

MCDERMOTT WILL & EMERY LLP
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LOS ANGELES

Maria Rodriguez (SBN 194201)
mcrodriguez@mwe.com
Marjorie C. Soto Garcia (SBN 313290)
mcsotogarcia@mwe.com
MCDERMOTT WILL & EMERY LLP
2049 Century Park East
Suite 3200
Los Angeles, CA 90067-3206
Telephone: +1 310 277 4110
Facsimile: +1 310 277 4730

Attorneys for Defendant
FIELD FRESH FOODS INCORPORATED

Michael Nourmand (SBN 198439)
mnourmand@nourmandlawfirm.com
James A. De Sario (SBN 262552)
jdesario@nourmandlawfirm.com
THE NOURMAND LAW FIRM, APC
8822 West Olympic Boulevard
Beverly Hills, CA 90211
Telephone: +1 310 553-3600
Facsimile: +1 310 886-3603

Attorneys for Plaintiffs
DEMETRIO DIAZ FUENTES
KARLA MARIELOS REYES NOYOLA,
on behalf of themselves and all others similarly
situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

DEMETRIO DIAZ FUENTES, KARLA
MARIELOS REYES NOYOLA, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

FIELD FRESH FOODS INCORPORATED, a
California corporation; and DOES 1 through 100,
Inclusive,

Defendant.

CASE NO. 22STCV38190

[Assigned for all Purposes to
Hon. Stuart Rice]

**STIPULATION OF SETTLEMENT AND
RELEASE BETWEEN PLAINTIFFS AND
DEFENDANT**

Complaint Filed: December 17, 2022

STIPULATION OF SETTLEMENT AND RELEASE BETWEEN PLAINTIFFS AND DEFENDANT

This Stipulation of Settlement and Release (“Stipulation”) is made and entered by and between Plaintiffs Demetrio Diaz Fuentes and Karla Marielos Reyes Noyola (“Plaintiffs”), individually and on behalf of all members of the Settlement Class, as defined herein, through their counsel The Nourmand Law Firm, APC (“Class Counsel”) and Defendant Field Fresh Foods Incorporated (“Defendant”) through its counsel McDermott Will & Emery, LLP (“Defense Counsel”), and is subject to the terms and conditions hereof and the approval of the Court. Plaintiffs and Defendant are referenced collectively herein as “the Parties.”

I. BACKGROUND AND RECITALS

a. On or about December 7, 2022, Plaintiffs filed in the Superior Court of California, County of Los Angeles, a complaint for damages entitled *Demetrio Diaz Fuentes et al. v. Field Fresh Foods Incorporated* (Case No.: 22STCV38190), and on March 15, 2023, Plaintiffs filed a First Amended Complaint (“FAC”) adding a cause of action for civil penalties under Labor Code Section 2699 et seq. (hereinafter the “Litigation”). The Litigation alleges California Labor Code violations stemming from Defendant’s alleged (1) failure to pay overtime wages; (2) failure to pay minimum wage; (3) failure to pay reporting time wages; (4) failure to provide meal periods; (5) failure to provide rest periods; (6) failure to pay all wages upon termination; (7) failure to provide accurate wage statements; and (8) unfair competition. The Litigation also seeks to recover unpaid wages, liquidated damages, restitution, pre-judgment interest, attorneys’ fees, and costs of litigation, as well as various penalties on behalf of Plaintiffs and others similarly situated, including civil penalties pursuant to the Private Attorneys General Act of 2004 (“PAGA”). The claims were brought on behalf of a putative class defined as: “All current and former employees of Defendants within the State of California at any time commencing four (4) years preceding the filing of Plaintiffs complaint up until the time that notice of the class action is provided to the class.”

b. The Parties agreed to and participated in a full-day formal, private mediation session on August 15, 2023, with private mediator Eve Wagner, a neutral and well-respected mediator. Prior to the mediation, the Parties exchanged informal discovery, including information on the number of active and former putative class member employees, recordkeeping, employer shifts, payroll records (including wage statements and time records), wage and hour policies, and personnel files for

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1 Plaintiffs. Plaintiffs and Class Counsel then analyzed the data and provided an estimated potential
2 liability analysis from which to negotiate with Defendant and Defense Counsel. At all times, the
3 negotiations leading to this Stipulation have been adversarial, non-collusive, and at arms' length.

4 c. The Parties agreed to a settlement on or around August 17, 2023.

5 d. The Parties are sufficiently familiar with the facts of the Litigation and the applicable
6 law, so as to warrant Settlement at this time.

7 e. The Parties are represented by counsel and have had the opportunity to consult with
8 counsel prior to the submission of this Stipulation to the Court.

9 f. Nothing in this Stipulation, nor the fact of the Stipulation itself, shall be construed or
10 deemed an admission of liability, culpability, negligence or wrongdoing of any kind on the part of
11 Defendant with respect to the claims alleged in this Litigation.

12 g. Defendant denies any liability or wrongdoing of any kind associated with the claims
13 alleged in the Litigation under state or federal law and further denies that, for any purpose other than
14 settling the Litigation, this Litigation is appropriate for class treatment. Defendant contends, among
15 other things, that it has complied at all times with the California Labor Code, the California Business
16 & Professions Code, the applicable IWC Wage Orders, and all other applicable California and federal
17 law. Nonetheless, Defendant has concluded that further litigation would be protracted and expensive
18 and would also divert Defendant's resources. Defendant has taken into account the uncertainty and
19 risks inherent in litigation. Defendant has therefore concluded that it is desirable that the Litigation
20 be fully and finally settled in the manner and upon the terms and conditions set forth in this
21 Stipulation.

