

MATTHEW J. MATERN (SBN 159798)
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Attorneys for Plaintiff NOAH WINN,
individually, and on behalf of all others
similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

NOAH WINN, individually and on behalf of all
others similarly situated,

Plaintiff,

vs.

SOUTHERN GLAZER'S WINE AND
SPIRITS, LLC, a California limited liability
company; and DOES 1 through 50, inclusive,

Defendants.

Case No.: 22STCV38355

[Assigned for all purposes to the
Hon. Lynn M. Hobbs, Dept. 61]

**DECLARATION OF MATTHEW J.
MATERN IN SUPPORT OF PLAINTIFF'S
MOTION FOR APPROVAL OF PAGA
SETTLEMENT**

Date: January 21, 2025
Time: 10:00 a.m.
Dept.: 61

Reservation ID: 632681397534

Action Filed: December 9, 2022
Trial Date: March 11, 2025

1 **Discovery and Investigation**

2 5. On June 13, 2023, Plaintiff served Defendant with written discovery and a notice of
3 deposition of Defendant's person(s) most qualified. Shortly thereafter, the parties agreed to attend
4 mediation and conduct informal discovery in advance of the mediation.

5 6. Prior to mediation, my office obtained a 20% sample of timekeeping and payroll data for
6 approximately 2,205 non-exempt employees for the time period of October 5, 2021 to approximately
7 July 21, 2023, consisting of approximately 113,654 shifts. My office hired a data expert to analyze the
8 time and payroll data, which assisted my office in preparing a model of the potential civil penalties prior
9 to the mediation. In addition, Defendant produced relevant written wage-and-hour policies and
10 procedures. Based on this discovery and investigation, my office was able to act intelligently and
11 effectively in negotiating the Settlement.

12 **Settlement Negotiations**

13 7. On January 30, 2024, the Parties participated in a private mediation with Hon. Angela
14 M. Bradstreet (Ret.). The mediation was successful and the parties accepted a mediator's proposal to
15 resolve the Action, subject to the parties entering into a comprehensive written settlement
16 agreement.

17 8. On February 7, 2024, the Parties fully executed a Memorandum of Understanding,
18 and on May 9, 2024, the Parties fully executed a Joint Stipulation and Settlement Agreement
19 ("Settlement" or "Settlement Agreement"). A true and correct copy of the fully executed Settlement
20 Agreement is attached hereto as **Exhibit C**. On October 2, 2024, the Parties executed an
21 Amendment to the Settlement. A true and correct copy of the executed Amendment to the
22 Settlement is attached hereto as **Exhibit D**. Attached hereto as **Exhibit E** is a true and correct
23 redlined version of the Settlement showing all modifications made to the Court's Model Agreement.

24 **Amount in Controversy and Risks Associated with Proceeding with the Action**

25 9. My office calculated the maximum potential civil penalties against Defendant to be
26 approximately \$76,897,878.10, and believes this amount will be the maximum exposure in an
27 "everything goes right" scenario if the case proceeded to trial. This estimate is based on an analysis
28 of the 20% sample of timekeeping and payroll data provided by Defendant in advance of mediation.

1 Defendant's counsel estimates that there are approximately 2,242 Settlement Members who worked
2 a total of 159,059 PAGA Pay Periods. A detailed explanation of my office's valuation of PAGA
3 penalties is set forth below:

4 **A. Labor Code § 2699(a), civil penalties for violations of Labor Code provisions for which**
5 **a civil penalty is specifically provided**

6 **Labor Code § 210:**

7 \$100 per employee x 159,059 PAGA pay periods x 75.9% violation rate =
8 \$12,072,578.10

9 **Labor Code § 1174.5:**

10 2,205 employees x \$500 per employee = \$1,102,500.00

11 **B. Labor Code § 2699(f), civil penalties for violations of Labor Code provisions for**
12 **which a civil penalty is not specifically provided**

13 Labor Code § 2699(f) provides that for all Labor Code violations for which a civil penalty is
14 not specifically provided, the following civil penalties are established: one hundred dollars (\$100) for
15 each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for
16 each aggrieved employee per pay period for each subsequent violation.

17 **Labor Code §§ 226, 226.7, 510, 2802:**

18 159,059 PAGA pay periods x \$100 per initial PAGA violation x 4 Labor Code
19 Violations = \$63,623,600.00

20 **Labor Code §§ 201, 202, 203:**

21 496 former employees x \$100 x 100% violation rate x 2 Labor Code Violations x 1
22 initial pay period per employee = \$99,200.00

23 **C. Total Penalties:**

24 § 2699(a):	\$13,175,078.10
25 § 2699(f):	\$63,722,800
26 Total potential	
27 liability:	\$76,897,878.10

28 10. In reaching the Settlement, my office looked at various factors, including significant
risks in proceeding with litigation. My office recognizes that proving liability and PAGA penalties
at trial would be an expensive, time-consuming, and extremely uncertain proposition. Moreover,

1 continued litigation would very likely reduce and substantially delay any recovery to the state and
2 the Settlement Members. Even if Plaintiff were to obtain a favorable judgment at trial, Defendant
3 would likely appeal the judgment, which would further delay any recovery. Additionally, this area of
4 the law is constantly evolving, creating uncertainty for employees.

5 11. My office also considered the reality that courts have discretion to substantially
6 reduce any award of civil penalties on the grounds that “to do otherwise would result in an award
7 that is unjust, arbitrary and oppressive, or confiscatory,” pursuant to Labor Code § 2699(e)(2).

8 12. Further, while Plaintiff and MLG remain confident in the merits of the case, a
9 legitimate controversy exists as to each predicate Labor Code claim. For example, Plaintiff contends
10 that, due to Defendant’s practices, Settlement Members did not regularly receive timely,
11 uninterrupted meal and rest periods and were not paid all wages owed. On the other hand, Defendant
12 contends that aggrieved employees received meal and rest periods and were paid for all hours
13 worked. Defendant further contends that they maintained lawful meal and rest break policies. As a
14 result, Defendant contends that, throughout the PAGA Period, it complied with applicable California
15 law.

16 13. In evaluating the claims and the proposed settlement, Plaintiff’s Counsel took these
17 factors into consideration, as well as Defendant’s defenses to the underlying causes of action, the
18 unsettled state of the law, and the risks and costs of continued litigation. The Settlement obviates all
19 of these risks.

20 14. Indeed, because of the proposed Settlement, the State of California and the Settlement
21 Members will receive timely relief and avoid the risk of an unfavorable judgment. The Net
22 Settlement Amount is currently estimated to be approximately \$1,593,242.19, if the Court approves
23 the requested attorneys’ fees, litigation costs, and settlement administration costs. The Settlement
24 provides a substantial benefit to the State of California, with the LWDA receiving approximately
25 \$1,194,931.64, as 75 percent of the Net Settlement Amount to assist with the enforcement of labor
26 laws. The Settlement also provides a substantial benefit to the Settlement Members, who will share
27 approximately \$398,310.55, as 25 percent of the Net Settlement Amount. Based thereon, it is
28 currently estimated that each Settlement Member, on average, will receive an Individual PAGA

1 Payment of approximately \$177.66 as part of the Settlement. Furthermore, the gross PAGA
2 Settlement Amount of \$2,435,000.00 is significant enough to deter Defendant from future
3 violations, creating a disincentive for Defendant to engage in unlawful business practices.

4 15. Considering the risks of continued litigation, the burdens of proof necessary to
5 establish liability, the unsettled state of the law, the possibility that the Court would reduce an award
6 of civil penalties, and the probability of appeal of a favorable judgment, it is clear that the non-
7 reversionary settlement amount of \$2,435,000.00 is fair, adequate, and reasonable in light of
8 PAGA's purpose to remediate present labor law violations, to deter future violations, and to
9 maximize enforcement of the California Labor Code. Plaintiff objectively and knowledgeably
10 balanced the strengths and weaknesses of his claims against the risk of continued litigation and was
11 able to determine a realistic range of settlement recovery for PAGA penalties. Although Plaintiff and
12 my office were prepared to continue to litigate through trial and a possible appeal, we support the
13 proposed Settlement as being in the best interests of the Aggrieved Employees and the State of
14 California. Matern Decl. ¶ Specifically, my office considered several factors in reaching the decision
15 to settle at this point in the litigation, including: (1) the risk in proving liability and PAGA penalties
16 at trial; (2) the prospect that the Court could substantially reduce any award of civil penalties on the
17 grounds that "to do otherwise would result in an award that is unjust, arbitrary and oppressive, or
18 confiscatory" pursuant to Labor Code § 2699(e)(2); (3) the fact that trial would be an expensive,
19 time-consuming and extremely uncertain proposition; (4) the fact that Defendant paid its employees
20 meal period premiums; and (5) the fact that the Court could limit the scope of Plaintiff's claims at
21 trial or limit the type of evidence Plaintiff may present at trial pursuant to *Estrada v. Royalty Carpet*
22 *Mills, Inc.* (2024) 15 Cal.5th 582, 619. Continued litigation could lead to an unfavorable judgment
23 and/or a lengthy and unsuccessful appeal. *Id.* My office estimates a 50% chance of prevailing at
24 trial, reducing the potential civil penalties to approximately \$38,448,939.00. *Id.* My office further
25 considered the likelihood that the Court would substantially reduce any award of civil penalties on
26 the grounds that "to do otherwise would result in an award that is unjust, arbitrary and oppressive, or
27 confiscatory," pursuant to Labor Code section 2699(e)(2). *Id.* For example, during the penalty phase
28 of the trial in *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, the plaintiff requested

1 PAGA penalties in the amount of approximately \$70 million. *Id.* at 528. The trial court instead
2 awarded only \$150,000.00—or 0.21% of the maximum—and stated that this reduction was
3 warranted because imposing the maximum penalty would be “unjust, arbitrary, and oppressive”
4 based on Starbucks’ “good faith attempts” to comply with meal period obligations and because the
5 court found the violations were minimal. *Id.* at 517. The Court of Appeal affirmed the lower court’s
6 reduced award of \$150,000.00 in penalties under PAGA. *Id.* at 529. If a similar reduction to the
7 maximum penalties is applied here, Plaintiff and aggrieved employees would recover, in total, only
8 approximately \$80,742.77 in PAGA penalties.

9 **Attorneys’ Fees**

10 16. The Settlement provides for attorneys’ fees to PAGA Counsel in an amount up to one-
11 third of the gross PAGA Settlement Amount, for a maximum fee award of \$811,666.67.

12 17. Based on my extensive experience in wage and hour class actions and PAGA actions, I
13 am informed and believe that the attorneys’ fees provision in the Settlement Agreement is reasonable.
14 The fee percentage requested is less than that charged by my office for other employment cases and it
15 is in line with the one-third recovery that was recognized as standard for class actions in the *In re*
16 *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545. The efforts of PAGA Counsel have resulted in
17 substantial benefits to the State and Aggrieved Employees in the form of a significant settlement fund
18 established to assist with the enforcement of labor laws and to deter future Labor Code violations. On
19 information and belief, without the efforts of PAGA Counsel, the claims alleged in the Action would
20 likely have gone without penalties being imposed. My office invested significant time and resources in
21 the case over the course of almost two years with payment deferred to the end, and then, of course,
22 contingent on the outcome.

23 18. The efforts expended by my firm in prosecuting the Action to achieve the excellent
24 result on behalf of the State and the Settlement Members include, but are not limited to, the following:
25 interviewing Plaintiff and reviewing documents provided by Plaintiff; drafting a PAGA notice letter
26 on behalf of Plaintiff; drafting the complaint; preparing for and attending court hearings and status
27 conferences; propounding written discovery on behalf of Plaintiff; meeting and conferring with
28 Defendant’s counsel to obtain relevant documents and information; appearing at status conferences;

1 reviewing time and payroll records and other employment records produced by Defendant; retaining a
2 data expert to analyze voluminous time records and corresponding payroll data; performing legal
3 research regarding Plaintiff's claims; drafting a mediation brief and preparing a damages analysis;
4 attending a private mediation session; negotiating, drafting, and revising the Memorandum of
5 Understanding and Settlement Agreement; and drafting the Motion for Approval of PAGA Settlement
6 and accompanying documents.

7 19. MLG is a 25-attorney law firm that is actively and continuously practicing in
8 employment litigation, almost exclusively representing employees in both individual and class actions
9 in both state and federal courts throughout California.

10 20. MLG is qualified to handle this litigation because the firm is experienced in litigating
11 Labor Code violations in individual actions, class actions, and PAGA actions. MLG has handled, and
12 is currently handling, numerous wage and hour class action and PAGA representative action lawsuits.

13 21. I received a B.A. with honors in 1986 from Tulane University. I received my J.D. from
14 Southwestern University School of Law in 1991. I became an active member of the State Bar of
15 California in September 1992 and have been an active member in good standing continuously since
16 then. I have been practicing as a litigation attorney in Los Angeles since 1992 and have been
17 concentrating on employment litigation since approximately 1997.

