

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Settlement” or “Agreement”), subject to the approval of the Court that the Action and PAGA Released Claims shall be settled and resolved subject to the following terms and conditions set forth in this Agreement, is made and entered into between Plaintiff Moises Perez (“Plaintiff”), for himself and on behalf of the State of California and other Aggrieved Employees pursuant to the California Labor Code Private Attorneys General Act , and Defendant Heimark Distributing, LLC. (“Defendant”), and this Agreement shall be effective on the Effective Date.

I. DEFINITIONS

The following terms, when used in this Settlement, shall have the following meanings:

1. “Action” means Plaintiff’s lawsuit against Defendant with the only remaining claim being asserted under the Private Attorneys’ General Act of 2004 (“PAGA”) pursuant to California Labor Code section 2699, *et seq.* entitled *Moises Perez v. Heimark Distributing, LLC*, pending in San Bernardino County Superior Court, Case No. CIVSB2228849, and as set forth in Plaintiff’s correspondence to the California Labor and Workforce Development Agency dated September 16, 2022 and October 5, 2023 (“LWDA Letters”).
2. “Aggrieved Employees” means all current and former hourly, non-exempt employees of Defendant Heimark Distributing, LLC who worked in California during the PAGA period.
3. “Complaint” means the Class and Representative Action Complaint entitled *Moises Perez v. Heimark Distributing, LLC*, pending in San Bernardino County Superior Court, Case No. CIVSB2228849, and filed on December 28, 2022.
4. “Court” means the Superior Court of California for the County of San Bernardino.
5. “Defendant” means Heimark Distributing, LLC.
6. “Effective Date” means the latter of: (a) the Court’s final approval of the Settlement or (b) the final resolution of any appeal that has been filed.
7. “Gross Settlement Amount” is the non-reversionary sum of Two Hundred Thirty-Two Thousand Six Hundred Eighty Dollars and Zero Cents (\$232,680.00), which represents the total amount payable under this Settlement by Defendant, including, without limitation, payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiff’s Counsel’s fees and costs, payment of Plaintiff’s enhancement award and payment to the Settlement Administrator for administration costs.
8. “Individual PAGA Payment” means the amount to be paid to each Aggrieved Employee based on the formula described herein.
9. “LWDA” means the California Labor and Workforce Development Agency.

10. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts (if approved by the Court) are subtracted from the Gross Settlement Amount: (a) Plaintiff’s Counsel’s fees up to one-third of the Gross Settlement Amount (currently estimated at \$77,560); (b) Plaintiff’s verified costs up to \$20,000.00; (c) Plaintiff’s enhancement award in an amount not to exceed \$5,000.00; and (d) administration costs in an amount not to exceed \$3,500.

11. “Parties” mean Plaintiff and Defendant, collectively.

12. “Plaintiff” means Moises Perez.

13. “Plaintiff’s Counsel” means Scott M. Lidman, Elizabeth Nguyen, and Milan Moore, of Lidman Law, APC; and Paul K. Haines of Haines Law Group, APC.

14. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

15. “PAGA Period” means the time period from September 16, 2021 through September 21, 2023.

16. “PAGA Released Claims” means any and all claims, rights, demands, liabilities and causes of action for civil penalties under the Labor Code and PAGA, against the Released Parties as pled in the Action, or which could have been pled in the Action based on the factual allegations therein and alleged in the LWDA Letters (attached hereto as **Exhibit A**), that arose during the PAGA Period, with respect to the following claims: (a) failure to pay all wages owed based on rounding only; (b) failure to provide meal periods or pay premium pay for non-compliant meal periods; (c) failure to authorize and permit rest periods or pay premium pay for non-complaint rest periods; (d) failure to provide accurate, itemized wage statements; (e) failure to timely pay wages upon separation of employment; (f) failure to reimburse necessary business expenditures.

17. “Released Parties” means Defendant and its former, present and future owners, parents, subsidiaries, and all of their current, former and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, successors, assigns, accountants, insurers, or legal representatives.

18. “Settlement Administrator” means Phoenix Settlement Administrators.

II. RECITALS

1. Plaintiff’s single remaining cause of action for civil penalties under the PAGA alleged on behalf of the Aggrieved Employees is based on Defendant’s alleged failure to: (1) pay all wages owed based on rounding; (2) provide legally compliant meal periods or pay premium pay for non-compliant meal periods; (3) permit and authorize compliant rest periods or pay premium pay for non-compliant rest periods; (4) reimburse necessary business expenditures; (5) provide accurate, itemized wage statements; and (6) pay all wages owed at the time of separation of employment.

