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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES**

11 JUAN CARLOS TORRES, individually, and on
behalf of other members of the general public
12 similarly situated, and as an aggrieved employee
pursuant to the Private Attorney General Act
13 (“PAGA”),

14 Plaintiff,

15 vs.

16 HARD ROCK INTERNATIONAL (USA),
INC., a Florida corporation; HARD ROCK
17 CAFE INTERNATIONAL (HOLLYWOOD),
INC., a Delaware corporation; HARD ROCK
18 SACRAMENTO FM, LLC, a Florida limited
liability company; and DOES 1 through 10,
19 inclusive,

20 Defendants.

Case No. 23STCV11468

Assigned to the Hon. Carolyn B. Kuhl

**NOTICE OF MOTION AND MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: September 17, 2024

Time: 10:30 a.m.

Place: Department 12

Complaint Filed: May 22, 2023

Trial Date: None Set

1 **TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on September 17, 2024 at 10:30 a.m., or as soon thereafter as
3 counsel may be heard, in Department 12 of the above-captioned court, located at 312 North Spring
4 Street, Los Angeles, California 90012, the Honorable Carolyn B. Kuhl presiding, Plaintiff Juan Carlos
5 Torres will, and hereby does, move this Court to:

- 6 1. Preliminarily approve the settlement set forth in the Joint Stipulation of Class Action and
7 PAGA Settlement and Release, attached as Exhibit 1 to the Declaration of Raul Perez;
- 8 2. Conditionally certify the proposed Settlement Class;
- 9 3. Appoint Juan Carlos Torres as the representative for the Settlement Class;
- 10 4. Appoint Capstone Law APC as Class Counsel;
- 11 5. Approve distribution of the proposed Notice of Class Action Settlement to the
12 Settlement Class;
- 13 6. Appoint CPT Group, Inc. as the Settlement Administrator; and
- 14 7. Set a hearing date for final approval of the settlement.

15 This Motion is based upon: (1) this Notice of Motion and Motion; (2) the Memorandum of
16 Points and Authorities in support of Motion for Preliminary Approval of Class Action and PAGA
17 Settlement; (3) the Declaration of Raul Perez; (4) the Declaration of Juan Carlos Torres; (5) the Joint
18 Stipulation of Class Action and PAGA Settlement and Release; (6) the Notice of Class Action
19 Settlement; (7) the [Proposed] Order Granting Preliminary Approval of Class Action Settlement; (8) the
20 records, pleadings, and papers filed in this action; and (9) upon such other documentary and oral
21 evidence or argument as may be presented to the Court at or prior to the hearing of this Motion.

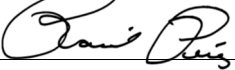
22 As this Motion is unopposed, the Parties respectfully request relief from the page limit
23 requirement set by California Rules of Court, Rule 3.1113(d).

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Dated: July 16, 2024

Respectfully submitted,

CAPSTONE LAW APC

By: 

Raul Perez
Orlando Villalba
Helga Hakimi
Joey Parsons

Attorney for Plaintiff Juan Carlos Torres

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Juan Carlos Torres (“Plaintiff”) seeks preliminary approval of the Joint Stipulation of Class Action and PAGA Settlement and Release,¹ which if approved, would provide considerable monetary relief for approximately 1,000 current and former employees of Defendant Hard Rock International (USA), Inc. (“Defendant”) (collectively with Plaintiff, the “Parties”). The principal terms of the Settlement provide for the following:

- (1) Conditional certification of a Settlement Class defined as: All persons who were employed by Defendant in the State of California in non-exempt positions at any time during the Class Period; i.e., May 22, 2019 through June 17, 2024 (“Class Members”).
- (2) A **non-reversionary** Gross Settlement Amount of \$1,300,000. The Gross Settlement Amount includes:
 - (a) A Net Settlement Fund of \$721,667 (the Gross Settlement Amount minus the requested Attorneys’ Fees and Costs, Settlement Administration Costs, the PAGA Settlement Amount, and the Class Representative Enhancement Payment), which will be allocated to all Class Members on a pro-rata basis according to the number of weeks each Class Member worked during the Class Period. **The entire Net Settlement Fund will be paid to all Class Members who do not opt out of the Settlement Class, and without the need to submit claims for payment.**
 - (b) Attorneys’ fees in the amount of one-third of the Gross Settlement Amount (or \$433,333), and litigation costs and expenses not to exceed \$20,000, to Capstone Law APC (“Plaintiff’s Counsel”).
 - (c) Settlement administration costs of approximately \$15,000, to be paid to the jointly selected Settlement Administrator, CPT Group, Inc.
 - (d) A \$100,000 PAGA settlement, of which 75% (i.e., \$75,000) will be paid to the

¹ Hereinafter “Settlement Agreement” or “Settlement.” Unless indicated otherwise, capitalized terms used herein have the same meaning as those defined by the Settlement Agreement.

Labor & Workforce Development Agency (“LWDA”), and the remaining 25% (i.e., \$25,000) (“PAGA Fund”), will be paid to PAGA Members, defined as: All persons who were employed by Defendant in the State of California in non-exempt positions at any time during the PAGA Period; i.e., May 22, 2022 through June 17, 2024. **The entire PAGA Fund will be paid to all PAGA Members, and without the need to submit claims for payment.**

- (e) A Class Representative Enhancement Payment of \$10,000 to Juan Carlos Torres for his service on behalf of the Settlement Class, the risks he took in bringing the action on behalf of the class, and for a general release of all claims arising out of his employment with Defendant.

An objective evaluation of the Settlement confirms that the relief negotiated on the Settlement Class’s behalf is fair, reasonable, and valuable. The Settlement was negotiated by the Parties at arm’s length with helpful guidance from Louis Marlin, Esq., an experienced and well-respected class action mediator, and the Settlement confers substantial benefits to Class Members. This relief—averaging approximately \$720 per Class Member from the Net Settlement Fund—is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage and hour cases. Moreover, by settling now rather than proceeding to trial, Class Members will not have to wait (possibly years) for relief, nor will they have to bear the risk of class certification being denied or of Defendant prevailing at trial, or of Plaintiff prevailing at trial but losing on appeal.

As discussed below, the proposed Settlement satisfies all criteria for preliminary settlement approval under California law and falls within the range of reasonableness. Accordingly, Plaintiff respectfully requests that this Court grant preliminary approval of the Settlement Agreement.

II. FACTS AND PROCEDURE

A. Brief Overview of the Litigation

Defendant operates a chain of rock and roll themed restaurants, including three in California. Defendant employed Plaintiff as an hourly paid, non-exempt “Food Server” at Defendant’s restaurant in San Francisco, California from approximately September 2021 to January 2023. (Declaration of Juan Carlos Torres ¶ 2.)

1 Plaintiff filed this wage and hour action against Defendant on May 22, 2023. (Declaration of
2 Raul Perez [“Perez Decl.”] ¶ 2.) The operative First Amended Complaint alleges that Defendant violated
3 the following sections of the California Labor Code² and Business and Professions Code: (1) Sections
4 226.7, 512(a), 516, and 1198 (failure to provide meal periods); (2) Sections 226.7, 516, and 1198 (failure
5 to authorize and permit rest periods); (3) Sections 510 and 1198 (unpaid overtime); (4) Sections 1182.12,
6 1194, 1197, 1197.1, and 1198 (unpaid minimum wages); (5) Sections 226(a), 1174(d), and 1198 (non-
7 compliant wage statements and failure to maintain payroll records); (6) Sections 201 and 202 (wages not
8 timely paid upon termination); (7) Section 204 (failure to timely pay wages during employment); (8)
9 Section 2802 (unreimbursed business expenses); (9) Section 2698, *et seq.* (PAGA); (10) California
10 Business & Professions Code sections 17200, *et seq.* (unlawful business practices); and (11) California
11 Business & Professions Code sections 17200, *et seq.* (unfair business practices). (*Id.* at ¶ 3.)

12 Following the exchange of informal discovery, including the production of Defendant’s
13 California labor policies and procedures manuals, and Class Members’ time and wage records through
14 January 31, 2024, the Parties participated in a global mediation with Louis Marlin, Esq., on March 20,
15 2024. (*Id.* at ¶ 4.) Mr. Marlin helped to manage the Parties’ expectations and provided a useful, neutral
16 analysis of the issues and risks to both sides. (*Id.*) With Mr. Marlin’s guidance, the Parties were
17 eventually able to negotiate a complete settlement of Plaintiff’s claims. (*Id.*) The terms of the settlement
18 are now set forth in complete and final form in the Joint Stipulation of Class Action and PAGA
19 Settlement and Release. (*Id.*, Ex. 1.) At all times, the Parties’ negotiations were adversarial and non-
20 collusive. (*Id.*) The Settlement therefore constitutes a fair, adequate, and reasonable compromise of the
21 claims at issue. (*Id.*)

22 **B. The Proposed Settlement Fully Resolves Plaintiff’s Claims**

23 **1. Composition of the Settlement Class**

24 The proposed Settlement Class consists of all persons who were employed by Defendant in the
25 State of California in non-exempt positions at any time during the Class Period. (Settlement Agreement ¶
26 5.)

27
28 ² Unless indicated otherwise, further statutory references are to the California Labor Code.

2. Settlement Consideration

Plaintiff and Defendant have agreed to settle the underlying class claims in exchange for the Gross Settlement Amount of \$1,300,000. The Gross Settlement Amount includes: (1) automatic payments to all Participating Class Members—meaning, all Class Members except those who submit timely and valid Requests for Exclusion—from the Net Settlement Fund; (2) \$433,333 in attorneys’ fees (i.e., one-third of the common fund) and up to \$20,000 in litigation costs to Plaintiff’s Counsel; (3) Settlement Administration Costs of approximately \$15,000; (4) a \$75,000 payment to the LWDA and a \$25,000 payment to PAGA Members; and (5) a Class Representative Enhancement Payment of \$10,000 for Plaintiff’s service on behalf of the Settlement Class, the risks he took in bringing his representative claims, and for a general release of all claims arising out of his employment with Defendant. (Settlement Agreement ¶¶ 32-36.)

Subject to the Court approving Attorneys’ Fees and Costs, Settlement Administration Costs, the payment to the LWDA, and the Class Representative Enhancement Payment, the Net Settlement Fund will be distributed to Participating Class Members in full. (Settlement Agreement ¶ 38.) Additionally, the entire PAGA Fund will be distributed to PAGA Members in full. (*Id.* at ¶ 39.)

3. Formulae for Calculating Payments from the Net Settlement Fund and PAGA Fund

Payments to Participating Class Members will be made from the Net Settlement Fund. (Settlement Agreement ¶ 40(a).) The individual allocations will be calculated on a pro-rata basis using the number of weeks worked by each Class Member during the Class Period. (*Id.*) This is a fair and equitable means of apportioning the Net Settlement Fund to Class Members. Class Members who worked for a longer duration during the Class Period will receive proportionally larger payments than those employees who worked for shorter durations. Given that there are approximately 1,000 Class Members, the average net recovery will be approximately \$720. This average net recovery is significantly greater than many other wage and hour class action settlements approved by California state and federal courts.³

³ See, e.g., *Sandoval v. Nissho of Cal., Inc.*, Case No. 37-2009-00091861 (San Diego County

1 Payments to PAGA Members will be made from the PAGA Fund. (Settlement Agreement ¶
2 40(b).) The individual allocations will be calculated on a pro-rata basis using the number of weeks
3 worked by each PAGA Member during the PAGA Period. (*Id.*) This is a fair and equitable means of
4 apportioning the PAGA Fund to PAGA Members. PAGA Members who worked for a longer duration
5 during the PAGA Period will receive proportionally larger payments than those employees who worked
6 for shorter durations. (*Id.*)

7 4. Releases by Participating Class Members and PAGA Members

8 Upon the Funding Date, Plaintiff and Participating Class Members will agree to release the
9 Released Class Claims during the Class Period:

10 Any and all claims, debts, liabilities, demands, obligations, guarantees, costs,
11 expenses, attorneys' fees, damages, action or causes of action, known and
12 unknown, contingent or accrued for, that were alleged or could have been alleged
13 based on the facts and matters alleged in the First Amended Complaint and notice
14 to the LWDA, including without limitation to, any and all claims for unreimbursed
15 business expenses, alleged unpaid wages (including but not limited to overtime
16 and minimum wages, and premiums), failure to provide meal periods and rest
17 breaks and alleged unpaid meal period and rest break premiums, itemized wage
statement penalties, sick pay, failure to maintain payroll records, waiting time
penalties, failure to timely pay wages during employment, or relief under Business
& Professions Code (including Section 17200 *et seq.*) based on the preceding
claims, and claims for restitution and other equitable relief, liquidated damages,
punitive damages, or penalties (but not including PAGA penalties) based on the
facts and matters alleged in the First Amended Complaint and notice to the
LWDA.

18 (Settlement Agreement ¶¶ 24, 52.)

19 Also upon the Funding Date, Plaintiff and PAGA Members will agree to release the Released
20 PAGA Claims during the PAGA Period:

21
22 Super. Ct. Dec. 7, 2010) (average net recovery of approximately \$145); *Fukuchi v. Pizza Hut*, Case No.
BC302589 (L.A. County Super. Ct. Sept. 29, 2006) (average net recovery of approximately \$120);
23 *Contreras v. United Food Group, LLC*, Case No. BC389253 (L.A. County Super. Ct. Sept. 10, 2009)
(average net recovery of approximately \$120); *Ressler v. Federated Department Stores, Inc.*, Case No.
24 BC335018 (L.A. County Super. Ct. Jan. 27, 2009) (average net recovery of approximately \$90); *Doty v.*
Costco Wholesale Corp., Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) (average net
25 recovery of approximately \$65); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D.
Cal. Dec. 17, 2008) (average net recovery of approximately \$60); *Lim v. Victoria's Secret Stores, Inc.*,
26 Case No. 04CC00213 (Orange County Super. Ct. Jan. 20, 2006) (average net recovery of approximately
\$35); *Gomez v. Amadeus Salon, Inc.*, Case No. BC392297 (L.A. Super. Ct. July 23, 2010) (average net
27 recovery of approximately \$20); *Jones v. Bath & Body Works, Inc.*, No. 2:13-cv-05206-FMO-AJW
(C.D. Cal. July 11, 2016) (average net recovery of approximately \$50); and *Palencia v. 99 Cents Only*
28 *Stores*, No. 34-2010-00079619 (Sacramento County Super. Ct. Oct. 11, 2012) (average net recovery of
approximately \$80).

1 All claims for civil penalties under PAGA that that were alleged or could have
2 been alleged based on the facts and matters alleged in the First Amended
Complaint and notice to the LWDA.

3 (Settlement Agreement ¶¶ 25, 53.)

4 **III. ARGUMENT**

5 **A. The Court Should Preliminarily Approve the Proposed Class Action Settlement**

6 **1. Courts Review Class Action Settlements to Ensure that the Terms Are** 7 **Fair, Adequate, and Reasonable**

8 California Rule of Court (“Rule”), Rule 3.769 requires litigants to obtain court approval of class
9 action settlements. Approval occurs in two steps: (1) an early “preliminary” review by the trial court; and
10 (2) a subsequent “final” review after notice of the settlement has been distributed to class members for
11 their comments and objections. Cal. R. Ct. 3.769(c)-(g); *Cellphone Termination Fee Cases*, 180 Cal.
12 App. 4th 1110, 1118 (2010) (the court first “preliminarily approves the settlement” and later “conducts a
13 final approval hearing to inquire into the fairness of the proposed settlement”). The motion for
14 preliminary approval must be accompanied by (1) the settlement agreement, (2) proposed notice to the
15 class, and (3) the proposed order. *Id.* at 3.769(c). The motion must also identify any agreement
16 concerning the payment of attorneys’ fees. *Id.* at 3.769(b).

17 If the trial court grants preliminary approval of a settlement, Rule 3.769(f) requires the court to
18 (1) schedule a final approval hearing and (2) approve the method by which the parties are to provide
19 notice to the class of the hearing and “an explanation of the proposed settlement.” The court must also
20 approve a procedure for class members to file objections to the settlement. *Id.* at 3.769(f). At the final
21 approval hearing, the court must conduct an inquiry into the fairness of the proposed settlement. *Id.* at
22 3.769(g).

23 Although Rule 3.769 does not provide detail as to the scope of review of the proposed
24 settlement, preliminary approval is warranted if the settlement falls within a “reasonable range.” *See*
25 *North County Contractor’s Assn., Inc. v. Touchstone Ins. Services*, 27 Cal. App. 4th 1085, 1089-90
26 (1994); Conte & Newberg, *Newberg on Class Actions*, §§ 11.26 (4th ed. 2002) (“Newberg”).

27 Reasonableness and fairness are presumed where, as here: (1) the settlement is reached through
28 “arms-length bargaining;” (2) investigation and discovery are “sufficient to allow counsel and the court

to act intelligently;” (3) counsel is “experienced in similar litigation;” and (4) the percentage of objectors “is small” (collectively, “*Dunk Factors*”). *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1802 (1996).⁴

2. The Investigation and Discovery Are “Sufficient To Allow Counsel and The Court To Act Intelligently”

As set forth in greater detail in Plaintiff’s Counsel’s declaration in support of this motion, based on their analysis of documents and class data produced by Defendant—including Defendant’s labor policies and procedures manuals, and Class Members’ time and pay records through January 31, 2024—Plaintiff’s Counsel were able to realistically assess the value of Plaintiff’s claims and intelligently engage defense counsel in settlement discussions that culminated in the proposed settlement now before the Court. (Perez Decl. ¶¶ 5-9.)

By engaging in a thorough investigation and evaluation of Plaintiff’s claims, Plaintiff’s Counsel can opine that the Settlement, for the consideration and on the terms set forth in the Settlement Agreement, is fair, reasonable, and adequate, and is in the best interests of Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, various defenses asserted by Defendant. (*Id.* at ¶ 10.)

3. The Settlement Was Reached Through Arm’s-Length Bargaining in which All Parties Were Represented by Experienced Counsel

“[W]hat transpires in settlement negotiations is highly relevant to the assessment of a proposed settlement’s fairness.” *State of Cal. v. Levi Strauss & Co.*, 41 Cal. 3d 460, 482 (1986). Courts presume the absence of fraud or collusion in the negotiation of a settlement, unless evidence to the contrary is

⁴ The presumption of fairness is consistent with California’s public policy goal of favoring settlements. *Stambaugh v. Super. Ct.*, 62 Cal. App. 3d 231, 236 (1976) (“the law wisely favors settlements”); *Cellphone Termination Fee Cases*, 180 Cal. App. 4th at 1118 (“public policy generally favors the compromise of complex class action litigation”); *7-Eleven Owners for Fair Franchising v. Southland Corp.*, 85 Cal. App. 4th 1135, 1151 (2000) (“voluntary conciliation and settlement are the preferred means of dispute resolution . . . [t]his is especially true in complex class action litigation”); *Skulnick v. Roberts Express, Inc.*, 2 Cal. App. 4th 884, 891 (1992) (“public policy strongly discourages litigation and encourages settlement [because settlements] can produce peace and goodwill in the community while reducing the expense and persistency of litigation”). Additionally, in reviewing the fairness of a class action settlement, due regard should be given to what is “otherwise a private consensual agreement between the parties.” *Cellphone Termination Fee Cases*, 180 Cal. App. 4th at 1117. The inquiry “must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” *Id.* at 1118.

