

1 RUTAN & TUCKER, LLP
Maria Z. Stearns (State Bar No. 230649)
2 mstearns@rutan.com
Kenneth J. Zielinski (State Bar No. 258555)
3 kzielinski@rutan.com
Jonas Trevethan (State Bar No. 340465)
4 jtrevethan@rutan.com
18575 Jamboree Road, 9th Floor
5 Irvine, CA 92612
Telephone: 714-641-5100
6 Facsimile: 714-546-9035

7 Attorneys for Defendant
LAZY DOG RESTAURANTS, LLC
8

9 LAW OFFICE OF SCOTT ERNEST WHEELER
Scott Ernest Wheeler (State Bar No. 187998)
10 sew@scottwheelerlawoffice.com
Justin A. Wheeler (State Bar No. 342226)
11 jaw@scottwheelerlawoffice.com
250 West First Street, Suite 216
12 Claremont, California 91711
Telephone: 714-641-5100
13 Facsimile: 714-546-9035

14 Attorneys for Plaintiff
JUAN MEJIA, and all other Aggrieved Employees
15
16 (Additional Counsel on Next Page)

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 FOR THE COUNTY OF SAN BERNARDINO

19 ELFEGO VILLALPANDO,
20
21 Plaintiff,

22 v.

23 LAZY DOG RESTAURANTS, LLC; and
DOES 1-50,
24 Defendants.

Lead Case No. CIVSB2121205
[To Be Consolidated with Case No.
CIVSB2333342]

ASSIGNED FOR ALL PURPOSES TO:
HON. GILBERT OCHOA, DEPT. S24

**STIPULATION AND AGREEMENT FOR
PAGA REPRESENTATIVE ACTION
SETTLEMENT**

Date Action Filed: July 22, 2021
Trial Date: March 11, 2024

1 LAW OFFICES OF FARRAH MIRABEL
Farrah Mirabel (State Bar No. 162933)
2 fmesq@fmirabel.com
1070 Stradella Rd.
3 Los Angeles, CA 90077
Telephone: (714) 972-0707
4 Fax: (949) 417-1796
5 Attorneys for Plaintiff,
6 ELFEGO VILLALPANDO, and all other Aggrieved Employees

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This Stipulation and Agreement for PAGA Representative Action Settlement is made and entered into by and between Plaintiffs Elfego Villalpando and Juan Mejia (collectively, "Plaintiffs"), on behalf of themselves and as representatives of the State of California and the Aggrieved Employees (as defined in Paragraph 2, below), on the one hand, and Defendant Lazy Dog Restaurants, LLC ("Defendant"), on the other hand (collectively, the "Parties"), and is made in compromise of disputed claims. The Parties agree that the above-entitled representative actions shall be settled on the terms and conditions set forth in this Stipulation, subject to the approval of the Court pursuant to Section 2699(1) of the California Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.* ("PAGA").

DEFINITIONS

1. "**Actions**" means and refers to the PAGA representative claim pending in *Elfego Villalpando v. Lazy Dog Restaurants, LLC*, Case No. CIVSB2121205, and the entire action styled *Juan Mejia v. Lazy Dog Restaurants, LLC*, Case No. CIVSB2333342 (formerly Orange County Superior Court Case No. 30-2023-01342332-CU-OE-CXC prior to the case being transferred to San Bernardino Superior Court) which are both currently pending in the San Bernardino County Superior Court of the State of California.

2. "**Aggrieved Employees**" means all non-exempt, hourly-paid employees of Defendant employed in California at a restaurant location at any time during the PAGA Period.

3. The terms "**Agreement**," "**Settlement**," and "**Settlement Agreement**" mean this Stipulation and Agreement for PAGA Representative Action Settlement, which the Parties acknowledge sets forth all material terms and conditions of the Settlement between them, and which is subject to Court approval pursuant to Section 2699(1) of the California Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*

4. "**Court**" means the California Superior Court, County of Bernardino.

5. "**Defendant**" means Lazy Dog Restaurants, LLC.

