
EXHIBIT 1

Eric A. Grover (SBN 136080)
egrover@kellergrover.com
Robert W. Spencer (SBN 238491)
rspencer@kellergrover.com
KELLER GROVER LLP
1965 Market Street
San Francisco, California 94103
Telephone: (415) 543-1395
Facsimile: (415) 543-7861

Attorneys for Plaintiff
KAYLYN BUSH

Robert J. Wilger (SBN 168402)
rwilger@littler.com
Benjamin A. Emmert (SBN 212157)
bemmert@littler.com
LITTLER MENDELSON, P.C.
50 West San Fernando Street, 7th Floor
San Jose, California 95113
Telephone: (408) 998-4150
Facsimile: (408) 288-5686

Attorneys for Defendant
DUTCH BROS., LLC

[Additional Counsel on Next Page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MERCED

KAYLYN BUSH and MADELEINE
GUEVARA, on behalf of all aggrieved
employees,

Plaintiffs,

v.

DUTCH BROS., LLC; and DOES 1 through
50, inclusive,

Defendants.

CASE NO.: 22CV-01415

*Assigned for all purposes to the
Hon. Brian McCabe, Dept. 8*

**LABOR CODE PRIVATE ATTORNEYS
GENERAL ACT SETTLEMENT
AGREEMENT**

Complaint Filed: May 19, 2022
Trial Date: TBD

1 Joseph Lavi (SBN 209776)

2 jlavi@lelawfirm.com

3 Vincent C. Granberry (SBN 276483)

4 vgranberry@lelawfirm.com

5 Courtney M. Miller (SBN 327850)

6 cmiller@lelawfirm.com

7 whits@lelawfirm.com

8 **LAVI & EBRAHIMIAN, LLP**

9 8889 W. Olympic Boulevard, Suite 200

10 Beverly Hills, California 90211

11 Telephone: (310) 432-0000

12 Facsimile: (310) 432-0001

13 Attorneys for Plaintiff

14 MADELEINE GUEVARA

1 This Labor Code Private Attorneys General Act (Labor Code §§ 2698, *et seq.*) Settlement
2 Agreement (“Settlement Agreement”) is made by and between KAYLYN BUSH and
3 MADELEINE GUEVARA (“Plaintiffs”), on their own behalf and on behalf of all members of
4 the PAGA Group (as defined below) and the State of California, on the one hand, and DUTCH
5 BROS., LLC (“Defendant”) on the other hand (collectively the “Parties”), in the lawsuit entitled
6 *Bush v. Dutch Bros., LLC*, filed in Merced County Superior Court, Case No. 22CV-01415. This
7 Settlement Agreement resolves all claims under the California Labor Code Private Attorneys
8 General Act of 2004 (“PAGA”), Labor Code §§ 2698, *et seq.*, based on or arising out of alleged
9 violations of the Labor Code, including all claims that could have been alleged based on the
10 factual allegations and identified Labor Code sections in the operative pleading for the Litigation.

11 **I. DEFINITIONS**

12 **A. Administrative Costs.** The term “Administrative Costs” as used herein means
13 all administrative costs of settlement, including cost of notice to the PAGA Group,
14 administration, and any fees and costs incurred or charged by the Settlement Administrator in
15 connection with the execution of its duties under this Settlement Agreement.

16 **B. Agreement or Settlement Agreement.** The terms “Agreement” or “Settlement
17 Agreement” are used synonymously herein to mean this Labor Code Private Attorneys General
18 Act (Labor Code §§ 2698, *et seq.*) Settlement Agreement.

19 **C. Court.** The term “Court” as used herein means the Superior Court of the State
20 of California for the County of Merced.

21 **D. Defendant.** The term “Defendant” as used herein means Dutch Bros., LLC.

22 **E. Defendant’s Counsel.** The term “Defendant’s Counsel” as used herein means
23 Littler Mendelson, P.C.

24 **F. Effective Date.** The term “Effective Date” means the latter of (a) the Court’s
25 approval of the settlement; (b) the time for appeal all appeals relating to objections/challenges to
26 the settlement have expired; or (c) if an appeal, review or writ is sought, the date on which the
27 highest reviewing court renders its decision denying any petition (where the immediately lower
28 court affirmed the final judgment) or affirming the final resolution of any appeal that has been

1 filed. "Final" means that the settlement has been granted.