1 offered; thus, there is a presumption that settlement negotiations are conducted in good faith. Newberg, §
2 11.51.

3 As explained above, the Parties participated in a mediation with Mr. Marlin, an experienced
4 mediator of wage and hour class actions. Mr. Marlin helped manage the Parties' expectations and
5 provided a useful, neutral analysis of the issues and risks to both sides.⁵ (Perez Decl. ¶ 4.) The Parties
6 were represented by experienced class action counsel throughout the negotiations resulting in this
7 Settlement. Plaintiff is represented by Capstone Law APC. Plaintiff's Counsel employ seasoned class
8 action attorneys who regularly litigate wage and hour claims through certification and on the merits, and
9 have considerable experience settling wage and hour class actions. (*Id.* at ¶¶ 18-26, Ex. 2.) Defendant is
10 represented by Fox Rothschild LLP, a respected defense firm.

11 **B. The Consideration Provided for the Class Claims Is Fair and Reasonable in Light**
12 **of the Amount in Controversy Discounted by the Risks of Continued Litigation**

13 In seeking approval, a settling party must provide sufficient information to "enable the court to
14 make an independent assessment of the adequacy of the settlement terms." *Kullar v. Foot Locker Retail,*
15 *Inc.*, 168 Cal. App. 4th 116, 131-32 (2008). However, "[i]t is well-settled law that a cash settlement
16 amounting to only a fraction of the potential recovery will not per se render the settlement inadequate or
17 unfair." *See Officers for Justice v. Civil Serv. Comm'n of City & Cty. of San Francisco*, 688 F.2d 615,
18 628 (9th Cir. 1982). "The proposed settlement is not to be judged against a hypothetical or speculative
19 measure of what might have been achieved by the negotiators." *Id.* at 625. "Estimates of a fair settlement
20 figure are tempered by factors such as the risk of losing at trial, the expense of litigating the case, and the
21 expected delay in recovery (often measured in years)." *In re Toys R Us-Delaware, Inc.-- Fair &*
22 *Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014). In other words,

23
24 ⁵ *See In re Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 948 (9th Cir. 2011) (the presence
25 of a neutral mediator is a factor weighing in favor of finding of no collusion); *In re Apple Computer, Inc.*
26 *Derivative Litig.*, No. C 06-4128 JF (HRL), 2008 WL 4820784, at *3 (N.D. Cal. Nov. 5, 2008)
27 (mediator's participation weighs considerably against any inference of a collusive settlement); *D'Amato*
28 *v. Deutsche Bank*, 236 F.3d 78, 85 (2d Cir. 2001) (a "mediator's involvement in pre-certification
settlement negotiations helps to ensure that the proceedings were free of collusion and undue pressure.");
Villegas v. J.P. Morgan Chase & Co., No. 09-00261, 2012 WL 5878390, at *6 (N.D. Cal. Nov. 21,
2012) (participation in mediation "tends to support the conclusion that the settlement process was not
collusive"); *Ogbuehi v. Comcast of California/Colorado/Fla./Oregon, Inc.*, 303 F.R.D. 337, 350 (E.D.
Cal. 2014) (accord). At all times, the Parties' negotiations were adversarial and non-collusive.

in valuing the claims within a realistic *range* of outcomes, the settling plaintiff should discount the value of the settled claims for risks such as changes in the law, the probability of success, and other factors.⁶

Settling parties are not, however, required to partake in a hypothetical accounting exercise: “**Kullar does not ... require any such explicit statement of [maximum] value**; it requires a record which allows ‘an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation.’”⁷ *Munoz v. BCI Coca-Cola Bottling Co.*, 186 Cal. App. 4th 399, 409-10 (2010) (quoting *Kullar*, 168 Cal. App. 4th at 120 (emphasis added)). Overall, “the most important factor” in determining “whether a settlement is fair and reasonable” is the “strength of the case for plaintiffs on the merits, balanced against the amount offered in the settlement.” *Id.* at 409 n.6 (quoting *Kullar*, 168 Cal. App. 4th at 130). As explained in detail below, the Gross Settlement Amount is within the range of reasonableness in light of the nature and magnitude of the claims being settled and the various potential impediments to recovery.

Defendant’s Exposure for the Class Claims	
Off-the-Clock Claim ⁷	\$196,930.50
Meal Period Claim ⁸	\$1,575,444.00
Overtime Claim ⁹	\$295,395.75
Rest Period Claim ¹⁰	\$1,575,444.00

⁶ Federal district courts also recognize that there is an inherent “range of reasonableness” in determining whether to approve a settlement “which recognizes the uncertainties of law and fact in any particular case and the concomitant risks and costs necessarily inherent in taking any litigation to completion.” *In re World Trade Ctr. Lower Manhattan Disaster Site Litig.*, 66 F. Supp. 3d 477, 482 (S.D.N.Y. 2015); *see also Nat’l Rural Telecomm. Coop. v. Directv, Inc.*, 221 F.R.D. 523, 527 (C.D. Cal. 2004) (“well-settled law that a proposed settlement may be acceptable even though it amounts to only a fraction of the potential recovery”); *In re Global Crossing Sec. and ERISA Litig.*, 225 F.R.D. 436, 461 (S.D.N.Y. 2004) (“settlement amount’s ratio to the maximum potential recovery need not be the sole, or even dominant, consideration when assessing settlement’s fairness”); *In re IKON Office Solutions, Inc. Sec. Litig.*, 194 F.R.D. 166, 184 (E.D. Pa. 2000) (“the fact that a proposed settlement constitutes a relatively small percentage of the most optimistic estimate does not, in itself, weigh against the settlement; rather the percentage should be considered in light of strength of the claims”); *Officers for Just. v. Civ. Serv. Comm’n of City & Cty. of San Francisco*, 688 F.2d 615, 628 (9th Cir. 1982) (it is “the complete package, taken as a whole rather than the individual component parts, that must be examined for overall fairness”).

⁷ 40,396 weeks worked in aggregate during the Class Period × \$19.50 average hourly wage × at least 15 minutes of off-the-clock work per week.

⁸ 40,396 weeks worked in aggregate during the Class Period × \$19.50 average hourly wage × at least 2 meal period violations per week.

⁹ 40,396 weeks worked in aggregate during the Class Period × \$29.25 average overtime rate × at least 15 minutes of off-the-clock work per week at the overtime rate of pay.

¹⁰ 40,396 weeks worked in aggregate during the Class Period × \$19.50 average hourly wage × at least 2 rest period violations per week.

Defendant's Exposure for the Class Claims	
Business Expense Reimbursement Claim ¹¹	\$605,940.00
Wage Statement Claim ¹²	\$825,000.00
Final Pay Claim ¹³	\$1,872,000.00
Total	\$6,946,154.25

This estimate assumes that each and every one of Plaintiff's claims would have been certified for class-wide resolution, that Plaintiff's would have prevailed at trial, and that the jury's verdict would have been affirmed on appeal. Understandably, for purposes of evaluating the settlement's reasonableness, this estimate must be "tempered by factors such as the risk of losing at trial, the expense of litigating the case, and the expected delay in recovery (often measured in years)." *In re Toys R Us-Delaware, Inc.-- Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 453 (C.D. Cal. 2014).

Ultimately, Plaintiff's Counsel determined an appropriate range of recovery for settlement purposes by offsetting Defendant's maximum theoretical liability by: (i) the strength of the defenses to the merits of Plaintiff's claims; (ii) the risk of class certification being denied; (iii) the risk of losing on any of a number of dispositive motions that could have been brought between certification and trial (e.g., motions to decertify the class, motions for summary judgment, and/or motions in limine) that might have eliminated all or some of Plaintiff's claims, or barred evidence/testimony in support of the claims; (iv) the risk of losing at trial; (v) the chances of a favorable verdict being reversed on appeal; and (vi) the difficulties attendant to collecting on a judgment (collectively, the "Discount Factors").

After taking into account the Discount Factors, Plaintiff's Counsel determined that it would be reasonable to settle for a fraction of Defendant's maximum potential exposure for the class claims (PAGA discussed in the following section), or approximately 20%. Such a discount is inherently reasonable given that Plaintiff would have had to overcome **multiple, dependent** contingencies to prevail on his claims. If anything, the projected odds for each of the above contingencies is generous to the class's position, since plaintiffs in employment cases rarely prevail on **all of the claims** at any of

¹¹ 40,396 weeks worked in aggregate during the Class Period × \$15 average weekly expenses.

¹² 16,500 wage statements issued during the one-year statute of limitations period × \$50 penalty per violation.

¹³ This estimate assumes = approximately 400 employee terminations during the three-year statute of limitations period × 30 days of waiting-time penalties × 8-hour average shift length × \$19.50 average hourly wage.

these dispositive stages. Courts routinely approve settlements that provide a similar discounted range of the maximum potential recovery.¹⁴

C. The Consideration Provided for the PAGA Claim Is Fair and Reasonable In Light of the Amount in Controversy Discounted by the Risks of Continued Litigation

Pursuant to the Settlement Agreement, \$100,000 from the Gross Settlement Amount shall be allocated to the resolution of the PAGA claim, of which 75% (i.e., \$75,000) will be paid directly to the LWDA, and the remaining 25% (i.e., \$25,000) will be paid to PAGA Members. (Settlement Agreement ¶ 36.)

This result was reached after good-faith negotiation between the parties. The amount was valued as follows: Based on information and evidence produced by Defendant during discovery, Plaintiff's Counsel determined that aggrieved employees worked a combined total of approximately 16,500 pay periods during the PAGA statute of limitations period ("PAGA Period"). Statutory penalties would be calculated according to Labor Code 2699(f)(2): If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

However, a number of courts have found that the "subsequent" penalty under PAGA applies only after a court or the Labor Commissioner determines that the employer has violated the Labor Code. *See Gunther v. Alaska Airlines, Inc.*, 72 Cal. App. 5th 334, 356 (2021) ("the increased \$200 civil penalty for 'subsequent violation[s]' does not apply unless [Plaintiff] presents evidence that the Labor Commission or a court notified [Defendant] that it was in violation of the Labor Code."); *Bernstein v. Virgin Am., Inc.*, 990 F.3d 1157, 1173 (9th Cir. 2021) (reversing judgment as to "heightened civil

¹⁴ See, e.g., *In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 256-58 (D. Del. 2002) (recognizing that a reasonable settlement amount can be 1.6% to 14% of the total estimated damages); *In re Armored Car Antitrust Litig.*, 472 F. Supp. 1357, 1373 (N.D. Ga. 1979) (settlements with a value of 1% to 8% of the estimated total damages were approved); *In re Four Seasons Secs. Laws Litig.*, 58 F.R.D. 19, 37 (W.D. Okla. 1972) (approving 8% of damages); *Balderas v. Massage Envy Franchising, LLP*, 2014 WL 3610945, at *5 (N.D. Cal. July 21, 2014) (finding that settlement which amounted to 8% of maximum recovery "[fell] within the range of possible initial approval based on the strength of plaintiff's case and the risk and expense of continued litigation."); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008) (approving settlement of 6% to 8% of estimated damages).

1 penalties” because the defendant was not given notice by the Labor Commissioner when the
2 “subsequent” violations occurred).¹⁵ Under this line of cases, Defendant’s exposure would be
3 approximately \$1,650,000 = 16,500 violative pay periods × \$100.

4 It should be noted that PAGA gives the Court wide latitude to reduce the amount of civil
5 penalties “based on the facts and circumstances of a particular case” when “to do otherwise would result
6 in an award that is unjust, arbitrary and oppressive, or confiscatory.” Cal. Lab. Code § 2699(h). In
7 reducing PAGA penalties, courts have considered issues including whether the employees suffered
8 actual injury from the violations, whether the defendant was aware of the violations, and the employer’s
9 willingness to fix the violation. *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 528 (2018)
10 (awarding PAGA penalties of only 0.2% of the maximum); *see also Cotter v. Lyft, Inc.*, 193 F. Supp. 3d
11 1030, 1037 (N.D. Cal. 2016); *Fleming v. Covidien Inc.*, No. ED CV 10-01487 RGK (OPX), 2011 WL
12 7563047, at *4 (C.D. Cal. Aug. 12, 2011).

13 For example, during the penalty phase of trial in *Carrington*, the plaintiff requested PAGA
14 penalties in the amount of approximately \$70 million. The trial court instead awarded only \$150,000—
15 **or 0.21% of the maximum**—and stated that this reduction was warranted because (a) the Court did not
16 believe it was appropriate to impose multiple penalties per pay period in which a violation occurred and
17 (b) imposing the maximum penalty would be “unjust, arbitrary, and oppressive” based on Starbucks’s
18 “good faith attempts” to comply with meal period obligations and because the court found the violations
19 were minimal. *Carrington*, 30 Cal. App. 5th at 517-18. The Court of Appeal affirmed the lower court’s
20 reduced award of a \$150,000 penalty under PAGA. *Id.* at 529. If a similar reduction had been applied
21
22

23 ¹⁵ *See also Vieyara-Flores v. Sika Corp.*, No. EDCV19606JVSKKX, 2019 WL 2436998, at *5
24 (C.D. Cal. June 10, 2019) (“employers are not subject to heightened penalties . . . until a court or
25 commissioner notifies the employer that it is in violation of the Labor Code . . . [Plaintiff] has not offered
26 evidence that the Labor Commission or a court has notified them of PAGA violations [thus] PAGA’s
27 heightened penalty of \$200 for subsequent violations will not be calculated to determine the amount in
28 controversy”); *Chen v. Morgan Stanley Smith Barney, LLC*, No. 8:14-CV-01077 ODW (FFMx), 2014
WL 4961182 (C.D. Cal., October 2, 2014) (“Under the Labor Code, if an employer does not have notice
that they are committing a violation, they are not subject to the heightened penalties.”); *Trang v. Turbine
Engine Components Technologies Corp.*, No. CV 12-07658 DDP (RZx), 2012 WL 6618854 (C.D. Cal.
Dec. 19, 2012) (“courts have held that employers are not subject to heightened penalties for subsequent
violations unless and until a court or commissioner notifies the employer that it is in violation of the
Labor Code”), citing *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157 (2008).

here, Plaintiff would have recovered only approximately \$3,465 ($\$1,650,000 \times 0.0021$ reduction).¹⁶

Plaintiff therefore determined an appropriate range of settlement for PAGA penalties as a percentage of the settlement range that was consistent with other hybrid class/PAGA settlements approved by California courts.¹⁷ Where PAGA penalties are negotiated in good faith and “there is no indication that [the] amount was the result of self-interest at the expense of other Class Members,” such amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.*, No. CV-08-0844 EDL, 2009 WL 928133, at *9 (N.D. Cal. Apr. 3, 2009); *see, e.g., Nordstrom Com. Cases*, 186 Cal. App. 4th 576, 579 (2010) (“[T]rial court did not abuse its discretion in approving a settlement which does not allocate any damages to the PAGA claims.”).

¹⁶ Likewise, in *Covidien*, the Court reduced the potential penalties by over 82%, awarding \$500,000 instead of maximum penalties of \$2.8 million. *Covidien*, 2011 WL 7563047 at *4; *see also Thurman v. Bayshore Transit Mgmt.*, 203 Cal. App. 4th 1112, 1135-36 (2012) (affirming 30% reduction under specified PAGA claim where the employer produced evidence that it took its obligations seriously); *Elder v. Schwan Food Co.*, No. B223911, 2011 WL 1797254, at *5-*7 (Cal. Ct. App. May 12, 2011) (reversing trial court decision denying any civil penalties where violations had been proven, remanding for the trial court to exercise discretion to reduce, but not wholly deny, civil penalties); *Li v. A Perfect Day Franchise, Inc.*, No. 5:10-CV-01189-LHK, 2012 WL 2236752, at *17 (N.D. Cal. June 15, 2012) (denying PAGA penalties for violation of California Labor Code section 226 as redundant with recovery on a class basis pursuant to California Labor Code section 226, directly); *Aguirre v. Genesis Logistics*, No. SACV 12-00687 JVS (ANx), 2013 WL 10936035 at *2-*3 (C.D. Cal. Dec. 30, 2013) (reducing penalty for past PAGA violations from \$1.8 million to \$500,000, after rejecting numerous other PAGA claims).

¹⁷ *Dearaujo v. Regis Corp.*, No. 2:14-cv-01408-KJM-AC, 2016 WL 3549473 at *3 (E.D. Cal. June 29, 2016) (preliminarily approving \$1.95 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA); *Garcia v. Gordon Trucking, Inc.*, No. 1:10-CV-0324 AWI SKO, 2012 WL 5364575 at *7 (E.D. Cal. Oct. 31, 2012) (approving \$3.7 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA); *Chu v. Wells Fargo Invst., LLC*, No. C 05-4526 MHP, 2011 WL 672645 at *1 (N.D. Cal. Feb. 16, 2011) (approving \$6.9 million settlement containing \$10,000 PAGA penalties with \$7,500 paid to LWDA); *Guerrero v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196 (Riverside County Super. Ct. July 16, 2013; Judge Matthew C. Perantoni) (gross settlement fund of \$1,100,000, of which \$3,000 (or 0.3%) was allocated to the settlement of PAGA penalties); *Parra v. Aero Port Services, Inc.*, No. BC483451 (L.A. County Super. Ct. April 20, 2015; Judge Jane Johnson) (gross settlement fund of approximately \$1,458,900, of which \$5,000 (or 0.3%) was allocated to the settlement of PAGA penalties); *Thompson v. Smart & Final, Inc.*, No. BC497198 (L.A. County Super. Ct. Nov. 18, 2014; Judge William F. Highberger) (gross settlement fund of \$3,095,000, of which approximately \$13,333 (or 0.4%) was allocated to the settlement of PAGA penalties); *Chavez v. Vallarta Food Enterprises, Inc.*, No. BC490630 (L.A. County Super. Ct. Nov. 10, 2014; Judge William F. Highberger) (gross settlement fund of \$1,545,900, of which \$10,000 (or 0.6%) was allocated to the settlement of PAGA penalties); *Coleman v. Estes Express Lines, Inc.*, No. BC429042 (L.A. County Super. Ct. Oct. 3, 2013; Judge Kenneth R. Freeman) (gross settlement fund of \$1,535,000, of which \$1,000 (or 0.1%) was allocated to the settlement of PAGA penalties).