6. "**Effective Date**" of this Agreement shall be the later of: (i) the 61st day after service of notice of entry of the Final Order and Judgment, if no appeal, review, or writ has been filed; or (ii) if an appeal, review, or writ is sought from the Final Order and Judgment, the day after the Final

1 Order and Judgment is affirmed or the appeal, review, or writ is dismissed or denied, and the Final
 2 Order and Judgment are no longer subject to further judicial review. The Effective Date is
 3 conditioned upon all of the following occurring: (a) this Agreement has been signed by the Parties,
 4 PAGA Counsel, and Defendant's counsel; and (b) the Court has entered the Final Order and
 5 Judgment.

6 7. **"Enhancement Awards"** means the amount the Court authorizes to be paid to each
 7 of the Representative Plaintiffs in addition to their respective Individual PAGA Payments, in
 8 recognition of their efforts and work in prosecution of the Actions, up to \$10,000.00 each, or
 9 combined \$20,000.00.

10 8. **"Final Order and Judgment"** means the proposed order granting approval of the
 11 Settlement and entering Judgment, in the form substantially similar to that attached to this
 12 Agreement as Exhibit B.

13 9. **"Gross Settlement Amount"** means a maximum total of \$500,000.00, which
 14 includes all payments owing as a result of this Agreement and includes: the Net Settlement Amount;
 15 Settlement Administration Costs; Representative Plaintiffs' Enhancement Awards; and PAGA
 16 Counsel Attorneys' Fees and Costs as awarded by the Court.

17 10. **"LWDA Payment"** means a payment to the California Labor Workforce and
 18 Development Agency in an amount equal to 75% of the Net Settlement Amount.

19 11. **"Net Settlement Amount"** is the Gross Settlement Amount less (1) PAGA
 20 Counsel's Attorneys' Fees and Costs; (2) Representative Plaintiffs' Enhancement Awards; and (3)
 21 Settlement Administration Costs.

22 12. **"PAGA Aggrieved Employee Payment"** means a payment of 25% of the Net
 23 Settlement Amount, which the Parties have agreed to pay the Aggrieved Employees in connection
 24 with the settlement of the PAGA Claim.

25 13. **"PAGA Claim"** means the claim for civil penalties under the California Labor Code
 26 Private Attorneys General Act of 2004 (Cal. Lab. Code sections 2698 *et seq.*, "PAGA") alleged in
 27 the Actions and stated in Representative Plaintiffs' January 28, 2021, June 9, 2023, June 10, 2023
 28 and November 21, 2023 notice letters to the LWDA, true and correct copies of which are attached

1 as Exhibit C.

2 14. **“PAGA Counsel”** means Farrah Mirabel of the Law Offices of Farrah Mirabel and
3 Scott Ernest Wheeler of the Law Office of Scott Ernest Wheeler.

4 15. **“PAGA Period”** means January 28, 2020, through December 31, 2023.

5 16. **“Released Claims”** means all claims or causes of action for PAGA penalties that
6 were, or could have been asserted in Representative Plaintiffs’ January 28, 2021, June 9, 2023, June
7 10, 2023 and November 21, 2023 notice letters to the LWDA and in the operative complaints in the
8 Actions, pursuant to the California Labor Code Private Attorneys General Act of 2004, Labor Code
9 §§ 2698, *et seq.*, based on the alleged violations of Labor Code §§ 98.6, 201-205, 206.5, 210, 216,
10 218.5, 218.6, 221, 223, 225.5, 226, 226.2, 226.3, 226.6, 226.7, 226.8, 227.3, 233, 234, 246, 246.5,
11 248.1, 248.2, 248.5, 248.6, 256, 432.5, 510-512, 551-552, 558, 558.1, 1051, 1054, 1102.5, 1174,
12 1174.5, 1182.12, 1185, 1193.6, 1194-1197.1, 1198-1199.5, 2698-2699, 2699.5, 2799, 2802, 2810.5,
13 6310 and IWC California Wage Order 5-2001, whether for civil penalties or attorneys’ fees and
14 costs arising out of the PAGA claims at issue, including: unlawful retaliation; failure to pay
15 minimum wages for all hours worked; failure to calculate and pay all overtime wages earned; failure
16 to provide lawful meal periods and pay meal period premiums; failure to provide lawful rest breaks
17 and pay rest break premiums; failure to maintain accurate records; failure to provide sick pay and
18 COVID-19 supplemental sick pay; willful misclassification; unlawful signed releases; failure to
19 provide accurate itemized wage statements; failure to pay all wages in full and on time during
20 employment; failure to pay vacation time; failure to pay all wages due upon termination; failure to
21 indemnify employees for necessary expenditures incurred in discharge of duties; failure to provide
22 suitable seating and suitable resting facilities; failure to provide written notice of employment-
23 related information; and failure to maintain and provide employment records.

