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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE - CIVIL COMPLEX CENTER

LETICIA HERNANDEZ, individually, and on behalf of all other aggrieved employees, Plaintiff, v. YELLOW BASKET OF MENIFEE, INC., a California corporation; YELLOW BASKET OF SANTA ANA, INC., a California corporation; YELLOW BASKET OF TEMECULA, INC., a California corporation; YELLOW BASKET OF WILDOMAR, INC., a California corporation; and DOES 1 through 50, inclusive, Defendants.	CASE NO.: 30-2023-01331657-CU-OE-CXC *[Unlimited Jurisdiction]* *Assigned for all purposes to the Honorable Lon F. Hurwitz, Dept. CX103* **JOINT STIPULATION OF SETTLEMENT AND RELEASE UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE § 2698, ET SEQ.** Complaint Filed: June 14, 2023 Trial Date: None Set

This Joint Stipulation of Settlement and Release ("Agreement" or "Settlement") under the Private Attorneys General Act, California Labor Code section 2698 et seq. ("PAGA"), is made by and between Leticia Hernandez ("Plaintiff"), individually and as representative on behalf of Aggrieved Employees as further defined herein and the State of California, and Yellow Basket of Menifee, Inc., Yellow Basket of Santa Ana, Inc., Yellow Basket of Temecula, Inc., and Yellow Basket of Wildomar, Inc. ("Defendants"). Plaintiff and Defendants are collectively referred to herein as the "Parties" and may be individually referred to as a "Party."

A. FACTUAL BACKGROUND

1. This Settlement is made and entered into by and between Plaintiff and Defendants, and is subject to the terms and conditions hereof, and to the Court's approval. The Parties expressly acknowledge that this Agreement is entered into solely for the purpose of compromising significantly disputed claims and that nothing herein is an admission of liability or wrongdoing by Defendants. Defendants deny that they are liable to Plaintiff or the Aggrieved Employees and deny that they have violated any law.

2. On March 17, 2023, Plaintiff filed a notice with the Labor & Workforce Development Agency ("LWDA") alleging that Defendants violated Labor Code sections 201-203, 204, 210, 226, 226.2 226.3, 226.7, 246, 248.1, 248.2, 248.3, 248.5, 248.6, 300, 510, 512, 558, 1174, 1174.5 1194, 1197, 1198 and 2802 ("PAGA Notice").

3. On June 14, 2023, Plaintiff filed her Private Attorneys General Act ("PAGA") Complaint in Orange County Superior Court, Case No: 30-2023-01331657-CU-OE-CXC, (hereinafter the "Action"); seeking civil penalties predicated on Defendants' alleged failure to provide meal and rest periods, and failure to pay minimum wage, overtime wages, sick leave, reimbursement for necessary business-related expenses, and timely wages during employment and upon termination, and, as a result, derivative waiting time penalties and pay stub penalties.

4. On August 11, 2023, Defendants filed an Answer denying all allegations in the Action and all claims of any wrongdoing whatsoever by Defendants or any of their parents, subsidiaries, affiliates, divisions, agents, servants, or employees for any claims.

5. The Parties attended mediation on December 8, 2023, with mediator Michael

Mandel, Esq. The Parties reached a settlement of the Action as a result of the mediation.

6. The Parties recognize the risk, expense, and delay in continuing the Action, and therefore believe the Settlement to be fair, reasonable, and adequate. Accordingly, the Parties desire to settle, compromise, and discharge all disputes and claims arising from or relating to the Action.

B. DEFINITIONS

1. "Action" means *Leticia Hernandez v. Yellow Basket of Menifee, Inc. et al.*, filed on June 14, 2023, in the Superior Court of California, County of Orange, Case No. 30-2023-01331657-CU-OE-CXC.

2. "Aggrieved Employees" means all current and former California non-exempt, hourly employees who worked at least one pay period for Defendants at any time during the PAGA Periods.

3. "Agreement" or "Settlement" means this Joint Stipulation of Settlement and Release.

4. "Plaintiff's Counsel" means Scott Ernest Wheeler and Justin A. Wheeler of Law Office of Scott Ernest Wheeler.

5. "Complaint" means the operative Representative Action Complaint for Violation of Labor Code Section 2698 et. seq. in this Action.

6. "Court" means the Orange County Superior Court of California.