18 22. In 1992, I founded the general partnership which later became known as Rastegar &
19 Matern, Attorneys at Law, A Professional Corporation. In 2012, I founded the Law Offices of
20 Matthew J. Matern, which changed its name to Matern Law Group in January 2014, and then to
21 Matern Law Group, PC in May 2016. Since 1992, I have been heavily, successfully, and continuously
22 involved in active litigation and trial work, including extensive work in employment litigation and
23 wage and hour class actions.

24 23. Over the course of my career, I have been involved in over 100 class action
25 settlements, with many of them settling in the seven-figure range, including settlements in the
26 amount of \$140 million, \$50 million, \$26 million, \$18 million, \$9.5 million, \$8.5 million, and \$8
27 million. I have represented clients in numerous wage and hour class action lawsuits that settled with
28 per-class-member recoveries in a range similar to the anticipated per-class-member recovery in the

1 instant case. I have also been appointed class counsel in over thirty certified wage and hour class
2 action cases which involved contested certification proceedings.

3 24. I have been counsel in a number of cases which resulted in published appellate
4 victories including two of the leading “me-too” witness cases in California, *Pantoja v. Anton* (2011)
5 198 Cal.App.4th 87 and *Meeks v. AutoZone, Inc.* (2018) 24 Cal.App.5th 855. Recently, we obtained
6 the published reversal of an adverse judgment in a PAGA bench trial, *Zuniga v. Alexandria Care*
7 *Center, LLC* (2021) 67 Cal.App.5th 871. Other published appellate victories include *ABM Industries*
8 *Overtime Cases* (2017) 19 Cal.App.5th 277; *Julian v. Glenair* (2017) 17 Cal.App.5th 853; *Ventura*
9 *v. ABM Industries, Inc.* (2012) 212 Cal.App.4th 258; *Franco v. Arakelian Enterprises, Inc.* (2012)
10 211 Cal.App.4th 314; *Fuentes v. AutoZone, Inc.* (2011) 200 Cal.App.4th 1221; *Gutierrez v.*
11 *California Commerce Club* (2010) 187 Cal.App.4th 969; *Franco v. Athens Disposal Company, Inc.*
12 (2009) 171 Cal.App.4th 1277. Unpublished appellate successes include *Christman v. Apple Am.*
13 *Grp. II, LLC*, No. B271937, 2017 WL 4402124 (Cal. Ct. App. Oct. 4, 2017); *Pauley v. CF Entm’t*,
14 No. 14-55131, 2016 WL 1169425 (9th Cir. Mar. 25, 2016) (two related appeals); *Pauley v. CF*
15 *Entm’t*, No. 17-56057, 2019 WL 2089930 (9th Cir. May 13, 2019) (three related appeals); *Navarro*
16 *v. 4 Earth Farms, Inc.*, No. B28485, 2019 WL 493781 (Cal. Ct. App. Feb. 8, 2019); *Soto v. Superior*
17 *Court of San Bernardino Cty.*, No. E071920, 2019 WL 4254631 (Cal. Ct. App. Sept. 9, 2019) (writ
18 issued), and *Rojas v. Glenair, Inc.*, No. B302402, 2020 WL 4435156, (Cal. Ct. App. Aug. 3, 2020)
19 review den. (Nov. 10, 2020). The California Supreme Court granted our request for depublication of
20 three opinions detrimental to workers: *Cacho v. Eurostar, Inc.*, No. S260295, *Starks v. Vortex*
21 *Industries, Inc.*, No S264854 and *Salazar v. See’s Candy Shops, Inc.*, No. S269268.

22 25. Of the attorneys at MLG, I am the attorney with the most active trial and pretrial
23 calendar. I have personally tried approximately 25 cases, including approximately 20 jury trials. My
24 work has led me to be recognized as a Southern California Super Lawyer every year since 2009.

25 26. Courts have awarded MLG attorneys’ fees in similar cases based upon the common
26 fund method:

27 A. In 2021, in the matter of *Petrelli v. Bakkavor Foods USA, Inc.*, LASC Case No.
28 BC595726, Judge Carolyn B. Kuhl awarded MLG’s attorney fee request of one-third of the Maximum

1 Settlement Amount, finding that it is “reasonable under the common fund method.”

2 B. In 2020, in the matter of *Lenard v. Buy Buy Baby, Inc.*, LASC Case No.
3 BC647134, Judge Maren E. Nelson awarded MLG’s attorney fee request for one-third of the
4 Maximum Settlement Amount, stating that the request “is reasonable under the common fund
5 method.”

6 C. In 2020, in the matter of *Morales v. Berkley Valley Convalescent Hospital, Inc.*,
7 LASC Case No. BC576116, Judge Daniel J. Buckley approved MLG’s one-third fee request, finding
8 that it is “reasonable under the common fund method.”

9 D. In 2020, in the matter of *Gunn v. Shimadzu Precision Instruments, Inc.*, LASC
10 Case No. BC719424, Judge Daniel J. Buckley approved MLG’s fee request for 33.33% of the
11 Settlement Fund, finding that it is reasonable “as a percentage of the common fund.”

12 E. In 2020, in the matter of *Arzmanians v. Wireless Advocates, LLC*, LASC Case
13 No. BC633344, Judge Amy D. Hogue found that MLG’s requested fee “is reasonable under the
14 common fund...method[.]”

15 27. PAGA Counsel also bear the risk of taking whatever actions are necessary if Defendant
16 fail to pay. In two recent cases, my firm spent over 500 hours post-final approval in efforts to collect
17 on behalf of the class.

18 28. My office took this case on a contingent basis and has put a substantial amount of time
19 and effort into litigating the claims, all while receiving no payment. Because of the significant amount
20 of attorney time devoted to this important case on behalf of approximately 2,242 aggrieved employees
21 and the State of California, my office was precluded from working on other employment cases over
22 the course of two years. The risk to my office has been very significant, given that, if the case was
23 unsuccessful, MLG would not have received any compensation for the numerous hours it spent
24 litigating the case and the over \$20,000.00 in expenses. For instance, in a pair of de-published
25 opinions, the Court of Appeal affirmed the trial court’s order denying class certification in an action
26 alleging that the defendant failed to provide its restaurant workers with uninterrupted, 30-minute off-
27 duty meal breaks: *Hernandez v. Chipotle Mexican Grill, Inc.* (2012) 208 Cal.App.4th 1487 and
28 *Hernandez v. Chipotle Mexican Grill* (2010) 189 Cal.App.4th 751. Similarly, in *Gonzalez v. Officemax*

1 *North America* (C.D. Cal. Nov. 5, 2012) Nos. SACV F07-00452 JVS (MLGx) and CV 07-04839 JVS
2 MLGx) 2012 WL 5473764, at *4-5, the court issued an order denying certification of plaintiffs' meal
3 and rest break claims, finding that the reason any particular employee missed any particular break
4 required individualized fact finding. In each of these cases, my firm incurred over \$100,000.00 in costs
5 and expended over 5,000 hours in attorney time, only to have class certification denied. In *Villegas v.*
6 *Six Flags Entertainment Corp.* (Los Angeles Superior Court Case No. BC505344), the trial court
7 denied class certification in a case in which my firm expended over 2,500 hours and incurred costs
8 totaling over \$340,000.00.

9 29. Because most individuals cannot afford to pay for representation in litigation on an
10 hourly basis, Matern Law Group, PC represents virtually all of its employment law clients on a
11 contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless we
12 prevail at trial or successfully settle our clients' cases. Because the firm is taking the risk that we will
13 not be reimbursed for our time unless our client settles or wins his or her case, we cannot afford to
14 represent an individual employee on a contingency basis if, at the end of our representation, all we are
15 to receive is our regular hourly rate for services. It is essential that we recover more than our regular
16 hourly rate when we win if we are to remain in practice so as to be able to continue representing other
17 individuals in civil rights employment disputes.

18 30. The efforts of PAGA Counsel have resulted in substantial benefits to the State of
19 California and Aggrieved Employees in the form of a settlement fund established to penalize
20 Defendant for the alleged violations, to deter future violations, to assist the LWDA with the
21 enforcement of state labor laws, and to compensate Aggrieved Employees for, among other things,
22 noncompliant meal and rest periods and overtime wages. I am informed and believe that, without the
23 efforts of PAGA Counsel, the Labor Code violations alleged in the complaint would have gone
24 without remedy.

25 **PAGA Counsel's Litigation Costs**

26 31. The Settlement provides for reimbursement of PAGA Counsel's litigation costs and
27 expenses not to exceed \$25,000.00. MLG's current litigation costs in the Action total \$20,031.14.
28 MLG expects to incur \$60.00 in future costs for the motion filing fee, for a total of **\$20,091.14** in

costs. All of these costs are reasonable expenses which a fee-paying client would ordinarily have to pay, were necessary to prosecute the Action, and were incurred for the benefit of the State of California and PAGA Members. The following table shows a breakdown of the costs incurred by MLG in this case:

Cost Description	Amount
Court Costs / Filing Fees / Service / Delivery and Postage Fees	\$1,056.99
Court Reporters / Transcripts	\$781.50
Mediation Fees	\$7,350.00
Expert Services	\$10,725.00
Research Services	\$117.65
Total Current MLG Costs:	\$20,031.14
Projected Future Costs (Filing Fee)	\$60.00
Total Current and Projected MLG Costs:	\$20,091.14

32. I am not aware of any conflict of interest between MLG and the Settlement Members.

Settlement Administration Costs

33. The parties have agreed to use ILYM Group, Inc., as the third-party Settlement Administrator. No one at MLG has any financial interest in or otherwise has a relationship with ILYM Group, Inc., which would create a conflict of interest. Given the number of Settlement Members and the scope of the duties to be performed by the Settlement Administrator, I believe that the settlement administration costs, which are estimated not to exceed \$10,000.00, are reasonable. Attached hereto as **Exhibit F** is a true and correct copy of the not to exceed bid provided to my office by ILYM Group, Inc.

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1 **Submission of Proposed Settlement Agreement to LWDA**

2 34. On October 7, 2024, my office submitted a copy of the proposed Settlement, the
3 Motion for Approval of PAGA Settlement, and all supporting papers to the LWDA through its
4 online portal. Attached hereto as **Exhibit G** is a true and correct copy of the October 7, 2024 auto-
5 reply email from the California LWDA DIR PAGA Unit, confirming receipt of our submission of
6 the proposed Settlement Agreement and other documents.

7
8 I declare under penalty of perjury under the laws of the State of California that the foregoing
9 is true and correct. Executed on October 7, 2024 at Venice, California.

10
11 

12 _____
13 MATTHEW J. MATERN

EXHIBIT A



MATERN LAW GROUP, PC

1230 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266
www.maternlawgroup.com
Tel: (310) 531-1900 | Fax: (310) 531-1901

April 7, 2022

Via Online Submission

California Labor & Workforce
Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

**Via Certified U.S. Mail – Return
Receipt Requested**

Southern Glazer's Wine and Spirits, LLC
1301 N. Market Blvd
Sacramento, CA 95834

Re: Notice Pursuant to California Labor Code § 2699.3
Employee: Noah Winn
Employer: Southern Glazer's Wine and Spirits, LLC

To Whom It May Concern:

This office represents Noah Winn ("Mr. Winn"), who was employed by Southern Glazer's Wine and Spirits, LLC ("SGWS") as a Chain Sales Merchandiser from approximately July 26, 2021 to January 5, 2022. Pursuant to the California Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code § 2698, *et seq.*, this letter sets forth the specific provisions of the Labor Code and Industrial Welfare Commission ("IWC") Wage Order No. 7-2001, which Mr. Winn alleges SGWS violated, including the facts and theories to support the alleged violations. Please be advised that this letter constitutes written notice required by Labor Code § 2699.3, subdivisions (a)(1)(A) and (c)(1)(A), and may lead to immediate action against SGWS in a court of law and/or administrative proceedings, as well as the imposition of substantial penalties and other remedies against SGWS. Under separate cover, our office is sending a check in the amount of \$75.00 to the Accounting Unit of the Department of Industrial Relations for the requisite filing fee, pursuant to Labor Code § 2699.3, subdivisions (a)(1)(B) and (c)(1)(B).

This letter also serves as notice of Mr. Winn's demand for preservation and non-spoliation of evidence, requesting that all relevant documents and data be saved and that all electronic files

MATERN LAW GROUP, PC

April 7, 2022

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and hard-copy documents related to Mr. Winn's employment and potential claims be preserved, even without a court order. Spoliation of evidence may result in legal claims for damages and monetary and evidentiary sanctions, including "adverse inference" jury instructions. Furthermore, intentional spoliation of evidence may carry criminal consequences pursuant to California Penal Code § 135.

