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Attorneys for Plaintiff DOUGLAS HILL, Individually, and on behalf of other members of the general public similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

DOUGLAS HILL, Individually, and on
behalf of other members of the general public
similarly situated

Plaintiff

v.

GRAND RESTAURANT GROUP, a Nevada
Corporation, GRAND RESTAURANT
GROUP, INC., a Suspended California
Corporation, and DOES 1-10, inclusive

Defendants

CASE NO. 37-2022-00022886-CU-OE-CTL
(Proposed CLASS ACTION)

**DECLARATION OF ERIC K. YAECKEL
IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: June 23, 2023
Time: 10:30 a.m.
Dept.: C-64
Judge: Hon. John S. Meyer

1 I, Eric K. Yaeckel, declare as follows:

- 2 1. I am an attorney licensed to practice law before all the courts of the State of California, and am
3 employed with the law firm of SULLIVAN & YAECKEL LAW GROUP, APC, attorneys of
4 record for Plaintiff DOUGLAS HILL, Individually, and on behalf of other members of the
5 general public similarly situated, in this matter.
- 6 2. I make this declaration in support of Plaintiff's Unopposed Motion for Preliminary Approval
7 of Class Action Settlement. I am personally familiar with the facts set forth in this declaration,
8 and if called to testify could and would do so.

9 **Background and Investigation**

- 10 3. On June 14, 2022, Plaintiff HILL filed the Complaint in this matter. The original Complaint
11 alleged putative class action claims and PAGA representative action claims, under the
12 California Labor code involving, *inter alia*, (1) failure to pay minimum wages; (2) failure to
13 pay proper overtime compensation; (3) failure to provide meal breaks; (4) failure to provide
14 rest breaks; (5) failure to provide all gratuities owed; (6) failure to reimburse employees for
15 necessary business expenses; (7) failure to provide accurate itemized wage statements; and (8)
16 failure to pay all wages to upon termination.
- 17 4. On July 8, 2022, Plaintiff propounded discovery requests on Defendants, including requests
18 for admission, special interrogatories, requests for production of documents, and general and
19 employment form interrogatories. Through these requests, Plaintiff sought, among other
20 information and documents, the identities of putative class members, Defendants'
21 compensation policies, meal and rest period policies, employee handbooks, wage statements,
22 payroll records, time records, job descriptions, and reimbursement policies.
- 23 5. GRG provided discovery responses, documents, and objections to Plaintiff's requests. After
24 a lengthy meet and confer processes, GRG produced, *inter alia*, Plaintiff's time and wage
25 records, copies of the relevant employee handbooks, copies of all other relevant employee
26 policies, the contents of Plaintiff's employee file, Plaintiff's time records, and itemized wage
27 statements. In total it appears there were at least 1 set of written discovery exchanged between
28

1 the parties.

2 6. GRG through its counsel, reached out early during the course of the litigation to attempt to
3 explore early resolution of this matter. As part of the settlement discussions, GRG agreed to
4 voluntarily produce and verify hundreds of pages of documents. The production included all
5 relevant policies and procedures. It also included large electronic sampling of other class
6 members' time and wage data.

7 7. Plaintiff also requested GRG provide additional informal discovery so that the parties could
8 experience a meaningful mediation. GRG provided informal discovery which consisted of,
9 *inter alia*, the number of current and former employees who worked for GRG during the
10 limitations period, meal and rest period premiums paid, pay periods at issue, a redacted
11 sampling of employee time records and wage statements, as well as confirmation that various
12 policies and agreements were standard as to the class.

13 8. On November 2, 2022, the Parties attended a full day mediation before the experienced "wage
14 and hour" mediator, Michael J. Roberts. Prior to, and during, the mediation, counsel for both
15 parties agreed to the informal exchange of information pertinent to a class-wide settlement.
16 Prior to mediation both parties prepared and exchanged detailed mediation briefs. Plaintiffs
17 brief contained a breakdown of potential damages based on all of the information obtained.
18 The case did not resolve at the conclusion of mediation. However, the Parties continued to
19 share information and continued settlement talks with the assistance of Mr. Roberts. By
20 February 27, 2023, the parties came to an agreement in an executed memorandum of
21 understanding. As of March 29, 2023, the parties agreed on all final terms of the settlement
22 which was memorialized in the Agreement. A true and correct copy of the Joint Stipulation of
23 Settlement (the "Agreement") that ultimately resulted is attached as **Exhibit A**.

24 **Terms of the Agreement**

25 9. The parties agreed to use CAC Services, LLC, as the "Settlement Administrator" for purposes
26 of providing the Notice to Settlement Class Members, issuing payments pursuant to the
27 Agreement, and to administer the claims. CAC's sole business has been the administration of
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1 class action settlements and class action notices, an area in which it has extensive experience.
2 10. Class Members will be entitled to an average share of approximately **\$256.44**. I calculated this
3 number by taking the total settlement amount, subtracting all contingent costs as proposed on
4 page one of the memorandum, and dividing by the estimate of 858 Class Members. This is an
5 estimate only as the actual share will depend on the amount of pay periods they were employed
6 during the limitations period.

7 11. A true and correct copy of the parties agreed upon Class Notice is attached as **Exhibit B**.

8 12. The class representative enhancement awards were decided pursuant to good faith negotiations
9 and is intended to recognize that it was the class representatives who initiated the lawsuit,
10 initiated the PAGA claims, provided critical documents and witnesses to her attorneys, and
11 worked with her attorney to propound and prepare written discovery, all in an effort to obtain
12 moneys allegedly owed not only to herself, but to hundreds of other employees

13 **Claims Analysis and Potential Recovery**

14 13. Our office submits this settlement provides class members with a guaranteed recovery of a
15 large portion of their “potential” damages as set forth below. As set forth above, the “average”
16 recovery (before taxes) will be approximately **\$256.44** per class member.

17 14. Based on the damage calculations and relevant case law below, my office submits the likely
18 “best case” recovery for an average class member would have been approximately \$576.36.
19 A “worst case” scenario (in the event of a denial of class certification or a defense verdict)
20 would have been a **zero dollar** recovery.

21 15. As part of our analysis I also have to consider the fact that Defendants were willing to stipulate
22 to class certification on all claims as a result of the settlement, ensuring a monetary recovery
23 to all participating class members. Accordingly, I believe that warrants a further reduction from
24 any potential maximum recovery.

25 **Damage Calculations**

26 16. The following estimated damage calculations were completed after review of the sampling of
27 class member time and wage records, and after interviews with Plaintiff, and other class
28

members. The breakdown of the damage and penalties calculation is as follows:

Unpaid Compensation Violations: \$15.00 (average hourly rate) x 120 (number of employee positions) x 4 (years at issue in limitations period) x 2.4 (approximate unpaid hours per year) = \$17,280.00.

Meal Period Policy Violations: \$15.00 (average hourly rate) x 120 (number of employee positions) x 4 (years at issue in limitations period) x 18 (approximate meal period violations per employee in a year) = \$129,600.00.

Rest Period Policy Violations: \$15.00 (average hourly rate) x 120 (number of employee positions) x 4 (years at issue in limitations period) x 12 (approximate rest period violations per employee in a year) = \$86,400.00.00

Labor Code § 226 Penalties: \$50.00 (per pay period statutory penalty) x 120 (number of employee positions) x 14 (pay periods at issue in limitations period) x 0.65 (approximate rate of violations per pay period) = \$54,600.00.

Labor Code §2802 Violations: 470 (total number of employees) x \$10.00 (estimated average amount of reimbursement due per employee) = \$4,700.00.

Labor Code § 203 Penalties: \$15.00 (average hourly rate) x 8.0 (hours, per day) x 30 (days, per Labor Code section 203) x 470 (number of former employees) = \$1, 692,000.00.

“PAGA” Violations: 8 (separate Labor Code violations based on the above claims) x 120 (number of employee positions) x \$50.00 (per violation) x 14 (pay periods in one year limitations period) = \$672,000.00. The aggrieved employees are only entitled to a 25% share of this amount, which is \$168,000.00.

17. Based on the above, a best case recovery (which would be admittedly highly unlikely, given the factors set forth below) would be a total judgment of \$2,152,580.00.

Relevant Case Law Supports a Further Reduction on any Recovery

18. It is my opinion that it would be *highly* unlikely to ever be awarded any amount approaching the maximum damages set forth above. To wit, the majority of the damages above are “derivative” penalties under PAGA, Labor Code § 203 and Labor Code § 226.

19. Please see the analysis of the relevant case law cited in the memorandum (pp. 12-13) which allows significant mitigation of PAGA penalties, which prohibits stacking of multiple penalties for the same underlying conduct and declines to automatically award §§ 203 and 226 penalties for meal and rest break violations without a further evidentiary showing.
20. Our office believes a mitigation of the damages and potential PAGA penalties would be warranted here. Defendants immediately stepped up to discuss early resolution. Also, as in the *Carrington* case (which was handled by this office), there is evidence that Defendant attempted to provide meal and rest periods *in practice*, even where the breaks were missed. Given this, it is likely that any violations by Defendant were not “willful.” Finally, given the defenses raised by Defendant to maintaining this matter as a class or representative action, there was a significant risk that many of the claims would not have even been able to survive to a trial.
21. As to the ex-employee claim pursuant to Labor Code § 203, the parties agree the failure to pay “ex-employees” claim is derivative of the other claims. As Defendants are able to assert a “good faith dispute” for withholding any unpaid wages, it would be difficult to establish any liability for a “willful” failure to pay wages owed.
22. Given my experience, I believe it would be likely that PAGA penalties would be reduced to approximately \$5.00 a violation, and it is unlikely for the Court to impose Labor Code § 203 and Labor Code § 226 penalties. For purposes of this analysis, those claims will be discounted 75%.
23. If this happened, the realistic anticipated “best case” judgment following trial would be approximately \$494,520.00. The average class member’s share of this recovery would be **\$576.36** (total divided by 858 class members). Given our office’s analysis, I submit this number is the most likely “best case” recovery per class member. Given all the risks on each claim the estimated \$256.44 average recovery secured via this settlement, is a reasonable compromise and is in the best interests of the class given all the risks of continued litigation.