22 h. Plaintiffs believe that they have filed a meritorious action and that class certification
23 is appropriate. Plaintiffs contend that Defendant violated California wage and hour law, and that this
24 Litigation is appropriate for class certification as the requisites for class certification can be satisfied
25 in this case. However, Plaintiffs recognize and acknowledge the significant expense and length of
26 continued proceedings necessary to prosecute litigation against Defendant through class certification,
27 trial and appeal. Plaintiffs are aware that the likelihood of protracted litigation will only further delay
28 payments to Settlement Class Members of wages and penalties they allege they are owed. Plaintiffs

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are also aware of the inherent problems of proof and possible defenses to the claims alleged and to class certification. After careful consideration and mediation, Plaintiffs have concluded that this class action and PAGA lawsuit should be fully and finally settled in a manner and upon the terms and conditions set forth in this Stipulation.

i. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims that exist between them arising from the Litigation or any claim reasonably related to the claims set forth in the Litigation. In order to achieve a full and complete release of Plaintiffs and the Releasees (as defined below) of such disputes and claims, each Settlement Class Member (which includes any legal heirs and/or successors-in-interest of each member of the Settlement Class), through execution of this Stipulation by Plaintiffs, acknowledges that this Stipulation is intended to include in its effect all claims arising from or related to the allegations in the Complaint against Defendant (which includes any of its parents, subsidiaries, affiliates, members, predecessors, successors, partners, investors, shareholders, agents, employees, officers, directors, and attorneys).

j. It is also the desire of the Parties to fully, finally and forever settle, compromise, and discharge all disputes and claims that exist on behalf of the named Plaintiffs in their individual capacity, and the named Plaintiffs agree to execute a general release, including a Section 1542 waiver.

k. It is the intention of the Parties that this Stipulation shall constitute a full and complete settlement and release of all claims arising from, related to or could have been raised by the factual allegations in the Litigation, including, without limitation, any and all claims that can lawfully be released arising from said allegations under the California Labor Code, the Business & Professions Code (including Section 17200 et seq.), and attorneys' fees and costs, which release shall include in its effect Defendant and each of its present and former affiliates, members, parent companies, subsidiaries, shareholders, officers, partners, directors, members, servants, employees, agents, attorneys, insurers, predecessors, representatives, accountants, past, present, and future, successors and assigns, and each and all of their respective officers, partners, directors, servants, agents, shareholders, employees, representatives, accountants, insurers, and attorneys (collectively, the "Releasees").

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II. DEFINITIONS

As used in this Stipulation, and for purposes of the settlement of this Litigation only, the following terms shall have the meanings specified below:

- a. "Complaint" shall mean the operative First Amended Class Action Complaint For Damages And Restitution filed by Plaintiffs on March 15, 2023.
- b. "Attorneys' Costs" shall mean Class Counsel's actual costs, shown by proper documentation, incurred in this Litigation, to be determined by the Court, but not to exceed Twenty-Five Thousand Dollars (\$25,000.00).
- c. "Attorneys' Fees" shall mean Class Counsel's attorneys' fees in connection with the Litigation to be determined by the Court, but not to exceed One Hundred Sixty-Four Thousand Five Hundred Dollars and Zero Cents (\$164,500.00), or thirty-five percent (35%) of the GFV.
- d. "Claims Administrator" means Phoenix Settlement Administrators.
- e. "Claims Administration Fee" includes all costs and expenses due to the Claims Administrator in connection with its administration of the claims including, but not limited to, providing Notice in English and Spanish, translating the Notice in Spanish, locating Class Members, reviewing letters from individuals opting out of the Settlement, calculating withholdings and taxes including Defendant's share of payroll taxes, and administering and distributing Settlement payments to Settlement Class Members, not to exceed \$11,950.00.
- f. "Class Counsel" means Michael Nourmand and James A. De Sario of The Nourmand Law Firm, APC.
- g. "Class Data List" means a list in Excel format with the Settlement Class Members' names, home addresses, social security numbers and best estimates of dates of employment so that the Claims Administrator can determine each Settlement Class Member's number of Workweeks, mail out notices, and perform any skip tracing necessary.

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- h. "Class Notice" means the Notice of Class Action Settlement, substantially in the form attached as Exhibit A.
- i. "Class Period" shall mean the time period from December 7, 2021, to July 26, 2023.
- j. "Defendant" means Field Fresh Foods Incorporated.
- k. "Defense Counsel" shall mean Maria C. Rodriguez, Esq. and Marjorie C. Soto Garcia, Esq. of McDermott Will & Emery, LLP.
- l. "Effective Date" means the later of: (1) if no objections are raised, the date the Court signs the Order Granting Final Approval and Judgment; (2) if there is an objection, 65 days from the date the Court signs the Order Granting Final Approval and Judgment; or (3) if an appeal is timely filed with respect to the Judgment, the date such an appeal is dismissed or the Judgment is affirmed, and the Judgment is not subject to further judicial review or reconsideration by any court, but only after all of the following events have occurred: (i) this Stipulation has been executed by all Parties and by counsel for the Parties; (ii) the Court has given Preliminary Approval of the Settlement; (iii) notice has been given to the putative Settlement Class Members, providing the Class Members with an opportunity to opt out of the Settlement Class; and (iv) the Court has held a formal fairness hearing and entered a final order and judgment certifying the Settlement Class, and approving this Stipulation consistent with California Rule of Court 3.769(h).
- m. "Final Approval of the Settlement" shall mean (1) entry of an order by the Court ordering final approval of the Settlement.
- n. "Gross Fund Value" or "GFV" shall mean the non-reversionary maximum gross amount of Four Hundred Seventy Thousand Dollars (\$470,000.00) to be paid by Defendant pursuant to this Settlement and before Court-approved deductions for the LWDA Payment, Claims Administration Fee, Attorneys' Fees, Attorneys' Costs and the Service Award.
- o. "Litigation" means the lawsuit, *Demetrio Diaz Fuentes et al. v. Field Fresh Foods Incorporated* (Case No.: 22STCV38190), filed on or about December 7, 2022, in the

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Superior Court of California, County of Los Angeles with First Amended Complaint filed on March 15, 2023.