2 **G. Individual Settlement Payment.** The term "Individual Settlement Payment" as
3 used herein means the payment that each member of the PAGA Group will receive as his or her
4 share of the Net Settlement Amount. The portion of the Net Settlement Amount to be distributed
5 to the PAGA Group shall be divided by the total number of full pay periods, with partial pay
6 periods rounded up to the next whole number, as determined by Defendant's records, for all
7 times during the PAGA Release Period which the PAGA Group worked for Defendant. This
8 amount shall be known as the "Pay Period Value." Each member of the PAGA Group shall be
9 paid an amount equal to the number of individual pay periods he or she worked for Defendant
10 during the PAGA Release Period multiplied by the Pay Period Value. Defendant represents that,
11 based on a reasonable investigation of its records, the total number of full pay periods worked
12 by individuals in the PAGA Group, including Plaintiffs, does not exceed 152,000. In the event
13 that the actual number of pay periods worked by individuals in the PAGA Group during the
14 PAGA Release Period increases by 5% or more than the estimated 152,000, then Defendant shall
15 increase the Settlement Amount on a proportional basis (i.e., if there was a 6% increase in the
16 number of pay periods, Defendant will increase the maximum settlement amount by 6%).

17 **H. Litigation.** The term "Litigation" as used herein means the action entitled *Bush*
18 *v. Dutch Bros., LLC*, filed in Merced County Superior Court, Case No. 22CV-01415.

19 **I. LWDA Payment.** The term "LWDA Payment" as used herein means the
20 seventy-five percent (75%) of the Net Settlement Amount payable to the LWDA.

21 **J. Net Settlement Amount.** The term "Net Settlement Amount" as used herein
22 means the Settlement Amount minus any award of attorneys' fees and litigation costs to
23 Plaintiffs' Counsel, Administrative Costs, and Plaintiffs' enhancement awards. Based on the
24 statutory requirement that seventy-five percent (75%) of PAGA civil penalties be paid to the
25 California Labor and Workforce Development Agency ("LWDA") and twenty-five percent
26 (25%) of PAGA civil penalties be distributed to the aggrieved employees, seventy-five percent
27 (75%) of the Net Settlement Amount will be paid to the LWDA and twenty-five percent (25%)
28 of the Net Settlement Amount will be paid to the PAGA Group based on the distribution formula

1 set forth below.

2 **K. PAGA Group.** The PAGA Group is defined as: All persons within the State of
3 California who are or were employed by Defendant in the State of California as an hourly, non-
4 exempt employee at any time within the PAGA Release Period. Defendant represents that, based
5 on a reasonable investigation of its records, the total number of individuals in the PAGA Group,
6 including Plaintiffs, does not exceed 6,600.

7 **L. PAGA Release Period.** The term "PAGA Release Period" as used herein shall
8 refer to the time period from and including March 14, 2021 through August 7, 2023, inclusive.

9 **M. Plaintiffs.** The term "Plaintiffs" as used herein means Kaylyn Bush and
10 Madeleine Guevara.

11 **N. Plaintiffs' Counsel.** The term "Plaintiffs' Counsel" as used herein means Keller
12 Grover LLP and Lavi & Ebrahimian, LLP.

13 **O. Settlement Administrator.** The term "Settlement Administrator" as used herein
14 means Simpluris, Inc., which will be responsible for the administration of the settlement
15 embodied in this Agreement and all related matters.

16 **P. Settlement Amount.** The term "Settlement Amount" as used herein means a
17 fund in the sum of \$1,950,000.00 which shall be paid by Defendant. The Settlement Amount
18 shall cover, resolve, and fully satisfy the Administrative Costs and any and all amounts owed to
19 Plaintiffs, the PAGA Group, the LWDA, and Plaintiffs' Counsel, including all amounts allocated
20 to attorneys' fees and litigation costs. Except in the event the actual pay periods for the PAGA
21 Release Period exceed the estimated pay periods specified in this Agreement by more than the
22 5% threshold specified in Section II.G., Defendant shall not be required to pay more than the
23 Settlement Amount.

24 **II. BACKGROUND**

25 **A.** On May 19, 2022, Plaintiff Bush filed her Complaint in Merced County Superior
26 court against Defendant for penalties pursuant to Labor Code § 2699(f) for alleged violations
27 and penalties under Labor Code §§ 201, 202, 203, 204, 226, 226.3, 226.7, 512, 1198, and 1199.
28 On May 16, 2023, Plaintiff Guevara filed her Complaint in Stanislaus County Superior Court

(Case No. CV-23-002754) against Defendant for penalties pursuant to Labor Code § 2699(f) for alleged violations and penalties under Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, and 1197. On October 9, 2023, Plaintiff Bush filed the operative First Amended Complaint in Merced County Superior Court, which adds Plaintiff Guevara as a plaintiff and adds claims for penalties pursuant to Labor Code § 2699(f) for alleged violations and penalties under Labor Code §§ 512, 1194, and 1197. On October 11, 2023, Plaintiff Guevara dismissed her Stanislaus County Superior Court action without prejudice.