Analysis of Risk on Each Potential Claim

24. Each of the primary claims also had risks to obtaining both class certification and liability. If

- 1 Defendant's asserted defenses were successful, the class would not receive anything.
- 2 25. Plaintiffs' unpaid wages (and unpaid overtime) claims were based on the allegation that
- 3 employees were performing unpaid work (1) due to GRG's standard timekeeping system which
- 4 took "minutes worked" and transferred that amount to a decimal and (2) caused other losses due
- 5 to certain alleged "transitional math errors" caused by the payroll system. Plaintiffs alleged this
- 6 resulted in regular time and overtime pay being owed where Defendants were on notice of work
- 7 being performed without pay. Defendants also denied that any unpaid work occurred, and even
- 8 if some did occur, GRG claimed it was not on notice of these alleged Labor Code violations and
- 9 had a strict written prohibition against off-the-clock work and a mandate that all time worked
- 10 must be accurately recorded. GRG asserted proof of these alleged violations would require
- 11 individualized inquiries, which could preclude class certification and make any PAGA claims
- 12 unmanageable.
- 13 26. As to meal and rest period claims, Plaintiffs were able to identify hundreds of examples of
- 14 missing or late meal periods without the provision of a meal period penalty payment. However,
- 15 Defendants argued that these records do not conclusively show whether (1) GRG actually failed
- 16 to provide the meal period, (2) there was a voluntary waiver, (3) employees forgot to clock out,
- 17 or (4) employees voluntarily chose to skip or take them late even though they were provided.
- 18 Additionally, in light of GRG's meal period policy and the variations in locations, Defendants
- 19 contended there was no uniform policy or practice, requiring individualized inquiries that would
- 20 preclude class certification and make any PAGA claims unmanageable.
- 21 27. Plaintiffs also alleged the GRG's written policies improperly restricted class members from
- 22 leaving the premises during their rest breaks. Defendants pointed out that the policy contained
- 23 no such restriction and argued that witness testimony would demonstrate that in practice, no
- 24 such "leave the premises" restriction was ever enforced. Defendants also contended
- 25 individualized inquiries will abound as to why individual employees may have failed to take
- 26 appropriate meal periods or rest breaks.
- 27 28. As to the wage statement claims, Plaintiffs acknowledge that these claims are largely derivative,
- 28

1 in that both the gross and net wages could be found to be inaccurate, due to the
2 above-referenced claims. GRG argued that the failure to accurately list gross and net wages are
3 derivative of other claims that may ultimately fail and as a result there is no "knowing and
4 intentional failure" to list information, which triggers liability under Labor Code §226(e).
5 Defendants (as with the underlying meal and rest period claims) maintained individualized
6 inquiries would abound as to why breaks were missed and whether meal period premiums
7 should have been paid in the first place, requiring individualized inquiries that would preclude
8 class certification and make any PAGA claims unmanageable.

9 29. Plaintiffs contend that GRG violated Labor Code section 2802 by failing to reimburse its
10 employees for certain costs, including use of personal cellular phone costs. GRG further
11 contended that HILL's (and others') positions did not require the use of a cell phone.

12 30. Based on all of the above, my experience, and all the information within the moving papers, I
13 submit that this proposed Settlement is fair, adequate and reasonable. I also submit it is well
14 within the accepted range of recoveries for similar wage and hour class actions.

15 **Certification of the Proposed Settlement Class is Appropriate**

16 31. Here, Defendant's records show that approximately **858 class members** worked for the
17 company during the limitations period.

18 32. Here, for purposes of the Settlement, the parties agree the claims of Class Members all involve
19 the same questions of law and fact. Namely, all class members were subject to the same
20 employment policies and practices of Defendant.

21 33. The proposed class representative have no adverse interests to the class. Plaintiffs are paid based
22 on the same formula as other class members and have claims substantially the same as all the
23 other Class Members.

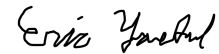
24 34. Additionally, any Class Member who wishes to "opt out" of the Settlement may do so and retain
25 all of their individual rights. Therefore there is no conflict of interest between the Class
26 Representatives and the Class Members. Thus, at least for settlement purposes, our office
27 submits the adequacy prong is met.
28

- 1 35. Given that there are 858 individuals, it would be preferable to resolve all of the Class Members’
2 claims by means of a class-wide settlement than to require each Class Member to litigate his
3 or her individual claims.
- 4 36. When negotiating the settlement, both sides took into account the strengths and weaknesses of
5 their opponent’s positions as pointed out by Michael J. Roberts, the data available to evaluate
6 liability and damages, the lack of data or evidence on certain issues, and the substantial and
7 evolving law applicable to the merits of the claims. The Agreement was only agreed to after
8 extensive arms-length negotiations resulting in a unique compromise that permits all parties to
9 move forward and bring this action to close. In spite of a mutual desire to resolve this action,
10 the negotiations remained at all times adversarial.
- 11 37. I believe this settlement is in the best interest of the class as it provides **(1)** a guaranteed
12 favorable result; **(2)** guaranteed monetary recovery over a reasonably short period of time, as
13 opposed to possibly waiting additional years for a potentially worse result; and **(3)** significant
14 savings in attorneys’ fees and costs, which would have increased had the case progressed
15 through trial and possible appeals.
- 16 38. Without entering into the Agreement, there existed a significant chance that Defendant would
17 prevail on the merits of some or all claims and that Class Members would receive nothing.
18 Through the Agreement, participating Class Members receive guaranteed cash, and this action
19 has also been the catalyst for programmatic relief.
- 20 39. If the litigation were to proceed in lieu of settlement, additional and substantial attorneys fees
21 and costs, expert witnesses fees would quickly accumulate. Given the numerous claims being
22 litigated, the parties may be required to hire multiple experts each (as many as 6 total). This
23 would result in not only the production of eight expert reports, but six depositions as well. And,
24 based on previous discussions between counsel regarding the remaining claims (including the
25 PAGA claims), the parties anticipated at least one motion to compel, a motion for class
26 certification and two dueling motions for summary judgment / adjudication (one from each
27 side).
28

- 1 40. Importantly, even after engaging in all of the potential continued and protracted litigation set
2 forth above, the putative class would continue to have no guarantee of success on any of the
3 claims advanced in this case. Thus, the parties and our office believes in good faith that the
4 proposed resolution is a fair, reasonable, and adequate compromise.
- 5 41. Our office had not filed a Motion for Class Certification at the time settlement was reached.
6 Defendants presented multiple different defenses to certification during mediation and
7 throughout litigation. Even assuming Plaintiffs did obtain class certification of the claims, each
8 claim is subject to substantial risk of a Defense verdict at trial.
- 9 42. Our office has interviewed several Class Members in the course of investigating and litigating
10 this matter. We have also reviewed hundreds of pages of documents produced by Defendants,
11 Plaintiffs, and Class Members. This information, along with documents and information
12 obtained through formal discovery and from Class Members, allowed Plaintiffs' counsel to
13 prepare a detailed Mediation Brief. The Brief was provided to opposing counsel and contained
14 a breakdown of potential damages based on all of the information.
- 15 43. Our office has considerable experience in wage and hour and class action litigation. Trial
16 Attorney, William Sullivan has over 28 years of experience, 27 years of which has been devoted
17 to both prosecuting and defending class action litigation. I have over 11 years of experience all
18 of which have been dedicated primarily to class action and representative action (PAGA)
19 litigation. I am aware counsel for Defendant also has extensive experience handling class action
20 and representative action litigation.
- 21 44. Based on this experience, and all other relevant factors addressed above, our firm believes the
22 Agreement to represent a fair, adequate and reasonable settlement that is well within the
23 accepted range of recoveries for similar wage and hour class actions. We further believe the
24 Agreement is in the best interests of the Settlement Class Members.
- 25 45. Based on this experience, we also believe the \$40,000.00 allocation towards the PAGA claims
26 is a fair, reasonable, and adequate allocation, especially given the risks of mitigation identified
27 above.
28

1 46. Prior to preliminary approval, what can be said of the reaction the class members is limited.
2 However, our office has spoken to some Class Members since the parties reached a proposed
3 settlement agreement, and all were in favor of the settlement.
4

5 I declare under penalty of perjury under the laws of the State of California that the foregoing is
6 true and correct. Executed this day of March, 2023, at San Diego, California.

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9 Eric K. Yaeckel
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EXHIBIT A

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

DOUGLAS HILL, Individually, and on behalf
of other members of the general public
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Plaintiff

v.

GRAND RESTAURANT GROUP, a Nevada
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Defendant.

CASE No. 37-2022-00022886-CU-OE-CTL

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

[Assigned for all purposes to: Hon. John S.
Meyer, Dept C64]

Action Filed: June 14, 2022
Trial Date: September 1, 2023

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

This Joint Stipulation of Class and PAGA Action Settlement and Release (“Agreement” or
“Settlement Agreement”) is made and entered into by and between DOUGLAS HILL (“Plaintiff”,

1 “Claimant”, or “Class Representative”), as an individual and on behalf of all others similarly
2 situated, and GRAND RESTAURANT GROUP (“Defendant”) (collectively, the “Parties”). In
3 consideration of the promises and mutual covenants and agreements herein contained, the Parties
4 hereby covenant and agree as follows:

5 **RECITALS**

6 1. On June 14, 2022, Plaintiff HILL initiated this putative class action by filing a
7 Complaint in the California Superior Court for the County of San Diego, Case No. 37-2022-
8 00022886-CU-OE-CTL (the “Action”). The action is currently proceeding on Plaintiff’s First
9 Amended Complaint, which also asserts a claim under the California Labor Code’s Private
10 Attorneys General Act of 2004 (“PAGA”), Lab. Code, § 2698, *et seq.* (the “Operative Complaint”),
11 based on allegations that Defendant violated certain requirements of California wage and hour law,
12 including but not limited to: (1) failure to pay minimum wages; (2) failure to pay proper overtime
13 compensation; (3) failure to provide meal breaks; (4) failure to provide rest breaks; (5) failure to
14 provide all gratuities owed; (6) failure to reimburse employees for necessary business expenses; (7)
15 failure to provide accurate itemized wage statements; and (8) failure to pay all wages to upon
16 termination.

17 2. Defendant denies all material allegations set forth in the Operative Complaint and
18 has asserted numerous affirmative defenses.

