

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Benjamin Lopez (“Plaintiff”) and Defendant Benny’s Tacos & Chicken Rotisserie Culver City, LLC and Defendant Benny’s Taco & Rotisserie, LLC (“Defendants”). The Agreement refers to Plaintiff and Defendants collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendants captioned Lopez v. Benny’s Tacos & Chicken Rotisserie Culver City, LLC, et al. initiated on December 2, 2022 (Case No. 22STCV3778) Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means APEX Class Action Administration the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross PAGA Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4. “Aggrieved Employees” means all individuals who are or were previously employed by Defendants in California and classified as a non-exempt employee at any time during the PAGA period.
- 1.5. “Aggrieved Employee Data” means Aggrieved Employees identifying information in Defendants’ possession including the Aggrieved Employee’s name, last known mailing address, social security number, and number of PAGA Pay Periods.
- 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using reasonably available sources, methods, and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved employees.
- 1.7. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.8. “Court” means the Superior Court of California, County of Los Angeles.
- 1.9. “Defendants” means named Defendants Benny’s Tacos & Chicken Rotisserie Culver City and Benny’s Taco & Rotisserie, LLC.
- 1.10. “Defense Counsel” means Kevin V. DeSantis, Bradley A. Lebow, and/or Katherine E. Garcia of the law firm Dunn DeSantis Walt & Kendrick.

- 1.11. “Effective Date” means the date on which the Court’s order approving the settlement and its entry of Judgment become Final..
- 1.12. “Gross PAGA Settlement Amount” means the total sum of \$40,000.00 which is the maximum amount Defendants agree to pay under the Settlement, except as provided in paragraph 8 below. The Gross PAGA Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator Expenses.
- 1.13. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Payment calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.14. “Individual Settlement Payment” means the amount paid to Plaintiff in exchange for a settlement of his individual claims as provided for in a separately executed Individual Settlement Agreement. The Individual Settlement Agreement is in addition to Plaintiff’s share of the Gross PAGA Payment as an Aggrieved Employee.
- 1.15. “Judgment” means the judgment entered by the Court based upon the Approval Order.
- 1.16. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.17. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.18. “Net Settlement Amount” means the amount available to Aggrieved Employees and the LWDA after reduction of attorneys’ fees, litigation costs and costs of administration from the Gross PAGA Settlement Amount.
- 1.19. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698 *et seq.*).
- 1.20. “PAGA Counsel” means Brandon J. Sweeney of The Sweeney Law Firm, and Jonathan J. Moon of The Law Office of Jonathan J. Moon, the attorneys representing Plaintiff in the Action.
- 1.21. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.22. “PAGA Notice” means Plaintiff’s October 26, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code § 2699.3, subd. (a).

- 1.23. “PAGA Payment” means the Gross PAGA Settlement Amount, less the following payments in the amounts approved by the Court: Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and Administration Expenses Payment, which after these deductions is the total amount of PAGA civil penalties to be paid from the Gross PAGA Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to LWDA in settlement of PAGA claims.
- 1.24. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.25. “PAGA Period” means the period from October 22, 2021 to January 22, 2024.
- 1.26. “Plaintiff” means Benjamin Lopez, the named plaintiff in the Action.
- 1.27. “Released PAGA Claims” means the claims being released by Plaintiff and PAGA Counsel as described in Paragraph 5.3 below.
- 1.28. “Released Parties” means Defendants; their present, former, or future owners, officers, members, directors, shareholders, partners, employees, insurers, successors, predecessors, contractors, assigns, and managing agents; and any and all agents, legal representatives, and/or attorneys.
- 1.29. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS

- 2.1. On October 26, 2022, Plaintiff, a former non-exempt employee who worked for Defendant Defendant Benny’s Tacos & Chicken Rotisserie Culver City, LLC and Defendant Benny’s Taco & Rotisserie, LLC as a cook, provided written notice to the Labor Workforce Development Agency (“LWDA”) and Defendants pursuant to California Labor Code section 3699.3 of, *inter alia*, alleged violations of the California Labor Code (“Labor Code”) and Industrial Welfare Commission Orders. (Attached hereto as Exhibit “A”)
- 2.2. On December 2, 2022, filed a Class Action Complaint alleging seven causes of action against DEFENDANTS as follows: (1) Failure to Pay all Overtime Wages (Labor Code §§ 204, 510, 558, 1194, 1198); (2) Minimum Wage Violations (Labor Code §§ 1182.12, 1194, 1194.2, 1197); (3) Meal Period Violations (Labor Code §§ 204, 210, 226.7, 512, 558); (4) Rest Period Violations (Labor Code §§ 226.7, 516, 558); (5) Wage Statement Violations (Labor Code § 226 *Et Seq.*); (6) Waiting Time Penalties (Labor Code §§ 201-203); and, (7) Unfair Competition (Bus & Prof Code § 17200 *et seq.*).
- 2.3. On January 10, 2023, PLAINTIFF filed a First Amended Complaint (“FAC”) alleging seven causes of action on a class basis against DEFENDANTS as follows: (1) Failure to Pay all Overtime Wages (Labor Code §§ 204, 510, 558, 1194, 1198); (2) Minimum Wage Violations (Labor Code §§ 1182.12, 1194,

