, including but not limited to, a release of all claims
13 by Named Plaintiff and the Class Members as set forth herein.

14 **ARTICLE I**

15 **DEFINITIONS**

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

- 18 a. “Action” means the action described as follows: JOSÉ CHÁVEZ, on behalf of himself and other
19 similarly situated v. Corporation, doing business as THE ORIGINAL RED ONION
20 RESTAURANT and THE GREEN ONION RESTAURANT; JEFF EARLE, an individual; NERI
21 ARROLLO, an individual, ALONSO ANGEL, an individual; IVAN FLORES, an individual, and
22 DOES 1 through 100, inclusive,” Case No. 22STCV27285, commenced on August 22, 2022, in the
23 Superior Court of the State of California for the County of Los Angeles.
- 24 b. “Agreement” means this Joint Stipulation of Settlement, including the attached Exhibit(s).
- 25 c. “Class” means all current and former non-exempt employees who are or were employed by
26 Defendant in California at any time during the Class Period.
- 27 d. “Class Counsel” means the attorneys for the Class and the Class Members, who are:

28 Samy M. Harmoush, Esq.

WORKERS’ ADVOCATE LAW GROUP PC

10866 Washington Blvd. #835

Culver City, CA 90232

samy@workersadvocate.law

Telephone: (844) 400-7269

e. "Class List" means a list based on Defendant's business records that identifies each Class Member's name, last known home or mailing address, Social Security number or as applicable, other taxpayer identification number, dates of employment, and the number of Qualifying Workweeks worked during the Class Period.

f. "Class Member(s)" means all members of the Class.

g. "Class Period" means all current and former non-exempt employees employed by Defendant Conejito Corp. in California at any time during the Class Period from August 22, 2018 through the date of preliminary approval.

h. "Court" means the California Superior Court for the County of Los Angeles, where the Action is currently pending.

i. "Date of Finality" means the later of the following: (1) the date the Final Order is signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and no appeal is taken of the Final Order, sixty-five (65) days after the Final Order; or (3) if an appeal or other judicial review is taken from the Court's overruling of objections to the settlement, ten (10) days after the appeal is withdrawn or after an appellate decision affirming the Final Order becomes final.

j. "Defendant" means Defendant Conejito Corp. dba The Original Red Onion Restaurant and The Green Onion Restaurant, Jeff Earle, Neri Arrollo, Alonso Angel, and Ivan Flores.

k. "Defense Counsel" means counsel for Defendant:

Joanne Leighton
Tracy Lee
ARTIANO & ASSOCIATES, APC
3828 Carson Street, Suite 102
Torrance, CA 90503
Phone: (310) 944-0226
jleighton@artianolaw.com
tlee@artianolaw.com

Kathleen Choe
Ryan Stearns
Michael Ryan
STEARNS & RYAN
21250 Hawthorne Boulevard, Suite 310
Torrance, CA 90503
Tel: (310) 793-9570
Fax: (310) 793-9575
kchoe@sksrllawyers.com
rstearns@sksrllawyers.com
mryan@sksrllawyers.com

1 l. "Disposition" means the method by which the Court approves the terms of the Settlement and
2 retains jurisdiction over its enforcement, implementation, construction, administration, and
3 interpretation.

4 m. "Final Order Approving Settlement of Class Action" or "Final Order" means the final formal
5 court order signed by the Court following the Final Fairness and Approval Hearing in accordance with
6 the terms herein, approving this Agreement.

7 n. "Gross Settlement Amount" means Two Hundred Thousand Dollars and Zero Cents
8 (\$200,000.00) to be paid by Defendant as provided by this Agreement to settle this action. All claims
9 of the Class and all administration costs, attorney's fees and costs, and Incentive Awards, pursuant to
10 Section 3.07(a) below, shall be paid out of the Gross Settlement Amount. The employer's share of
11 payroll taxes arising from the payments made under this settlement shall be paid by Defendant separate
12 from and in addition to the Gross Settlement Amount. The Gross Settlement Amount is subject to a
13 pro rata increase pursuant to Section 3.04(e) below. No part of the Gross Settlement Amount shall
14 revert to Defendant.

15 o. "Incentive Award" means a monetary amount of up to Ten Thousand Dollars (\$10,000.00) for
16 the Named Plaintiff, subject to Court approval, in recognition of their effort and work in prosecuting
17 the Action on behalf of Class Members, and for their general release of claims.