19 3. The Parties have investigated the facts and analyzed the relevant legal issues with
20 regard to the claims and defenses in the Action. Class Representative Counsel’s investigation
21 included, *inter alia*, the exchange of information pursuant to informal discovery methods,
22 including: comprehensive review of timekeeping and payroll records of a sampling of data from
23 the putative class; the number of pay periods and Work Weeks included in the class; and a review
24 of Defendant’s corporate wage and hour policies and practices. Based on their investigation and
25 analysis, Class Representative believes the Action has merit, while Defendant believe the Action
26 has no merit.

27 4. On November 2, 2022, the Parties participated in mediation before Michael J.
28 Roberts (the “Mediator”), a respected mediator for California wage and hour class actions. The

1 matter did not settle that day. But the parties continued settlement negotiations that were facilitated
2 by the Mediator. As of February 8, 2023, the parties signed a memorandum of understanding
3 memorializing the key settlement terms. The settlement discussions were conducted at arm's-
4 length, and the settlement is the result of an informed and detailed analysis of Defendant's
5 potential liability of total exposure in relation to the costs and risks associated with continued
6 litigation. Based on the documents produced, as well as Class Representative Counsel's own
7 independent investigation and evaluation, and the Mediator's efforts, Class Representative
8 Counsel believes that the settlement with Defendant for the consideration and on the terms set
9 forth in this Settlement Agreement is fair, reasonable, and adequate, and is in the best interest of
10 the putative Class Members in light of all known facts and circumstances, including the risk of
11 significant delay and uncertainty associated with litigation and various defenses asserted by
12 Defendant.

13 5. In the interest of avoiding further litigation, the Parties agree to fully and finally
14 and forever settle and dispose of all actual or potential claims by the putative Class Members.
15 This Settlement Agreement is made and entered into by and between Plaintiff, individually and
16 on behalf of all others similarly situated, and Defendant, and is subject to the terms and conditions
17 hereof, and to the Court's approval. The Parties expressly acknowledge that this Settlement
18 Agreement is entered into solely for the purpose of compromising significantly disputed claims
19 and that nothing herein is an admission of liability or wrongdoing by Defendant. If for any reason
20 the Settlement Agreement is not approved, it will be of no force or effect, and the Parties shall be
21 returned to their original respective positions.

22 6. The Settlement Class includes all current and former non-exempt persons
23 employed by Defendant or any of the California locations under Defendant's umbrella –
24 specifically, Nick & G's Restaurant Corp., Bellamy's Fine Dining Corp., DiCicco's Old Town
25 Clovis LLC, DiCicco's Italian Restaurant & Pizzeria, BCR Steakhouse, Alejandra's Cocina, and
26 Giaola LLC – in the State of California between June 14, 2018 through the date of preliminary
27 approval of the settlement or April 9, 2023 (whichever is sooner). Defendant represents the
28 number of putative Class Members to be approximately 858 as of January 15, 2023 which is the

1 date such information was provided to Class Representative Counsel.

2 **DEFINITIONS**

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

5 8. "Action" means *Douglas Hill v. Grand Restaurant Group, et al.*, filed on June 14,
6 2022, in San Diego County Superior Court, Case No. 37-2022-00022886-CU-OE-CTL.

7 9. "Attorneys' Fees and Costs" means such award of attorneys' fees as may be
8 approved by the Court for Class Counsel's litigation and resolution of this Action, and all costs
9 incurred and to be incurred by Class Counsel in the Action, including, but not limited to, costs
10 associated with documenting the Settlement, securing the Court's approval of the Settlement,
11 administering the Settlement, obtaining entry of a Judgment terminating this Action, and expenses
12 for any experts.

13 10. "Class Counsel" means Sullivan & Yaeckel Law Group, APC, which will seek to
14 be appointed counsel for the Settlement Class.

15 11. "Class List" means a complete list of all putative Class Members that Defendant
16 will diligently and in good faith compile from its records and provide to the Settlement
17 Administrator within twenty (20) calendar days after the Court's Preliminary Approval of this
18 Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet
19 and will include each putative Class Member's full name; last known address; Social Security
20 Number; and dates of employment.

21 12. "Class Member(s)" or "Settlement Class" means all current and former nonexempt
22 employees of Defendant and the California locations under Defendant's umbrella – specifically,
23 Nick & G's Restaurant Corp., Bellamy's Fine Dining Corp., DiCicco's Old Town Clovis LLC,
24 DiCicco's Italian Restaurant & Pizzeria, BCR Steakhouse, Alejandra's Cocina, and Giaola LLC-
25 who were employed between June 14, 2018, through the date of Preliminary Approval of the
26 Settlement or April 9, 2023, (whichever is sooner).

27 13. "Class Representative" means Plaintiff DOUGLAS HILL who will seek to be
28 appointed as a representative for the Settlement Class.

1 14. “Plaintiff” means DOUGLAS HILL who may also be referred to herein as a Class
2 Representative.

3 15. “Class Representative Enhancement Payment” means the amount to be paid to
4 Plaintiff in recognition of his effort and work in prosecuting the Action on behalf of the putative
5 Class Members and negotiating the Settlement, at no additional cost to Defendant and subject to
6 Court approval.

7 16. “Defendant” means GRAND RESTAURANT GROUP.

8 17. “Effective Date” means when all of the following events have occurred: (1) The
9 Stipulation for Settlement has been executed by all Parties, Class Counsel, and Defendant’ Counsel;
10 (2) The Court has given preliminary approval to the Settlement; (3) The Court has held a Final
11 Settlement Approval Hearing and has entered a Final Order and Judgment, approving the
12 Settlement. **It is the parties’ intention that the Settlement shall be final for purposes of the**
13 **Effective date at the time of Final Approval, if no objections to the settlement are filed. Only**
14 *in the event that written objections are filed prior to the Final Settlement Approval Hearing, which*
15 *are not later withdrawn prior to final approval,* the Effective Date shall be later of: (a) the date of
16 final affirmance on an appeal of the Judgment; the expiration of the time for a petition to review the
17 Judgment; and, if review is granted, the date of final affirmance of the Judgment following review;
18 or (b) the date of final dismissal of any appeal from the Judgment or the final dismissal of any
19 proceeding to review the Judgment; or (c) if no appeal is filed, the expiration date for filing any
20 appeal from the Judgment.either (a) the date sixty (60) calendar days after the entry of Final
21 Judgment and Order Approving Settlement, if no motions for reconsideration and no appeals or
22 other efforts to obtain review have been filed, or (b) in the event a motion for reconsideration, an
23 appeal or other effort to obtain review of the Final Judgment and Order Approving Settlement, the
24 date sixty (60) calendar days after such reconsideration, appeal or review has been finally concluded
25 and is no longer subject to review, whether by appeal, petition for rehearing, petition for review or
26 otherwise.

27 18. “Individual Settlement Payment” means each Participating Class Member’s share
28 of the Net Settlement Amount, to be distributed to the Participating Class Members.

1 19. “Gross Settlement Amount” means the maximum settlement amount of Four
2 Hundred Twenty Five Thousand Dollars (\$425,000.00) to be paid by Defendant in full satisfaction
3 of all claims arising from the Action, which includes all attorneys’ fees, costs, the enhancement
4 award, payments pursuant to PAGA, and claims administration expenses. In no event will
5 Defendant be liable for more than the Gross Settlement Amount, unless the escalator clause,
6 described in Paragraph 48, is triggered. No portion of the Gross Settlement Amount shall revert
7 to Defendant. Defendant’ share of any employer payroll taxes to be paid in connection with the
8 settlement (e.g. FICA, FUTA, payroll taxes, and/or any similar tax or charge – collectively
9 “Employer Taxes”) shall be paid in addition to the Gross Settlement Amount. The Settlement
10 Administrator will then be responsible for making appropriate deductions, reporting obligations,
11 and issuing the individual settlement awards.

12 20. “LWDA Payment” means the amount that the Parties have agreed to pay to the
13 California Labor and Workforce Development Agency (“LWDA”) for resolution of the claims for
14 civil penalties alleged pursuant to PAGA, and which are included in the Released Claims.

15 21. “Net Settlement Amount” means the portion of the Gross Settlement Amount
16 remaining after deduction of all attorneys’ fees, costs, enhancement award, the amount attributable
17 to payments pursuant to PAGA, and claims administration expenses. The Net Settlement Amount
18 will be distributed to Participating Class Members.

19 22. “Notice of Objection” means a Participating Class Member’s valid and timely
20 written objection to the Settlement Agreement. For the Notice of Objection to be valid, it must
21 include: (a) the case name and number; (b) the objector’s full name, signature, address, telephone
22 number and the last four digits of the objector’s Social Security number; (c) a written statement
23 of all grounds for the objection accompanied by any legal support for such objection; (d) copies
24 of any papers, briefs, or other documents upon which the objection is based; (e) the identity of the
25 objector’s counsel, if the objector is represented by counsel; and (f) whether the objector wishes
26 to be heard at the Final Approval Hearing.

27 23. “Notice Packet” means the Notice of Class Action Settlement and Mailing
28 Envelope.

1 24. “Parties” means Plaintiff and Defendant, collectively, and “Party” means either
2 Plaintiff or Defendant.

3 25. “Participating Class Members” means all Class Members who do not submit a
4 Request for Exclusion.

5 26. “PAGA Members” means all current and former nonexempt employees of
6 Defendant and the California locations under Defendant’s umbrella – specifically, Nick & G’s
7 Restaurant Corp., Bellamy’s Fine Dining Corp., DiCicco’s Old Town Clovis LLC, DiCicco’s Italian
8 Restaurant & Pizzeria, BCR Steakhouse, Alejandra’s Cocina, and Giaola LLC - who were employed
9 between May 21, 2021, through the date of Preliminary Approval of the Settlement or April 9, 2023,
10 (whichever is sooner).

11 27. “Preliminary Approval” means the Court order granting preliminary approval of
12 the Settlement Agreement.

13 28. “Released Claims” include all claims, debts, liabilities, demands, obligations,
14 damages, and actions or causes of action of any kind, arising under state, federal or local law,
15 whether statutory, common law, or administrative law, at any time during the Class Period, that
16 were or could have been asserted based on the factual allegations in the Operative Complaint or
17 based on any facts discovered in the course of the Action, including (without limitation), claims for
18 failure to pay minimum or overtime wages, failure to provide meal and rest periods or to pay meal
19 and rest period premiums, failure to indemnify necessary business expenses, failure to pay or
20 correctly document gratuities, failure to timely pay wages, failure to pay all wages due to discharged
21 or quitting employees, failure to reimburse necessary business expenses, failure to provide accurate
22 itemized wage statements; claims under California Labor Code sections 201 to 204, 210, 218.5,
23 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698 et
24 seq., 2802, and the Wage Orders promulgated thereunder, California Business and Professions Code
25 section 17200, et seq.; and claims for injunctive relief, punitive damages, penalties of any nature
26 (including PAGA civil penalties and statutory penalties for PAGA Members who worked during
27 the applicable PAGA period), interest, fees, and costs.