1194.2, 1197); (3) Meal Period Violations (Labor Code §§ 204, 210, 226.7, 512, 558); (4) Rest Period Violations (Labor Code §§ 226.7, 516, 558); (5) Wage Statement Violations (Labor Code § 226 *Et Seq.*); (6) Waiting Time Penalties (Labor Code §§ 201-203); (7) Unfair Competition (Bus & Prof Code § 17200 *Et Seq.*). Plaintiff also alleged the following individual causes of action in his FAC: (8) Violation of Public Policy (Cal. Gov't Code § 12940(A)); (9) Discrimination Based on Disability (Cal. Gov't Code § 12940, et seq.); (10) Retaliation (Cal. Gov't Code § 12940(H)); (11) Failure to Take Reasonable Steps to Prevent Discrimination (Cal. Gov't Code § 12940(K)); (12) Failure to Provide Reasonable Accommodation (Cal. Gov't Code § 12940(K)); (13) Failure to Engage in a Good Faith Interactive Process (Cal. Gov't Code § 12940(N)); and (14) Harassment (Gov't Code § 12940(J)).

- 2.4. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendants and the LWDA by sending the PAGA Notice, however, Plaintiff did not amend his complaint at that time to include his PAGA claims.
- 2.5. On June 13, 2023, the parties commenced arbitration of Plaintiff's individual claims with JAMS based on an arbitration agreement signed by Plaintiff, which includes a class action waiver.
- 2.6. On November 17, 2023, the Parties participated in an all-day mediation presided over by Kim Deck, Esq., which led to this Agreement, and the separate Individual Settlement Agreement, to settle the Action.
- 2.7. This agreement is contingent upon the execution of the Individual Settlement Agreement in this matter.
- 2.8. On December 29, 2023, Plaintiff filed a Second Amended Complaint which included his PAGA claims. This Second Amended Complaint is the Operative Complaint in the Action (the "Operative Complaint"). Defendants deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in the Operative Complaint and deny any and all liability for the causes of action alleged.
- 2.9. In addition to the Gross PAGA Settlement Amount, Defendants have agreed to separately settle Plaintiff's individual claims pursuant to separate confidential Individual Settlement Agreements ("Individual Settlement"). Plaintiff's individual claims were not at issue in the Action and exist independent and apart from the PAGA claims at issue in the Action. If the Court and/or the LWDA requires the Parties to submit the terms of Plaintiff's Individual Settlement Agreement to obtain approval of the PAGA settlement in the Action, the Parties agree that the terms of Plaintiff's Individual Settlement Agreement will only be submitted under seal or disclosed to the Court and/or LWDA in some other way to ensure that the Individual Settlement amount is not disclosed publicly. Plaintiff's Individual Settlement Agreement is contingent upon approval of this Agreement.

- 2.10. Prior to mediation, Plaintiff obtained, through informal discovery, documents relating to Defendants' policies, practices and procedures regarding paying non-exempt employees for all hours worked, overtime, meal and rest period policies, payroll and operations policies, and more.
- 2.11. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. **MONETARY TERMS.**

- 3.1. Gross PAGA Settlement Amount. Except as provided in paragraph 8 below, Defendant promises to pay \$40,000.00 and no more as the Gross PAGA Settlement Amount. The Gross Settlement Amount includes the Individual PAGA Payments to the Aggrieved Employees, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. Defendant has no obligation to pay the Gross PAGA Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross PAGA Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. The Gross PAGA Settlement Amount shall be all-in and none of the Gross PAGA Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross PAGA Settlement Amount. The Administrator will make and deduct the following payments from the Gross PAGA Settlement Amount, in the amounts specified by the Court in the Approval Order:
 - 3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one-third (1/3) of the Gross PAGA Settlement Amount which is currently estimated to be \$40,000.00 and PAGA Counsel Litigation Expenses Payment of not more than \$9,039.93. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the PAGA Payment. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

- 3.2.2. To the Administrator: An Administrator Expenses Payment not to exceed \$3,990.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$3,990.00, the Administrator will retain the remainder in the PAGA Payment.
- 3.2.3. To the LWDA and Aggrieved Employees. PAGA Payment in the amount of not less than \$13,770.81 to be paid from the Gross PAGA Settlement Amount, with 75% (no less than \$10,328.11) allocated to the LWDA PAGA Payment and 25% (no less than \$3,442.70) allocated to the Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Payment by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. If the Court approves the PAGA Payment of less than the amount requested, the Administrator will allocate the remainder to the PAGA Payment. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.¹

4. **SETTLEMENT FUNDING AND PAYMENTS.**

- 4.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 94 Aggrieved Employees who worked a total 1,371 of PAGA Pay Periods.
- 4.2. Aggrieved Employee Data. Within fifteen (15) days of the Effective Date, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

¹ Also at mediation, Plaintiff Benjamin Lopez separately agreed to settle his individual disability discrimination and wrongful termination claims, for which he had filed a notice with the California Civil Rights Department. That settlement is unrelated to the claims asserted in the PAGA action and filed in under *Lopez v. Rotisserie, et al.*, LASC Case No. 22STCV38283. If the Court requires a copy of the individual settlement agreement for the FEHA matter for an in-camera review, the Parties will make one available.