- p. "LWDA Payment" shall mean the payment to the State of California Labor and Workforce Development Agency ("LWDA") under the California Private Attorneys General Act of 2004, or Seventy Five Percent (75%) of the PAGA Settlement Amount. The Parties have agreed that Ten Thousand Dollars (\$10,000) of the GFV will be allocated to the resolution of any Settlement Class Members' claims arising under PAGA ("PAGA Settlement Amount"). Under California Labor Code section 2699(i), Seventy-Five Percent (75%), or Seven Thousand Five Hundred Dollars (\$7,500), of the PAGA Settlement Amount will be paid to the California Labor and Workforce Development Agency, and Twenty Five Percent (25%), or Two Thousand Five Hundred Dollars (\$2,500), of the PAGA Settlement Amount will be part of the NFV to be distributed to the PAGA Settlement Group.
- q. "Net Fund Value" or "NFV" shall mean the Gross Fund Value minus the Claims Administration Fee, Attorneys' Fees, Attorneys' Costs, LWDA Payment, and Service Award.
- r. "PAGA Claims" shall mean the Class Members' claims for civil penalties under the California Private Attorneys General Act of 2004.
- s. "PAGA Exhaustion Period" shall mean the 65 days that the LWDA has to provide notice to Plaintiffs and the employer (here, Defendant) that it intends to investigate the allegations contained in the PAGA Letter.
- t. "PAGA Letter" shall mean the written notice provided to the LWDA on December 7, 2022, via online filing and by certified mail to Defendant of the specific provisions of the alleged Labor Code violations raised through the Litigation.
- u. "PAGA Settlement Amount" shall mean the total amount the Parties agree to recommend that the Court approve in settling the PAGA Claims. In this case, the Parties recommend that the Court approve Ten Thousand Dollars (\$10,000) as an appropriate PAGA Settlement Amount.

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- v. "PAGA Settlement Group" shall be defined as Class Members who were employed by Defendant from December 7, 2021 (one year prior to the date of the PAGA Letter), to July 26, 2023.
- w. "Plaintiffs" shall mean class representatives Demetrio Diaz Fuentes and Karla Marielos Reyes Noyola.
- x. "Parties" shall mean Plaintiffs and Defendant.
- y. "Preliminary Approval of the Settlement" shall mean entry of an order by the Court ordering preliminary approval of the proposed Settlement, including an order as to the time, date, and place of the hearing on Final Approval of the Settlement, the Class Notice, and any other matters deemed necessary for the proper conduct of a Final Approval of the Settlement.
- z. "Releasees" shall mean Defendant Field Fresh Foods Incorporated, and each of its present and former affiliates, members, parent companies, subsidiaries, shareholders, officers, partners, directors, members, servants, employees, agents, attorneys, insurers, predecessors, principals, representatives, accountants, past, present, and future, successors and assigns, and each and all of their respective officers, partners, directors, servants, agents, shareholders, employees, representatives, accountants, insurers, and attorneys.
- aa. "Service Award" shall mean Five Thousand Dollars (\$5,000.00) each for Plaintiffs Demetrio Diaz Fuentes and Karla Marielos Reyes Noyola, as the class representatives.
- bb. "Settlement" means the terms and conditions set forth in this Stipulation.
- cc. "Settlement Class" means the class certified for purposes of Settlement only, following the entry of Order by the Court.
- dd. "Settlement Class Members" shall mean all current and former hourly non-exempt production employees employed by Defendant between December 7, 2021, and July 26, 2023, who do not timely opt out of the Settlement.
- ee. "Workweeks" shall mean the calculation of each Settlement Class Member's work start date or dates to work end date or dates during which the Settlement Class

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Member worked as an hourly non-exempt employee, based on Defendant's records.

Any weeks that a Settlement Class Member was not performing services for Defendant shall not be counted as Workweeks for purposes of calculating a Class Member's proportionate share of the NFV.

III. TERMS OF SETTLEMENT

a. Gross Fund Value. In full and complete settlement of Plaintiffs' claims for the class, and without admitting any liability, Defendant shall pay to the Claims Administrator for the benefit of the class an "all-in," non-reversionary payment of Four Hundred and Seventy Thousand Dollars (\$470,000.00) that shall be referred to herein as a Gross Fund Value ("GFV"). The payment of the GFV by Defendant pursuant to this Stipulation shall settle all pending issues between the Releasees and the Settlement Class, including, but not limited to, all damages, payments of class claims, Claims Administration Fee, Attorneys' Fees, Attorneys' Costs, LWDA Payment, and Service Award. Defendant shall be responsible for paying, in addition to the GFV, any applicable and lawfully required employer payroll taxes.

b. Calculation of Net Fund Value. The Net Fund Value ("NFV") is equal to the GFV minus the Claims Administration Fee (not to exceed \$11,950.00), Attorneys' Fees (up to \$ 164,500 or 35% of the GFV), Attorneys' Costs (up to \$25,000), LWDA Payment (up to \$7,500) and the Service Awards (up to \$5,000 for each named plaintiff for a maximum of up to \$10,000 total combined). The NFV shall be divided by the total aggregate Workweeks of the Class Members for the Settlement Class Members and divided in proportionate shares based on the number of Workweeks for the individual Settlement Class Members as reflected in Defendant's records. The NFV will be used to calculate the settlement share each Class Member will receive if this Settlement becomes effective as defined above.