7. "Defendants" mean Yellow Basket of Menifee, Inc., Yellow Basket of Santa Ana, Inc., Yellow Basket of Temecula, Inc., and Yellow Basket of Wildomar, Inc.

8. "Defense Counsel" or "Counsel for the Defendants" means: Mark J. Jacobs, Ryan D. Wheeler, and Arthur L. Ramirez of Fisher & Phillips LLP.

9. "Effective Date" means the date on which the Superior Court or any Party hereto serves notice of entry of the Superior Court's order and judgment approving the Settlement.

11. "Enhancement Payment" means the amount that the Court authorizes to be paid to Plaintiff, in addition to her Individual Settlement Payment, in recognition of her efforts and risks in assisting with the prosecution of the Action. Subject to the Court granting approval of

the Settlement, the Parties agree that Plaintiff shall be paid up to Five Thousand Dollars and Zero Cents ($5,000.00). The Enhancement Payment will be paid from the Gross Settlement Amount. It is understood by Plaintiff that the Court has final discretion in any Enhancement Payment.

12. "Gross Settlement Amount" means the gross amount of One Hundred Eighty-Seven Thousand Five Hundred Dollars and Zero Cents ($187,500.00) to be paid by Defendants as provided by this Agreement to fully and finally settle, resolve, and conclude this Action as to Released Parties, as providing under this Agreement, without any admission of fault or liability. The Gross Settlement Amount includes all Individual Settlement Payments to Aggrieved Employees, payment to the LWDA, Settlement Administration Costs, Attorneys' Fees and Costs, and the Enhancement Payment to Plaintiff.

13. "Individual Settlement Payment" means the amount payable from the Net PAGA Payment to each Aggrieved Employee.

14. "PAGA Penalties Fund" means the balance of the Gross Settlement Amount remaining after deduction of the approved Enhancement Payment to Plaintiff, Attorneys' Fees and Costs, and Settlement Administration Costs.

15. "PAGA Period" means the period of March 17, 2022, through the date of approval of the PAGA settlement or January 31, 2024, whichever is later.

16. "Parties" means Plaintiff and Defendants, together.

17. "Plaintiff" means Leticia Hernandez.

18. "Released Claims" means all claims, rights, demands, liabilities and causes of action that were, or reasonably could have been, based on the facts and allegations contained in the operative complaint and the PAGA Notice in the Action including for (1) failure to provide meal periods; (2) failure to provide rest periods, (3) failure to pay overtime wages, (4) failure to pay minimum wages, (5) failure to timely pay wages during employment; (6) failure to pay all wages due to discharged and quitting employees, (7) failure to furnish accurate itemized wage statements, (8) failure to maintain required records, (9) failure to provide and maintain records relating to sick leave, (10) failure to provide and maintain records relating to supplemental COVID-19 sick leave; and (11) failure to reimburse for necessary expenditures incurred in the

discharge of duties. This release shall only include a release for PAGA claims under California Labor Code Sections 201-203, 204, 210, 226, 226.2 226.3, 226.7, 246, 248.1, 248.2, 248.3, 248.5, 248.6, 300, 510, 512, 558, 1174, 1174.5 1194, 1197, 1198 and 2802.

19. "Released Parties" means Defendants and any and all past and present parents, affiliated companies, subsidiaries, divisions, predecessors, successors, subsidiaries of Defendants, and each of their respective past, present, and future parents, affiliated companies including but not limited to Velo Corinthians Limited Partnership, subsidiaries, divisions, predecessors, successors, partners, joint venturers, shareholders, consultants, advisors, insurers, reinsurers and assigns and each of their past, present and future officers, investors, directors, executives, trustees, agents, employees, attorneys, representatives, benefit plans sponsored or administered by the Released Parties, and any other persons or entities acting on behalf of or in concert with any of the foregoing.

20. "Settlement Administration Costs" means the fees and expenses reasonably incurred by the Settlement Administrator as a result of the procedures and processes expressly required for completion of the settlement and by this Agreement, which are estimated at $3,250.00. Any portion of the Settlement Administration Costs not used or approved by the Court shall be added to the PAGA Penalties Fund.

21. "Settlement Administrator" means Phoenix Settlement Administrators.