- 4.3. Funding of the Gross PAGA Settlement Amount. Defendant shall fully fund the Gross PAGA Settlement Amount by transmitting the funds to the Administrator no later than fifteen (15) days after the Effective Date.
- 4.4. Payments from the Gross PAGA Settlement Amount. Within fifteen (15) days after Defendant funds the Gross PAGA Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Expenses Payment and Notice of the PAGA Settlement to the PAGA Members (attached hereto as Exhibit "B"). Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.
- 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the void date, which is 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.1. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.
- 4.4.2. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the State Controller Unclaimed Property Fund in the name of the individual who failed to cash their check, subject to Court approval.
- 4.4.3. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. **RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross PAGA Settlement Amount, Plaintiff, Aggrieved Employees, and Class Counsel will release claims against all Released Parties as follows:

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

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

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

5.3. Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all "Released PAGA Claims". "Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint respectively, and the PAGA Notice submitted by Plaintiff to the LWDA, which occurred during the PAGA Period (including, alleged violations of Labor Code §§ 201-204 *et seq.*, 226, 226.7, 510, 512, 1194, 1197, 1198 and all applicable Wage Orders). The Released PAGA Claims expressly excludes all other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, and California class claims, and PAGA claims outside of the PAGA period. In no event shall the release of the Released PAGA Claims in this Settlement Agreement release any

individual claims other than Plaintiff's Individual Released Claims as provided for in a separate executed Individual Settlement Agreement.

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

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

- 6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (iv) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (v) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

- 6.2 Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than sixty (60) days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

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

this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

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

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

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

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

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE.

Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 94 Aggrieved Employees who worked 1,371 Pay Periods during the PAGA Period. If the number of PAGA Pay Periods is incorrect by more than 10%, then the gross settlement amount will be increased proportionately. For example, if the number is 11% higher, the Gross PAGA Settlement Amount will be increased by 1%.

9. CONTINUING JURISDICTION OF THE COURT. The Parties agree that after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement pursuant to C.C.P. Section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or

appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the PAGA Payment.

10. ADDITIONAL PROVISIONS.

10.1 No Admission of Liability or Representative Manageability for Other Purposes.

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

10.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the resolution of the PAGA claim. The Parties separately executed an Individual Settlement Agreement as to Plaintiff's individual claims against Defendants. Except for this Individual Settlement Agreement, all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such party's legal counsel, are merged in this Settlement.

10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

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

- 10.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.11 Confidentiality. Other than information necessary to secure Court approval of this settlement, the Parties agree to keep confidential all matters relative to this Settlement, including the terms of the Settlement and the facts and circumstances leading up to it. If asked about the disputes between the Parties, the Parties shall provide no other statement than “the matter has been resolved” or “the matter has settled.” The Parties may, however, discuss the terms of this Settlement with their spouses, attorneys, financial advisors, tax advisors, and accountants, or upon a valid court order, at which time the individual receiving information about the terms of this Settlement shall be informed that the terms of this Settlement are confidential, and the individual may not reveal or disclose to any third party the terms of the Settlement. Except as set forth above, neither Plaintiff nor PAGA Counsel shall issue a press release, hold a press conference, publish information about the settlement on any website or social media, respond to any press inquiries, or otherwise publicize the settlement or communicate its terms in public or in private.
- 10.12 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used

in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.

- 10.13 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.14 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.15 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff: Brandon Sweeney
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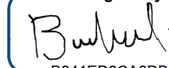
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Office: (619) 573-4488
Fax: (619) 255-4868

- 10.16 Execution in Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, this Agreement may be executed in one or more counterparts by facsimile, electronic signature, or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 10.17 Court Filings. The Parties agree not to object to any Court filings consistent with this Agreement.
- 10.18 No Other Pending Claims. Plaintiff represents that he does not have any other pending claims, complaints, charges, or lawsuits of any kind whatsoever with any court, governmental agency, or other regulatory body with respect to any matter arising out of their employment with Defendant, or otherwise related to Defendant.
- 10.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process. In the event the settlement is not finally approved, or is terminated, cancelled or fails to become effective for any reason, the Parties shall revert back to their respective positions as of before entering into the settlement. The Parties shall cooperate in good faith to secure a court order staying the Action and all deadlines, pending implementation of the settlement. If the Court denies approval of the settlement, the Parties will resume litigation.

11. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

DocuSigned by:



BB41ED8CA6DB45A...

Plaintiff BENJAMIN LOPEZ

DocuSigned by:



CEA3C25C7E3F42B...