We are investigating a potential class and representative action on behalf of SGWS's current and former non-exempt employees in the State of California regarding, among other things, the following violations: failure to provide meal and rest periods in violation of Labor Code §§ 226.7 and 512 and Wage Order No. 7-2001, §§ 11-12; failure to pay one additional hour of compensation at the regular rate of compensation for each work day a meal or rest period is not provided in violation of Labor Code § 226.7 and Wage Order No. 7-2001, §§ 11(B) and 12(B); failure to pay minimum wages for all hours worked in violation of Labor Code §§ 1194, 1197 and 1197.1 and Wage Order No. 7-2001, § 4; failure to pay overtime wages in violation of Labor Code §§ 510 and 1194 and Wage Order No. 7-2001, § 3; failure to timely pay all wages earned in violation of Labor Code § 204; willful failure to pay all wages due to discharged and quitting employees in violation of Labor Code §§ 201-203; failure to furnish accurate itemized wage statements to employees in violation of Labor Code § 226; failure to maintain required records pursuant to Labor Code §§ 226, 1174 and 1174.5 and Wage Order No. 7-2001, § 7; and unlawful deductions and withholdings from employees' wages in violation of Labor Code §§ 221, 223 and 224.

The allegations made by Mr. Winn on behalf of himself and all other current and former non-exempt employees of SGWS in the State of California during the four years preceding the date of this notice are based on the following facts and theories: meal periods were less than 30 minutes, late (first meal periods starting after the fifth hour of work and/or second meal periods starting after the tenth hour), not given at all (including second meal periods after 10 hours of work), or interrupted; rest periods were less than 10 minutes, not provided, interrupted, and/or late; employees were not provided one hour of pay for each work day a meal period was not provided; employees were not provided one hour of pay for each work day a rest break was not authorized and permitted; and employees were not paid proper minimum and overtime wages for all hours worked as required by California law.¹ Given the minimum wage, overtime, meal period and rest period violations and SGWS's failure to compensate its employees fully, as set forth above, employees' wage statements were inaccurate and failed to comply with California law. In short, SGWS's unlawful employment practices and policies have deprived its employees of earned wages and other compensation.

¹ "[T]he statement that defendant has not provided its employees with proper rest periods states both the facts and the theory." *Gutierrez v. California Commerce Club, Inc.* (2010) 187 Cal.App.4th 969, 979 n.5.

April 7, 2022

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Failure to Provide Meal Periods

Pursuant to Labor Code §§ 226.7 and 512 and Wage Order No. 7-2001, § 11, an employer is required to provide meal periods to its employees. An employer must provide a meal period to any employee who works a shift of more than five hours and a second meal period to any employee who works a shift of more than 10 hours. Furthermore, an employer must pay one extra hour of compensation for each work day a meal period is not provided.

If an employee is not relieved of all duty during a meal period, the meal period shall be considered an “on duty” meal period and counted as time worked. A paid “on duty” meal period is permitted only when (1) the nature of the work prevents an employee from being relieved of all duty and (2) the parties have agreed in writing to on duty meal periods.

Mr. Winn and other aggrieved employees are non-exempt employees and are entitled to the protections of California Labor Code §§ 226.7 and 512 and Wage Order No. 7-2001, § 11. SGWS failed to provide its employees timely and uninterrupted 30-minute meal breaks. Mr. Winn’s and other aggrieved employees’ meal periods were short (less than 30 minutes), late (first meal periods after the fifth hour of work and second meal periods after the tenth hour), interrupted and/or missed.

SGWS consistently failed to provide Mr. Winn and other aggrieved employees meal periods because Mr. Winn and other aggrieved employees were instructed and incentivized to perform work during meal periods. Mr. Winn and other aggrieved employees also were frequently interrupted during their meal periods and forced to take their meal periods late.

SGWS further violated Labor Code § 226.7 and Wage Order No. 7-2001 by failing to compensate Mr. Winn and other aggrieved employees who were not provided with meal periods in accordance with California law one additional hour of pay at each employee’s regular rate of compensation for each work day a meal period was not provided.

Failure to Authorize and Permit Rest Periods

Pursuant to Labor Code § 226.7 and Wage Order No. 7-2001, § 12, an employer is required to provide rest periods to its employees. An employer must provide a 10-minute rest period for every 4 hours worked or major fraction thereof which insofar as practicable shall be in the middle of each work period. Furthermore, an employer must pay one extra hour of compensation for each work day a rest period is not authorized and permitted.

Mr. Winn and other aggrieved employees were and are non-exempt employees and are entitled to the protections of Labor Code § 226.7 and Wage Order No. 7-2001. SGWS failed to authorize and permit its employees to take required rest periods. SGWS maintained a policy or practice of not authorizing and permitting Mr. Winn and other aggrieved employees to take one 10-minute rest break for shifts 3.5-6.0 hours, a second rest break for shifts greater than 6 hours and less than or equal to 10 hours, and a third rest break for shifts in excess of 10 hours. SGWS

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consistently failed to authorize and permit Mr. Winn and other aggrieved employees to take rest breaks.

Mr. Winn and other aggrieved employees were never informed by SGWS that they were entitled to rest breaks during their shifts. In addition, Mr. Winn and other aggrieved employees were given too much work to perform to be able to take 10-minute rest breaks and had their rest breaks interrupted by work calls.

SGWS further violated Labor Code § 226.7 and Wage Order No. 7-2001, § 12 by failing to pay Mr. Winn and other aggrieved employees one additional hour of pay at each employee's regular rate of compensation for each work day a rest period was not authorized and permitted.

Failure to Pay Minimum Wages

Pursuant to Labor Code §§ 1194 and 1197 and Wage Order No. 7-2001, § 4, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

Mr. Winn and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 1194 and 1197 and Wage Order No. 7-2001, § 4. SGWS failed to pay Mr. Winn and other aggrieved employees minimum wages for all hours worked by, among other things: requiring, suffering or permitting Mr. Winn and other aggrieved employees to work through their meal breaks without compensation; illegally and inaccurately recording time worked by Mr. Winn and other aggrieved employees; and other methods to be discovered.

SGWS's conduct violates Labor Code §§ 1194 and 1197 and Wage Order No. 7-2001, § 4.

Failure to Pay Overtime Wages

Pursuant to California Labor Code §§ 510 and 1194 and Wage Order No. 7-2001, § 3, an employer must compensate its employees for all overtime, which is calculated at one and one-half times the regular rate of pay for hours worked in excess of eight hours per day and/or 40 hours per week, and for the first eight hours on the seventh consecutive work day, with double time for all hours worked in excess of eight hours on the seventh day of any workweek, or after 12 hours in any work day.

Mr. Winn and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 510 and 1194 and Wage Order No. 7-2001. SGWS failed to compensate Mr. Winn and other aggrieved employees for all overtime hours worked as required under the foregoing provisions of the Labor Code and IWC Wage Order by, among other things: failing to pay overtime at one and one-half times or double the regular rate of pay as provided by Labor Code §§ 510 and 1194 and Wage Order No. 7-2001, § 3; failing to properly calculate the regular rate of pay, by failing to incorporate bonus and incentive payments;

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requiring, suffering or permitting Mr. Winn and other aggrieved employees work through meal periods without compensation; illegally and inaccurately recording time worked by Mr. Winn and other aggrieved employees; and other methods to be discovered.

In violation of California law, SGWS has refused to perform its obligations to compensate Mr. Winn and other aggrieved employees for all wages earned and all hours worked. SGWS's conduct violates Labor Code §§ 510 and 1194 and Wage Order No. 7-2001, § 3.

Failure to Timely Pay All Wages Earned

Pursuant to Labor Code § 204, an employer must pay its employees at least twice a month for all wages earned during the preceding pay period. Labor Code § 204 provides that labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. An employer using an alternate payday schedule must pay wages within seven calendar days of the end of the payroll period in which the wages were earned.

SGWS failed to pay Mr. Winn and other aggrieved employees on their regularly scheduled payday for all work performed during the preceding pay period. For example, SGWS required Mr. Winn and other aggrieved employees to work through required meal breaks without compensation. Additionally, SGWS failed to pay Mr. Winn and other aggrieved employees premium wages owed for each work day a meal period was not provided and each work day a rest period was not authorized and permitted.

SGWS also failed to pay Mr. Winn and other aggrieved employees for the overtime wages they earned in violation of Labor Code § 204. Labor Code § 204 requires an employer to pay overtime wages no later than the payday for the next regular payroll period following the payroll period in which the overtime wages were earned. SGWS knew it was required to pay overtime wages, yet on many occasions failed to pay Mr. Winn and other aggrieved employees proper overtime wages on any payday.

Failure to Pay All Wages Due Upon Separation

Pursuant to Labor Code §§ 201, 202 and 203, an employer is required to pay all earned and unpaid wages to an employee upon separation. Labor Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately. Pursuant to Labor Code § 202, an employer is required to pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Labor Code § 203 provides that if an employer willfully fails to pay, in accordance with Labor Code §§ 201 and

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202, any wages of an employee who is discharged or who quits, the employer is liable for waiting time penalties in the form of continued compensation to the employee at the same rate for up to 30 days.

SGWS failed to pay accrued wages and other compensation to Mr. Winn and other aggrieved employees in accordance with Labor Code §§ 201 and 202. Because SGWS required Mr. Winn and other aggrieved employees to work through required meal breaks without compensation and failed to pay Mr. Winn and other aggrieved employees the premium wages for all meal periods which were not provided and all rest periods which were not authorized or permitted, SGWS failed and continues to fail to pay the full earned and unpaid wages due to Mr. Winn and other aggrieved employees upon separation. In addition, SGWS failed and continues to fail to pay the full earned and unpaid wages due to Mr. Winn and other aggrieved employees upon separation, because it failed to pay Mr. Winn and other aggrieved employees minimum wages for off-the-clock work and proper overtime wages.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226 requires every employer to furnish each of its employees an accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

SGWS failed to timely provide Mr. Winn and other aggrieved employees accurate itemized wage statements in writing showing each employee's gross wages earned, total hours worked, all deductions made, net wages earned, the name and address of the legal entity or entities employing Mr. Winn and other aggrieved employees, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226 and Wage Order No. 7-2001, § 7.

SGWS failed to provide its employees lawful meal and rest breaks; nevertheless, SGWS failed to include in the wage statements the extra hour of compensation owed for each work day a meal break was not provided and each work day a rest break was not authorized and permitted. SGWS also did not properly calculate Mr. Winn's and other aggrieved employees' regular rate of pay. As a result, Mr. Winn's and other aggrieved employees' wage statements did not include all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

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Failure to Maintain Required Records

SGWS failed to maintain records as required under Labor Code §§ 226 and 1174 and Wage Order No. 7-2001, § 7, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements.

SGWS failed to provide its employees lawful meal and rest breaks; nevertheless, SGWS failed to include in the wage statements the extra hour of compensation owed for each work day a meal break was not provided and each work day a rest break was not authorized and permitted. In addition, Mr. Winn and other aggrieved employees performed work during meal breaks and were compensated for such time. As a result, SGWS failed to maintain accurate records of the total daily hours worked by each employee, meals periods, and when each employees began and ended each work period. Employees' wage statements also were inaccurate. In addition, SGWS did not properly calculate Mr. Winn's and other aggrieved employees' regular rate of pay.

Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties

Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer. SGWS failed to indemnify Mr. Winn and other aggrieved employees for all business expenses and/or losses incurred in direct consequence of the discharge of their duties while working under the direction of SGWS, including but not limited to expenses for cell phones, mileage, and other employment-related expenses, in violation of Labor Code § 2802.

This notice is hereby given to SGWS and any and all related and/or alter ego companies, corporations, partnerships, and/or business entities, as well as against any and all officers, owners, directors, managers, managing agents, or entities who are or may be liable under California law for any of the violations alleged herein as to any locations or employees who worked at any time in the State of California.

This notice is made on behalf of all persons who are, were, or will be non-exempt employees of SGWS, or any related or alter-ego company, corporation, partnership, and/or business entity at any time on or after a date four years prior to the date of this letter in the State of California.

This notice shall be construed as extending without limitation to any past, present, future, or continuing violation of the Labor Code, the applicable IWC Wage Order, or any applicable regulation which might be discovered as a result of a reasonable and diligent investigation made pursuant to this notice.

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This notice shall further represent Mr. Winn's reasonable attempt to settle his dispute with SGWS prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to apprise SGWS of Mr. Winn's aforementioned grievances and the proposed remedies as detailed below, while affording SGWS reasonable opportunity to meet Mr. Winn's demands.

Demand is hereby made that SGWS shall agree, in writing received at this office no later than 30 calendar days from the postmark date of this notice, as follows:

1. SGWS shall pay Mr. Winn and all other similarly-situated persons employed by SGWS at any time during the past 48 months back pay and compensation for the above-referenced violations.

2. SGWS shall comply with all California labor laws and ensure that its non-exempt employees are provided lawful meal and rest breaks and paid minimum and overtime wages for all hours worked.

3. SGWS shall conduct a survey or interview all current and former non-exempt employees in California during the past 48 months to obtain information from them regarding the number of meal breaks which were not provided, the number of rest breaks which were not authorized and permitted, and the number of employees who were required to pay for cell phones, mileage, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.

4. SGWS shall pay each employee one hour of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code § 226.7. SGWS also shall pay each employee one hour of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code § 226.7.