18 p. "Individual Settlement Payment(s)" means each Participating Class Member's respective share
19 of the Net Settlement Amount. Individual Settlement Payments will be determined by the calculations
20 provided in this Agreement.

21 q. "Motion for Final Approval" means Plaintiff's submission of a written motion, including any
22 evidence as may be required for the Court to conduct an inquiry into the fairness of the Settlement as
23 set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and to enter a Final
24 Order in this Action.

25 r. "Motion for Preliminary Approval" means Plaintiff's submission of a written motion,
26 including any evidence as may be required for the Court to grant preliminary approval of the Settlement
27 as required by Rule 3.769 of the California Rules of Court.

28 s. "Named Plaintiff" means Jose Chavez.

t. "Net Settlement Amount" means the Gross Settlement Amount less Court-approved
administration costs, Class Counsels' attorney's fees and costs, and Incentive Award, pursuant to
Section 3.07(a)-(f) below.

1 u. "Non-Participating Class Member(s)" means any Class Member(s) who submit to the
2 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant to
3 Section 3.04(b) below.

4 v. "Notice Packet" means the Notice of Proposed Class Action Settlement in a form substantially
5 similar to the Notice Packet attached hereto as **Exhibit A**, subject to Court approval.

6 w. "Participating Class Member(s)" is defined as a Class Member who does not timely exclude
7 himself or herself from the Settlement and will therefore receive his or her share of the Net Settlement
8 Amount automatically without the need to return a claim form. Each Participating Class Member will
9 be paid his/her Individual Settlement Payment.

10 x. "Preliminary Approval Date" means the date the Court preliminarily approves the Settlement
11 embodied in this Agreement.

12 y. "Qualified Settlement Fund" or "QSF" means a fund within the meaning of Treasury
13 Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement Administrator
14 for the benefit of Participating Class Members.

15 z. "Qualifying Workweeks" means the number of weeks that Class Members worked for
16 Defendant as non-exempt employees during the Class Period.

17 aa. "Released Parties" means Defendant.

18 bb. "Response Deadline" means the deadline by which Class Members must postmark or fax to
19 the Settlement Administrator requests for exclusion or written notices of objection. The Response
20 Deadline will be sixty (60) calendar days after the initial mailing of the Notice Packet by the Settlement
21 Administrator, unless the sixtieth (60th) calendar day falls on a Sunday or federal holiday, in which
22 case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open.
23 The Response Deadline will be extended as set forth herein if there is a re-mailing.

24 cc. "Settlement Administration Costs" means all costs incurred by the Settlement Administrator
25 in administration of the Settlement, including, but not limited to, mailing of notice to the class,
26 calculation of Individual Settlement Payments, generation of Individual Settlement Payment checks
27 and related tax reporting forms, administration of unclaimed checks, and generation of checks to Class
28 Counsel for attorneys' fees and costs, and to Named Plaintiff for her Incentive Award. The Settlement
Administration Costs shall be paid from the Gross Settlement Amount.

dd. "Settlement Administrator" means Phoenix Settlement Administrators which the Parties have
agreed will be responsible for the administration of the Individual Settlement Payments to be made by
Defendant from the Gross Settlement Amount and related matters under this Agreement.

ARTICLE II

CONTINGENT NATURE OF THE AGREEMENT

Section 2.01: Stipulation of Class Certification for Settlement Purposes

Because the Parties have stipulated to the certification of the Class with respect to all causes of action alleged in the Action for settlement purposes only, this Agreement requires preliminary and final approval by the Court. Accordingly, the Parties enter into this Agreement on a conditional basis. This Agreement is contingent upon the approval and certification by the Court. If the Date of Finality does not occur, the fact that the Parties were willing to stipulate for the purposes of this Agreement to a Class shall have no bearing on, nor be admissible in connection with, the issue of certification of the Class with respect to all causes of action alleged in the Action. Defendant does not consent to certification of the Class for any purpose other than to effectuate settlement of the Action. If the Date of Finality does not occur, or if Disposition of this Action is not effectuated, any certification of the Class as to Defendant will be vacated and Named Plaintiff, Defendant, and the Class will be returned to their positions with respect to the Action as if the Agreement had not been entered into. In the event that the Date of Finality does not occur: (a) any Court orders preliminarily or finally approving certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity; and (b) the fact of the settlement reflected in this Agreement, the fact that Defendant did not oppose the certification of a Class under this Agreement, or that the Court preliminarily approved the certification of the Class, shall not be used or cited thereafter by any person or entity, including in any manner whatsoever, including without limitation any contested proceeding relating to the certification of any class. If the Date of Finality does not occur, this Agreement shall be deemed null and void, shall be of no force or effect whatsoever, and shall not be referred to or used for any purpose whatsoever. Defendant expressly reserves the right to challenge the propriety of class certification in the Action for any purpose, if the Date of Finality does not occur.

