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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

ROMELLO SHEPPARD, individually and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the California
Private Attorneys General Act;

Plaintiff,

vs.

GHIRARDELLI CHOCOLATE COMPANY,
a California corporation; and DOES 1 through
100,

Defendants.

Case No.: 22CV020713
Hon. Noel Wise, Dept. 21

Reservation ID No: 213827830452

**DECLARATION OF JOANNA
GHOSH IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

Date: October 8, 2024
Dept.: 21
Time: 1:30 p.m.

Complaint Filed: October 27, 2022

DECLARATION OF JOANNA GHOSH

I, Joanna Ghosh, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Lawyers *for* Justice, PC, attorneys of record for Plaintiff Romello Sheppard (“Plaintiff”). The facts set forth in this declaration are within my personal knowledge or based on information and belief, and if called as a witness, I could and would competently testify thereto.

EXPERIENCE AND ADEQUACY OF LAWYERS *for* JUSTICE, PC

2. Since October 2008, *Lawyers for Justice, PC* has almost exclusively focused on the prosecution of consumer and employment class actions, involving wage-and-hour claims, race discrimination, unfair business practices, or consumer fraud. Currently, the firm is attorney of record in over a dozen employment-related putative class actions in both state and federal courts in the State of California. *Lawyers for Justice, PC* is comprised of attorneys who focus on litigating complex wage-and-hour class and Private Attorneys General Act (“PAGA”) representative actions. The firm has successfully litigated cases involving the executive, administrative, and other overtime exemptions to the State of California and federal overtime compensation requirements. During a relatively short time, in association with other law firms, *Lawyers for Justice, PC* has recovered millions of dollars on behalf of thousands of individuals in California.

3. Edwin Aiwarzian is the Managing Member and Shareholder of Lawyers *for* Justice, PC. He received his Bachelor of Arts degree from Pepperdine University in April of 1999 and earned a Juris Doctor degree from Pepperdine University School of Law in May of 2004. He has extensive formal training in dispute resolution and negotiation from the Straus Institute for Dispute Resolution as part of its Masters in Dispute Resolution degree program. In addition, he has previously served as a pro bono mediator for the Los Angeles County Superior Court. In October of 2000, he obtained a Litigation Paralegal Certificate from the UCLA Extension Program. During the summer of 2000, he studied Legal Writing at Harvard University. From approximately September 2002 to approximately December 2002,

1 he served as a Judicial Extern to the Honorable Kim McLane Wardlaw of the United States
2 Court of Appeals for the Ninth Circuit. From approximately June 2002 to approximately
3 August 2002, he served as a Judicial Extern to the Honorable Earl Johnson, Jr. of the
4 California Court of Appeal for the Second Appellate District. In December of 2004, he
5 obtained a license to practice law from the California State Bar. Since in or around October
6 of 2008, through his work at *Lawyers for Justice, PC*, he has almost exclusively focused on
7 the prosecution of consumer and employment class actions, involving wage-and-hour
8 claims, race discrimination, unfair business practices, or consumer fraud. While employed
9 by *Lawyers for Justice PC*, he has argued over one hundred (100) motions, taken or
10 defended over one hundred fifty (150) depositions, prepared dozens of expert witnesses for
11 deposition or trial, and attended over one hundred seventy-five (175) mediations. Together
12 with other attorneys at the firm, and in many cases in conjunction with co-counsel, he has
13 successfully litigated cases involving the executive, administrative, and other overtime
14 exemptions to the State of California and federal overtime compensation requirements.
15 Under his supervision, *Lawyers for Justice, PC* has successfully obtained class certification
16 by contested motion practice in approximately fifteen (15) cases in the last decade, and
17 litigated over 1,000 class action or representative action cases.

18 4. Arby Aiwazian is a Member and Shareholder of *Lawyers for Justice, PC*. He
19 received his Bachelor of Arts degree from University of California, Los Angeles and
20 graduated magna cum laude. He earned a Juris Doctor degree, cum laude, from
21 Southwestern Law School. From approximately May 2007 to approximately July 2007, he
22 served as a Judicial Extern to the Honorable Earl Johnson, Jr. of the California Court of
23 Appeal for the Second Appellate District. From approximately August 2008 to
24 approximately December 2008 he served as a Judicial Extern to the Honorable Kim McLane
25 Wardlaw of the United State Court of Appeals for the Ninth Circuit. He was admitted to
26 practice law in California in 2010. He is admitted to practice before all courts of the State of
27 California and all United States District Courts in the State of California. He has worked on
28 many wage-and-hour class action and representative action cases, taking the lead in taking

1 and defending depositions, arguing motions, and attending mediations. He has played an
2 integral role in preparing matters for class certification, including and not limited to,
3 successful certification of a class in *Upson v. Sur La Table* (Los Angeles County Superior
4 Court Case No. BC424012), *Montazemi v. Regus Management* (Los Angeles County
5 Superior Court Case No. BC478769), and *Abdulhaqq v. Urban Outfitters* (Alameda County
6 Superior Court Case No. RG13680477). He has handled over one hundred and fifty (150)
7 mediations and has worked on over two hundred and fifty (250) class action or
8 representative action cases which have resulted in settlement.

9 5. I am a Managing Member of Lawyers *for* Justice, PC. I received a Bachelor
10 of Arts degree from California State University, Los Angeles in 2006, a Master of Science
11 degree from the London School of Economics in 2007, and a Juris Doctor degree from
12 Georgetown University Law Center in 2010. I am admitted to practice in California (since
13 2010) and in New York (since 2013) and I am also admitted to practice in all U.S. District
14 Courts in California, the U.S. Bankruptcy Court for the Central District of California, and
15 the U.S. Supreme Court. I have taken and defended dozens of depositions and successfully
16 handled motion practice in class action cases regarding discovery (including and not limited
17 to, regarding class contact information), class certification (both contested class
18 certification and stipulated class certification), arbitration agreements, coordination, and
19 intervention. I have successfully handled briefing and oral argument on appeal and obtained
20 notable decisions regarding Private Attorneys General Act claims and employer efforts to
21 compel arbitration of such claims, e.g., *Betancourt v. Prudential Overall Supply* (Cal. Ct.
22 App., Mar. 7, 2017) 9 Cal.App.5th 439, cert. denied (Cal., May 24, 2017), *cert. denied*
23 (U.S., Dec. 11, 2017) and *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th175. I have significant
24 experience with class actions, including and not limited to working on cases to obtain class
25 certification through contested motion practice and working on cases in the post-certification
26 stage (e.g., post-certification discovery, appeal, statistical sampling and pilot study, and trial
27 preparation in conjunction with co-counsel in a case involving a certified class consisting of
28 approximately 2,600 individuals). I also have extensive experience with class action and/or

1 representative action settlements, and have handled this process in over five hundred (500)
2 cases. Under Edwin Aiwasian, Arby Aiwasian, and my supervision, Lawyers *for* Justice, PC
3 has handled the class certification and court approval process for hundreds of class action
4 and/or representative action matters that have successfully resolved. I am also a member of
5 the California Employment Lawyers Association and, on several occasions, have been a
6 speaker regarding topics in wage and hour law at the organization's continuing legal
7 education events.

8 **EXAMPLES OF RESULTS IN WAGE-AND-HOUR**
9 **CLASS ACTION AND REPRESENTATIVE ACTION CASES**

10 6. What follows are just a few examples of the type of results Lawyers for
11 Justice, PC ("LFJ") has achieved on behalf of its clients:

12 a) LFJ, in association with co-counsel therein, represented the plaintiffs in a
13 wage-and-hour class action against a major property management company involving
14 allegations of misclassification of various "manager" positions. On September 20, 2010, the
15 court granted final approval of the class action settlement. The Los Angeles County Superior
16 Court Case Number is BC400414.

17 b) LFJ, in association with co-counsel therein, represented the plaintiffs in a
18 wage-and-hour class action against a national retailer of household items involving
19 allegations of misclassification of the "Assistant Store Manager" position. On October 28,
20 2010, the court granted final approval of the class action settlement. The Los Angeles
21 County Superior Court Case Number is BC413498.

22 c) LFJ, in association with co-counsel therein, represented the plaintiffs in a
23 wage-and-hour class action against a national property management company involving
24 allegations of misclassification of the "Property Manager" position. On May 23, 2012, the
25 court granted final approval of the class action settlement. The Los Angeles County Superior
26 Court Case Number is BC430918.

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1 d) LFJ, in association with co-counsel therein, represented the plaintiffs in a
2 wage-and-hour class action against a national retailer involving allegations of
3 misclassification of the “Store Manager” position. On June 10, 2011, the court granted
4 plaintiffs’ motion for class certification. On August 26, 2013, the court granted final
5 approval of the class action settlement. The Los Angeles County Superior Court Case
6 Number is BC424012.

7 e) LFJ, in association with co-counsel therein, represented the plaintiff in a
8 wage-and-hour class and PAGA representative action against a bank, involving
9 allegations of misclassification of the “Assistant Branch Manager” position. On August 27,
10 2013, the court granted final approval of the class and PAGA representative action
11 settlement. The Kern County Superior Court Case Number is S-1500-CV-273194-LHB.

12 f) LFJ, in association with co-counsel therein, represented the plaintiff in a
13 wage-and-hour class and PAGA representative action against a national wholesale
14 distributor of plumbing and builder supplies, involving allegations of misclassification of
15 multiple salaried “manager” positions. On May 22, 2014, the court granted final approval of
16 the class and PAGA representative action settlement. The Sacramento County Superior
17 Court Case Number is 34-2012-00136285.

18 g) LFJ, in association with co-counsel therein, represented the plaintiff in a
19 wage-and-hour class action against a multinational corporation that provides global
20 workplace solutions, involving allegations of misclassification of the “Operations Manager”
21 position. On September 16, 2014, the court granted plaintiff’s motion for class certification.
22 The Los Angeles County Superior Court Case Number is BC478769.

23 h) LFJ, in association with co-counsel therein, represented the plaintiff in a
24 wage-and-hour class and PAGA representative action against a national retailer of
25 household items, on behalf of hourly-paid or non-exempt employees. On May 27, 2015, the
26 court granted final approval of the class and PAGA representative action settlement. The
27 San Francisco County Superior Court Case Number is CGC-13-532344.

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1 i) LFJ, in association with co-counsel therein, represented the plaintiff in a
2 wage-and-hour class and PAGA action involving allegations of misclassification of the
3 salaried residential “Property Manager” position. On September 17, 2015, the court granted
4 plaintiff’s motion for class certification. On October 20, 2017, the court granted final
5 approval of the class and PAGA representative action settlement. The Los Angeles County
6 Superior Court Case Number is BC474784.

7 j) LFJ, in association with co-counsel therein, represented the plaintiffs in a
8 wage-and-hour class and PAGA representative action against a national retailer of upscale
9 hardware and home furnishings, on behalf of non-exempt employees. On April 28, 2016, the
10 court granted final approval of the class and PAGA representative action settlement. The
11 Los Angeles County Superior Court Case Numbers are BC516795 and JCCP4794, and the
12 Judicial Council Coordination Proceeding Number is 4794.

13 k) LFJ, in association with co-counsel therein, represented the plaintiffs in a
14 wage-and-hour class action against a national retailer of apparel and fashion accessories, on
15 behalf of non-exempt employees. On August 5, 2016, the court granted final approval of the
16 class action settlement. The Los Angeles County Superior Court Case Number is
17 BC488069.

18 l) LFJ, in association with co-counsel therein, represented the plaintiffs in a
19 wage-and-hour class action against a national retailer of apparel, accessories, and home
20 products, involving allegations of misclassification of the “Department Manager” position.
21 On August 12, 2016, the court granted the plaintiffs’ motion for class certification in part
22 and certified a class. On August 6, 2019, the court granted final approval of the class action
23 settlement. The Alameda County Superior Court Case Number is RG13680477.

24 m) LFJ represented the plaintiff in a PAGA representative action against a real
25 estate and property management company, on behalf of non-exempt employees. On
26 November 4, 2016, the court granted approval of the PAGA representative action settlement.
27 The Orange County Superior Court Case Number is 30-2015-00775439-CU-OE-CXC.

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1 n) LFJ, in association with co-counsel therein, represented the plaintiffs in a
2 wage-and-hour class and PAGA representative action against a full-service bank, on behalf
3 of non-exempt employees. On November 18, 2016, the court granted final approval of the
4 class and PAGA representative action settlement. The San Francisco County Superior Court
5 Case Number is CJC-13-004839 and the Judicial Council Coordination Proceeding Number
6 is 4839.

7 o) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
8 representative action against a foodservice distributor, on behalf of non-exempt employees.
9 On January 26, 2017, the court granted final approval of the class and PAGA representative
10 action settlement. The San Bernardino County Superior Court Case Number is
11 CIVDS1507260.

12 p) LFJ, on behalf of the plaintiff and respondent in a PAGA representative
13 action, successfully opposed in the trial court, and briefed and argued an appeal with respect
14 to the employer's motion to compel arbitration, which resulted in a published opinion by the
15 California Court of Appeal in favor of employees. *Roberto Betancourt v. Prudential Overall*
16 *Supply* (Cal. 12 App. 4th Dist., Mar. 7, 2017) 9 Cal.App.5th 439, review denied, cert. denied
17 (U.S. Supreme Court Docket No. 17-254). The Riverside County Superior Court Case
18 Numbers are RIC1503952 and RICJCCP5046, and the Judicial Council Coordination
19 Proceeding Number is 5046.

20 q) LFJ, in association with co-counsel therein, represented the plaintiffs in a
21 wage-and-hour class and PAGA representative action against a consumer packaging
22 company, on behalf of non-exempt employees. On March 10, 2017, the court granted final
23 approval of the class and PAGA representative action settlement. The Los Angeles County
24 Superior Court Case Number is BC590429.

25 r) LFJ, in association with co-counsel therein, represented the plaintiffs in a
26 wage-and-hour class and PAGA representative action against a manufacturer of food service
27 industry supplies on behalf of non-exempt employees. On April 14, 2017, the court granted
28 final approval of the class and PAGA representative action settlement. The Orange County

1 Superior Court Case Number is 30-2015-00810013-CU-OE-CXC.

2 s) LFJ in association with co-counsel therein, represented the plaintiffs in a
3 wage-and-hour class and PAGA representative action against a lumber and hardware
4 company on behalf of non-exempt employees. On April 26, 2017, the court granted final
5 approval of the class and PAGA representative action settlement. The Orange County
6 Superior Court Case Number is 30-2014-00747750-CU-OE-CXC.

7 t) LFJ represented the plaintiff in a wage-and-hour class and PAGA
8 representative action against a property management company, on behalf of non-exempt
9 employees. On June 14, 2017, the court granted final approval of the class and PAGA
10 representative action settlement. The Los Angeles County Superior Court Case Number is
11 BC586234.

12 u) LFJ represented the plaintiff in a wage-and-hour class and PAGA
13 representative action against a food company on behalf of non-exempt employees. On June
14 30, 2017, the court granted final approval of the class and PAGA representative action
15 settlement. The Sacramento County Superior Court Case Number is 34-2015-00175871.

16 v) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
17 representative action against a chocolate company on behalf of non-exempt employees. On
18 July 19, 2017, the court granted final approval of the class and PAGA representative action
19 settlement. The Alameda County Superior Court Case Number is RG15764300.

20 w) LFJ represented the plaintiff in a PAGA representative action, against the
21 parent company of several restaurants, on behalf of hourly-paid, non-exempt employees. On
22 October 18, 2017, the court granted approval of the PAGA representative action settlement.
23 The Los Angeles County Superior Court Case Number is BC569664.

24 x) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
25 representative action against a manufacturer of plastic containers on behalf of non-exempt
26 employees. On October 31, 2017, the court granted final approval of the class and PAGA
27 representative action settlement. The Los Angeles County Superior Court Case Number is
28 BC577233.