C. PAYMENT OF CONSIDERATION

1. Settlement Consideration. Defendants shall pay the sum of the Gross Settlement Amount as specified in this Agreement, which shall be used to pay: (1) Individual Settlement Payments; (2) Attorneys' Fees and Costs; (3) Enhancement Payment; (4) Settlement Administration Costs; and (5) payment to the LWDA. The Parties agree that this is a non-reversionary Settlement and that no portion of the Gross Settlement Amount shall revert to Defendants. Payment shall be made to the Settlement Administrator for disbursement in accordance with the Court's order and judgment approving the PAGA Settlement.

2. Escalator Clause. The Gross Settlement Amount was calculated with, and is premised on, Defendants' representation that Aggrieved Employees worked approximately 3,592

pay periods in California during the PAGA Period ("Affected Pay Periods"). If the actual number of Affected Pay Periods is ten percent (10%) or more above the 3,592 as represented by Defendants (i.e., if there 3,952 or more Affected Pay Periods), Defendants will have the option to increase the Gross Settlement Amount in proportion to the increase in Affected Pay Periods, or alternatively will have the option to shorten the PAGA Period set forth herein in order to bring the total number of Affected Pay Periods within the 10% buffer. Defendants shall also be responsible for any settlement administration costs of this additional payment, which will not be taken out of the additional payment but will be separately be paid for.

3. Revision of Rest Break Policy. Defendants further agree to revise their written rest break policy to affirm that employees shall be relieved from all work-related duties and free from employer control during their rest periods, and that employees may leave the premises during their rest periods.

4. Funding of the Gross Settlement Amount. In exchange for the releases, obligations, and promises set forth in this Agreement (and subject to the terms and conditions contained in this Agreement), within fifteen (15) business days of the Effective Date, Defendants shall deposit the Gross Settlement Amount with the Settlement Administrator who shall place that sum into a Qualified Settlement Fund ("QSF"). The QSF shall be an interest-bearing account established by the Settlement Administrator at a federally-insured bank that is mutually acceptable to the Parties and the Settlement Administrator. The funds in the QSF shall be invested either in short-term U.S. Treasury securities with maturity dates of less than 90 days at the time of deposit, or in an SEC-registered money market fund investing exclusively in U.S. Treasury securities with average maturities of less than 90 days and rated AAA by Standard & Poor's. The Parties agree that the QSF is intended to be a "Qualified Settlement Fund" under Section 468B of the Internal Revenue Code and Treas. Reg. § 1.468B-1, 26 C.F.R. § 1.468B-1, et seq., and will be administered by the Settlement Administrator as such. With respect to the QSF, the Settlement Administrator shall: (1) open and administer the Settlement Account in such a manner as to qualify and maintain the qualification of the QSF as a "Qualified Settlement Fund" under Section 468B of the Internal Revenue Code and Treas. Reg. § 1.468B-1; (2) satisfy all federal, state, and

local income and other tax reporting, return, and filing requirements with respect to the QSF, and any interest or other income earned by the QSF, and (3) satisfy out of the QSF all (i) taxes (including any estimated taxes, interest, or penalties) with respect to the interest or other interest earned by the QSF, and (ii) fees, expenses and costs incurred in connection with the opening and administration of the QSF and the performance of its duties and functions as described in this Agreement. The aforementioned taxes, fees, costs, and expenses shall be treated as, and shall be, included in the costs of administering the QSF and as Claims Administration Expenses. The Parties and the Settlement Administrator shall treat the QSF as coming into existence as a Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1(j)(2)(i), and such election statement shall be attached to the appropriate returns as required by 26 C.F.R. § 1.468B-1(j)(e)(ii). The Parties agree to cooperate with the Settlement Administrator and one another to the extent reasonably necessary to carry out the provisions of this Section.

5. Allocation of the PAGA Penalties Fund. The PAGA Penalties Fund shall be used to satisfy Individual Settlement Payments to Aggrieved Employees and payment to the LWDA in accordance with the terms of this Agreement. The PAGA Penalties Fund is the maximum amount that will be available for distribution to the LWDA and Aggrieved Employees in full satisfaction of all Released Claims. Pursuant to PAGA, seventy-five percent (75%) of the PAGA Penalties Fund will be paid to the LWDA, and the remaining twenty-five percent (25%), will be paid to all Aggrieved Employees ("Net PAGA Payment").