1 **D. The Court Should Preliminarily Approve the Negotiated Class Representative**
2 **Enhancement Payment**

3 Enhancement payments “are fairly typical in class action cases.” *Cellphone Termination Fee*
4 *Cases*, 186 Cal. App. 4th 1380, 1393 (2010) (affirming incentive awards of \$10,000); *Rodriguez v. West*
5 *Publishing Corp.*, 563 F.3d 948, 958 (9th Cir. 2009), citing 4 Newberg on Class Actions (4th ed. 2002) §
6 11:38, and Eisenberg & Miller, *Incentive Awards to Class Action Plaintiffs: An Empirical Study*, 53
7 UCLA L. Rev. 1303 (2006). Enhancement payments “are intended to compensate class representatives
8 for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing
9 the action, and, sometimes, to recognize their willingness to act as a private attorney general.” *Rodriguez*,
10 563 F.3d at 958–59. “[T]he rationale for making enhancement or incentive awards to named plaintiffs is
11 that they should be compensated for the expense or risk they have incurred in conferring a benefit on
12 other members of the class.” *Clark v. American Residential Services LLC*, 175 Cal. App. 4th 785, 806
13 (2009).

14 Approximately 1,000 current and former employees will share a \$1,300,000 settlement fund due
15 entirely to the effort and commitment of Juan Carlos Torres. Subject to Court approval, therefore, the
16 Settlement provides for a Class Representative Enhancement Payment of \$10,000. The Class
17 Representative Enhancement Payment is fair and reasonable compensation for Plaintiff’s effort in
18 pursuing the action, serving as a private attorney general under PAGA, assisting counsel with the
19 litigation and settlement, regularly conferring with counsel on the status of his case and the strategies for
20 prosecuting the claims, and reviewing the proposed settlement to ensure that its terms are fair and
21 provide adequate relief for the Settlement Class. Plaintiff will file a formal motion for the negotiated
22 Class Representative Enhancement Payment once preliminary approval of the Settlement is granted.
23 Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the
24 negotiated Class Representative Enhancement Payment.

25 **E. The Court Should Preliminarily Approve the Negotiated Attorneys’ Fees and**
26 **Costs**

27 The purpose of an attorneys’ fee award in class action litigation is to reward counsel who took
28 the risk of non-payment and invested in a case that achieved a substantial positive result for the class.

“Fee awards in class actions average around one-third of the recovery regardless of whether the percentage method or the lodestar method is used.” *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal. App. 5th 521, 545 (2021) (quoting *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, fn. 11 (2008)) (internal quotations omitted). Consistent with that observation, California state and federal courts routinely award attorneys’ fees equaling one-third of the common fund.¹⁸ Notably, the California Supreme Court in *Laffitte v. Robert Half Internat. Inc.* affirmed a fee award representing one-third of the fund. *Laffitte v. Robert Half Internat. Inc.*, 1 Cal. 5th 480 (2016).

At final approval, Plaintiff will seek Court-approval of attorneys’ fees of \$433,333 (one-third of the Class Settlement Amount) and \$20,000 in litigation costs.

F. California Law Authorizes Provisional Certification for Settlement Purposes

1. The California Standard for Class Certification

Class actions are statutorily authorized “when the question is one of common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court.” Cal. Civ. Proc. Code § 382; *Lee v. Dynamex, Inc.*, 166 Cal. App. 4th 1325, 1332 (2008). Class certification is appropriate when there is an “ascertainable class and a well-defined community of interest among class members.” *Sav-On Drug Stores, Inc. v. Superior Court*, 34 Cal. 4th 319, 326 (2004). Class treatment is appropriate even if class members at some point may be required to make an individual showing as to eligibility for recovery. *Bufile v. Dollar Financial Group, Inc.*, 162 Cal. App. 4th 1193, 1207 (2008); *Sav-On*, 34 Cal. 4th at 333.

Conditional certification of the proposed Settlement Class is particularly warranted here given the relatively relaxed standard for certification at the preliminary approval stage. *See Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794 (1996) (courts can apply a “lesser standard of scrutiny” for class certification

¹⁸ *See, e.g. Laffitte v. Robert Half Internat. Inc.*, 231 Cal. App. 4th 860, 871 (2016) (“33 1/3 percent of the common fund is consistent with, and in the range of, awards in other class action lawsuits”); *Chavez*, 162 Cal. App. 4th at 66 n.11 (“Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.”); Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, J. of Empirical Legal Studies, Vol. 1, Issue 1, 27-78, March 2004, at 35 (independent studies of class action litigation nationwide conclude that fees representing one-third of the total recovery is consistent with market rates).

1 in settlement cases).¹⁹ In *Dunk*, the California Court of Appeal specifically rejected the argument that the
2 standard for certifying a class for purposes of settlement is identical to the standard for certifying the
3 same class for purposes of litigation:

4 Geer argues the court must use the same standard under Federal Rules of Civil Procedure,
5 rule 23 (28 U.S.C.) to determine the propriety of both settlement and litigation class
6 certifications . . . That rule is contrary to the Ninth Circuit rule, stated in *Officers for Justice*
7 *v. Civil Service Com. supra*, 688 F.2d at p. 633, and the position of the leading
8 commentators (Newberg & Conte, *supra*, § 11.28 at p. 11–58), which allow a lesser
9 standard of scrutiny for settlement cases . . . We agree with the latter.

10 *Id.* at n19.

11 2. The Proposed Settlement Class Is Ascertainable and There Is a Well- 12 Defined Community of Interest Among Class Members

13 Whether a class is “ascertainable” within the meaning of Code of Civil Procedure section 382 is
14 “determined by examining (1) the class definition, (2) the size of the class, and (3) the means available
15 for identifying class members.” *Lee*, 166 Cal. App. 4th at 1334. Class members are ascertainable where
16 they may be readily identified without unreasonable expense or time by reference to official records. *Id.*

17 The community of interest requirement embodies three factors: (1) predominant common
18 questions of law or fact; (2) a class representative with claims or defenses typical of the class; and (3) a
19 class representative and counsel who can adequately represent the class. Cal. Civ. Proc. Code § 382.

20 In April of 2012, the California Supreme Court expounded on the element of predominance:

21 The “ultimate question” the element of predominance presents is whether “the
22 issues which may be jointly tried, when compared with those requiring separate
23 adjudication, are so numerous or substantial that the maintenance of a class action
24 would be advantageous to the judicial process and to the litigants.”

25 ¹⁹ See also Newberg on Class Actions § 13:18 (5th ed.) (courts “declin[e] to treat formal class
26 certification as a prerequisite for preliminary approval and undertak[e] a more cursory class certification
27 analysis at the preliminary approval stage.”); *Dearaujo v. Regis Corp.*, No. 2:14-CV-01408-KJM-AC,
28 2016 WL 3549473, at *6 (E.D. Cal. June 30, 2016) (“[D]espite the Supreme Court’s cautions in
Amchem . . . , a cursory approach appears the norm.”); *In re Amtrak Train Derailment in Philadelphia,*
Pennsylvania, No. 15-MD-2654, 2016 WL 1359725, at *4 (E.D. Pa. Apr. 6, 2016) (“[A] settlement class
can be preliminarily certified based on a less rigorous analysis than that necessary for final
certification.”); *In re Processed Egg Prod. Antitrust Litig.*, No. 08-MD-2002, 2014 WL 828083, at *2
(E.D. Pa. Feb. 28, 2014) (at the preliminary approval stage, “the Court must determine whether the
proposed class should be conditionally certified, and leave the final certification decision for the Fairness
Hearing.”).

1 *Brinker Rest. Corp. v. Super. Ct.*, 53 Cal. 4th 1004, 1021 (2012) (citations omitted).

2 The proposed Settlement Class consists of all persons who were employed by Defendant in the
3 State of California in non-exempt positions at any time during the Class Period. Because all Class
4 Members are either current or former employees of Defendant, the class is readily ascertainable from
5 Defendant's regular business records.

6 Here, common issues of fact and law predominate because the California statutes relating to
7 each of Plaintiff's claims, and Defendant's defenses thereto, apply with equal force and effect to all Class
8 Members. Factually, Plaintiff contends that Defendant's policies and practices apply class-wide and
9 Defendant's liability can be determined by facts common to all members of the class. The wage and hour
10 issues are both numerous and substantial, and a class action is the most advantageous method of dealing
11 with the claims of the Settlement Class Members.

12 Plaintiff's wage and hour claims are typical of the proposed Settlement Class because they arise
13 from the same factual bases and are based on the same legal theories applicable to the other Class
14 Members. Likewise, Plaintiff's interests are entirely coextensive with the interests of the Class. Plaintiff
15 maintains that he was injured by the same company-wide practices to which the proposed Settlement
16 Class was subject and seeks the same relief. Plaintiff has already demonstrated his ability to advocate for
17 the interests of the Class by initiating this litigation, undertaking representative discovery, and evaluating
18 the proposed settlement to assure that it is fair.

19 Additionally, Plaintiff is represented by competent counsel who have extensive experience in
20 litigating wage and hour class action cases. (Perez Decl. ¶¶ 18-26, Ex. 2.) Plaintiff's Counsel have
21 successfully briefed, argued, certified, and gained state and federal court settlement approval of the same
22 class-wide causes of action that are at issue in this case. (*Id.*) Plaintiff's Counsel's wage and hour class
23 action expertise establishes that they are well qualified to represent the interests of this Class.

24 A class action is superior to a multitude of individual lawsuits. Given the size and amount of
25 each individual Class Member's claim, Class Members likely have little incentive to litigate their claims
26 on an individual basis because the out-of-pocket expense and personal commitment necessary to litigate
27 each claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-
28 case adjudication.

1 **3. The Proposed Notice Properly Informs Class Members about the Case and**
2 **the Settlement**

3 Class members are entitled to the best practical notice under the circumstances. *Kass v. Young*,
4 67 Cal. App. 3d 100, 106 (1977). The purpose of the notice is to give class members sufficient
5 information to decide whether they should accept the benefits offered, opt out and pursue their own
6 remedies, or object to the settlement. *Trotsky v. Los Angeles Fed. Savings & Loan Assn.*, 48 Cal. App. 3d
7 143, 151-52 (1975). The notice must advise class members “that they may be excluded from the class if
8 they so request and that they will be bound by the judgment, whether favorable or not, if they do not
9 request exclusion.” *Kass*, 67 Cal. App. 3d at 106. In a case such as this involving a significant number of
10 class members, California authorities generally require service of the class notice by mail or similar
11 reliable means. *Chance v. Super. Ct.*, 58 Cal. 2d 275, 290 (1962); *Cartt v. Super. Ct.*, 50 Cal. App. 3d
12 960, 972 (1975).²⁰

13 The Parties have jointly drafted the Notice of Class Action Settlement (“Class Notice”) which
14 fairly and neutrally informs Class Members of their rights and remedies in this action. The proposed
15 Class Notice will be mailed to all Class Members by First Class mail and will include information
16 regarding the nature of the lawsuit, a summary of the substance of the Settlement’s terms, the class
17 definition, the procedure and time period within which to submit Requests for Exclusions or objections
18 to the Settlement, the date for the final approval hearing, the formula used to calculate settlement
19 payments, and the terms and scope of the Released Claims. (Settlement Agreement, Exhibit A.)

20 In the event Class Notices are returned as undeliverable, the Settlement Administrator will
21 attempt to locate a current address using, among other resources, a skip-trace search. (Settlement
22 Agreement ¶ 45.)

23 Accordingly, both the method of disseminating the Class Notice and content of the Class Notice
24 satisfy due process and the requirements of California law. *See* Cal. R. Ct. 3.776(e)-(f); *State of Cal. v.*

25
26

²⁰ Due process does not require that each Class Member actually receive a notice, but rather a
27 procedure reasonably certain to reach Class Members. Wright, A. Miller & M. Kane, *Federal Practice*
28 *and Procedure* § 1789, at 253 (2d ed. 1986). If appropriate notice is given, Class Members will be bound
by the judgment even if they never actually receive the notice. *Fontana v. Elrod*, 826 F.2d 729, 732 (7th
Cir. 1987).

1 *Levi Strauss*, 41 Cal. 3d 460, 485 (1986) (the class notice must “fairly apprise the class members of the
2 terms of the proposed compromise and of the options open to dissenting class members.”).

3 **IV. CONCLUSION**

4 The Parties have negotiated a fair and reasonable settlement of claims. Having appropriately
5 presented the materials and information necessary for preliminary approval, the Parties request that the
6 Court preliminarily approve the settlement.

7
8 Dated: July 16, 2024

Respectfully submitted,

9 **CAPSTONE LAW APC**

10 By: _____

Raul Perez
Orlando Villalba
Helga Hakimi
Joey Parsons

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13 Attorney for Plaintiff Juan Carlos Torres
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8 Attorneys for Plaintiff Juan Carlos Torres

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES**

11 JUAN CARLOS TORRES, individually, and on
behalf of other members of the general public
12 similarly situated, and as an aggrieved employee
pursuant to the Private Attorney General Act
13 (“PAGA”),

14 Plaintiff,

15 vs.

16 HARD ROCK INTERNATIONAL (USA),
INC., a Florida corporation; HARD ROCK
17 CAFE INTERNATIONAL (HOLLYWOOD),
INC., a Delaware corporation; HARD ROCK
18 SACRAMENTO FM, LLC, a Florida limited
liability company; and DOES 1 through 10,
19 inclusive,

20 Defendants.

Case No. 23STCV11468

Assigned to the Hon. Carolyn B. Kuhl

**DECLARATION OF RAUL PEREZ IN
SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: September 17, 2024

Time: 10:30 a.m.

Place: Department 12

Complaint Filed: May 22, 2023

Trial Date: None Set

1 **DECLARATION OF RAUL PEREZ**

2 I, Raul Perez, hereby declare as follows:

3 1. I am an attorney licensed to practice before all courts of the State of California. I am a
4 Partner at Capstone Law APC (“Capstone” or “Plaintiff’s Counsel”), counsel for Plaintiff Juan Carlos
5 Torres (“Plaintiff”) in the above-captioned action. Unless indicated otherwise, I have personal
6 knowledge of the following facts, and if called as a witness, I could and would testify competently to
7 them. I make this declaration in support of the Motion for Preliminary Approval of the Class Action and
8 PAGA Settlement.

9 **BRIEF OVERVIEW OF THE LITIGATION AND SETTLEMENT NEGOTIATIONS**

10 2. Plaintiff filed this wage and hour action against Defendant Hard Rock International
11 (USA), Inc. (“Defendant”) (collectively with Plaintiff, the “Parties”) on May 22, 2023.

12 3. The operative First Amended Complaint alleges that Defendant violated the following
13 sections of the California Labor Code¹ and Business and Professions Code: (1) Sections 226.7, 512(a),
14 516, and 1198 (failure to provide meal periods); (2) Sections 226.7, 516, and 1198 (failure to authorize
15 and permit rest periods); (3) Sections 510 and 1198 (unpaid overtime); (4) Sections 1182.12, 1194, 1197,
16 1197.1, and 1198 (unpaid minimum wages); (5) Sections 226(a), 1174(d), and 1198 (non-compliant
17 wage statements and failure to maintain payroll records); (6) Sections 201 and 202 (wages not timely
18 paid upon termination); (7) Section 204 (failure to timely pay wages during employment); (8) Section
19 2802 (unreimbursed business expenses); (9) Section 2698, *et seq.* (PAGA); (10) California Business &
20 Professions Code sections 17200, *et seq.* (unlawful business practices); and (11) California Business &
21 Professions Code sections 17200, *et seq.* (unfair business practices).

22 4. Following the exchange of informal discovery, including the production of Defendant’s
23 California labor policies and procedures manuals, and Class Members’ time and wage records through
24 January 31, 2024, the Parties participated in a global mediation with Louis Marlin, Esq., on March 20,
25 2024. At all times, the Parties’ negotiations were adversarial and non-collusive. Mr. Marlin helped to
26 manage the Parties’ expectations and provided a useful, neutral analysis of the issues and risks to both
27

28 ¹ Unless indicated otherwise, further statutory references are to the California Labor Code.

1 sides. With Mr. Marlin's guidance, the Parties were eventually able to negotiate a complete settlement of
2 Plaintiff's claims. The terms of the settlement are now set forth in complete and final form in the Joint
3 Stipulation of Class Action and PAGA Settlement and Release ("Settlement Agreement"), attached as
4 Exhibit 1. A copy of the Settlement Agreement has been uploaded to the LWDA's website.

5 5. It is my opinion that the Settlement constitutes a fair, adequate, and reasonable
6 compromise of the claims at issue. This opinion is informed by my experience litigating and settling
7 wage and hour actions, and my firm's thorough investigation into the factual and legal issues implicated
8 by Plaintiff's claims and Defendant's defenses.

9 6. Prior to filing the action, Plaintiff contacted Plaintiff's Counsel to discuss the factual
10 bases for pursuing an action against Defendant for Labor Code violations. Plaintiff was intimately
11 familiar with Defendant's labor policies and practices, and over the course of multiple interviews,
12 knowledgeably summarized those policies and practices to Plaintiff's Counsel. During those interviews,
13 he explained how the policies and practices were instituted and provided valuable insight into how they
14 gave rise to the alleged Labor Code violations. Based on these interviews, Plaintiff's Counsel determined
15 that there were legally sufficient grounds for pursuing an action against Defendant.

16 7. In preparation for drafting the complaint, Plaintiff's Counsel conducted their own
17 preliminary investigation into the factual bases for Plaintiff's claims, which entailed, *inter alia*, a careful
18 examination of Plaintiff's employment records. Plaintiff's Counsel also prepared a detailed letter (16
19 pages) to notify the LWDA of Plaintiff's intent to seek civil penalties and other available relief
20 recoverable under PAGA for Labor Code violations. Significant research and effort were expended to
21 prepare a PAGA notice that was consistent with the developing legal requirements so as to withstand any
22 challenge from Defendant regarding the notice's sufficiency.

23 8. In response to Plaintiff's informal discovery requests, Plaintiff's Counsel received a
24 considerable amount of documents and data, including employee demographic data, Class Members'
25 time and pay records through January 31, 2024, and Defendant's California labor policies and
26 procedures manuals which covered a broad range of topics including, *inter alia*, employee clock-in
27 policies and procedures, attendance policies, meal periods/rest periods, overtime pay, etc. The document
28 and data exchanges allowed Plaintiff's Counsel to fully assess the nature and magnitude of the claims

1 being settled, as well as the impediments to recovery, and ultimately enabled Plaintiff's Counsel so as to
2 make an independent assessment of the reasonableness of the settlement's terms.