Following the filing of the *Bush* action, counsel for the Parties met and conferred with respect to the potential settlement of the Litigation. Pursuant to these discussions, the Parties agreed to exchange informal discovery and engage in private mediation. The Parties subsequently exchanged informal discovery, including: timekeeping and payroll records; information and documentation concerning the claims set forth in the Litigation; and information regarding the number of PAGA Group members and the total workweeks and pay periods worked by the PAGA Group during the PAGA Release Period.

B. Plaintiffs, Defendant, and their respective counsel have engaged in good faith, arms-length negotiations. On July 31, 2023, the Parties participated in a mediation with Tripper Ortman, Esq., which resulted in reaching a resolution of this matter. The Parties have now entered into a more detailed, formalized Settlement Agreement for submission to the Court for approval.

C. Plaintiffs' counsel has conducted an investigation of the law and facts relating to the claims asserted in the Litigation and has concluded, taking into account the sharply contested issues involved, the expense and time necessary to pursue the Litigation through trial and any appeals, the risks and costs of further prosecution of the Litigation, the risk of an adverse outcome, the uncertainties of complex litigation, and the substantial benefits to be received by the Plaintiff, the State of California, and the members of the PAGA Group pursuant to this Agreement, and that a settlement with Defendant on the terms and conditions set forth herein is fair, reasonable, adequate, and in the best interests of the State of California and the PAGA Group. Plaintiffs, on their own behalf and as representatives pursuant to PAGA, have agreed to

1 settle the Litigation with Defendant on the terms set forth herein.

2 **D.** Defendant has concluded that, because of the substantial expense of defending
3 against the Litigation, the length of time necessary to resolve the issues presented herein, the
4 inconvenience involved, and the concomitant disruption to its business operations, it is in its best
5 interests to accept the terms of this Agreement. Defendant denies each of the allegations and
6 claims asserted against it in the Litigation. However, Defendant nevertheless desires to settle
7 the Litigation for the purpose of avoiding the burden, expense, and uncertainty of continuing
8 litigation, and for the purpose of putting to rest the controversies engendered by the Litigation.

9 **E.** This Agreement is intended to and does effectuate the full, final, and complete
10 resolution of all allegations and claims under the California Labor Code Private Attorneys
11 General Act of 2004 ("PAGA"), Labor Code §§ 2698, et seq., based on or arising out of alleged
12 violations of the Labor Code including all claims that could have been alleged based on the
13 factual allegations and identified Labor Code sections in the operative pleading for the Litigation.

14 **III. JURISDICTION**

15 The Court has jurisdiction over the Parties and the subject matter of this Litigation. The
16 Litigation includes claims that, while Defendant denies in their entirety, would, if proven,
17 authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted
18 approval of this Agreement, pursuant to California Code of Civil Procedure § 664.6 the Court
19 shall retain jurisdiction of this action solely for the purpose of interpreting, implementing, and
20 enforcing this Agreement consistent with the terms set forth herein, and the Parties and their
21 counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing, and
22 enforcing this Agreement and all orders and judgments entered in connection therewith.

23 **IV. STATEMENT OF NO ADMISSION**

24 **A.** Defendant denies liability to Plaintiffs and to the PAGA Group upon any claim
25 or cause of action. This Agreement does not constitute, and is not intended to constitute, an
26 admission by Defendant as to the merits, validity, or accuracy of any of the allegations or claims
27 made against it in the Litigation.
28

1 **B.** Nothing in this Agreement, nor any action taken in implementation thereof, nor
2 any statements, discussions, or communications, nor any materials prepared, exchanged, issued,
3 or used during the course of the negotiations leading to this Agreement, is intended by the Parties
4 to constitute, nor will any of the foregoing constitute, be introduced, be used, or be admissible
5 in any way in this case or any other judicial, arbitral, administrative, investigative or other forum
6 or proceeding, as evidence of any violation of any federal, state, or local law, statute, ordinance,
7 regulation, rule or executive order, or any obligation or duty at law or in equity. The Parties
8 themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this
9 case or any other judicial, arbitral, administrative, investigative, or other forum or proceeding,
10 as purported evidence of any violation of any federal, state, or local law, statute, ordinance,
11 regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other
12 purpose. Notwithstanding the foregoing, this Agreement may be used in any proceeding before
13 the Court that has as its purpose the interpretation, implementation, or enforcement of this
14 Agreement, or any orders or judgments of the Court entered in connection with the settlement.