1 y) LFJ, in association with co-counsel therein, represented the plaintiffs in a
2 wage-and-hour class and PAGA representative action against a bank on behalf of non-
3 exempt employees. On December 11, 2017, the court granted final approval of the class and
4 PAGA representative action settlement. The Los Angeles County Superior Court Case
5 Number is BC569646.

6 z) LFJ, in association with co-counsel therein, represented the plaintiffs in a
7 wage-and-hour class and PAGA representative action against a property management
8 company on behalf of hourly-paid and non-exempt employees. On January 4, 2018, the
9 court granted final approval of the class and PAGA representative action settlement. The
10 Los Angeles County Superior Court Case Number is JCCP4819 and the Judicial Council
11 Coordination Proceeding Number is 4819.

12 aa) LFJ, in association with co-counsel therein, represented the plaintiffs in a
13 wage-and-hour class and PAGA representative action against a global provider of flexible
14 office space solutions. On February 15, 2018, the court granted final approval of the class
15 and PAGA representative action settlement. The Los Angeles County Superior Court Case
16 Number is BC498401.

17 bb) LFJ, in association with co-counsel therein, represented the plaintiff in a
18 wage-and-hour class action against a container manufacturer, on behalf of non-exempt
19 employees. On October 15, 2018, the court granted the plaintiff's motion for class
20 certification. On March 10, 2023, the court granted final approval of the class action
21 settlement. The Tulare County Superior Court Case Number is VCU264528.

22 cc) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
23 representative action against a behavioral health service provider on behalf of non-exempt
24 employees. On November 13, 2018, the court granted final approval of the class and PAGA
25 representative action settlement. The Alameda County Superior Court Case Number is
26 RG16811450.

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1 dd) LFJ, in association with co-counsel therein, represented the plaintiff in a
2 PAGA representative action against a global provider of products and services to the energy
3 industry, on behalf of hourly-paid and non-exempt employees. On November 19, 2018, the
4 court granted approval of the PAGA representative action settlement. The Kern County
5 Superior Court Case Number is S-1500-CV-280215-SDC.

6 ee) LFJ, in association with co-counsel therein, represents the plaintiff in a wage-
7 and-hour class action against a parking company on behalf of non-exempt employees. On
8 September 3, 2019, the court granted the plaintiff's motion for class certification and
9 certified a class. The Santa Clara County Superior Court Case Number is 16CV292208 and
10 the Judicial Council Coordination Proceeding Number is 4886.

11 ff) LFJ, in association with co-counsel therein, represents the plaintiffs in a
12 wage-and-hour class and representative action against a bank on behalf of non-exempt
13 employees. On September 27, 2019, the court granted the plaintiffs' motion for class
14 certification in part and certified a class. The Alameda County Superior Court Case Number
15 is RG15757606 and the Judicial Council Coordination Proceeding Number is 4921.

16 gg) LFJ, in association with co-counsel therein, represented the plaintiffs in a
17 wage-and-hour class and PAGA representative action against a national retailer of apparel
18 and fashion accessories, on behalf of non-exempt employees. On October 9, 2019, the court
19 granted the plaintiffs' motion for class certification in part and certified a class. On May 14,
20 2021, the court granted final approval of the class and PAGA representative action
21 settlement. The Sacramento County Superior Court Case Number is 34-2015-00175330-CU-
22 OE-GDS.

23 hh) LFJ, in association with co-counsel therein, represented the plaintiff in a
24 wage-and- hour class and PAGA representative action against a medical equipment supplier
25 on behalf of non-exempt employees. On February 13, 2020, the court granted the plaintiff's
26 motion for class certification and certified a class. On November 2, 2023, the court granted
27 final approval of the class and PAGA representative action settlement. The San Bernardino
28 County Superior Court Case Number is CIVDS1505744.

1 ii) LFJ, in association with co-counsel therein, on behalf of the plaintiff and
2 respondent in a PAGA representative action, successfully opposed in the trial court, and
3 briefed and argued an appeal with respect to the employer's motion to compel arbitration,
4 resulting in a notable decision from the California Supreme Court clarifying the law and
5 finding, in part, that employer arbitration agreements are unenforceable where they block a
6 PAGA claim from proceeding, *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175. On
7 February 21, 2020, the court granted approval of the PAGA representative action settlement.
8 The San Diego County Superior Court Case Number is 37-2016-00005578-CU-OE-CTL.

9 jj) LFJ, in association with co-counsel therein, represented the plaintiff in a
10 wage-and-hour class and PAGA representative action against a large national drug testing
11 laboratory on behalf of non-exempt employees. On February 21, 2020, the court granted the
12 plaintiff's motion for class certification and certified a class. On October 28, 2022, the court
13 granted final approval of the class and PAGA representative action settlement. The San
14 Diego County Superior Court Case Number is 37-2018-00019611-CU-OE-CTL.

15 kk) LFJ, in association with co-counsel therein, represents the plaintiffs in a
16 wage-and-hour class and PAGA representative action against a national retailer of
17 sportswear, footwear, and camping equipment on behalf of non-exempt employees. On
18 March 16, 2020, the court granted in part the plaintiff's motion for class certification and
19 certified a class. The Riverside County Superior Court Case Numbers are RIC1507504 and
20 RICJCCP4930, and the Judicial Council Coordination Proceeding Number is 4930.

21 ll) LFJ, in association with co-counsel therein, represented the plaintiffs in a
22 wage-and-hour class and PAGA representative action against a plastic packaging company on
23 behalf of non-exempt employees. On June 8, 2020, the court granted in part the plaintiffs'
24 motion for class certification and certified a class. On November 8, 2021, the court granted
25 approval of the partial settlement of the action. On April 22, 2024, the court granted approval
26 of the PAGA settlement and entered an order dismissing the action. The San Bernardino
27 County Superior Court Case Number is CIVDS1507361.

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1 mm) LFJ, in association with co-counsel therein, represented the plaintiffs in a
2 wage-and-hour class action against manufacturer and supplier of power products and
3 services on behalf of non-exempt employees. On July 31, 2020, the court granted in part the
4 plaintiffs' motion for class certification and certified a class. On August 27, 2021, the court
5 granted final approval of the class action settlement. The San Diego County Superior Court
6 Case Number is 37-2015-00025968-CU-OE-CTL.

7 nn) LFJ represents the plaintiff in a wage-and-hour class action against a
8 nutritional products manufacturer on behalf of non-exempt production line employees. On
9 December 13, 2021, the court granted the plaintiff's motion for class certification in part and
10 certified a class. The Solano County Superior Court Case Number is FCS051001.

11 oo) LFJ represents the plaintiff in a wage-and-hour class action against an iconic
12 lifestyle accessories brand and retailer on behalf of non-exempt employees. On March 15,
13 2022, the court granted the plaintiff's motion for class certification in part and certified a
14 class. The San Francisco Superior Court Case Number is CGC-16-550794.

15 pp) LFJ represents the plaintiffs in a wage-and-hour class action against a
16 manufacturer and distributor of commercial dish and glass cleaning machines and supplies
17 for the restaurant and hospitality industries, on behalf of hourly-paid or non-exempt
18 employees. On July 13, 2023, the court granted the plaintiffs' motion for class certification
19 and certified a class. The Los Angeles County Superior Court Case Number is BC707670.

20 **BASIC INFORMATION ABOUT THE CASE AND**
21 **REACHING THE SETTLEMENT**

22 7. Marked and attached hereto as "Exhibit 1" is the Class and Representative
23 Settlement Agreement and Release ("Settlement," "Agreement," or "Settlement
24 Agreement") entered into by and between Plaintiff, on the one hand, and Ghirardelli
25 Chocolate Company ("Defendant"), on the other hand (collectively, the "Parties"). The
26 Parties and their counsel have approved the proposed Class and PAGA Action Settlement
27 Notice ("Class Notice," "Notice," or "Notice of Class Action Settlement"), which is attached
28 to the Settlement Agreement as "Exhibit A" and respectfully request that the Court approve

1 it as well.

2 8. The effectiveness of Lawyers *for* Justice, PC (“Class Counsel”) in
3 prosecuting this matter has translated into tangible monetary benefits in the following
4 respects: (1) Class Members and the State of California recover over a reasonably short
5 period of time as opposed to waiting additional years for the same, or possibly worse, result;
6 (2) a guaranteed result that compares favorably with other complex wage and hour class
7 and/or representative action settlements of similar type given the strengths and weaknesses
8 of the case; and (3) significant savings in attorneys’ fees and/or costs that would have only
9 increased significantly had the case progressed through certification, trial, and/or appeals.

10 9. Class Counsel has litigated the case for nearly two (2) years and was actively
11 preparing the matter for class certification and trial. The Parties have engaged in extensive
12 settlement negotiations and participated in a formal, full-day mediation conducted by Jeffrey
13 Krivis, a well-respected mediator experienced in mediating complex labor and employment
14 matters. In the course of the litigation and in connection with the mediation and settlement
15 discussions, the Parties exchanged class information and engaged in extensive discussions
16 regarding their evaluations of the case and various aspects of the case, including but not
17 limited to, the risks and delays of further litigation, the risks to the Parties of proceeding
18 with class certification and/or representative adjudication, the law relating to off-the-clock
19 theory, waivers, meal and rest periods, waivers, PAGA representative actions, exemption,
20 pre-emption, collective bargaining agreements, arbitration agreement, and wage-and-hour
21 law and enforcement, as well as the evidence produced and analyzed, and the possibility of
22 appeals, among other things. During all settlement discussions, the Parties conducted their
23 negotiations at arm’s length in an adversarial position. Arriving at a settlement that was
24 acceptable to all Parties was not easy. Defendant and its counsel felt strongly about their
25 ability to prevail on the merits and at certification, and Plaintiff and Class Counsel believed
26 that they would be able to obtain class certification and prevail at trial. After conducting
27 investigations, serving formal discovery requests and notices of deposition, conducting
28 extensive informal discovery and exchange of information, and extensive settlement

1 negotiations, with the aid of the mediator's evaluation, the Parties have agreed that the
2 matter is well-suited for settlement given the legal issues relating to Plaintiff's principal
3 claims, as well as the costs and risks to both sides that would attend further litigation. The
4 Settlement is a fair, reasonable, and adequate resolution of the Released Class Claims of
5 Plaintiff and Participating Class Members, and the Released PAGA Claims of Plaintiff and
6 the State of California with respect to PAGA Members, against the Released Parties.

7 10. Prior to reaching the Settlement, Class Counsel investigated the veracity,
8 strength, and scope of the claims. Class Counsel conducted significant investigation, and
9 formal and informal discovery regarding the facts of the case, including and not limited to,
10 the exchange, review, and analysis of a large volume of information, documents, and data
11 obtained from Plaintiff, Defendant, and other sources. Class Counsel served multiple sets of
12 formal written discovery requests onto Defendant (specifically, Requests for Production of
13 Documents (Set One), Special Interrogatories (Set One & Two)) as well as notices of
14 deposition of Defendant's person(s) most knowledgeable regarding organizational structure,
15 document retention practices, and wage and hour policies and practices. The volume of
16 information, data, and documents that Class Counsel reviewed and analyzed included and
17 was not limited to: employment records of Plaintiff and another putative class member, a
18 twenty percent (20%) sampling of Class Members' time and pay data, and Defendant's
19 operations and employment practices, procedures, and policies documents (including and
20 not limited to, Corporate Employee Handbook, Restaurant & Retail Division - Hourly Retail
21 Employee Handbook, Meal Period Waiver (for Employees Working Shifts in Excess of Ten
22 Hours), Day of Rest Waiver, Training Materials Re: CA Timeclock & Attestations –
23 Timekeeping, Training Materials Re: Timeclock Updates, Training Materials Re:
24 Timekeeping, Meal & Rest Breaks, California Restaurant & Retail Meal and Rest Break
25 Policy, First Meal Break Waiver Request Form, Revocation of First Meal Break Waiver
26 Form, Second Meal Break Waiver Request Form, Revocation of Second Meal Break Waiver
27 Form, Collective Bargaining Agreements, Related Wage Scales and Wage Agreements, Job
28 Descriptions, Memorandum of Understanding Re: Weekend Overtime, Quarterly Bonus

1 Plan, Business Code of Conduct, Manufacturing Employee Attendance Policies, Good
2 Manufacturing Practices for Employees, Injury and Illness Prevention Program – Safety
3 Policy, Plant Rules and Regulations, Acknowledgments, and Forms), among other
4 information and documents. Class Counsel interviewed Plaintiff and other putative class
5 members to gather facts and circumstances surrounding Plaintiff and putative class
6 members’ employment. Counsel for the Parties also met and conferred on numerous
7 occasions, e.g., to discuss issues relating to the pleadings, motion practice, and discovery
8 and the production of information, documents, and data in the course of litigation and in
9 connection with mediation and settlement negotiations. Class Counsel also drafted
10 pleadings, motion-related papers (including, *inter alia*, pertaining to Plaintiff’s Motion to
11 Remand and Defendant’s Motion for Judgment on the Pleadings Pursuant to FRCP 12(c), or
12 In the Alternative, Motion to Strike Under FRCP 12(f)) and the mediation brief, and
13 prepared for and attended court proceedings, mediation, and settlement negotiations, among
14 other tasks.

15 11. Counsel for the Parties have also invested time researching and investigating
16 the applicable law, which is evolving as it relates to certification, representative PAGA
17 claims, off-the-clock theory, regular rate, meal and rest periods, waivers, exemption, pre-
18 emptio, collective bargaining agreements, arbitration agreements, wage-and-hour law and
19 enforcement, Plaintiff’s claims and damages, and Defendant’s defenses thereto, as well as
20 facts discovered. Based on Class Counsel’s analysis, the result achieved in this litigation is
21 fair, adequate, and reasonable.

22 ESTIMATE OF THE VALUE OF THE CLAIMS

23 12. By way of the above-captioned action, Plaintiff alleged that Defendant has
24 violated the California Labor Code and Industrial Welfare Commission Wage Orders by
25 engaging in a uniform policy and systematic scheme of wage abuse against Plaintiff and the
26 putative class members, including *inter alia*, failing to properly compensate minimum,
27 regular, overtime, and double-time wages, failing to provide compliant meal and rest periods
28 and associated premium pay (including and not limited to, at the correct regular rates),

1 failing to timely pay wages during employment, failing to timely pay wages upon
2 termination and associated waiting-time penalties, failing to provide compliant wage
3 statements, failing to maintain requisite payroll records, failing to reimburse necessary
4 business expenses, failing to accrue, record, notify, and pay accrued vacation and paid time
5 off, and failing to provide suitable seating.

6 13. Based on data provided by Defendant and/or extrapolations by Class
7 Counsel, the total number of putative class members was estimated to be approximately
8 2,427 individuals who worked a total of approximately 132,339 workweeks with an average
9 hourly rate of pay of twenty-two dollars and ninety cents (\$22.90) during the period October
10 27, 2018 through February 19, 2024.