3 9. In summary, Plaintiff's Counsel performed a thorough investigation into the claims at
4 issue, which included: (1) determining Plaintiff's suitability as a private attorney general and class
5 representative through interviews, background investigations, and analyses of his employment files and
6 related records; (2) evaluating all of Plaintiff's potential representative claims; (3) researching similar
7 wage and hour class actions as to the claims brought, the nature of the positions, and the type of
8 employer; (4) analyzing Class Members' time and pay records through January 31, 2024; (5) reviewing
9 Defendant's California labor policies and procedures manuals; (6) researching settlements in similar
10 cases; (7) evaluating Plaintiff's claims and estimating Defendant's liability for purposes of settlement;
11 (8) drafting the mediation brief; and (9) participating in the mediation.

12 10. By engaging in such a thorough investigation and evaluation of Plaintiff's claims,
13 Plaintiff's Counsel can opine that the Settlement, for the consideration and on the terms set forth in the
14 Settlement Agreement, is fair, reasonable, and adequate, and is in the best interests of Class Members in
15 light of all known facts and circumstances, including the risk of significant delay and uncertainty
16 associated with litigation, and various defenses asserted by Defendant.

17 **THE PROPOSED SETTLEMENT FULLY RESOLVES PLAINTIFF'S CLAIMS**

18 11. **Composition of the Settlement Class:** The proposed Settlement Class consists of all
19 persons who were employed by Defendant in the State of California in non-exempt positions at any time
20 during the Class Period. (Settlement Agreement ¶ 5.)

21 12. **Settlement Consideration:** Plaintiff and Defendant have agreed to settle the underlying
22 class claims in exchange for the Gross Settlement Amount of \$1,300,000. The Gross Settlement Amount
23 includes: (1) automatic payments to all Participating Class Members—meaning, all Class Members
24 except those who submit timely and valid Requests for Exclusion—from the Net Settlement Fund; (2)
25 \$433,333 in attorneys' fees (i.e., one-third of the common fund) and up to \$20,000 in litigation costs to
26 Plaintiff's Counsel; (3) Settlement Administration Costs of approximately \$15,000; (4) a \$75,000
27 payment to the LWDA and a \$25,000 payment to PAGA Members; and (5) a Class Representative
28 Enhancement Payment of \$10,000 for Plaintiff's service on behalf of the Settlement Class, the risks he

took in bringing his representative claims, and for a general release of all claims arising out of his employment with Defendant. (Settlement Agreement ¶¶ 32-36.)

13. Subject to the Court approving Attorneys' Fees and Costs, Settlement Administration Costs, the payment to the LWDA, and the Class Representative Enhancement Payment, the Net Settlement Fund will be distributed to Participating Class Members in full. (Settlement Agreement ¶ 38.) Additionally, the entire PAGA Fund will be distributed to PAGA Members in full. (*Id.* at ¶ 39.)

14. **Formulae for Calculating Payments from the Net Settlement Fund and PAGA Fund:** Payments to Participating Class Members will be made from the Net Settlement Fund. (Settlement Agreement ¶ 40(a).) The individual allocations will be calculated on a pro-rata basis using the number of weeks worked by each Class Member during the Class Period. (*Id.*) This is a fair and equitable means of apportioning the Net Settlement Fund to Class Members. Class Members who worked for a longer duration during the Class Period will receive proportionally larger payments than those employees who worked for shorter durations. Given that there are approximately 1,000 Class Members, the average net recovery will be approximately \$720. This average net recovery is significantly greater than many other wage and hour class action settlements approved by California state and federal courts.²

15. Payments to PAGA Members will be made from the PAGA Fund. (Settlement Agreement ¶ 40(b).) The individual allocations will be calculated on a pro-rata basis using the number of weeks worked by each PAGA Member during the PAGA Period. (*Id.*) This is a fair and equitable means

² See, e.g., *Sandoval v. Nissho of Cal., Inc.*, Case No. 37-2009-00091861 (San Diego County Super. Ct. Dec. 7, 2010) (average net recovery of approximately \$145); *Fukuchi v. Pizza Hut*, Case No. BC302589 (L.A. County Super. Ct. Sept. 29, 2006) (average net recovery of approximately \$120); *Contreras v. United Food Group, LLC*, Case No. BC389253 (L.A. County Super. Ct. Sept. 10, 2009) (average net recovery of approximately \$120); *Ressler v. Federated Department Stores, Inc.*, Case No. BC335018 (L.A. County Super. Ct. Jan. 27, 2009) (average net recovery of approximately \$90); *Doty v. Costco Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) (average net recovery of approximately \$65); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (E.D. Cal. Dec. 17, 2008) (average net recovery of approximately \$60); *Lim v. Victoria's Secret Stores, Inc.*, Case No. 04CC00213 (Orange County Super. Ct. Jan. 20, 2006) (average net recovery of approximately \$35); *Gomez v. Amadeus Salon, Inc.*, Case No. BC392297 (L.A. Super. Ct. July 23, 2010) (average net recovery of approximately \$20); *Jones v. Bath & Body Works, Inc.*, No. 2:13-cv-05206-FMO-AJW (C.D. Cal. July 11, 2016) (average net recovery of approximately \$50); and *Palencia v. 99 Cents Only Stores*, No. 34-2010-00079619 (Sacramento County Super. Ct. Oct. 11, 2012) (average net recovery of approximately \$80).

of apportioning the PAGA Fund to PAGA Members. PAGA Members who worked for a longer duration during the PAGA Period will receive proportionally larger payments than those employees who worked for shorter durations. (*Id.*)

16. **Releases by Participating Class Members and PAGA Members:** Upon the Funding Date, Plaintiff and Participating Class Members will agree to release the Released Class Claims during the Class Period:

Any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, action or causes of action, known and unknown, contingent or accrued for, that were alleged or could have been alleged based on the facts and matters alleged in the First Amended Complaint and notice to the LWDA, including without limitation to, any and all claims for unreimbursed business expenses, alleged unpaid wages (including but not limited to overtime and minimum wages, and premiums), failure to provide meal periods and rest breaks and alleged unpaid meal period and rest break premiums, itemized wage statement penalties, sick pay, failure to maintain payroll records, waiting time penalties, failure to timely pay wages during employment, or relief under Business & Professions Code (including Section 17200 *et seq.*) based on the preceding claims, and claims for restitution and other equitable relief, liquidated damages, punitive damages, or penalties (but not including PAGA penalties) based on the facts and matters alleged in the First Amended Complaint and notice to the LWDA.

(Settlement Agreement ¶¶ 24, 52.)

17. Also upon the Funding Date, Plaintiff and PAGA Members will agree to release the Released PAGA Claims during the PAGA Period:

All claims for civil penalties under PAGA that that were alleged or could have been alleged based on the facts and matters alleged in the First Amended Complaint and notice to the LWDA.

(Settlement Agreement ¶¶ 25, 53.)

CAPSTONE LAW APC FIRM PROFILE

18. Since its founding in 2012, Capstone has emerged as a major force in aggregate litigation, making law on cutting-edge issues.

19. In February, 2015, Ryan H. Wu and I were honored with the *California Lawyer* Attorney of the Year (CLAY) award in labor and employment for our work in the landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of California workers to bring representative actions under the Labor Code Private Attorneys General Act ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.

1 20. Recognized as a leading firm in the prosecution of PAGA enforcement actions,
2 Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior*
3 *Court (Marshalls of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision
4 before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v.*
5 *Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully
6 argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.

7 21. Capstone has made important contributions to consumer protection law. In *McGill v.*
8 *Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the
9 right to seek public injunctive relief under the state’s consumer protection laws cannot be waived and
10 that consumers need not satisfy class certification requirements to enjoin unfair business practices on
11 behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed
12 a denial of class certification, making law that clarified the use of “benefit of the bargain” damages
13 models in consumer class actions.

14 22. Capstone served as class counsel in a number of significant wage and hour settlements,
15 including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case
16 No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v.*
17 *Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of
18 pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour*
19 *Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an
20 \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.

21 23. Capstone has an established practice in automotive defect class actions and is currently
22 appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No.
23 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A.,*
24 *Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

25 24. Capstone has settled over 100 high-stakes class and representative actions. Capstone’s
26 settlements have directly compensated hundreds of thousands of California workers and consumers.
27 Capstone’s actions have also forced employers to modify their policies for the benefit of employees,
28 including changing the compensation structure for commissioned employees and changing practices to

1 ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA
2 enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of
3 California.

4 25. The following is a representative sample of Capstone's settlements:

- 5 a. *Navarro v. United Parcel Service, Inc.*, No. BC592098 (LA County
6 Superior Court): gross settlement of \$16.5 million on behalf of
7 approximately 180,000 non-exempt employees for wage and hour
8 violations;
- 9 b. *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-
10 PLA (N.D. Cal.): gross settlement of \$12 million on behalf of
11 approximately 150,000 personal bankers, tellers, sales associates, and
12 assistant branch manager trainees for wage and hour violations;
- 13 c. *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash
14 payments and unique buyback program for nearly 2 million consumers;
- 15 d. *Moore v. Petsmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross
16 settlement of \$10 million on behalf of over 19,000 non-exempt
17 PetSmart employees for wage and hour violations;
- 18 e. *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross
19 settlement of \$9 million on behalf of approximately 1,200 pharmacists
20 for wage and hour violations;
- 21 f. *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura
22 Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig
23 workers for sleep time and other wage violations;
- 24 g. *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super.
25 Ct.): gross settlement of \$5.7 million on behalf of approximately 650
26 sales representatives;
- 27 h. *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino
28 Super. Ct.): gross settlement of \$5.5 million for approximately 5,500

1 non-exempt employees.

2 i. *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of
3 \$5.4 million in a case alleging FCRA violations;

4 j. *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.):
5 gross settlement of \$5 million on behalf of over 12,000 nonexempt
6 employees;

7 k. *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP
8 4790: gross settlement of \$5 million on behalf of 15,000 non-exempt
9 employees;

10 l. *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross
11 settlement of nearly \$5 million on behalf of over 100,000 non-exempt
12 workers for meal break and wage statement claims;

13 m. *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.):
14 gross settlement of nearly \$5 million on behalf of 2,700 non-exempt
15 employees following contested certification;

16 n. *Asghari v. Volkswagen Group of North America*, Case No. 13-02529
17 (C.D. Cal.): Settlement providing complementary repairs of oil
18 consumption defect, reimbursement for repairs, and extended warranty
19 coverage of certain Audi vehicles valued at over \$20 million;

20 o. *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.):
21 Settlement providing complimentary electric vehicle charging cards and
22 extending warranty coverage for the electric battery on the Nissan Leaf
23 valued at over \$10 million.

24 26. Attached as Exhibit 2 is a true and correct copy of Capstone's firm resume.

25 I declare under penalty of perjury under the laws of the State of California that the foregoing is
26 true and correct. Executed this 16th day of July, 2024, at Los Angeles, California.

27 
28 _____

Raul Perez

Exhibit 1

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JUAN CARLOS TORRES, individually, and on behalf of other members of the general public similarly situated, and as an aggrieved employee pursuant to the Private Attorney General Act (“PAGA”),

Plaintiff,

vs.

HARD ROCK INTERNATIONAL (USA), INC., a Florida corporation; HARD ROCK CAFE INTERNATIONAL (HOLLYWOOD), INC., a Delaware corporation; HARD ROCK SACRAMENTO FM, LLC, a Florida limited liability company; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 23STCV11468

**JOINT STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT AND RELEASE**

JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT AND RELEASE

This Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement” or “Settlement Agreement”) is made and entered into by and between Plaintiff Juan Carlos Torres (“Plaintiff” or “Class Representative”), as an individual and on behalf of all others similarly situated, and Defendant Hard Rock International (USA), Inc. (“Defendant”) (collectively with Plaintiff, the “Parties”).

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. “Action” means *Torres v. Hard Rock International (USA), Inc.*, No. 23STCV11468 (Los Angeles County Superior Court).

2. “Attorneys’ Fees and Costs” means attorneys’ fees agreed upon by the Parties and approved by the Court for Class Counsel’s litigation and resolution of the Action, and all out-of-pocket costs incurred and to be incurred by Class Counsel in the Action, including but not limited to expert/consultant fees, investigation costs, and costs associated with documenting the Settlement, providing any notices required as part of the Settlement or Court order, securing the Court’s approval of the Settlement, administering the Settlement, and obtaining entry of a Judgment terminating the Action. Class Counsel will request attorneys’ fees not in excess of one-third (1/3) of the Gross Settlement Amount, or Four Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars (\$433,333). The Attorneys’ Fees and Costs will also mean and include the additional reimbursement of any costs and expenses associated with Class Counsel’s litigation and settlement of the Action, up to Twenty Thousand Dollars (\$20,000), subject to the Court’s approval. Defendant has agreed not to oppose Class Counsel’s request for fees and reimbursement of costs as set forth above.

3. “Class Counsel” means Capstone Law APC.

4. “Class List” means a complete list of all Class Members that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator and Class Counsel within fourteen (14) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in Microsoft Office Excel and will include each Class Member’s full name; most recent mailing address and telephone number; Social Security number; dates of employment; the

respective number of Workweeks that each Class Member worked during the Class Period and PAGA Period; and any other relevant information needed to calculate settlement payments.

5. “Class Member(s)” or “Settlement Class” means all persons who were employed by Defendant in the State of California in non-exempt positions at any time during the Class Period. There were approximately 958 Class Members as of the date of mediation.

6. “Class Notice” means the Notice of Class Action Settlement, substantially in the form attached as Exhibit A.

7. “Class Period” means the period from May 22, 2019 through June 17, 2024.

8. “Class Representative Enhancement Payment” means the amount to be paid to Plaintiff in recognition of his effort and work in prosecuting the Action on behalf of Class Members, and for his general release of claims. Subject to the Court granting final approval of this Settlement Agreement and subject to the exhaustion of any and all appeals, Plaintiff will request Court approval of a Class Representative Enhancement Payment of up to Ten Thousand Dollars (\$10,000).

9. “Court” means the Los Angeles County Superior Court.

10. “Defendant” means Defendant Hard Rock International (USA), Inc.

11. “Effective Date” means the date on which the following events have occurred: (a) this Settlement Agreement has been executed by all Parties and their counsel; (b) the Court has entered an order granting Preliminary Approval of the Settlement; (c) the Class Notice has been mailed to the Class Members, and the Response Deadline has passed; (d) the Court has entered a Judgment approving the Settlement; (e) the period for filing any appeal, writ or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; i.e., within 60 calendar days after entry of the Judgment; or (f) when any appeal, writ or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (g) when any appeal, writ or other appellate proceeding has upheld the Court’s Judgment with no right to pursue further remedies or relief.

12. “Final Approval” means the date on which the Court enters an order granting final approval of the Settlement Agreement.

13. “Gross Settlement Amount” means the Gross Settlement Amount of One Million Three

Hundred Thousand Dollars (\$1,300,000), to be paid by Defendant in full satisfaction of all Released Class Claims and Released PAGA Claims, which includes all Individual Settlement Payments, Attorneys' Fees and Costs, the Class Representative Enhancement Payment, the PAGA Settlement Amount, and Settlement Administration Costs. This Gross Settlement Amount has been agreed to by Plaintiff and Defendant based on the aggregation of the agreed-upon settlement value of individual claims. In no event will Defendant be liable for more than the Gross Settlement Amount except as otherwise explicitly set forth herein. There will be no reversion of the Gross Settlement Amount to Defendant. Defendant will be separately responsible for any employer payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions, which shall not be paid from the Gross Settlement Amount.

14. "Individual Settlement Payment" means each Participating Class Member's and PAGA Member's respective shares of the Net Settlement Fund and PAGA Fund.

15. "Net Settlement Fund" means the portion of the Gross Settlement Amount remaining after deducting the Attorneys' Fees and Costs, the Class Representative Enhancement Payment, the PAGA Settlement Amount, and Settlement Administration Costs. The Net Settlement Fund will be distributed to Participating Class Members. There will be no reversion of the Net Settlement Fund to Defendant.

16. "Notice of Objection" means a Class Member's valid and timely written objection to the Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the objector's full name, signature, address, and telephone number, (b) a written statement of all grounds for the objection accompanied by any legal support for such objection; (c) copies of any papers, briefs, or other documents upon which the objection is based; and (d) a statement whether the objector intends to appear at the final fairness hearing.

17. "PAGA Members" means all persons who were employed by Defendant in the State of California in non-exempt positions at any time during the PAGA Period. There were approximately 434 PAGA Members as of the date of mediation.

18. "PAGA Period" means the period from May 22, 2022 through June 17, 2024.

19. "PAGA Settlement Amount" means the amount that the Parties have agreed to pay to

the Labor and Workforce Development Agency (“LWDA”) and PAGA Members in connection with Plaintiff’s claim under the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”) (“PAGA Settlement”). The Parties have agreed that One Hundred Thousand Dollars (\$100,000) of the Gross Settlement Amount will be allocated to the PAGA Settlement. Pursuant to PAGA, Seventy-Five Percent (75%), or Seventy-Five Thousand Dollars (\$75,000), of the PAGA Settlement Amount will be paid to the California Labor and Workforce Development Agency (“LWDA Payment”), and Twenty-Five Percent (25%), or Twenty-Five Thousand Dollars (\$25,000) (“PAGA Fund”), of the PAGA Settlement will be disbursed to PAGA Members, and regardless whether they request to be excluded from the Settlement Class.

20. “Parties” means Plaintiff and Defendant collectively.

21. “Participating Class Members” means all Class Members who do not submit timely and valid Requests for Exclusion.

22. “Plaintiff” means Plaintiff Juan Carlos Torres.

23. “Preliminary Approval” means the date on which the Court enters an order granting preliminary approval of the Settlement Agreement.

24. “Released Class Claims” means any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, action or causes of action, known and unknown, contingent or accrued for, that were alleged or could have been alleged based on the facts and matters alleged in the First Amended Complaint and notice to the LWDA, including without limitation to, any and all claims for unreimbursed business expenses, alleged unpaid wages (including but not limited to overtime and minimum wages, and premiums), failure to provide meal periods and rest breaks and alleged unpaid meal period and rest break premiums, itemized wage statement penalties, sick pay, failure to maintain payroll records, waiting time penalties, failure to timely pay wages during employment, or relief under Business & Professions Code (including Section 17200 *et seq.*) based on the preceding claims, and claims for restitution and other equitable relief, liquidated damages, punitive damages, or penalties (but not including PAGA penalties) based on the facts and matters alleged in the First Amended Complaint and notice to the LWDA.

25. “Released PAGA Claims” means all claims for civil penalties under PAGA that that

were alleged or could have been alleged based on the facts and matters alleged in the First Amended Complaint and notice to the LWDA.