2. On December 27, 2022, Plaintiff filed his original complaint in the Action which asserted putative class action claims based on the alleged Labor Code violations and claims for civil penalties under the PAGA.

3. On September 16, 2022, Plaintiff provided written notice to the LWDA and Defendant asserting claims for civil penalties pursuant to the PAGA stemming from alleged violations of the California Labor Code.

4. On August 10, 2023, pursuant to a request by Plaintiff, the Court entered an order sending Plaintiff's individual Labor Code and PAGA claims against Defendant to arbitration, dismissing Plaintiff's class action claims, and leaving Plaintiff's Sixth Cause of Action for violations of the PAGA as the sole remaining claim in the Action.

5. During the pendency of the Action, the Parties exchanged certain informal discovery prior to mediation, including information and documents pertaining to Plaintiff and other Aggrieved Employees and the claims in the Action in order for Plaintiff's Counsel to investigate Plaintiff's allegations and evaluate the substance and value of the PAGA claim.

6. On September 21, 2023, the Parties participated in a full-day mediation before mediator Katherine Edwards, Esq. The Parties were during mediation and with the assistance of the mediator able to reach an agreement and agreed to fully and finally resolve, subject to Court approval, the PAGA Released Claims as to Plaintiff and the Aggrieved Employees.

7. On October 5, 2023, pursuant to the Parties' agreement, Plaintiff provided a supplemental written notice to the LWDA and Defendant asserting claims for civil penalties pursuant to the PAGA stemming from alleged violations of California Labor Code sections 203 and 2802, as well as unpaid wages based on rounding. A true and correct copy of the two letters sent to the LWDA are attached hereto as **Exhibit A**. The Parties agree to cooperate with each other in connection with Plaintiff's filing an amended PAGA cause of action based on the additional underlying Labor Code violations alleged in the October 5, 2023 supplemental written notice to the LWDA.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission.** Nothing in this Settlement shall be construed to be an admission by Plaintiff that his claims do not have merit or by Defendant of any liability or wrongdoing as to Plaintiff, Aggrieved Employees, or any other person, and Defendant specifically disclaims any such liability or wrongdoing. The Parties have entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. This Settlement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

2. **Gross Settlement Amount.** Defendant shall pay Two Hundred Thirty-Two Thousand Six Hundred Eighty Dollars and Zero Cents (\$232,680.00) as the **non-reversionary** Gross Settlement Amount. Defendant shall deposit the Gross Settlement Amount with the Settlement Administrator by no later than thirty (30) calendar days of the Effective Date. The Settlement Administrator shall hold all portions of the Gross Settlement Amount in an interest-

bearing account for the benefit of the Aggrieved Employees until the time for disbursement. The releases identified herein shall be null and void if Defendant fails to fully fund the Gross Settlement Amount.

3. **Escalator Clause.** Defendant represents that there are an estimated 6,648 pay periods worked by the Aggrieved Employees during the PAGA Period. If the number of pay periods worked by the Aggrieved Employees during the PAGA Period is 10% or greater than this figure, Defendant agrees to increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in the number of pay periods worked by the PAGA Period above the 10% (i.e., if there was an 11% increase in the number pay periods during the PAGA Period, Defendant agrees to increase the Gross Settlement Amount by 1%).

4. **Net Settlement Amount.** The Parties agree that the following amounts should be subtracted from the Gross Settlement Amount, subject to Court approval, resulting in a Net Settlement Amount to distribute to the LWDA and Aggrieved Employees:

a. **Plaintiff's Attorneys' Fees and Costs.** Defendant will not oppose Plaintiff's request for attorneys' fees in the amount up to one-third (1/3) of the Gross Settlement Amount, including one-third of any increase pursuant to the Escalator Clause. (The fees are currently estimated to be Seventy-Seven Thousand Five Hundred Sixty Dollars and Zero Cents (\$77,560.00)). Defendant will not oppose Plaintiff's request for costs incurred in prosecuting this Action in amount not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00). In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for attorneys' fees and costs). If the Court believes the attorneys' fees and/or costs should be reduced, the other terms of this Settlement will remain in effect and enforceable, and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount. The Settlement Administrator, will report these payments on IRS Form 1099 issued to Plaintiff's Counsel.

b. **Plaintiff's Enhancement Award.** Defendant will not oppose Plaintiff's request for an enhancement award in the amount of Five Thousand Dollars and Zero Cents (\$5,000.00) for his service to the State of California, the LWDA and the Aggrieved Employees by and through filing the Action, participation in this Action, and the risk he undertook by attaching his name to the Action. In the event the Court approves a payment of less than the requested amount, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for Plaintiff's enhancement award). If the Court believes the enhancement award should be reduced, the other terms of the Settlement will remain in effect and enforceable, and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount. The Settlement Administrator will report this payment on IRS Form 1099 issued to Plaintiff.

c. **Administration Costs.** The Parties agree that the Administration Costs shall be paid from the Gross Settlement Amount, in an amount not to exceed \$3,500.00, for administering the Settlement. The Settlement Administrator will report this payment on IRS Form 1099 issued to the Settlement Administrator.