11 14. Plaintiff contended that Defendant required putative class members to
12 perform work before clocking-in and after clocking-out of their scheduled shifts and during
13 meal and rest periods. Plaintiff alleged that Plaintiff and putative class members were not
14 paid all wages due to them (regular, minimum, overtime, and double-time wages) as a result
15 of off-the-clock work they were required to perform (including, and not limited to, donning
16 and doffing and health screenings), rounding, and failure to correctly calculate the regular
17 rate of pay. Plaintiff alleged that meal and rest periods were regularly interrupted, short,
18 missed, and/or late because Plaintiff and putative class members were required to perform
19 and complete work duties during meal and rest periods. Plaintiff alleged that Defendant
20 failed to properly pay all meal or rest period premiums. Additionally, Plaintiff alleged that
21 Defendant incorrectly calculated the regular rate for the purposes of calculating overtime
22 and meal and rest premiums because it failed to include non-discretionary forms of pay,
23 including bonuses and incentives, in its regular rate calculations. Plaintiff also contended
24 that Defendant failed to timely pay Plaintiff and putative class members all wages due to
25 them while they were employed by Defendant, within the time period permissible under
26 California law, and all wages due to them upon termination, within the time period
27 permissible under California law, thereby triggering waiting-time penalties under California
28 Labor Code section 203. Plaintiff also contended that, based on said violations, the wage

1 statements provided by Defendant and the payroll records kept by Defendant were
2 inaccurate. Plaintiff contended that Defendant failed to reimburse Plaintiff and the other
3 putative class members for necessary business expenses, including, but not limited to, the
4 costs associated with the purchase and maintenance of footwear, gloves, work apparel,
5 personal protective equipment, and tools, the use of personal cell phones, and the use of
6 personal vehicles and/or mileage/transportation costs. Finally, Plaintiff contended that
7 Defendant failed to pay hourly paid employees for their vested vacation time in
8 contravention of their own written policy and California Labor Code section 227.3

9 15. Class Counsel considered defense arguments, e.g., that the employer's
10 practices, policies, and procedures complied with the law, that it paid putative class
11 members over the California minimum wage for all hours worked, that it correctly paid
12 overtime for all overtime hours worked, that it had written policies and/or practices
13 providing class members an opportunity to take uninterrupted meal periods and rest breaks,
14 that is paid meal premiums, that no waiting-time penalties were due because waiting-time
15 penalties only arise from "willful" failure to pay wages due and owing at the time of
16 termination or resignation, that putative class members suffered no actual injury from the
17 alleged wage statement violations and that this cause of action and the recordkeeping
18 violation are entirely derivative of the other causes of action, and that Defendant reimbursed
19 employees for necessary business-related expenses and did not require employees to
20 undertake expenses that were not reimbursed. Class Counsel also considered that
21 Defendant's collective bargaining agreements ("CBAs") may have prevented the Court from
22 certifying a portion or all of Plaintiff's claims.

23 16. Class Counsel considered information, data, and documents obtained from
24 Plaintiff, Defendant, and other sources, and created damages and penalties valuation models
25 prior to reaching the Settlement. Based thereon, Plaintiff calculated the potential value of
26 each of the claims. However, the potential value of each claim assumed an exposure based
27 on the above-captioned action having been certified and Plaintiff having proven all elements
28 of the claims and entitlement to monetary recovery in the above-captioned action (on a

1 class-wide and a representative basis), despite risks associated with obtaining and
2 maintaining certification and demonstrating manageability, risks to establishing liability and
3 any underlying California Labor Code and IWC Wage Order violations and damages, and
4 significant additional costs that would have to be incurred in order to certify the above
5 captioned action and establish liability, damages, and penalties amounts in the case.
6 Plaintiff faced the risk of the Court finding that individualized issues predominate, such that
7 the case would not be suitable for class treatment. While Class Counsel disagreed with
8 Defendant's arguments and factual contentions, Class Counsel recognized the circumstances
9 and realities of the case, applicable case law and regulations, the extensive time and pay
10 records and policy and practice-related documents produced by Defendant, the costs and
11 expenses of further litigation and certification, and risks to recovery, and applied appropriate
12 discounts for them. Class Counsel calculated the potential and realistic values of each claim
13 as follows:

14 a) Failure to Pay For All Time Worked: If Plaintiff were successful in getting
15 the claim certified and then won at trial, the maximum potential value of this claim was
16 estimated to be \$6,818,767.98. This amount is based on 1.5 hours of time per week worked
17 at the average hourly rate (132,339 workweeks x 1.5 hours of unpaid wages at a regular rate
18 of \$22.90), which equals \$4,545,845, and .5 hours of unpaid wages at an overtime hourly
19 rate of \$34.35 (132,339 workweeks x .5 hours of unpaid wages at an overtime rate of
20 \$34.35), which equals \$2,272,922. However, there is limited documentation that supports
21 off the clock time or the amount actually incurred by Class Members. Additionally, Class
22 Counsel recognized the difficulty of creating a manageable class trial plan based on hours
23 worked off the clock which could prevent the Court from granting certification. Class
24 Counsel was also aware that Defendant's CBAs could be grounds from refusing to certify a
25 class and would implicate issues of exemption, preemption, and arbitration. Accordingly, in
26 light of the lack of documentary evidence supporting this claim, Class Counsel concluded
27 that the potential range of recovery for this claim would be between \$0 and \$3,750,000.

1 b) Failure to Provide Compliant Meal Periods and Associated Premiums: If
2 Plaintiff were successful in getting the claim certified and then won at trial, the maximum
3 potential value of this claim was estimated to be \$6,061,126 (132,339 workweeks x 2 meal
4 period premium x average hourly rate of \$22.90). Based on the sample time and pay
5 records, Class Counsel conduct a meal analysis which indicated that 94.95% of shifts
6 analyzed were eligible for a meal period, and approximately 38.53% of these eligible shifts
7 had a recorded violation, while approximately 60.04% of these shifts had a meal period
8 recorded of exactly 30 or 60 minutes. Additionally, the potential value of this claim must be
9 significantly discounted due to Defendant's defenses. Defendant contended that Plaintiff
10 would not be able to maintain his meal break claim for the many class members who were
11 covered by CBAs. In light of the CBAs, and other defenses that would impact class
12 certification and damages, Class Counsel determined that the potential range of recovery on
13 this claim is between zero and \$5 million.

14 c) Failure to Provide Compliant Rest Periods and Associated Premiums: If
15 Plaintiff were successful in getting the claim certified and then won at trial, the maximum
16 potential value of this claim was estimated to be \$9,091,689.30 (132,339 workweeks x 3 rest
17 period premiums x average hourly rate of \$22.90). However, because of the lack of
18 documentary evidence regarding rest break violations, the arbitration provisions in the
19 CBAs, and the possibility that Defendant could successfully contend that individualized
20 issues predominate on this claim, Class Counsel determined that the potential range of
21 recovery on this claim is between zero and \$3 million.

22 d) Failure to Timely Pay Wages After Termination (and Waiting-Time
23 Penalties): Based on information and data provided by Defendant, it was estimated that
24 approximately 1,323 putative class members had been terminated during the three-year
25 statute of limitations (i.e., from October 27, 2019). If Plaintiff were successful in getting the
26 claim certified and then won at trial, the maximum potential value of this claim was
27 estimated to be \$7,271,208 (($\22.90 per hour x 8 hours x 30 days) = \$5,496 per employee x
28 1,323 employees). However, in light of the defenses identified above applicable to

1 Plaintiff's wage claims, Class Counsel determined that the potential range of recovery on
2 this claim is between zero and \$3.5 million.

3 e) Failure to Timely Pay Wages During Employment (Bi-Weekly Pay):

4 California Labor Code section 204 provides that, unless an exemption applies (e.g., under
5 California Labor Code section 204(a)), wages (other than those wages due upon termination
6 of an employee) earned by an employee between the 1st and 15th days, inclusive, of any
7 calendar month, are due and payable between the 16th and the 26th day of the month during
8 which the labor was performed, and wages earned by an employee between the 16th and the
9 last day, inclusive, of any calendar month, are due and payable between the 1st and the 10th
10 day of the following month. Under California Labor Code section 210, either a statutory
11 penalty or a civil penalty through PAGA may be recovered for a violation of California
12 Labor Code section 204, but not both. Plaintiff has asserted a cause of action under PAGA,
13 therefore, the value of this claim is considered as a part of the valuation of the PAGA claim
14 contained *infra*.

15 f) Failure to Provide Compliant Wage Statements: The statute of limitations on
16 such a claim is one year. This claim is based on the fact that the wage statements issued to
17 Plaintiff and the Class are incorrect in that they do not all time worked or meal and rest
18 break wage premiums that should have been paid. The penalties for inaccurate wage
19 statements are \$50 per employee for the first violation and \$100 per employee per violation
20 for all subsequent violations. Penalties per employee are limited to \$4,000. If Plaintiff were
21 successful in getting the claim certified and then won at trial, the maximum potential value
22 of this claim was estimated to be \$5,161,550.00 (1,309 individuals x \$3,943.12 per person).
23 At the same time, considering the defenses discussed above, we determined that the
24 potential range of recovery on this claim is between zero and \$2 million.

25 g) Failure to Maintain Payroll Records: Arguably, there is no private right of
26 action for a payroll records violation under California Labor Code section 1174(d), and civil
27 penalties would only be recoverable by the Labor Commissioner. However, Plaintiff has
28 asserted a cause of action under PAGA, therefore, the value of this claim is considered as a

1 part of the valuation of the PAGA claim contained *infra*.

2 h) Failure to Reimburse Necessary Business Expenses: If Plaintiff were
3 successful in getting the claim certified and then won at trial, the maximum potential value
4 of this claim was estimated to be \$661,695 (132,339 workweeks x \$\$5 unreimbursed
5 business expenses). Defendant contended that Class Members did not incur any additional
6 expenses in order to perform their work and that the clothing they were required to wear for
7 work was suited to regular street wear and therefore not reimbursable. Class Counsel
8 therefore concluded that the recovery range on this claim is between \$100,000 and \$0.

9 i) Unfair Business Practices (violation of California's Unfair Competition Law,
10 Business and Professions sections 17200, et seq. ("UCL")): A violation of the UCL may be
11 predicated on the violation of any law, and here, Plaintiff has asserted that the above-
12 referenced violations of the California Labor Code constitute business practices that are either
13 unlawful (i.e., is forbidden by law) and/or unfair (i.e., harm to victim outweighs any benefit).
14 The UCL claim was alleged because, arguably, California Business and Professions Code
15 section 17208 extends the statute of limitations on Plaintiff's other allegations, which qualify
16 as unfair business practices, to four (4) years. However, claims brought under the UCL are
17 equitable actions for injunctive or restitutionary relief, and a court may take into consideration
18 equitable defenses when fashioning equitable remedies. Restitution under the UCL is limited
19 to returning monies unlawfully withheld or restitutionary disgorgement, as such, the monetary
20 recovery that could be obtained through the UCL claim is considered as a part of valuation of
21 the other claims, including, *inter alia*, for unpaid wages and meal and rest period violations
22 contained *infra*.

23 j) PAGA Penalties: The strength of the PAGA claim would be impacted by the
24 factors discussed above for the non-PAGA claims. Based on case law developments and
25 amendments since the PAGA statute was originally adopted, Class Counsel concluded that
26 even if Plaintiff was successful on this claim through trial, the Court may well have
27 exercised its discretion under PAGA and significantly reduced the penalties. Cal. Labor
28 Code §2699(e)(2). In addition, the settlement was primarily directed at recovering wages

1 and unpaid premiums owed to class members and the bulk of the settlement funds were
2 intended to compensate for these wages. Based on these factors, Class Counsel determined
3 that the maximum reasonable value of the PAGA claim is approximately \$2,997,100 (1,394
4 aggrieved employees x \$2,150 in civil penalties) and the minimum value is nothing, and that
5 an allocation of \$350,000 toward civil penalties under PAGA, is a reasonable settlement of
6 that claim.

7 17. Class Counsel took into consideration that the maximum amount is almost
8 never recovered at trial and never in a settlement. Settlements, by their nature, must account
9 for the weaknesses in a plaintiff's case, which are discussed above. Indeed, because
10 Defendant raised a colorable legal or factual defense to each of the claims Plaintiff alleged,
11 it is possible that, after trial, the Class would recover nothing. In fact, there was a chance
12 that the Court could have found that the CBAs were applicable to a portion of the Class and
13 could have determined that they prevented some or all of the class claims from proceeding.

14 18. The PAGA settlement satisfies the criteria in *Moniz v. Adecco USA, Inc.*
15 (2021) 72 Cal. App. 5th 56, 77, because "it is fair, reasonable, and adequate in view of
16 PAGA's purposes to remediate present labor law violations, deter future ones, and to
17 maximize enforcement of state labor laws." Under the settlement, \$350,000 is allocated to
18 civil penalties under PAGA. In conjunction with the class settlement, this settlement will
19 serve to remediate Defendant's alleged Labor Code violations. Given that Defendant will be
20 paying a total of \$3,150,000 as a result of, and to resolve, the above-captioned action, the
21 instant settlement is a large disincentive for Defendant to engage in similar Labor Code
22 violations in the future. Furthermore, Class Counsel has spoken with putative class
23 members, aggrieved employees, and/or percipient witnesses and the settlement contemplates
24 that all class members will be provided notice of the above-captioned action, the alleged
25 violations, the settlement, and Class Counsel's contact information (as such, recipients of
26 the notice will have the knowledge and means to deter or seek redress of future wage and
27 hour issues, should they arise). These factors—the payment of a large sum and employee
28 notice—serve to maximize enforcement of state labor laws. Also, unlike in *Moniz*, here

1 there is no unsubstantiated and disproportionate allocation of civil penalties between
2 different groups of employees. All PAGA Members will receive an allocation of PAGA
3 civil penalties based on the number of pay periods that they worked any amount of time for
4 Defendant during the PAGA Period.

5 19. The foregoing discussion confirms that the amount of the Settlement is
6 adequate in light of Plaintiff's allegations and causes of action, the evidence at issue with
7 respect to those allegations and causes of action, and legal and factual arguments and
8 circumstances which pose challenges to certification, merits, and monetary recovery. The
9 conclusion to be drawn from the foregoing analysis is that neither class certification,
10 liability, nor the ability to adjudicate and/or recover monetary relief on a class-wide or
11 representative basis is clear-cut, which is why the parties elected to settle the case. Class
12 Counsel recognized the circumstances and realities of the case, applicable case law and
13 regulations, and risks to recovery and applied appropriate discounts. Class Counsel also
14 recognized that additional discounts could be made to the risk-adjusted value to account for
15 the costs and expenses associated with further litigation and the present value of obtaining a
16 settlement now as opposed to monetary recovery, if any, that may be obtained in the future
17 after further litigation.

18 **ESTIMATE OF THE NUMBER OF CLASS MEMBERS**
19 **AND PAGA MEMBERS**

20 20. Based on information provided by Defendant, the number of Class Members
21 is estimated to be 2,427 and the number of PAGA Members is estimated to be 1,394.

22 **ALLOCATION FORMULA**

23 21. The Settlement provides that Defendant will pay the amount of Three Million
24 One Hundred Fifty Thousand Dollars (\$3,150,000.00) ("Total Settlement Amount"), subject
25 to possible increase pursuant to Section 43 of the Settlement, to resolve the above-captioned
26 action and released claims described in the Settlement. The Net Settlement Amount is the
27 Total Settlement Amount less the following amounts subject to approval by the Court:
28 Enhancement Payment (up to \$10,000), Settlement Administrator Costs (up to \$18,750),

1 PAGA Payment (of \$350,000), Class Counsel Award (consisting of up to \$1,102,500 as
2 attorneys' fees if the Maximum Settlement Amount remains \$3,150,000 and up to \$25,000
3 as reimbursement of litigation costs and expenses). Assuming that the amounts allocated
4 under the Settlement toward these payments are awarded by the Court, the Net Settlement
5 Amount that will be available for distribution to Participating Class Members is currently
6 estimated to be \$1,643,750. Under the Settlement, 25% of the PAGA Payment, which is
7 \$87,500,000 out of \$350,000, will be distributed to PAGA Members on a pro rata basis and
8 75%, which is \$262,500 out of \$350,000, will be distributed to the Labor and Workforce
9 Development Agency ("LWDA Payment"). The Net Settlement Amount and PAGA
10 Payment will be fully distributed in accordance with the terms of the Settlement and there is
11 no reversion to Defendant. Payment of the amount necessary to cover the employer's
12 portion of payroll taxes associated with the portion of the settlement allocated to wages will
13 be made by Defendant, separate and apart from the Total Settlement Amount.