BENNY BORSAKIAN

for Defendants

BENNY'S TACOS & CHICKEN
ROTISSERIE CULVER CITY, AND
BENNY'S TACO & ROTISSERIE LLC

Brandon J. Sweeney

Brandon J. Sweeney, Esq.

THE SWEENEY LAW FIRM, APC

15303 Ventura Blvd., Suite 900

Sherman Oaks, CA 94103

Tel: (818) 380-3051

Fax: (818) 380-3001

Email: bsweeney@thesweeneylawfirm.com

Counsel For Plaintiff,

BENJAMIN LOPEZ

DocuSigned by:

Jonathan Moon

Jonathan J. Moon, Esq.

**THE LAW OFFICE OF JONATHAN J.
MOON**

18000 Studebaker Road, Suite 700

Cerritos, CA 90703

Telephone: (213) 867-1908

Facsimile: (213) 402-6518

Email: jmoon@jmoonlaw.com

Counsel For Plaintiff,

BENJAMIN LOPEZ

Katherine E. Garcia

Kevin V. DeSantis

Katherine E. Garcia

**DUNN DESANTIS WALT & KENDRICK,
LLP**

Counsel For Defendants,

BENNY'S TACOS & CHICKEN

ROTISSERIE CULVER CITY, and

BENNY'S TACO & ROTISSERIE LLC

EXHIBIT A



THE SWEENEY LAW FIRM
15303 Ventura Blvd., Suite 900
Sherman Oaks, California 91403
Telephone: (818) 380-3051 | Facsimile: (818) 380-3001
www.thesweeneylawfirm.com

October 26, 2022

Via Online Filing System (<https://dir.tfaforms.net/128>)

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

Via Certified U.S. Mail – Ret. Receipt Requested

Benny's Tacos & Rotisserie Culver City LLC
10401 Venice Blvd., #101b
Los Angeles, CA 90034

Benny's Tacos & Rotisserie Culver City LLC
14880 Valley Vista Blvd.
Sherman Oaks, CA 91403

Re: Notice Pursuant to California Labor Code § 2699.3

Employee: Benjamin Lopez ("Employee")

Employers: Benny's Tacos & Chicken Rotisserie Culver City LLC, Benny's Tacos & Rotisserie LLC & Benny Borsakian ("Employers")

To Whom It May Concern:

This office represents Benjamin Lopez ("Mr. Lopez") a former employee of Benny's Tacos & Chicken Rotisserie Culver City LLC., who was Mr. Lopez's employers during the same period of employment. Accordingly, Mr. Lopez refers to each of the foregoing entities collectively as "Benny's Tacos & Chicken Rotisserie Culver City LLC" for purposes of this Notice.

Pursuant to California Labor Code Private Attorneys General Act of 2004 (Labor Code §§ 2698, *et seq.*) ("PAGA"), this letter sets forth the specific provisions of the Labor Code and Industrial Welfare Commission ("IWC") Wage Order No. 5-2001, which Mr. Lopez alleges BENNYS TACOS & ROTISSERIE CULVER CITY LLC., has violated, including the facts and theories to support the alleged violations. Please be advised that this letter constitutes written notice required by Labor Code §§ 2699.3(a)(1)(A) and 2699.3(c)(1)(A) and may lead to immediate action against BENNYS TACOS & ROTISSERIE CULVER CITY LLC in a court of law and/or administrative proceedings, as well as the imposition of substantial penalties and other remedies

against BENNYS TACOS & ROTISSERIE CULVER CITY LLC. Under a separate cover, our office is sending a check in the amount of \$75.00 to the Accounting Unit of the Department of Industrial Relations for the requisite filing fee, pursuant to Labor Code §§ 2699.3(a)(1)(B) and 2699.3(c)(1)(B).

We are investigating a potential representative action on behalf of BENNYS TACOS & ROTISSERIE CULVER CITY LLC current and former non-exempt employees in the State of California regarding, among other things, the following violations: failure to provide meal and rest periods to employees in violation of Labor Code §§ 226.7, 510, 512, 1194, and 1197 and IWC Wage Order No. 5-2001, §§ 11-12; failure to pay one additional hour of compensation at the employee's regular rate of pay for each work day that a meal or rest period is not provided in violation of Labor Code § 226.7 and IWC Wage Order No. 5-2001, §§ 11(B) and 12(B); failure to pay employees overtime wages in violation of Labor Code §§ 510, 1194, and 1198 and IWC Wage Order No. 5-2001, § 3; failure to timely pay employees all wages due in violation of Labor Code § 204; willful failure to pay discharged or quitting employees under Labor Code §§ 201-203; failure to provide accurate itemized wage statements to employees in violation of Labor Code §§ 226, 1174, and 1174.5; failure to maintain required records of employees pursuant to Labor Code §§ 1174 and 1174.5 and IWC Wage Order No. 5-2001, § 7; and unlawful deductions and withholdings from employees' wages in violation of Labor Code §§ 221, 223, and 224.