5. **Allocation of Net Settlement Amount.** The Net Settlement Amount shall be distributed pursuant to Labor Code § 2699(i) as follows:

a. 75% of the Net Settlement Amount shall be distributed to the LWDA;

b. 25% of the Net Settlement Amount shall be paid to Aggrieved Employees. This portion of the Net Settlement Amount shall be paid to all Aggrieved Employees pro rata based on the proportional number of pay periods worked by each Aggrieved Employee during the PAGA Period.

This paragraph regarding allocation is based on the Parties' collective understanding that all payments will be considered "penalties" and that there will no employer-side tax consequence to Defendant as a result of an allocation of the penalty amount being wages. If the Parties later determine otherwise, they will meet and confer regarding changes to this allocation provision. The Parties agree that should the Court deny approval of the Settlement based on the allocation of the Net Settlement Amount, the Parties agree to re-negotiate in good faith in an effort to obtain approval of the Settlement.

6. **Release of PAGA Claims.** Upon the Effective Date and payment of all funds due under this Settlement, Plaintiff, Aggrieved Employees, the State of California and the LWDA will release the Released Parties from the PAGA Released Claims and will be forever barred from pursuing all PAGA Released Claims defined in Section I.16 herein against Defendant and the Released Parties. The PAGA Released Claims expressly exclude any potential non-PAGA claims held individually by Aggrieved Employees other than Plaintiff.

7. **No Right to Opt-Out.** The Parties agree that there is no statutory right for any Aggrieved Employee to opt-out or otherwise exclude himself or herself from the Settlement.

8. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.**

a. Plaintiff represents and warrants that he has not assigned or transferred or purported to assign or transfer, to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement.

b. Plaintiff acknowledges that he has read this Settlement, that he fully understands his rights, privileges and duties under the Settlement, and enters into this Settlement freely and voluntarily, and without duress. Plaintiff further acknowledges that he had the opportunity to consult with his attorneys to explain the terms of this Settlement and the consequences of signing this Settlement.

9. **Court Approval of PAGA Settlement.** To permit judicial review and approval of the Settlement, as required by Labor Code Section 2698, et seq., Plaintiff's Counsel will file the Agreement with the Court and submit the Agreement to the LWDA as part of Plaintiff's motion seeking Court approval of the Settlement, per Labor Code § 2699(1)(2). Defendant will not oppose or object to Plaintiff's motion seeking approval of the Settlement.

10. **Termination of Settlement.** If the Court does not approve the Settlement, if the Court does not enter judgment, as provided for in this Settlement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or, except as

otherwise set forth herein, if one or more of the terms of the Settlement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) days of written notice thereof to elect to terminate the Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement.

11. **Judgment.** As part of the Motion to approve the Settlement, Plaintiff shall submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement and retains jurisdiction over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement. This Settlement is expressly conditioned upon the Court entering judgment as set forth herein. The judgment will not release or bar any claims other than the PAGA Released Claims as to Plaintiff, Aggrieved Employees, the State of California and the LWDA. Plaintiff's Counsel will further submit any judgment rendered in the Action and approving the PAGA Settlement to the LWDA, per Labor Code § 2699(1)(3).

IV. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Parties agree to use Phoenix Settlement Administrators to handle the administration of this Settlement.

2. **Provision of Information for Aggrieved Employees.** Within fourteen (14) business days of the Effective Date, Defendant shall provide the Settlement Administrator with information for Aggrieved Employees. Defendant will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, total number of pay periods worked during the PAGA Period, and Social Security number. The list shall also include the sum total of all pay periods worked by Aggrieved Employees during the PAGA Period. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in the highest of confidence, and access shall be limited to those with a need to use the list as part of the administration of the Settlement and none of the information contained in the list shall be disclosed to third Parties or to Plaintiff's Counsel without the express written consent of counsel for Defendant.