14 22. The Parties have agreed to retain Phoenix Settlement Administrators
15 ("Phoenix" or "Settlement Administrator") to handle the notice and settlement
16 administration process. The Parties respectfully request that the Court appoint Phoenix to
17 handle these procedures and serve as the Settlement Administrator. Defendant will provide
18 the Settlement Administrator with a readable Microsoft Office Excel spreadsheet and will
19 include each Class Member's full name, last known mailing address, Social Security
20 Number, Defendant's timekeeping data showing the number of workweeks and pay periods
21 worked by each Class Member in the Class Period and each PAGA Member in the PAGA
22 Period, and additional information sufficient for the Settlement Administrator to determine
23 the Eligible Workweeks and Eligible Pay Periods for each Class Member and each PAGA
24 Member. The Settlement Administrator will calculate each Class Member's pro rata share of
25 the Net Settlement Amount ("Individual Settlement Share") and each PAGA Member's
26 estimated share of 25% of the PAGA Payment ("Individual PAGA Payment"). The
27 Settlement Administrator's duties will include handling tax-related withholdings, deductions,
28 and remittances to applicable state and/or federal taxes authorities; mailing the Individual

1 Settlement Payment checks to Participating Class Members and the Individual PAGA
2 Payment checks to PAGA Members; issuing W-2, 1099, and other required tax forms;
3 determining the timeliness, validity, and/or completion of any Notices of Objection,
4 Requests for Exclusion, and/or Workweeks Disputes; distributing the Class Notice and
5 responding to inquiries about the Class Notice; calculating and disbursing payments; and
6 perform such other tasks necessary to effectuate the terms of the Settlement Agreement.
7 Settlement Administrator Costs are currently estimated not to exceed Eighteen Thousand
8 Seven Hundred and Fifty Dollars (\$18,750.00) and will be paid out of the Total Settlement
9 Amount, subject to approval of the Court.

10 23. Based on investigation and information discovered, Class Counsel believes
11 that there is sufficient evidence to support the allegations made in the above-captioned
12 action, including the allegations that Defendant, with respect to Plaintiff, Class Members,
13 and PAGA Members, *inter alia*, failed to properly pay all wages due, failed to provide
14 compliant meal and rest periods and to pay associated premium pay, failed to timely pay
15 wages during employment and upon termination of employment, failed to provide compliant
16 wage statements, failed to reimburse necessary business expenses, failed to accrue, record,
17 notify, pay accrued vacation and paid time off, and provide suitable seating, and thereby
18 engaged in unfair business practices and conduct giving rise to civil penalties recoverable
19 under the Private Attorneys General Act of 2004 (California Labor Code sections 2698, *et*
20 *seq.*). Plaintiff also asserted that Class Members and PAGA Members were expected to
21 perform similar job duties and were subject to the same or similar operations and
22 employment policies, practices, and procedures. Additionally, Plaintiff asserted that
23 Defendant's recordkeeping practices with respect to Plaintiff, Class Members, and PAGA
24 Members were substantially the same during the time period at issue. As a result of said
25 alleged uniform practices, Plaintiff claims that Class Members and PAGA Members were
26 not paid all of the compensation that was owed to them by Defendant. Thus, in Class
27 Counsel's view, it is clear that the outcome of this litigation would be determined by
28 Defendant's uniform operations and employment practices, policies, and procedures that

1 Plaintiff alleges applied across Defendant's hourly-paid, non-exempt employees in
2 California during the relevant time period.

3 24. Class Counsel is aware of the defenses and position of Defendant but
4 believes that Plaintiff could potentially obtain class certification despite these defenses.
5 Plaintiff and Class Counsel have also taken into account the uncertainty and risk of the
6 outcome of further litigation, and the difficulties and delays inherent in such litigation,
7 including those involved in class certification and/or representative adjudication. Plaintiff
8 and Class Counsel further recognize the burdens of proof necessary to establish liability for
9 the claims asserted in the lawsuit, Defendant's defenses, and the difficulties in establishing
10 entitlement to monetary recovery. Plaintiff and Class Counsel have also considered the
11 Parties' settlement discussions, as well as the evaluations of the mediator, who is
12 experienced and well-regarded in complex labor and employment matters.

13 25. Defendant, on the other hand, denied and continues to deny any liability and
14 wrongdoing of any kind associated with the allegations in the case, and further denies that
15 the lawsuit is appropriate for class treatment or representative adjudication for any purpose
16 other than the Settlement. Defendant believes that it would ultimately succeed in the matter.
17 Both sides have also had the opportunity to conduct investigations and gather documents
18 and information relating to Plaintiff's and the Class Members' employment with Defendant,
19 and Defendant's operations and employment policies, practices, and procedures. The Parties
20 also reviewed and analyzed a volume of information, documents, and data, including but not
21 limited to a detailed sampling of Class Members' time and pay information, to determine the
22 potential value and strength of the claims. The available information enabled Class Counsel
23 to assess and value the class and PAGA claims and prepare violation, damages, and
24 penalties analyses and models. Accordingly, the Parties have conducted adequate
25 investigation and discovery to be sufficiently informed of the nature and extent of the Class
26 Members' and PAGA Members' claims, and to enable both sides to fully evaluate the
27 Settlement for its fairness, adequacy, and reasonableness. The Settlement takes into account
28 the strengths and weaknesses of each side's position and the uncertainty of how the case

1 might have concluded at certification, trial, and/or appeals.

2 26. The Settlement Agreement provides for Class Counsel to apply for attorneys’
3 fees in an amount of up to thirty-five percent (35%) of the Total Settlement Amount
4 (i.e., \$1,102,500.00 if the Total Settlement Amount remains \$3,150,000.00) and expenses
5 and costs in an amount not to exceed Twenty-Five Thousand Dollars (\$25,000.00) which
6 will be paid out of the Total Settlement Amount subject to approval by the Court. It should
7 be noted that Class Counsel has borne all of the risks and costs of litigation and will not
8 receive any compensation until recovery is obtained in this matter.

9 27. The Settlement Agreement provides for payment of up to Ten Thousand
10 Dollars (\$10,000.00) to Plaintiff for his general release which includes a waiver of Section
11 1542 of the California Civil Code (as set forth in Section 50 of the Settlement Agreement) as
12 well as his efforts in the case that led to the significant settlement recovery (“Class
13 Representative Enhancement Award”), to be paid out of the Total Settlement Amount
14 subject to approval by the Court. Plaintiff spent considerable time and effort to produce
15 relevant documents and past employment records and to provide the facts and evidence
16 necessary to attempt to prove the allegations. Plaintiff was available whenever Class
17 Counsel needed him, and actively tried to obtain information that would facilitate the pursuit
18 of the class and PAGA claims. Accordingly, it is appropriate and just for Plaintiff to receive
19 the Class Representative Enhancement Award, in addition to his individual settlement
20 payment.

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28. Class Counsel submits that the Settlement is fair, reasonable, and adequate, and is in the best interests of Plaintiff, the Class, and the State of California. Class Counsel further submits that the Settlement is within an acceptable range of recovery for this type of litigation given the strengths and weaknesses of the case, the inherent costs and risks of further litigation, and the costs and risks associated with class certification, representative adjudication, trial, and/or appeals.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 20th day of July, 2024, at Glendale, California.

A handwritten signature in blue ink, appearing to read "J. M. Smith". The signature is written over a horizontal line.

Joanna Ghosh

EXHIBIT 1

(Class and Representative Action Settlement Agreement and Release)

**CLASS AND REPRESENTATIVE ACTION
SETTLEMENT AGREEMENT AND RELEASE**

This Class and Representative Action Settlement Agreement and Release (“Agreement”) encompasses the Action, *Romello Sheppard, individually and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act v. Ghirardelli Chocolate Company, a California Corporation*, originally commenced in the Superior Court of the State of California in and for the County of Alameda, Case No. 22CV020713. This case was later removed to the Northern District of California, Case No. 4:22-cv-08912. Pursuant to this Agreement, this matter was remanded to Alameda County Superior Court, and Plaintiff filed a First Amended Complaint on July 15, 2024, Case No. 22CV020713.

Mr. Romello Sheppard is referred to herein as the Plaintiff. The Ghirardelli Chocolate Company is referred to herein as the Defendant. The Plaintiff and Defendant are referred to herein as the Parties.

This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the “Released Class Claims” and “Released PAGA Claims” (as defined below) on a class and representative Action basis pertaining to the “Released Parties” (as defined below) upon and subject to the terms and conditions contained herein. This Agreement, which is contingent upon final Court approval, contains the essential terms of the Parties’ agreement. Plaintiff and Class Counsel believe, and the Parties have agreed, that the settlement set forth in this Agreement confers substantial benefits upon the Class, PAGA Members, and the State of California.

DEFINITIONS

1. Action

“Action” means the First Amended Complaint filed by Plaintiff entitled *Romello Sheppard, individually and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act v. Ghirardelli Chocolate Company, a California Corporation*, Superior Court of the State of California in and for the County of Alameda, Case No. 22CV020713 (the “Complaint”).

The Parties agree that the Action includes all claims and causes of Action alleged in the Complaint referenced above and in the amended PAGA letter dated September 5, 2023 (the “PAGA Notice Letter”).

2. Class Counsel

“Class Counsel” means (a) Arby Aiwazian and Joanna Ghosh of LAWYERS for JUSTICE, PC, 410 West Arden Avenue, Suite 203, Glendale, California 91203, (818) 265-1020; and (b) Aaron C. Gundzik and Rebecca G. Gundzik of Gundzik Gundzik Heeger LLP, 14011 Ventura Blvd., Suite 206E, Sherman Oaks, CA 91423, (818) 290-7461.

3. Class Counsel Award

“Class Counsel Award” means attorneys’ fees for Class Counsel’s litigation and resolution of the Action, and Class Counsel’s actual expenses and costs incurred and to be incurred in connection with the Action.

4. Class Information

“Class Information” or “Class Data” means accurate information regarding Class Members compiled from Defendant’s records and provided to the Settlement Administrator in a Microsoft Excel spreadsheet, including each Class Member’s full name; last known address; social security number; Defendant’s timekeeping data showing the number of workweeks and pay periods worked by each Class Member in the Class Period and each PAGA Member in the PAGA Period; and additional information sufficient for the Settlement Administrator to determine the Eligible Workweeks and Eligible Pay Periods for each Class Member and each PAGA Member.

5. Class Members

“Class” or “Class Members” means persons who are members of the class defined as all current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the Class Period.

6. Class Period

The “Class Period” is from October 27, 2018, through April 19, 2024.

7. Class Settlement

“Class Settlement” means the settlement and resolution of the Released Class Claims.

8. Class Representative

The “Class Representative” is Romello Sheppard.

9. Class Representative’s Enhancement Award

“Class Representative’s Enhancement Award” means the amount that the Court authorizes to be paid to Plaintiff, in addition to Plaintiff’s Individual Settlement Payments and/or Individual PAGA Payments, in recognition of Plaintiff’s efforts and risks in assisting with the prosecution of the Action and in return for executing a general release of claims with Defendant.

8. Class Representative’s Released Claims

“Class Representative’s Released Claims” means all known and unknown claims against the Released Parties, including any Released Claims as well as other wage and hour claims, claims under California Business & Professions Code section 17200, claims under the California Labor Code, including, but not limited to, claims under the Private Attorneys General Act (“PAGA”), claims under the Fair Labor Standards Act (“FLSA”), and all claims for indemnity or reimbursement of business expenses, overtime compensation, minimum wages, penalties, liquidated damages, and interest, and all other claims under state, federal, and local laws, including, without limitation, Title VII of the Civil Rights Act of 1964, the Family and Medical Leave Act, the Americans with Disabilities Act, the Fair Credit Reporting Act, the Employee Retirement Income Security Act of 1974, and all of their implementing regulations and interpretive guidelines, as well as the common law, including laws related to discrimination, harassment, or retaliation, whether known or unknown, and whether anticipated or unanticipated, arising from or relating to Class Representative’s relationship, or termination of relationship, with any Released Party through the date of Final Approval for any type of relief. Class Representative further covenants that he will not become a member of any other legal Action against the Released Parties asserting any of Class Representative’s Released Claims and will opt out of any such Action if necessary. For the avoidance of doubt, this is a complete and general release of all claims to the maximum extent permitted by law.

The scope of this release does not include claims for unemployment insurance, disability, social security, and workers' compensation (except for claims pursuant to California Labor Code Sections 132(a) and 4553).

9. Complaint

“Complaint” means the First Amended Complaint filed by Plaintiff on July 15, 2024, entitled *Romello Sheppard, individually and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act v. Ghirardelli Chocolate Company, a California Corporation*, Superior Court of the State of California in and for the County of Alameda, Case No. 22CV020713 (the “Complaint”).

10. Court

“Court” means the Superior Court for the County of Alameda.

11. Defendant

“Defendant” means Defendant Ghirardelli Chocolate Company.

12. Effective Date

“Effective Date” means the date when both of the following have occurred: (a) the Court enters a Judgment on its order granting Final Approval of the Settlement; and (b) the Judgment is final. The judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Class Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Class Settlement and no appeal was filed, the day after the deadline for filing a notice of appeal from the Judgment has expired; or (c) if one or more Participating Class Members objects to the Class Settlement and a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

13. Eligible Workweeks

“Eligible Workweeks” means any workweek in which a Class Member worked for any amount of time for Defendant during the Class Period as shown by Defendant’s timekeeping data for each Class Member.

14. Eligible Pay Periods

“Eligible Pay Period” means any pay period in which a PAGA Member worked for any amount of time for Defendant during the PAGA Period, as shown by Defendant’s timekeeping data for each PAGA Member.

15. Final Approval Hearing

“Final Approval Hearing” means the hearing at which the Court ascertains the fairness, reasonableness, and adequacy of the Settlement and decides whether the Settlement meets all requirements for final approval.

16. Final Judgment

“Final Judgment” or “Judgment” means a judgment issued by the Court approving this Agreement as binding upon the Parties following the Final Approval Hearing.

17. Individual PAGA Payment

“Individual PAGA Payment” means the amounts paid from the PAGA Payment to PAGA Members that shall in the aggregate comprise 25% of the PAGA Payment, namely \$87,500.00 as consideration for settlement of claims for civil penalties under PAGA.

18. Individual Settlement Payment

“Individual Settlement Payment” means the amount paid from the Net Settlement Amount to a Participating Class Member. Any Class Member who timely submits a valid Request for Exclusion pursuant to the procedures set forth herein is not a Participating Class Member and is not eligible to receive an Individual Settlement Payment.

19. LWDA

“LWDA” means the California Labor and Workforce Development Agency.

20. LWDA PAGA Payment

“LWDA PAGA Payment” means the amount of Two Hundred and Sixty-Two Thousand Five Hundred Dollars and Zero Cents (\$262,500.00) to be paid to the LWDA as its 75% share of the PAGA Payment, as consideration for settlement of claims for civil penalties under PAGA.

21. Net Settlement Amount

“Net Settlement Amount” means the Total Settlement Amount less the Court-approved Class Counsel Award, The Class Representative’s Enhancement Award, the PAGA Payment, and the Settlement Administrator Costs. The Net Settlement Amount is the total amount that will be paid to Participating Class Members, in the form of Individual Settlement Payments.

22. Notice of Class Action Settlement

“Notice of Class Action Settlement” or “Notice” means the notice approved by the Parties and subject to Court approval, substantially in the form of **Exhibit A** hereto, explaining the terms of this Agreement and the settlement process, which the Settlement Administrator will mail to each Class Member.