c. Attorneys' Fees and Costs: In consideration for settling this matter and in exchange for the release of all claims by the Settlement Class, and subject to final approval by the Court, Defendant agrees not to oppose Class Counsel's motion for Attorneys' Fees in the total amount of up to 35% of the GFV to compensate and reimburse Class Counsel for all of the work already performed by Class Counsel in this case and all of the work remaining to be performed by Class

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Counsel in documenting the Settlement, securing Court approval of the Settlement, administering the Settlement, making sure that the Settlement is fairly administered and implemented, and obtaining Judgment. Regardless of the fee award, counsel for Plaintiffs will not seek to cancel or otherwise challenge the settlement but will accept the award of the Court, subject to Plaintiffs' right to appeal any attorney's fees award by the Court. Class Counsel shall be separately reimbursed for costs actually incurred in litigating this Litigation, subject to documentation of such costs, of up to \$25,000 out of the GFV. Should the Court approve a lesser percentage or amount of fees and/or costs, the unapproved portion shall be part of the NFV.

d. Service Award: Subject to approval by the Court, Defendant further agrees to pay Plaintiffs a Service Award not to exceed \$5,000 each, for serving as the class representative. Defendant will not oppose Class Counsel's request. The Service Award is in addition to the claim share to which Plaintiffs are entitled along with other Settlement Class Members and the amount allocated to resolve their individual claims. Should the Court approve a Service Award less than that set forth herein, the unapproved portion shall be added to the NFV and distributed to Settlement Class Members.

e. Effectiveness of Settlement: The Settlement shall become effective only when all of the following events have occurred (the "Effective Date"):

- i. This Stipulation has been executed by all Parties and by counsel for the Parties;
- ii. Plaintiffs filed a Motion for Preliminary Approval and selected the soonest available hearing date from the Court;
- iii. The Court has given Preliminary Approval of the Settlement;
- iv. Notice has been given to the putative Class Members, providing the Class Members with an opportunity to opt out of the Settlement Class, object to the Settlement Class or dispute the Workweeks;
- v. The Court has held a formal fairness hearing and entered a final order and judgment certifying the Settlement Class, approved this Stipulation; and
- vi. The later of: (1) if no objections are raised the date the Court signs the Order Granting Final Approval and Judgment; (2) if there is an objection, 65 days from the date the

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Court signs the Order Granting Final Approval and Judgment; or (3) if an appeal is timely filed with respect to the Judgment, the date such an appeal is dismissed or the Judgment is affirmed, and the Judgment is not subject to further judicial review or reconsideration by any court.

f. Effective Date: No money will be distributed unless and until the Effective Date occurs (defined above). If the Court fails to approve the Settlement, or if any appellate court fails to approve the Settlement, resulting in a failure to reach the Effective Date:

- i. The Stipulation shall have no force and effect, and no Party shall be bound by any of its terms;
- ii. Defendant shall have no obligation to make any payments to the Class Members, Class Counsel, or the Claims Administrator;
- iii. Any preliminary approval order, final approval order, and judgment, shall be vacated;
- iv. The Stipulation and all negotiations, statements, and proceedings, and data relating thereto, shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Litigation prior to the Settlement; and
- v. Other than this Stipulation, which shall be a matter of public record, or any attachments or exhibits thereof, no ancillary documents, actions, statements, or filings in furtherance of the settlement, including those exchanged and/or submitted in connection with the August 15, 2023 mediation or subsequent settlement discussions, shall be admissible or offered into evidence in the Litigation or any other action or proceeding for any purpose whatsoever, pursuant to California Evidence Code sections 1152 and 1154.

IV. CLAIMS PROCEDURE

a. Claims Administrator: The Claims Administrator's duties shall include, without limitation, providing English and Spanish language versions of the Class Notices mailing the Class Notices, performing necessary skip traces on Class Notices returned as undeliverable, reviewing opt out requests from Settlement Class Members, reviewing disputes regarding Workweeks, receiving and emailing objections, verifying that Social Security numbers included on opt-out forms match

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Social Security numbers provided by Defendant to the Claims Administrator, calculating and processing payments for all Settlement Class Members, re-mailing Class Notices which are returned as undeliverable, providing Class Counsel and Defense Counsel with the reports as requested and as set forth in this Settlement Agreement, preparing declarations regarding its duties for preliminary or final approval, preparing and mailing of all Settlement Class Members' settlement checks and calculating Defendant's tax obligations in connection with the Settlement Payments to Settlement Class Members.

b. Costs of Claims Administrator: The Claims Administrator has quoted an estimated fee of \$11,950.00. Plaintiffs and Defendant will allocate an amount, not to exceed, \$11,950.00, to be paid from the GFV. If the Claims Administrator is able to complete its work for less than \$11,950.00, the balance will be applied to the NFV.

c. Calculation of Class Members' Payments: In consideration for settlement and a release of all Released Claims against Defendant and the Releasees, all Settlement Class Members shall receive a proportionate share of the NFV. The determination of each Settlement Class Member's proportionate share of the NFV will be based on the total Workweeks, the number of weeks worked by each Settlement Class Member, and the number of Settlement Class Members.

d. Calculation of PAGA Settlement Group Payments: In consideration for settlement and a release of all Released Claims against Defendant and the Releasees, all members of the PAGA Settlement Group shall receive a proportionate share of the PAGA Settlement Amount. The determination of each PAGA Settlement Group member's proportionate share of the PAGA Settlement Amount will be based on the total Workweeks, the number of weeks worked by each that individual, and the number of individuals in PAGA Settlement Group.

e. No PAGA Opt-Out: Individuals in the PAGA Settlement Group will not have the option to opt-out of the PAGA Settlement Group.