The Parties and their respective counsel shall take all steps that may be requested by the Court relating to the approval and implementation of this Agreement and shall otherwise use their respective best efforts to obtain Court approval and implement this Agreement. If the Court does not grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties agree to meet and confer to address the Court's concerns. If the Parties are unable to agree upon a resolution, the Parties agree to seek the assistance of mediator Jill R. Sperber to resolve the dispute.

ARTICLE III

PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT

The procedure for obtaining Court approval of and implementing this Agreement shall be as follows:

Section 3.01: Motion for Conditional Class Certification and Preliminary Approval

Named Plaintiff will bring a motion before the Court for an order conditionally certifying the Class to include all claims filed in the Action based on the preliminary approval of this Agreement. The date that the Court grants preliminary approval of this Agreement will be the “Preliminary Approval Date.”

Section 3.02: The Settlement Administrator

The Parties have chosen Phoenix Settlement Administrators to administer this Settlement and to act as the Settlement Administrator, including but not limited to distributing and responding to inquiries about the Notice Packet, determining the validity of exclusions/opt-outs, calculating the Net Settlement Amount and the Individual Settlement Payments, issuing the Individual Settlement Payment checks and distributing them to Participating Class Members, establishing and maintaining the QSF, and issuing the payment to Class Counsel for attorneys’ fees and costs, the Incentive Award check to Named Plaintiff, and the employer payroll taxes to the appropriate taxing authorities. The Settlement Administrator shall expressly agree to all of the terms and conditions of this Agreement.

All costs of administering the Settlement, including but not limited to all costs and fees associated with preparing, issuing and mailing any and all notices to Class Members and/or Participating Class Members, all costs and fees associated with computing, processing, reviewing, and mailing the Individual Settlement Payments, all costs and fees associated with preparing any tax returns and any other filings required by any governmental taxing authority or agency, all costs and fees associated with preparing any other checks, notices, reports, or filings to be prepared in the course of administering disbursements from the Net Settlement Amount, and any other costs and fees incurred and/or charged by the Settlement Administrator in connection with the execution of its duties under this Agreement (“Settlement Administration Costs”), shall be paid to the Settlement Administrator from the Gross Settlement Amount.

Section 3.03: Notice to Class Members

No later than fifteen (15) business days after the Preliminary Approval Date, Defendant will provide the Settlement Administrator with a “Class List” in electronic format based on its business records, identifying the names of the Class Members, their last known home addresses, Social Security

1 numbers or as applicable, other taxpayer identification number, their dates of employment and weeks
2 worked during the Class Period.

3 Within ten (10) business days of receiving a Class List from Defendant, the Settlement
4 Administrator will send Class Members, by first-class mail, at their last known address, the Court
5 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the
6 Settlement Class. The Notice Packet will include a calculation of the Class Member's approximate
7 share of the Net Settlement Amount. Class Members will have sixty (60) days from the date of mailing
8 in which to postmark objections or requests for exclusion. Prior to the initial mailing, the Settlement
9 Administrator will check all Class Member addresses against the National Change of Address database
10 and shall update any addresses before mailing. The Settlement Administrator will skip trace and re-
11 mail all returned, undelivered mail within five (5) days of receiving notice that a Notice Packet was
12 undeliverable. If a Class Member's notice is re-mailed, the Class Member shall have fifteen (15)
13 calendar days from the re-mailing, or sixty (60) calendar days from the date of the initial mailing,
14 whichever is later, in which to postmark objections or requests for exclusion. Class Members shall not
15 be required to submit claim forms in order to receive a proportional share of the Net Settlement
16 Amount.