23. PAGA

“PAGA” refers to the California Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698 et seq.

24. PAGA Members

“PAGA Members” means all Class Members who worked any Eligible Pay Periods at any time during the PAGA Period.

25. PAGA Notice Letter

“PAGA Notice Letter” refers to the September 5, 2023, letter sent to the LWDA on behalf of the Plaintiff regarding his intent to pursue civil penalties under the PAGA for various alleged violations of the California Labor Code which was assigned LWDA Case No. LWDA-CM-903448-22.

26. PAGA Payment

“PAGA Payment” means the portion of the Total Settlement Amount that shall be allocated to claims under PAGA. The Parties have agreed to allocate Three Hundred Fifty Thousand Dollars and Zero Cents (\$350,000.00). Seventy-five percent (75%) shall be payable to the LWDA (i.e., the LWDA PAGA Payment) and the remaining twenty-five percent (25%) shall be used to pay all of the Individual PAGA Payments to PAGA Members in settlement of all claims for PAGA penalties as defined in this Agreement.

27. PAGA Period

“PAGA Period” means the period from August 23, 2021, through April 19, 2024.

28. Participating Class Members

“Participating Class Members” means those Class Members who do not file a valid and timely Request for Exclusion.

29. Parties

“Parties” means Plaintiff and Defendant, collectively.

30. Plaintiff

“Plaintiff” means Plaintiff Romello Sheppard.

31. Preliminary Approval Date

“Preliminary Approval Date” means the date on which the Court issues an order granting preliminary approval of the proposed Settlement.

32. Qualified Settlement Fund

“Qualified Settlement Fund” or “QSF” means the account established by the Settlement Administrator which the Parties agree will at all times be treated as a “qualified settlement fund” within the meaning of Treas. Reg. §1.468B-1, *et seq.*

33. Released Class Claims

“Released Class Claims” shall mean all claims and/or causes of Action under any state, local, or federal law or administrative regulation by Participating Class Members against the Released Parties that were or could have been alleged based on the facts pleaded in the Action, including all class claims stated in the Action alleging violations of California Labor Code sections 201, 202, 203, 204, 210, 218, 226(a), 226 et seq, 226.7, 227.3, 510, 512(a), 558, 1174(d), 1194, 1194.2, 1197, 1197.1, 1198, 2800 and 2802, and:

- (a) All claims for unpaid wages, including claims for minimum, regular, overtime, and double-time wages, the alleged failure to pay for all time worked, the alleged failure to pay for all time worked at correct rates;
- (b) All claims for meal period violations, including claims for short, late, missed, interrupted and/or improperly controlled meal periods, the failure to pay premium wages, the failure to pay premium wages at the correct regular rates, and the failure to properly record meal periods;
- (c) All claims for rest break violations, including claims for short, late, missed, interrupted, and/or improperly controlled rest breaks, the failure to pay premium wages, and the failure to pay premium wages at the correct regular rates;
- (d) All claims for the untimely payment of final wages and associated waiting time penalties under sections 201, 202 and 203 of the California Labor Code;
- (e) All claims for the untimely payment of wages, including minimum, regular, overtime, and premium wages to employees in violation of section 204 of the California Labor Code;
- (f) All claims for improper or inaccurate itemized wage statements, including any alleged violations of California Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the Complaint, including the allegations that sales employees were improperly classified resulting in various wage statement discrepancies, and that wage statements lacked the total number of

hours worked and corresponding rates, and including claims for injuries suffered therefrom;

- (g) All claims for the alleged failure to keep accurate records in violation of Section 1174(d) of the California Labor Code;
- (h) All claims for any and all unreimbursed expenses;
- (i) All claims for the failure to accrue, record, notify, and pay accrued vacation and paid time off;
- (j) All claims under the California Business & Professions Code (including Section 17200 et seq.) premised on the facts, claim, and causes of Action alleged in the Action; and
- (k) All claims for statutory penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief based on the allegations in the Complaints.

The period of the release of Released Claims shall not extend beyond the Class Period.

34. Workweeks Dispute

“Workweeks Dispute” means a Class Member’s written letter disputing the pre-printed information on the Notice of Class Action Settlement as to his or her Eligible Workweeks during the Class Period, which must: (a) contain the case name and number of the Action; (b) contain the Class Member’s full name, signature, address, telephone number, and last four (4) digits of Social Security number; (c) clearly state that the Class Member disputes the number of Eligible Workweeks credited to him or her for the Class Period and what he or she contends is the correct number to be credited to him or her; (d) attach any documentation that he or she has to support the dispute; and (e) be submitted by mail, fax or email to the Settlement Administrator at the specified address, postmarked (if mailed) or received (if faxed or emailed) on or before the Response Deadline.

35. Released PAGA Claims

“Released PAGA Claims” shall mean all claims and causes of Action for civil penalties under the Private Attorneys General Act, California Labor Code section 2698, et seq. (“PAGA”) of the State of California with respect to PAGA Members

against the Released Parties that were or could have been alleged based on the facts pleaded in the Complaint and in the PAGA Notice Letter, including all claims for civil penalties based on alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226.7, 227.3, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and related sections of the applicable IWC Wage Order, including Section 14 (suitable seating) of IWC Wage Order 1-2001, and:

- (a) All claims for civil penalties under PAGA based on the alleged failure to pay all wages earned, including minimum, regular, overtime, and double-time wages, the alleged failure to pay for all time worked, and the alleged failure to pay for all time worked at correct rates;
- (b) All claims for civil penalties under PAGA based on the alleged failure to provide a day of rest in violations of Sections 551 and 552 of the California Labor Code;
- (c) All claims for civil penalties under PAGA based on the alleged failure to provide compliant meal periods, including claims for short, late, missed, interrupted and/or improperly controlled meal periods, the failure to pay premium wages, the failure to pay premium wages at the correct regular rates, and the failure to properly record meal periods;
- (d) All claims for civil penalties under PAGA based on the alleged failure to provide compliant rest breaks, including claims for short, late, missed, interrupted, and/or improperly controlled rest breaks, the failure to pay premium wages, and the failure to pay premium wages at the correct regular rates;
- (e) All claims for civil penalties under PAGA based on the alleged failure to pay wages on a timely basis, including minimum, regular, overtime, and premium wages to employees in violation of section 204 of the California Labor Code;
- (f) All claims for civil penalties under PAGA based on the alleged failure to provide timely payment of final wages in violation of Sections 201 and 202 of the California Labor Code;
- (g) All claims for civil penalties under PAGA based on the alleged failure to reimburse employees for any and all business expenses;

- (h) All claims for civil penalties under PAGA based on the alleged failure to provide accurate itemized wage statements, including any alleged violations of California Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the Complaint and PAGA Notice Letter, including the allegation that the wage statements lacked the total number of hours worked and corresponding rates;
- (i) All claims for civil penalties under PAGA based on the alleged failure to keep accurate records in violation of Section 1174(d) of the California Labor Code;
- (j) All claims for civil penalties under PAGA based on the failure to accrue, record, notify, and pay accrued vacation and paid time off;
- (k) All claims for civil penalties under PAGA based on the failure to provide suitable seating, including any claims under Sections 14(A) and 14(B) of the Wage Order, including claims that seats were not provided, were not adequate or suitable when the nature of the work reasonably permitted the use of seats, and were not adequate, suitable, provided, or within the reasonable proximity to the work area for employees during lulls in activities; and
- (l) any other claims for civil penalties alleged in the Complaint and in the PAGA Notice Letter.

The period of the release of Released PAGA Claims will be the PAGA Period.

36. Released Parties

“Released Parties” means Defendant Ghirardelli Chocolate Company and its past, present and/or future, direct and/or indirect, owners, officers, directors, members, managers, management and executive-level employees, agents, representatives, attorneys, insurers, parent companies, subsidiaries, affiliates, successors, and assigns.

37. Request for Exclusion

“Request for Exclusion” means a Class Member’s written letter indicating a request to be excluded from the Class Settlement which must contain: (a) the case name and number of the Action; (b) the Class Member’s full name, present

address, signature, telephone number, and last four (4) digits of Social Security number; (c) a statement electing to be excluded from the Class Settlement; and (d) be submitted by mail, email or fax to the Settlement Administrator at the specified address, postmarked (if mailed) or received (if faxed or emailed) on or before the Response Deadline. Specific details of how to submit a “Request for Exclusion” will be provided by the Notice of Class Action Settlement.

38. Response Deadline

“Response Deadline” means the date forty-five (45) calendar days after the Settlement Administrator mails the Notice of Class Action Settlement to Class Members, which is the last date on which Class Members may: (a) submit a Request for Exclusion; (b) submit objections to the Class Settlement; or (c) dispute the information contained in the Notice of Class Action Settlement regarding the number of Eligible Workweeks to be credited to the Class Members. If the forty-fifth (45th) day falls on a Sunday or Federal holiday, then the deadline is extended to the next day that the U.S. Postal Service is open.

39. Settlement

“Settlement” or “Agreement” means this Class and Representative Action Settlement Agreement and Release.

40. Settlement Administrator

“Settlement Administrator” means Phoenix Settlement Administrators, the third-party company that is responsible for administering the settlement, mutually agreed to by the Parties and appointed by the Court upon Class Counsel’s motion for preliminary approval of this Settlement.

41. Settlement Administrator Costs

“Settlement Administrator Costs” means the amount of \$18,750, to be paid to the Settlement Administrator from the Total Settlement Amount for administration of this Settlement. References herein to Action and responsibilities of the Settlement Administrator shall be to those Action and responsibilities it shall take as set forth in the Agreement.

42. Total Settlement Amount

“Total Settlement Amount” means the total maximum amount payable under the terms of this Agreement by Defendant, which is the gross sum of \$3,150,000.00 (Three Million One Hundred Fifty Thousand Dollars and Zero Cents), plus any additional amount owed pursuant to the “Modification Provision” below, which includes: the Individual Settlement Payments to Participating Class Members; payment of Settlement Administrator Costs to the Settlement Administrator as approved by the Court; the Class Representative’s Enhancement Award to Plaintiff as approved by the Court; a payment to Class Counsel of attorneys’ fees and reasonable litigation costs which shall be determined by motion with the Court; and the PAGA Payment to the LWDA and PAGA Members.

Payment of the amount necessary to cover the employer’s portion of payroll taxes associated with the portion of the settlement allocated to wages (“Employer’s Withholding Share”) shall be made by Defendant, separate and apart from the Total Settlement Amount.

The Settlement Administrator will make all required tax deductions and payments using a Qualified Settlement Fund. As set forth herein, the Settlement Administrator will issue all of the above-referenced payments from the Qualified Settlement Fund in accordance with the applicable provisions of this Agreement.

43. Modification Provision

On the February 19, 2024, mediation date, Defendant represented that its data team extrapolated the total number of Eligible Workweeks of the Action from October 27, 2018, through February 19, 2024 (the “Mediation Period”) as 132,339. If the actual count of the workweeks during the Mediation Period is later validated by the Settlement Administrator to be more than 10% larger than 132,339 Eligible Workweeks, meaning that the total actually exceeds 145,572 Eligible Workweeks, then for each workweek that is in addition to 145,572 shall add an additional \$23.80 to the Maximum Settlement Amount. For example, if the actual number of workweeks in the Mediation Data is later validated to be 145,582, then the Maximum Settlement Amount will be increased by \$238.00.

RECITALS

44. Procedural History

On August 23, 2022, Plaintiff Romello Sheppard provided written notice by online submission to the LWDA and by certified mail to Defendant, of his intent to seek civil penalties for alleged violations of the California Labor Code under PAGA.

On October 27, 2022, Plaintiff filed a class Action complaint in the Superior Court of California, County of Alameda, Case No. 22CV020713 (the “Complaint”). Defendant removed the Complaint to the Northern District of California December 15, 2022, Case No. 4:22-cv-08912-DMR.

On September 5, 2023, Plaintiff filed an amended PAGA Notice letter with the LWDA (the “PAGA Notice Letter”).

On February 19, 2024, the Parties mediated with Jeffrey Krivis, Esq., a prominent mediator experienced in resolving wage and hour class and representative Action. As a result of the mediator’s efforts, the Parties reached an agreement to settle all claims and causes of Action alleged by the Plaintiff under the California Labor Code, the California Business and Professions Code, the California Code of Regulations, the applicable California Wage Order, and the PAGA claims in the Action.

Before the mediation, Defendant produced extensive documentation including timekeeping and payroll data, policy documents, class size information, pay period and workweek information, and information regarding the hourly rates of the settlement class members. Defendant provided discovery sufficient to enable Plaintiff and Class Counsel to rigorously evaluate the strengths and risks of the Action and to perform an analysis of the potential damages arising from the claims made in the Action.

Based on the settlement, the Parties jointly agreed to remand the case back to the Superior Court of Alameda County, and Plaintiff filed a First Amended Complaint on July 15, 2024, Case No. 22CV020713.

45. No Admission

Defendant denies any liability or wrongdoing of any kind associated with the claims asserted in the Action. Defendant also disputes the damages and penalties claimed by Plaintiff, and further contends that, for any purpose other than

settlement, Plaintiff's claims are not appropriate for class or representative treatment. This Settlement is a compromise of disputed claims. Nothing contained in this Settlement, no documents referred to herein, and no Action taken to carry out this Settlement, shall be construed or used as an admission by or against Defendant as to the merits or lack thereof of the claims asserted in the Action or in any other proceeding.

Defendant contends that at all times it has complied with all applicable state, federal and local laws related to the Class Members' employment. Nevertheless, Defendant has entered into this Settlement to avoid the cost, risk and inconvenience of further litigation. Nothing contained in this Settlement, nor the fact of this Settlement itself, shall be construed or deemed as an admission of liability, or wrongdoing on the part of the Defendant collectively or individually, or an admission that class or representative Action treatment would be allowed outside the settlement context. The Parties agree that this Settlement cannot be used to support any claim for subsequent penalty violation rates under the Labor Code, including the PAGA, in any subsequent litigation.

Pursuant to California Evidence Code sections 1152 and 1154, this Settlement shall be inadmissible in evidence in any proceeding; except that the Settlement may be filed and used in this litigation or any related litigation as necessary to approve, interpret, or enforce this Settlement, or in any subsequent Action against or by Defendant to support a stay of any subsequent Action, or to establish a defense of res judicata, collateral estoppel, release, good faith settlement, judgment bar, or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

46. Benefits of Settlement to Class and PAGA Members

Class Counsel investigated the facts relevant to the Action, including reviewing documents and information provided by Defendant. Based on their own independent investigation and evaluation, Class Counsel believes that the Settlement with Defendant is fair, reasonable, and adequate, and in the best interest of the Class in light of all known facts and circumstances, including the risks of significant delay, defenses asserted by Defendant, uncertainties regarding a class trial, and numerous potential appellate issues. Accordingly, the Parties and their counsel desire to fully, finally, and forever settle, compromise, and discharge all disputes and claims arising from or relating to the Action on the terms set forth herein.

Defendant has concluded that any further defense of this litigation would be protracted and expensive for all Parties. Substantial amounts of Defendant's time, energy, and resources have been and, unless this Settlement is completed, will continue to be devoted to, the defense of the claims asserted by Plaintiff in the Action. Defendant has also taken into account the risks of further litigation in reaching the decision to enter into this Settlement. Even though Defendant continues to contend that it is not liable for any of the claims set forth by Plaintiff in the Action, Defendant has agreed, nonetheless, to settle in the manner and upon the terms set forth in this Agreement to put to rest the claims in the Action.