f. Disputes Regarding Individual Settlement Payments: Settlement Class Members will have the opportunity, should they disagree with Defendant's records regarding the number of Workweeks, as stated on their Class Notice, to provide documentation and/or an explanation to show contrary information. Any dispute must be postmarked within forty-five (45) days of the Claims

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Administrator's mailing of the Class Notice. If disputes are not submitted in a timely manner, Settlement Class Members will be paid based on Defendant's records. If there is a dispute, the Claims Administrator will consult with the Parties to determine whether an adjustment is warranted. The Claims Administrator shall determine the eligibility for, and the amounts of, any individual Settlement Payments under the terms of this Agreement. The Claims Administrator's determination of the eligibility for and amount of any individual Settlement Payment shall be binding upon the Settlement Class Member and the Parties.

g. Class Data List: Following the Preliminary Approval of the Settlement, Defendant will have fifteen (15) calendar days to provide the Claims Administrator with the Class Data List. Based on the Class Data List, the Claims Administrator will calculate the total number of Workweeks for the Settlement Class Members. This will result in an aggregate amount of Workweeks, as well as an individual amount of Workweeks for each of the Settlement Class Members. In order to determine the amount of payment for each Workweek, the NFV shall be divided by the total aggregate Workweeks of the Class Members for each Settlement Class Member, and divided based on the number of Workweeks for the individual Settlement Class Member.

h. Tax Treatment of Each Class Member's Portion of NFV: The individual Settlement Payment to each Settlement Class Member will be one-third (1/3) wages and two-thirds (2/3) penalties and interest. 100% of the PAGA Settlement Amount paid to the PAGA Settlement Group will be treated as penalties. This allocation shall not apply to the Service Award to Plaintiffs because no part of such Service Award will be wages. The payroll deductions for the wage portion of the individual Settlement Payments will be calculated by the Claims Administrator, subtracted from the Settlement Payments, and paid to the appropriate government agencies by the Claims Administrator. Defendant shall be responsible for the employer's share of the government payroll obligations, which shall be calculated by the Claims Administrator. The Claims Administrator will calculate the amount owed by Defendant, which will be paid to the Claims Administrator by Defendant at the time that it funds the remaining portions of the Settlement. The Claims Administrator will then prepare a Form W-2 and Form 1099 for each Settlement Class Member, reflecting each Settlement Class Member's non-wage income and wage income. The Claims Administrator will be responsible for preparing

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these forms correctly. The Claims Administrator shall also be responsible for submitting Defendant's share of the government payroll obligations to the appropriate government agencies on behalf of Defendant.

i. Tax Treatment of Plaintiffs' Service Award: Plaintiffs will receive an IRS Form 1099 for their portion of the Service Award, and will be responsible for correctly characterizing this additional compensation for tax purposes and for payment of any taxes owing on said amount.

j. Taxes and Withholdings: The Claims Administrator shall be responsible for calculating and withholding all required state and federal taxes on behalf of both Settlement Class Members and Defendant, and for communicating this information to the Parties in a report in which the names of the Settlement Class Members will be coded. For each Settlement Class Member, the report shall state the number of Workweeks, the gross award, the Settlement Class Member's share of taxes withheld, the net award and the amount of Defendant's related payroll burden to be paid to government entities. The Claims Administrator will not disclose to Class Counsel any home address, telephone or other personal information of any Settlement Class Member unless so ordered by the Court. Proof of payment will be filed with the Court and provided to the Parties' counsel.

k. Reporting to Parties: After the Class Notices are mailed to Settlement Class Members, the Claims Administrator shall provide a weekly report to Class Counsel and Defense Counsel setting forth the number of opt-outs, objections, or disputes regarding Workweeks received.

l. Dispute of Final Report: After the Claims Administrator provides the final report of all valid opt out individuals, counsel for the Parties shall have five (5) days after the Claims Administrator issues its report to review and make any objections to the report from the Claims Administrator. Any dispute with regard to the calculation of award checks will be decided by the Court.

m. Disputes Regarding Administration of Settlement: Any disputes not resolved by the Claims Administrator concerning the administration of the Settlement will be resolved by the Court, under the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the disputes without the necessity of involving the Court.

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n. Contact with Class Members: Class Counsel agrees not to affirmatively telephone, e-mail or otherwise contact any Class Members, except for Class Counsel contacting Plaintiffs, regarding the Settlement, including any attempts to encourage or discourage, any Class Member to participate in the Settlement. Defendant and Defense Counsel agree that they will not attempt to encourage or discourage any Class Member to participate in the Settlement, but may advise its employees of this Settlement.

V. NOTICE TO SETTLEMENT CLASS MEMBERS

a. Notice to Class Members: Within twenty-one (21) calendar days of the date of Preliminary Approval of the Settlement, the Claim Administrator shall mail, by U.S. First Class, to Class Members a Class Notice. Prior to mailing the Class Notice, the Claims Administrator shall verify and update the address of the Class Members on the National Change of Address database. The Class Notice will list the individual Settlement Class Member's total number of Workweeks and will be provided to Class Members in both English and Spanish.

b. Opt-Out Procedure for Settlement Class:¹ The Class Notice sent to all Settlement Class Members will include the right of each individual Settlement Class Member to opt out of the proposed Settlement. Any Settlement Class Member who wishes to opt out of the Settlement must complete and submit a written statement requesting exclusion from the Settlement within forty-five (45) calendar days of the mailing of the Class Notice ("Response Deadline"). Such written request for exclusion must contain the full name, current home (or mailing) address, and last four digits of the Social Security number of the person requesting exclusion, and it must include the statement, or words that are sufficiently similar to the following: "I wish to be excluded from the Settlement of the case entitled *Demetrio Diaz Fuentes et al. v. Field Fresh Foods Incorporated, Case No.: 22STCV38190*. The written request must be signed by the person requesting exclusion and must be returned by mail to the Claims Administrator at the specified address set forth on the Class Notice, and must be postmarked on or before the deadline to opt out. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether a request for exclusion has

¹ This opt-out procedure does not apply to the PAGA Settlement Group.