15 **C.** None of the documents produced or created by Plaintiffs or their counsel in
16 connection with the approval of this settlement or administration of this settlement constitute,
17 and are not intended to constitute, an admission by Defendant of any violation of any federal,
18 state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or
19 duty at law or in equity.

20 **D.** Nothing in this Agreement will be construed as an admission or
21 acknowledgement of any kind that any group should or would be given collective treatment in
22 the Litigation or in any other action or proceeding. Further, neither this Agreement nor the
23 Court's actions with regard to this Agreement will be admissible in any court or other tribunal
24 regarding the propriety of collective treatment. In the event that this Agreement is not approved
25 by the Court or any appellate court, is terminated, or otherwise fails to be enforceable, Plaintiffs
26 will not be deemed to have waived, limited, or affected in any way any claims, rights, or remedies
27 in the Litigation, and Defendant will not be deemed to have waived, limited, or affected in any
28 way any of their objections or defenses in the Litigation.

1 **V. RELEASE, DISMISSAL, AND CONFIDENTIALITY**

2 **A. Scope of PAGA Release.**

3 Upon approval of this settlement by the Court, Plaintiffs, individually and as
4 representatives acting as a proxy or agent of the LWDA, a State of California Executive Branch
5 Agency, in this Litigation, agree to release Defendant and Defendant's partners, parents,
6 subsidiaries, affiliates, attorneys, and all agents thereof (collectively, the "Released Parties"), of
7 and from any and all claims under the California Labor Code Private Attorneys General Act of
8 2004 ("PAGA"), Labor Code §§ 2698, *et seq.*, that were or could have been alleged based on the
9 factual allegations and identified Labor Code sections in the operative pleading for the Litigation,
10 including, but not limited to, California Labor Code sections §§ 201, 202, 203, 204, 226, 226.3,
11 226.7, 510, 512, 1194, 1197, 1198, and 1199, during the time period from and including March
12 14, 2021 through August 7, 2023 (the "Released Claims"). The Parties further agree to release
13 any and all claims for costs, fees, and interest related to the Released Claims. The Parties further
14 agree that this Agreement and judgment to be entered by the Court following approval of this
15 settlement forever bars Plaintiffs and the LWDA, directly or through any other proxy or agent,
16 from any future prosecution of any of the Released Claims against any of the Released Parties.

17 **B. General Release by Plaintiffs Only.**

18 In addition to the release in Section V.A, in exchange for the consideration set forth in
19 this agreement, Plaintiffs make the additional following general release of all claims, known or
20 unknown: Plaintiffs release Defendant and the Released Parties, from all claims, demands, rights,
21 liabilities, and causes of action of every nature and description whatsoever, known or unknown,
22 asserted or that might have been asserted, whether in tort, contract, or for violation of any state
23 or federal statute, rule, regulation, or ordinance arising out of, relating to, or in connection with
24 each Plaintiffs' respective employment with Defendant through the date of this Agreement as
25 well as any and all acts or omissions by or on the part of Defendant through the date of this
26 Agreement. (The release set forth in this Paragraph shall be referred to hereinafter as the
27 "Plaintiffs' General Release.") With respect to the Plaintiffs' General Release, the Plaintiffs
28 stipulate and agree that, upon the Effective Date, Plaintiffs shall be deemed to have expressly

1 waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits
2 of Section 1542 of the California Civil Code, or any other similar provision under federal or state
3 law, which provides:

4 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
5 **THAT THE CREDITOR OR RELEASING PARTY DOES**
6 **NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
7 **FAVOR AT THE TIME OF EXECUTING THE RELEASE**
8 **AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE**
9 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT**
10 **WITH THE DEBTOR OR RELEASED PARTY.**

11 Cal. Civ. Code § 1542. Accordingly, if the facts relating in any manner to this Settlement are
12 found hereafter to be other than or different from the facts now believed to be true, the release of
13 claims contained in the Plaintiffs' General Release shall be effective as to all unknown claims.

14 However, specifically excluded from this general release of claims by Plaintiffs are any
15 claims for or relating to workers' compensation, unemployment insurance, or any other claims
16 that cannot be waived by law. In addition, the Parties recognize and agree that Plaintiff
17 Guevara's individual release specifically carves out all of her existing non-individual PAGA
18 claims alleged in her demand for arbitration, AAA Case No. 01-23-0001-0387, including
19 violations of Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, and Business
20 and Professions Code Sections 17200, et seq.