Within seven (7) business days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the estimated individual settlement payments to each Aggrieved Employee and the sum total of all pay periods worked by Aggrieved Employees during the PAGA Period. The Settlement Administrator shall also determine whether the Escalator Clause in Section III.3 has been triggered. The Settlement Administrator shall obtain approval from all counsel of the calculations before mailing Individual PAGA Payments.

3. **Explanatory Letter and Individual PAGA Payments.** Upon receipt of the information for Aggrieved Employees, the Settlement Administrator will perform a search on the National Change of Address database to update the Aggrieved Employees' addresses.

Within two (2) business days of receiving approval from counsel of the payment calculations as provided above, the Settlement Administrator shall mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit B**, in

both English and Spanish, along with Individual PAGA Payments to all Aggrieved Employees via regular First-Class U.S. Mail.

The Settlement Administrator will calculate the amount to be received by each Aggrieved Employee, which will be based on the formula set forth in Section III.5., *supra*. The Settlement Administrator will send each Aggrieved Employee a check for his or her Individual PAGA Payment along with the explanatory letter. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties/interest and reported using IRS Form 1099.

4. **Undeliverable Notices.** The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee.

Any checks returned as non-deliverable on or before the check cashing deadline will be re-sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace or other search using the name, address or Social Security number of the Aggrieved Employee involved and will perform a single re-mailing after which any returned checks will be deemed undeliverable.

The Settlement Administrator shall maintain a list of the postmark date for the original mailing of the Individual Settlement Payment(s) to the Aggrieved Employees, the postmark date of any subsequent mailing to any the Aggrieved Employees, and a list of Aggrieved Employees who did not receive the Individual Settlement Payment due to the inability to locate a valid address using the procedures described herein or who otherwise could not be located within two attempts at mailing.

Defendant fully discharges its obligations to those Aggrieved Employees to whom they will pay an Individual PAGA Payment through the mailing of a check, regardless of whether such checks are actually received and/or negotiated by Aggrieved Employees. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the State Controller's Office pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et. seq.* for the benefit of and in the name(s) of the Aggrieved Employees to whom the checks were issued but whom did not cash the checks. The unclaimed checks shall remain in the Unclaimed Property Fund in the name of the Aggrieved Employee until such time that they claim their property (the Individual Settlement Payment), or the property is otherwise disposed of pursuant the Unclaimed Property Laws.

5. **Payment of Remainder.** Within two (2) business days of receiving approval from counsel of the payment calculations, the Settlement Administrator will distribute the following additional payments: (1) the 75% share of the Net Settlement Amount to the LWDA; (2) Court-approved attorneys' fees and costs to Plaintiff's Counsel; (3) Court-approved enhancement award to Plaintiff; and (4) Court-approved administration costs to the Settlement Administrator.

6. **Accounting.** Within fifteen (15) business days of receiving approval from counsel of the payment calculations, the Settlement Administrator will provide an accounting under oath

to the Parties of the amounts paid from the Settlement. The Settlement Administrator shall provide a further such accounting under oath, upon request, after the conclusion of the 180-day check cashing period.

7. **Tax Consequences.** Individual PAGA Payments made under this Settlement will be attributed 100% as penalties and paid via IRS Form 1099 issued to each Aggrieved Employee. No later than January 31 of the year following payment of their individual portion of the PAGA Payment, the Settlement Administrator will prepare and issue IRS Form 1099s to Aggrieved Employees who received a payment. Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement.

V. MISCELLANEOUS PROVISIONS

1. **Mutual Preparation and Drafting.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement. The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Plaintiff nor Defendant shall be considered the "drafter" of this Settlement for purposes of having terms construed against that Party. This Settlement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement.

2. **Successors.** This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, assigns, administrators and successors.

3. **Costs and Fees.** The Parties shall each bear their own costs, attorneys' fees, expert fees, mediator fees, and other fees incurred in connection with this Settlement, the Action and Plaintiff's claims, except as otherwise set forth specifically herein.

4. **Governing Law.** This Settlement shall be construed under and governed by the laws of the State of California. This Settlement shall be deemed to have been entered into in the County of Kern, California, and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Settlement shall be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement, it shall be brought in the State of California, County of Kern. Furthermore, this Settlement shall be valid and enforceable notwithstanding any new legal developments regarding the PAGA Released Claims or any other matter related to the Action occurring after the date this Agreement is executed by all Parties.

5. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement has been made to them and acknowledge and represent that this Settlement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA Released Claims in the Action. This Settlement cannot be amended or modified except by a writing signed by the Parties hereto.