1 29. “Released Claims Period” means the period from June 14, 2018 through the date
2 where the Court preliminarily approves the settlement or April 9, 2023 (whichever is sooner).

3 30. “Released Parties” means Defendant GRAND RESTAURANT GROUP, Nick &
4 G’s Restaurant Corp., Bellamy’s Fine Dining Corp., DiCicco’s Old Town Clovis LLC, DiCicco’s
5 Italian Restaurant & Pizzeria, BCR Steakhouse, Alejandra’s Cocina, and Giaola LLC, and each
6 of their past, present, and future parents, subsidiaries, divisions, affiliates, predecessors,
7 successors, and assigns, and each of their past, present, and future shareholders, owners (including
8 Sandra DiCicco), officers, directors, members, insurers, managers, employees, consultants,
9 partner, employees, agents, trustees, attorneys, professional employer organization (including
10 Innovative Employer Solutions and Innworks Employment Services, Inc.), representatives,
11 administrators, fiduciaries, beneficiaries, subrogees, executors, partners, privies, and any other
12 individual or entity which could be liable for any of the Released Claims.

13 31. “Request for Exclusion” means a timely letter submitted by a Class Member
14 indicating a request to be excluded from the settlement. The Request for Exclusion must:
15 (a) include the case name and number; (b) contain the full name, address, telephone number, and
16 the last four digits of the Social Security Number of the Class Member requesting exclusion;
17 (c) clearly state that the Class Member does not wish to be included in the settlement; (d) be signed
18 by the Class Member; (e) be returned by fax or mail to the Settlement Administrator at the
19 specified address and/or facsimile number; and (f) be postmarked or faxed on or before the
20 Response Deadline. The date of the fax or postmark on the return mailing envelope will be the
21 exclusive means to determine whether a Request for Exclusion has been timely submitted. A
22 Class Member who does not request exclusion from the settlement will be deemed a Participating
23 Class Member and will be bound by all terms of the settlement, if the settlement is granted final
24 approval by the Court.

25 32. “Response Deadline” means the deadline by which Class Members must postmark
26 to the Settlement Administrator a valid Request for Exclusion or Notice of Objection. The
27 Response Deadline will be thirty (30) calendar days from the initial mailing of the Notice Packet
28 by the Settlement Administrator, unless the 30th falls on a Sunday or Federal holiday, in which

1 case the Response Deadline will be extended to the next day on which the U.S. Postal Service is
2 open. Under no circumstances, other than circumstances described in Paragraph 57, will the
3 Settlement Administrator have the authority to extend the deadline for Class Members to submit
4 a Request for Exclusion or Notice of Objection to the Settlement.

5 33. "Settlement Administrator" means CAC Services Group, LLC or any other third-
6 party class action settlement administrator agreed to by the Parties and approved by the Court for
7 purposes of administering this Settlement pursuant to the terms of this Agreement, the Class
8 Notice, the Preliminary Approval Order, and the Judgment, including, without limitation, printing,
9 distributing, and tracking documents for this Settlement, calculating estimated amounts per Class
10 Member, tax reporting, distributing the appropriate settlement amounts, and providing necessary
11 reports and declarations, and other duties and responsibilities set forth herein to process this
12 Settlement, and as requested by the Parties. The Settlement Administrator shall agree to
13 confidentiality terms as may be required by Defendant regarding personnel and payroll data
14 provided to the Settlement Administrator and shall work with Class Counsel and Counsel for
15 Defendant to implement and administer appropriate fraud-prevention policies. The Parties each
16 represent that they do not have any financial interest in the Settlement Administrator or otherwise
17 have a relationship with the Settlement Administrator that could create a conflict of interest.

18 34. "Settlement Administration Costs" means the costs approved by the Court to be
19 paid to the Settlement Administrator for administering this Settlement. The Settlement
20 Administration Costs will be paid from the Gross Settlement Amount, including, if necessary, any
21 such costs in excess of the amount represented by the Settlement Administrator as being the
22 maximum costs necessary to administer the settlement. The Settlement Administration Costs are
23 currently estimated to be \$13,306.25.

24 35. "Work Weeks" means the number of work weeks worked by Class Members in
25 California during the Class Period, which shall be calculated by the Settlement Administrator
26 based on the start and end dates of each individual's employment during the Class Period as
27 maintained by Defendant. Class Members may dispute the number of Work Weeks they worked
28 during the Class Period by submitting a written Work Weeks dispute to the Settlement

1 Administrator, which should include the Class Member's (a) full name, signature, address, telephone
2 number, and the last four digits of the Class Member's Social Security number; (b) the number of Work
3 Weeks the Class Member contends is correct; and (c) any evidence supporting the Class Member's
4 contention.

5 36. "PAGA Work Weeks" means the number of work weeks worked by PAGA
6 Members in California during the PAGA Period, which shall be calculated by the Settlement
7 Administrator based on the start and end dates of each individual's employment during the PAGA
8 Period as maintained by Defendant. PAGA Members may dispute the number of Work Weeks
9 they worked during the PAGA Period by submitting a written Work Weeks dispute to the
10 Settlement Administrator, which should include the PAGA Member's (a) full name, signature,
11 address, telephone number, and the last four digits of the PAGA Member's Social Security number;
12 (b) the number of Work Weeks the PAGA Member contends is correct; and (c) any evidence supporting
13 the Class Member's contention.

14 37. "Work Week Value" means the value of each compensable Work Week, as
15 determined by the formula set forth herein.

16 **STIPULATION OF CLASS CERTIFICATION**

17 38. The Parties stipulate to the certification of this Settlement Class for settlement
18 purposes only.

19 39. This Agreement is contingent upon preliminary and final approval by the Court,
20 and certification of the Settlement Class is only for purposes of Settlement. If, for any reason, the
21 Settlement does not become final, any certification of any Settlement Class will be vacated, and the
22 Parties will be returned to their positions with respect to the Action as if the Agreement had not been
23 entered into. Should the Settlement not become final, for whatever reason, the fact that the Parties
24 were willing to stipulate provisionally to class certification as part of the Settlement shall have no
25 bearing on, and shall not be admissible in connection with, the issue of whether a class should be
26 certified in a non-settlement context. Defendant expressly reserves the right to oppose class
27 certification and/or proactively move to deny certification should this Settlement be reversed on
28

1 appeal or otherwise not become final. Defendant does not consent to certification of the
2 Settlement Class or any class for any purpose other than to effectuate the Settlement of this Action.

3 **TERMS OF AGREEMENT**

4 40. NOW, THEREFORE, in consideration of the mutual covenants, promises and
5 agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

6 41. Funding of the Settlement Amount. Within two (2) calendar days after the
7 Effective Date, the Settlement Administrator will provide the Parties with an accounting of the
8 amounts to be paid by Defendant pursuant to the terms of the Settlement. Within five (5) calendar
9 days of receiving the accounting of the final amounts to be paid from the Settlement
10 Administrator, Defendant will make a one-time deposit of one third (1/3) of the Gross Settlement
11 Amount for \$141,666.67, plus all applicable payroll taxes, for payment of all Court-approved and
12 claimed amounts from the Gross Settlement Amount into a Qualified Settlement Account to be
13 established by the Settlement Administrator. Defendant will separately fund a one-third (1/3)
14 installment of \$141,666.67, plus all applicable payroll taxes, four (4) months after the initial
15 payment and the final one-third (1/3) installment of \$141,666.66, plus all applicable payroll taxes
16 four (4) months after the second payment. If the Court rejects the payment plan, the parties will meet
17 and confer and make every effort to accommodate the Court's concerns without renegotiating the
18 Gross Settlement Amount.

19 42. Within five (5) business days of the funding of the total Gross Settlement Amount,
20 the Settlement Administrator will issue payments to (a) Participating Class Members; (b) the Labor
21 and Workforce Development Agency ("LWDA"); (c) Plaintiff; and (d) Class Counsel. The
22 Settlement Administrator will also issue a payment to itself for Court-approved services
23 performed in connection with the settlement.

24 43. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any
25 application or motion by Class Counsel for Attorneys' Fees up to 33 and 1/3% of the Gross
26 Settlement Amount, or One Hundred and Forty-One Thousand, Six Hundred and Sixty-Six Dollars
27 and Sixty-Seven cents (\$141,666.67), in addition to reasonable Costs and expenses of litigation,
28 not to exceed \$15,000.00 subject to Court approval. The Attorneys' Fees and Costs Award shall

1 represent payment for all claims for Class Counsel's attorneys' fees and costs, past and future,
2 incurred in the Action. The Attorneys' Fees and Costs Award shall be paid from the Gross
3 Settlement Amount, and Defendant shall not otherwise be required to pay for any portion of
4 Plaintiff's or the Class Members' attorneys' fees, costs, or expenses. The Attorneys' Fees and Costs
5 Award shall be paid to Class Counsel following all other payments due pursuant to this Agreement.
6 Any amounts of attorneys' fees and costs applied for but not awarded by the Court to Class
7 Counsel shall revert back into the Net Settlement Amount. An award by the Court of attorneys'
8 fees or costs that is less than the amounts applied for will not be grounds for Plaintiff or Class
9 Counsel to challenge or withdraw from the Settlement.

10 44. Class Representative Enhancement Payment. In recognition of his effort and work
11 in prosecuting the Action on behalf of Class Members and negotiating the Settlement, Defendant
12 agrees not to oppose or impede any application or motion by Plaintiff for a Class Representative
13 Enhancement Payment up to Five Thousand Dollars (\$5,000.00), subject to Court approval. The
14 Class Representative Enhancement Payment will be in addition to Plaintiff's Individual
15 Settlement Payment as a Participating Class Member paid pursuant to the Settlement.