17 If the Notice Packet is returned with a forwarding address, the Settlement Administrator shall
18 re-mail the Notice Packet to the forwarding address. With respect to those Class Members whose
19 Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement
20 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
21 mass search on LexisNexis or comparable databases based on set criteria and, if another address is
22 identified, shall mail the Notice Packet to the newly identified address. It is the intent of the parties
23 that reasonable means be used to locate Class Members and that the Settlement Administrator be given
24 discretion to take steps in order to facilitate notice of the Settlement and delivery of the Individual
25 Settlement Payments to all Participating Class Members.

26 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records
27 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a weekly
28 status report provided to the Parties.

29 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days
30 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class
31 Member's Individual Settlement Payment. The Settlement Administrator will hold the Class Member's
32 Individual Settlement Payment during the check cashing period on behalf of the Class Member. If at
33 the conclusion of the check cashing period the Class Member's Notice Packet and Individual

1 Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement
2 Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the
3 procedures set forth in Section 3.07(g) below.

4 No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the Settlement
5 Administrator shall provide Defense Counsel and Class Counsel with a declaration attesting to
6 completion of the notice process, including any attempts to obtain valid mailing addresses for and re-
7 sending of any returned Notice Packets, as well as the number of valid requests for exclusion and
8 objections that the Settlement Administrator received.

9 **Section 3.04: Responses to Notice**

10 **a. Class Member Disputes**

11 If any Class Member disagrees with Defendant's records as to his or her Qualifying
12 Workweeks during the Class Period as reflected in the Notice Packet, the Class Member shall set forth
13 in writing the Qualifying Workweeks he/she claims to have worked during the Class Period and submit
14 such writing to the Settlement Administrator by the Response Deadline, along with any supporting
15 documentation. The Notice will also provide a method for the Class Member to challenge the
16 employment data on which his or her Individual Settlement Payment is based. The Settlement
17 Administrator shall contact the Parties regarding the dispute and the Parties will work in good faith to
18 resolve it. If the Parties are unable to resolve the dispute, the Settlement Administrator will be the final
19 arbiter of the Qualifying Workweeks for each Class Member during the Class Period based on the
20 information provided to it.

21 **b. Requests for Exclusion from Class**

22 In order for any Class Member to validly exclude himself or herself from the Class and this
23 Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the Class Member
24 or his or her authorized representative, and must be sent to the Settlement Administrator, postmarked
25 no later than the Response Deadline (or fifteen (15) days after the Settlement Administrator re-mails
26 the Notice to the Class Member, whichever is later). The Notice Packet shall contain instructions on
27 how to validly exclude himself or herself from the Class and this Settlement (*i.e.*, opt out), including
28 the language to be used in a request for exclusion. The date of the initial mailing of the Notice Packet,
and the date the signed request for exclusion was postmarked, shall be conclusively determined
according to the records of the Settlement Administrator. Any Class Member who timely and validly
requests exclusion from the Class and this Settlement will not be entitled to any Individual Settlement
Payment, will not be bound by the terms and conditions of this Agreement, and will not have any right
to object, appeal, or comment thereon.

Any Class Member who fails to timely submit a request for exclusion shall automatically be deemed a Class Member whose rights and claims with respect to the issues raised in the Action are determined by the Court's Final Order Approving Settlement of Class Action, and by the other rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by the Action and/or released in this Agreement will be extinguished.

c. Objections to Settlement

For any Class Member to object to this Agreement, or any term of it, the person making the objection must not submit a request for exclusion (*i.e.*, must not opt out), and should send to the Settlement Administrator, postmarked or faxed no later than the Response Deadline (or fifteen (15) days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later), a written statement of the grounds of objection, signed by the objecting Class Member or his or her attorney, along with all supporting papers. The date of the initial mailing of the Notice Packet, and the date the signed objection was postmarked, shall be conclusively determined according to the records of the Settlement Administrator. The Settlement Administrator shall send any objections it receives to Defense Counsel and Class Counsel within three (3) business days of receipt. Class Members may also appear at the final approval hearing to object. The Court retains final authority with respect to the consideration and admissibility of any Class Member objections.

d. Encouragement of Class Members

The Parties to this Agreement and the counsel representing such Parties shall not, directly or indirectly, through any person, encourage or solicit any Class Member to exclude him or herself from this Settlement (opt out), or to object to it. However, Class Counsel may respond to inquiries from Class Members.

e. Right of Plaintiff to Adjust Gross Settlement Amount

Defendant has estimated the number of Class Members as 74 and the number of workweeks to be 2,960. If the final total number of workweeks in Defendant's payroll records exceeds by more than 10% of 2,960 (74 class members x 40 workweeks), Defendant shall pay pro rata for each additional workweek over 2,960 at the rate of \$25 per additional workweek.