6. **Nullification of Settlement.** In the event that: (i) after good faith efforts to amend

or modify the Agreement for Court approval the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this Settlement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions unless otherwise required under this Agreement.

7. **Judgment and Continued Jurisdiction.** After approval of this Settlement, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement. Plaintiff will submit a proposed judgment in conformity with this Agreement to be entered by the Court, which shall constitute a final and binding resolution of the claims in the Action.

8. **Authorization to Enter into Settlement.** The signatories hereto represent that they are fully authorized to enter into this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If 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.

9. **Execution and Counterparts.** This Settlement is subject only to the execution of all Parties. However, the Settlement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile, electronic signatures, and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange a fully executed Agreement. The Parties also agree that a facsimile, electronic, or scanned copy of the fully executed Agreement shall have the same force and effect as an original signed Agreement.

10. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe this Settlement is a fair, adequate and reasonable settlement of the Action, and have arrived at this Settlement after arm's-length negotiations by experienced counsel and with the assistance of an experienced mediator. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

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

12. **Severability.** If any term or provision of this Settlement is held to be invalid or unenforceable, the remaining portions of this Settlement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

13. **Waiver.** No waiver of any condition or covenant contained in this Settlement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or

constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

14. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement, and this Settlement has been executed with the consent and advice of counsel and reviewed in full.

15. **Enforcement Action.** The Parties hereby agree this Agreement is enforceable under Code of Civil Procedure section 664.6, so as to allow the Parties to enforce the terms of their settlement until performance has been made in full. In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Settlement, accept and agree to the provisions contained in this Settlement and hereby execute it voluntarily and with full understanding of its consequences.

APPROVED AS TO FORM AND CONTENT:

Dated: Dec 11, 2023

Moises Perez
Moises Perez (Dec 11, 2023 10:34 PST)

Moises Perez, Plaintiff

Dated: 12/18/23

By: William Street
Its: WILLIAM STREET SECRETARY TREASURER
Heimark Distributing, LLC, Defendant

APPROVED AS TO FORM:

Dated: 12/11/2023

LIDMAN LAW, APC

By: Scott M. Lidman
Scott M. Lidman
Attorneys for Plaintiff, Moises Perez

[Signatures continue on next page.]

Dated: 12/11/2023

HAINES LAW GROUP, APC

By: 

Paul K. Haines
Attorneys for Plaintiff, Moises Perez

Dated: _____

HILL, FARRER & BURRIL LLP

By: _____
James A. Bowles
Attorneys for Defendant, Heimark Distributing,
LLC,

HFB 2711788.2 H3399 003

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245
OFFICE: (424) 322-4772
FAX: (424) 322-4775

September 16, 2022

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Heimark Distributing, LLC
c/o William Struett, Registered Agent for Service of Process
82-851 Avenue 45
Indio, CA 92201

Re: *Moises Perez v. Heimark Distributing, LLC*

To Whom It May Concern:

Please be advised that this law firm represents Moises Perez in claims arising from his employment with Heimark Distributing, LLC, a California limited liability company (“Defendant”). Mr. Perez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Mr. Perez intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all of Defendant’s all current and former non-exempt employees in California who have worked for Defendant, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Mr. Perez started working for Defendant on or about October 2020 as a non-exempt employee. During his employment with Defendant, Mr. Perez’s job title was Line Technician and he was responsible for setting up lines at bars and restaurants, among other job duties.

During his employment with Defendant, Mr. Perez was generally scheduled to work from Monday through Friday, 8:00 a.m. to 4:30 p.m. and sometimes worked shifts greater than 10 hours. During his employment, Defendant directed Mr. Perez to work in Big Bear and Yucaipa, California, among other cities.

Throughout Mr. Perez’s employment with Defendant, Mr. Perez was not provided all legally required meal periods due to Defendant’s meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work and fail to provide second duty-free 30-minute meal periods for shifts of over 10.0

hours in violation of California law. Specifically, as a result of the work demands imposed by Defendant, Defendant often provided meal periods that were either late or short or failed to provide a required meal period altogether. In addition, during a portion of the relevant time period, Defendant's policies and practices auto-deducted time worked for alleged meal periods irrespective of whether a meal period was taken or not. Defendant's meal period policies and practices applied to Plaintiff and other non-exempt employees.

Although Mr. Perez and other non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Mr. Perez and other non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Mr. Perez was also not authorized and permitted to take all legally required and compliant rest periods due to Defendant's rest period policies and practices. Throughout Mr. Perez's employment with Defendant, Defendant failed to have any policies and/or procedures that authorized and permitted a net ten-minute rest period for every four hours worked, or major fraction thereof. Defendant's rest period policies and practices applied to Plaintiff and other non-exempt employees.