21 **VI. SETTLEMENT ADMINISTRATOR**

22 Plaintiffs and Defendant, through their respective counsel, have selected Simpluris, Inc.
23 as the Settlement Administrator to administer the settlement, which includes but is not limited
24 to distributing and responding to inquiries about the Notice of Settlement and calculating all
25 amounts to be paid from the Settlement Amount, including the Individual Settlement Payments.
26 The Administrative Costs are estimated to be no more than \$17,500.00 and will be paid from the
27 Settlement Amount. Any charges and expenses of the Settlement Administrator greater than the
28 allocated \$17,500.00 will come from the Settlement Amount. If the actual Administrative Costs
are less than the Parties' estimation, the difference between the actual and estimated
Administrative Costs will be included in the Net Settlement Amount.

1 **VII. NOTICE**

2 Plaintiffs and Defendant, through their respective attorneys, have jointly prepared a
3 Notice of Settlement (the "Notice"), in the form attached hereto as **Exhibit "A"** which in
4 substance will be provided to the members of the PAGA Group as follows:

5 As soon as practicable following approval of the settlement, but no later than 30 calendar
6 days after the Court's approves the settlement, Defendant will provide to the Settlement
7 Administrator the following information about each PAGA Group member: (1) name; (2) last
8 known home address; (3) number of pay periods as a PAGA Group member during the PAGA
9 Release Period; and (4) social security number (collectively referred to as the "PAGA List").

10 The Settlement Administrator shall run all the addresses provided through the United
11 States Postal Service NCOA database, which provides updated addresses for any individual who
12 has moved in the previous four years who has notified the U.S. Postal Service of a forwarding
13 address, to obtain current address information. Within 30 calendar days after the Settlement
14 Administrator's receipt of the PAGA List, the Settlement Administrator will mail the Notice
15 together with the Individual Settlement Payments to all PAGA Group members by first-class
16 United States mail, postage prepaid, with directions to the Postmaster to forward the Notice and
17 return all undeliverable Notices to the Settlement Administrator. For each Notice and Individual
18 Settlement Payment that is returned as undeliverable, the Settlement Administrator shall
19 promptly attempt to locate the PAGA Group member by performing an additional skip trace
20 search and shall re-mail the Notice and Individual Settlement Payment no later than 10 calendar
21 days following receipt of the undeliverable Notice.

22 **VIII. COMPUTATION AND DISTRIBUTION OF PAYMENTS**

23 **A. Distribution Formula.**

24 The portion of the Net Settlement Amount to be distributed to the PAGA Group shall be
25 divided by the total number of full pay periods, with partial pay periods rounded up to the next
26 whole number, as determined by Defendant's records, for all times during the PAGA Release
27 Period which the PAGA Group worked for Defendant. This amount shall be known as the "Pay
28 Period Value." Each member of the PAGA Group shall be paid an amount equal to the number

1 of individual pay periods he or she worked for Defendant during the PAGA Release Period
2 multiplied by the Pay Period Value.

3 **B. Funding of the Settlement Amount.**

4 The funding of the Settlement Amount by Defendant will be completed at one time with
5 funds provided to and escrowed by the Settlement Administrator. The Settlement Amount shall
6 be deposited with the Settlement Administrator by Defendant within 30 calendar days of the date
7 of the Effective Date.

8 If a PAGA Group member is deceased at the time of distribution, the Settlement
9 Administrator shall distribute the deceased PAGA Group member's Individual Settlement
10 Payment to the deceased PAGA Group member's legal heir(s). In the event of a dispute as to
11 the legal heir(s), the Settlement Administrator shall notify the executor of the deceased PAGA
12 Group member's estate and attempt to place the deceased PAGA Group member's payment in
13 escrow or similar disposition such that any competing heirs may take whatever action they wish
14 to resolve ultimate disposition of such money and the Settlement Administrator and the Parties
15 hereto may disclaim any further interest in or obligation in relation to such money.

16 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
17 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace
18 search and, if another address is identified, shall mail the check to the newly identified address.
19 If the Settlement Administrator is unable to obtain a valid mailing address through this process,
20 after the check void date, the monies represented by the check shall be sent to the LWDA.

21 Settlement checks will specifically indicate that they are void if not negotiated within
22 180 days of their issuance. Any settlement checks that remain uncashed 180 or more calendar
23 days after issuance by the Settlement Administrator shall be voided and the Settlement
24 Administrator will remit the entire amount of each PAGA Group member's uncashed Individual
25 Settlement Payment to the LWDA.

26 **C. Time for Distribution of the Enhancements to Plaintiff, Attorneys' Fees and**
27 **Litigation Costs to Plaintiffs' Counsel, the LWDA Payment and**
28 **Administrative Costs.**

1 The Settlement Administrator shall cause the Court approved enhancements to Plaintiffs,
2 attorneys' fees and litigation costs awarded to Plaintiffs' Counsel, and the LWDA Payment to
3 be paid within 30 days of the funding of the Settlement Amount. The Settlement Administrator
4 may pay itself the Court-approved administrative costs once the Individual Settlement Payments
5 have been mailed out.