24 17. **“Released Parties”** means Defendant and each of its subsidiaries, affiliates, parent
25 companies, shareholders, members, owners, officers, employees, attorneys, representatives, agents,
26 insurers, predecessors, successors, and assigns, and any individual or entity which could be jointly
27 liable with Defendant.

28 18. **“Representative Plaintiffs”** means Plaintiffs Elfego Villalpando and Juan Mejia.

19. **“Settlement Administrator”** shall mean CPT Group, Inc., a neutral third-party administrator chosen by the Parties, subject to approval by the Court.

RECITALS

20. On January 28, 2021, Plaintiff Elfego Villalpando sent a PAGA Notice to the Labor Workforce and Development Agency (“LWDA”), with a copy to Defendant. On July 22, 2021, Plaintiff Elfego Villalpando filed an action including a PAGA representative claim in the Superior Court of the State of California, County of San Bernardino in the case styled *Elfego Villalpando v. Lazy Dog Restaurants, LLC*, Case No. CIVSB2121205 (“*Villalpando Action*”).

21. On March 24, 2022, Plaintiff Elfego Villalpando and Defendant participated in a mediation with mediator Lisa Klerman. However, Plaintiff Elfego Villalpando and Defendant were initially unable to reach a settlement.

22. On June 9, 2023, Plaintiff Juan Mejia sent a PAGA Notice to the LWDA, with a copy to Defendant.

23. On June 10, 2023, Plaintiff Elfego Villalpando submitted an amended PAGA Notice to the LWDA, with a copy to Defendant.

24. On August 15, 2023, Plaintiff Juan Mejia filed a PAGA representative action complaint in the Superior Court of the State of California, County of Orange in the case styled *Juan Mejia v. Lazy Dog Restaurants, LLC*, Case No. 30-2023-01342332-CU-OE-CXC (“*Mejia Action*”).

25. On September 6, 2023, Plaintiff Elfego Villalpando and Defendant filed a stipulation with the Court agreeing to send Plaintiff Elfego Villalpando's individual claims to arbitration pursuant to an arbitration agreement entered into between Plaintiff Elfego Villalpando and Defendant. On October 18, 2023, Plaintiff Elfego Villalpando's individual claims were ordered to individual arbitration pursuant to an arbitration agreement he entered into with Defendant, leaving only a PAGA representative claim in the *Villalpando* Action.

26. On October 5, 2023, Defendant filed notices of related cases in both the *Villalpando* and *Mejia* Actions.

27. On October 23, 2023, the Orange County Superior Court entered an order transferring the *Mejia* Action to San Bernardino County Superior Court, preferably to Department

1 S24 where the *Villalpando* Action is residing.

2 28. On November 21, 2023, Plaintiff Juan Mejia sent an amended PAGA Notice to the
3 LWDA, with a copy to Defendant.

4 29. On or about December 6, 2023, Plaintiff Elfego Villalpando filed a first amended
5 complaint amending only his PAGA representative claim consistent with the amended PAGA notice
6 he submitted to the LWDA on June 10, 2023.

7 30. On or about April 3, 2024, the *Mejia* Action was transferred to Department S24 of
8 the San Bernardino County Superior Court.

9 31. The Parties agree that they will take all actions necessary to ensure that the PAGA
10 representative claim pending in the *Villalpando* Action is consolidated with the *Mejia* Action for
11 purposes of settlement, with the *Villalpando* Action serving as the lead case.