26. “Released Parties” means Defendants Hard Rock Cafe International (Hollywood), Inc., and Hard Rock Sacramento FM, LLC, as well as its/their past or present officers, directors, shareholders, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, attorneys, and its/their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys, if any.

27. “Request for Exclusion” means a timely letter submitted by a Class Member indicating a request to be excluded from the Settlement Class. The Request for Exclusion must: (a) set forth the name, address, telephone number and last four digits of the Social Security Number of the Class Member requesting exclusion; (b) be signed by the Class Member; (c) be returned to the Settlement Administrator; (d) clearly state that the Class Member does not wish to be included in the Settlement; and (e) be faxed or postmarked on or before the Response Deadline.

28. “Response Deadline” means the deadline by which Class Members must postmark or fax to the Settlement Administrator Requests for Exclusion, postmark or fax disputes concerning the calculation of Individual Settlement Payments, or postmark Notices of Objection to the Settlement Administrator. The Response Deadline will be forty-five (45) calendar days from the initial mailing of the Class Notice by the Settlement Administrator, unless the forty-fifth (45th) calendar day falls on a Sunday or State holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open.

29. “Settlement Administration Costs” means the costs payable from the Gross Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, tax reporting, distributing the Gross Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The Settlement Administration Costs will be paid from the Gross Settlement Amount, including, if necessary, any such costs in excess of the amount represented by the Settlement Administrator as being the maximum costs necessary to administer the Settlement Administration Costs are currently estimated to be Fifteen Thousand Dollars (\$15,000).

30. “Settlement Administrator” means CPT Group, Inc., or any other third-party class action settlement administrator agreed to by the Parties and approved by the Court for the purposes of administering this Settlement. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

31. “Workweeks” means the number of weeks a Class Member was actively employed and performed at least one day of work in a Workweek during the Class Period. Defendant’s payroll records shall control, but Settlement Class Members will have the right to challenge their number of workweeks. All Class Members will be credited with at least one Workweek during the Class Period, and all PAGA Members will be credited with at least one Workweek during the PAGA Period.

TERMS OF AGREEMENT

The Plaintiff, on behalf of himself and the Settlement Class, and Defendant agree as follows:

32. Funding of the Gross Settlement Amount. Defendant will make a one-time deposit of the Gross Settlement Amount of One Million Three Hundred Thousand Dollars (\$1,300,000) into a Qualified Settlement Account to be established by the Settlement Administrator. Defendant will pay the employer’s share of payroll taxes separately. After the Effective Date, the Gross Settlement Amount will be used for: (a) Individual Settlement Payments; (b) the LWDA Payment; (c) the Class Representative Enhancement Payment; (d) Attorneys’ Fees and Costs; and (e) Settlement Administration Costs. Defendant will deposit the Gross Settlement Amount and the employer’s share of payroll taxes within thirty (30) calendar days of the Effective Date (“Funding Date”).

33. Attorneys’ Fees and Costs. Defendant agrees not to oppose or impede any application or motion for attorneys’ fees and costs by Class Counsel for Attorneys’ Fees and Costs of not more than Four Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars (\$433,333), plus the reimbursement of all out-of-pocket costs and expenses associated with Class Counsel’s litigation and settlement of the Action (including expert/consultant fees, investigations costs, etc.), not to exceed Twenty Thousand Dollars (\$20,000), both of which will be paid from the Gross Settlement Amount.

34. Class Representative Enhancement Payment. In exchange for a general release, and in recognition of his effort and work in prosecuting the Action on behalf of Class Members, Defendant

1 agrees not to oppose or impede any application or motion for a Class Representative Enhancement
2 Payment of up to Ten Thousand Dollars (\$10,000). The Class Representative Enhancement Payment
3 will be paid from the Gross Settlement Amount and will be in addition to Plaintiff's Individual
4 Settlement Payment paid pursuant to the Settlement. Plaintiff will be solely and legally responsible to
5 pay any and all applicable taxes on the Class Representative Enhancement Payment. Plaintiff
6 understands and agrees that this Settlement Agreement shall remain in full force and effect even if the
7 full amount of Class Representative Enhancement Payment sought by Plaintiff is not ultimately awarded
8 by the Court.

9 35. Settlement Administration Costs. The Settlement Administrator will be paid for the
10 reasonable costs of administration of the Settlement and distribution of payments from the Gross
11 Settlement Amount, which is currently estimated to be Fifteen Thousand Dollars (\$15,000). These costs,
12 which will be paid from the Gross Settlement Amount, will include, *inter alia*, the required tax reporting
13 on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms, distributing Class
14 Notices, calculating and distributing the Gross Settlement Amount, calculating Defendant's payroll tax
15 obligations, and providing necessary reports and declarations.

16 36. PAGA Settlement Amount. Subject to Court approval, the Parties agree that the amount
17 of One Hundred Thousand Dollars (\$100,000) from the Gross Settlement Amount will be designated for
18 satisfaction of Plaintiff's PAGA claim. Pursuant to PAGA, Seventy-Five Percent (75%), or Seventy-
19 Five Thousand Dollars (\$75,000), of this sum will be paid to the LWDA and Twenty-Five Percent
20 (25%), or Twenty-Five Thousand Dollars (\$25,000), will be paid to PAGA Members in proportion to
21 the number of Workweeks worked during the PAGA Period.

22 37. No Right to Exclusion or Objections to the PAGA Settlement. Because this settlement
23 resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private
24 Attorney General of, and for, the State of California and the LWDA, the Parties agree that no PAGA
25 Member has the right to exclude himself or herself from the release of the Released PAGA Claims, and
26 all PAGA Members will receive their shares of the PAGA Fund. The Parties also agree that no PAGA
27 Member has the right to object to the PAGA Settlement Amount.

28 38. Net Settlement Fund. The entire Net Settlement Fund will be distributed to Participating

Class Members. No portion of the Net Settlement Fund will revert to or be retained by Defendant.

39. PAGA Fund. The entire PAGA Fund will be distributed to all PAGA Members. No portion of the PAGA Fund will revert to or be retained by Defendant.

40. Individual Settlement Payment Calculations. Individual Settlement Payments will be calculated and apportioned from the Net Settlement Fund and PAGA Fund based on the number of Workweeks a Class Member worked during the Class Period and PAGA Period. Specific calculations of Individual Settlement Payments will be made as follows:

40(a) Payments from the Net Settlement Fund. Defendant will calculate the total number of Workweeks worked by each Class Member during the Class Period and the aggregate total number of Workweeks worked by all Class Members during the Class Period. To determine each Class Member's estimated "Individual Settlement Payment" from the Net Settlement Fund, the Settlement Administrator will use the following formula: The Net Settlement Fund will be divided by the aggregate total number of Workweeks during the Class Period, resulting in the "Workweek Value." Each Class Member's "Individual Settlement Payment" will be calculated by multiplying each individual Class Member's total number of Workweeks by the Workweek Value. The Individual Settlement Payment will be reduced by any required deductions for each Participating Class Member as specifically set forth herein, including employee-side tax withholdings or deductions. The entire Net Settlement Fund will be disbursed to all Class Members who do not submit timely and valid Requests for Exclusion. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase the Individual Settlement Payment for each Participating Class Member according to the number of Workweeks worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Fund.

40(b) Payments from the PAGA Fund. Defendant will calculate the total number

1 of Workweeks worked by each PAGA Member during the PAGA Period
2 and the aggregate total number of Workweeks worked by all PAGA
3 Members during the PAGA Period. To determine each PAGA Member's
4 estimated "Individual Settlement Payment," the Settlement Administrator
5 will use the following formula: The PAGA Fund will be divided by the
6 aggregate total number of Workweeks during the PAGA Period, resulting in
7 the "PAGA Workweek Value." Each PAGA Member's "Individual
8 Settlement Payment" will be calculated by multiplying each individual
9 PAGA Member's total number of Workweeks by the PAGA Workweek
10 Value. The entire PAGA Fund will be disbursed to all PAGA Members.

11 41. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
12 Participating Class Members under this Settlement, as well as any other payments made pursuant to this
13 Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any
14 Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k)
15 plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan.
16 Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions,
17 or amounts to which any Class Members may be entitled under any benefit plans.

18 42. Administration Process. The Parties agree to cooperate in the administration of the
19 settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in
20 administration of the Settlement.

21 43. Delivery of the Class List. Within fourteen (14) calendar days of the Court granting
22 Preliminary Approval, Defendant will provide the Class List to the Settlement Administrator. The
23 Settlement Administrator will keep the Class List strictly confidential and not divulge any Class Member
24 identities or contact information to Class Counsel.

25 44. Notice by First-Class U.S. Mail. Within seven (7) calendar days after receiving the Class
26 List from Defendant, the Settlement Administrator will mail a Class Notice to all Class Members via
27 regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class
28 List.

1 45. Confirmation of Updated Contact Information in the Class Lists. Prior to mailing, the
2 Settlement Administrator will perform a search based on the National Change of Address Database for
3 information to update and correct for any known or identifiable address changes. Any Class Notices
4 returned to the Settlement Administrator as non-deliverable on or before the Response Deadline will be
5 sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the
6 Settlement Administrator will indicate the date of such re-mailing on the Class Notice. If no forwarding
7 address is provided, the Settlement Administrator will promptly attempt to determine the correct address
8 using a skip-trace, or other search using the name, address and/or Social Security Number of the Class
9 Member involved, and will then perform a single re-mailing. Those Class Members who receive a re-
10 mailed Class Notice, whether by skip-trace or by request, will have either (a) an additional fifteen (15)
11 calendar days or (b) until the Response Deadline, whichever is later, to submit a Request for Exclusion
12 or an objection to the Settlement.

13 46. Class Notices. All Class Members will be mailed a Class Notice. Each Class Notice will
14 provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's principal
15 terms; (c) the Settlement Class and PAGA Member definitions; (d) the total number of Workweeks each
16 respective Class Member and PAGA Member worked for Defendant during the Class Period and PAGA
17 Period; (e) each Class Member's and PAGA Member's estimated Individual Settlement Payment and
18 the formula for calculating Individual Settlement Payments; (f) the dates which comprise the Class
19 Period and PAGA Period; (g) instructions on how to submit Requests for Exclusion or Notices of
20 Objection; (h) the deadlines by which the Class Member must postmark or fax Request for Exclusions,
21 or postmark Notices of Objection to the Settlement; and (i) the claims to be released.

22 47. Disputed Information on Class Notices. Class Members will have an opportunity to
23 dispute the information provided in their Class Notices. To the extent Class Members dispute their
24 employment dates or the number of Workweeks on record, Class Members may produce evidence to the
25 Settlement Administrator showing that such information is inaccurate. Defendant's records will be
26 presumed correct, but the Settlement Administrator shall contact the Parties regarding the dispute,
27 without divulging Class Member identity or contact information to Class Counsel, and the Parties will
28 work in good faith to resolve it. All disputes must be submitted by the Response Deadline and will be

1 decided by the Settlement Administrator within ten (10) business days after the Response Deadline.

2 48. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the
3 requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The
4 Settlement Administrator will mail the Class Member a cure letter within three (3) business days of
5 receiving the defective submission to advise the Class Member that his/her/their submission is defective
6 and that the defect must be cured to render the Request for Exclusion valid. The Class Member will have
7 until (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter,
8 whichever date is later, to postmark or fax a revised Request for Exclusion. If the revised Request for
9 Exclusion is not postmarked or received by fax within that period, it will be deemed untimely.

10 49. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
11 Settlement Agreement must sign and fax or postmark a written Request for Exclusion to the Settlement
12 Administrator within the Response Deadline. In the case of Requests for Exclusion that are mailed to the
13 Settlement Administrator, the postmark date will be the exclusive means to determine whether a Request
14 for Exclusion has been timely submitted. The Settlement Administrator will provide the data and counts
15 of any exclusion requests but will not provide Class Member identity or contact information to Class
16 Counsel.

17 50. Escalator. Defendant represents that Class Members worked approximately 40,396
18 Workweeks during the Class Period. In the event the Workweeks exceed 40,396, Defendant has the
19 option, at its sole discretion, to either: (a) increase the Gross Settlement Amount by an additional \$32.18
20 for every Workweek during the Class Period above 40,396, or (b) end the Class Period and PAGA
21 Period on the last date on which the total number of Workweeks was not in excess of 40,396.

22 51. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member
23 who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid
24 Request for Exclusion will be bound by all of its terms, including those pertaining to the Released Class
25 Claims, as well as any Judgment that may be entered by the Court if it grants final approval to the
26 Settlement.

27 52. Releases by Participating Class Members. Upon the Funding Date, and except as to such
28 rights or claims as may be created by this Settlement Agreement, each Participating Class Member,

together and individually, on their behalf and on behalf of their respective heirs, executors, administrators, agents, successors and assigns, and attorneys, shall fully and forever release and discharge all of the Released Parties, or any of them, from each of the Released Class Claims arising during the Class Period.

53. Releases by PAGA Members. Upon the Funding Date, and except as to such rights or claims as may be created by this Settlement Agreement, each PAGA Member, together and individually, on their behalf and on behalf of their respective heirs, executors, administrators, agents, successors and assigns, and attorneys, shall fully and forever release and discharge all of the Released Parties, or any of them, from each of the Released PAGA Claims during the PAGA Period.

54. Defendant's Right to Rescind. Defendant will have, in its sole discretion, the right to void and withdraw from the Settlement if, at any time prior to Final Approval, Ten Percent (10%) or more of Class Members opt out of the settlement. Defendant must exercise this right of rescission in writing to Class Counsel within twenty-one (21) calendar days after the Response Deadline. If the option to rescind is exercised, then Defendant will be solely responsible for all Settlement Administration Costs incurred to the date of rescission. In that event, neither Plaintiff nor Defendant may use this Settlement Agreement or the negotiations leading to this Settlement Agreement as evidence of the certifiability of the class, to establish liability, to prove damages, or to substantiate penalties, and the Parties will return to their respective pre-mediation positions without prejudice.

55. Objection Procedures. To object to the Settlement Agreement, a Class Member may either postmark a valid Notice of Objection to the Settlement Administrator on or before the Response Deadline, or appear in person at the Final Approval Hearing. Class Members who fail to object either by submitting a valid Notice of Objection or appearing in person at the Final Approval Hearing will be deemed to have waived all objections to the Settlement and will be foreclosed from making any objections, whether by appeal or otherwise, to the Settlement Agreement. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written objections to the Settlement Agreement or appeal from the final approval order and judgment. Class Counsel will not represent any Class Members with respect to any such objections to this Settlement. If a Class Member timely submits both a Notice of Objection and a Request for Exclusion, the Request for

Exclusion will be given effect and considered valid, the Notice of Objection shall be rejected, and the Class Member shall not participate in or be bound by the Settlement.

56. Certification Reports Regarding Individual Settlement Payment Calculations. The Settlement Administrator will provide Defendant's counsel and Class Counsel a weekly report that certifies the number of Class Members who have submitted valid Requests for Exclusion or objections to the Settlement, and whether any Class Member has submitted a challenge to any information contained in their Class Notice, including those received after the Response Deadline. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested. The Settlement Administrator will not provide Class Members' identities or contact information to Class Counsel.

57. Distribution Timing of Individual Settlement Payments. Within ten (10) calendar days of the Funding Date, the Settlement Administrator will issue payments to: (a) Participating Class Members and PAGA Members; (b) the Labor and Workforce Development Agency; (c) Plaintiff; and (d) Class Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved services performed in connection with the Settlement.

58. Un-cashed Settlement Checks. Proceeds represented by Individual Settlement Payment checks returned as undeliverable and Individual Settlement Payment checks remaining un-cashed for more than one hundred and eighty (180) calendar days after issuance will be tendered pursuant to Code of Civil Procedure section 384 to The Justice Gap Fund maintained by The State Bar of California.

59. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

60. Treatment of Individual Settlement Payments. All Individual Settlement Payments will be allocated as follows: (a) Ten Percent (10%) of each Individual Settlement Payment will be allocated as wages for which IRS Forms W-2 will be issued; and (b) Ninety Percent (90%) will be allocated as non-wages for which IRS Forms 1099-MISC will be issued. Payments issued to PAGA Members from the PAGA Fund will be treated as non-wages for which IRS Forms 1099-MISC will be issued.

61. Administration of Taxes by the Settlement Administrator. The Settlement Administrator

1 will be responsible for issuing to Plaintiff, Participating Class Members, PAGA Members, and Class
2 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to
3 this Settlement. The Settlement Administrator will also be responsible for calculating and providing
4 payroll the amount of taxes owed by Defendant at least thirty (30) days in advance of their being due,
5 and is also responsible for forwarding all payroll taxes and penalties received from Defendant to the
6 appropriate government authorities.

7 62. Tax Liability. The Parties make no representation as to the tax treatment or legal effect
8 of the payments called for hereunder, and Plaintiff, Participating Class Members, and PAGA Members
9 are not relying on any statement, representation, or calculation by Defendant or by the Settlement
10 Administrator in this regard.

11 63. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES
12 OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS
13 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”)
14 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND
15 NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES
16 OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR
17 WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED
18 OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
19 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
20 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS
21 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
22 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS
23 AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY
24 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY
25 UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO
26 ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
27 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
28 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF

1 ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER
2 SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
3 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
4 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
5 AGREEMENT.

6 64. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
7 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
8 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
9 action or right herein released and discharged.

10 65. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally
11 approve the Settlement as provided herein; or (b) the Settlement does not become final for any other
12 reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null
13 and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will
14 likewise be treated as void from the beginning.

15 66. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to request
16 the Preliminary Approval of the Settlement Agreement no earlier than July 1, 2024, and the entry of a
17 Preliminary Approval Order for: (a) conditional certification of the Settlement Class for settlement
18 purposes only, (b) preliminary approval of the proposed Settlement Agreement, (c) setting a date for a
19 final fairness hearing. The Preliminary Approval Order will provide for the Class Notice to be sent to all
20 Class Members as specified herein. In conjunction with the Preliminary Approval hearing, Plaintiff will
21 submit this Settlement Agreement, which sets forth the terms of this Settlement, and will include the
22 proposed Notice of Class Action Settlement, attached as Exhibit A. Class Counsel will be responsible for
23 drafting all documents necessary to obtain preliminary approval and will work in good faith with
24 Defendant to finalize the documents necessary to obtain preliminary approval.

25 67. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
26 deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement, and with the
27 Court's permission, a final fairness hearing will be conducted to determine the Final Approval of the
28 Settlement Agreement along with the amounts properly payable for: (a) Attorneys' Fees and Costs; (b)

1 the Class Representative Enhancement Payment; (c) Individual Settlement Payments; (d) the LWDA
2 Payment; (e) all Settlement Administration Costs. Class Counsel will be responsible for drafting all
3 documents necessary to obtain final approval. Class Counsel will also be responsible for drafting the
4 attorneys' fees and costs application to be heard at the final approval hearing.