16 a. **Class Members' General Release.** The Settlement Class hereby fully and
17 finally releases and discharges the Released Parties from any and all of the
18 Released Claims that were or could be asserted in the lawsuit based upon
19 the facts alleged in the complaint (collectively with Released Claims,
20 "Plaintiff's Released Claims"), arising or accruing through the Released
21 Claims Period. The Settlement Class's Released Claims include, but are
22 not limited to, claims arising from or dependent on the California Labor
23 Code; the Wage Orders of the California Industrial Welfare Commission;
24 California Business and Professions Code § 17200 et seq. The Release will
25 not be effective until the date Defendant has fully funded the Gross
26 Settlement Amount.

27 b. The Settlement Administrator will issue an IRS Form 1099 for the Class
28 Representative Enhancement Payment to the Plaintiff, and Plaintiff shall be

1 solely and legally responsible for correctly characterizing this
2 compensation for tax purposes and for paying any taxes on the amounts
3 received. The Plaintiff agrees to indemnify and hold Defendant harmless
4 from any claim or liability for taxes, penalties, or interest arising as a result
5 of the Class Representative Enhancement Payment. No benefit, including
6 but not limited to 401K benefits, shall increase or accrue as a result of any
7 payment as a result of this Settlement. Any portion of the Class
8 Representative Enhancement Payment applied for but not awarded by the
9 Court to Plaintiff shall be added to the Net Settlement Amount for the
10 benefit of Participating Class Members. An award by the Court of a Class
11 Representative Enhancement Payment that is less than the amount applied
12 for will not be grounds for Plaintiff or Class Counsel to challenge or
13 withdraw from the Settlement.

14 45. Settlement Administration Costs. The Settlement Administrator will be paid for
15 the reasonable costs of administration of the Settlement and distribution of payments from the
16 Gross Settlement Amount, which is currently estimated to be \$13,306.25. These costs, which will
17 be paid from the Gross Settlement Amount, will include, *inter alia*, the required tax reporting on
18 the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms, distributing the
19 Notice Packet, calculating and distributing the Gross Settlement Amount (including the Attorneys'
20 Fees and Costs), and providing necessary reports and declarations.

21 46. Labor and Workforce Development Agency Payment. Subject to Court approval,
22 the Parties agree that the amount of Forty Thousand Dollars (\$40,000.00) from the Gross
23 Settlement Amount will be designated for satisfaction of Plaintiff's and PAGA Members' PAGA
24 claims. Pursuant to PAGA, 75%, *i.e.*, Thirty Thousand Dollars (\$30,000.00) of this sum will be
25 paid to the LWDA and 25%, *i.e.*, Ten Thousand Dollars (\$10,000.00), will be distributed to PAGA
26 Members as part of the Net Settlement Amount.

27 47. Net Settlement Amount. The Net Settlement Amount will be used to satisfy
28 Individual Settlement Payments to Participating Class Members from the Settlement Class in

1 accordance with the terms of this Agreement.

2 48. Escalator Clause. If it is later determined that the number of class members
3 increased by more than 10% than the 858 estimated by Defendant at the time of the Parties'
4 exchange of information for purposes of mediation, then Defendant shall increase the Gross
5 Settlement Amount proportionally, (i.e. for an increase of eleven percent in employees, Defendant
6 shall add an extra 1% to the Settlement Amount, for a fifteen percent increase in employees
7 Defendant shall add an extra 5% to the Settlement Amount). In the alternative to adding additional
8 compensation to the settlement, Defendant shall also have the option to have the class period end as
9 of the date that Defendant reported there were 858 estimated class members.

10 49. Non-reversionary Settlement. No portion of the Gross Settlement Amount will
11 revert to Defendant.

12 50. Individual Settlement Payment Calculations. Individual Settlement Payment will
13 be calculated and apportioned from the Net Settlement Amount based on the number of Work
14 Weeks a Participating Class Member worked during the Class Period. Specific calculations of
15 Individual Settlement Payments will be made as follows:

16 a. The Settlement Administrator will calculate the number of Work Weeks
17 worked by each Participating Class Member ("Individual Work Weeks") during the Class Period
18 and PAGA Period (if the Class Member is also a PAGA Member), the amount to be paid per Work
19 Week, and the individual settlement awards to eligible Participating Class Members and PAGA
20 Members.

21 b. Defendant's employee data will be presumed to be correct, unless a
22 particular Class Member proves otherwise to the Settlement Administrator by credible evidence.
23 All Work Week disputes will be resolved and decided by the Settlement Administrator. If the
24 dispute cannot be settled by the parties and the Settlement Administrator, the Court will have the
25 power to render a decision on all Work Week disputes which will be final and non-appealable.

26 c. The individual settlement awards will be determined by dividing the Net
27 Settlement Amount by the total number of Work Weeks for all Participating Class Members,
28 resulting in the Work Week Value, and then multiplying the Work Week Value by the number of

1 Work Weeks worked by each Participating Class Member. PAGA Members Share of the \$10,000
2 PAGA amount will be calculated based on the same formula applied to the applicable PAGA
3 Period and the applicable \$10,000 PAGA amount.

4 51. Settlement Awards Do Not Trigger Additional Benefits. Defendant shall fully
5 discharge its obligations to Plaintiff and the Participating Class Members through the remittance
6 of the Gross Settlement Amount to the Settlement Administrator, regardless of whether the checks
7 representing individual settlement awards are actually received and/or negotiated by Participating
8 Class Members. Once Defendant has remitted the Gross Settlement Amount in accordance with
9 this Settlement Agreement, it will be deemed to have satisfied all terms and conditions under this
10 Agreement, shall be entitled to all protections afforded to it under this Settlement Agreement, and
11 shall have no further obligations under the terms of the Agreement, regardless of what occurs with
12 respect to the further administration of the Settlement. It is expressly understood and agreed that
13 the receipt of such individual settlement awards will not entitle any Participating Class Member
14 to additional compensation or benefits under any company bonus, contest or other compensation
15 or benefit plan or agreement in place during the period covered by the Settlement, nor will it entitle
16 any Participating Class Member to any increased retirement, 401K benefits or matching benefits,
17 or deferred compensation benefits. It is the intent of this Settlement that the individual settlement
18 awards provided for in this Settlement are the sole payments to be made by Defendant to the
19 Participating Class Members, and that the Participating Class Members are not entitled to any new
20 or additional compensation or benefits as a result of having received the individual settlement
21 awards (notwithstanding any contrary language or agreement in any benefit or compensation plan
22 document that might have been in effect during the period covered by this Settlement).

23 52. Settlement Administration Process. The Parties agree to cooperate in the
24 administration of the settlement and to make all reasonable efforts to control and minimize the
25 costs and expenses incurred in administration of the Settlement. Without prejudice to any other
26 remedies, the Settlement Administrator shall hold Defendant harmless from and against all
27 liabilities, claims, causes of action, costs, and expenses (including legal fees and expenses) arising
28 out of any failure to timely or properly compensate Participating Class Members as provided for

1 in this Agreement. No person shall have any claim against any of the Released Parties, Counsel
2 for Defendant, Plaintiff, the Class Members, Class Counsel, or the Settlement Administrator based
3 on mailings, distributions, and payments made in accordance with or pursuant to this Agreement.

4 53. Delivery of the Class List. Within twenty (20) calendar days of Preliminary
5 Approval, Defendant will provide the Class List to the Settlement Administrator. The information
6 Defendant provides to the Settlement Administrator shall be used solely to administer the terms
7 of the Agreement as described herein, shall remain confidential, and shall not be disclosed to
8 anyone, except pursuant to the express written authorization of Defendant or the individual in
9 question, by order of the Court, or to the extent necessary to fulfill the Settlement Administrator's
10 reporting obligations hereunder.

11 54. Notice by First-Class U.S. Mail. Within ten (10) calendar days of receiving the
12 Class List, the Settlement Administrator will perform an NCOA check for information to update
13 and correct for any known or identifiable address changes. And then shall mail a Notice Packet to
14 all Class Members via regular First-Class U.S. Mail, using the most current, known mailing
15 addresses identified in the Class List. There will not be a claim process requirement and, as such,
16 Class Members will not receive, nor will they be required to submit a claim form to receive their
17 individual settlements.

18 55. Time for Objections. The Class Members will then have thirty (30) days in which
19 they must postmark and send written notice to the Settlement Administrator of their decision to
20 object in writing to the Settlement.

21 56. Notice Packets. All Class Members will be mailed a Notice Packet in English and
22 Spanish by the Settlement Administrator. Each Notice Packet will provide: (a) information
23 regarding the nature of the Action; (b) a summary of the Settlement's principal terms; (c) the
24 Settlement Class definition; (d) the total number of Work Weeks each respective Class Member
25 worked for Defendant during the Class Period and the number of PAGA Work Weeks for PAGA
26 Members; (e) each Class Member's estimated Individual Settlement Payment and the formula for
27 calculating Individual Settlement Payments; (f) the dates which comprise the Class Period and
28 PAGA Period; (g) information regarding disputing Work Weeks, Requests for Exclusion, or

1 Notice of Objections; (h) the deadlines by which the Class Member must postmark dispute of
2 Work Weeks, Requests for Exclusions, or Notice of Objections to the Settlement; (i) the claims
3 to be released, as set forth herein; and (j) the date for the Final Approval Hearing. For every Class
4 Member where the Notice Packet is returned after mailing with a forwarding address, the
5 Settlement Administrator shall re-mail the Notice Packet to the forwarding address. For every
6 Class Member where the Notice Packet is returned after mailing without a forwarding address,
7 the Settlement Administrator shall perform one “skip trace” search in a consumer information
8 database comparable to Accurant in an effort to locate a current address. It shall be presumed that
9 each Class Member whose Notice Packet is not returned to the Settlement Administrator as
10 undeliverable within the 45-day notice period has actually received the Notice Packet. The
11 Response Deadline for any Settlement Class Member who is re-mailed a Notice Packet shall be
12 extended fifteen (15) calendar days from the date of the re-mailing or the original thirty (30) calendar
13 day deadline, whichever is later. If the Response Deadline for any Class Member is later than the
14 original 30-day notice period, the Settlement Administrator shall include a letter with the Notice
15 Packet advising the Class Member of the adjustment to the Response Deadline.