The allegations made by Mr. Lopez, on behalf of himself and all other similarly-situated current and former non-exempt employees BENNYS TACOS & ROTISSERIE CULVER CITY LLC in the State of California during the four years preceding the date of this notice, are based on the following facts and theories: rest periods were either less than ten minutes, not provided, interrupted, or late, as prescribed by California law; meal periods were either less than thirty minutes, late (starting after the fifth hour of work), not given at all (including second meal periods after ten hours of work), or interrupted; employees were not provided one hour of pay when meal and rest periods were not provided, were late, or were interrupted; employees were not properly paid for all hours worked; and they were not paid overtime compensation as required by California law.¹ Given the overtime, meal period and rest period violations and BENNYS TACOS & ROTISSERIE CULVER CITY LLC failure to compensate their employees fully, as set forth above, their employees' paychecks and itemized wage statements were inaccurate and failed to comply with California law. In short, BENNYS TACOS & ROTISSERIE CULVER CITY LLC unlawful employment practices and policies have deprived their employees of earned wages and other compensation which are still due and owed to them.

Failure to Provide Required Meal Periods

Pursuant to Labor Code §§ 226.7 and 512 and IWC Order No. 5-2001, § 11, employers are required to provide meal periods to their non-exempt employees. Employers are required to provide a meal period to any employee who works a shift of more than five (5) hours, and a second meal period to any employee who works a shift of more than ten (10) hours. Furthermore,

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

employers are required to pay one extra hour of compensation for each day a meal period is not provided.

Additionally, if an employee is not relieved of all duty during a meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal period is permitted only when 1) the nature of the work prevents an employee from being relieved of all duty and 2) the parties have a written agreement agreeing to on duty meal periods.

Mr. Lopez and other aggrieved employees are entitled to the protections of California Labor Code §§ 226.7 and 512 and IWC Wage Order No. 5-2001, § 11. BENNYS TACOS & ROTISSERIE CULVER CITY LLC did not allow their employees to take full thirty minute meal breaks. In fact, Mr. Lopez's and similarly-situated individuals' meal periods were short (less than thirty minutes), late (began after 5 hours of work), interrupted and/or missed. BENNYS TACOS & ROTISSERIE CULVER CITY LLC consistently failed to provide Mr. Lopez and similarly-situated individuals their statutorily required meal periods because Mr. Lopez and other aggrieved employees were given too much work to perform to take timely and fully uninterrupted meal breaks.

BENNYS TACOS & ROTISSERIE CULVER CITY LLC further violated Labor Code § 226.7 and IWC Wage Order No. 5-2001 by willfully failing to compensate Mr. Lopez and similarly-situated individuals, who were not provided with a meal period in accordance with California law, one additional hour of compensation at each employee's regular rate of pay for each workday that a meal period was not provided. Finally, BENNYS TACOS & ROTISSERIE CULVER CITY LLC further violated Labor Code § 226.7, 510, 1194, 1197, and IWC Wage Order No. 5-2001 by failing to compensate Mr. Lopez and similarly-situated individuals for all hours worked during their meal periods.

Failure to Provide Required Rest Periods

Pursuant to Labor Code §§ 226.7 and 512 and IWC Wage Order No. 5-2001, § 12, Employers are required to provide rest periods to their non-exempt employees. Employers are required to provide a ten (10) minute rest period for every four (4) hours worked or major action thereof. Furthermore, Employers are required to pay one extra hour of compensation for each day during which a rest period is not authorized and permitted.

Mr. Lopez and other aggrieved employees were and are non-exempt employees of BENNYS TACOS & ROTISSERIE CULVER CITY LLC and are entitled to the protections of Labor Code § 226.7 and IWC Wage Order No. 5-2001, § 12. BENNYS TACOS & ROTISSERIE CULVER CITY LLC failed to authorize and permit their employees to take required rest periods because BENNYS TACOS & ROTISSERIE CULVER CITY LLC did not allow Mr. Lopez and other aggrieved employees to take their rest breaks by fully relieving them of their duties. consistently failed to authorize and permit Mr. Lopez and other aggrieved employees to take rest breaks because Mr. Lopez and other aggrieved employees were given too much work to perform to take timely and uninterrupted rest breaks.

BENNYS TACOS & ROTISSERIE CULVER CITY LLC further violated Labor Code § 226.7 and IWC Wage Order No. 5-2001, § 12 by failing to pay Mr. Lopez and similarly-situated

employees one additional hour of compensation at each employee's regular rate of pay for each workday that a rest period was not provided.

Failure to Pay Overtime Wages

Pursuant to California Labor Code §§ 510 and 1194 and IWC Wage Order No. 5-2001, § 3, employers are required to compensate their non-exempt employees for overtime hours worked, which is calculated at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh consecutive work day, with double time for all hours worked in excess of eight (8) hours on the seventh day of any workweek, or after twelve (12) hours in any workday.