6 **IX. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN**

7 The amounts paid under this Agreement do not represent a modification of any
8 previously credited hours of service under any employee benefit plan, policy, or bonus program
9 sponsored by Defendant. Such amounts will not form the basis for additional contributions to,
10 benefits under, or any other monetary entitlement under, benefit plans (self-insured or not)
11 sponsored by Defendant, policies or bonus programs. Any payments made under the terms of
12 this Agreement shall not be applied retroactively, currently, or on a going forward basis as salary,
13 earnings, wages, or any other form of compensation for the purposes of Defendant's benefit plan,
14 policy or bonus program. Defendant retains the right to modify the language of its benefit plans,
15 policies, and bonus programs to effect this intent and to make clear that any amounts paid
16 pursuant to this Agreement are not for "hours worked," "hours paid," "hours of service," or any
17 similar measuring term as defined by applicable plans, policies, and bonus programs for purpose
18 of eligibility, vesting, benefit accrual or any other purpose, and that additional contributions or
19 benefits are not required by this Agreement.

20 **X. PLAINTIFFS' COUNSEL ATTORNEYS' FEES AND LITIGATION COSTS**

21 Defendant shall not oppose an application by Plaintiffs' Counsel for, and Plaintiffs'
22 Counsel shall not seek or receive an amount in excess of \$650,000.00, which represents one-
23 third of the Settlement Amount, for all past and future attorneys' fees necessary to prosecute,
24 settle, and administer the Litigation and this Agreement. Additionally, Defendant shall not
25 oppose an application by Plaintiffs' Counsel for reimbursement of all past and future litigation
26 costs and expenses necessary to prosecute, settle, and administer the Litigation and this
27 Agreement, which Plaintiffs' Counsel estimates will not exceed \$25,000.00. Any attorneys' fees
28 or litigation costs awarded to Plaintiffs' Counsel by the Court shall be deducted from the

1 Settlement Amount for the purpose of determining the Net Settlement Amount. This amount
2 shall include all attorneys' fees, litigation costs, and expenses for which Plaintiffs and Plaintiffs'
3 Counsel could claim in this Litigation under any legal theory whatsoever. Should the Court
4 approve a lesser percentage or amount of fees and/or litigation costs than the amount that
5 Plaintiffs' Counsel ultimately seeks, then the unapproved portion or portions shall revert to the
6 Net Settlement Amount.

7 **XI. ENHANCEMENTS TO PLAINTIFFS**

8 Defendant shall not oppose an application by Plaintiffs to seek or receive an amount not
9 to exceed \$10,000.00 per Plaintiff for their respective participation in and assistance with the
10 Litigation. Any enhancement awarded to Plaintiffs by the Court shall be deducted from the
11 Settlement Amount for the purpose of determining the Net Settlement Amount, and shall be
12 reported on IRS Form 1099-misc. If the Court approves enhancements of less than \$10,000.00
13 per Plaintiff, then the unapproved portion or portions shall revert into the Net Settlement
14 Amount.

15 **XII. TAXATION AND ALLOCATION**

16 For withholding tax characterization purposes and payment of taxes, the Net Settlement
17 Amount shall be deemed and is allocated by the Parties as follows ("Net Settlement Allocation"):
18 100% as penalties.

19 PAGA Group members may receive an IRS Form 1099 for their portion of the settlement,
20 if deemed required by the Settlement Administrator (in compliance with IRS guidelines).

21 **XIII. COURT APPROVAL**

22 This Agreement is contingent upon approval by the Court. Plaintiffs and Defendant agree
23 to take all steps as may be reasonably necessary to secure approval of this Agreement, to the
24 extent not inconsistent with the terms of this Agreement, and will not take any action adverse to
25 each other in obtaining Court approval of this Agreement in all respects.

26 **XIV. APPRISAL AND CERTIFICATION BY THE SETTLEMENT ADMINISTRATOR**

27 The Settlement Administrator shall keep Plaintiffs' Counsel and Defendant's Counsel
28 apprised of all distributions from the Settlement Amount. Upon completion of administration of

1 the Settlement, the Settlement Administrator shall provide written certification of such
2 completion to Plaintiffs' Counsel and Defendant's Counsel. The Settlement Administrator shall
3 also provide a final accounting, including the names of payees and the amounts of the Individual
4 Settlement Payments.

5 **XV. MISCELLANEOUS PROVISIONS**

6 **A. Stay of Litigation.**

7 Plaintiffs and Defendant agree to the stay of all discovery in the Litigation, pending
8 approval of this Agreement by the Court.