5 68. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by the
6 Court or after the final fairness hearing, the Parties will present the Judgment to the Court for its
7 approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of
8 addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) Settlement
9 administration matters, and (c) such post-Judgment matters as may be appropriate under court rules or as
10 set forth in this Settlement Agreement. A copy of the Judgment will be posted to the Settlement
11 Administrator's website.

12 69. Release by Plaintiff. Upon the Funding Date, in addition to the claims being released by
13 all Participating Class Members, Plaintiff will release and forever discharge the Released Parties, to the
14 fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and not
15 asserted, which Plaintiff has or may have against the Released Parties as of the date of execution of this
16 Settlement Agreement. To the extent the foregoing release is a release to which Section 1542 of the
17 California Civil Code or similar provisions of other applicable law may apply, Plaintiff expressly waives
18 any and all rights and benefits conferred upon him by the provisions of Section 1542 of the California
19 Civil Code or similar provisions of applicable law which are as follows:

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

26 70. Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the
27 terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth
28 herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.

71. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties. The Parties expressly recognize California Civil Code Section 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or contradict the terms of this Settlement Agreement.

72. Amendment or Modification. No amendment, change, or modification to this Settlement Agreement will be valid unless in writing and signed, either by the Parties or their counsel, and approved by the Court.

73. 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 Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement 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 Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

74. 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, as previously defined.

75. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

76. Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including electronic (e.g., DocuSign), facsimile, and scanned copies of the signature page, will be deemed to be one and the same instrument.

77. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this

1 Settlement Agreement is a fair, adequate and reasonable settlement of the Action and have arrived at this
2 Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account
3 all relevant factors, present and potential. The Parties further acknowledge that they are each represented
4 by competent counsel and that they have had an opportunity to consult with their counsel regarding the
5 fairness and reasonableness of this Settlement.

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

10 79. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
11 certification for purposes of this Settlement only; except, however, that Plaintiff or Class Counsel may
12 appeal any reduction to the Attorneys' Fees and Costs below the amount they request from the Court,
13 and either party may appeal any court order that materially alters the Settlement Agreement's terms.

14 80. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to
15 class action certification for purposes of the Settlement only. If, for any reason, the Settlement is not
16 approved, the stipulation to certification will be void. The Parties further agree that certification for
17 purposes of the Settlement is not an admission that class action certification is proper under the standards
18 applied to contested certification motions and that this Settlement Agreement will not be admissible in
19 this or any other proceeding as evidence that either (a) a class action should be certified or (b) Defendant
20 is liable to Plaintiff or any Class Member, other than according to the Settlement's terms.

21 81. Non-Admission of Liability. The Parties enter into this Settlement to resolve the dispute
22 that has arisen between them and to avoid the burden, expense and risk of continued litigation. In
23 entering into this Settlement, Defendant does not admit, and specifically denies, that it violated any
24 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or
25 any other applicable laws, regulations or legal requirements; breached any contract; violated or breached
26 any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with
27 respect to its employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any
28 of the negotiations connected with it, will be construed as an admission or concession by Defendant of

any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Settlement, this Settlement Agreement and its terms and provisions will not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

82. No Public Comment: Prior to Preliminary Approval, the Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry, or have any communication with the press about the fact, amount or terms of the Settlement.

83. Waiver. No waiver of any condition or covenant contained in this Settlement 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.

84. Enforcement Actions. 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.

85. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement 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 Settlement Agreement.

86. Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

87. All Terms Subject to Final Court Approval. All amounts and procedures described in this Settlement Agreement herein will be subject to final Court approval.

88. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good

1 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
2 Settlement Agreement.

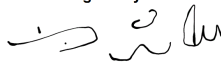
3 89. Binding Agreement. The Parties warrant that they understand and have full authority to
4 enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully
5 enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure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

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READ CAREFULLY BEFORE SIGNING

PLAINTIFF

Dated: 7/11/2024

DocuSigned by:

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Juan Carlos Torres

DEFENDANT

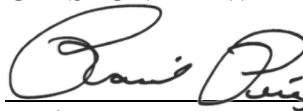
Dated: _____

Frank Chesky
Hard Rock International (USA), Inc.

APPROVED AS TO FORM

CAPSTONE LAW APC

Dated: 7/11/24

By: 
Raul Perez

Attorneys for Plaintiff Juan Carlos Torres

FOX ROTHSCHILD LLP

Dated: _____

By: _____
Nancy Yaffe
Steven Gallagher

Attorneys for Defendant Hard Rock International
(USA), Inc.

1 **READ CAREFULLY BEFORE SIGNING**

2 **PLAINTIFF**

3
4 Dated: _____

_____ Juan Carlos Torres

5
6 **DEFENDANT**

7
8 Dated: 5.16.24 _____

_____ 
Frank Chesky
Hard Rock International (USA), Inc.

9
10 **APPROVED AS TO FORM**

11 **CAPSTONE LAW APC**

12
13
14 Dated: _____

By: _____
Raul Perez

15 Attorneys for Plaintiff Juan Carlos Torres

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17
18 **FOX ROTHSCHILD LLP**

19 Dated: 5/16/2024 _____

By: Nancy Yaffe _____
Nancy Yaffe
Steven Gallagher

20
21 Attorneys for Defendant Hard Rock International
(USA), Inc.

Exhibit A

Torres v. Hard Rock International (USA), Inc., No. 23STCV11468
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES
NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully

To: All persons who were employed by Hard Rock International (USA), Inc. (“Hard Rock”) in the State of California in non-exempt positions at any time during the period from May 22, 2019 through June 17, 2024 (“Class Members”).

All persons who were employed by Hard Rock in the State of California in non-exempt positions at any time during the period from May 22, 2022 through June 17, 2024 (“PAGA Members”).

On _____, the Honorable Carolyn B. Kuhl of the Los Angeles County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. Hard Rock maintains it complied with all applicable laws but entered into this settlement to avoid protracted litigation. **You have received this notice because Hard Rock’s records indicate that you are a Class Member for purposes of this settlement, and therefore are entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at ____:00 ____m. on _____, 2024 in Department 12 of the Los Angeles County Superior Court located at 312 North Spring Street, Los Angeles, California 90012.

You are not required to attend the hearing, but if you wish to attend, you may attend the hearing telephonically (remotely), which can be set up through LA Court Connect (www.lacourt.org/lacc/).

Please also note that the Final Fairness Hearing may be rescheduled by the Court to another date and/or time. Please visit [settlement website] for any scheduling changes.

If you move, you must send the Settlement Administrator your new address; otherwise, you may never receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don’t Have to Do Anything to Participate in the Settlement	If you do nothing, you will be deemed a “Participating Class Member,” and will be eligible for a payment from the Net Settlement Fund and, if you are also a PAGA Member, the PAGA Fund. In exchange, you will be bound by the terms of the proposed Settlement and give up your right to assert wage and hour claims against Hard Rock based on the same facts alleged in the Action during the Class Period.
You Can Opt-out of the Class Settlement but not the PAGA Settlement	If you don’t want to participate in the proposed class settlement, you can opt-out of the class settlement by sending the Settlement Administrator a written Request for Exclusion. Once excluded, you will no longer be eligible for a payment from the Net Settlement Fund and will not be bound by the terms of the proposed class settlement.
The Opt-out Deadline is [DATE]	You cannot opt-out of the PAGA portion of the proposed Settlement. PAGA Members remain eligible to receive a payment from the PAGA Fund and must give up their rights to pursue PAGA penalty claims against Hard Rock based on the facts alleged in the Action during the PAGA Period.

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by [DATE]	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed class settlement, but not the PAGA settlement.
You Can Participate in the [DATE] Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on [DATE] in Department 12 of the Los Angeles County Superior Court located at 312 North Spring Street, Los Angeles, California 90012. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. If the Court grants final approval of the Settlement despite your objection, you will receive a payment from the Net Settlement Fund and you will be bound by the terms of the Settlement and Release.

Summary of the Litigation

Plaintiff Juan Carlos Torres, on his behalf and on behalf of other current and former non-exempt employees, alleges that Hard Rock violated California state labor laws as a result of its alleged failure to, among other things: (1) pay minimum and overtime wages to employees for all hours worked; (2) provide employees with meal and rest breaks; (3) timely pay all wages owed to employees during each pay period and upon termination of their employment; and (4) provide employees with accurate, itemized wage statements.

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On March 20, 2024, the parties participated in a mediation with Louis Marlin, Esq., an experienced and well-respected class action mediator. With Mr. Marlin’s guidance, the parties were able to negotiate a complete settlement of Plaintiff’s claims.

Counsel for Plaintiff, and the attorneys appointed by the Court to represent the class, Capstone Law APC (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Hard Rock has denied, and continues to deny, the factual and legal allegations in the case believes that it did not violate that law and that it has valid defenses to Plaintiff’s claims. By agreeing to settle, Hard Rock is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. Hard Rock has agreed to settle the case as part of a compromise to avoid the costs of litigation.

Summary of The Proposed Settlement Terms

Plaintiff and Hard Rock have agreed to settle the underlying class claims in exchange for a Gross Settlement Amount of \$1,300,000. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members; (2) a Class Representative Enhancement Payment of \$10,000 to Juan Carlos Torres for his services on behalf of the class, and for a release of all claims arising out of his employment with Hard Rock; (3) \$433,333 in attorneys’ fees and up to \$20,000 in litigation costs and expenses; (4) a \$100,000 settlement of claims under the Labor Code Private Attorneys General Act

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

of 2004 (“PAGA”), inclusive of a \$75,000 payment to the California Labor and Workforce Development Agency (“LWDA”) in connection with the PAGA, and a \$25,000 payment (“PAGA Fund”) to all PAGA Members; and (5) reasonable Settlement Administrator’s fees and expenses currently estimated at \$15,000. After deducting the above payments, a total of approximately \$_ will be allocated to Class Members who do not opt out of the Settlement Class (“Net Settlement Fund”). Additionally, all PAGA Members will receive a proportional share of the \$25,000 PAGA Fund, regardless whether they opt out of the Settlement Class.

Payments from Net Settlement Fund. Hard Rock will calculate the total number of Workweeks worked by each Class Member from May 22, 2019 through June 17, 2024 (“Class Period”) and the aggregate total number of Workweeks worked by all Class Members during the Class Period. To determine each Class Member’s estimated share of the Net Settlement Fund, the Settlement Administrator will use the following formula: The Net Settlement Fund will be divided by the aggregate total number of Workweeks during the Class Period, resulting in the “Workweek Value.” Each Class Member’s share of the Net Settlement Fund will be calculated by multiplying each individual Class Member’s total number of Workweeks by the Workweek Value. The Individual Settlement Payment will be reduced by any required deductions for each Class Members as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member’s share of the Net Settlement Fund according to the number of Workweeks worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Fund.

According to Hard Rock’s records, you worked during the Class Period in a non-exempt position for a total of ____ Workweeks. Accordingly, your estimated payment from the Net Settlement Fund is approximately \$ ____.

Payments from PAGA Fund. Hard Rock will calculate the total number of Workweeks worked by each PAGA Member from May 22, 2022 through June 17, 2024 (“PAGA Period”) and the aggregate total number of Workweeks worked by all PAGA Members during the PAGA Period. To determine each PAGA Member’s estimated share of the PAGA Fund, the Settlement Administrator will use the following formula: The PAGA Fund will be divided by the aggregate total number of Workweeks during the PAGA Period, resulting in the “PAGA Workweek Value.” Each PAGA Member’s share of the PAGA Fund will be calculated by multiplying each individual PAGA Member’s total number of Workweeks by the PAGA Workweek Value. A Request for Exclusion does not exclude a PAGA Member from the release of claims under California Labor Code §§ 2698, *et seq.* and the PAGA Member will receive their portion of the PAGA fund even if he/she/they submits a valid Request for Exclusion.

According to Hard Rock’s records, you worked during the PAGA Period in a non-exempt position for a total of ____ Workweeks. Accordingly, your estimated payment from the PAGA Fund is approximately \$ ____.

Your Estimated Payment: Based on the above, your estimated payment from the settlement is approximately \$ _____. If you believe the Workweek information provided above is incorrect, please contact the Settlement Administrator to dispute the calculation. You must attach all documentation in support of your dispute (such as check stubs, W2s, or letters from HR). All disputes must be postmarked or faxed on or before [insert date of Response Deadline] and must be sent to:

Settlement Administrator

c/o _____

Fax No. _____

If you dispute the information stated above, Hard Rock’s records will control unless you are able to provide documentation that establishes otherwise.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 10% of each settlement payment will be allocated as wages for which IRS Forms W-2 will be issued, and 90% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – *Automatically Receive a Payment from the Settlement*

If want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the Released Class Claims, and if you are also a PAGA Member, the Released PAGA Claims:

Released Class Claims: Any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, action or causes of action, known and unknown, contingent or accrued for, that were alleged or could have been alleged based on the facts and matters alleged in the First Amended Complaint and notice to the LWDA, including without limitation to, any and all claims for unreimbursed business expenses, alleged unpaid wages (including but not limited to overtime and minimum wages, and premiums), failure to provide meal periods and rest breaks and alleged unpaid meal period and rest break premiums, itemized wage statement penalties, sick pay, failure to maintain payroll records, waiting time penalties, failure to timely pay wages during employment, or relief under Business & Professions Code (including Section 17200 *et seq.*) based on the preceding claims, and claims for restitution and other equitable relief, liquidated damages, punitive damages, or penalties (but not including PAGA penalties) based on the facts and matters alleged in the First Amended Complaint and notice to the LWDA.

Released PAGA Claims: All claims for civil penalties under PAGA that that were alleged or could have been alleged based on the facts and matters alleged in the First Amended Complaint and notice to the LWDA.

Option 2 – *Opt Out of the Settlement*

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Settlement Administrator

c/o _____

The Request for Exclusion must be postmarked or faxed not later than _____, 2024. If you submit a Request for Exclusion which is not postmarked or faxed by _____, 2024, your Request for Exclusion will be rejected, and you will be included in the settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will:

- Not Receive a Payment from the Net Settlement Fund.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

- Not release the Released Class Claims.
- If you are a PAGA Member, you will still release the Released PAGA Claims, and will receive a payment from the PAGA Fund.

Option 3 – Object to the Settlement

If you decide to object to the settlement because you find it unfair or unreasonable, you may submit a written objection stating why you object to the settlement, or you may instead appear at the Final Fairness Hearing to object to the Settlement. Written objections must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed to the administrator at [administrator’s address].

All written objections must be received by the administrator by not later than _____ 2024. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for _____ at _____ a.m./p.m. in the Superior Court of the State of California, for the County of Los Angeles and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Class Claims and Released PAGA Claims.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or counsel for the parties.

PLEASE DO NOT CONTACT THE COURT FOR QUESTIONS OR SETTLEMENT INFORMATION

Instead, please contact the Settlement Administrator or counsel for the parties with any inquiries. The Settlement Administrator’s contact information is as follows:

[NAME]
[ADDRESS]
[PHONE NUMBER]
[WEBSITE]

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

ATTORNEYS OF RECORD

For Plaintiff Juan Carlos Torres	For Defendant Hard Rock International (USA), Inc.
Raul Perez Capstone Law APC 1875 Century Park E., Suite 1000 Los Angeles, CA 90067 Phone: 1 (888) 575-4929 Email: info@HardRockCafeLawsuit.com	Nancy Yaffe Steven Gallagher Fox Rothschild LLP 10250 Constellation Boulevard Suite 900 Los Angeles, CA 90067 Phone: 310-598-4150 Emails: nyaffe@foxrothschild.com ; stevengallagher@foxrothschild.com

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Exhibit 2

FIRM PROFILE

Capstone Law APC is one of California's largest plaintiff-only labor and consumer law firms. Since its founding in 2012, Capstone has emerged as a major force in aggregate litigation, making law on cutting-edge issues and obtaining over two hundred million dollars in recovery for employees and consumers:

- In February, 2015, Capstone attorneys Raul Perez and Ryan H. Wu were honored with the *California Lawyer* Attorney of the Year (CLAY) award in labor and employment for their work in the landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of California workers to bring representative actions under the Labor Code Private Attorneys General Act ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.
- Recognized as a leading firm in the prosecution of PAGA enforcement actions, Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior Court (Marshall's of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.
- Capstone has made important contributions to consumer protection law. In *McGill v. Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the right to seek public injunctive relief under the state's consumer protection laws cannot be waived and that consumers need not satisfy class certification requirements to enjoin unfair business practices on behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed a denial of class certification, making law that clarified the use of "benefit of the bargain" damages models in consumer class actions.
- Capstone served as class counsel in a number of significant wage and hour settlements, including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v. Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.
- Capstone has an established practice in automotive defect class actions and is currently appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No. 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

SUMMARY OF SIGNIFICANT SETTLEMENTS

Since its founding, Capstone has settled over 100 high-stakes class and representative actions totaling well over \$200 million dollars. Capstone's settlements have directly compensated hundreds of thousands of California workers and consumers. Capstone's actions have also forced employers to modify their policies for the benefit of employees, including changing the compensation structure for commissioned employees and changing practices to ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of California.

The following is a representative sample of Capstone's settlements:

- *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-PLA (N.D. Cal.): gross settlement of \$12 million on behalf of approximately 150,000 personal bankers, tellers, sales associates, and assistant branch manager trainees for wage and hour violations;
- *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash payments and unique buyback program for nearly 2 million consumers;
- *Moore v. PetSmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross settlement of \$10 million on behalf of over 19,000 non-exempt PetSmart employees for wage and hour violations;
- *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross settlement of \$9 million on behalf of approximately 1,200 pharmacists for wage and hour violations;
- *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig workers for sleep time and other wage violations;
- *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super. Ct.): gross settlement of \$5.7 million on behalf of approximately 650 sales representatives;
- *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino Super. Ct.): gross settlement of \$5.5 million for approximately 5,500 non-exempt employees.
- *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of \$5.4 million in a case alleging FCRA violations;
- *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.): gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;
- *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 nonexempt employees;
- *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross settlement of nearly \$5 million on behalf of over 100,000 non-exempt workers for meal break and wage statement claims;
- *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.): gross settlement of nearly \$5 million on behalf of 2,700 non-exempt employees following contested certification;
- *Asghari v. Volkswagen Group of North America*, Case No. 13-02529 (C.D. Cal.): Settlement providing complementary repairs of oil consumption defect, reimbursement for repairs, and extended warranty coverage of certain Audi vehicles valued at over \$20 million;
- *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.): Settlement providing complimentary electric vehicle charging cards and extending warranty coverage for the electric battery on the Nissan Leaf valued at over \$10 million.