5. SGWS shall reimburse those employees who were required to pay for any business expenses incurred for SGWS's benefit, including but not limited to costs of cell phones and mileage.

6. SGWS shall pay accrued interest to all employees at the rate of 10% per annum for said unpaid wages.

7. SGWS shall pay waiting time penalties, equal to 30 days of pay, to each former employee who was not paid all wages due as described herein.

8. SGWS shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code § 2698, *et seq.*, including but not limited to penalties under Labor Code §§ 210, 225.5, 226.3, 558, 1174.5, 1197.1, 1199 and 2699 and Wage Order No. 7-2001, § 20.

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If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please notify this office of that decision by certified mail addressed to Matern Law Group, PC, 1230 Rosecrans Avenue, Suite 200, Manhattan Beach, California 90266. Additionally, please advise us if the Agency or SGWS requires additional information regarding Mr. Winn's complaints.

Thank you for your prompt attention to this matter.

Very truly yours,

MATERN LAW GROUP, PC

A handwritten signature in blue ink, appearing to read 'K. Sabourian', with a long horizontal flourish extending to the right.

Kayvon Sabourian



1230 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266



7021 0950 0001 6774 6085

Southern Glazer's Wine and Spirits, LLC
1301 N. Market Blvd
Sacramento, CA 95834

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

\$ 7.73

Total

\$ 7.73

Sent

Signature

City

State

Zip

Southern Glazer's Wine and Spirits, LLC
1301 N. Market Blvd
Sacramento, CA 95834

PS

Instructions

7021 0950 0001 6774 6085

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Southern Glazer's Wine and Spirits, LLC
1301 N. Market Blvd
Sacramento, CA 95834



9590 9402 6106 0209 7367 10

2. Article Number (Transfer from service label)

7021 0950 0001 6774 6085

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature		☐ Agent
X		☐ Addressee
B. Received by (Printed Name)	C. Date of Delivery	
D. Is delivery address different from item 1? ☐ Yes ☐ No If YES, enter delivery address below:		

3. Service Type

☐ Adult Signature	☐ Priority Mail Express®
☐ Adult Signature Restricted Delivery	☐ Registered Mail™
☒ Certified Mail®	☐ Registered Mail Restricted Delivery
☐ Certified Mail Restricted Delivery	☒ Return Receipt for Merchandise
☐ Collect on Delivery	☐ Signature Confirmation™
☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery
☐ Red Mail	
☐ Red Mail Restricted Delivery	

Domestic Return Receipt

EXHIBIT B

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Theresa Traber

MATERN LAW GROUP, PC

MATTHEW J. MATERN (SBN 159798)

LAUNA ADOLPH (SBN 227743)

KAYVON SABOURIAN (SBN 310863)

1230 Rosecrans Avenue, Suite 200

Manhattan Beach, CA 90266

Tel: (310) 531-1900

Facsimile: (310) 531-1901

Attorneys for Plaintiff Noah Winn,
individually and on behalf of all others
similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

Noah Winn, individually and on behalf of
himself and all others similarly situated,

Plaintiff,

vs.

Southern Glazer's Wine and Spirits, LLC, a
California limited liability company; and DOES
1 through 50, inclusive,

Defendants

CASE NO.: **22STCV38355**

**COMPLAINT FOR VIOLATION OF
THE CALIFORNIA LABOR CODE
PRIVATE ATTORNEYS GENERAL
ACT OF 2004**

[California Labor Code § 2698, *et seq.*]

DEMAND FOR JURY TRIAL

1 Plaintiff Noah Winn (“PLAINTIFF”), individually, demanding a jury trial, on behalf of
2 herself and other persons similarly situated, hereby alleges as follows:

3 **INTRODUCTION**

4 1. PLAINTIFF brings this action on behalf of himself and all other aggrieved
5 employees of Defendant SOUTHERN GLAZER’S WINE AND SPIRITS, LLC, a California
6 limited liability company, and DOES 1 through 50, inclusive, (collectively, “DEFENDANTS”) to
7 recover penalties arising from unpaid wages earned and due, including but not limited to unpaid
8 and illegally calculated overtime and minimum wage compensation, illegal meal and rest period
9 policies, failure to pay all wages due to discharged or quitting employees, failure to maintain
10 required records, failure to provide accurate itemized wage statements, failure to timely pay
11 wages during employment, failure to indemnify employees for necessary expenditures and/or
12 losses incurred in discharging their duties.

13 **JURISDICTION AND VENUE**

14 2. The Superior Court of the State of California has jurisdiction in this matter because
15 PLAINTIFF is a citizen and resident of the State of California and DEFENDANTS are citizens
16 and residents of, and/or regularly conduct business in, California. Further, no federal question is
17 at issue because the claims are based solely on California law.

18 3. Venue is proper in this judicial district and the County of Los Angeles, California
19 because aggrieved employees performed work for DEFENDANTS in the County of Los Angeles
20 and many of DEFENDANTS’ unlawful actions and omissions, as set forth herein, occurred in the
21 County of Los Angeles.

22 **PARTIES**

23 4. PLAINTIFF is a resident of the State of California. At times material to this
24 complaint, PLAINTIFF was employed by DEFENDANTS in the State of California as a non-
25 exempt employee.

26 5. PLAINTIFF is informed and believes, and thereon alleges, that Defendant
27 SOUTHERN GLAZER’S WINE AND SPIRITS, LLC is, and at all times relevant hereto was, a
28 limited liability company organized and existing under the laws of the State of California.

1 PLAINTIFF is further informed and believes, and thereon alleges, that Defendant SOUTHERN
2 GLAZER'S WINE AND SPIRITS, LLC is authorized to conduct business in the State of
3 California, and does conduct business in the State of California.

4 6. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
5 PLAINTIFF at this time, and PLAINTIFF therefore sues such DOE defendants under fictitious
6 names. PLAINTIFF is informed and believes, and thereon alleges, that each defendant
7 designated as a DOE is in some manner highly responsible for the occurrences alleged herein, and
8 that PLAINTIFF and other aggrieved employees' injuries and damages, as alleged herein, were
9 proximately caused by the conduct of such DOE defendants. PLAINTIFF will seek leave of the
10 court to amend this complaint to allege the true names and capacities of such DOE defendants
11 when ascertained.

12 7. At all relevant times herein, DEFENDANTS were the joint employers of
13 PLAINTIFF and other aggrieved employees. PLAINTIFF is informed and believes, and thereon
14 alleges, that at all times material to this complaint DEFENDANTS were the alter egos, divisions,
15 affiliates, integrated enterprises, joint employers, subsidiaries, parents, principals, related entities,
16 co-conspirators, authorized agents, partners, joint venturers, and/or guarantors, actual or
17 ostensible, of each other. Each defendant was completely dominated by his, her, or its co-
18 defendant, and each was the alter ego of the other.

19 8. At all relevant times herein, PLAINTIFF and other aggrieved employees were
20 employed by DEFENDANTS under employment agreements that were partly written, partly oral,
21 and partly implied. In perpetrating the acts and omissions alleged herein, DEFENDANTS, and
22 each of them, acted pursuant to, and in furtherance of, their policies and practices of not paying
23 PLAINTIFF and other aggrieved employees all wages earned and due, through methods and
24 schemes which include, but are not limited to, failing to pay overtime premiums; failing to pay
25 minimum wages, failing to provide rest and meal periods; failing to pay meal and rest period
26 premium payments, failing to properly maintain records; failing to provide accurate itemized
27 statements for each pay period; failing to timely pay wages during employment; failing to
28 properly compensate PLAINTIFF and other aggrieved employees for necessary expenditures; and

1 requiring, permitting or suffering the employees to work off the clock, in violation of the
2 California Labor Code (“Labor Code”) and the applicable Industrial Welfare Commission
3 (“IWC”) Wage Order.

4 9. PLAINTIFF is informed and believes, and thereon alleges, that each and every one
5 of the acts and omissions alleged herein were performed by, and/or attributable to, all
6 DEFENDANTS, each acting as agents and/or employees, and/or under the direction and control
7 of, each of the other DEFENDANTS, and that said acts and failures to act were within the course
8 and scope of said agency, employment and/or direction and control.

9 10. Pursuant to California Labor Code § 558.1, DEFENDANTS and any person acting
10 on behalf of any of the DEFENDANTS, are liable for violating, or causing to violate, any
11 provision regulating minimum wages or hours and days of work in any order of the Industrial
12 Welfare Commission, or Labor Code §§ 203, 226, 226.7, 1193.6, 1194, or 2802.

13 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

14 11. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”),
15 Labor Code §§ 2698-2699.5, PLAINTIFF brings this action on behalf of himself and all current
16 and former non-exempt aggrieved employees of DEFENDANTS in the State of California.

17 12. Pursuant to Labor Code § 2699.3, PLAINTIFF gave written notice by online filing
18 on April 7, 2022 to the California Labor and Workforce Development Agency (“LWDA”) and by
19 certified mail to DEFENDANTS of the specific provisions of the Labor Code and IWC Wage
20 Orders alleged to have been violated, including the facts and theories to support the alleged
21 violations. Within sixty (60) calendar days of the April 7, 2022 postmark date of PLAINTIFF’s
22 notice letter, the LWDA did not provide notice to PLAINTIFF that it intends to investigate the
23 alleged violations. Pursuant to California Labor Code § 2699.3(d), the sixty-five (65) day notice
24 period set forth in California Labor Code § 2699.3(a) is not counted as part of the time limited for
25 the commencement of this civil action. Therefore, PLAINTIFF has complied with all of the
26 requirements set forth in California Labor Code § 2699.3 to commence a representative action
27 under PAGA.

28 ///

1 **FACTUAL ALLEGATIONS**

2 **Failure to Provide Required Meal Periods**

3 **[Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 7-2001, § 11]**

4 13. At times relevant herein, as part of DEFENDANTS' illegal policies and practices
5 to deprive their current and former non-exempt employees all wages earned and due,
6 DEFENDANTS required, suffered or permitted PLAINTIFF and other aggrieved employees to
7 take less than the 30-minute meal period, or to work through them, and have failed to otherwise
8 provide the required meal periods to PLAINTIFF and other aggrieved employees pursuant to
9 Labor Code §§ 226.7 and 512 and IWC Order No. 7-2001, § 11.

10 14. DEFENDANTS further violated Labor Code §§ 226.7 and 512 and IWC Wage
11 Order No. 7-2001, § 11 by failing to compensate PLAINTIFF and other aggrieved employees
12 who were not provided with a meal period, in accordance with the applicable IWC Wage Order,
13 one additional hour of compensation at each employee's regular rate of pay for each workday that
14 a meal period was not provided.

15 **Failure to Provide Required Rest Periods**

16 **[Cal. Labor Code §§ 226.7; IWC Wage Order No. 7-2001, § 12]**

17 15. At all times relevant herein, as part of DEFENDANTS' illegal policies and
18 practices to deprive their current and former non-exempt employees all wages earned and due,
19 DEFENDANTS failed to provide rest periods to PLAINTIFF and other aggrieved employees as
20 required under Labor Code § 226.7, and IWC Wage Order No. 7-2001, § 12.

21 16. DEFENDANTS further violated Labor Code § 226.7 and IWC Wage Order No. 7-
22 2001, § 12 by failing to pay PLAINTIFF and other aggrieved employees who were not provided
23 with a rest period, in accordance with the applicable IWC Wage Order, one additional hour of
24 compensation at each employee's regular rate of pay for each workday that a rest period was not
25 provided.

26 **Failure to Pay Overtime Wages**

27 **[Cal. Labor Code §§ 510, 1194, 1198; IWC Wage Order No. 7-2001, § 3]**

28 17. Pursuant to Labor Code §§ 510 and 1194 and IWC Wage Order No. 7-2001, § 3,

1 DEFENDANTS are required to compensate PLAINTIFF and other aggrieved employees for all
2 overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all hours
3 worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first
4 eight (8) hours on the seventh consecutive workday, with double time for all hours worked in
5 excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours
6 on the seventh consecutive day of work in any workweek.

7 18. PLAINTIFF and other aggrieved employees are current and former non-exempt
8 employees of DEFENDANTS entitled to the protections of Labor Code §§ 510 and 1194 and
9 IWC Wage Order No. 7-2001. At times relevant herein, DEFENDANTS failed to compensate
10 PLAINTIFF and other aggrieved employees for all overtime hours worked as required under the
11 foregoing provisions of the Labor Code and IWC Wage Order by, among other things: failing to
12 pay overtime at one and one-half (1 ½) or double the regular rate of pay as provided by Labor
13 Code §§ 510, 1194, and IWC Wage Order No. 1-2001, § 3; requiring, suffering or permitting
14 PLAINTIFF and other aggrieved employees to work off the clock; requiring, permitting or
15 suffering PLAINTIFF and other aggrieved employees to work through meal breaks; illegally and
16 inaccurately recording time in which PLAINTIFF and other aggrieved employees worked; failing
17 to properly maintain PLAINTIFF's and other aggrieved employees' records; failing to provide
18 accurate itemized wage statements to PLAINTIFF for each pay period; and other methods to be
19 discovered.