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been timely submitted. In the event of any dispute concerning whether a Class Member has timely and properly opted out of the Settlement, counsel for the Parties shall meet and confer in good faith to resolve such dispute. Opting-out of the Settlement waives the right to object to the Settlement. To the extent that a Settlement Class Member submits both an opt-out request and an objection, the opt-out request will be accepted and the objection will be deemed invalid.

c. Settlement Class Members shall also be informed of their right to object to the Settlement. Any such objection must be signed and must include: (i) the Class Member's name, address, and telephone number; (ii) a statement of the objection(s), as well as specific reasons, if any, for the objections, and any supporting evidence the Class Member wishes to introduce; and (iii) the case name and number. Such written statement must be mailed to the Claims Administrator within forty-five (45) calendar days following the initial mailing of the Class Notice by the Claims Administrator. The Claims Administrator shall email Class Counsel and defense counsel a copy of any objection received forthwith. Class Counsel shall lodge a copy of the objection with the Court. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether an objection has been timely submitted. Class Members also have the option to appear at the final approval hearing and present their objection to the court with the assistance of counsel at their own expense.

d. Returned Mail: If the Class Notice is returned as undeliverable with a forwarding address provided by the United States Postal Service, the Claims Administrator will promptly resend the Class Notice to that forwarding address along with a brief letter stating that the Settlement Class Member has fifteen days from the date of the re-mailed to opt-out, object or dispute Workweeks. If an original mailing is returned as undeliverable without a forwarding address, the Claims Administrator will perform one skip trace only through a database similar to Accurant, and if it obtains a more recent address, will resend the Class Notice along with a brief letter stating that the Settlement Class Member has until the original deadline set forth on the Class Notice or fifteen (15) calendar days after the re-mailing of the Class Notice (whichever is later) to opt out, object or dispute Workweeks. For any re-mailing, the Claims Administrator shall do one of two things: (1) specify in the re-mailing that the last day to opt out, object or dispute Workweeks is the latter of the 45 days

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after the original mailing or 15 days after the re-mailing and provide such dates in the Class Notice so that the Class Member is able to calculate the deadline; or (2) calculate and identify the deadline for each and every re-mailing.

e. Uncashed Checks: Individual settlement checks paid to Participating Class Members and PAGA Settlement Group will be valid for 180 days. Participating Class Members and PAGA Settlement Group will have one hundred eighty (180) calendar days from the date of issuance of the check to cash their check. For any check not cashed after 180 calendar days, the Settlement Administrator will send the amount represented by the check to the California State Controller Unclaimed Property, with the identity of the Participating Class Member and PAGA Settlement Group to whom the funds belong, to be held for the Participating Class Member and PAGA Settlement Group per California Unclaimed Property Law, in the interest of justice. The money paid to the California State Controller Unclaimed Property will remain the Participating Class Member and PAGA Settlement Group's property. This will allow Participating Class Member and PAGA Settlement Group who did not cash their checks to collect their Individual Settlement Amounts at any time in the future. Therefore, there will be no unpaid residue or unclaimed or abandoned class member funds, and the California Code of Civil Procedure section 384 shall not apply. The funds will be held by the State until claimed by the employee and the uncashed check never ceases to be the employee's property.

VI. FUNDING AND PAYMENT OF SETTLEMENT

a. Funding of Settlement: Within ten (10) calendar days of the Effective Date, Defendant will deposit the Gross Fund Value and employer's share of payroll taxes into a qualified settlement account maintained by the Claims Administrator.

b. Payment Procedure: Within three (3) calendar days after Defendant's deposit of funds with the Claims Administrator, the Claims Administrator will pay all claims and Court-approved attorneys' fees and costs, Claims Administrator fees and the Service Award to Plaintiffs.

VII. RELEASE BY THE CLASS MEMBERS

a. Settlement Class Member Release. Upon final approval by the Court and Defendant funding the Gross Fund Value and employer's share of payroll taxes, the Settlement Class, and each

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Class Member who has not submitted a timely and valid written request to opt out of the Settlement shall have released Defendant, and each of the Releasees all California wage and hour claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, damages, penalties, interest, and causes of action, arising from or related to the claims pled in Plaintiffs' operative complaint ("Complaint") or that relate to or could have been pled in the Complaint based on the factual allegations pled in the Complaint, including all claims for allegedly unpaid minimum and overtime wages, failure to pay reporting time wages, failure to provide compliant meal breaks, failure to provide compliant rest breaks, inaccurate wage statements, and failure to pay all wages owed upon termination under the California Labor Code, or applicable wage order(s), unfair competition claims under California Business & Professions Code §17200, et seq. based on the labor code violations alleged, and any penalties, restitution and other equitable relief, liquidated damages, punitive damages, disgorgement, interest or attorneys' fees that occurred during the period of Class Period ("Released Claims").

b. Release of Claims by PAGA Settlement Group Members: Upon final approval by the Court and Defendant funding the Gross Fund Value and employer's share of payroll taxes, all members of the PAGA Settlement Group will be deemed to fully, finally and forever release Releasees from all claims for civil penalties under PAGA based on the labor code violations alleged in the operative Complaint and Plaintiffs notice sent to the LWDA, including attorneys' fees and costs related thereto, regardless of whether PAGA Settlement Group opt out from the Settlement Agreement.

c. Plaintiffs' General Release of Claims. Plaintiffs will sign a general release of claims to be separately negotiated, including a waiver of rights under California Civil Code Section 1542. Plaintiffs further waive their right to opt out from, object to or challenge the Class Settlement, the Settlement Class, or any of the matters contained in this Agreement.

d. The Parties intend that the judgment pursuant to California Rule of Court 3.769(h) entered by the Court shall be final and binding upon all Settlement Class Members (including Plaintiffs). The Claims Administrator shall post a copy of the Judgment on its website for a period of thirty days in compliance with California Rules of Court 3.771(b).