12 32. The Parties agree that after the consolidation of the *Mejia* Action is complete,
13 Plaintiff Juan Mejia will file a first amended complaint alleging additional wage-and-hour violations
14 to his PAGA representative claim consistent with those set forth in his amended PAGA notice.

15 33. The Parties believe that the Settlement is fair, reasonable, and adequate. The Parties
16 understand, acknowledge, and agree that this Settlement Agreement constitutes a compromise of
17 Representative Plaintiffs' and the Aggrieved Employees' PAGA Claim, and that it is the desire and
18 intention of the Parties to effect a final and complete resolution of the PAGA Claim that the
19 Representative Plaintiffs and the Aggrieved Employees have against Defendant or any persons or
20 companies affiliated with Defendant.

21 34. The Parties enter into this Settlement Agreement on a conditional basis. In the event
22 the Court does not enter a Final Order and Judgment as defined in this Settlement Agreement, this
23 Settlement Agreement will be deemed null and void *ab initio* and will be of no force or effect
24 whatsoever, and will not be referred to or utilized for any purpose whatsoever.

25 35. Defendant denies that it engaged in any misconduct in connection with the wage-
26 and-hour practices associated with the Aggrieved Employees. Defendant further denies that it has
27 any liability of any kind associated with the claims alleged in the Actions. Defendant contends that
28 it has complied with both federal and state wage-and-hour laws, and all other laws regulating its

relationship with the Aggrieved Employees, including the Representative Plaintiffs.

36. Defendant denies all of the claims in the Actions, and does not waive, but rather expressly reserves, all rights to challenge all such claims and allegations upon all legal, procedural and factual grounds should this Settlement Agreement not become final. This Settlement Agreement reflects a compromise reached to end litigation.

37. The Parties stipulate and agree to the following terms of this Settlement Agreement with the intent that this Agreement finally disposes of the Actions with prejudice as set forth in this Agreement.

TERMS AND CONDITIONS

38. **Settlement Payments and Calculation of Claims.** Subject to final Court approval and the conditions specified in this Agreement, and in consideration of the mutual covenants and promises set forth in this Agreement, Defendant agrees to pay the Gross Settlement Amount of **\$500,000.00**. For the avoidance of doubt, Defendant shall not be required to pay any amount over \$500,000.00 for this Settlement. The Gross Settlement Amount includes, but is not limited to, payments to be made to PAGA Counsel's attorneys' fees and costs, the LWDA Payment, Plaintiffs' Enhancement Awards, and Settlement Administration Costs. The following table summarizes the allocation of the Gross Settlement Amount:

Gross Settlement Amount of \$500,000.00 Is Broken Down As Follows:
• PAGA Counsel Attorneys' Fees not to exceed 33.3% (or \$166,500.00). • PAGA Counsel's Costs not to exceed \$20,000.00. • Plaintiffs' Enhancement Awards not to exceed \$20,000.00 (combined). • Settlement Administration Costs, not to exceed \$31,500.00. • Approximately \$263,000.00 for the Net Settlement Amount: ○ 25% of the Net Settlement Amount for the PAGA Aggrieved Employee Payment (approximately \$65,500.00). ○ 75% of the Net Settlement Amount for the LWDA Payment (approximately \$196,500.00).

39. **Apportionment of Gross Settlement Amount.** The Parties agree, subject to Court approval and the conditions specified in this Agreement, that the Gross Settlement Amount shall be apportioned as follows:

- a. **Settlement Administration Fees and Costs:** The fees and costs associated

1 with settlement administration (*e.g.*, preparing and mailing payments to the Aggrieved Employees,
 2 tax documentation, etc.) (the “**Settlement Administration Costs**”) will be paid from the Gross
 3 Settlement Amount and are estimated to be up to **\$31,500.00**. The Parties agree to use CPT Group,
 4 Inc. as the Settlement Administrator. To the extent Settlement Administration Costs are not
 5 approved by the Court in the amounts set forth above, and the order becomes final, then the non-
 6 approved amount will be added to the Net Settlement Amount to be distributed based on the formula
 7 set forth in Paragraph 39.d.