47. Settlement of Disputed Claims

This Agreement is a compromise of disputed claims. Defendant has claimed and continues to claim that the Released Class Claims and Released PAGA Claims have no merit and do not give rise to liability. Plaintiff and Participating Class Members and PAGA Members have claimed and continue to claim that the Released Class Claims and the Released PAGA Claims have merit and give rise to liability on the part of Defendant. Nothing contained in this Agreement, no documents referred to herein, and no Action taken to carry out this Agreement, may be construed or used as an admission by or against the Defendant or their Counsel, the Plaintiff, Participating Class Members, PAGA Members, or Class Counsel as to the merits or lack thereof of the claims asserted in the Action.

TERMS OF AGREEMENT

48. Release As To All Participating Class Members

Upon the Effective Date and full funding of the Total Settlement Amount and Payment of the Employer's Withholding Share, Plaintiff and all Participating Class Members in their capacities as Class Members, as well as their spouses, heirs, executors, administrators, trustees and/or permitted assigns, hereby do and shall be deemed to have fully, finally and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties of and from any and all Released Class Claims for the Class Period.

49. Release of Claims by the LWDA

Upon the Effective Date and full funding of the Total Settlement Amount and Payment of the Employer's Withholding Share, Plaintiff, as agent and proxy of the State of California and the LWDA, and the LWDA Plaintiff fully and finally

release and discharge the Released Parties from the Released PAGA Claims for the PAGA Period. These releases will take effect whether or not a PAGA Member receives his or her Individual PAGA Payment or cashes and deposits any check for the Individual PAGA Payment.

50. Release of Claims by Plaintiff

As of the Effective Date and full funding of the Total Settlement Amount and Payment of the Employer's Withholding Share, Plaintiff release the Released Parties from all the Class Representative's Released Claims. Plaintiff's releases set forth herein include a waiver of all rights under California Civil Code § 1542, which provides:

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

Plaintiff may hereafter discover claims or facts in addition to, or different from, those which they now know or believe to exist, but Plaintiff expressly agree to fully, finally and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, which exist or may exist against Defendant at the time of the execution of this Agreement, including, but not limited to, any and all claims relating to or arising from Plaintiff's employment with Defendant.

51. The Motion for Preliminary Approval

Class Counsel shall be responsible for preparing the Motion for Preliminary Approval. Class Counsel agrees to provide Counsel for Defendant with drafts of all documents they intend to submit in support of their Motion for Preliminary Approval at least five (5) calendar days in advance of filing to allow Counsel for Defendant a reasonable time to review and comment on such papers. Class Counsel further agrees to reasonably incorporate the comments from Counsel for Defendant.

Defendant shall provide documentation or a declaration to support claims of

financial distress, if required by the Court, as necessary to support approval of the settlement. Subject to the Court's approval, any such Declaration may be filed under seal. Defendant will file an appropriate request to seal the declaration, which will not be opposed by Plaintiff.

52. Settlement Administrator

Within twenty-one (21) calendar days following the date that the Court grants Preliminary Approval of this Agreement, Defendant shall provide the Settlement Administrator with the accurate Class Information for purposes of mailing the Notice of Class Action Settlement to the Class Members. The Settlement Administrator shall maintain the Class Information as private and confidential and shall not disclose such data to any persons or entities other than Counsel for Defendant, except that relevant information can be provided to Class Counsel, on an individual basis only, and only when necessary for Class Counsel to respond to specific inquiries or requests from individual Class Members.

In addition, prior to mailing any Settlement Notices, the Settlement Administrator shall provide Class Counsel with a spreadsheet with an anonymous listing all class members, their Eligible Workweeks and PAGA Pay Periods and a preliminary calculation of the value of each Class Member's Individual Settlement Payment and PAGA Member's Individual PAGA Payment. The spreadsheet, as sent to Class Counsel, will be anonymized. It will **not include** Class Member names, not include employee ID numbers, not include contact information, and will not include social security numbers.

The Class Information is being supplied solely for purposes of the administration of the Settlement set forth in this Agreement and cannot be used by the Settlement Administrator or Class Counsel for any other purpose. The Parties agree that the Class Information will not be used to solicit Class Members to file any claim, charge or complaint of any kind whatsoever against Defendant and will only be used to administer the Settlement under the terms provided herein.

(a) Notice by First Class U.S. Mail.

Upon receipt of the Class Information, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes. Within ten (10) calendar days of receipt of the Class Information, the Settlement Administrator will mail copies of the Notice of Class Action Settlement to all Class Members in English and Spanish

via regular First-Class U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Class Member, including performing a U.S. Postal Service National Change of Address database search to identify any updated addresses. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member. The form of the proposed Notice of Class Action Settlement will be agreed to by the Parties, and subject to Court approval and modification as necessary to fulfill the Parties desire to resolve the Action.

(b) Undeliverable Notices.

Any Notice of Class Action Settlement returned to the Settlement Administrator as undeliverable on or before the Response Deadline shall be re-mailed once to the forwarding address affixed thereto, within three (3) business days of receipt of the returned undeliverable Notice of Class Action Settlement. If no forwarding address is affixed, the Settlement Administrator shall promptly attempt to determine a correct address by use of skip-tracing, or other search using the name, address and/or Social Security Number of the Class Member whose notice was undeliverable, and shall then re-mail all returned, undelivered mail within three (3) business days of receiving notice that a Notice of Class Action Settlement was undeliverable. Class Members who receive a re-mailed Notice of Class Action Settlement shall have their Response Deadline extended twenty (20) calendar days from the original Response Deadline.

(c) Disputes Regarding Eligible Workweeks.

Class Members will have the opportunity, should they disagree with the number of Eligible Workweeks stated on their Notice of Class Action Settlement by submitting a Workweeks Dispute, postmarked, faxed or emailed on or before the Response Deadline. If there is a Workweeks Dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility of each Class Member's eligibility for, and the amounts of, their Individual Settlement Payment under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment will be binding upon the Parties, subject to approval by the Court. In the absence of circumstances indicating fraud, manipulation or destruction, Defendant's records will be given a rebuttable presumption of accuracy.

(d) Disputes Regarding Administration of Settlement.

Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court under the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties will confer in good faith to attempt to resolve the dispute without involving the Court.

(e) Exclusions.

- (1) The Notice of Class Action Settlement shall state that Class Members who wish to exclude themselves from the Class Settlement must submit a Request for Exclusion by the Response Deadline.
- (2) The date of the postmark on the return mailing envelope on the Request for Exclusion, the date reflected on a fax received by the Settlement Administrator and/or the date reflected on an email received by the Settlement Administrator shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Class Members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any Judgment entered in the Action pursuant to the Settlement.
- (3) Any Class Member who submits a valid and timely Request for Exclusion will not be entitled to any recovery under the Class Settlement and will not be bound by the terms of the Class Settlement or have any right to object to or appeal the Class Settlement.
- (4) Any Request for Exclusion has no effect on the PAGA Settlement; any Class Member who is also considered a PAGA Member will still be issued their Individual PAGA Payment and be bound by the PAGA Settlement, regardless of whether they submit a Request for Exclusion.
- (5) No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator will provide counsel for

the Parties with a complete list of all members of the Class who have submitted a timely and valid Request for Exclusion.

(f) Objections.

- (1) The Notice of Class Action Settlement shall state that Participating Class Members who wish to object to the Class Settlement may do so in person (or other method of personal appearance permitted by the court, e.g., Zoom) at the Final Approval Hearing and/or in writing. Any written objection (“Notice of Objection”) must be mailed, faxed or emailed to the Settlement Administrator by the Response Deadline. The date of mailing on the envelope, the date of faxing on the fax and/or the date of emailing on the email shall be deemed the exclusive means for determining that a Notice of Objection was timely received.
- (2) The Notice of Objection must be signed by the Settlement Class Member and state: (a) the case name and number of the Action; (b) the full name and address of the objecting Settlement Class Member; (c) the factual and/or legal basis for the objection; (d) whether the Settlement Class Member is represented by counsel, and if so, identify said counsel; and (e) whether the Settlement Class Member intends to appear at the Final Approval Hearing. Class Counsel will ensure that any Notice of Objection received by the Settlement Administrator by the Response Deadline is submitted with the Court along with the Motion for Final Approval.
- (3) Any of the Parties may file a response to any objection before the Final Approval Hearing. Any attorney who will represent an individual objecting to this Settlement who has not filed a Notice of Objection must file a notice of appearance with the Court and serve Class Counsel and counsel for Defendant with this notice no later than the Response Deadline. Any Settlement Class Member who fails to submit a timely and complete Notice of Objection or to present an objection in person at the Final Approval Hearing shall be deemed to have waived any objections and shall be foreclosed from making any objection to the Class Settlement whether by appeal or

otherwise.

53. No Solicitation of Settlement Objections or Exclusions

The Parties agree to use their best efforts to carry out the terms of this Settlement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to object to the Settlement or file Requests for Exclusion, or to appeal from the Court's Judgment.

54. The Motion for Final Approval

Class Counsel shall be responsible for preparing the Motion for Final Approval, and any Motion Attorneys' Fees, Costs, and Class Representative's Enhancement Award, supporting declarations, and exhibits thereto, for final approval by the Court. Class Counsel agrees to provide Counsel for Defendant with drafts of all documents they intend to submit in support of their Motion for Final Approval and application for attorneys' fees and costs at least three (3) business days in advance of filing to allow Counsel for Defendant a reasonable time to review and comment on such papers. Class Counsel further agrees to reasonably incorporate the comments from Counsel for Defendant. The Parties must meet and confer and make all reasonable efforts to agree on any modifications to this Agreement that will result in entry of the Final Approval Order and Judgment.

55. Funding of the Qualified Settlement Fund

No later than seven (7) calendar days after the Effective Date, the Settlement Administrator shall send Defendant's Counsel electronic wiring instructions for paying the Total Settlement Amount into the QSF. The Settlement Administrator will also inform Defendant of the amount to be sent to the QSF to pay for the employer's share of payroll taxes. No later than twenty (20) calendar days after the Effective Date, Defendant shall fund the QSF.

56. Net Settlement Amount

- (a) The Net Settlement Amount will be determined by the Settlement Administrator by subtracting the Class Counsel Award, Class Representative's Enhancement Award, PAGA Payment, and Settlement Administrator Costs from the Total Settlement Amount.
- (b) This is a non-reversionary Settlement in which Defendant will pay the

Total Settlement Amount. No portion of the Total Settlement Amount will revert to Defendant. The employer's share of payroll taxes and other required withholdings from Individual Settlement Payments, including but not limited to the FICA and FUTA contributions, if applicable, shall be paid separately from, and in addition to, the Total Settlement Amount. Any award of less than the amounts requested for enhancements, administrative costs, litigation costs, or attorneys' fees will be a part of the Net Settlement Amount and distributed to the Participating Class Members.

57. Individual Settlement Payments

Individual Settlement Payments will be paid from the Net Settlement Amount and shall be paid pursuant to the settlement formula as follows:

- (a) After preliminary approval of the Settlement, using the Class Information (including Defendant's timekeeping data), the Settlement Administrator will compute the total number of Eligible Workweeks of all Class Members collectively during the Class Period, and this sum shall be known as the "Initial Workweek Total"; the Settlement Administrator will divide the projected Net Settlement Amount by the Workweek Total to determine the settlement value for each Eligible Workweek (the "Initial Workweek Value"); and the Settlement Administrator will multiply the number of Eligible Workweeks of a Class Member during the Class Period by the Initial Workweek Value to determine that Class Member's estimated Individual Settlement Payment.
- (b) After final approval of the Settlement, the Settlement Administrator will divide the Net Settlement Amount by the total number of Eligible Workweeks of all Participating Class Members collectively during the Class Period, and this sum shall be known as the "Final Workweek Total"; the Settlement Administrator will divide the final Net Settlement Amount by the Final Workweeks Total to determine the settlement value for each Eligible Workweek (the "Final Workweek Value"); the Final Workweek Value will be rounded to the nearest cent; and the Settlement Administrator will multiply the number of Eligible Workweeks of a Participating Class Member during the Class Period by the Final Workweek Value to determine that Participating Class Member's final Individual Settlement Payment.

- (c) Individual Settlement Payments shall be mailed by regular First-Class U.S. Mail to each Participating Class Member's last known mailing address within ten (10) calendar days after Defendant fully funds the Settlement.

58. PAGA Payments

- (a) A total amount of \$350,000.00 from the Total Settlement Amount will be allocated as the PAGA Payment to be paid as penalties under PAGA, seventy-five percent (75%) of this amount will be the LWDA PAGA Payment to be paid to the LWDA and the remaining twenty-five (25%) shall be distributed to the PAGA Members as Individual PAGA Payments. Any portion of the PAGA Payment not approved by the Court shall be added to the Net Settlement Amount and any additional amount ordered by the Court shall be paid from the Total Settlement Amount; in no event shall Defendant be required to pay in excess of the Total Settlement Amount.
- (b) The LWDA PAGA Payment will be paid to the LWDA within ten (10) calendar days after Defendant fully funds the Settlement.
- (c) The remaining 25% of the PAGA Payment to be distributed to the PAGA Members as Individual PAGA Payments and shall be distributed based on a *pro rata* share based on the number of Eligible Pay Periods during the PAGA Period. Individual PAGA Payments will be paid from the remaining 25% of the PAGA Payment and shall be paid pursuant to the settlement formula as follows: The Settlement Administrator will first determine the total number of Eligible Pay Periods during the PAGA Period. The "Pay Period Value" will be equal to 25% of the PAGA Payment divided by the total number of Eligible Pay Periods credited to PAGA Members during the PAGA Period. The Pay Period Value will be rounded to the nearest cent. The amount of the Individual PAGA Payment to be paid to each PAGA Member will be determined by multiplying the Pay Period Value by the total number of Eligible Pay Periods. Individual PAGA Payments shall be mailed by regular First-Class U.S. Mail to each PAGA Member's last known mailing address within ten (10) calendar days after Defendant fully funds the Settlement.

59. Class Representative's Enhancement Award

Plaintiff will make an application to the Court for a Class Representative Enhancement Award of up to \$10,000.00. The Class Representative's Enhancement Award shall be paid to Plaintiff from the Total Settlement Amount no later than ten (10) calendar days after Defendant fully funds the Settlement. The Class Representative's Enhancement Award shall be in addition to any Individual Settlement Payments and Individual PAGA Payments that he may be eligible to receive. Any amount requested by Plaintiff for the Class Representative's Enhancement Award and not granted by the Court shall be a part of the Net Settlement Amount and be distributed to Participating Class Members as provided in this Agreement. In the event the Court reduces or does not approve the requested Class Representative's Enhancement Award, Plaintiff and Class Counsel shall not have the right to modify or revoke the Settlement, or to appeal such order, nor will Plaintiff or Class Counsel seek, request, or demand an increase to the Total Settlement Amount on that basis.

60. Class Counsel Award

- (a) Class Counsel will file a motion for attorneys' fees in the amount of up to thirty-five percent (35%) of the Total Settlement Amount, and for the reimbursement of reasonable litigation costs and expenses associated with Class Counsel's prosecution of the Action, not to exceed \$25,000, to be paid from the Total Settlement Amount. Class Counsel shall be paid the Class Counsel Award no later than fifteen (15) calendar days after Defendant fully funds the settlement. Any amount requested by Class Counsel for the Class Counsel Award and not granted by the Court shall be a part of the Net Settlement Amount and be distributed to Participating Class Members as provided in this Agreement.
- (b) This Settlement is not contingent upon the Court awarding Class Counsel any particular amount in attorneys' fees and costs and, in the event that the Court reduces or does not approve the requested Class Counsel Award, Plaintiff and Class Counsel shall not have the right to modify or revoke the Settlement, nor will Plaintiff or Class Counsel seek, request, or demand an increase to the Total Settlement Amount on that basis.