Although Mr. Perez and other non-exempt employees were authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendant failed to compensate Mr. Perez and other non-exempt employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

As a result of Defendant's failure to pay all meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Perez.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order 4 and/or 7 and/or Industrial Welfare Commission Wage Order 7 ("Wage Order 4 and/or 7"):

Meal Period Violations

As alleged above, Defendant failed to provide Mr. Perez and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 4 and/or 7, § 11. Specifically, as a result of the work demands imposed by Defendant, Defendant often provided meal periods that were either late or short or failed to provide a required meal period altogether. In addition, during a portion of the relevant time period, Defendant's policies and practices auto-deducted for alleged meal periods irrespective of whether a meal period was taken or not. Therefore, Mr. Perez and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in

accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.""). Although Mr. Perez and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Mr. Perez and other Aggrieved Employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant also failed to authorize and permit Mr. Perez and other Aggrieved Employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 4 and/or 7, § 12. Throughout Mr. Perez's employment with Defendant, Defendant failed to have any policies and/or procedures that authorized and permitted a net ten-minute rest period for every four hours worked, or *major fraction thereof*. As a result, Mr. Perez and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Perez and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, meal and rest period premiums, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Mr. Perez and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all meal and rest period premium wages owed, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

As an "aggrieved employee," Mr. Perez will initiate a civil action on behalf of himself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Perez's own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Perez and other Aggrieved Employees;

- b) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Perez and other Aggrieved Employees;
- c) Defendant violated Labor Code § 226 by failing to furnish Mr. Perez and other Aggrieved Employees with accurate and compliant itemized wage statements;
- d) Defendant violated Labor Code § 204 by failing to pay Mr. Perez and other Aggrieved Employees all earned wages at least twice during each calendar month; and
- e) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Perez and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,

LIDMAN LAW, APC



Elizabeth Nguyen, Esq.

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245
OFFICE: (424) 322-4772
FAX: (424) 322-4775

October 5, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Heimark Distributing, LLC
c/o James A. Bowles
Hill, Farrer & Burrill LLP
One California Plaza
300 S. Grand Ave., 37th Fl.
Los Angeles CA 90071

Re: *Moises Perez v. Heimark Distributing, LLC*

To Whom It May Concern:

Please be advised that this law firm represents Moises Perez in claims arising from his employment with Heimark Distributing, LLC, a California limited liability company (“Defendant”). Mr. Perez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Mr. Perez intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all of Defendant’s all current and former non-exempt employees in California who have worked for Defendant, at least in part, during the one year immediately preceding the date of the letter sent on September 16, 2022 letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

By this letter, Mr. Perez hereby supplements his correspondence to the LWDA dated September 16, 2022 (the “LWDA letter”). Attached hereto as **Exhibit A** is a true and correct copy of the LWDA letter and is incorporated herein by reference. In addition to the Labor Code violations identified in the LWDA letter, Mr. Perez alleges Defendant is also liable for the following:

Minimum and Overtime Wage Violations

Mr. Perez is informed and believes, and thereon alleges, that during the relevant time period, or at least a portion, Defendant had a policy of rounding non-exempt employees’ hours to the detriment of the non-exempt employees. As a result, Defendant

failed to pay Mr. Perez and other non-exempt employees all required minimum and/or overtime wages.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Mr. Perez and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal and rest period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Mr. Perez and other aggrieved employees was willful and, consequently, entitles Mr. Perez and other aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendant failed to pay their final wages after their separation, up to a maximum of thirty days.

Failure to Reimburse Business Expenses

Defendant failed to reimburse Mr. Perez and other aggrieved employees for necessary work expenses. Defendant's policy of not providing reimbursement for necessary work-related expenses is in violation of the Wage Orders, § 9, and Labor Code § 2802 ("An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.") Mr. Perez and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest. Specifically, Mr. Perez and other non-exempt employees were required to use their personal tools to complete projects.

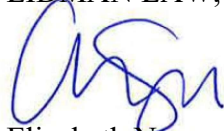
As an "aggrieved employee," Mr. Perez will file an amended civil action on behalf of himself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Perez's own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- (a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Perez and other Aggrieved Employees all overtime compensation earned due to its rounding policies and procedures;
- (b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Perez and other Aggrieved Employees the statutory minimum wage for all hours worked due to its rounding policies and procedures;
- (c) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Velazquez and other aggrieved employees.
- (d) Defendant violated Labor Code § 2802 by failing to reimburse Mr. Perez and other aggrieved employees for necessary work expenditures.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,

LIDMAN LAW, APC

A handwritten signature in blue ink, appearing to read 'Elizabeth Nguyen', is written over a faint, light blue circular stamp.