20 19. DEFENDANTS have knowingly and willfully refused to perform their obligations
21 to compensate PLAINTIFF and other aggrieved employees for all wages earned and all hours
22 worked in violation of Labor Code §§ 510, 1194 and 1198 and IWC Wage Order No. 7-2001, § 3.

23 **Failure to Pay Minimum Wages**

24 **[Cal Labor Code §§ 1194, 1197; IWC Wage Order No. 7-2001, § 4]**

25 20. Pursuant to California Labor Code §§ 1194 and 1197 and IWC Wage Order No. 7-
26 2001, § 4, payment to an employee of less than the applicable minimum wage for all hours
27 worked in a payroll period is unlawful.

28 21. At times relevant herein, and in violation of California Labor Code §§ 1194 and

1 1197 and IWC Wage Order No. 7-2001, § 4, DEFENDANTS failed to pay PLAINTIFF and other
2 aggrieved employees the applicable minimum wages for all hours worked in a payroll period by,
3 among other things: requiring, suffering or permitting PLAINTIFF and other aggrieved
4 employees to work off the clock; requiring, suffering or permitting PLAINTIFF and other
5 aggrieved employees to work through meal breaks; illegally and inaccurately recording time in
6 which PLAINTIFF and other aggrieved employees worked; failing to properly maintain
7 PLAINTIFF's and other aggrieved employees' records; failing to provide accurate itemized wage
8 statements to PLAINTIFF and other aggrieved employees for each pay period; and other methods
9 to be discovered.

10 **Failure to Timely Pay Wages During Employment**

11 **[Cal. Labor Code § 204]**

12 22. Pursuant to California Labor Code § 204, for all labor performed between the 1st
13 and 15th days of any calendar month, DEFENDANTS are required to pay their nonexempt
14 employees between the 16th and 26th day of the month during which the labor was performed.
15 California Labor Code § 204 also provides that for all labor performed between the 16th and 26th
16 days of any calendar month, DEFENDANTS are required to pay their nonexempt employees
17 between the 1st and 10th day of the following calendar month. In addition, California Labor Code
18 § 204 provides that all wages earned for labor in excess of the normal work period shall be paid
19 no later than the payday of the next regular payroll period.

20 23. At times relevant herein, DEFENDANTS knowingly and willfully failed to timely
21 pay PLAINTIFF and other aggrieved employees all wages for labor performed by the next
22 regular payroll period as required by California Labor Code § 204.

23 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

24 **[Cal. Labor Code §§ 201, 202, 203]**

25 24. Pursuant to Labor Code §§ 201, 202 and 203, DEFENDANTS are required to pay
26 all earned and unpaid wages to an employee who is discharged or who quits. Labor Code § 201
27 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid
28 at the time of discharge are due and payable immediately.

1 25. Furthermore, pursuant to Labor Code § 202, DEFENDANTS are required to pay
2 all accrued wages due to an employee no later than 72 hours after the employee quits his or her
3 employment, unless the employee provided 72 hours previous notice of his or her intention to
4 quit, in which case the employee is entitled to his or wages at the time of quitting.

5 26. Labor Code § 203 provides that if an employer willfully fails to pay, in accordance
6 with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the
7 employer is liable for waiting time penalties in the form of continued compensation to the
8 employee at the same rate for up to 30 workdays.

9 27. At times relevant herein, in violation of Labor Code §§ 201 and 202,
10 DEFENDANTS willfully failed to timely pay accrued wages and other compensation to
11 PLAINTIFF and other aggrieved employees who were discharged or quit his or her employment.

12 **Failure to Maintain Required Records**

13 **[Cal. Labor Code §§ 226(a), 1174(d); IWC Wage Order No. 7-2001, § 7]**

14 28. At all times relevant herein, as part of DEFENDANTS' illegal payroll policies and
15 practices to deprive PLAINTIFF and other aggrieved employees of all wages earned and due,
16 DEFENDANTS knowingly and intentionally failed to maintain records as required under Labor
17 Code §§ 226(a) and 1174(d) and IWC Wage Order No. 7-2001, § 7, including but not limited to
18 the following records: total daily hours worked by each employee; applicable rates of pay; all
19 deductions; meal periods; time records showing when each employee begins and ends each work
20 period; and accurate itemized statements.

21 **Failure to Furnish Accurate Itemized Wage Statements**

22 **[Cal. Labor Code § 226(a); IWC Wage Order No. 7-2001, § 7]**

23 29. At times relevant herein, DEFENDANTS routinely failed and continue to fail to
24 provide PLAINTIFFS and other aggrieved employees with timely and accurate itemized wage
25 statements in writing showing each employee's gross wages earned, total hours worked, the
26 number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-
27 rate basis, all deductions made, net wages earned, the inclusive dates of the period for which the
28 employee is paid, the name of the employee and only the last four digits of his or her social

1 security number or employee identification number, the name and address of the legal entity or
2 entities employing PLAINTIFF and other aggrieved employees, and all applicable hourly rates in
3 effect during each pay period and the corresponding number of hours worked at each hourly rate,
4 in violation of California Labor Code § 226(a) and IWC Wage Order No. 7-2001 § 7.

5 30. At times relevant herein, DEFENDANTS knowingly and intentionally failed to
6 provide PLAINTIFF and other aggrieved employees with timely and accurate itemized wage
7 statements in accordance with Labor Code § 226(a).

8 31. At times relevant herein, PLAINTIFF and other aggrieved employees suffered
9 injury as a result of DEFENDANTS' failure to provide timely and accurate itemized wage
10 statements as PLAINTIFF and other aggrieved employees could not promptly and easily
11 determine from the wage statement alone one or more of the following: the gross wages earned,
12 the total hours worked, all deductions made, the net wages earned, the name and address of the
13 legal entity or entities employing PLAINTIFF and other aggrieved employees, and/or all
14 applicable hourly rates in effect during each pay period and the corresponding number of hours
15 worked at each hourly rate.

16 **Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of**
17 **Duties**

18 **[Cal. Labor Code § 2802]**

19 32. Labor Code § 2802(a) requires an employer to indemnify an employee for all
20 necessary expenditures or losses incurred by the employee in direct consequence of the discharge
21 of her his or her duties, or of his or her obedience to the directions of the employer.

22 33. At times relevant herein, DEFENDANTS failed to indemnify PLAINTIFF and
23 other aggrieved employees for all business expenses and/or losses incurred in direct consequence
24 of the discharge of their duties while working under the direction of DEFENDANTS, including
25 but not limited to expenses for personal cell phone usage, car usage (mileage), and other
26 employment-related expenses, in violation of Labor Code § 2802.

27 ///

28 ///

1 **FIRST CAUSE OF ACTION**

2 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

3 **[Cal. Labor Code § 2698, *et seq.*]**

4 **(Against All DEFENDANTS)**

5 34. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
6 allegations in paragraphs 1 through 33.

7 35. PLAINTIFF is an “aggrieved employees” within the meaning of Labor Code §
8 2699(c), and proper representatives to bring a civil action on behalf of himself and other current
9 and former non-exempt employees of DEFENDANTS pursuant to the procedures specified in
10 Labor Code § 2699.3, because PLAINTIFF was employed by DEFENDANTS and one or more
11 of the alleged Labor Code violations was committed against PLAINTIFF during the relevant
12 period.

13 36. PLAINTIFF seeks to recover civil penalties through a representative action
14 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
15 Cal.4th 969. Thus, class certification is not required.

16 37. Pursuant to Labor Code §§ 2698-2699.5, PLAINTIFF seeks to recover civil
17 penalties from DEFENDANTS in a representative action for the violations set forth above,
18 including but not limited to violations of Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510,
19 512, 1174(d), 1194, 1197, 1198, and 2802.

20 38. Pursuant to Labor Code § 2699(a), PLAINTIFF seeks civil penalties for
21 DEFENDANTS’ violations of Labor Code provisions for which a civil penalty is specifically
22 provided, including but not limited to the following:

23 a. Pursuant to Labor Code § 210, for violations of Labor Code § 204,
24 DEFENDANTS are subject to a civil penalty in the amount of one hundred
25 dollars (\$100) for the initial violation for each failure to pay each employee
26 and two hundred dollars (\$200) per employee for violations in subsequent
27 pay periods.

28 b. Pursuant to Labor Code § 226.3, for violations of Labor Code § 226(a),

1 DEFENDANTS are subject to a civil penalty in the amount of two hundred
2 and fifty dollars (\$250) per aggrieved employee for the initial pay period
3 where a violation occurs and one thousand dollars (\$1,000) per aggrieved
4 employee for violations in subsequent pay periods.

5 c. Pursuant to Labor Code § 558(a), “[a]ny employer or other person acting
6 on behalf of an employer who violates, or causes to be violated, a section
7 of this chapter or any provision regulating hours and days of work in any
8 order of the Industrial Welfare Commission,” including Labor Code §§ 510
9 and 512, shall be subject to a civil penalty, in addition to any other penalty
10 provided by law, of fifty dollars (\$50) for initial violations for each
11 underpaid employee for each pay period for which the employee was
12 underpaid and one hundred dollars (\$100) for each subsequent violation for
13 each underpaid employee for each pay period for which the employee was
14 underpaid.

15 d. Pursuant to Labor Code § 1174.5, for violations of Labor Code § 1174(d),
16 DEFENDANTS are subject to a civil penalty of five hundred dollars
17 (\$500).

18 e. Pursuant to Labor Code § 1197.1, an employer who pays or causes to be
19 paid to any employee a wage less than the minimum fixed by an order of
20 the commission, shall be subject to a civil penalty as follows: for any initial
21 violation that is intentionally committed, one hundred dollars (\$100) for
22 each underpaid employee for each pay period for which the employee is
23 underpaid; and for each subsequent violation of the same offense, two
24 hundred fifty dollars (\$250) for each underpaid employee for each pay
25 period for which the employee is underpaid regardless of whether the
26 initial violation was intentionally committed.

27 39. Labor Code § 2699(f) provides that for all Labor Code violations for which a civil
28 penalty is not specifically provided, the following civil penalties are established: one hundred

1 dollars (\$100) for each aggrieved employee per pay period for the initial violation and two
2 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.
3 PLAINTIFF seeks such civil penalties under Labor Code § 2699(f) for DEFENDANTS'
4 violations of Labor Code provisions for which a civil penalty is not specifically provided,
5 including but not limited to Labor Code §§ 201, 202, 203, 226.7, 1194, 1197, 1198, and 2802.

6 40. PLAINTIFF additionally seeks reasonable attorney's fees and costs pursuant to
7 Labor Code § 2699(g)(1).

8 **PRAYER FOR RELIEF**

9 WHEREFORE, PLAINTIFF, individually and on behalf of all other aggrieved employees,
10 pray for relief against DEFENDANTS as follows:

11 1. For civil penalties according to proof, including but not limited to all penalties
12 authorized by the Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, and 2699(a) and (f);

13 2. For interest at the legal rate pursuant to Labor Code §§ 218.6, 1194, 2802,
14 California Civil Code §§ 3287, 3288, and/or any other applicable provision providing for pre-
15 judgment interest;

16 3. For reasonable attorney's fees and costs pursuant to Labor Code § 2699(g) and/or
17 any other applicable provisions providing for attorney's fees and costs; and

18 4. For such further relief that the Court may deem just and proper.

19
20 DATED: December 9, 2022

Respectfully submitted,

21 **MATERN LAW GROUP, PC**

22
23 By:



24 MATTHEW J. MATERN
KAYVON SAOBURIAN

25 Attorneys for Plaintiff NOAH WINN, individually
26 and on behalf of all others similarly situated
27
28

DEMAND FOR JURY TRIAL

PLAINTIFF hereby demands a jury trial with respect to all issues triable of right by jury.

DATED: December 9, 2022

Respectfully submitted,

MATERN LAW GROUP, PC

By:



MATTHEW J. MATERN
KAYVON SABOURIAN

Attorneys for Plaintiff NOAH WINN, individually
and on behalf of all others similarly situated

EXHIBIT C

JOINT STIPULATION AND SETTLEMENT AGREEMENT

This Joint Stipulation and Settlement Agreement (“Agreement”) is made by and between Plaintiff Noah Winn (“Plaintiff”) and Defendant Southern Glazer’s Wine and Spirits, LLC (“SGWS” and collectively with Plaintiff as “the Parties”).

1. DEFINITIONS.

- 1.1 “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against SGWS captioned *Noah Winn v. Southern Glazers Wine and Spirits, LLC, et al.* (No. 22STCV38355) initiated on December 9, 2022, and pending in the Superior Court of the State of California, County of Los Angeles.
- 1.2 “Administrator” means the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the PAGA Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4 “Settlement Members” means all current and former non-exempt employees of SGWS in the State of California at any time since October 5, 2021, through the date of the Court’s approval of this Settlement, but in no event after April 30, 2024.
- 1.5 “Settlement Members’ Data” means Settlement Members’ identifying information in SGWS’s possession including each Settlement Member’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6 “Settlement Member Address Search” means the Administrator’s investigation and search for current Settlement Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Settlement Member.
- 1.7 “Court” means the Superior Court of California, County of Los Angeles.
- 1.8 “Defense Counsel” means Littler Mendelson, P.C., including Alecia W. Winfield, Esq. and Courtney Chambers, Esq.
- 1.9 “Effective Date” means the date by when both of the following have occurred:
(a) the Court enters a Judgment on its Order Approving the PAGA Settlement and

(b) the Judgment is final. The Judgment shall be final on the day the Court enters Judgment.