Section 3.05: Final Fairness and Approval Hearing

On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement and determine whether the Court should give it final approval, and (2) consider any objections made and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the Parties

shall ask the Court to grant final approval to this Agreement and shall submit to the Court a Proposed Final Order Approving Settlement of Class Action.

Section 3.06: Settlement Payment Procedures

a. Settlement Amount

In exchange for the Released Claims set forth in this Agreement, Defendant agrees to pay the Gross Settlement Amount in the amount of Two Hundred Thousand Dollars (\$200,000.00), subject to a pro rata increase under the condition set forth in Section 3.04(e), on 60 days after and Order Final Approval is signed. The Gross Settlement Amount includes all Individual Settlement Amounts to Participating Class Members, all administration costs, Class Counsel's attorney's fees and costs, and the Incentive Award.

After receipt of the Court's signed Final Order, Defendant shall transfer the Gross Settlement Amount plus Defendant's share of employer-side payroll taxes, as set forth herein, into a QSF established by the Settlement Administrator either directly or by sending the funds to the Settlement Administer to be deposited and distributed. The timing of payment will be contingent upon receipt of the signed Final Order and shall be on 60 days from the date of the signed Final Order. The Settlement Administrator will use these funds to fund payment of the Individual Settlement Payments to Participating Class Members, Class Counsel's attorneys' fees and costs, the Incentive Award, and the Settlement Administration Costs.

Within ten (10) court days after receiving Defendants' final payment, funding the Gross Settlement Amount in full, the Settlement Administrator will pay the Individual Settlement Payments to Participating Class Members, Class Counsel's attorneys' fees and costs, the Incentive Award, and employer and employee tax withholdings applicable to the Net Settlement Amount allocated to wages. Prior to this distribution, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct for any known or identifiable address changes.

b. Payment of Attorneys' Fees and Costs

Class Counsel shall submit an application for an award of attorneys' fees of up to one-third of the Gross Settlement Amount, which, based on the current Gross Settlement Amount, is Sixty-Six Thousand Six Hundred and Sixty-Six Dollars (\$66,660.00). Class Counsel shall submit an application for an award of costs not to exceed Fifteen Thousand Dollars (\$15,000). Such application for attorneys' fees and costs shall be heard by the Court at the Final Fairness and Approval Hearing. Defendant shall not object to or oppose any such application in these amounts. Class Counsel shall serve Defendant with copies of all documents submitted in support of their application for an award of attorneys' fees and costs.

Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys' fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs, and expenses related to the investigation, prosecution, and settlement of the Action incurred through the Date of Finality. To the extent that the Court approves less than the amount of attorney's fees and/or costs that Class Counsel requests, the difference between the requested and awarded amounts will be reallocated to the Net Settlement Amount.

c. Payment of Settlement Administration Costs

The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and shall not constitute payment to any Participating Class Member(s). The amount shall not exceed Ten Thousand Dollars (\$15,000).

d. Payment of Incentive Award to Named Plaintiff

Subject to Court approval, the Named Plaintiff shall receive an Incentive Award of up to Five Thousand Dollars (\$5,000). the request for which Defendant will not object to or oppose. The Incentive Awards shall be paid out of the Gross Settlement Amount and shall not constitute payment to any Participating Class Member(s) other than Named Plaintiff. To the extent that the Court approves less than the amount of incentive award that Class Counsel request, the difference between the requested and awarded amounts will be reallocated to the Net Settlement Amount.