Elizabeth Nguyen, Esq.

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245
OFFICE: (424) 322-4772
FAX: (424) 322-4775

September 16, 2022

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Heimark Distributing, LLC
c/o William Struett, Registered Agent for Service of Process
82-851 Avenue 45
Indio, CA 92201

Re: *Moises Perez v. Heimark Distributing, LLC*

To Whom It May Concern:

Please be advised that this law firm represents Moises Perez in claims arising from his employment with Heimark Distributing, LLC, a California limited liability company (“Defendant”). Mr. Perez is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Mr. Perez intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all of Defendant’s all current and former non-exempt employees in California who have worked for Defendant, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Mr. Perez started working for Defendant on or about October 2020 as a non-exempt employee. During his employment with Defendant, Mr. Perez’s job title was Line Technician and he was responsible for setting up lines at bars and restaurants, among other job duties.

During his employment with Defendant, Mr. Perez was generally scheduled to work from Monday through Friday, 8:00 a.m. to 4:30 p.m. and sometimes worked shifts greater than 10 hours. During his employment, Defendant directed Mr. Perez to work in Big Bear and Yucaipa, California, among other cities.

Throughout Mr. Perez’s employment with Defendant, Mr. Perez was not provided all legally required meal periods due to Defendant’s meal period policies and practices, which fail to provide 30-minute duty free first meal periods before the end of the fifth hour of work and fail to provide second duty-free 30-minute meal periods for shifts of over 10.0

hours in violation of California law. Specifically, as a result of the work demands imposed by Defendant, Defendant often provided meal periods that were either late or short or failed to provide a required meal period altogether. In addition, during a portion of the relevant time period, Defendant's policies and practices auto-deducted time worked for alleged meal periods irrespective of whether a meal period was taken or not. Defendant's meal period policies and practices applied to Plaintiff and other non-exempt employees.

Although Mr. Perez and other non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Mr. Perez and other non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Mr. Perez was also not authorized and permitted to take all legally required and compliant rest periods due to Defendant's rest period policies and practices. Throughout Mr. Perez's employment with Defendant, Defendant failed to have any policies and/or procedures that authorized and permitted a net ten-minute rest period for every four hours worked, or major fraction thereof. Defendant's rest period policies and practices applied to Plaintiff and other non-exempt employees.

Although Mr. Perez and other non-exempt employees were authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendant failed to compensate Mr. Perez and other non-exempt employees with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

As a result of Defendant's failure to pay all meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Perez.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order 4 and/or 7 and/or Industrial Welfare Commission Wage Order 7 ("Wage Order 4 and/or 7"):

Meal Period Violations

As alleged above, Defendant failed to provide Mr. Perez and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 4 and/or 7, § 11. Specifically, as a result of the work demands imposed by Defendant, Defendant often provided meal periods that were either late or short or failed to provide a required meal period altogether. In addition, during a portion of the relevant time period, Defendant's policies and practices auto-deducted for alleged meal periods irrespective of whether a meal period was taken or not. Therefore, Mr. Perez and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in

accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.""). Although Mr. Perez and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Mr. Perez and other Aggrieved Employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant also failed to authorize and permit Mr. Perez and other Aggrieved Employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 4 and/or 7, § 12. Throughout Mr. Perez's employment with Defendant, Defendant failed to have any policies and/or procedures that authorized and permitted a net ten-minute rest period for every four hours worked, or *major fraction thereof*. As a result, Mr. Perez and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Perez and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, meal and rest period premiums, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Mr. Perez and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all meal and rest period premium wages owed, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

As an "aggrieved employee," Mr. Perez will initiate a civil action on behalf of himself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Perez's own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Perez and other Aggrieved Employees;

- b) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Perez and other Aggrieved Employees;
- c) Defendant violated Labor Code § 226 by failing to furnish Mr. Perez and other Aggrieved Employees with accurate and compliant itemized wage statements;
- d) Defendant violated Labor Code § 204 by failing to pay Mr. Perez and other Aggrieved Employees all earned wages at least twice during each calendar month; and
- e) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Perez and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,

LIDMAN LAW, APC



Elizabeth Nguyen, Esq.