8 b. PAGA Counsel’s Attorneys’ Fees and Costs: The Parties agree that, subject
 9 to the Court’s review and approval, PAGA Counsel will be paid from the Gross Settlement Amount
 10 an amount that is up to 33.33% of the Gross Settlement Amount for attorneys’ fees (**\$166,500.00**),
 11 plus actual litigation costs, not to exceed **\$20,000.00**. To the extent attorneys’ fees and costs are not
 12 approved by the Court in the amounts set forth above, and the order becomes final, then the non-
 13 approved amounts will be added to the Net Settlement Amount to be distributed based on the
 14 formula set forth in Paragraph 39.d.

15 c. Representative Plaintiffs’ Enhancement Awards. The Parties agree that,
 16 subject to the Court’s review and approval, Representative Plaintiffs will each receive an
 17 enhancement award of **\$10,000.00** for their services in bringing the Actions on behalf of the
 18 Aggrieved Employees, which will be paid from the Gross Settlement Fund. To the extent the
 19 Enhancement Awards are not approved by the Court in the amounts set forth above, and the order
 20 becomes final, then the non-approved amount will be added to the Net Settlement Amount to be
 21 distributed based on the formula set forth in Paragraph 39.d.

22 d. Net Settlement Amount: After deducting PAGA Counsel’s Attorneys’ Fees
 23 and Costs, Plaintiff’s Enhancement Awards, and the Settlement Administration Costs from the
 24 Gross Settlement Amount, the remaining amount will comprise the Net Settlement Amount. The
 25 Net Settlement Amount is comprised of the LWDA Payment and the PAGA Aggrieved Employee
 26 Payment. The Net Settlement Amount of approximately **\$262,000.00** shall be allocated 75% to the
 27 LWDA Payment, which is estimated to total **\$196,500.00** ($\$262,000.00 \times 75\%$). The remaining
 28 25% of the Net Settlement Amount, estimated to total **\$65,500.00** ($\$262,000.00 \times 25\%$), shall be

1 allocated to the PAGA Aggrieved Employee Payment to be paid to the Aggrieved Employees on a
2 *pro rata* basis as noted below, which shall be referred to as the Aggrieved Employee's "**Individual**
3 **PAGA Payment.**"

4 Example:

5 Aggrieved Employee A was actively employed during the PAGA Period for 25 pay periods.
6 All Aggrieved Employees were actively employed a combined total of 78,000 pay periods during
7 the PAGA Period. Aggrieved Employee A's Individual PAGA Payment would be calculated as
8 follows:

- 9 ➤ 25 pay periods for Aggrieved Employee A ÷ 78,000 total pay periods for all Aggrieved
10 Employees = 0.032%.
11 ➤ Aggrieved Employee A is entitled to an Individual PAGA Payment in an amount that is
12 0.032% of the PAGA Aggrieved Employee Payment.¹

13 e. Taxes and Reporting: The Individual PAGA Payments will be treated as non-
14 wage income to the Aggrieved Employees and reported by the Settlement Administrator on IRS
15 Form 1099.

16 40. **Release By Aggrieved Employees and the State of California.**

17 a. Terms of Release. Upon the Funding Date, as defined below, in exchange
18 for the consideration recited in this Settlement Agreement, Representative Plaintiffs, as the
19 representatives for the State of California and all Aggrieved Employees, and on behalf of their
20 current, former, and future heirs, executors, administrators, attorneys, agents, and assigns will
21 forever completely release and discharge the Released Parties of any and all Released Claims, as
22 defined in Paragraph 16. The Aggrieved Employees and the State of California are deemed by
23 operation of the Final Order and Judgment to have agreed not to sue or otherwise make a claim
24 against any of the Released Parties for any Released Claims. The release will not be effective until
25 Defendant has made all payments due under the terms of this Settlement Agreement.

26 b. No Claims Based on Stipulation and Agreement. No Aggrieved Employee
27

28 ¹ The Individual PAGA Payment will be rounded to the nearest penny with .5 rounded up.

will have any claim against any of the Released Parties, Defendant's counsel, the Representative Plaintiffs, or PAGA Counsel, based on errors in administering claims or performing the mailing and skip-tracing requirements of the Settlement Administrator under this Agreement.