Because it is the intent of the Parties that the Incentive Award represents payment to Named Plaintiff for her service to the Class Members, and not wages, the Settlement Administrator will not withhold any taxes from the Incentive Award. The Incentive Award will be reported on a Form 1099, which the Settlement Administrator will provide to Named Plaintiff and to the pertinent taxing authorities as required by law.

e. Payment of Individual Settlement Payments to Participating Class Members

The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement Payments. The Parties agree that the Net Settlement Amount shall be divided between all Participating Class Members in proportion to the number of individual Qualifying Workweeks for each Class Member. To calculate the minimum amount each Class Member will receive based on their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the total number of Qualifying Workweeks by all Class Members during the Class Period and then allocated on a pro rata basis. Qualifying Workweeks will be rounded up to the next whole integer. Each Class Member's approximate Individual Settlement Payment amount will be included in his or her Notice Packet. After final approval by the Court, the Net Settlement Amount will be dispersed to Participating Class

Members (those who did not exclude themselves) on a pro rata basis based on the individual Qualifying Workweeks worked during the Class Period by each Participating Class Member.

Each Individual Settlement Payment will represent wages and penalties allocated using the following formula: 20% allocated to wages; 80% allocated to penalties/interest. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. The employer-side taxes will be paid separately from and in addition to the Gross Settlement Amount. The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms.

No later than ten (10) business days after receiving the Gross Settlement Amount from Defendant, the Settlement Administrator shall prepare and mail the checks for the Individual Settlement Payments to Participating Class Members. Individual Settlement Payments paid from the Net Settlement Amount allocated to wages will be reduced by applicable employer and employee tax withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of the Individual Settlement Payments. The Settlement Administrator will issue a Form 1099 to the extent required by law for the interest and penalty portions of the Individual Settlement Payments. Participating Class Members shall have 180 days from the date their Individual Settlement Payment checks are dated to cash their Settlement checks. Any checks that are not cashed upon the expiration of that 180-day time period will be void, and the uncashed funds shall be paid to the State Controller Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

If a check is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or a mass search on LexisNexis or a comparable database based on set criteria and, if another address is identified, the Settlement Administrator shall mail the check to the newly identified address. If the Settlement Administrator is unable to obtain a valid mailing address through this process, the Settlement Administrator will tender the funds from the undeliverable checks to the State Controller Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

f. Default on Payment.

Defendant's failure to fund the Gross Settlement Amount within sixty (60) calendar days after the date that the Court grants final approval of the Settlement shall be considered a default. In the event Defendant fails to timely fund the Gross Settlement Amount, the Settlement Administrator will provide notice to Class Counsel and Defendant's counsel within three (3) business days of the missed payment. Thereafter, Defendant will have seven (7) days to cure the default and tender payment to the Settlement

1 Administrator. In the event Defendant fails to cure the default within the times set forth herein, Named
2 Plaintiff may elect to , file a motion on an ex parte basis, for the balance of the unpaid Gross Settlement
3 Amount to date, and Named Plaintiff will be entitled to recover interest at ten percent (10%) per year
4 from the due date for such payment and reasonable attorneys' fees and costs.

4 **g. No Credit Toward Benefit Plans.**

5 The Individual Settlement Payments made to Participating Class Members under this
6 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to
7 calculate any additional benefits under any benefit plans to which any Class Members may be eligible,
8 including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans,
9 vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
10 intention that this Agreement will not affect any rights, contributions, or amounts to which any Class
11 Members may be entitled under any benefit plans.

11 **ARTICLE IV**

12 **LIMITATIONS ON USE OF THIS SETTLEMENT**

13 **Section 4.01: No Admission**

14 Defendant disputes the allegations in the Action and disputes that, but for this Settlement, a
15 Class should not have been certified in the Action. This Agreement is entered into solely for the
16 purpose of settling highly disputed claims. Nothing in this Agreement is intended nor will be construed
17 as an admission of liability or wrongdoing by Defendant.

17 **Section 4.02: Non-Evidentiary Use**

18 Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor
19 the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or
20 deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties,
21 including but not limited to, evidence of a presumption, concession, indication, or admission by any
22 of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or (b)
23 disclosed, referred to, or offered in evidence against any of the Released Parties in any further
24 proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this
25 Agreement or for Defendant to establish that a Class Member has resolved any of his or her claims
26 released through this Agreement.