- 1.10 “PAGA Settlement Amount” means \$2,435,000.00, which is the total amount SGWS agrees to pay under the Settlement. The PAGA Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator’s Expenses Payment.
- 1.11 “Individual PAGA Payment” means the Settlement Member’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Settlement Member worked during the PAGA Period.
- 1.12 “Judgment” means the judgment entered by the Court based upon the final approval.
- 1.13 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.14 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.15 “Net Settlement Amount” means the PAGA Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Settlement Members as Individual PAGA Payments.
- 1.16 “PAGA Counsel” means Matern Law Group (“MLG”), including Matthew J. Matern, Matthew W. Gordon, and Vanessa M. Rodriguez.
- 1.17 “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.18 “PAGA Pay Period” means any Pay Period during which a Settlement Member worked for SGWS for at least one day during the PAGA Period.
- 1.19 “PAGA Period” means the period from October 5, 2021, through the date of the approval of this settlement, but in no event after April 30, 2024.
- 1.20 “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

- 1.21 “PAGA Notice” means Plaintiff’s April 7, 2021, letter to SGWS and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.22 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the PAGA Settlement Amount, allocated 25% to the Settlement Members and the 75% to LWDA in settlement of PAGA claims.
- 1.23 “Plaintiff” means Noah Winn, the named plaintiff in the Action.
- 1.24 “Approval Order” means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.25 “Released PAGA Claims” means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.26 “Released Parties” means: SGWS and all affiliated predecessor and successor entities, and each such entity’s respective present and former subsidiaries, affiliates, parents, agents, employees, former employees, partners, owners, director’s, officers, attorneys, trustees, insurers, representatives, predecessors, successors and assigns.
- 1.27 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.28 “SGWS” means Defendant Southern Glazers Wine and Spirits, LLC.

2. RECITALS.

- 2.1 On December 9, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of action against SGWS for Violation of the California Labor Code Private Attorneys General Act of 2004 (“PAGA”). The Complaint is the operative complaint in the Action (the “Operative Complaint.”). SGWS denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.2 Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to SGWS and the LWDA by sending the PAGA Notice.
- 2.3 On January 30, 2024, the Parties participated in an all-day mediation presided over by Honorable Angela M. Bradstreet (Ret.) which led to this Agreement to settle the Action.
- 2.4 In advance of the mediation, Defendant sent Plaintiff relevant information, including the total number of alleged aggrieved employees, the total number of pay periods during the PAGA period, aggrieved employees’ average rate of pay, Plaintiff’s personnel file, a

20% sampling of aggrieved employees' time and payroll records, and employee handbooks and policies applicable to aggrieved employees. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

- 2.5 The Parties desire to settle the Action in order to avoid unnecessary litigation fees and expenses.¹

3 MONETARY TERMS.

3.1 PAGA Settlement Amount. SGWS promises to pay \$2,435,000.00 and no more as the PAGA Settlement Amount. SGWS has no obligation to pay the PAGA Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire PAGA Settlement Amount without asking or requiring Settlement Members to submit any claim as a condition of payment. None of the PAGA Settlement Amount will revert to SGWS.

3.2 Payments from the PAGA Settlement Amount. The Administrator will make and deduct the following payments from the PAGA Settlement Amount, in the amounts specified by the Court in the final approval:

3.2.1 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one-third (1/3) of the PAGA Settlement Amount, which is currently estimated to be \$811,666.67 and PAGA Counsel Litigation Expenses Payment in an amount not to exceed \$25,000.00. SGWS will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds SGWS harmless, and indemnifies SGWS, from any dispute or controversy regarding any division or sharing of any of these Payments.

¹ The Parties separately entered into a confidential individual settlement agreement for settlement and release of any derivative individual claims for damages and penalties that are outside the scope of this Settlement.

3.2.2 To the Administrator: An Administrator Expenses Payment, not to exceed \$15,000.00, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less, or the Court approves payment less than \$15,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.3 To the LWDA and Settlement Members: PAGA Penalties shall be paid from the PAGA Settlement Amount, with 75% allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments.

3.2.3.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Settlement Members' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Settlement Members during the PAGA Period and (b) multiplying the result by each Settlement Member's PAGA Period Pay Periods. Settlement Members assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.3.2 If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4 SETTLEMENT FUNDING AND PAYMENTS.

4.1 Settlement Members Pay Periods. Based on a review of its records to date, SGWS estimates there are a total of 159,059 PAGA Pay Periods from October 5, 2021, through the date of mediation, including Merchandisers, based on the available records as well as reasonable extrapolation within the relevant time period.²

4.2 Settlement Members Data. Within 30 days of the court granting Approval of the Settlement, SGWS will deliver the Settlement Member Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Settlement Members' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Settlement Member Data only for purposes

² This settlement does not include Merchandiser claims that will be released in the settlement reached in the action entitled *Tiffany Niz v. Southern Glaziers Wine and Spirits, LLC* (Case No. CIV DS 2008028), but does include Merchandiser claims not released in the *Niz* settlement.

of this Settlement and for no other purpose, and restrict access to the Settlement Member Data to Administrator employees who need access to the Settlement Member Data to effect and perform under this Agreement. SGWS has a continuing duty to immediately notify PAGA Counsel if it discovers that the Settlement Member Data omitted employee identifying information and to provide corrected or updated Settlement Member Data as soon as reasonably feasible. Without any extension of the deadline by which SGWS must send the Settlement Member Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Settlement Member Data.

4.3 Funding of PAGA Settlement Amount. SGWS shall fully fund the PAGA Settlement Amount by transmitting the funds to the Administrator no later than 15 calendar days after the Effective Date.

4.4 Payments from the PAGA Settlement Amount. Within 14 days after SGWS funds the PAGA Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, and the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1 The Administrator will issue checks for the Individual PAGA Payments and send them to the Settlement Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2 The Administrator must conduct a Settlement Member Address Search for all Settlement Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Settlement Member Address Search. The Administrator need not take further steps to deliver checks to Settlement Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Settlement Member whose original check was lost or misplaced, requested by the Settlement Member prior to the void date.

4.4.3. For any Settlement Member whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall

transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Settlement Member.

- 4.4.4 The payment of Individual PAGA Payments shall not obligate SGWS to confer any additional benefits or make any additional payments to the Settlement Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. **RELEASES OF CLAIMS.** Effective on the date when SGWS fully funds the entire PAGA Settlement Amount, Plaintiff and the Settlement Members will release claims against all Released Parties as follows:

Upon entry of final judgment and payment of the full Settlement Amount, the Defendant, and the Released Parties, shall be entitled to a release from all PAGA claims for civil penalties under California Labor Code section 2698, et seq., predicated on the California Labor Code violations that are asserted in the LWDA Notice and operative complaint (or PAGA Claims that could have been asserted based on the facts alleged in the operative LWDA Notice and operative complaint) which are for civil penalties pursuant to Labor Code section 2699, et seq. for violations of Labor Code §§ 201, 202, 203, 204, 210, 221, 223, 224, 226, 226(a), 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 2802 and applicable Industrial Welfare Commission Wage Orders including California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B) ("Released Claims"). The release shall run through the PAGA Period. The release does not include underlying Labor Code claims, claims for wrongful termination, discrimination, unemployment insurance, disability, and workers' compensation, and claims outside of the PAGA Period. The Released Claims do not include any claims that cannot be released as a matter of law. The Released Claims do not include any claims that will be released by Settlement Members in *Tiffany Niz v. Southern Glaziers Wine and Spirits, LLC* (Case No. CIV DS 2008028). As part of the consideration for the settlement of Plaintiff's individual claims, Plaintiff shall enter into a general release of all known and unknown claims of any type whatsoever that he may have against the Released Parties. This release will include, but will not be limited to, a release of all claims under the Fair Employment and Housing Act, Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 and the California Labor Code. This will also include a release of any and all claims, known or unknown, contingent, or accrued arising out of any act or event that occurred prior to execution of the release, including a California Civil Code section 1542 waiver.

6. **MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.** The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

- 6.1 **Plaintiff's Responsibilities.** Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code

Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Settlement Member Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Settlement Members or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel, or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (iv) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (v) all facts relevant to any actual or potential conflict of interest with Settlement Members and/or the Administrator.

6.2 Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 45 days after the full execution of this Agreement and obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering evidence of the Court’s Approval to the Administrator.

6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns.

7 SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. (“ILYM”) to serve as the Administrator and verified that, as a condition of appointment, ILYM agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of providing reports to state and federal tax authorities.

7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.

7.4 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8 CONTINUING JURISDICTION OF THE COURT.

The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

8.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, and their respective counsel, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties’ obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

9 ADDITIONAL PROVISIONS.

9.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by SGWS that any of the allegations in the Operative Complaint have merit or that SGWS has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that SGWS’s defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, SGWS reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest SGWS’s defenses. The Settlement, this Agreement and Parties’ willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 9.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 9.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and SGWS, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 9.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence, and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 9.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 9.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, SGWS nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 9.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties, or their representatives, and approved by the Court.
- 9.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 9.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

- 9.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 9.11 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 9.12 Use and Return of Settlement Members' Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by SGWS in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Settlement Members' Data received from SGWS unless, prior to the Administrator's payment of all Settlement Funds, SGWS makes a written request to PAGA Counsel for the return, rather than the destructions, of Settlement Members' Data.
- 9.13 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.
- 9.14 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 9.15 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Matthew J. Matern,
Matthew W. Gordon,
Vanessa Rodriguez
Matern Law Group, P.C.
1320 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266

To SGWS:

Alecia Winfield
Littler Mendelson, P.C.
2049 Century Park East, 5th Floor
Los Angeles, CA 90067

Courtney Chambers
Littler Mendelson, P.C.
101 Second Street, Suite 1000
San Francisco, CA 94105

9.16 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

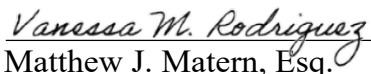
9.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement, and pursuant to Code of Civil Procedure § 583.330(a), the Parties agree to extend the time within which the Action must be brought to trial by that period of time from the date of execution of this Agreement to the date on which the Court enters judgment or the date on which the Court enters an order declining to grant approval of this Agreement, and that said period of time shall not be included in the computation of the five-year period specified in Code of Civil Procedure § 583.310.



Noah Winn (Apr 30, 2024 10:39 PDT)

Noah Winn
Plaintiff and Representative of
Settlement Members

Date: Apr 30, 2024



Matthew J. Matern, Esq.

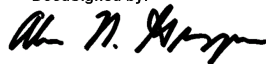
Matthew W. Gordon, Esq.

Vanessa M. Rodriguez, Esq.

Counsel for Plaintiff

Noah Winn and the Settlement Member

Date: May 9, 2024

DocuSigned by:

12E6483EFB2D49C...
Alan N. Greenspan

Southern Glazers
Wine and Spirits,
LLC Defendant

Date: 04/30/2024 | 4:50 PM PDT



Alecia W. Winfield, Esq.
Counsel for Defendant
Southern Glazers Wine and Spirits, LLC

Date: April 26, 2024

4875-3692-5625.4 / 089148-1014

EXHIBIT D

MATTHEW J. MATERN (SBN 159798)
MATTHEW W. GORDON (SBN 267971)
VANESSA M. RODRIGUEZ (SBN 316382)
MATERN LAW GROUP, PC
1230 Rosecrans Avenue, Suite 200
Manhattan Beach, CA 90266
Telephone: (310) 531-1900
Facsimile: (310) 531-1901

Attorneys for Plaintiff NOAH WINN,
individually, and on behalf of all others
similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

NOAH WINN, individually and on behalf of all
others similarly situated,

Plaintiff,

vs.

SOUTHERN GLAZER'S WINE AND SPIRITS,
LLC, a California limited liability company; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 22STCV38355

[Assigned for all purposes to the
Hon. Lynn M. Hobbs, Dept. 61]

**AMENDMENT TO JOINT
STIPULATION AND SETTLEMENT
AGREEMENT**

Complaint filed: December 9, 2022
Trial Date: March 11, 2025

1 This Amendment to the Joint Stipulation and Settlement Agreement (“Amendment”) is
2 made and entered into by Plaintiff Noah Winn (“Plaintiff”), on the one hand, and Defendant
3 Southern Glazer’s Wine and Spirits, LLC (“Defendant”) (Plaintiff and Defendant are jointly
4 referred to herein as the “Parties”), on the other hand, by and through their respective counsel,
5 with reference to the following facts:

6 WHEREAS, on May 9, 2024, the Parties fully executed a Joint Stipulation and Settlement
7 Agreement (“Settlement Agreement”) in the above-referenced matter;

8 WHEREAS, pursuant to Paragraph 9.3 of the Settlement Agreement, the Parties have
9 agreed to amend the Settlement Agreement solely to the extent set forth in this Amendment;

10 NOW, THEREFORE, the Parties hereby stipulate and agree as follows:

- 11 1. Paragraph 1.15 of the Settlement Agreement shall be amended to read as follows:

12 “Net Settlement Amount” means the PAGA Settlement Amount, less the
13 following payments in the amounts approved by the Court: PAGA Counsel Fees
14 Payment, PAGA Counsel Litigation Expenses Payment, and the Administration
15 Expenses Payment. The remainder is to be paid as PAGA Penalties, allocated 25%
16 to the Settlement Members and 75% to the LWDA.