61. Tax Treatment

- (a) The Settlement Administrator will report each payment made from the Qualified Settlement Fund to state and federal government authorities, including the Internal Revenue Service, to the extent required by law. All Individual Settlement Payments shall be allocated as follows: 20% wages and 80% penalties, interest, and non-wage damages. The 20% wage portion of Individual Settlement Payments shall be subject to required withholdings and deductions by the Settlement Administrator and shall be reported on Form W-2 (and such other state or local tax reporting forms as may be required by law) with respect to the year of payment as wage income to the Settlement Class Member by the Settlement Administrator on behalf of the Qualified Settlement Fund. All Individual PAGA Payments shall be allocated as 100% penalties, for which a 1099 will be issued if required. The Settlement Administrator shall issue I.R.S. Form 1099 if required for the remaining payments under this Agreement. Defendant shall solely be responsible for paying the Employer's Withholding Share on the amounts allocated as wages, which amount shall be paid separately from the Total Settlement Amount. Plaintiff, any Participating Class Member, and any PAGA Member who receives any Individual Settlement Payment or Individual PAGA Payment should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement.
- (b) Participating Class Members, PAGA Members, and Class Counsel shall be solely responsible for the reporting and payment of their share of any federal, state, and/or local income tax or other tax or any other withholdings, if any, on any of the payments made to them pursuant to this Settlement. Defendant has not made any representations as to the taxability to any Participating Class Members of any portion of the Individual Settlement Payments, to any PAGA Members regarding the Individual PAGA Payments, the payment of any attorneys' fees and expenses to Class Counsel, or the payment of the Class Representative's Enhancement Award to the Class Representative. The Notice will advise each Class Member and PAGA Member to seek his/her own personal tax advice prior to acting in response to the Notice, and Defendant, the Class Representative, and Class Counsel agree that each Class Member and PAGA Member will have an

adequate opportunity to seek tax advice prior to acting in response to the Notice.

62. No Tax Advice

Neither Plaintiff, Class Counsel, nor Defendant's Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

63. Unclaimed Settlement Payment(s)

- (a) Individual Settlement Payment and Individual PAGA Payment checks shall be valid and negotiable for one hundred and eighty (180) calendar days after the mailing of the Individual Settlement Payment and Individual PAGA Payment checks, and thereafter, shall be canceled. After which, any remaining funds attributable to unclaimed, undeliverable, or expired Individual Settlement Payment and/or Individual PAGA Payment checks shall be deposited to the State of California Unclaimed Property Division in the name of each Participating Class Member and/or PAGA Member who did not cash, deposit, or otherwise negotiate his or her Individual Settlement Payment or Individual PAGA Payment check. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Net Settlement will be paid out to Participating Class Members, whether or not they all cash, deposit, or otherwise negotiate their Individual Settlement Payments, and Defendant will not be required to pay any interest on said amount.
- (b) As part of the administration, one hundred (100) calendar days before the Individual Settlement Payment and Individual PAGA Payment checks expire, the Settlement Administrator shall mail reminder postcards to those Participating Class Members and PAGA Members whose settlement checks were not returned undeliverable and who have not cashed, deposited, or otherwise negotiated their checks.

64. Payment of Settlement Administrator Costs

Upon filing the motion for Final Approval, Plaintiff will request the Court to award an amount equal to the actual administration costs. The Settlement Administrator

shall have the authority and obligation to make payments, credits, and disbursements to Participating Class Members and PAGA Members in the manner set forth herein, calculated in accordance with the methodology set out in this Agreement and orders of the Court. The Parties agree to cooperate in the Settlement Administration process and to make reasonable efforts to control and minimize the cost and expenses incurred in administration of the Settlement. The Settlement Administrator shall be paid the Settlement Administrator Costs no later than ten (10) calendar days after Defendant fully funds the Settlement. Any amount requested for the Settlement Administrator Costs and not granted by the Court shall be a part of the Net Settlement Amount and be distributed to Participating Class Members as provided in this Agreement.

65. Settlement Administrator Responsibilities

- (a) In addition to establishing the Qualified Settlement Fund, the Settlement Administrator shall be responsible for the following: creating a plan of settlement administration and settlement fund distribution; using the Class Information to calculate each Class Member's approximate Individual Settlement Payment and each PAGA Member's Individual PAGA Payment; ascertaining the identity and whereabouts of the Class Members and mailing Notice of Class Action Settlement out to them; communicating with Class Members as necessary; printing, translating and mailing the Notice of Class Action Settlement and tax forms to the Participating Class Members and PAGA Members as directed by the Court (including, but not limited to, the DE 9, the DE 9C, 1099s, W-2s and W-3s); receiving and reporting requests for exclusion and objections; processing and mailing payments to Plaintiff, Class Counsel, Participating Class Members, the LWDA, and PAGA Members; notifying the Parties of, and resolving any disputes regarding Eligible Workweeks; complying with all tax reporting notice and filing requirements; carrying out all other duties related to the Qualified Settlement Fund's documentation and filing; providing declaration(s) as necessary in support of preliminary and/or final approval of this Settlement; providing status reports as needed, among other administrative duties; and other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities.

- (b) Defendant and their Counsel shall have no responsibility for validating or ensuring the accuracy of the Settlement Administrator's work. Plaintiff, Class Counsel, Defendant, and Defendant's Counsel shall not bear any responsibility for any errors or omissions in the calculation or distribution of the Individual Settlement Payments, Individual PAGA Payments, or any other distribution of monies contemplated by this Agreement.

66. Final Approval Hearing and Entry of Final Judgment

Upon expiration of the Response Deadline, with the Court's permission, a Final Approval Hearing shall be conducted to determine final approval of the Settlement along with the amount properly payable for: (i) the Class Counsel Award; (ii) the Class Representative's Enhancement Award; (iii) Individual Settlement Payments; (iv) PAGA Payment to the LWDA and PAGA Members, and (v) Settlement Administrator Costs.

67. Final Approval Order

Plaintiff will request, and Defendant will concur in said request, that the Court enter, after the Final Approval Hearing, a Final Approval Order and Judgment. Plaintiff will request that the Final Approval Order and Judgment certify the Settlement Class; find that this Agreement is fair, just, adequate, and in the best interests of the Class; and require the Parties to carry out the provisions of this Agreement. The Parties shall jointly prepare the proposed Final Approval Order and Judgment.

68. Settlement Dates

Class Counsel shall provide Defendant's Counsel a draft Motion for Preliminary Approval for Defendant's review and input.	5 calendar days in advance of filing.
Defendant provides the Class Information to the Administrator	21 calendar days after the Court grants Preliminary Approval
Settlement Administrator to mail Notice of Class Action Settlement	10 calendar days after receipt of the Class Information

Settlement Administrator to re-mail Notice of Class Action Settlement	3 business days after receipt of notice that the Notice of Class Action Settlement was undeliverable.
Response Deadline to the Notice of Class Action Settlement	45 calendar days after mailing
New Response Deadline to the Notice of Class Action Settlement for those receiving re-mailed Notices of the Class Action Settlement	20 calendar days from the date of remailing or original Response Deadline
Settlement Administrator to provide counsel for the Parties a complete list of all Class Members who timely submitted a Request for Exclusion.	7 calendar days after the Response Deadline
Defendant has the option to nullify the Settlement.	10 calendar days after notification by the Settlement Administrator that more than 10% of the Class Members submitted valid Requests for Exclusion.
Class Counsel shall provide Defendant's Counsel a draft Motion for Final Approval for Defendant's review and input.	3 business days in advance of filing.
Settlement Administrator shall send to Defendant's Counsel the electronic wiring instructions for the Settlement Amount.	7 calendar days after the Effective Date.
Defendant shall fund the QSF.	20 calendar days after the Effective Date.
Settlement Administrator shall mail Individual Settlement Payments	10 calendar days after Defendant funds the QSF.
Settlement Administrator shall mail the LWDA PAGA Payment to the LWDA.	10 calendar days after Defendant funds the QSF.
Settlement Administrator shall mail Individual PAGA Payments	10 calendar days after Defendant funds the QSF.
Settlement Administrator shall mail the Class Representative Enhancement Awards	10 calendar days after Defendant funds the QSF.
Settlement Administrator shall mail the Class Counsel Award	10 calendar days after Defendant funds the QSF.

Settlement Administrator shall be paid the Settlement Administrator Costs.	10 calendar days after the Defendant funds the QSF
Settlement Administrator shall mail reminder postcards to the Participating Class Members and PAGA Members whose settlement checks were not returned or cashed.	100 calendar days <u>before</u> the Individual Settlement Payments and Individual PAGA Payments expire.
Checks for all payments shall be void and the Settlement Administrator will begin the process of depositing any remaining funds with the State of California Unclaimed Property Fund	180 calendar days after the mailing of the Individual Settlement Payments and Individual PAGA Payments

69. Nullification of Agreement

- (a) In the event: (1) the Court denies preliminary approval of the Settlement; (2) the Court denies final approval of the Settlement; (3) the Court refuses to enter a Judgment as provided herein; or (4) the Settlement does not become final for any other reason, this Agreement shall be null and void and any order or judgement entered by the Court in furtherance of this Settlement shall be treated as void from the beginning.
- (b) To the extent that more than 10% of Class Members submit valid and timely Requests for Exclusion, Defendant shall have the option to nullify this Settlement within ten (10) calendar days after notification by the Settlement Administrator after the Response Deadline of the total number of Requests for Exclusion, via a written notice to Plaintiff's counsel. If Defendant exercises this option, the Settlement will become void and unenforceable in its entirety and the Parties shall be returned to their status as if this Agreement had not been executed, except that any fees already incurred by the Settlement Administrator shall be paid by the Defendant for terminating the Settlement.

70. Conditional Class Certification

- (a) The Parties are agreeing to class certification for settlement purposes only. This Agreement shall not constitute, in this or any other proceeding, an admission of any kind by Defendant, including without

limitation, that certification of a class for trial or any other purpose is appropriate or proper or that Plaintiff can establish any of the requisite elements for class or representative treatment of any of the claims in these Action.

- (b) If, for any reason, the Settlement is not approved, the Parties agree to attend mediation again, either before the same mediator or another mutually agreed upon mediator experienced in California wage and hour class Action, in an effort to reach a settlement that will be approved by the Court.
- (c) If, even after the second mediation, the Agreement is ultimately not approved by the Court, this Agreement will be void and the Parties will be restored to their respective positions as if they had not entered into the Agreement. The Parties further agree that this Agreement will not be admissible in this or any other proceeding as evidence that either (i) a class Action should be certified or not decertified, or that this matter may proceed as a representative Action; or (ii) Defendant is liable to Plaintiff or any Class Member or any PAGA Member other than according to the Settlement's terms. In the event that the Settlement is not approved or otherwise voided, Defendant expressly reserves all rights to challenge certification of a class, or Plaintiff's ability to maintain a representative Action, for all purposes.

71. No Publicity

- (a) Prior to preliminary approval, the Parties agree not to disclose the terms of this Settlement except in court papers filed to seek approval or to make other disclosures jointly agreed to by the Parties in advance as necessary to effectuate the Settlement.
- (b) Before and after approval of this Settlement, Plaintiff and Class Counsel shall not issue a press release, hold a press conference, publish information about the settlement on any website, or otherwise publicize the Settlement.
- (c) Nothing herein restricts Class counsel from fulfilling its obligations, on behalf of Plaintiff, to submit documents and information required to be submitted to the LWDA pursuant to PAGA regarding the Settlement of the Action. Nothing herein restricts Class Counsel from

fulfilling its duties to Class Members and PAGA Members. Class Counsel may (in future declarations submitted in Court) refer to the fact that this matter settled on a class and representative Action basis, but only for the reason of detailing the experience of counsel. Plaintiff and Class Counsel agree not to respond to any media inquiries except to refer reporters to the papers filed with the court.

72. No Effect on Employee Benefits

Class Representative Enhancement Award, Individual Settlement Payments, and Individual PAGA Payments shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the respective Plaintiff, Participating Class Members, and PAGA Members. The Parties agree that any Class Representative Enhancement Award, Individual Settlement Payments, and Individual PAGA Payments paid to Plaintiff, Participating Class Members, and PAGA Members under the terms of this Settlement do not represent any modification of any previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by any of the Defendant. Further, any Class Representative Enhancement Award, Individual Settlement Payments, and Individual PAGA Payments shall not be considered “compensation” in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by the Defendant.

73. Representation

- (a) All of the Parties have been represented by counsel throughout all negotiations which preceded the execution of this Settlement, and all Parties have been advised by counsel prior to entering into this Settlement.
- (b) Plaintiff and his Counsel represent that other than Plaintiff himself, they do not currently represent any other current or former employees of Defendant in connection with any actual or planned claims, charges, complaints, or other matters against Defendant, and Plaintiff’s Counsel is not currently aware of any current or former employees of Defendant who are planning to bring any claims, charges, complaints, or other matters against Defendant.

74. Exhibits and Headings

The terms of this Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Agreement are an integral part of the Settlement. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

75. Interim Stay of Proceedings

Upon full execution of this Agreement, the Parties agree to jointly request the Court to stay proceedings except for the proceedings necessary to implement and complete the Settlement.

76. Amendment or Modification

This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest and approved by the Court.

77. Entire Agreement

This Agreement and any attached Exhibits constitute the entire Agreement among these Parties, and no oral or written representations, warranties, or inducements have been made to any Party concerning this Agreement or its Exhibits other than the representations, warranties, and covenants contained and memorialized in the Agreement and its Exhibits. The Parties are entering into this Agreement based solely on the representations and warranties herein and not based on any promises, representation, and/or warranties not found herein.

78. Authorization to Enter into Agreement

- (a) Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate Action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement.
- (b) The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the

event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement. The person signing this Agreement on behalf of the Defendant represents and warrants that he or she is authorized to sign this Agreement on behalf of the Defendant. Plaintiff represents and warrants that he is authorized to sign this Agreement and that he has not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

79. Binding on Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

80. California Law Governs

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

81. Counterparts

This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

82. Jurisdiction of the Court

Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all orders and judgments entered in connection therewith.

83. Invalidity of Any Provision

Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent

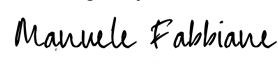
with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

WHEREFORE, Plaintiff, on behalf of themselves, the Participating Class Members, and the State of California with respect to PAGA Members pursuant to the Private Attorneys General Act, and Defendant have executed this Agreement as of the dates set forth below.

Date: 07/23/2024

By: 
Romello Sheppard, Plaintiff

Date: 08/08/2024

By: 
Authorized Agent for Defendant
Ghirardelli Chocolate Company
Manuele Fabbiane

APPROVED AS TO FORM

Date: July 23, 2024

By: 
Arby Aiwarzian
Joanna Ghosh
Lawyers for Justice, PC
Counsel for Plaintiff

Date: 7/24/2024

By: 
Aaron C. Gundzik
Gundzik Gundzik Heeger LLP
Counsel for Plaintiff

Date: 7/27/24

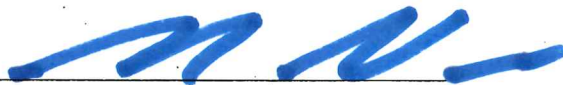
By: 
Michael J. Nader
Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.
Counsel for Defendant
Ghirardelli Chocolate Company

EXHIBIT A

(Class Settlement Notice)

Alameda County Superior Court

Class and PAGA Action Settlement Notice

A court authorized this notice. This is not a solicitation from a lawyer.

Why am I receiving this? On [insert date of court order granting preliminary approval], the Court in this action granted preliminary approval of a proposed settlement as set forth in the Settlement Agreement available at [website] concerning the lawsuit noted above (the “Lawsuit”). You are receiving this notice because your employer’s records show that you are one of the people eligible to participate in the Settlement process.