9 **B. Interpretation of the Agreement.**

10 This Agreement constitutes the entire agreement between Plaintiffs and Defendant.
11 Except as expressly provided herein, this Agreement has not been executed in reliance upon any
12 other written or oral representations or terms, and no such extrinsic oral or written
13 representations or terms shall modify, vary, or contradict its terms. In entering into this
14 Agreement, the Parties agree that this Agreement is to be construed according to its terms and
15 may not be varied or contradicted by extrinsic evidence. This Agreement will be interpreted and
16 enforced under the laws of the State of California, both in its procedural and substantive aspects,
17 without regard to its conflict of law's provisions. Any claim arising out of or relating to this
18 Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior
19 Court of the State of California for the County of Merced, and Plaintiffs and Defendant hereby
20 consent to the personal jurisdiction of the Court over them solely in connection therewith.
21 Plaintiffs, on their own behalf and on behalf of the PAGA Group and the State of California, and
22 Defendant participated in the negotiation and drafting of this Agreement, and had available to
23 them the advice and assistance of independent counsel. As such, neither Plaintiffs nor Defendant
24 may claim that any ambiguity in this Agreement should be construed against the other.

25 The terms and conditions of this Agreement constitute the exclusive and final
26 understanding and expression of all agreements between Plaintiffs and Defendant with respect
27 to the resolution of the Litigation. This Agreement may be modified only by a writing signed
28 by counsel for all Parties or their successors-in-interest.

1 **C. Further Cooperation.**

2 Plaintiffs and Defendant and their respective attorneys shall proceed diligently to prepare
3 and execute all documents, to seek approval of this Agreement from the Court, and to do all
4 things reasonably necessary or convenient to consummate this Agreement as expeditiously as
5 possible.

6 **D. Counterparts.**

7 This Agreement may be executed in one or more actual or non-original counterparts, all
8 of which will be considered one and the same instrument and all of which will be considered
9 duplicate originals.

10 **F. Authority.**

11 Each individual signing below warrants that he or she has the authority to execute this
12 Agreement on behalf of the party for whom or which that individual signs.

13 **G. No Third-Party Beneficiaries.**

14 Plaintiff, members of the PAGA Group, the State of California, Defendant and Released
15 Parties are direct beneficiaries of this Agreement. The Parties are not aware of any third-party
16 beneficiaries.

17 **H. Deadlines Falling on Weekends or Holidays.**

18 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday,
19 or legal holiday, that deadline shall be continued until the following business day.

20 **J. Severability.**

21 In the event that any one or more of the provisions contained in this Agreement shall for
22 any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
23 unenforceability shall in no way effect any other provision if Defendant's Counsel and Plaintiffs'
24 Counsel, on behalf of the Parties and the PAGA Group, mutually elect in writing to proceed as
25 if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

26 **K. Defendant's Fees and Costs**

27 All of Defendant's own legal fees, costs and expenses incurred in this Litigation shall be
28 borne by Defendant.

1 **APPROVED AS TO CONTENT:**

2 10/22/2023

3 DATED: October __, 2023

DocuSigned by:

Kaylyn Bush

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Kaylyn Bush

5 DATED: October __, 2023

Madeleine Guevara

8 DATED: October __, 2023

DUTCH BROS., LLC

By: _____

12 **APPROVED AS TO FORM:**

13 DATED: October 23, 2023

KELLER GROVER LLP

By: _____



Eric A. Grover

Robert W. Spencer

Attorney for Plaintiff Bush

19 DATED: October __, 2023

LAVI & EBRAHIMIAN, LLP

By: _____

Joseph Lavi

Vincent C. Granberry

Courtney M. Miller

Attorney for Plaintiff Guevara

25 DATE: October __, 2023

LITTLER MENDELSON, P.C.

By: _____

Robert J. Wilger

Benjamin A. Emmert

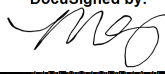
Attorneys for Defendant

APPROVED AS TO CONTENT:

DATED: October __, 2023

Kaylyn Bush

DATED: October ²³ __, 2023

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Madeleine Guevara

DATED: October __, 2023

DUTCH BROS., LLC

By:

APPROVED AS TO FORM:

DATED: October __, 2023

KELLER GROVER LLP

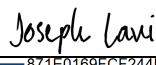
By: _____

Eric A. Grover
Robert W. Spencer
Attorney for Plaintiff Bush

DATED: October ²⁴ __, 2023

LAVI & EBRAHIMIAN, LLP

By: _____

DocuSigned by:


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Joseph Lavi
Vincent C. Granberry
Courtney M. Miller
Attorney for Plaintiff Guevara

DATE: October __, 2023

LITTLER MENDELSON, P.C.