6. Calculation of Individual Settlement Payment. The Settlement Administrator shall calculate the Individual Settlement Payments by dividing the Net PAGA Payment by the total number of Affected Pay Periods. That value will then be multiplied by the number of pay periods worked by each respective Aggrieved Employee during the PAGA Period. Aggrieved Employees are entitled to 100% of the Net PAGA Payment.

7. Tax Treatment of Individual Settlement Payment. All Individual Settlement Payments shall be allocated as 100% as penalties. The amount of payments shall be reported on an IRS Form 1099 (to the extent required by law) by the Settlement Administrator and shall not be subject to local, state or federal tax withholdings.

8. No Credit Toward Benefit Plans. Payments to Aggrieved Employees as referenced herein will not be utilized to calculate any additional benefits under any benefit plans to which any Aggrieved Employee may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Aggrieved Employee may be entitled under any benefit plans.

9. Enhancement Payment. Defendants agree not to oppose or impede any application or motion by Plaintiff for an Enhancement Payment of up to Five Thousand Dollars ($5,000.00) to Plaintiff. The Enhancement Payment shall be paid from the Gross Settlement Amount, and shall be paid in addition to Plaintiff's Individual Settlement Payment as an Aggrieved Employee. It is understood by Plaintiff that the Court has final discretion in any Enhancement Payment. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiff reflecting the Enhancement Payment. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on his Enhancement Payment and shall hold harmless Defendants from any claim or liability for taxes, penalties, or interest arising as a result of the Enhancement Payment. Any portion of the Enhancement Payment not awarded to Plaintiff shall be added to the PAGA Penalties Fund and shall be distributed to Aggrieved Employees as provided in this Agreement.

9. Attorneys' Fees and Costs. In full satisfaction of all claims Plaintiff may have for attorneys' fees, litigation costs, and expenses arising out of the Action, Defendants agree that Plaintiff's Counsel may apply to the Court for an amount of reasonable attorneys' fees not to exceed Sixty-Three Thousand Dollars and Zero Cents ($63,000) and will request actual costs, up to a maximum of Twelve Thousand and Five Hundred Dollars and Zero Cents ($12,500) ("Attorneys' Fees and Costs"), pursuant to PAGA, which provides for the recovery of attorneys' fees and costs, which shall be paid from the Gross Settlement Amount. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiff's Counsel reflecting the awarded attorneys' fees, costs, and expenses. The Parties understand that the Court makes the final

determination on the award of Attorneys' Fees and Costs, and that any portion of these amounts not awarded as Attorneys' Fees and Costs shall be added to the PAGA Penalties Fund and distributed to Aggrieved Employees and LWDA as provided in this Agreement.

10. Settlement Administration Costs. The Settlement Administrator shall be paid for the reasonable costs of administration of the Settlement from the Gross Settlement Amount, currently estimated at $3,250. These costs, which shall be paid from the Gross Settlement Amount, shall include, *inter alia*, the required tax reporting on the Individual Settlement Payments, the issuance of Form 1099 IRS forms, establishing a Qualified Settlement Fund, administering and distributing the Gross Settlement Amount, and providing necessary reports and declarations. Any portion of the Settlement Administration Costs not allowed shall be added to the PAGA Penalties Fund and shall be distributed to Aggrieved Employees and the LWDA as provided in this Agreement.

D. ADMINISTRATION OF SETTLEMENT

1. Approval of PAGA Settlement. Plaintiff's Counsel shall request the entry of an order granting approval of the Settlement, which shall include findings and orders: (i) approving the Settlement, (ii) adjudging the terms to be fair, reasonable, and adequate and binding on the State of California, (iii) reciting the release terms, (iv) directing that the Settlement's terms and provisions be carried out; (v) entering final judgment in accordance with this Agreement and without further fees or costs to any party except as expressly set forth in this Agreement; and (vi) retaining jurisdiction to oversee administration and enforcement of the terms of this Agreement and the Court's orders. Plaintiff's motion shall be unopposed by Defendants, unless Plaintiff's approval motion seeks relief inconsistent with or not specified by this Agreement. In such event, Defendants reserve the right to address any assertions that are not contained in this Agreement.