Mr. Lopez and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 510 and 1194 and IWC Wage Order No. 5-2001, § 3. BENNYS TACOS & ROTISSERIE CULVER CITY LLC failed to compensate Mr. Lopez and other aggrieved employees for all overtime hours worked as required under the foregoing provisions of the Labor Code and IWC Wage Order by, among other things: failing to pay overtime at one and one-half (1 ½) times or double the regular rate of pay as provided by Labor Code §§ 510 and 1194 and IWC Wage Order No. 5-2001, § 3; requiring, suffering or permitting Mr. Lopez and other aggrieved employees to work off-the-clock; requiring, suffering or permitting Mr. Lopez and other aggrieved employees to work through meal and rest periods but not compensating them for this time; failing to include this time in their compensable hours worked; illegally and inaccurately recording time in which Mr. Lopez and other aggrieved employees worked; failing to properly maintain Mr. Lopez's and other aggrieved employees' records through falsifying or inaccurately recording their hours worked; failing to provide accurate itemized statements for each pay period; and by other methods to be discovered.

In violation of California law, BENNYS TACOS & ROTISSERIE CULVER CITY LLC has refused to perform their obligations to compensate Mr. Lopez and other aggrieved employees for all overtime wages earned and all hours worked. BENNYS TACOS & ROTISSERIE CULVER CITY LLC's conduct violates Labor Code §§ 510, 1194, and 1198 and IWC Wage Order No. 5-2001, § 3.

Failure to Timely Pay All Wages Earned

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

Mr. Lopez and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code § 204. BENNYS TACOS & ROTISSERIE CULVER CITY LLC failed to pay Mr. Lopez and similarly-situated individuals on their regularly scheduled payday for all work performed during the preceding pay period. Specifically, BENNYS TACOS & ROTISSERIE CULVER CITY LLC required Mr. Lopez and other aggrieved employees to work through required meal and rest breaks without compensation. BENNYS TACOS & ROTISSERIE CULVER CITY LLC additionally failed to pay Mr. Lopez and other aggrieved employees premium wages for all meal and rest periods that were missed, late, and/or interrupted.

Moreover, BENNYS TACOS & ROTISSERIE CULVER CITY LLC failed to pay Mr. Lopez and other aggrieved employees for the overtime wages they earned in violation of Labor Code § 204. Labor Code § 204 requires BENNYS TACOS & ROTISSERIE CULVER CITY LLC to pay overtime wages no later than the payday for the next regular payroll period following the payroll period in which the overtime wages were earned. BENNYS TACOS & ROTISSERIE CULVER CITY LLC knew that they were required to pay overtime wages, yet on many occasions failed to pay Mr. Lopez and other aggrieved employees' overtime wages on their paydays.

BENNYS TACOS & ROTISSERIE CULVER CITY LLC's failure to timely pay Mr. Lopez and other aggrieved employees their fully earned wages due to them on their regularly scheduled paydays is in violation of Labor Code § 204.

Failure to Pay All Wages Due Upon Separation

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

Furthermore, Labor Code § 203 provides that if an employer willfully fails to timely pay an employee all wages in full at the time of separation in accordance with Labor Code §§ 201 and 202, then the employer is liable for waiting time penalties in the form of a civil penalty owed to the former employee at the employee's daily rate of pay, until the employer pays the former employee all wages due and owing in full, for up to 30 days.

Mr. Lopez and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 201, 202, and 203. BENNYS TACOS & ROTISSERIE CULVER CITY LLC willfully failed to pay accrued wages and other compensation to Mr. Lopez and other aggrieved employees in accordance with Labor Code §§ 201 and 202. Because BENNYS TACOS & ROTISSERIE CULVER CITY LLC required Mr. Lopez and other aggrieved employees to work through required meal and rest periods without compensation and failed to pay Mr. Lopez and other aggrieved employees the premium wages for all meal and rest periods that were missed, late, and/or interrupted, BENNYS TACOS & ROTISSERIE CULVER

CITY LLC failed and continues to fail to pay the full amount of accrued wages and other compensation due to Mr. Lopez and other aggrieved employees who have separated from their employment with BENNYS TACOS & ROTISSERIE CULVER CITY LLC.

BENNYS TACOS & ROTISSERIE CULVER CITY LLC's willful failure to pay the full amount of accrued wages and other compensation due to Mr. Lopez and other aggrieved employees upon separation entitles Mr. Lopez and other aggrieved employees to waiting time penalties in the form of civil penalties at their respective daily rates of pay for up to 30 days.

Failure to Maintain Required Records

Pursuant to Labor Code §§ 226 and 1174 and IWC Wage Order No. 5-2001, § 7, employers are required to maintain accurate records relating to their employees' wages earned and compensable and non-compensable hours worked including, but not limited to, the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; the start and end times of all meal periods; time records showing when each employee begins and ends each compensable work period; and accurate itemized wage statements.