PROFESSIONAL BIOGRAPHIES

Partners

Rebecca Labat. Rebecca Labat is co-managing partner of Capstone Law APC, supervising the litigation for all of the firm's cases. She also manages the firm's co-counsel relationships and assists the firm's other partners and senior counsel with case management and litigation strategy. Under Ms. Labat's leadership, Capstone has successfully settled over 100 cases, delivering hundreds millions of dollars to California employees and consumers while earning statewide recognition for its cutting-edge work in developing new law.

Ms. Labat's career accomplishments representing consumers and employees in class actions include the certification of a class of approximately 3,200 current and former automobile technicians and shop employees for the miscalculation of the regular rate for purposes of paying premiums for missed meal and rest breaks.

Before her work representing plaintiffs in class and representative actions, Ms. Labat was an attorney with Wilson Elser and represented life, health, and disability insurers in litigation throughout California in both state and federal courts. She graduated from the University of California, Hastings College of the Law in 2002, where she was a member of the Hastings Civil Justice Clinic, served as a mediator in Small Claims Court for the City and County of San Francisco, and received the CALI Award for Excellence in Alternative Dispute Resolution. She received her undergraduate degree from the University of California, Los Angeles. Ms. Labat is a member of the National Employment Lawyers Association (NELA), the Consumer Attorneys Association of Los Angeles (CAALA), and the Beverly Hills Bar Association.

Raul Perez. Raul Perez is co-managing partner at Capstone, and has focused exclusively on wage and hour and consumer class litigation since 2011. Mr. Perez is the lead negotiator on numerous large settlements that have resulted in hundreds of millions to low-wage workers across California, including many of the most valuable settlements reached by Capstone.

During his career, Mr. Perez has successfully certified by way of contested motion and/or been appointed Lead Counsel or Interim Lead Counsel in several cases, including: *Lopes v. Kohl's Department Stores, Inc.*, Case No. RG08380189 (Alameda Super. Ct.); *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.); *Tameifuna v. Sunrise Senior Living Managements, Inc.*, Case No. 13-02171 (C.D. Cal.) (certified class of over 10,000 hourly-paid employees); and *Berry v. Urban Outfitters Wholesale, Inc.*, Case No. 13-02628 (N.D. Cal.) (appointed lead counsel in a class action involving over 10,000 non-exempt employees). As the lead trial attorney in *Iskanian v. CLS Transportation Los Angeles*, 59 Cal. 4th 348 (2014), Mr. Perez, along with Mr. Wu, received the 2015 CLAY Award in labor and employment.

Mr. Perez received both his undergraduate degree and his law degree from Harvard University and was admitted to the California Bar in December 1994. Earlier in his career, Mr. Perez handled a variety of complex litigation matters, including wrongful termination and other employment related actions, for corporate clients while employed by some of the more established law firms in the State of California, including Morgan, Lewis & Bockius; Manatt Phelps & Phillips; and Akin Gump Strauss Hauer & Feld. Before Capstone, Mr. Perez was a partner at another large plaintiff's firm, helping to deliver millions of dollars in relief to California workers.

Melissa Grant. Melissa Grant is a partner at Capstone. Ms. Grant is responsible for litigating many of the firm's most contentious and high-stakes class actions. The author of numerous successful motions for class

certification, Ms. Grant is the lead or co-lead attorney on multiplied certified class actions currently on track for trial, representing over 140,000 California employees in pursuing their wage and hour claims. She is also at the forefront in developing the law on PAGA, including administrative exhaustion, standing, the nature of PAGA violations, the scope of discovery, and trials.

Prior to joining Capstone, Ms. Grant worked at the Securities and Exchange Commission as a staff attorney in the Enforcement Division, investigating ongoing violations of federal securities regulations and statutes and for Quinn Emanuel Urquhart & Sullivan, LLP, where she was an associate on the trial team that prosecuted the *Mattel v. Bratz* case. Ms. Grant began her legal career as a law clerk to the Honorable Harry Pregerson, Justice of the Ninth Circuit Court of Appeals before joining Sidley & Austin as an associate. She graduated from Southwestern Law School in 1999, where she served as editor-in-chief of the Law Review, and graduated *summa cum laude* and first in her class. Ms. Grant earned her undergraduate degree from Cornell University, where she received the JFK Public Service Award and the Outstanding Senior Award. Her published articles include: *Battling for ERISA Benefits in the Ninth Circuit: Overcoming Abuse of Discretion Review*, 28 Sw. U. L. Rev. 93 (1998), and CLE Class Actions Conference (SF) CAFA: *Early Decisions on Commencement and Removal of Actions* (2006).

Ryan H. Wu. Ryan H. Wu is a partner at Capstone and is primarily responsible for complex motion work and supervising court approval of class action settlements. Mr. Wu handles many of the most challenging legal issues facing Capstone's clients, including the scope and operation of PAGA, contested attorneys' fees motions, responding to objectors, and high-impact appeals. Mr. Wu is responsible for the merits briefing in *McGill v. Citibank, N.A.*, 2 Cal. 5th 945 (2017), where the California Supreme Court unanimously held that consumers' right to pursue public injunctive relief cannot be impeded by a contractual waiver or class certification requirements. He briefed the closely-watched *Williams v. Superior Court (Marshalls of CA LLC)*, 3 Cal.5th 531(2017), an important pro-employee ruling that broadened the scope of discovery in PAGA actions and resolved a longstanding conflict regarding third-party constitutional privacy rights. He also authored the briefs in *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), where, on an issue of first impression, the Ninth Circuit sided with Plaintiffs in holding that PAGA actions are state enforcement actions not covered by the CAFA. In February 2015, Mr. Wu, along with Mr. Perez, received the prestigious CLAY award for his successful appellate work, including briefing to the California Supreme Court, in *Iskanian*. Mr. Wu recently achieved an important consumer victory in *Nguyen v. Nissan N.A.*, 932 F.3d 811 (9th Cir. 2019), which clarified the use of "benefit of the bargain" damages models in consumer class actions.

Mr. Wu graduated from the University of Michigan Law School in 2001, where he was an associate editor of the *Michigan Journal of Law Reform* and contributor to the law school newspaper. He received his undergraduate degree in political science with honors from the University of California, Berkeley. He began his career litigating international commercial disputes and commercial actions governed by the Uniform Commercial Code. Mr. Wu is co-author of "*Williams v. Superior Court: Employees' Perspective*" and "*Iskanian v. CLS Transportation: Employees' Perspective*," both published in the *California Labor & Employment Law Review*.

Robert Drexler. Robert Drexler is a partner with Capstone Law where he leads one of the firm's litigation teams prosecuting wage-and-hour class actions. He has more than 25 years of experience representing clients in wage-and-hour and consumer rights class actions and other complex litigation in state and federal courts. Over the course of his career, Mr. Drexler has successfully certified dozens of employee classes for claims such as misclassification, meal and rest breaks, and off-the-clock work, ultimately resulting in multi-million

dollar settlements. He has also arbitrated and tried wage-and-hour and complex insurance cases. Mr. Drexler has been selected as one of Southern California's "Super Lawyers" every year from 2009 through 2020.

Before joining Capstone, Mr. Drexler was head of the Class Action Work Group at Khorrami Boucher, LLP and led the class action team at The Quisenberry Law Firm. Mr. Drexler graduated from Case Western Reserve University School of Law, where he served as Managing Editor of the Case Western Reserve Law Review and authored Defective Prosthetic Devices: Strict Tort Liability for the Hospital? 32 CASE W. RES. L. REV. 929 (1982). He received his undergraduate degree in Finance at Ohio State University where he graduated *cum laude*. Mr. Drexler is a member of Consumer Attorneys of California (CAOC) and Consumer Attorneys of Los Angeles (CAALA). He has been a featured speaker at class action and employment litigation seminars, and has published articles in CAOC's Forum Magazine and The Daily Journal.

Jamie Greene. Jamie Greene is a partner with Capstone Law, where she leads the firm's business development and case generation team. Ms. Greene is responsible for evaluating all potential new cases and referrals, developing new claims, and managing the firm's client and cocounseling relationships. She also supervises the pre-litigation phase for all cases, including investigation, analysis, and client consultation.

Before joining Capstone, Ms. Greene began her legal career at Makarem & Associates representing clients in a wide array of cases ranging from wrongful death, insurance bad faith, employment, personal injury, construction defect, consumer protection, and privacy law. Ms. Greene is a graduate of the University of Southern California Gould School of Law and earned her bachelor's degree from Scripps College in Claremont, California.

Bevin Allen Pike. Bevin Allen Pike is a partner with Capstone Law, where she focuses primarily on wage-and-hour class actions. Ms. Pike has spent her entire legal career representing employees and consumers in wage-and-hour and consumer rights class actions. Over the course of her career, Ms. Pike has successfully certified dozens of employee and consumer classes for claims such as meal and rest breaks, unpaid overtime, off-the-clock work, and false advertising.

Before joining Capstone, Ms. Pike's experience included class and representative action work on behalf of employees and consumers at some of the leading plaintiffs' firms in California. Ms. Pike graduated from Loyola Law School, Los Angeles, where she was an Editor for the International and Comparative Law Review. She received her undergraduate degree from the University of Southern California. Ms. Pike has been selected as one of Southern California's "Super Lawyers – Rising Stars" every year from 2012 through 2015.

Senior Counsel

Theresa Carroll. Theresa Carroll is a senior counsel at Capstone Law. Her practice is devoted to the Appeals & Complex Motions team, working on various settlement and approval projects.

Prior to joining Capstone, Ms. Carroll was an associate with Parker Stanbury, LLP, advising small business owners on various employment matters and worked as an associate attorney for O'Donnell & Mandell litigating employment discrimination and sexual harassment cases. In 1995, she graduated from Southwestern University School of Law where she was on the trial advocacy team and was awarded the prestigious Trial Advocate of the Year award sponsored by the American Board of Trial Advocates (ABOTA) for Southwestern University School of Law. Ms. Carroll received her Bachelor of Science degree in speech with an emphasis in theatre from Iowa State University.

Liana Carter. Liana Carter is a senior counsel with Capstone Law APC, specializing in complex motions, writs, and appeals. Her work on recent appeals has included reversing a denial of class certification decision in *Brown v. Cinemark USA, Inc.*, No. 16-15377, 2017 WL 6047613 (9th Cir. Dec. 7, 2017), affirming a denial of a motion to compel arbitration in *Jacoby v. Islands Rests., L.P.*, 2014 Cal. App. Unpub. LEXIS 4366 (2014) and reversal of a dismissal of class claims in *Rivers v. Cedars-Sinai Med. Care Found.*, 2015 Cal. App. Unpub. LEXIS 287 (Jan. 13, 2015). Ms. Carter was responsible for drafting the successful petition for review in *McGill v. Citibank N.A.*, as well as the petition for review and briefing on the merits in *Williams v. Superior Court*, 2017 WL 2980258. Ms. Carter also has extensive prior experience in overseeing settlement negotiations and obtaining court approval of class action settlements.

Ms. Carter was admitted to the California bar in 1999 after graduating from the University of Southern California Gould School of Law, where she was an Articles Editor on the board of the *Southern California Law Review*. She received her undergraduate degree with honors from the University of California, Irvine.

Anthony Castillo. Anthony Castillo is a senior counsel with Capstone Law. His practice focuses on analyzing and developing pre-litigation wage-and-hour and consumer claims, including PAGA representative actions and class actions for failure to pay overtime and minimum wages, meal and rest period violations, and claims under the Fair Labor Standards Act and the Investigative Consumer Reporting Agency Act. Prior to joining Capstone, he was an associate at a California bankruptcy practice, where he represented individual and business debtors in liquidations and re-organizations as well as various debt and foreclosure defense-related issues.

Mr. Castillo graduated from Loyola Law School, Los Angeles in 2009, where he volunteered with the Disability Rights Legal Center. He attended Stanford University for his undergraduate degree, majoring in Political Science and minoring in History. Anthony is admitted to practice law in California and Washington and before the United States District Court for the Central and Southern Districts of California.

Molly DeSario. Molly DeSario is a senior counsel with Capstone Law, specializing in employment class action litigation. Ms. DeSario's practice focuses primarily on wage-and-hour class action and Private Attorneys General Act litigation on behalf of employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work. She has experience briefing and arguing a multitude of dispositive motions in state and federal court and has successfully certified and settled numerous classes for claims such as exempt misclassifications, unpaid wages, missed meal and rest breaks, and unreimbursed business expenses.

Ms. DeSario began her career as a general practice litigation associate with Sandler & Mercer in Rockville, Maryland, handling a wide range of civil and criminal matters. Since 2005, she has primarily litigated class action cases and, for the last seven years, has focused on representing employees and consumers in class and collective actions across California and the nation, helping them recover millions of dollars in unpaid wages, restitution, and penalties. Molly graduated from Northeastern University School of Law in 2002. During law school, she interned for the U.S. Attorney's Office in Boston, Massachusetts, and the Honorable Paul L. Friedman at the U.S. District Court for the District of Columbia. She received her undergraduate degree in Marketing and International Business from the University of Cincinnati, where she graduated summa cum laude.

Helga Hakimi. Helga Hakimi is a senior counsel at Capstone Law. Her practice primarily involves employment law class action litigation, namely wage-and-hour class actions and PAGA litigation on behalf of

employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work, and related employer violations under the Fair Labor Standards Act and California Labor Code.

Prior to joining Capstone, Ms. Hakimi was a partner at a civil litigation firm in West Los Angeles, where she handled mainly real estate litigation, business litigation, and defense of some employment law matters; prior to that, she worked as a civil litigation attorney handling complex personal injury litigation. Ms. Hakimi's interest in advocating for employee rights began in law school, where she volunteered for the Workers' Rights Clinic and assisted low-income community members in Northern California's greater Bay Area region with employment-related legal issues. Upon graduating from law school, Ms. Hakimi worked as an associate for a municipal law firm, and thereafter at the local City Attorney's Office, where she advised municipalities and cities in civil matters involving land use, environmental law, development issues, Constitutional law, and First Amendment rights. Ms. Hakimi graduated from Berkeley Law (Boalt Hall School of Law), where she earned her Juris Doctorate and was awarded the Prosser Award in Remedies. Ms. Hakimi received her Bachelor of Arts degree in Political Science with a minor in Education Studies from the University of California, Los Angeles, and graduated summa cum laude and with Departmental Highest Honors.

Daniel Jonathan. Daniel Jonathan is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Prior to joining Capstone, Mr. Jonathan began his career as an associate at Kirkland & Ellis representing Fortune 500 clients in high-stakes litigation in various matters, including class action defense and plaintiff's actions for accounting fraud. Following that, he was a senior counsel at a boutique litigation firm where he successfully first-chaired several trials. Mr. Jonathan graduated from the Northwestern University School of Law. He received his undergraduate degree in Accounting from the University of Southern California, where he graduated cum laude. He has passed the CPA examination and worked as an auditor at Deloitte before attending law school.

Jonathan Lee. A senior counsel with Capstone, Jonathan Lee primarily litigates employment class actions. At Capstone, Mr. Lee has worked on several major successful class certification motions, and his work has contributed to multi-million dollar class settlements against various employers, including restaurant chains, retail stores, airport staffing companies, and hospitals. Prior to joining Capstone, Mr. Lee defended employers and insurance companies in workers' compensation actions throughout California.

Mr. Lee graduated in 2009 from Pepperdine University School of Law, where he served as an editor for the Journal of Business, Entrepreneurship and the Law; he received his undergraduate degree from UCLA.

Cody Padgett. Cody Padgett is a senior counsel with Capstone Law. Mr. Padgett prosecutes automotive defect and other consumer class action lawsuits during all stages of litigation. His work has been integral to achieving contested class certification in several automotive defect cases, including *Falco v. Nissan N. Am. Inc.*, No. 13-00686 (C.D. Cal.) (certifying a class of owners/lessees of Nissan vehicles), *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-08629 (C.D. Cal.) (certifying a class of owners/lessees of Toyota vehicles), and *Victorino v. FCA US, LLC*, No. 16-01617 (S.D. Cal.) (certifying a class of owners/lessees of Dodge Dart vehicles). Mr. Padgett's efforts have also contributed to major settlements of automotive defect and consumer cases, providing substantial monetary relief to millions of class members, valued in the hundreds of millions of

dollars. See, e.g., *Weckwerth v. Nissan North America, Inc.*, No. 18-00588 (M.D. Tenn.) (providing a \$407 to \$547 million-dollar benefit to a class of nearly 3 million consumers).

Prior to joining Capstone Law, Mr. Padgett assisted with the defense of major felony cases at the San Diego County Public Defender's Office. During law school, Mr. Padgett served as a judicial extern to the Honorable C. Leroy Hansen, United States District Court for the District of New Mexico. He graduated from California Western School of Law in the top 10% of his class and received his undergraduate degree from the University of Southern California, where he graduated *cum laude*. Mr. Padgett is admitted to practice in California, before the Ninth Circuit Court of Appeals, and before United States District Court for the Northern, Eastern, Central, and Southern Districts of California.

Eduardo Santos. Eduardo Santos is a senior counsel at Capstone Law, and concentrates his practice on managing and obtaining court approval of many of Capstone's wage-and-hour, consumer, and PAGA settlements, from the initial contract drafting phase to motion practice, including contested motion practice on attorneys' fees. Over the course of his career, Mr. Santos has helped to secure court approval of over one hundred high-stakes class and representative action settlements totaling over \$100 million.

Before joining Capstone, Mr. Santos began his career at a prominent plaintiff's firm in Los Angeles specializing in mass torts litigation, with a focus on complex pharmaceutical cases. Most notably, he was involved in the national Vioxx settlement, which secured a total of \$4.85 billion for thousands of individuals with claims of injuries caused by taking Vioxx. Mr. Santos graduated from Loyola Law School, Los Angeles, where he was a recipient of a full-tuition scholarship awarded in recognition of academic excellence. While in law school, Mr. Santos served as an extern for the Honorable Thomas L. Willhite, Jr. of the California Court of Appeal. He graduated magna cum laude from UCLA and was a recipient of the Ralph J. Bunche Scholarship for academic achievement.

Mao Shiokura. Mao Shiokura is a senior counsel with Capstone. Her practice focuses on identifying, evaluating, and developing new claims, including PAGA representative actions and class actions for wage-and-hour violations and consumer actions under the Consumers Legal Remedies Act, False Advertising Law, Unfair Competition Law, and other consumer protection statutes. Prior to joining Capstone, Ms. Shiokura was an associate at a California lemon law firm, where she represented consumers in Song-Beverly, Magnuson-Moss, and fraud actions against automobile manufacturers and dealerships.