By: _____

Robert J. Wilger
Benjamin A. Emmert
Attorneys for Defendant

1 **APPROVED AS TO CONTENT:**

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3 DATED: October ___, 2023

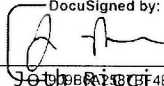
Kaylyn Bush

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5 DATED: October ___, 2023

Madeleine Guevara

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8 DATED: October 23, 2023

DUTCH BROS., LLC

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10 DocuSigned by:
By:  _____
John B. Burt 482
Chief Executive Officer

11
12 **APPROVED AS TO FORM:**

13 DATED: October ___, 2023

KELLER GROVER LLP

14
15 By: _____
Eric A. Grover
Robert W. Spencer
Attorney for Plaintiff Bush

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17
18
19 DATED: October ___, 2023

LAVI & EBRAHIMIAN, LLP

20
21 By: _____
Joseph Lavi
Vincent C. Granberry
Courtney M. Miller
Attorney for Plaintiff Guevara

22
23
24 DATE: October 23, 2023

LITTLER MENDELSON, P.C.

25
26 By:  _____
Robert J. Wilger
Benjamin A. Emmert
Attorneys for Defendant

EXHIBIT A

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MERCED**

KAYLYN BUSH and MADELEINE
GUEVARA, on behalf of all aggrieved
employees,

Plaintiffs,

v.

DUTCH BROS., LLC; and DOES 1
through 50, inclusive,

Defendants.

Case No. 22CV-01415

**NOTICE OF SETTLEMENT OF PRIVATE
ATTORNEYS GENERAL ACT CLAIMS
(CAL. LABOR CODE §§ 2698, *ET SEQ.*)**

You have been identified as an hourly, non-exempt employee who worked for Dutch Bros, LLC ("Dutch Bros." or "Defendant") in California between March 14, 2021 and August 7, 2023, inclusive ("Covered Employee").

On May 19, 2022, a complaint was filed in Merced County Superior Court (the "Court") to recover civil penalties pursuant to the California Labor Code Private Attorneys General Act of 2004, codified at Labor Code §§ 2698, *et seq.* ("PAGA"). A First Amended Complaint was filed on October 9, 2023. The lawsuit alleges that Covered Employees were, among other things, were not provided proper meal periods or rest breaks and worked off-the-clock without compensation.

Dutch Bros. denies all of Plaintiffs' allegations and disputes all of Plaintiffs' claims.

Plaintiffs and Defendant reached a settlement of the claims for PAGA civil penalties alleged in the lawsuit. The Court approved the settlement on _____. By law, 75% of the civil penalties are paid to the State of California's Labor and Workforce Development Agency ("LWDA") for the enforcement of the state's labor laws and 25% are paid to the PAGA Group.

Pursuant to the settlement agreement, the amount to be distributed to the PAGA Group shall be divided by the total number of full pay periods, with partial pay periods rounded up to the next whole number, as determined by Defendant's records, worked by all Covered Employees between March 14, 2021 and August 7, 2023, inclusive. This amount shall be known as the "Pay Period Value." Each Covered Employee shall be paid an amount equal to the number of individual pay periods he or she worked for Defendant between March 14, 2021 and August 7, 2023, inclusive. Your Individual Settlement Payment is provided with this Notice.

The Court-approved settlement contains the following release of claims, which is meant to bar any future litigation by Plaintiffs and the California Labor & Workforce Development Agency (“LWDA”), either directly or through any other proxy or agent:

Upon approval of this settlement by the Court, Plaintiff, individually and as a representative acting as a proxy or agent of the LWDA, a State of California Executive Branch Agency, in this Litigation, agree to release Defendant and Defendant’s partners, parents, subsidiaries, affiliates, attorneys, and all agents thereof (collectively, the “Released Parties”), of and from any and all claims under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2698, *et seq.*, that were or could have been alleged based on the factual allegations and identified Labor Code sections in the operative pleading for the Litigation, including, but not limited to, California Labor Code sections §§ 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 1194, 1197, 1198, and 1199, during the time period from and including March 14, 2021 through August 7, 2023 (the “Released Claims”). The Parties further agree to release any and all claims for costs, fees, and interest related to the Released Claims. The Parties further agree that this Agreement and judgment to be entered by the Court following approval of this settlement forever bars Plaintiff and the LWDA, directly or through any other proxy or agent, from any future prosecution of any of the Released Claims against any of the Released Parties.

This release of claims does not cover any other claims you may have against Defendant.

If you have any questions or would like a copy of the settlement agreement approved by the Court, please contact the Settlement Administrator at _____.