2. Settlement Administration. The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in the administration of the Settlement. The Settlement Administrator shall provide the following services:

a. Establish and maintain a Qualified Settlement Fund account;

b. Calculate the Individual Settlement Payment to be paid to each Aggrieved Employee in accordance with the terms and provisions of this Agreement;

c. Print and issue Individual Settlement Payment checks;

d. Verify the last known address for each Aggrieved Employee through a generally utilized, national address update database prior to mailing the Individual Settlement Payment check;

e. Disburse any awards of costs and attorneys' fees;

f. Prepare and issue 1099 Forms; and

g. Perform such other tasks necessary to effectuate the terms of this Agreement or as the Parties mutually agree or the Court orders the Parties to perform.

3. <u>Delivery of the Aggrieved Employee List and Data</u>. Within ten (10) business days after the Effective Date, Defendants shall provide the Settlement Administrator with a Microsoft Office Excel spreadsheet and shall include each Aggrieved Employee's: full name; employee number; most recent mailing address; social security number; and the number of Affected Pay Periods worked by the employee during the PAGA Period.

4. <u>Timing of Distribution</u>. Within ten (10) calendar days after the payment of the entire Gross Settlement Amount, the Settlement Administrator will issue payments to: (a) Aggrieved Employees; (b) the Labor and Workforce Development Agency; (c) Plaintiff; and (d) Plaintiff's Counsel. The Settlement Administrator will issue the appropriate tax forms for all payments issued under this Settlement.

5. <u>Mailing of Individual Settlement Payments to Aggrieved Employees</u>:

a. On the Payment Date, the Settlement Administrator will mail to each Aggrieved Employee, via first-class United States Mail, the following: (a) the PAGA Settlement Notice in English and Spanish, and (b) their Individual PAGA Payment (collectively, the "PAGA Packet").

b. Prior to mailing, the Settlement Administrator will update all addresses using the National Change of Address System (NCOA). In the event that a PAGA Packet is returned to the Settlement Administrator with a forwarding address, the Settlement Administrator will re-send the PAGA Packet to the forwarding address identified. If no forwarding address is provided, then the Settlement Administrator will promptly conduct a "standard search," sometimes called, "Skip Trace" or "Credit Header" searches, to locate a better address. If a better address is found, the Settlement Administrator will promptly re-send the PAGA Packet. If a better address is not found or the PAGA Packet is ultimately returned without a forwarding address, neither the Settlement Administrator, Defendants, or PAGA Counsel shall be required to take further action.

c. Aggrieved Employees shall have 180 calendar days after the date the PAGA Packet is mailed to them to cash their settlement payment checks. If any Aggrieved Employee's check is not cashed within that period, the settlement payment check will be voided and a stop-payment will be issued. Neither Defendants, Defendants' counsel, Plaintiffs, nor PAGA Counsel will have any liability for lost or stolen settlement payment checks, forged signatures on settlement payment checks, unauthorized negotiation of settlement payment checks or failure to timely cash a settlement payment check within the 180-day period.

d. Any unpaid cash residue or unclaimed Aggrieved Employee funds, plus any accrued interest that has not otherwise been distributed pursuant to order of the Court, shall be transmitted to the State of California Controller's Office Unclaimed Property Division in the name of the Aggrieved Employee who did not cash their check.

E. RELEASE OF CLAIMS

6. Release of Claims by Aggrieved Employees. Upon the payment of the Gross Settlement Amount by Defendants, Plaintiff and all Aggrieved Employees, hereby do and shall be deemed to have fully and finally released and discharged the Released Parties from all Released Claims that that arose during the PAGA Period, including any related claims for attorneys' fees, costs, or interest resulting therefrom. It is understood and agreed that this Agreement neither releases the Released Parties from liability, if any, to Aggrieved Employees for violations of any predicate statutes other than PAGA, nor effects a waiver of claims by Aggrieved Employees against the Released Parties for any individual wage and hour claims.

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

8. General Release and Waiver of Claims by Plaintiff. Plaintiff (on behalf of herself and her spouse, heirs, executors, administrators, trustees, and/or permitted assigns) also agrees to a general release of any and all claims against Releasees—which shall include without limitation any and all claims which in any way relate to her employment with Defendants or cessation thereof, under State or Federal law, in tort, common law, statute, contract, or equity, whether pled in the Complaint or not, including but not limited to any claims under the FLSA, Title VII, ADA, FEHA, ADEA, PAGA, California Labor Code, or any Industrial Welfare Commission Wage Order—now existing or arising in the future, based on any act, omission, event, occurrence, or nonoccurrence from the beginning of time to the date of execution hereof. Plaintiff further expressly waives and relinquishes, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides: "**A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party**."