41. **General Release By Representative Plaintiffs.**

a. Terms of Release. Upon the Funding Date, as defined below, in exchange for the consideration recited in this Settlement Agreement, including the Representative Plaintiff Enhancement Awards, excepting only Representative Plaintiff Elfego Villalpando's individual claims ordered to individual arbitration on October 18, 2023, the Representative Plaintiffs, on behalf of themselves and on behalf of their current, former, and future heirs, executors, administrators, attorneys, agents, and assigns, does hereby and forever release, waive, acquit and discharge the Released Parties from all claims (known or unknown) which they have, had or might otherwise have had against the Released Parties, from the beginning of time to the date they sign this Agreement, regarding any aspect of their employment including, but not limited to, the Released Claims, any common law or statutory torts (including invasion of privacy), any federal, state or governmental constitution, statute, regulation or ordinance, and any claim for wages, tips or any other compensation or benefit.

b. California Civil Code Section 1542. Upon the Funding Date, as defined below, excepting only Representative Plaintiff Elfego Villalpando's individual claims ordered to individual arbitration on October 18, 2023, the Representative Plaintiffs will be deemed to have, and by operation of the Final Order and Judgment will have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of section 1542 of the California Civil Code which provides as follows:

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

a. No Other Actions. Excepting only Representative Plaintiff Elfego Villalpando's individual claims ordered to individual arbitration on October 18, 2023, the

Representative Plaintiffs are deemed by operation of the Final Order and Judgment to have agreed not to sue or otherwise make any claim against any of the Released Parties based upon any action, event, or occurrence prior to the date she signs this Settlement Agreement.

42. **Release by PAGA Counsel.** Upon the Funding Date, as defined below, PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for attorneys' fees and costs incurred in connection with the facts and theories alleged in the Complaints, the PAGA notices, and the Released Claims.

43. **Request For Final Order and Judgment.**

a. Upon execution of this Agreement, the Representative Plaintiffs shall promptly file a stipulation or unopposed motion with the Court requesting approval of this Settlement by submitting a proposed Final Order and Judgment, in a form substantially similar to Exhibit B.

b. The Representative Plaintiffs shall not file the stipulation or unopposed motion requesting final approval or final judgment with the Court until Defendant has reviewed and approved it, which approval will not be unreasonably withheld.

c. On the date Representative Plaintiffs file the stipulation or unopposed motion discussed in this Paragraph, Plaintiffs will also submit to the LWDA a notice of the Settlement enclosing a copy of the Settlement Agreement. Plaintiffs' notice of the Settlement to the LWDA shall comply with the notice requirement of PAGA.

44. **Settlement Funding.**

a. Upon the Court entering the Final Order and Judgment, and within fourteen (14) calendar days after the Effective Date, the Settlement Administrator shall send Defendant's counsel electronic wiring instructions to fund the Gross Settlement Amount.

b. Defendant shall wire to the Settlement Administrator the Gross Settlement Amount within twenty-one (21) calendar days of the Effective Date (the "Funding Date").

c. Within twenty (20) calendar days after the Funding Date, the Settlement Administrator shall issue all payments required by this Agreement (the "Payment Date").

45. **PAGA List.**

Within ten (10) calendar days after the Effective Date, Defendant will provide a PAGA List to the Settlement Administrator which will identify all Aggrieved Employees by name, social security number, and last known home address ("PAGA List"). The PAGA List will also contain the number of pay periods credited to each Aggrieved Employee.

46. List Of Individual Settlement Amounts.

Within ten (10) calendar days after the Settlement Administrator receives the PAGA List, the Settlement Administrator will provide to PAGA Counsel and Defendant's counsel a Proceeds List reflecting the Individual PAGA Payment for each Aggrieved Employee ("Proceeds List"). The Proceeds List provided to PAGA Counsel will not include the Aggrieved Employees' names, social security numbers or contact information.