16 57. Disputed Information on Notice Packets. Class Members will have an opportunity
17 to dispute the information provided in their Notice Packets. To the extent Class Members dispute
18 the number of Work Weeks to which they have been credited or the amount of their Individual
19 Settlement Payment, Class Members may produce evidence to the Settlement Administrator
20 showing that such information is inaccurate. Absent evidence rebutting Defendant’s records,
21 Defendant’s records will be presumed determinative. However, if a Class Member produces
22 evidence to the contrary, the Parties will evaluate the evidence submitted by the Class Member
23 and the Settlement Administrator will make the final decision as to the number of eligible Work
24 Weeks that should be applied and/or the Individual Settlement Payment to which the Class
25 Member may be entitled. Class Members shall have until the Response Deadline to provide
26 evidence to the Settlement Administrator demonstrating that the number of Work Weeks to which
27 they have been credited is incorrect.

1 58. Settlement Checks. The expiration date on the settlement checks will be one
2 hundred and eighty (120) calendar days from the date the settlement checks are issued. If a
3 Participating Class Member or PAGA Member does not cash his or her check within 180 days, the
4 check will be cancelled. All funds associated with such cancelled checks will be transmitted to the
5 State of California's Unclaimed Property Fund. The Settlement Administrator may, as necessary,
6 undertake amended and/or supplemental tax filings and reporting, required under applicable local,
7 state, and federal tax laws, that are necessitated due to the cancellation of any Individual Settlement
8 Payment checks. Settlement Class Members whose Individual Settlement Payment checks are
9 cancelled shall, nevertheless, be bound by this Settlement Agreement.

10 59. Request for Exclusion Procedures. Any Class Member wishing to be excluded
11 from the Settlement Agreement must sign and postmark or fax a written Request for Exclusion to
12 the Settlement Administrator within the Response Deadline. The date of fax or the postmark on
13 the return mailing envelope will be the exclusive means to determine whether a Request for
14 Exclusion has been timely submitted. All Requests for Exclusion will be submitted to the
15 Settlement Administrator, who will certify jointly to Class Counsel and Defendant's Counsel the
16 Requests for Exclusion that were timely submitted. Any Class Member who submits a Request
17 for Exclusion is prohibited from making any objection to the Settlement Agreement.

18 60. Settlement Terms Bind All Class Members Who Do Not Request Exclusion. Any
19 Class Member who does not affirmatively Request Exclusion of the Settlement Agreement by
20 submitting a timely and valid Request for Exclusion will be bound by all of its terms, including
21 those pertaining to the Released Claims, as well as any Judgment that may be entered by the Court
22 if it grants final approval to the Settlement. The entry of a final order approving settlement of this
23 Action and Judgment which discharges Defendant and Released Parties from liability for any and
24 all of the Released Claims shall have a *res judicata* effect and bar Plaintiff and Class Members
25 who did not submit a timely and valid Request for Exclusion from bringing any actions or claims
26 asserting the Released Claims.

27 61. Individuals who fall within the definition of the Class may choose to opt-out of the
28 Class under such Request for Exclusion procedures specified in Paragraph 60 of this Agreement.

1 Any such persons who opt-out of the Class (“Opt-Outs”) will not receive an Individual Class
2 Payment. However, PAGA Members may not opt-out of the portion of the Settlement relating to
3 the settlement of claims under PAGA. Even if a Class Member opts-out, they will still receive an
4 Individual PAGA Payment if their employment falls within the statutory PAGA period. PAGA
5 Members will be bound by the PAGA portion of the release whether or not they cash this check
6 before it becomes void. Class Members who opt-out and also qualify as PAGA Members will only
7 be bound by the release of the PAGA claims.

8 62. Objection Procedures. To object to the Settlement Agreement in writing, a Class
9 Member must postmark a valid Notice of Objection to the Settlement Administrator on or before
10 the Response Deadline. The Notice of Objection must be signed by the Class Member and contain
11 all information required by this Settlement Agreement. The postmark date will be deemed the
12 exclusive means for determining that the Notice of Objection is timely. Aside from these
13 procedures governing written objections, the Court will otherwise control the acceptance of any
14 objections prior to, or made at the final approval hearing. Moreover, Class Members are not
15 required to make written objections, and can also make any other objections directly to the Court,
16 at the Final Approval Hearing. At no time will any of the Parties or their counsel seek to solicit
17 or otherwise encourage Class Members to submit objections to the Settlement Agreement or
18 appeal from the Order and Judgment. Class Counsel will not represent any Class Members with
19 respect to any such objections to this Settlement.

20 63. Certification Reports Regarding Individual Settlement Payment Calculations. The
21 Settlement Administrator will provide Defendant’s counsel and Class Counsel a weekly report
22 which certifies: (a) the number of Participating Class Members from the Settlement Class who
23 have submitted a dispute of Work Weeks; (b) the number of Class Members who have submitted
24 valid Requests for Exclusion or Notice of Objections; and (c) whether any Class Member has
25 submitted a challenge to any information contained in their Notice Packet. Additionally, the
26 Settlement Administrator will provide to counsel for both Parties any updated reports regarding
27 the administration of the Settlement Agreement as needed or requested.

1 64. Payroll Taxes. In accordance with this Settlement, the transfer of the Gross
2 Settlement approved by the Court shall, to the fullest extent possible, resolve, satisfy and
3 completely extinguish all of Defendant's liability with respect to the Settlement Class except that
4 Defendant shall solely be responsible for the employer portion of the payroll taxes. Upon the
5 transfer of funds to the Settlement Administrator, Defendant shall have no further payment or
6 defense obligation whatsoever with respect to any claims covered by this Settlement made or
7 asserted by any person or entity anywhere in the world in connection with the Settlement Class.

8 65. Certification of Completion. Upon completion of administration of the Settlement,
9 the Settlement Administrator will provide a written declaration under oath to certify such
10 completion to the Court and counsel for all Parties. Plaintiff and Class Counsel will file a
11 Satisfaction of Judgment within ten (10) calendar days of the submission of said declaration.

12 66. Treatment of Individual Settlement Payments. All Individual Settlement Payments
13 will be allocated as follows: 25% of each Individual Settlement Payment will be allocated as
14 alleged unpaid wages, and 75% will be allocated as alleged unpaid interest and penalties. The
15 portion allocated to wages will be reported on an IRS Form W-2 and the portions allocated to
16 interest and penalties will be reported on an IRS Form-1099 by the Settlement Administrator.

17 67. Administration of Taxes by the Settlement Administrator. The Settlement
18 Administrator will be responsible for issuing to Plaintiff, Participating Class Members, and Class
19 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant
20 to this Agreement. The Settlement Administrator will also be responsible for forwarding all
21 payroll taxes and penalties to the appropriate government authorities.

22 68. Tax Liability. Defendant makes no representation as to the tax treatment or legal
23 effect of the payments called for hereunder, and Plaintiff and Participating Class Members are not
24 relying on any statement, representation, or calculation by Defendant or by the Settlement
25 Administrator in this regard. Plaintiff and Participating Class Members understand and agree that
26 except for Defendant's payment of the employer's portion of any payroll taxes, they will be solely
27 responsible for the payment of any taxes and penalties assessed on the payments described herein.

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

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

1 71. Release of Claims by Class Members. Upon the date upon which Defendant
2 transfers the entire Gross Settlement Amount to the Settlement Administrator, Plaintiff and all
3 Class Members who do not Request Exclusion will be deemed to have fully, finally and forever
4 released, settled, compromised, relinquished, and discharged with respect to all of the Released
5 Parties for any and all Released Claims that accrued during the Released Claims Period. The
6 release of Released Claims will have a *res judicata* effect against any Class Members who make
7 a claim against any of the Released Parties for any of the Released Claims, file any actions, claims,
8 complaints or proceedings regarding the Released Claims with the California Division of Labor
9 Standards Enforcement, initiate any other proceedings against any of the Released Parties
10 regarding any of the Released Claims, or seek to participate in any judgment or settlement of
11 claims that are the subject of the Released Claims in any other class, collective, or representative
12 action against any of the Released Parties.

13 72. Inability to Object / Opt Out of PAGA. The Parties agree that there is no statutory
14 right for any Class Member to object to, opt out of, or otherwise exclude himself or herself from the
15 settlement of the PAGA claims. Accordingly, any timely objection or exclusion from the Settlement
16 submitted by a Class Member shall be construed as relating only to the putative class action claims
17 and shall have no effect whatsoever on the settlement of the PAGA claims.

18 73. Duties of the Parties Prior to Court Approval. The Parties shall promptly submit
19 this Settlement Agreement to the Court in support of Plaintiff's Motion for Preliminary Approval
20 and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon
21 execution of this Settlement Agreement, the Parties shall apply to the Court for the entry of an
22 order:

23 a. Scheduling a fairness hearing on the question of whether the proposed
24 settlement, including payment of attorneys' fees and costs, and the Class Representative's
25 enhancement payment, should be finally approved as fair, reasonable and adequate as to the
26 members of the Settlement Class;

27 b. Conditionally certifying the Settlement Class for settlement purposes only;
28

1 c. Approving, as to form and content, the proposed Notice of Pendency of
2 Class Action and Proposed Settlement;

3 d. Approving as to form and content the proposed Notice Packet;

4 e. Approving the manner and method for Class Members to request exclusion
5 from the Settlement as contained herein and within the Notice of Pendency of Class Action and
6 Proposed Settlement;

7 f. Directing the mailing of the Notice of Pendency of Class Action and
8 Proposed Settlement and Class Action Settlement, by first class mail to the Class Members; and

9 g. Preliminarily approving the Settlement subject only to the objections of
10 Class Members and final review by the Court.

11 74. Duties of the Parties Following Final Court Approval. Following final approval by
12 the Court of the Settlement provided for in this Settlement Agreement, Class Counsel will submit
13 a proposed final order of approval and judgment:

14 a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable
15 and adequate, and directing consummation of its terms and provisions;

16 b. Approving Class Counsel's application for an award of attorneys' fees and
17 costs;

18 c. Approving the Class Representative Enhancement Payment to the Class
19 Representative;

20 d. Setting a date when the Parties shall report to the court the total amount that
21 was actually paid to the Class Members;

22 e. Entering judgment in this Action encompassing Defendant and all members
23 of the Settlement Class, with a reservation of continuing jurisdiction by the Court over the
24 Settlement Agreement and its implementation; and

25 f. Posting the judgment on the Settlement Administrator's website for at least
26 90 days after entry by the Court.