26 **Section 4.03: Nullification**

27 The Parties have agreed to the certification of the Class encompassing all claims alleged in the
28 Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason fail

1 to certify this Class for settlement, or (b) the Court should for any reason fail to approve this Settlement,
2 or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order is reversed,
3 or declared or rendered void, or (e) the Court should for any reason fail to dispose of the Action in its
4 entirety, then (i) this Agreement shall be considered null and void; (ii) neither this Agreement nor any
5 of the related negotiations or proceedings shall be of any force or effect; (iii) all Parties to this
6 Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither
7 entered into nor filed with the Court; and (iv) the fact that the Parties were willing to stipulate to class
8 certification of all causes of action pled in the Action as part of the Settlement will have no bearing on,
9 and will not be admissible in connection with, the issue of whether the Class should be certified by the
10 Court in a non-settlement context in this Action or any other action, and in any of those events,
11 Defendant expressly reserves the right to oppose certification of the Class.

12 In the event of a timely appeal from the Final Order, the Final Order shall be stayed, and the
13 Gross Settlement Amount shall not be distributed pending the completion of the appeal.

14 **ARTICLE V**

15 **RELEASES**

16 **Section 5.01: Released Claims by Class Members**

17 Upon the date Defendant transfers the Gross Settlement Amount, Named Plaintiff and
18 Participating Class Members who do not opt out of the Settlement, release the Released Parties from
19 all claims that are alleged, or that could have been alleged, based on the facts alleged in Named
20 Plaintiff's Operative Complaint, during the Class Period, including: (1) failure to pay wages (2) failure
21 to provide meal periods (3) failure to authorize or permit rest periods (4) failure to provide accurate
22 itemized wage statements (5) failure to pay wages upon separation of employment and within the
23 required time and (6) violation of California Business and Professions Code §§17200, *et seq.*
24 ("Released Claims").

25 **Section 5.02: Named Plaintiff's Release of Unknown Claims**

26 Upon the Date of Finality, Named Plaintiff, waives, releases, acquits, and forever discharges
27 the Released Parties from any and all claims, actions, charges, complaints, grievances, and causes of
28 action, of any nature arising from Named Plaintiff's employment with Defendant, whether known or
unknown, which exist or may exist as of the Parties' execution of this Agreement.

Section 1542 of the California Civil Code provides as follows:

1 *“A general release does not extend to claims which the creditor*
2 *does not know or suspect to exist in his or her favor at the time*
3 *of executing the release, which if known by him or her must have*
4 *materially affected his or her settlement with the debtor.”*

5 Plaintiff’s general release provided herein is made with an express waiver and relinquishment
6 of any claim, right, or benefit under California Civil Code § 1542.

7 **ARTICLE VI**
8 **MISCELLANEOUS PROVISIONS**

9 **Section 6.01: Amendments or Modification**

10 The terms and provisions of this Agreement may be amended or modified only by an express
11 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel.

12 **Section 6.02: Assignment**

13 None of the rights, commitments, or obligations recognized under this Agreement may be
14 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written
15 consent of each other Party and their respective counsel. The representations, warranties, covenants,
16 and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement
17 and shall not be construed to confer any right or to avail any remedy to any other person.

18 **Section 6.03: Governing Law**

19 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall
20 be determined, in accordance with the laws of the State of California, without regard to conflicts of
21 laws.

22 **Section 6.04: Entire Agreement**

23 This Agreement, including the Exhibits referred to herein, which form an integral part hereof,
24 contains the entire understanding of the Parties with respect to the subject matter contained herein. In
25 case of any conflict between text contained in Articles I through VI of this Agreement and text
26 contained in the Exhibits to this Agreement, the former (*i.e.*, Articles I through VI) shall be controlling,
27 unless the Exhibits are changed by or in response to a Court order. There are no restrictions, promises,
28 representations, warranties, covenants, or undertakings governing the subject matter of this Agreement
29 other than those expressly set forth or referred to herein. This Agreement supersedes all prior
30 agreements and understandings among the Parties with respect to the settlement of the Action,
31 including correspondence between Class Counsel and Defense Counsel and drafts of prior agreements
32 or proposals.

1 **Section 6.05: Waiver of Compliance**

2 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
3 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived in
4 writing, to the extent permitted under applicable law, by the Party or Parties and their respective
5 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure
6 to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition
shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

7 **Section 6.06: Counterparts and Fax/PDF Signatures**

8 This Agreement, and any amendments hereto, may be executed in any number of counterparts
9 and any Party and/or their respective counsel may execute any such counterpart, each of which when
10 executed and delivered shall be deemed to be an original. All counterparts taken together shall
11 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original
signature.