9. No Additional Attorneys' Fees or Costs. The Parties agree to bear their own attorneys' fees and costs related to this Action except as specifically provided in this Agreement with respect to Attorneys' Fees and Cost.

F. MISCELLANEOUS

1. Tax Liability. Defendants, Defendants' counsel, the Settlement Administrator, and Plaintiff's Counsel make no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff and Aggrieved Employees are not relying on any statement, representation, or calculation by Defendants, Defendants' counsel, Plaintiff's Counsel, or by the Settlement Administrator in this regard. Plaintiff and Aggrieved Employees understand and agree that they will be solely responsible for the payment of any and all taxes and penalties assessed on their respective payments described herein and will defend, indemnify, and

hold Defendants, Defendants' counsel, Plaintiff's Counsel and the Settlement Administrator free and harmless from and against any claims resulting from treatment of such payments as non-taxable penalties/damages.

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

3. No Prior Assignments. The Parties and their counsel represent, covenant, and

warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged. None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Plaintiff's Counsel, or Defense Counsel without the express written consent of each Party. Plaintiff expressly warrants that Plaintiff has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

4. Nullification of Settlement Agreement. In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions.

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

6. Entire Agreement. This Settlement Agreement constitutes the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties.

7. Amendment or Modification. This Settlement Agreement may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all Parties.

8. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the

Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties may seek the assistance of the Court to resolve such disagreement.

9. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto.

10. California Law Governs. All terms of this Settlement Agreement and Exhibit A will be governed by and interpreted according to the laws of the State of California.

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

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

13. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable. If any provision of this Agreement is or becomes invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions contained herein shall not be affected.

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

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

remedy.

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

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

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

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

20. Denial of Liability. The Parties expressly recognize that the making of this Agreement does not in any way constitute an admission or concession of wrongdoing on the part of Defendants. Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of this Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any

federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Agreement may be used in any proceeding in the Court that has as its purpose the interpretation, implementation, or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith, including, without limitation, by Defendants should any party seek relief against any of the Released Parties on any Released Claims.

IN WITNESS WHEREOF, the undersigned Settling Parties and their duly authorized representatives accept and agree to the terms of this Agreement and hereby execute it voluntarily and with a full understanding of its consequences.

DATE: [Date] 2/2/2024

PLAINTIFF LETICIA HERNANDEZ

DocuSigned by:

By: ______________________
1ED05ABBDBEB4AF...
Plaintiff Leticia Hernandez

DATE: [Date]

DEFENDANTS YELLOW BASKET OF MENIFEE, INC., YELLOW BASKET OF SANTA ANA, INC., YELLOW BASKET OF TEMECULA, INC., and YELLOW BASKET OF WILDOMAR, INC.

By: ______________________
[PRINT NAME]

federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Agreement may be used in any proceeding in the Court that has as its purpose the interpretation, implementation, or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith, including, without limitation, by Defendants should any party seek relief against any of the Released Parties on any Released Claims.

IN WITNESS WHEREOF, the undersigned Settling Parties and their duly authorized representatives accept and agree to the terms of this Agreement and hereby execute it voluntarily and with a full understanding of its consequences.

DATE: [Date]

PLAINTIFF LETICIA HERNANDEZ

By: ______________________________

Plaintiff Leticia Hernandez

DATE: [Date]

2-20-24

DEFENDANTS YELLOW BASKET OF MENIFEE, INC., YELLOW BASKET OF SANTA ANA, INC., YELLOW BASKET OF TEMECULA, INC., and YELLOW BASKET OF WILDOMAR, INC.

By: [signature]

[PRINT NAME]

Anastasios Boussiaros

APPROVED AND ACKNOWLEDGED

DATE: February 21, 2024

FISHER & PHILLIPS LLP

By:

MARK J. JACOBS
RYAN D. WHEELER
ARTHUR L. RAMIREZ
Attorneys for Defendants
YELLOW BASKET OF MENIFEE, INC., YELLOW BASKET OF SANTA ANA, INC., YELLOW BASKET OF TEMECULA, INC., and YELLOW BASKET OF WILDOMAR, INC.