- 17 2. Paragraph 4.4 of the Settlement Agreement shall be amended to read as follows:

18 Payments from the PAGA Settlement Amount. Within 14 days after SGWS
19 funds the PAGA Settlement Amount, the Administrator will mail checks for all
20 Individual PAGA Payments, the LWDA PAGA Payment, the Administration
21 Expenses Payment, the PAGA Counsel Fees Payment, and the PAGA Counsel
22 Litigation Expenses Payment. Disbursement of the PAGA Counsel Fees Payment
23 and the PAGA Counsel Litigation Expenses Payment shall not precede
24 disbursement of Individual PAGA Payments.

- 25 3. The Amendments to Paragraphs 1.15 and 4.4 of the Settlement Agreement expressly
26 supersede the original Paragraphs 1.15 and 4.4 of the Settlement Agreement and are
27 incorporated by reference in the Settlement Agreement.
28

IT IS SO STIPULATED.

Dated: October 2, 2024

MATERN LAW GROUP, PC

By: Vanessa M. Rodriguez
Matthew J. Matern
Matthew W. Gordon
Vanessa M. Rodriguez
Attorneys for Plaintiff Noah Winn

Dated: October 2, 2024

LITTLER MENDELSON, P.C.

By: /s/ Alecia W. Winfield
Alecia W. Winfield
Courtney Chambers
Attorneys for Defendant
Southern Glazer's Wine and Spirits, LLC

EXHIBIT E

~~[MODEL]~~ **PAGA JOINT STIPULATION AND SETTLEMENT AGREEMENT¹**

This ~~PAGA~~ Joint Stipulation and Settlement Agreement (“Agreement”) is made by and between plaintiff _____ (“Plaintiff”) and defendant _____ (“XYZ”). ~~The Agreement refers to Noah Winn (“Plaintiff”) and XYZ Defendant Southern Glazer’s Wine and Spirits, LLC (“SGWS” and collectively with Plaintiff as “the Parties,” or individually as “Party.”).~~

1. DEFINITIONS.

1.1 ~~1.1~~ “Action” means the Plaintiff’s ~~PAGA~~ lawsuit alleging wage and hour violations against ~~XYZSGWS~~ captioned _____ Noah Winn v. Southern Glazers Wine and Spirits, LLC, et al. (No. 22STCV38355) initiated on _____ December 9, 2022 and pending in the Superior Court of the State of California, County of Los Angeles.-

1.2 “Administrator” means _____, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the ~~Gross~~ PAGA Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.-

~~1.4 “Aggrieved Employee” means [e.g., a person employed by XYZ in California and classified as a _____ who worked for XYZ during the PAGA Period].~~

~~“Aggrieved Employee~~

~~1.4 “Settlement Members” means all current and former non-exempt employees of SGWS in the State of California at any time since October 5, 2021 through the date of the Court’s approval of this Settlement, but in no event after April 30, 2024.~~

1.5 “Settlement Members’ Data” means ~~Aggrieved Employee~~ Settlement Members’ identifying information in ~~XYZ’s SGWS’s~~ possession including ~~the Aggrieved Employee’s~~ each Settlement Member’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

~~“Aggrieved Employee~~

1.6 “Settlement Member Address Search” means the Administrator’s investigation and search for current ~~Aggrieved Employee~~ Settlement Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with ~~Aggrieved Employees.~~ Settlement Member.

1.7 “Court” means the Superior Court of California, County of Los Angeles.-

1.8 “Defense Counsel” means _____.

Littler Mendelson, P.C., including Alecia W. Winfield, Esq. and Courtney Chambers, Esq.

1.8

1.9 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment ~~is~~shall be final ~~as of the latest of the following occurrences: (a)~~on the day the Court enters Judgment.-

“Gross

1.10 “PAGA Settlement Amount” means \$~~_____~~\$2,435,000.00, which is the total amount ~~XYZSGWS~~ agrees to pay under the Settlement ~~except as provided in Paragraph 9 below.~~ The ~~Gross~~PAGA Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator’s Expenses Payment.

1.11 “Individual PAGA Payment” means the ~~Aggrieved Employee’s Settlement Member’s~~ pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the ~~Aggrieved Employee Settlement Member~~ worked during the PAGA Period.-

1.12 “Judgment” means the judgment entered by the Court based upon the ~~Final Approval.~~
final approval.

1.13 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, ~~subdivisions~~subd. (i).-

1.14 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, ~~subdivisions~~subd. (i).-

1.15 “Net Settlement Amount” means the ~~Gross~~PAGA Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to ~~Aggrieved Employees Settlement Members~~ as Individual PAGA Payments.-

1.16 “PAGA Counsel” means _____, ~~the attorneys representing the Plaintiff in the Action.~~
Matern Law Group (“MLG”), including Matthew J. Matern, Matthew W. Gordon, and Vanessa M. Rodriguez.

1.17 “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.18 “PAGA Pay Period” means any Pay Period during which ~~an Aggrieved Employee~~ Settlement Member worked for XYZSGWS for at least one day during the PAGA Period.-

1.19 “PAGA Period” means the period from _____ to _____, October 5, 2021, through the date of the approval of this settlement, but in no event after April 30, 2024.

1.20 “PAGA” means the Private Attorneys General Act (~~Lab. Labor~~ Code, ~~§ §~~ 2698. et seq.).-

1.21 “PAGA Notice” means Plaintiff’s _____ April 7, 2021 letter to XYZSGWS and the LWDA ~~[and Plaintiff’s _____ letter to XYZ and the LWDA]~~ providing notice pursuant to Labor Code section 2699.3, ~~subdivision (subd.)~~ (a).-

1.22 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the ~~Gross~~ PAGA Settlement Amount, allocated 25% to the ~~Aggrieved Employees~~ ~~(_____)~~ Settlement Members 1.22 and the 75% to LWDA ~~(_____)~~ in settlement of PAGA claims.-

1.23 “Plaintiff” means _____, Noah Winn, the named plaintiff in the Action.-

“
1.24 “Approval Order” means the proposed Court Order Granting Approval of PAGA Settlement.-

1.25 “Released PAGA Claims” means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.-

1.26 “Released Parties” means ~~XYZ; SGWS and all affiliated predecessor and successor entities,~~ and each ~~of its former and such entity’s respective present directors and former subsidiaries, affiliates, parents, agents, employees, former employees, partners, owners, director’s,~~ officers, ~~shareholders, owners, [members],~~ attorneys, ~~trustees,~~ insurers, ~~representatives,~~ predecessors, successors, and assigns ~~[subsidiaries] [affiliates].-~~

:-

expenses.¹

3 MONETARY TERMS.

3.1 ~~3.1~~ GrossPAGA Settlement Amount. ~~Except as otherwise provided by Paragraph 9 below, XYZSGWS~~ promises to pay \$ \$2,435,000.00 and no more as the GrossPAGA Settlement Amount. XYZSGWS has no obligation to pay the GrossPAGA Settlement Amount prior to the deadline stated in Paragraph ~~6.14.3~~ of this Agreement.ⁱⁱⁱ The Administrator will disburse the entire GrossPAGA Settlement Amount without asking or requiring Aggrieved EmployeesSettlement Members to submit any claim as a condition of payment. None of the GrossPAGA Settlement Amount will revert to XYZ-SGWS.

3.2 ~~3.2~~ Payments from the GrossPAGA Settlement Amount. The Administrator will make and deduct the following payments from the GrossPAGA Settlement Amount, in the amounts specified by the Court in the ~~Final Approval: final~~ approval:

3.2.1 ~~3.2.1~~ To PAGA Counsel: A PAGA Counsel Fees Payment of not more than % , one-third (1/3) of the PAGA Settlement Amount, which is currently estimated to be \$ \$811,666.67 and PAGA Counsel Litigation Expenses Payment ~~of not more than \$~~ . XYZin an amount not to exceed \$25,000.00. SGWS will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds XYZSGWS harmless, and indemnifies XYZSGWS, from any dispute or controversy regarding any division or sharing of any of these Payments.-

3.2.2 ~~3.2.2~~ To the Administrator: An Administrator Expenses Payment, not to exceed \$ \$15,000.00, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or

¹ The Parties separately entered into a confidential individual settlement agreement for settlement and release of any derivative individual claims for damages and penalties that are outside the scope of this Settlement.

the Court approves payment less than \$_____, \$15,000.00, the Administrator will retain the remainder in the Net Settlement Amount.-

~~3.2.3~~ ~~3.2.3~~ To the LWDA and ~~Aggrieved Employees~~ Settlement Members: PAGA Penalties ~~in the amount of \$_____ to shall~~ be paid from the ~~Gross~~ PAGA Settlement Amount, with 75% (~~\$_____~~) allocated to the LWDA PAGA Payment and 25% (~~\$_____~~) allocated to the Individual PAGA Payments.

~~3.2.3.1~~ ~~3.2.3.1~~ The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the ~~Aggrieved Employees' Settlement Members'~~ 25% share of PAGA Penalties (~~\$_____~~) by the total number of PAGA Period Pay Periods worked by all ~~Aggrieved Employees Settlement Members~~ during the PAGA Period and (b) multiplying the result by each ~~Aggrieved Employee's Settlement Member's~~ PAGA Period Pay Periods. ~~Aggrieved Employees Settlement Members~~ assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.-

~~3.2.3.2~~ ~~3.2.3.2~~ If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4 **4. SETTLEMENT FUNDING AND PAYMENTS.**

~~4.1~~ ~~4.1~~ ~~Aggrieved Employee Settlement Members~~ Pay Periods. Based on a review of its records to date, ~~XYZSGWS~~ estimates there are _____ ~~Aggrieved Employees who worked~~ a total _____ of 159,059 PAGA Pay Periods- from October 5 2021 through the date of mediation, including Merchandisers, based on the available records as well as reasonable extrapolation within the relevant time period.²

4.2 **Aggrieved Employee**

~~4.2~~ Settlement Members Data. Within ~~[e.g., 15]~~ 30 days, ~~XYZ~~ of the court granting Approval of the Settlement, ~~SGWS~~ will ~~simultaneously~~ deliver the ~~Aggrieved Employee Settlement Member~~ Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect ~~Aggrieved Employees' Settlement Members'~~ privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the ~~Aggrieved Employee Settlement Member~~ Data only for purposes of this Settlement and for no other purpose, and restrict access to the ~~Aggrieved Employee Settlement Member~~ Data to Administrator employees who need access to the ~~Aggrieved Employee Settlement Member~~ Data to effect and perform under this Agreement. ~~XYZSGWS~~ has a continuing duty to immediately notify PAGA Counsel if it discovers that the ~~Aggrieved Employee Settlement Member~~ Data omitted

² This settlement does not include Merchandiser claims that will be released in the settlement reached in the action entitled *Tiffany Niz v. Southern Glaziers Wine and Spirits, LLC* (Case No. CIV DS 2008028), but does include Merchandiser claims not released in the *Niz* settlement

employee identifying information and to provide corrected or updated ~~Aggrieved-EmployeeSettlement Member~~ Data as soon as reasonably feasible. Without any extension of the deadline by which ~~XYZSGWS~~ must send the ~~Aggrieved-EmployeeSettlement Member~~ Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted ~~Aggrieved-EmployeeSettlement Member~~ Data.-

4.3 ~~4.3~~ Funding of ~~GrossPAGA~~ Settlement Amount. ~~XYZSGWS~~ shall fully fund the ~~GrossPAGA~~ Settlement Amount by transmitting the funds to the Administrator no later than ~~{14}15 calendar~~ days after the Effective Date.-

4.4 ~~4.4~~ Payments from the ~~GrossPAGA~~ Settlement Amount. Within ~~{e.g., 14}~~ days after ~~XYZSGWS~~ funds the ~~GrossPAGA~~ Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, and the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.-

4.4.1 ~~4.4.1~~ The Administrator will issue checks for the Individual PAGA Payments and send them to the ~~Aggrieved-EmployeesSettlement Members~~ via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2 ~~4.4.2~~ The Administrator must conduct ~~an Aggrieved-Employeea~~ ~~Settlement Member~~ Address Search for all ~~Aggrieved-EmployeesSettlement Members~~ whose checks are returned undelivered without USPS forwarding address. Within ~~{7}~~ days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the ~~Aggrieved-EmployeeSettlement Member~~ Address Search. The Administrator need not take further steps to deliver checks to ~~Aggrieved-EmployeesSettlement Members~~ whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any ~~Aggrieved-EmployeeSettlement Member~~ whose original check was lost or misplaced, requested by the ~~Aggrieved-EmployeeSettlement Member~~ prior to the void date.-