Mr. Lopez and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 226 and 1174 and IWC Wage Order No. 5-2001, § 7. Specifically, BENNYS TACOS & ROTISSERIE CULVER CITY LLC had knowledge they were not providing their employees with proper rest and meal periods; nevertheless, GRASPOINTER knowingly failed to include in the wage statements the extra compensable work hour for each missed meal period and rest period. As a result, BENNYS TACOS & ROTISSERIE CULVER CITY LLC deprived Mr. Lopez and other aggrieved employees of their earned wages. Additionally, GRASPOINTER had knowledge that they were not properly compensating their employees for all hours worked. BENNYS TACOS & ROTISSERIE CULVER CITY LLC knowingly failed to include this time worked in the total amount of compensable hours worked by their employees.

BENNYS TACOS & ROTISSERIE CULVER CITY LLC's willful failure to accurately maintain records of their employees' compensable and non-compensable hours is in violation of Labor Code §§ 226 and 1174 and IWC Wage Order No. 5-2001, § 7.

Failure to Furnish Accurate Itemized Wage Statements

Pursuant to Labor Code § 226 and IWC Wage Order No. 5-2001, § 7, employers are required to timely provide their employees itemized wage statements showing each employee's gross wages earned, total hours worked, all deductions made, net wages earned, the employer's legal name and address, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate.

Mr. Lopez and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code § 226 and IWC Wage Order No. 5-2001, § 7. BENNYS TACOS & ROTISSERIE CULVER CITY LLC failed to provide Mr. Lopez and other aggrieved employees with timely and accurate itemized wage statements in writing showing each employee's gross wages earned, total hours worked, all deductions made, net wages earned, the

name and address of the legal entity or entities employing Mr. Lopez and other aggrieved employees, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate.

Specifically, BENNYS TACOS & ROTISSERIE CULVER CITY LLC had knowledge they were not providing their employees with timely and uninterrupted rest and meal periods. GR BENNYS TACOS & ROTISSERIE CULVER CITY LLC, nevertheless, knowingly failed to include the extra compensable hour for each missed meal break or rest break in their employees' wage statements. As a result, BENNYS TACOS & ROTISSERIE CULVER CITY LLC deprived Mr. Lopez and other aggrieved employees of their earned wages. Additionally, BENNYS TACOS & ROTISSERIE CULVER CITY LLC did not properly calculate Mr. Lopez's and other aggrieved employees' regular rates of pay. As a result, Mr. Lopez's and other aggrieved employees' wage statements failed to include all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

BENNYS TACOS & ROTISSERIE CULVER CITY LLC's willful failure to provide their employees accurate, itemized wage statements is in violation of Labor Code § 226 and IWC Wage Order No. 5-2001, § 7.

.....

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

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

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

This notice shall further represent Mr. Lopez's reasonable attempt to settle its dispute with BENNYS TACOS & ROTISSERIE CULVER CITY LLC prior to litigation. As such, and pursuant to *Lopez v. Benny's Tacos & Rotisserie Culver City LLC*, (2004) 34 Cal.4th 553, this notice serves to apprise BENNYS TACOS & ROTISSERIE CULVER CITY LLC of Mr. Lopez's

above-mentioned grievances and the proposed remedies as detailed below, while also affording BENNYS TACOS & ROTISSERIE CULVER CITY LLC reasonable opportunity to meet Mr. Lopez's demands.

Demand is hereby made that BENNYS TACOS & ROTISSERIE CULVER CITY LLC shall agree, in writing received at this office no later than 30 calendar days from the postmark date of this notice, to pay Mr. Lopez and all other similarly-situated persons employed by BENNYS TACOS & ROTISSERIE CULVER CITY LLC at any time during the past 48 months back pay and compensation for the above-referenced violations. Additionally, demand is hereby made that BENNYS TACOS & ROTISSERIE CULVER CITY LLC shall agree to comply with all California labor laws and ensure that its non-exempt employees are paid proper overtime compensation and given required meal and rest periods. Furthermore, the following demands are hereby made:

1. BENNYS TACOS & ROTISSERIE CULVER CITY LLC shall agree to conduct a survey or interview all current and former non-exempt employees in California during the past 48 months to obtain information from them about the number of rest periods and meal periods each employee missed (including, but not limited to, a second meal period after ten hours of work), and about the number of employees who were required to pay for cell phone use or other expenditures in discharging their duties, with the investigation to be completed within 60 days.
2. BENNYS TACOS & ROTISSERIE CULVER CITY LLC shall agree to pay each employee one hour of pay for every shift in which he or she was not provided one or more rest periods, as required by Labor Code § 226.7. BENNYS TACOS & ROTISSERIE CULVER CITY LLC also shall agree to pay each employee one hour of pay for every shift in which he or she was not provided one or more and meal periods, as required by Labor Code § 226.7. In addition, BENNYS TACOS & ROTISSERIE CULVER CITY LLC shall agree to pay waiting time penalties, equal to thirty days of pay, to each former employee who was not paid all wages due as described herein.
3. BENNYS TACOS & ROTISSERIE CULVER CITY LLC shall agree to pay accrued interest to all employees at the rate of ten percent per annum for said unpaid wages.
4. BENNYS TACOS & ROTISSERIE CULVER CITY LLC shall agree to pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above including, but not limited to, civil penalties pursuant to PAGA (Labor Code §§2698,*et seq.*) as well as those under Labor Code §§ 210, 225.5, 226.3, 558, 1174.5, 1197.1, 1199 and IWC Wage Order No. 5-2001, § 20.