Ms. Shiokura graduated from Loyola Law School, Los Angeles in 2009, where she served as a staff member of Loyola of Los Angeles Law Review. She earned her undergraduate degree from the University of Southern California, where she was a Presidential Scholar and majored in Business Administration, with an emphasis in Cinema-Television and Finance.

John Stobart. John Stobart is a senior counsel with Capstone Law. He focuses on appellate issues in state and federal courts and contributes to the firm's amicus curiae efforts to protect and expand the legal rights of California employees and consumers. Mr. Stobart has significant appellate experience having drafted over two dozen writs, appeals and petitions, and having argued before the Second, Fourth, and Fifth Districts of the California Court of Appeal.

Prior to joining Capstone, Mr. Stobart was a law and motion attorney who defended against civil liability in catastrophic injury and wrongful death cases brought against his clients, which included the railroad, public schools, small businesses, and commercial and residential landowners. He has drafted and argued scores of

dispositive motions at the trial court level and had success in upholding judgments and verdicts on appeal. He graduated cum laude from Thomas Jefferson School of Law where he was on the mock trial competition team and earned his undergraduate degree from the Ohio State University.

Roxanna Tabatabaepour. Roxanna Tabatabaepour is a senior counsel with Capstone Law. Her practice primarily involves representing employees in class actions and representative actions for various violations of the California Labor Code.

Before joining Capstone, Ms. Tabatabaepour's experience included representing workers in single-plaintiff and class/representative action lawsuits regarding wage-and-hour violations, as well as individual claims for discrimination, retaliation, failure to accommodate, harassment, and wrongful termination, under both California and federal laws. Ms. Tabatabaepour received her undergraduate degrees from the University of California San Diego. She subsequently graduated from the American University, Washington College of Law, where she was a Marshall-Brennan Constitutional Literacy Fellow and taught Constitutional Literacy to teens in marginalized communities.

Ryan Tish. Ryan Tish is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and Private Attorneys General Act ("PAGA") representative actions on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, failure to reimburse necessary business expenses, and other claims under the Fair Labor Standards Act and California Labor Code.

Before joining Capstone, Mr. Tish was an associate at a civil litigation firm in Los Angeles, handling a variety of matters, including commercial contracts, real estate, and employment law. Mr. Tish has represented both employers and employees in actions ranging from individual claims of discrimination, harassment, retaliation, and wrongful termination, to class and representative actions for wage-and-hour and privacy law violations. Mr. Tish is a graduate of the University of Southern California Gould School of Law and earned his bachelor's degree in civil and environmental engineering from the University of California, Los Angeles. Mr. Tish is admitted to practice law in California and before the United States District Court for the Northern, Eastern, Central, and Southern Districts of California.

Orlando Villalba. Orlando Villalba is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Mr. Villalba began his career at Kirkland & Ellis where he handled a wide range of business litigation matters, including transnational contract disputes, insurance-related tort claims, developer litigation, and civil rights actions. He also has extensive plaintiff-side experience representing government agencies and note-holders in the pursuit of mortgage and other fraud losses. Mr. Villalba graduated from Stanford Law School, where he served as an articles editor on the Stanford Journal of Law, Business & Finance. After law school, he clerked for the Honorable Warren Matthews of the Alaska Supreme Court. Orlando received his bachelor's degree in International Business from the University of Southern California.

Tarek Zohdy. A senior counsel with Capstone Law, Tarek Zohdy develops, investigates and litigates automotive defect class actions, along with other consumer class actions for breach of warranty and consumer fraud. At Capstone, he has worked on several large-scale automotive class actions from

investigation through settlements that have provided significant relief to millions of defrauded car owners. Before joining Capstone, Mr. Zohdy spent several years representing individual consumers in their actions against automobile manufacturers and dealerships for breaches of express and implied warranties pursuant to the Song-Beverly Consumer Warranty Act and the Magnuson-Moss Warranty Act, commonly referred to together as “Lemon Law.” He also handled fraudulent misrepresentation and omission cases pursuant to the Consumers Legal Remedies Act. Mr. Zohdy graduated from Louisiana State University *magna cum laude* in 2003, and Boston University School of Law in 2006, where he was a member of the criminal clinic representing underprivileged criminal defendants.

Associates

Tyler Anderson. Tyler Anderson is an associate with Capstone Law. His practice focuses on complex motions, writs, and appeals. Before joining Capstone, Mr. Anderson was Co-Director of the Los Angeles Center for Community Law and Action (“LACCLA”), a nonprofit law firm that represents tenant unions and union organizers. While there, Mr. Anderson tried a disparate impact federal Fair Housing Act case that resulted in a jury verdict of over \$1,000,000. He also frequently used California Anti-SLAPP laws to block attempts to silence tenant union organizers. Prior to working at LACCLA, Mr. Anderson clerked for the Honorable Martha Vazquez, a federal district court judge for the District of New Mexico who, at the time, sat on the Executive Committee of the Federal Judiciary. Before that, Mr. Anderson was a litigation associate at the international law firm Jenner & Block LLP. Mr. Anderson graduated from Harvard Law School, where he was the Executive Articles Editor of the Harvard Journal on Legislation as well as President of one of the largest student-run pro bono organizations at Harvard University, Project No One Leaves. He graduated with several “Dean’s Scholar” prizes for receiving top grades in his constitutional law courses.

Sairah Budhwani. Sairah Budhwani is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work violations. Previously, Ms. Budhwani litigated employment discrimination, harassment, and retaliation claims, and also represented incarcerated individuals contesting the conditions of their confinement. Ms. Budhwani graduated from UCLA School of Law in 2019 and received an undergraduate degree in Urban Studies from University of California, Irvine in 2012. Ms. Budhwani is admitted to practice law in California. She is fluent in Urdu.

Laura Goolsby. Laura Goolsby is an associate with Capstone Law. Her practice focuses on prosecuting automotive defect and other consumer class action cases in state and federal court. Prior to joining Capstone Law, Ms. Goolsby was an associate at a California civil litigation practice representing individuals in toxic tort disputes. Previous to that, Ms. Goolsby was a trial attorney in a California lemon law firm, trying cases against automobile manufacturers in state and federal court. Ms. Goolsby is published in the University of Pennsylvania Journal of Law and Change law review and served as a judicial intern to the U.S. Department of Justice Immigration Court while in law school. Ms. Goolsby graduated from California Western School of Law, where she was a member of the award-winning Philip C. Jessup International Moot Court team and spent multiple trimesters on the Dean’s List. She graduated with several Academic Excellence Awards for receiving top grades in various international law, civil rights law, and legal skills courses.

Ninel Kocharyan. Ninel Kocharyan is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violation of overtime and minimum

wage law, meal and rest period requirements, and off-the-clock work violations. Ms. Kocharyan began her career in entertainment law reviewing, drafting, and negotiating contracts for talent and ensuring FTC compliance. She immigrated to the United States from Russia at the age of 15 with a passion to pursue a career in law. Ms. Kocharyan graduated from Thomas Jefferson School of Law in 2014 and received her undergraduate degree from University of California, Los Angeles where she majored in Political Science. Ms. Kocharyan is admitted to practice law in California.

Alexander Lima. Alexander Lima is an associate with Capstone Law. His practice focuses on evaluating pre-litigation wage-and-hour claims, including potential violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work issues, as well as consumer protection claims. Previously, Mr. Lima was an associate at a California civil litigation practice representing individuals and entities in real estate disputes. Mr. Lima graduated from Santa Clara University, School of Law in 2018, where he served as an Executive Board Member of the Honors Moot Court and was selected as a regional finalist for the American Bar Association Negotiation Competition. He received his undergraduate degree from the University of California, Riverside in 2014.

Trisha Monesi. Trisha Monesi is an associate with Capstone. Her practice focuses on prosecuting consumer class actions in state and federal court. Ms. Monesi graduated from Loyola Law School, Los Angeles in 2014, where she served as an editor of the Loyola of Los Angeles Entertainment Law Review and was a certified law clerk at the Center for Juvenile Law and Policy. She earned her undergraduate degree from Boston University in 2011, where she majored in Political Science and International Relations. She is an active member of the Women Lawyers Association of Los Angeles, and the Los Angeles County and Beverly Hills Bar Associations.

Joey Parsons. Joey Parsons is an associate with Capstone. His practice primarily involves wage-and-hour class actions and PAGA representative actions. Previously, Joey was an associate at a boutique firm where he represented California employees in all facets of employment law, including claims brought under the FEHA, Title VII, and the California Labor Code. Joey is a graduate of the University of Alabama School of Law, where he competed on the Labor and Employment Moot Court team and served as the Executive Articles Editor for the Alabama Law & Psychology Review. Joey received his bachelor's degree in history from Virginia Tech.

Jezette Ron. Jezette Ron is an associate with Capstone Law. Her practice focuses on analyzing pre-litigation wage-and-hour and consumer claims, including claims for overtime wages, meal and rest periods, and off-the-clock work violations. She began her career as in-house counsel for a private entity reviewing and drafting company policies. During this time, she actively supported the company with human resource and workers compensation matters. Additionally, she ensured company compliance with California Labor Codes and Occupational Safety and Health Administration (OSHA) regulations. She also implemented an Illness Injury Prevention Program, which included a COVID-19 Exposure Control and Response procedure in compliance with OSHA. Ms. Ron graduated from Whittier Law in 2017, where she served as a board member of the Student Bar Association. She received her undergraduate degree from the University of California, Riverside in 2012 where she majored in Business Management and Public Policy. Ms. Ron is admitted to practice law in California and takes pride in being an advocate for creating a work friendly environment for all employees.

Alexander Wallin. Alexander Wallin is an associate at Capstone Law. He is a passionate litigator who has successfully represented employees against corporate injustice. Mr. Wallin has recovered millions of dollars in



numerous wage-and-hour class actions, PAGA actions, and individual discrimination lawsuits. He has a particular interest in representing economically disadvantaged employees who cannot afford legal representation on a retainer-fee basis. Mr. Wallin is a member of the Los Angeles County Bar Association's Employment Law Section and stays up-to-date with the rapidly evolving areas of wage-and-hour protections. He graduated from Loyola Law School in 2017 and is admitted to practice law in California, as well as before the United States District Court for Central and Northern Districts of California. He has been selected as a Southern California "Super Lawyers – Rising Star" in 2022 and 2023.

OUTREACH AND EDUCATION

To increase public awareness about the issues affecting class action and other representative litigation in the consumer and employment areas, Capstone publishes the Impact Litigation Journal (www.impactlitigation.com). Readers have access to news bulletins, op-ed pieces, and legal resources. By taking advantage of social media, Capstone hopes to spread the word about consumer protection and employee rights to a larger audience than has typically been reached by traditional print sources, and to thereby contribute to the enforcement of California's consumer and workplace protection laws.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JUAN CARLOS TORRES, individually, and on behalf of other members of the general public similarly situated, and as an aggrieved employee pursuant to the Private Attorney General Act ("PAGA"),

Plaintiff,

vs.

HARD ROCK INTERNATIONAL (USA), INC., a Florida corporation; HARD ROCK CAFE INTERNATIONAL (HOLLYWOOD), INC., a Delaware corporation; HARD ROCK SACRAMENTO FM, LLC, a Florida limited liability company; and DOES 1 through 10, inclusive,

Defendants.

Case No. 23STCV11468

Assigned to the Hon. Carolyn B. Kuhl

DECLARATION OF JUAN CARLOS TORRES IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

Date: TBD
Time: TBD
Place: Department 12

Complaint Filed: May 22, 2023
Trial Date: None Set

DECLARATION OF JUAN CARLOS TORRES

I, Juan Carlos Torres, hereby declare as follows:

1. I am over eighteen years old and unless the context indicates otherwise, I have personal knowledge of the following facts, and if called as a witness, I could and would testify competently to them. I am the named plaintiff in the above-captioned action, and a representative for the Settlement Class. I make this declaration in support of the Motion for Preliminary Approval of Class Action and PAGA Settlement.

2. I was employed by Defendant Hard Rock International (USA), Inc. (“Defendant”) as an hourly paid, non-exempt Food Server at Defendant’s Hard Rock Cafe restaurant in San Francisco, California from approximately September 2021 to January 2023. I decided to file this lawsuit because I had a number of grievances against Defendant stemming from its labor policies. These grievances are set forth in detail in the operative Complaint and my letter to California Labor and Workforce Development Agency (“LWDA”).

3. Prior to filing the action, my attorneys and I had multiple conferences about the factual bases for the claims that I wanted to pursue against Defendant.¹ During those conferences, my attorneys provided me with an overview of how those claims would be litigated, and generally educated me about the nature of complex/representative litigation and my role as the representative Plaintiff.

4. After retaining my attorneys, I spent considerable time on the phone discussing the facts of my case with my attorneys. I discussed the facts related to my employment with Defendant, including discussing my job duties and responsibilities, my job position, the hours and days I worked, and how I was compensated.

5. My attorneys provided me with a draft of the Complaint for my review and approval. I closely reviewed the Complaint to ensure accuracy and completeness. Following the filing of the Complaint, I collaborated with my attorneys on the prosecution of my claims, and I regularly contacted my attorneys to stay current on the status of the litigation, and to discuss my attorneys’ progress in

¹ Although the preservation of my attorney-client privilege requires that I refrain from revealing the specifics of my communications with my attorneys, I understand that the privilege is not waived by stating generally the matters that I have discussed with my attorneys.

1 prosecuting the claims.

2 6. I have worked to the best of my ability to prosecute this action on behalf of the entire
3 class, always considering the interests of the class members just as I would consider my own interests. I
4 believe class actions are an important tool to assure compliance with the law even where an individual's
5 losses may be relatively small. I have no interests which are inconsistent with the interests of the class.

6 7. When I agreed to represent other non-exempt employees performing duties for
7 Defendant in the State of California, I understood it was my duty to be readily available and to participate
8 actively in this case. I knew that I would be required to review documents, search for documents and
9 produce them to my attorneys, answer written questions, potentially answer oral questions and testify
10 truthfully under oath, and be available to appear in court, if necessary.

11 8. I understood that I needed to maintain awareness of the status and progress of the
12 lawsuit.

13 9. Since initiating this lawsuit until now, I have kept aware of the status of the lawsuit and
14 provided my attorneys with information used by them in the litigation. I have spent large amounts of
15 time and effort pursuing my claims and the claims of the other employees from the time I retained my
16 attorneys to the present date.

17 10. I have carefully reviewed the terms of the proposed settlement. My attorneys explained
18 the specifics of how the settlement would work and I accepted the settlement only after I had spent time
19 evaluating the proposed outcome to assure that it was fair. Based on my attorneys' evaluation and
20 recommendation, and my own review, I believe the settlement is fair and reasonable and adequately
21 compensates Class Members.

22 11. In summary, over the course of this litigation I have spent a significant amount of time
23 conferring and working with my attorneys on the prosecution of my claims and evaluating the settlement
24 and related documents. I estimate that I have spent between 25 and 35 hours assisting my attorneys in the
25 prosecution of this lawsuit.

26 12. Throughout this case, I have not sought individual benefits from the lawsuit. Rather, I
27 maintained this lawsuit because I wanted to hold Defendant accountable for its unlawful conduct. I
28 believe that I have fulfilled my responsibilities, and I will continue to fulfill those responsibilities, to the

best of my ability, until the conclusion of the case.

13. I am committed to this case and will continue to make myself available as needed in the settlement process.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on [Date] 7/12/2024, at [City] Juan Carlos Torres, California.

DocuSigned by:

EC27D00641A64A6...

Juan Carlos Torres

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8 Attorneys for Plaintiff Juan Carlos Torres

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES**

11 JUAN CARLOS TORRES, individually, and on
behalf of other members of the general public
12 similarly situated, and as an aggrieved employee
pursuant to the Private Attorney General Act
13 (“PAGA”),

14 Plaintiff,

15 vs.

16 HARD ROCK INTERNATIONAL (USA),
INC., a Florida corporation; HARD ROCK
17 CAFE INTERNATIONAL (HOLLYWOOD),
INC., a Delaware corporation; HARD ROCK
18 SACRAMENTO FM, LLC, a Florida limited
liability company; and DOES 1 through 10,
19 inclusive,

20 Defendants.

Case No. 23STCV11468

Assigned to the Hon. Carolyn B. Kuhl

**[PROPOSED] ORDER GRANTING MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT**

Date: September 17, 2024

Time: 10:30 a.m.

Place: Department 12

Complaint Filed: May 22, 2023

Trial Date: None Set

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protected in that they may exclude themselves from the Settlement and proceed with any alleged claims they may have against Defendant, or they may object to the Settlement and appear before this Court. However, to do so they must follow the procedures outlined in the Settlement Agreement and Notice of Class Action Settlement.

8. The Court approves, as to form and content, the proposed Notice of Class Action Settlement (“Class Notice”).

9. The Court directs the mailing, by First-Class U.S. mail, of the Class Notices to Class Members in accordance with the schedule set forth below and the other procedures described in the Settlement Agreement. The Court finds that the method selected for communicating the preliminary approval of the Settlement Agreement to Class Members is the best notice practicable under the circumstances, constitutes due and sufficient notice to all persons entitled to notice, and thereby satisfies due process.

10. The Court appoints Plaintiff Juan Carlos Torres as the representative for the Settlement Class conditionally certified by this Order.

11. The Court appoints Capstone Law APC as Class Counsel. The Court finds that counsel have demonstrable experience litigating, certifying, and settling class actions, and will serve as adequate counsel for the Class conditionally certified by this Order.

12. The Court approves and appoints CPT Group, Inc. as the Settlement Administrator.

13. The following dates shall govern for purposes of this Settlement:

Date	Event
October 1, 2024 (or not later than 14 calendar days after the Court grants preliminary approval of the Settlement Agreement, if later)	Last day for Defendant to produce the Class List to the Settlement Administrator.
October 8, 2024 (or not later than 7 calendar days after Defendant produces the Class List, if later)	Last day for the Settlement Administrator to mail Class Notices to all Class Members.
November 22, 2024 (or not later than 45 calendar days after the Settlement Administrator mails the Class Notices, if later)	Last day for Class Members to submit Requests for Exclusion or Objections to the Settlement.
December 10, 2024	Last day for Plaintiff to file and serve the: (1) Motion for Final Approval of Class Action Settlement and (2) Motion for Attorneys’ Fees, Costs, and a Class Representative Enhancement Payment.

Date	Event
January 8, 2025 at 10:30 a.m.	Hearing on the: (1) Motion for Final Approval of Class Action Settlement and (2) Motion for Attorneys' Fees, Costs, and a Class Representative Enhancement Payment.

14. The Court expressly reserves the right to continue or adjourn the final approval hearing without further notice to the Class Members.

IT IS SO ORDERED.

Dated: _____

Hon. Carolyn B. Kuhl
Los Angeles County Superior Court Judge