4.4.3. ~~4.4.3~~ For any ~~Aggrieved-EmployeeSettlement Member~~ whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks ~~{to the California Controller's~~ Controller's Unclaimed Property Fund in the name of the ~~Aggrieved-Employee}-Settlement Member.~~

~~4.4.4~~ 4.4.4 The payment of Individual PAGA Payments shall not obligate ~~XYZSGWS~~ to confer any additional benefits or make any additional payments to the ~~Aggrieved Employees~~ Settlement Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.-

~~5.~~ _____

RELEASES OF CLAIMS. Effective on the date when ~~XYZSGWS~~ fully funds the entire ~~Gross Settlement~~ PAGA Settlement Amount, Plaintiff and ~~PAGA Counsel~~ the Settlement Members will release claims against all ~~Released Parties~~ as follows:

~~5.1~~ 5.1 Plaintiff's Release. Plaintiff and his, her or their respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors and assigns generally, release and discharge Released Parties from all claims, transactions or occurrences [that occurred during the PAGA Period], including, but not limited to: all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them. as follows:

~~5.1.1~~ 5.1.1 Plaintiff's Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:-

~~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.~~

~~5.2~~ 5.2 Release by Aggrieved Employees:-

~~All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint [,] [and] the PAGA Notice.-~~

~~5.3~~ 5.3 Release by PAGA Counsel:-

~~PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.~~

6.—Upon entry of final judgment and payment of the full Settlement Amount, the Defendant, and the Released Parties, shall be entitled to a release from all PAGA claims for civil penalties under California Labor Code section 2698, et seq., predicated on the California Labor Code violations that are asserted in the LWDA Notice and operative complaint (or PAGA Claims that could have been asserted based on the facts alleged in the operative LWDA Notice and operative complaint) which are for civil penalties pursuant to Labor Code section 2699, et seq. for violations of Labor Code §§ 201, 202, 203, 204, 210, 221, 223, 224, 226, 226(a), 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 2802 and applicable Industrial Welfare Commission Wage Orders including California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B) (“Released Claims”). The release shall run through the PAGA Period. The release does not include underlying Labor Code claims, claims for wrongful termination, discrimination, unemployment insurance, disability, and workers’ compensation, and claims outside of the PAGA Period. The Released Claims do not include any claims that cannot be released as a matter of law. The Released Claims do not include any claims that will be released by Settlement Members in *Tiffany Niz v. Southern Glaziers Wine and Spirits, LLC* (Case No. CIV DS 2008028). As part of the consideration for the settlement of Plaintiff’s individual claims, Plaintiff shall enter into a general release of all known and unknown claims of any type whatsoever that he may have against the Released Parties. This release will include, but will not be limited to, a release of all claims under the Fair Employment and Housing Act, Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 and the California Labor Code. This will also include a release of any and all claims, known or unknown, contingent or accrued arising out of any act or event that occurred prior to execution of the release, including a California Civil Code section 1542 waiver.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1 ~~6.1~~ Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel ~~all documents~~ all documents necessary for obtaining approval of this Settlement under Labor Code ~~section~~ Section 2699, ~~subdivisions~~ subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of ~~Aggrieved-Employee~~ Settlement Member Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with ~~Aggrieved-Employees~~ Settlement Members or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel, or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (~~Lab.Labor~~ Code, ~~§ section~~ 2699, subd. ~~-(1)(1)~~), this Agreement (~~Lab.Labor~~ Code, ~~§ section~~ 2699, subd. (1)(2)); (iv) a redlined version of the parties’ Agreement showing all modifications made to the

Model Agreement ready for filing with the Court; and (v) all facts relevant to any actual or potential conflict of interest with ~~Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement~~ Settlement Members and/or the Administrator.

6.2 ~~6.2~~ Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than ~~{30}45~~ days after the full execution of this Agreement and, ~~if necessary,~~ obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering evidence of the Court's ~~Preliminary~~ Approval to the Administrator.-

6.3 ~~6.3~~ Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.-

7 ~~7.~~ SETTLEMENT ADMINISTRATION.

7.1 ~~7.1~~ Selection of Administrator. The Parties have jointly selected _____ ILYM Group, Inc. ("ILYM") to serve as the Administrator and verified that, as a condition of appointment, _____ ILYM agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.-

7.2 ~~7.2~~ Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of ~~calculating payroll tax withholdings and providing reports state and federal tax authorities.~~

7.3 ~~7.3~~ providing reports to state and federal tax authorities.

7.4 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.-

7.5 ~~7.4~~ Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.-

~~8. AGGRIEVED EMPLOYEE SIZE ESTIMATES [and ESCALATOR CLAUSE]~~ Based on its records, XYZ estimates that, as of the date of this Settlement Agreement, there are _____ Aggrieved Employees who worked _____ Pay Periods during the PAGA Period.^{iv}

~~8. 9.~~ **CONTINUING JURISDICTION OF THE COURT**. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.-

~~98.1~~ **Waiver of Right to Appeal**. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, and their respective counsel, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.-

~~10.~~

9. ADDITIONAL PROVISIONS.

~~109.1.~~ **No Admission of Liability or Representative Manageability for Other Purposes**. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by XYZSGWS that any of the allegations in the Operative Complaint have merit or that XYZSGWS has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that XYZ'sSGWS's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, XYZSGWS reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest XYZ'sSGWS's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).-

~~109.2.~~ **Integrated Agreement**. Upon execution by all Parties and their counsel, this Agreement ~~together with its attached exhibits~~ shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.-

~~109.3.~~ **Attorney Authorization**. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and XYZSGWS, respectively, to take all appropriate action required or permitted to be taken by such

Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.-

~~109.4-~~ Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.-

~~109.5-~~ No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered₂ or purported to assign, transfer₂ or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action₂ or right released and discharged by the Party in this Settlement.-

~~10.1 109.6-~~ No Tax Advice. Neither Plaintiff, PAGA Counsel, ~~XYZSGWS~~ nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.-

~~10.2 109.7-~~ Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed₂ or waived only by an express written instrument signed by all Parties₂ or their representatives, and approved by the Court.-

~~10.3 109.8-~~ Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.-

~~10.4 109.9-~~ Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.-

~~10.5 9.10-10-~~ Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.-

~~10.6 109.11-~~ Confidentiality. To the extent permitted by law, all agreements made₂ and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.-

~~10.7 109.12-~~ Use and Return of ~~Aggrieved Employee Settlement Members'~~ Data. Information provided to PAGA Counsel pursuant to ~~Evidence~~Cal. Evid. Code ~~section-~~

~~§1152~~, and all copies and summaries of the PAGA Data provided to PAGA Counsel by ~~XYZSGWS~~ in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or ~~California Rules~~~~rule~~ of ~~Court rule~~~~court~~. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of ~~Aggrieved-Employee Settlement Members'~~ Data received from ~~XYZSGWS~~ unless, prior to the Administrator's payment of all Settlement Funds, ~~XYZSGWS~~ makes a written request to PAGA Counsel for the return, rather than the ~~destruction~~~~destructions~~, of ~~Aggrieved-Employee Settlement Members'~~ Data.-

~~10~~ 9.13- 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.-

~~109~~.14- Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.-

~~109~~.15- Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:-

To Plaintiff:

Matthew J. Matern, Matthew W. Gordon, Vanessa Rodriguez
Matern Law Group, P.C.
1320 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266

To XYZSGWS:

~~10~~Alecia Winfield
Little Mendelson, P.C.
2049 Century Park East, 5th Floor
Los Angeles, CA 90067

Courtney Chambers
Little Mendelson, P.C.
101 Second Street, Suite 1000
San Francisco, CA 94105

9.16- Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for

purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.-

10

9.17- Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement ~~that,~~ and pursuant to Code of Civil Procedure section § 583.330(a), the Parties agree to extend the date to bring a case time within which the Action must be brought to trial under by that period of time from the date of execution of this Agreement to the date on which the Court enters judgment or the date on which the Court enters an order declining to grant approval of this Agreement, and that said period of time shall not be included in the computation of the five-year period specified in Code of Civil Procedure section § 583.310 for the entire period of this settlement process.-

_____	_____
_____ For Plaintiff	_____ For XYZ
_____	_____
_____ (date)	_____ (date)
_____	_____
_____	_____

Noah Winn
Plaintiff and Representative of
Settlement Members

Date:

Matthew J. Matern, Esq.
Matthew W. Gordon, Esq.
Vanessa M. Rodriguez, Esq.
Counsel For for Plaintiff _____ Noah Winn
and the Settlement Member

Date:

Alecia W. Winfield, Esq.
Counsel For XYZ for Defendant Southern

(date)

(date)

Glazers Wine and Spirits, LLC

Date:

Southern Glazers Wine
and Spirits, LLC
Defendant

Date

~~ⁱ This Form PAGA Settlement Agreement has been approved by the Court, the complex litigation judges and a 2022 Ad Hoc Wage and Hour Committee co-chaired by Judge David Cunningham and Judge Amy Hogue and comprised of 16 attorneys who regularly represent plaintiffs and defendants in wage and hour cases. It was drafted for settlements of single plaintiff PAGA claims against a single employer (XYZ). The parties will need to revise this form if there are multiple Plaintiffs or multiple Defendants. For settlements of wage and hour class actions that include PAGA claims, please use the Form Class Action and PAGA Settlement Agreement and Class Notice.~~

~~ⁱⁱ See endnote ii above. THE COURT ASKS ALL COUNSEL USING THIS MODEL AGREEMENT TO ATTACH A REDLINED VERSION TO THEIR MOTIONS OR APPLICATIONS FOR APPROVAL SO THAT THE COURT CAN EASILY SEE EXACTLY HOW THE PARTIES HAVE MODIFIED THIS MODEL AGREEMENT.~~

~~ⁱⁱⁱ The Parties are free to negotiate a payment plan structure, if appropriate, and payment deadlines may fall earlier as necessary thereto.~~

~~^{iv} Insert negotiated terms, if any, addressing the possibility that XYZ's estimates of the number of Aggrieved Employees or Pay Periods turn out to be understated such as an ADR clause imposing a duty to engage in good faith negotiations or mediation or an "escalator" clause memorializing XYZ's promise to increase the Gross Settlement Amount in an agreed-upon proportion to the percentage by which the calculated number of Aggrieved Employees or Pay Periods exceeds XYZ's estimates.~~

EXHIBIT F

Case Name: Winn v. Southern Glazer's Wine and Spirits

Tuesday, April 2, 2024

Requesting Attorneys Name:

Vanessa M. Rodriguez

E-Mail:

vrodriquez@maternlawgroup.com

ILYM Contact:

Lisa Mullins

E-Mail:

Lisa@ilymgroup.com

Contact Number:

714.878.8836

Estimate For Administrative Solutions: PAGA

KEY ASSUMPTIONS	
Total Number of Aggreived Employees	2,500
Estimated Percentage of Remails	15%
Certified Spanish Translation	No
ILYM Group Static Website	No
NCOA	Yes
Case Duration (Years)	1

Summary Estimate: ILYM Group Fees & Expenses

Case Startup: \$2,085.00
Distribution (Includes EIN, Bank Acct * /QSF Setup): \$6,975.00
Case Conclusion: \$940.00

Estimated ILYM Fees & Expenses: \$10,000.00

Case Name: Winn v. Southern Glazer's Wine and Spirits

Tuesday, April 2, 2024

Requesting Attorneys Name: Vanessa M. Rodriguez

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - <i>Import and Formatting of Data*</i>	Hourly	\$150.00	2	\$300.00
Project Manager (Case notification and maintenance)	Hourly	\$120.00	4	\$480.00
NCOA	Flat Rate	\$650.00	1	\$650.00
Toll-Free Telephone Representative (English & Spanish)	Flat Rate	\$655.00	1	\$655.00

*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.

Subtotal \$2,085.00

DISTRIBUTION (Includes EIN, Bank Acct /QSF Setup)*				
Distribution Setup & Management	Hourly	\$150.00	4	\$600.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	4	\$500.00
Notice, Check, Stub & Release - (including 1099)	Per Check	\$0.70	2,500	\$1,750.00
USPS First Class 1oz Postage	Per Piece	\$0.60	2,500	\$1,500.00
Remails (Forward/Skip Trace Undeliverables)	Per Piece	\$1.00	375	\$375.00
Preparation of Taxes	Hourly	\$150.00	5	\$750.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

*Additional Bank fees may apply

Subtotal \$6,975.00

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	2	\$200.00
Process Unclaimed Funds to the State	Flat Fee	\$500.00	1	\$500.00
Declaration	Hourly	\$120.00	2	\$240.00

Subtotal \$940.00

Estimated ILYM Fees & Expenses: \$10,000.00

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.

EXHIBIT G