27 75. Nullification of Settlement Agreement. In the event that the Settlement is barred
28 by operation of law, or invalidated, or ordered not to be carried out by a court of competent

1 jurisdiction, this Settlement Agreement, and any documents generated to bring it into effect, will
2 be null and void. Any order of judgment entered by the Court in furtherance of this Settlement
3 Agreement will likewise be treated as void from the beginning, and all Parties to this Agreement
4 shall stand in the same position, without prejudice, as if the Agreement had been neither entered
5 into nor filed with the Court. Defendant will cease to have any obligation to pay any portion of
6 the Gross Settlement Amount to the Qualified Settlement Account, or any other party under the
7 terms of this Agreement and all previous disbursements made from Defendant to the Qualified
8 Settlement Account will immediately revert back to Defendant. Any Settlement Administration
9 Costs incurred will be split equally between the Parties.

10 76. Rescission of Settlement Agreement (by Defendant). If more than ten percent
11 (10%) of the Class Members opt out of the Settlement, Defendant may, at its election, rescind the
12 Settlement and all actions taken in furtherance of it will thereby be null and void. Defendant must
13 exercise this right of rescission, in writing, to Class Counsel and with a copy to the Settlement
14 Administrator within ten (10) business days after the Settlement Administrator notifies the Parties
15 of a greater than ten percent (10%) opt-out rate. If the option to rescind is exercised, then Defendant
16 shall be solely responsible for all costs of the claims administration accrued to that point, not to
17 exceed the amount approved by the Court in the Preliminary Approval Order. If Defendant
18 exercises this option, the Parties shall return to their respective positions that existed before the
19 execution of this Agreement, and no term of this Agreement or any draft thereof, or the negotiation,
20 documentation, or other part or aspect of the Parties' settlement discussions, shall have any effect
21 or be admissible as evidence for any purpose in the Action, or in any other proceeding.

22 77. Termination of Settlement. Either Party may terminate this Settlement only if the
23 Court declines to enter the Preliminary Approval Order, the Final Approval Order or final
24 judgment in substantially the form submitted by the Parties, or the Settlement Agreement as agreed
25 does not become final because of appellate court action. However, before terminating the
26 Settlement, the parties agree to meet and confer in good faith to bring the Settlement into
27 compliance with any Court Order. Should a party thereafter still wish to terminate the settlement,
28 the terminating Party shall give to the other Party (through its counsel) written notice of its

1 decision to terminate no later than ten (10) calendar days after receiving notice that one of the
2 enumerated events has occurred. Termination shall have the following effects:

- 3 a. The Settlement Agreement shall be terminated and shall have no force or
4 effect, and no Party shall be bound by any of its terms;
- 5 b. In the event the Settlement is terminated, Defendant shall have no obligation
6 to make any payments to any party, Class Member or attorney, except that
7 the terminating Party shall pay the Settlement Administrator for services
8 rendered up to the date the Settlement Administrator is notified that the
9 settlement has been terminated;
- 10 c. The Preliminary Approval Order, Final Approval Order and Judgment,
11 including any order of class certification, shall be vacated;
- 12 d. The Settlement Agreement and all negotiations, statements and proceedings
13 relating thereto shall be without prejudice to the rights of any of the Parties,
14 all of whom shall be restored to their respective positions in the Action prior
15 to the settlement;
- 16 e. Neither this Stipulated Settlement, nor any ancillary documents, actions,
17 statements or filings in furtherance of settlement (including all matters
18 associated with the mediation) shall be admissible or offered into evidence in
19 the Action or any other action for any purpose whatsoever.

20 78. Public Statements. Plaintiff and Class Counsel shall not hold any press conferences
21 or issue any press releases with respect to this Settlement at any time. Until the Parties submit a
22 request for preliminary approval from the Court, Plaintiff and Class Counsel will keep the terms
23 of this Agreement confidential. Prior to final approval of this Settlement, Plaintiff and Class
24 Counsel will not discuss this Action or the Settlement or otherwise disclose the terms of this
25 Agreement with third parties other than Class Members and the Settlement Administrator, except
26 (1) as required by the PAGA statute, (2) as necessary to effectuate this Agreement, and (3) to the
27 Parties' tax advisors. After final approval of this Settlement, Plaintiff, Defendant, and their
28 respective counsel shall not issue any public statements with respect to the Action or Settlement,

1 except as required by law. The Parties and their counsel shall not engage in any publicity,
2 including website or social media postings, of any type related to the Action, Settlement, or
3 litigation against Defendant. Notwithstanding the specific limitations to public disclosure
4 identified herein, Class Counsel shall not be precluded from disclosing the Parties to the lawsuit
5 and the fact that the matter settled to a Court or other tribunal. Furthermore, nothing herein limits
6 Plaintiff's or any Class Member's ability to communicate with any government agency or
7 otherwise cooperate in any investigation or proceeding that may be conducted by any government
8 agency.

9 79. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by
10 the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the
11 Judgment to the Court for its approval, pursuant to Rule 3.770 of the California Rules of Court.
12 After entry of the Judgment, the Court will have continuing jurisdiction under California Code of
13 Civil Procedure section 664.6.

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

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

24 82. Amendment or Modification. This Settlement Agreement may be amended or
25 modified only by a written instrument signed by the named Parties and counsel for all Parties or
26 their successors-in-interest.

27 83. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
28 and represent they are expressly authorized by the Parties whom they represent to negotiate this

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

9 84. Signatories. It is agreed that because the members of the Class are so numerous, it
10 is impossible or impractical to have each member of the Class execute this Settlement Agreement.
11 The Notice of Pendency of Class Action and Proposed Settlement, attached hereto as Exhibit “A,”
12 will advise all Class Members of the binding nature of the release, and the release shall have the
13 same force and effect as if this Settlement Agreement were executed by each member of the Class.

14 85. Binding on Successors and Assigns. This Settlement Agreement will be binding
15 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
16 defined.

17 86. California Law Governs. All terms of this Settlement Agreement and Exhibits
18 hereto will be governed by and interpreted according to the laws of the State of California.

19 87. Execution and Counterparts. This Settlement Agreement is subject only to the
20 execution of all Parties. However, the Agreement may be executed in one or more counterparts.
21 All executed counterparts and each of them, including facsimile and scanned copies of the
22 signature page, will be deemed to be one and the same instrument provided that counsel for the
23 Parties will exchange among themselves original signed counterparts.

24 88. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe
25 this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have
26 arrived at this Settlement after arm’s-length negotiations and in the context of adversarial
27 litigation, taking into account all relevant factors, present and potential. The Parties further
28 acknowledge that they are each represented by competent counsel and that they have had an

1 opportunity to consult with their counsel regarding the fairness and reasonableness of this
2 Agreement. In addition, the Mediator may execute a declaration supporting the Settlement and
3 the reasonableness of the Settlement and the Court may, in its discretion, contact the Mediator to
4 discuss the Settlement and whether or not the Settlement is objectively fair and reasonable.

5 89. Invalidity of Any Provision. Before declaring any provision of this Settlement
6 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest
7 extent possible consistent with applicable precedents so as to define all provisions of this
8 Settlement Agreement valid and enforceable.

9 90. Plaintiff's Waiver of Right to Be Excluded and Object. Plaintiff agrees to sign this
10 Settlement Agreement and, by signing this Settlement Agreement, is hereby bound by the terms
11 herein.

12 91. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
13 class certification for purposes of this Settlement only; and either party may appeal any court order
14 that materially alters the Settlement Agreement's terms.

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

1 93. Captions. The captions and section numbers in this Agreement are inserted for the
2 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
3 provisions of this Agreement.

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

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

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

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

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

25 99. Cooperation and Execution of Necessary Documents. All Parties will cooperate in
26 good faith and execute all documents to the extent reasonably necessary to effectuate the terms of
27 this Settlement Agreement.

28

100. Integration Clause. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

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

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

SIGNATURES - READ CAREFULLY BEFORE SIGNING

3/28/2023

Dated: _____

PLAINTIFF DOUGLAS HILL

DocuSigned by:
C. Douglas Hill
354C0797044D4F5...

DOUGLAS HILL

**DEFENDANT
GRAND RESTAURANT GROUP**

Dated: _____

Chief Executive Officer

100. Integration Clause. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

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

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

SIGNATURES - READ CAREFULLY BEFORE SIGNING

PLAINTIFF DOUGLAS HILL

Dated: _____

DOUGLAS HILL

**DEFENDANT
GRAND RESTAURANT GROUP**

Dated: 3/23/2023

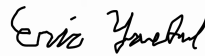
Chief Executive Officer

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APPROVED AS TO FORM

Dated: 3/29/23

SULLIVAN & YAECKEL LAW GROUP, APC

BY: 
Eric K. Yaeckel, Esq.
Ryan T. Kuhn, Esq.
Attorneys for Plaintiff DOUGLAS HILL

Dated: March 23, 2023

SNELL & WILMER LLP

BY: 
Christy Joseph, Esq.
Erin Leach, Esq.
Kevin Brown, Esq.
Attorneys for Defendant,
GRAND RESTAURANT GROUP

EXHIBIT B

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

NOTICE OF CLASS ACTION SETTLEMENT

PLEASE READ CAREFULLY AS
THIS NOTICE MAY AFFECT YOUR RIGHTS

DOUGLAS HILL, individually, and on behalf of other
members of the public similarly situated,

Plaintiff,

vs.

GRAND RESTAURANT GROUP, a Nevada
Corporation, GRAND RESTAURANT GROUP, INC., a
Suspended California Corporation, and DOES 1-10,
inclusive

CASE No. 37-2022-00022886-CU-OE-CTL
JUDGE: Honorable John S. Meyer
DEPARTMENT: C-64

**NOTICE OF CLASS AND PAGA ACTION
SETTLEMENT AND RELEASE**

I. WHY DID I GET THIS NOTICE?

This notice explains that a settlement has been reached in the case entitled *Hill v. Grand Restaurant Group, et al*, Case No. 37-2022-00022886-CU-OE-CTL (the “Action”).

This notice is to inform you of the proposed Settlement of the Action. The notice is also intended (i) to describe the Settlement, including how the Settlement monies will be allocated and how the Settlement may affect you; and (ii) to advise you of your rights and options with respect to the Settlement.