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please notify this office of that decision by certified mail addressed to The Sweeney Law Firm, 15303 Ventura Blvd., Suite 900, Sherman Oaks, CA 91403.

Thank you for your prompt attention to this matter.

Sincerely,
THE SWEENEY LAW FIRM

brandon sweeney

BRANDON J. SWEENEY

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: [Brandon Sweeney](#)
Subject: Thank you for submission of your PAGA Case.
Date: Wednesday, October 26, 2022 12:01:54 PM

10/26/2022

LWDA Case No. LWDA-CM-916037-22
Law Firm : The Sweeney Law Firm
Plaintiff Name : Benjamin Lopez
Employer: Benny's Tacos & Rotisserie Culver City, LLC
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT B

NOTICE OF PAGA SETTLEMENT

Benjamin Lopez v. Benny's Tacos & Chicken Rotisserie Culver City, et al.

Superior Court of the State of California for the County of Los Angeles, Case No. 22STCV37788

<<Name>>

<<Address>>

<<City>>, <<State>> <<Zip Code>>

XX - XX -

I. NOTICE OF PAGA SETTLEMENT

The Los Angeles County Superior Court (the "Court") has approved a settlement in the above captioned action filed by Benjamin Lopez on behalf of himself and all other aggrieved Employees ("Plaintiffs").

In this lawsuit, Plaintiffs are seeking to recover civil penalties on behalf of the California Labor and Workforce Development Agency ("LWDA") and other aggrieved employees under the California Private Attorneys General Act ("PAGA"). These civil penalties are based on Plaintiffs' allegations that defendants Benny's Tacos' & Chicken Rotisserie Culver City, LLC and Benny's Tacos & Chicken Rotisserie, LLC. ("Defendants") did not comply with California state wage and hour laws governing payment of wages, meal and rest breaks, and all theories for or related to nonpayment of such wages; expense reimbursements; wage statement violations; and separation pay violations.

The Court has not made a determination about Plaintiffs' claims. This Notice is not to be understood as an expression of any opinion by the Court as to the merits of Plaintiffs' claims. Defendants deny Plaintiffs' allegations. Defendants maintains they were and are in compliance with the California Labor Code at all times. They contend that they followed lawful policies and practices and that Plaintiff and the other non-exempt employees at issue in the PAGA Action were paid appropriate wages, provided compliant meal and rest breaks, provided compliant wage statements, and were paid all wages due at separation. Defendants entered into this 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 “PAGA Members,” which is defined as: all current and former non-exempt employees (in non-administrative positions) who worked for Defendants in the State of California at any time from December 2, 2019 through the date of approval.

II. INDIVIDUAL PAGA PAYMENT

Each individual PAGA payment (“Settlement Payment”) was calculated on a proportional basis based on the number of pay periods worked by that individual during the period from December 2, 2019 through date of approval (“Released Period”). Your Settlement Payment has been calculated at \$[AMOUNT PAID TO THIS EMPLOYEE]. Your payment is enclosed with this Notice.

The amount paid to each PAGA Member will be allocated as follows: one hundred percent (100%) will be attributed to penalties and will be reported on an IRS Form 1099. The Parties agree that all PAGA Member who receive payment pursuant to this settlement will be responsible for any and all tax obligations associated with such receipt. You will be responsible for correctly characterizing this compensation for tax purposes and paying any taxes that may be due on the payment you receive. Neither Counsel for Plaintiffs, Counsel for Defendants, nor the Settlement Administrator may legally provide you with advice regarding the tax implications of the receipt of this settlement payment.

III. RELEASE

The Court has approved the Parties’ Settlement Agreement (“Settlement”). By operation of the Settlement’s terms, Named Plaintiff, on behalf of himself, the PAGA Members, and the State of California, hereby release, discharge, and covenant not to sue Defendants, and all of their respective past and present employees, directors, officers, attorneys, representatives, insurers, agents, parents, subsidiaries, affiliates, related companies, predecessors, successors, lessees, and assigns, and any entity that could be jointly liable with any of these (individually and collectively “Defendant Releasees”) from and with respect to all actions, causes of action, suits, liabilities, claims, and demands whatsoever, and each of them, during the Release Period, inclusive, which the Named Plaintiff, the PAGA Members, and

the State of California have against Defendant Releasees, or any of them, under PAGA, which are set forth in the Complaint or could have been raised in the Complaint based upon the allegations set forth therein, and as specifically set forth in the Parties' settlement agreement.

IV. SETTLEMENT ADMINISTRATOR

**** PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE ****

You may call the Settlement Administrator, APEX Class Action Administration at (800) 355-0700 with any questions. Settlement Checks will be void 180 days after issuance if not deposited or cashed and transmitted to the Labor and Workforce Development Agency. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.