12 **Section 6.07: Meet and Confer Regarding Disputes**

13 Should any dispute arise among the Parties or their respective counsel regarding the
14 implementation or interpretation of this Agreement, a representative of Class Counsel and a
15 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior to
submitting such disputes to the Court.

16 **Section 6.08: Agreement Binding on Successors**

17 This Agreement will be binding upon, and inure to the benefit of, the successors in interest of
each of the Parties.

18 **Section 6.09: Cooperation in Drafting**

19 The Parties have cooperated in the negotiation and preparation of this Agreement. This
20 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,
21 was the drafter or participated in the drafting of this Agreement.

22 **Section 6.10: Fair and Reasonable Settlement**

23 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of
24 the Action and have arrived at this Agreement through arm's-length negotiation and in the context of
25 adversarial litigation, taking into account all relevant factors, current and potential. The Parties further
26 believe that the Settlement is and is consistent with public policy, and fully complies with applicable
27 law.

Section 6.11: Headings

The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement and shall not be considered in interpreting this Agreement.

Section 6.12: Notice

Except as otherwise expressly provided in the Agreement, all notices, demands, and other communications under this Agreement must be in writing and addressed as follows:

To Named Plaintiff and the Class:

Samy M. Harmoush, Esq.

WORKERS' ADVOCATE LAW GROUP PC

10866 Washington Blvd. #835

Culver City, CA 90232

samy@workersadvocate.law

Telephone: (844) 400-7269

And

To Defendant:

Joanne Leighton

Tracy Lee

ARTIANO & ASSOCIATES, APC

3828 Carson Street, Suite 102

Torrance, CA 90503

Phone: (310) 944-0226

jleighton@artianolaw.com

tlee@artianolaw.com

Kathleen Choe

Ryan Stearns

Michael Ryan

STEARNS & RYAN

21250 Hawthorne Boulevard, Suite 310

Torrance, CA 90503 Tel: (310) 793-9570

Fax: (310) 793-9575

kchoe@sksrllawyers.com

rstearns@sksrllawyers.com

mryan@sksrllawyers.com

Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction

To the extent consistent with class action procedure, this Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court

3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest extent to enforce and effectuate the terms and intent of this Agreement. 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, 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.

Section 6.14: Mutual Full Cooperation

The Parties agree fully to cooperate with each other to accomplish the terms of this Agreement, including but not limited to the execution of such documents, and the taking of such other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties to this Agreement shall use their best efforts, to effectuate and implement this Agreement and its terms. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

Section 6.15: Authorization to Act

Class Counsel warrants and represents that they are authorized by Named Plaintiff, and Defense Counsel warrants that they are authorized by Defendant, to take all appropriate action required to effectuate the terms of this Agreement, except for signing documents, including but not limited to this Agreement, that are required to be signed by the Parties themselves. Defendant represents and warrants that the individual executing this Agreement on its behalf has the full right, power, and authority to enter into this Agreement and to carry out the transactions contemplated herein.

Section 6.16: No Reliance on Representations

The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of entering into and executing this Agreement, or with respect to any other matters. No representations, warranties, or inducements, except as expressly set forth herein, have been made to any party concerning this Agreement.

1
2
EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

3 Dated: 01 / 16 / 2024

JOSE CHAVEZ

4
5 By: Adolfo Chavez Valenzuela

Named Plaintiff

6
7 Dated: 1-3-24

CONEJITO CORP.

8
9 By: [Signature]
10 Signature

11 Jeffery Earl
12 Printed Name

13 Pres. & Co.
14 Title

15
16
17
18
26
27
28 Joint Stipulation of Settlement

Page 30 of 32

1 **APPROVED AS TO FORM ONLY:**

2
3 Dated: January 16, 2024

WORKERS' ADVOCATE LAW GROUP PC

4
5
6 By: 
7 Samy M. Harmoush
8 Attorneys for Plaintiff, Jose Chavez

9
10 Dated: _____

ARTIANO & ASSOCIATES, APC

11 By: _____
12 Joanne Leighton
13 Attorneys for Defendant, Conejito Corp., et al.

14
15 Dated: 1/9/24

STEARNS & RYAN

16 By: 
17 Kathleen Choe
18 Attorneys for Defendant, Conejito Corp., et al.