What is the Lawsuit about? The person who brought the Lawsuit are known as “the Plaintiff.” The Plaintiff (Romello Sheppard) brought this Lawsuit against the Ghirardelli Chocolate Company (“Ghirardelli”). Plaintiff alleges that he and others were not paid all wages, not provided all compliant breaks, not reimbursed for all business expenses, and related claims. Plaintiff alleged that he brought their action on behalf of the following class: “All current and former hourly-paid or non-exempt employees who worked for Defendant Ghirardelli within the State of California at any time during the Class Period, which is from October 27, 2018, through April 19, 2024.”

What is the Settlement? The Plaintiff and Ghirardelli (collectively, “the Parties”) have agreed to settle the Lawsuit for a payment of \$3,150,000.

What is this notice? This notice only summarizes the Settlement. For more information, visit [insert site].

Defendant Ghirardelli denies any liability or wrongdoing of any kind associated with the claims asserted in the Lawsuit. This Settlement is a compromise of disputed claims. Thus, Ghirardelli supports the settlement and will not retaliate in any manner against any class member for any reason, including whether they decide to remain in the class and receive a settlement payment, or choose another option provided in this notice.

**Your legal rights are affected whether you act or do not act.
Read this notice carefully.**

Your legal rights and options in this settlement	
DO NOTHING AND GET YOUR SETTLEMENT CHECK	If you want to participate and receive your share of the money from the Class and PAGA settlement, you do not need to do anything . If you do nothing, you will be mailed a settlement payment and you will release certain claims. Your current address must be on file to get your check.
EXCLUDE YOURSELF FROM THE CLASS SETTLEMENT AND NOT GET A CLASS SETTLEMENT CHECK	If you want to exclude yourself from the Class portion of the settlement, then you will not get a related settlement check. If you exclude yourself, you keep any rights as an individual to sue Defendant separately about the same legal claims that are resolved here. You may exclude yourself from the settlement by submitting a written Request for Exclusion according to the instructions contained in this Notice. The deadline to submit a Request for Exclusion is [45 calendar days from date of mailing]. If you are a PAGA Member, even if you exclude yourself from the class action, you will still receive a portion of the PAGA settlement money and be bound by the release of PAGA claims.
OBJECT	Object to the Class Action Settlement if you think the Settlement is not fair, by sending your written objection to the Settlement Administrator and, if you wish, appear at the Final Approval Hearing. If you submit a Request for Exclusion from the Settlement, you cannot also object to it. The deadline to submit an objection is [45 calendar days from date of mailing].

Basic Information

1. Why did I get this notice package?

The purpose of this notice is to let you know that the Parties in the Lawsuit have reached a Settlement, subject to Court approval in the class and PAGA action known as *Sheppard v. Ghirardelli Chocolate Company*, Case No. 22CV020713, Alameda County Superior Court, which is the First Amended Complaint filed on July 15, 2024, (the “Lawsuit”). You have received this notice because Ghirardelli’s records show that you worked for Ghirardelli in California as a non-exempt employee during the class settlement period.

The Court authorized that you be sent this notice because you have a right to know about the proposed Settlement of the Lawsuit, and about your options, before the Court decides whether to grant final approval of the Settlement. If the Court approves it and after any objections and appeals are resolved, a third-party administrator appointed by the Court will make the payments that the Settlement allows. This notice provides you with instructions on the options available to you under the Settlement.

2. What is this lawsuit about?

In the Lawsuit, Plaintiff alleges that he represents a class of non-exempt employees who were not paid all wages, not provided all compliant breaks, not reimbursed for all business expenses, and related claims. Ghirardelli denies the allegations and asserts that no wages, damages, penalties, or PAGA penalties are due to any employees in California.

3. What is a class action, and a PAGA action?

In a class action, one or more people, called “Class Representatives” (in this case, Romello Sheppard) sues on behalf of people who have similar claims. In a class action, all people with similar class claims are called “Class Members.” Class Members do not need to do anything to be part of a class action in the context of a settlement. Once the Court decides that a case can proceed as a class action (as the Court has done here but only for purposes of this Settlement), all Class Members are included in the class by default, except for those who exclude themselves. In a class action, the court resolves the issues for all Class Members together in one legal proceeding.

In a PAGA action, a plaintiff sends a letter to the California Labor and Workforce Development Agency (“LWDA”) describing the alleged Labor Code violations committed against that employee and other employees (“PAGA Members”) by the Defendant employer. If the LWDA does not opt to pursue the alleged Labor Code violations, the plaintiff is allowed to sue the defendant on behalf of the State of California, on behalf of oneself and all other PAGA Members. PAGA Members cannot opt out of the settlement of a PAGA action. If the Settlement of a PAGA action is approved by the Court, the PAGA Members covered under the PAGA action will have their claims for PAGA penalties released, whether or not the PAGA Members opt out of the Settlement of the class action. The State of California receives 75% of the PAGA penalties, and the PAGA Members receive the other 25%.

Subject to the Court’s approval, a total of \$350,000 of the total settlement fund will be allocated to settle allegations that Ghirardelli owes penalties to the state for alleged violations of the California Labor Code. Of this amount, \$262,500 (75%) will be paid to the California Labor & Workforce Development Agency (“LWDA”). The other 25%, which is \$87,500, will be distributed to class members who worked for Ghirardelli at any time during the PAGA Period, which is from August 21, 2021, through April 19, 2024 (“PAGA Employees”). Each PAGA Employee’s portion of the \$87,500 in penalties will be calculated by dividing the individual’s number of pay periods worked during the PAGA Period by the total number of pay periods worked during the PAGA Period by all PAGA Employees and multiplying the resulting fraction by \$87,500.

4. Why is there a settlement?

The Court did not decide in favor of either party. Instead, both sides agreed to a settlement, which, if approved, brings the Lawsuit to an end. That way, Plaintiff, Class Members, PAGA Members, and Defendant Ghirardelli avoid the cost, delay, and uncertainty of moving forward in litigation to trial and possible appeals, and the Class Members and PAGA Members can receive their checks. The Class Representatives and their attorneys (“Class Counsel”) believe that the Settlement is fair, reasonable, adequate and in the best interests of the Class Members and PAGA Members.

Who is in the Settlement

5. Who is included in the Settlement?

The Settlement provides benefits to the Class Members and the PAGA Members. The Class Members include all current and former hourly-paid or non-exempt employees who worked for Defendant Ghirardelli within the State of California at any time during the Class Period, which is from October 27, 2018, through April 19, 2024.

The Settlement Benefits—What You Get

6. What does the Settlement provide?

Money. All Class Members who do not exclude themselves from this Settlement will get a settlement check.

After payment of Class Counsel attorney's fees and costs awarded by the Court, any enhancement awarded to the Plaintiff, the Settlement Administrator's fee (referenced in section 11 below) and the amount of the PAGA Settlement (discussed in section 3, above), the remainder (called the Net Settlement Amount) will be distributed to class members who do not exclude themselves from the settlement (called Settlement Class Members). The amount of each Settlement Class Member's share of the Net Settlement Amount will be calculated by dividing the total number of qualifying workweeks worked by the Class Member during the Class Period by the total number of qualifying workweeks worked by all of the Class Members during the Class Period and multiplying that fraction by the Net Settlement Amount. A qualifying workweek is a full or partial week that a class member worked for Ghirardelli for at least one day during the Class Period.

According to Ghirardelli's records, you worked a total of __ qualifying workweeks during the Class Period as a Class Member. Ghirardelli's records also show that you worked a total of __ pay periods during the PAGA Period. Based upon this information, under the settlement, you will receive approximately \$____. This amount may increase or decrease based on various factors.

Your settlement amount is based upon the number weeks and pay periods that you worked for Defendant during the relevant period. If you believe that the workweeks and pay periods listed for you above is not correct, you can contest the number of qualifying workweeks and/or PAGA Pay Periods. To do so, you must provide the Settlement Administrator with a written explanation of your position. The statement must also include your full name, current address and telephone number, and must identify this case. You should provide written documentation supporting the number of workweeks you believe that you worked. You must postmark, fax or email your written statement no later than [45 days from mailing]. The Settlement Administrator will consider your dispute and any documentation you submit and will communicate with you and the parties as necessary regarding the dispute to determine whether an adjustment is warranted before making a final determination regarding your settlement payment. The Settlement Administrator will notify you of its final determination.

Tax treatment.

Class Action. The Settlement Agreement allocates how payments made to you under this Settlement should be treated for tax purposes. Accordingly, 20% of all payments to Settlement Group members for the class action settlement will be allocated as wages, and normal payroll taxes and withholdings will be deducted from this portion of the payment as required by law, and it will be reported on an IRS Form W-2. The remaining 80% of payments to Settlement

Group members for Settlement of the class action will be allocated as non-wage penalties and interest and will be reported on an IRS form 1099.

PAGA Action. 100% of payments made to Settlement Group members for settlement of the PAGA action will be allocated as non-wage penalty payments and will be reported on an IRS form 1099.

You will be responsible for correctly reporting all income from this Settlement for tax purposes and for paying any taxes on the amounts received. You will be responsible for the tax obligations and consequences of all payments received from the Settlement. Ghirardelli, Defendant's Counsel, and Class Counsel are not providing tax advice to you, and they make no representations regarding the tax characterization of any Settlement payments or any tax obligations of, or tax consequences to, any Settlement Group members.

7. What can I get from the Settlement?

Each Settlement Group member will receive some money, depending on the number of weeks/pay periods worked at Ghirardelli as a member of the class/PAGA group from October 27, 2018, through April 19, 2024. Class Members who opt out will only get a check related to the PAGA settlement.

How You Get a Payment

8. When will I get my payment?

The terms and conditions of this Settlement are subject to Court approval. The Court will hold a hearing on [insert fairness hearing date], to decide whether to approve the Settlement. If the Court approves the Settlement, and there are no appeals, **we estimate that checks will be mailed around [insert approximate date]**. The Settlement Administrator will provide regular updates of the status of the Settlement at [website]. If your contact information changes, please promptly inform the Settlement Administrator.

Release Agreement

9. What am I giving up to get a payment?

Participating Class Members will be giving up or “releasing” the claims described below:

Released Class Claims: All claims and/or causes of action under any state, local, or federal law or administrative regulation by Participating Class Members against the Released Parties that were or could have been alleged based on the allegations in the Action, including all class claims stated in the Action alleging violations of California Labor Code sections 201, 202, 203, 204, 210, 218, 226(a), 226 et seq, 226.7, 227.3, 510, 512(a), 558, 1174(d), 1194, 1194.2, 1197, 1197.1, 1198, 2800 and 2802, and all claims for unpaid wages, non-compliant meal and rest breaks, untimely current and final wages, inaccurate records and wage statements, unreimbursed expenses, unpaid vacation and paid time off, unfair competition, and related claims.

The State of California will be giving up or “releasing” claims for civil penalties under PAGA for alleged Labor Code violations against PAGA Members:

Released PAGA Claims: All claims and causes of Action for civil penalties under the Private Attorneys General Act, California Labor Code section 2698, et seq. (“PAGA”) of the State of California with respect to PAGA Members against the Released Parties that were or could have been alleged based on the allegations in the Complaint and in the PAGA Notice Letter, including all claims for civil penalties based on alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226.7, 227.3, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and related sections of the applicable IWC Wage Order, including Section 14 (suitable seating) of IWC Wage Order 1-2001, and all claims for unpaid wages, non-compliant meal and rest breaks, untimely current and final wages, inaccurate records and wage statements, unreimbursed expenses, unpaid vacation and paid time off, unfair competition, day of rest violations, the alleged failure to provide suitable seating, and related claims for civil penalties.

A full list of the released claims is in the settlement agreement on file at [[website](#)].

The Lawyers Representing You

10. Do I have a lawyer in this case?

The Court appointed the following attorneys to represent you and the other Settlement Group members. Together, these lawyers are called Class Counsel or Plaintiff’ Counsel. (a) Arby Aiwarzian and Joanna Ghosh of LAWYERS for JUSTICE, PC, 410 West Arden Avenue, Suite 203, Glendale, California 91203, (818) 265-1020; and (b) Aaron C. Gundzik and Rebecca G. Gundzik of Gundzik Gundzik Heeger LLP, 14011 Ventura Blvd., Suite 206E, Sherman Oaks, CA 91423, (818) 290-7461.

11. How will Class Counsel, the Class Representative and the Settlement Administrator be paid?

Class Counsel will ask the Court for attorneys’ fees of up to \$1,102,500.00 of the \$3,150,000 Settlement fund and reimbursement of out-of-pocket costs of up to \$25,000, consistent with the terms of the Settlement Agreement. In addition, Class Counsel will apply to the Court for a service award of up to \$10,000 for the Class Representative. The Court will decide whether to approve Class Counsel’s and the Class Representative’s requests. These amounts, or any other amounts approved by the Court will be paid from the total settlement fund.

In addition, if approved by the Court, the Settlement Administrator will be paid a total \$18,750 for its work administering the settlement. This amount, or any other amount approved by the Court will be paid from the total settlement fund.

Excluding Yourself from the Settlement

12. What does excluding yourself from the Settlement mean?

If you want to preserve your right to sue Ghirardelli on your own about the legal issues in this case, then you need to take steps to remove yourself of the Settlement. This is called excluding yourself from – or opting out of – the Settlement. If you opt out, then you will not get a settlement check related to the class action settlement.

13. How do I remove myself/opt out of the Settlement?

To exclude yourself from (i.e., opt out of) the Settlement and not release any claims, you must send a letter stating your request to be excluded from the Class Settlement which must also contain: (a) the case name and number of the Lawsuit; (b) your full name, present address, signature, telephone number, and last four digits of your Social Security number; and (c) mail, email or fax your letter to the Settlement Administrator at the specified address, postmarked (if mailed) on or before the Response Deadline. Your opt-out request letter must be received or postmarked by [insert date 60 days from mailing settlement notice].

14. If I exclude myself, can I get money from this Settlement?

No. You cannot get money from the class action settlement if you exclude yourself. But you will still get a check from the settlement of the PAGA action (because you cannot opt out from the PAGA settlement).

Objecting to the Settlement

15. What does objecting to the Settlement mean?

If you don't think the Class Action Settlement is fair, and you don't request to be excluded from the class settlement, you can object to the Settlement and tell the Court that you don't agree with the Settlement, or some part of it, before the Court decides whether to grant final approval of the Settlement.

To object in writing, you must submit a timely written objection to the Settlement Administrator. Your objection must state that you object to the proposed Settlement of this case and be sure to include your name, address, telephone number, and signature, and the specific reasons you object to the Settlement. You must mail, fax or email your written objection to the Administrator at [address], postmarked (if mailed) on or before _____, 2024. [60 days from mailing of Settlement Notice Packet] Objections postmarked after this date may be disregarded.

If you have questions regarding this Settlement, you should contact Class Counsel or the Settlement Administrator. Please DO NOT contact attorneys for Defendant or any of the Defendant's managers, supervisors, or owners.

There is no option to object to the PAGA portion of the Settlement.

16. When and where will the Court decide whether to approve the Settlement?

The Court will hold a final approval hearing at [insert time and date and location of the Court and other details]. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court may consider them. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take. If you plan to attend the hearing, you should check [add details of administrator website] or the Court's site at [add details] to confirm that the hearing date has not been changed.

17. Do I have to come to the hearing?

No. Unless you opt out of the Settlement, Class Counsel will represent you and will answer any questions the Court may have. But you are welcome to come at your own expense. If you send a comment (including an objection), you do not have to come to Court to talk about it. As long as you submitted your objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

If You Do Nothing

18. What happens if I do nothing at all?

If you do nothing, you will get a check under the Settlement, and you will be bound to the release of claims in the Settlement.

Getting More Information

19. Are there more details about the Settlement?

This Notice is intended to be a summary of the terms of the Settlement. More information is available by contacting the Settlement Administrator at [add info].

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.