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VIII. CERTIFICATION OF CLASS FOR PURPOSES OF SETTLEMENT ONLY

a. These stipulations are made solely for purposes of the Settlement, and if this case were to be further litigated, the parties reserve their rights to contend that a different scope and nature of class certification – including none at all – would be appropriate. These stipulations are in no way an admission that class certification is proper under standards otherwise applicable to class certification not involving a settlement class; thus, this Settlement will not be admissible in this or any other action or proceeding as evidence (i) that the Proposed Classes or any other class should be certified or (ii) that Defendant is liable to Plaintiffs, the Proposed Class Members, or any other class.

b. Notwithstanding any other provision in this Stipulation, Defendant retains the right, in the exercise of its sole discretion, to nullify the settlement within seven (7) calendar days after the Response Deadline, if ten percent (10%) or more of Settlement Class Members opt out of this settlement. Counsel for the Settlement Class Members and Defendant specifically agree not to solicit opt-outs, directly or indirectly, through any means. In the event, Defendant decides to nullify the settlement, Defendant will be solely responsible for any costs incurred by the Claim Administrator.

c. If, for any reason, the Court does not grant final approval of the Settlement without material modification, or if the Court's final approval of the Settlement is reversed or materially modified on appellate review, then this Settlement – including this Class Stipulation – will automatically become null and void; the fact that the Parties had made the Class Stipulation or that the Court accepted the Class Stipulation will be inadmissible evidence in any subsequent proceeding in the Litigation or elsewhere.

d. If, after a notice of appeal or a petition for writ of certiorari, or any other motion, petition, or application, the reviewing court vacates, reverses, or modifies the Final Approval Order such that there is a material modification to the Settlement, and that Court's decision is not completely reversed and the Final Approval Order is not fully affirmed on review by a higher court, then either Plaintiffs or Defendant will have the right to void the Settlement, which the Party must do by giving written notice to the other Parties, the reviewing court, and the Court not later than fourteen (14) days after the reviewing court's decision vacating, reversing, or materially modifying the Final Approval Order becomes Final. The Court's vacation, reversal, or modification of

Plaintiffs' Service Award or the Class Counsel Attorneys' Fees and Costs will not constitute a vacation, reversal, or material modification of the Final Approval Order within the meaning of this paragraph, provided that Defendant's obligation to make payments under this Settlement remains limited to the Gross Fund Value. In the event a party exercises the right to void the Settlement under this section, that party shall be solely responsible for any fees and costs incurred by the Claims Administrator.

IX. CONFIDENTIALITY OF SETTLEMENT

a. Plaintiffs and Class Counsel will not engage in any type of publicity related to this Litigation or Settlement, including but not limited to posting the fact of this Litigation or Settlement on any website, issuing any type of press release regarding this Litigation or Settlement, initiating any media coverage (digital, radio, satellite, print, recorded, social media, including Facebook, Twitter, Instagram, Myspace, Vine, TikTok, Snapchat, etc.) or responding to any request for comment about the Litigation or Settlement, or responding to any press inquiries regarding this Litigation or Settlement. Class Counsel further agrees that to the extent previous websites or publications of any kind were created to notify putative class members of this Litigation, such websites will be immediately removed.

b. All materials provided to Plaintiffs and Class Counsel in the course of the litigation remains confidential and produced only for the purpose of effectuating this settlement. Plaintiffs' counsel agrees not to use said materials for any other purpose.

X. DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

a. Plaintiffs shall, promptly prepare and file with the Court a motion for preliminary approval and determination by the Court as to the fairness, adequacy, and reasonableness of this Settlement. The motion for preliminary approval shall request entry of a preliminary order which would accomplish the following:

- i. Schedule a fairness hearing on the question of whether the proposed Settlement, including payment of Attorneys' Fees and Costs and the Plaintiffs' Service Award, should be finally approved as fair, reasonable, and adequate as to the Settlement Class Members;

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- ii. Certify a Settlement Class;
- iii. Certify this action under California Code of Civil Procedure §382 as a class action for purposes of settlement;
- iv. Approve as to form and content the proposed Class Notice;
- v. Direct the mailing of the Class Notice by first class mail to the Settlement Class Members;
- vi. Preliminarily approve the Settlement subject only to the objections of Settlement Class Members and final review by the Court;
- vii. Preliminarily approve the Claims Administrator and approve payment of the charges of the Claims Administrator Fees pursuant to the terms of this Stipulation;
- viii. Preliminarily approve Class Counsel's request for Attorneys' Fees and Attorneys' Costs subject to final review of the Court; and
- ix. Preliminarily approve the LWDA payment, and
- x. Preliminarily approve Class Counsel's request for Plaintiffs' Service Award.

XI. DUTIES OF THE PARTIES FOLLOWING FINAL APPROVAL

- a. Plaintiffs shall submit a motion for final approval.
- b. Following final approval of the Settlement provided for in this Stipulation, Class Counsel will submit a proposed final order and Judgment:
 - i. Approving the Settlement, adjudging the terms thereof to be fair, reasonable, and adequate, and directing consummation of its terms and provisions;
 - ii. Approving Class Counsel's application for an award of Attorneys' Fees and reimbursement of Attorneys' Costs;
 - iii. Approving Plaintiffs' Service Award;
 - iv. Approving the LWDA Payment;
 - v. Releasing the Released Claims against Defendant and the Releasees during the Class Period on behalf of Settlement Class Members; and
 - vi. Entering Final Judgment consistent with California Rule of Court 3.769(h).