EXHIBIT B

EXHIBIT B

NOTICE OF PAGA SETTLEMENT AND RELEASE OF CLAIMS

Moises Perez v. Heimark Distributing, LLC
San Bernardino County Superior Court Case No. CIVSB2228849

<<Name>>
<<Address>>
<<City>>, <<State>> <<Zip Code>>
XX - XX - XX - XX

I. NOTICE OF PAGA SETTLEMENT

The San Bernardino County Superior Court (the “Court”) has approved a settlement in the above-captioned action filed by Moises Perez (“Plaintiff”) on behalf of himself and all other aggrieved employees.

In this lawsuit, Plaintiff sought to recover civil penalties for alleged violations of the California Labor Code on behalf of the California Labor and Workforce Development Agency (“LWDA”) and other aggrieved employees under the California Private Attorneys General Act (the “PAGA”). These civil penalties are based on Plaintiff’s allegations that Heimark Distributing, LLC (“Heimark”): (1) failed to pay all wages owed due to rounding practices; (2) failed to provide legally compliant meal periods; (3) failed to permit and authorize compliant rest periods; (4) failed to reimburse necessary business expenditures; (5) failed to provide accurate, itemized wage statements; (6) failed to maintain accurate records; and (7) failed to pay all wages owed at the time of separation of employment; and as a result is liable for civil penalties under the PAGA.

The Court has ***not*** made a determination about the merits of Plaintiff’s claims. This Notice is not to be understood as an expression of any opinion by the Court as to the merits of Plaintiff’s claims.

Heimark denies all of Plaintiff’s claims and allegations. It maintains that it was in compliance with the California Labor Code at all times and entered into the Settlement with no admission of liability and solely for the purposes of compromising and settling the action to avoid the cost and operational burden of continued litigation.

You are receiving this Notice because you are in the group of employees referred to as “Aggrieved Employees,” which is defined as: “all current and former hourly, non-exempt employees of Defendant Heimark Distributing, LLC who worked in California at any time from September 16, 2021 through September 23, 2023.”

II. INDIVIDUAL PAGA PAYMENT

Each individual PAGA payment was calculated on a pro rata basis (*i.e.*, proportional) based on the number of pay periods worked by each Aggrieved Employee in the PAGA Period. Your individual PAGA payment has been calculated at \$[AMOUNT PAID TO THIS EMPLOYEE]. Your payment is enclosed with this Notice.

Please Note: One hundred percent (100%) of your Individual PAGA Payment under this Settlement will be considered penalties reported on an IRS Form 1099, and may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences, if any, of your individual PAGA payment. Neither Plaintiff nor Heimark has made any representations or warranties regarding the taxation of your Individual PAGA payment. Nothing within this

notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).

III. RELEASE

The Court has approved the Parties' Settlement Agreement ("Settlement"). By operation of the Settlement's terms, Plaintiff, the State of California and all Aggrieved Employees, including you, have released Heimark and its predecessors, franchisees, successors and assigns, parent corporations, subsidiary corporations, affiliates, insurers, reinsurers and the officers, directors, shareholders, partners, employees, independent contractors, attorneys and agents, past or present, of each of the aforesaid entities/individuals, heirs, executors, administrators, assigns, attorneys and agents, and all persons acting under, by, through, or in concert with any of them ("Released Parties") from any and all claims, rights, demands, liabilities and causes of action for civil penalties under the Labor Code and Private Attorneys General Act ("PAGA"), Labor Code § 2698 et seq., against the Released Parties as pled in the Action, or which could have been pled in the Action based on the factual allegations therein and alleged in the letters to the LWDA, that arose during the PAGA Period, with respect to the following claims: (a) failure to pay all wages owed based on rounding only; (b) failure to provide meal periods, or premium pay for non-compliant meal periods; (c) failure to authorize and permit rest periods, or premium pay for non-complaint rest periods; (d) failure to provide accurate, itemized wage statements; (e) failure to timely pay wages upon separation of employment; (f) failure to reimburse necessary business expenditures ("PAGA Released Claims"). The PAGA Released Claims herein does not release the Released Parties from any potential non-PAGA claims held individual by Aggrieved Employees other than Plaintiff.

Upon entry of the Order approving the Settlement, any Aggrieved Employee covered by this Agreement (including you) will be barred from proceeding with any of the PAGA Released Claims released by this Settlement.

IV. SETTLEMENT ADMINISTRATOR

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

You may call the Settlement Administrator, [REDACTED] at [ADMINISTRATOR INFO] with any questions.

Settlement checks will be void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall direct all unclaimed funds to the California State Controller's Office under the unclaimed property laws in the name of the Aggrieved Employee to whom the check was issued. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.