DATE: 2/5/24

LAW OFFICE OF SCOTT ERNEST WHEELER

By:

SCOTT ERNEST WHEELER
JUSTIN A. WHEELER
Attorneys for Plaintiff
LETICIA HERNANDEZ

EXHIBIT A

<u>EXHIBIT A</u>

<<DATE>>

<<FIRST NAME>> <<LAST NAME>>
<<ADDRESS>>

Re: *Leticia Hernandez v. Yellow Basket of Menifee, Inc., et al.*
Orange County Superior Court Case No. 30-2023-01331657-CU-OE-CXC

Dear <<FIRST NAME>> <<LAST NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit entitled *Leticia Hernandez v. Yellow Basket of Menifee, Inc., et al.*, Orange County Superior Court Case No. 30-2023-01331657-CU-OE-CXC (the "Action").

Leticia Hernandez ("Named Plaintiff") filed the Action against Yellow Basket of Menifee, Inc., Yellow Basket of Santa Ana, Inc., Yellow Basket of Temecula, Inc., and Yellow Basket of Wildomar, Inc. ("Yellow Basket") pursuant to the California Private Attorneys General Act of 2004, California Labor Code section 2698 *et seq.* ("PAGA"). Named Plaintiff brought the Action on behalf of the State of California and all current and former California non-exempt, hourly employees who worked at least one pay period for Yellow Basket in California at any time during the period of March 17, 2022 through January 31, 2024. You have been identified as one of the individuals on whose behalf the case was brought.

The Named Plaintiff in the Action claimed that Yellow Basket owed penalties under PAGA for alleged violations of the California Labor Code. More specifically, the Named Plaintiff alleged that Yellow Basket: (1) failed to provide meal periods; (2) failed to provide rest periods, (3) failed to pay overtime wages, (4) failed to pay minimum wages, (5) failed to timely pay wages during employment; (6) failed to pay all wages due to discharged and quitting employees, (7) failed to furnish accurate itemized wage statements, (8) failed to maintain required records, (9) failed to provide and maintain records relating to sick leave, (10) failed to provide and maintain records relating to supplemental COVID-19 sick leave; and (11) failed to reimburse for necessary expenditures incurred in the discharge of duties

The Court has not ruled on the merits of the lawsuit, but it has approved the settlement amount the parties agreed to. The settlement provides for a cash payment by Yellow Basket in the amount of $187,500 ("Gross Settlement Amount"). After deducting the attorneys' fees ($63,000.00), actual litigation costs [redacted] the service award to Plaintiff ($5,000) and the Settlement Administrator's costs [redacted] from the Gross Settlement Amount, the remaining balance represents the PAGA Penalties Fund.

The Court has approved a PAGA Penalties Fund in the amount of [redacted] By statute, seventy-five percent (75%) of the PAGA Penalties Fund ([redacted]) goes to the State of California's Labor and Workforce Development Agency. The remaining twenty-five percent (25%) [redacted] will be paid to the individuals who were allegedly affected by the Labor Code violations at issue in the case. Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties.

You are not a party to this lawsuit, but you and the government will be bound by the judgment in this matter as to civil penalties. As such, you will be giving up or "releasing" Yellow Basket from all PAGA claims predicated on the alleged violation of Labor Code sections 201-203, 204, 210, 226, 226.2 226.3, 226.7, 246, 248.1, 248.2, 248.3, 248.5, 248.6, 300, 510, 512, 558, 1174, 1174.5 1194, 1197, 1198 and 2802 that arose during the period of March 17, 2022, to January 31, 2024.

Yellow Basket maintains that it complied with the requirements of the California Labor Code and denies that it owes any penalties. In agreeing to this settlement, Yellow Basket does not admit that it is liable in any way to current or former employees.

Should you have any questions regarding the settlement, the contact information for the attorneys representing the Named Plaintiff is:

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ERNEST WHEELER
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Justin Wheeler
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Claremont, California 91711
Telephone: (909) 621-4988
sew@scottwheelerlawoffice.com
jaw@scottwheelerlawoffice.com

Sincerely,

[NAME AND TITLE OF SIGNATORY]