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c. Notice to LWDA: Following final approval of the Settlement provided for in this Stipulation, Class Counsel will provide notice to the LWDA of this settlement in accordance with Labor Code § 2699(1)(2).

XII. PARTIES' AUTHORITY

The signatories hereto represent that they are fully authorized to enter into this Stipulation and bind the Parties to the terms and conditions of the Settlement.

XIII. MUTUAL FULL COOPERATION

The Parties agree to fully cooperate with each other to accomplish the terms of this Stipulation, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Stipulation. The Parties to this Stipulation shall use their best efforts, including all efforts contemplated by this Stipulation and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Stipulation and the terms set forth herein. As soon as practicable after execution of this Stipulation, Class Counsel shall, with the assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the Court's final approval of this Stipulation.

XIV. STAY ON PROCEEDINGS

The Parties shall request the Court, in its motion for preliminary approval of the Settlement, to enjoin Class Members from initiating or prosecuting any proceeding on any claim to be released pursuant to this Stipulation unless and until the Class Member opts out of the class.

XV. NO PRIOR ASSIGNMENTS

The Parties represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, or transfer to any person or entity any portion of any liability, claim, demand, action, cause of action, or rights herein released and discharged except as set forth herein.

XVI. NO ADMISSIONS

Nothing contained herein, nor the consummation of this Stipulation, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Defendant specifically denies any liability. Each of the Parties hereto have entered into this

Stipulation with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

XVII. CONSTRUCTION

The Parties agree that the terms and conditions of this Stipulation are the result of lengthy, intensive arms-length negotiations between the Parties and were arrived at after a mediation session. The Parties further agree that this Stipulation shall not be construed in favor of or against any Party by reason of the extent to which any Party or he, or his counsel, participated in the drafting of this Stipulation.

XVIII. CAPTIONS AND INTERPRETATIONS

Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Stipulation or any provision hereof. Each term of this Stipulation is contractual and not merely a recital.

XIX. MODIFICATION

This Stipulation may not be changed, altered, or modified, except in writing and signed by the counsel for the Parties hereto, and approved by the Court. This Stipulation may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

XX. INTEGRATION CLAUSE

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

XXI. BINDING ON ASSIGNS

This Stipulation shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors, and assigns.

XXII. CLASS COUNSEL SIGNATORIES

It is agreed, that because of the large number of Settlement Class Members, it is impossible or impractical to have each Settlement Class Member execute this Stipulation. The Class Notice will

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advise all Settlement Class Members of the binding nature of the release and such shall have the same force and effect as if this Stipulation were executed by each member of the Settlement Class.

XXIII. COUNTERPARTS

This Stipulation may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Stipulation, which shall be binding upon and effective as to all Parties.

XXIV. CONTINUED JURISDICTION:

After entry of the judgment, the Court will have continuing jurisdiction under California Code of Civil Procedure section 664.6 solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Court Approval matters as may be appropriate under court rules or as set forth in this Settlement.

XXV. NOTICES

Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States Postal Service registered or certified mail, return receipt requested, addressed as follows:

To the SETTLEMENT CLASS:

MICHAEL NOURMAND (SBN 198439)
mnourmand@nourmandlawfirm.com
JAMES A. DE SARIO (SBN 262552)
jdesario@nourmandlawfirm.com
THE NOURMAND LAW FIRM, APC
8822 West Olympic Boulevard
Beverly Hills, CA 90211
Telephone: +1 310 553-3600
Facsimile: +1 310 886-3603

To DEFENDANT:

MARIA C. RODRIGUEZ (SBN 194201)
mcrodriguez@mwe.com
MARJORIE C. SOTO GARCIS (SBN 313290)
mcsoto@mwe.com
MCDERMOTT WILL & EMERY LLP
2049 Century Park East, Suite 3800
Los Angeles, California 90067-3218
Telephone: (310) 277-4110
Facsimile: (310) 277-4730

[Signature Page Follows]

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ATTORNEYS AT LAW
LOS ANGELES

PLAINTIFFS

DATED: 08/16/2024

By: 

Demetrio Diaz Fuentes
Class Representative

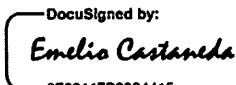
DATED: _____

By: _____

Karla Marielos Reyes Noyola
Class Representative

FIELD FRESH FOODS, INC.

DATED: 10/1/2024 | 11:14:56 AM CDT

By: 
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Emelio Castaneda
President

APPROVED AS TO FORM:

THE NOURMAND LAW FIRM, APC

DATED: 8/16/2024

By: *Michael Nourmand*

Michael Nourmand
James A. De Sario
Attorney for Plaintiffs

MCDERMOTT WILL & EMERY LLP

DATED: _____

By: 

Maria C. Rodriguez
Marjorie C. Soto Garcia
Attorneys for Defendant

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ATTORNEYS AT LAW
LOS ANGELES, CA

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PLAINTIFFS

DATED: _____

By: _____

Demetrio Diaz Fuentes
Class Representative

DATED: 08/16/2024

By: 

Karla Marielos Reyes Noyola
Class Representative

FIELD FRESH FOODS, INC.

DATED: 10/1/2024 | 11:14:56 AM CDT

By:

DocuSigned by:

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Emelio Castaneda
President

APPROVED AS TO FORM:

THE NOURMAND LAW FIRM, APC

DATED: _____

By: _____

Michael Nourmand
James A. De Sario
Attorney for Plaintiffs

McDERMOTT WILL & EMERY LLP

DATED: _____

By: _____

Maria C. Rodriguez
Marjorie C. Soto Garcia
Attorneys for Defendant