You are receiving this notice by order of the Court because the records of Grand Restaurant Group or the California locations under Grand Restaurant Group’s umbrella – specifically, Nick & G’s Restaurant Corp., Bellamy’s Fine Dining Corp., DiCicco’s Old Town Clovis LLC, DiCicco’s Italian Restaurant & Pizzeria, BCR Steakhouse, Alejandra’s Cocina, and Giaola LLC (hereinafter collectively “Defendants”), indicate that you are a current or former employee who worked for at least one of the Defendants in California during the time period of June 14, 2018 to [the date of preliminary approval of the settlement or April 9, 2023 (whichever is sooner)] (the “Class”). As a result, **you are eligible to receive a portion of the settlement amount.**

This is **not** a notice of a lawsuit against you. **You are not being sued.** Your participation in the Settlement will **not** affect your employment with any of the Defendants in any way whatsoever.

II. WHAT IS THE CLASS ACTION LAWSUIT ABOUT?

In June of 2022, the Plaintiff in this matter filed a lawsuit in which he alleged violations of California wage-and-hour laws on a class action and representative basis as to all of Defendants’ current and former non-exempt employees in California.

The Class Action alleges that the Class was not paid regular, minimum, or overtime wages or final wages upon separation from employment, as required by California law; was not provided meal and rest periods under the California Labor Code and Wage Orders; was not reimbursed for all business-related expenses; and, was not provided pay statements with information specified in the California Labor Code. The Class Action also alleges

violations under the California Business and Professions Code §§ 17200 et seq. based on these state law claims. The lawsuit also seeks penalties under California’s Private Attorneys General Act (“PAGA”).

The individual who is suing is referred to in this document as “Plaintiff.” Plaintiff’s attorneys, Sullivan & Yaeckel Law Group, APC, have been litigating the Action since filing it.

Defendants claim that the Class has been paid all monies due, maintains that they have complied with California’s wage-and-hour laws, and deny all wrongdoing. This settlement is **not** an admission of any liability.

The Court has not ruled on whether Plaintiff’s allegations have any merit. However, in order to avoid the time and expense of further litigation, the ultimate outcome of which is uncertain, and to provide a fair and reasonable resolution of this legal dispute, the parties have negotiated a settlement whereby Defendants have agreed to pay up to **\$425,000.00**. As a Class Member, you are eligible to receive a portion of this amount.

III. WHO IS INCLUDED IN THIS CLASS ACTION?

All current and former nonexempt employees of Grand Restaurant Group and the California locations under its umbrella – specifically, Nick & G’s Restaurant Corp., Bellamy’s Fine Dining Corp., DiCicco’s Old Town Clovis LLC, DiCicco’s Italian Restaurant & Pizzeria, BCR Steakhouse, Alejandra’s Cocina, and Giaola LLC - who were employed at any time between June 14, 2018, through the **date of Preliminary Approval of the Settlement or April 9, 2023** (whichever is sooner).

IV. WHAT DOES THE PROPOSED SETTLEMENT OFFER?

Under the terms of the parties’ proposed settlement, the following will occur if the settlement is given final approval by the Court:

A. A claims administrator has been appointed by the Court to administer the settlement. The claims administrator will pay: (1) Plaintiff’s counsel’s attorneys’ fees, up to \$141,666.67; (2) Plaintiff’s costs of litigation, up to the amount of \$15,000.00; **(3) The expenses of administering the settlement, up to the amount of \$_____**; (4) An enhancement award of up to \$5,000.00 for Plaintiff’s role in pursuing the litigation; and (5) A payment of \$30,000.00 to the California Labor & Workforce Development Agency.

B. The amount remaining after those deductions is estimated to be \$_____, and will be divided among all Class Members based on the estimated number of weeks worked for any of the Defendants in California by each Class Member.

C. According to Defendants’ records, you worked in the State of California for any of the Defendants approximately **[INSERT NUMBER OF work weeks]** during the Class Period, which runs from June 14, 2018 through **[the date of preliminary approval of the settlement or April 9, 2023 (whichever is sooner)]**. Your estimated class settlement amount is **<<AMOUNT>>**. This is only an estimate. Your actual share may change depending on the Court’s final ruling and the final number of participating Class Members.

D. **[IF APPLICABLE]** Because you worked for any of the Defendants between May 21, 2021, through **[date of preliminary approval or April 9, 2023 (whichever is sooner)]**, you will also receive a payment for PAGA claims based on the number of pay periods worked during that period. Your estimated PAGA settlement amount is \$_____.

If you believe the information above is incorrect, you may dispute this information by sending your corrections and any supporting documentation to the Settlement Administrator via U.S. Mail, at _____. Please be advised that the information listed above is presumed to be correct unless you prove otherwise.

E. If the Court grants final approval of the settlement agreement and you do not opt out of the settlement, then you will release Defendants and their past, present, and future parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and each of their past, present, and future shareholders, owners (including Sandra DiCicco), officers, directors, members, insurers, managers, consultants, partners, employees, agents, trustees, attorneys, professional employer organization (including Innovative Employer Solutions and Innworks Employment Services, Inc.), representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, privies that from all claims that were or could have been asserted based on the factual allegations in the Operative Complaint or based on any facts discovered in the course of the Action, including (without limitation), claims for failure to pay minimum or overtime wages, failure to provide meal and rest periods or to pay meal and rest period premiums, failure to indemnify necessary business expenses, failure to pay or correctly document gratuities, failure to timely pay wages, failure to pay all wages due to discharged or quitting employees, failure to reimburse necessary business expenses, failure to provide accurate itemized wage statements; claims under California Labor Code sections 201 to 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698 et seq., 2802, and the Wage Orders promulgated thereunder; California Business and Professions Code section 17200, et seq., and claims for injunctive relief, punitive damages, penalties of any nature (including PAGA civil penalties and statutory penalties), interest, fees, and costs). for the time period from June 14, 2018 up to and including the last date of the Class Period. You will be barred from prosecuting any of the Released Class Claims against the Released Parties.

F. Please note that the settlement includes a payment plan in which Defendants will make payments over the course of no more than 8 months and seven days following the Final Approval of the Settlement. Based on the Final Approval Hearing date of _____, 2023, it is currently anticipated that the settlement will be fully funded by no later than [8 months + 7 days after final approval].

V. WHAT ARE MY OPTIONS?

A. ***You may accept your share of the settlement and be bound by the release of all claims described above.*** Settlement awards will be paid by check after the settlement is given final approval by the Court. The checks will be mailed to you by the Settlement Administrator. Your check will remain valid and negotiable for one hundred eighty (180) days from the date on which it is issued. After those one hundred eighty (180) days expire, the check will become void; **or**

B. ***You may exclude yourself from the class settlement, in which case you will not receive your share of the class settlement and you will not be bound by the class settlement.*** If you choose to be excluded from the class settlement, by no later than _____ (30 calendar days after mailing of this Notice), you must send a written request for exclusion, by mail, to the settlement administrator, _____, located at _____. In order to be considered valid, your request for exclusion **must** include your name, your address, a request for exclusion, and your signature. However, even if you choose Option B, you will still release the Released PAGA Claims and will receive payment from the PAGA Settlement Amount if you are deemed to be a PAGA Member. You cannot opt out of the PAGA portion of the proposed Settlement.

C. You may object to the settlement. The procedures for objecting to the settlement are described below in Section VIII of this form.

VI. WHAT ARE THE PROCEDURES FOR PAYMENT?

A. The settlement administrator will calculate your share of the settlement and will issue you a check.

B. Twenty five (25%) of your share of the settlement will be considered wages from which ordinary tax withholdings will be deducted. No tax deductions shall be made from the remaining seventy-five percent (75%). You will be given IRS tax forms for each of these amounts. You are responsible for paying the correct amount of taxes on each portion of your share of the settlement.

C. It is important for the parties to have your current address in order to be able to send you other mailings regarding the Action. You should contact the Settlement Administrator to report any change of your address after you receive this Notice. Failure to report a change of address may result in you not receiving your share of the settlement money.

VII. HEARING ON PROPOSED SETTLEMENT

A final fairness hearing will be held before the Court on _____, 2023, at _____ a.m., in Department C-64 of the San Diego County Superior Court, located at the Hall of Justice, 330 West Broadway, San Diego, California 92101, to decide whether or not the proposed settlement is fair, reasonable, and adequate. The Court may adjourn or continue the hearing without further notice to you. You are not required to attend the hearing. Sullivan & Yaeckel Law Group, APC (contact information below), counsel for Plaintiff and the Class, will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. Procedures for making remote appearances at the hearing are allowed, but are subject to change. However, those procedures are posted on the Court's website at: <https://www.sdcourt.ca.gov/virtualhearings>. You should check the Court website for up-to-date information before attempting to make a remote appearance.

VIII. PROCEDURES FOR OBJECTING TO SETTLEMENT

You have the option of objecting to the Settlement and telling the Court that you don't agree with the Settlement or some part of it. The Court will consider your views. To object, you may send a letter, which you must sign, saying that you object to the settlement of *Hill v. Grand Restaurant Group et al.*, Case No. 37-2022-00022886-CU-OE-CTL. Be sure to include the case name and case number (as shown in the preceding sentence), your name, the last four digits of your Social Security Number and/or your employee ID number, your address, the specific reasons you object to the terms of the Settlement, and your signature. Mail the objection to the Settlement Administrator address at _____ or fax to _____ on or before _____, 2023 (30 calendar days after mailing of this Notice). A written objection is optional. You may also appear at the Final Approval Hearing, as described in Section VII, above, to have any objections heard by the Court.

IX. EXAMINATION OF COURT PAPERS AND QUESTIONS

This Notice summarizes the Settlement. For more detailed information, you may view a complete copy of the settlement agreement, and any papers filed in the Action, which are on file with the Clerk of the Court,

case number 37-2022-00022886-CU-OE-CTL. The pleadings and all other records from this litigation may be examined by inspecting the Court file at the filing department of the San Diego County Superior Court, located at Hall of Justice, 330 West Broadway, San Diego, California 92101. You may also review the settlement agreement, along with other court records regarding this case, on the Court's website, <https://www.sdcourt.ca.gov/sdcourt/generalinformation/accesscourtrecords>, through the link to the "Register of Actions."

If you have any questions, you can call the Settlement Administrator at [REDACTED] or any of Class Counsel (see below for phone numbers.)

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**PLEASE DO NOT CALL THE COURT, DEFENDANTS, OR DEFENDANTS'
CORPORATE OFFICE REGARDING THIS SETTLEMENT.**