47. PAGA Payments to Aggrieved Employees.

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

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

c. Aggrieved Employees shall have 180 calendar days after the date the PAGA Packet is mailed to them to cash their settlement payment checks. If any Aggrieved Employee's check is not cashed within that period, the settlement payment check will be voided and a stop-payment will be issued. Neither Defendant, Defendant's counsel, Plaintiffs, nor PAGA Counsel

1 will have any liability for lost or stolen settlement payment checks, forged signatures on settlement
2 payment checks, unauthorized negotiation of settlement payment checks or failure to timely cash a
3 settlement payment check within the 180-day period.

4 d. Any unpaid cash residue or unclaimed Aggrieved Employee funds, plus any
5 accrued interest that has not otherwise been distributed pursuant to order of the Court, shall be
6 transmitted to CASA of Orange County.

7 48. **Payments Of Attorneys' Fees And Costs, and the LWDA Settlement Payment.**

8 a. On the Payment Date, the Settlement Administrator will pay from the Gross
9 Settlement Amount the Representative Plaintiffs' Enhancement Awards as awarded by the Court.
10 These payments will be made by sending directly to Plaintiffs checks payable to "Elfego
11 Villalpando" and "Juan Mejia" in the amounts of the Court-approved Enhancement Awards. This
12 payment is conditional upon PAGA Counsel providing Defendant's counsel with a completed Form
13 W-9 for the Representative Plaintiffs.

14 b. On the Payment Date, the Settlement Administrator will pay from the Gross
15 Settlement Amount to PAGA Counsel its Court-approved Attorneys' Fees and Costs. Such payment
16 is conditional upon PAGA Counsel providing the Settlement Administrator with a completed Form
17 W-9.

18 c. On the Payment Date, the Settlement Administrator will pay the LWDA
19 Payment from the Net Settlement Amount by issuing a check payable to "California Labor
20 Workforce and Development Agency."

21 49. **Deadlines.**

22 If any deadline specified in this Agreement falls on a Saturday, Sunday, or Court holiday,
23 the deadline will be automatically extended to the next regular business day. Unless specified
24 otherwise, all references to "days" shall mean calendar days.

25 50. **Enforcement and Continuing Jurisdiction of the Court.**

26 Pursuant to the Parties agreement, this Settlement Agreement will be approved by the Court
27 and will be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6.
28 Even after the entry of the Final Order and Judgment, this Court will have and retain continuing

1 jurisdiction over the Action and over all Parties and the Aggrieved Employees, to the fullest extent
2 necessary or convenient to enforce and effectuate the terms and intent of this Settlement Agreement
3 and all matters provided for in it, and to interpret it.

4 51. **Mutual Full Cooperation.**

5 The Parties will fully cooperate with each other to accomplish the terms of this Settlement
6 Agreement, including, but not limited to, execution of such documents and taking such other action
7 as may be reasonably necessary or convenient to implement it.

8 52. **Non-Admission Of Liability.**

9 The Parties enter into this Agreement to resolve the dispute that has arisen between them
10 and to avoid the burden, expense, and risk of continued litigation. In entering into this Agreement,
11 Defendant does not admit, and specifically denies, that it has violated any federal, state, or local
12 law; violated any regulations or guidelines promulgated pursuant to any statute or any other
13 applicable laws, regulations or legal requirements; violated or breached any duty; engaged in any
14 misrepresentation or deception; or engaged in any other unlawful conduct with respect to the
15 Actions. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations
16 connected with it, shall be construed as an admission or concession by Defendant of any such
17 violations or failures to comply with any applicable law. Except as necessary in a proceeding to
18 enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered
19 or received as evidence in any action or proceeding to establish any liability or admission on the
20 part of Defendant or to establish the existence of any condition constituting a violation of, or a non-
21 compliance with, federal, state, local or other applicable law.

22 53. **Effective Date Of Defendant's Obligations Under This Agreement.**

23 Defendant's obligations under this Settlement Agreement will become final and effective
24 only upon the occurrence of the Effective Date. In the event that any of the conditions specified in
25 this Settlement Agreement are not satisfied, or in the event that this Settlement does not obtain
26 approval of the Court for any reason, all matters covered by this Agreement will be null and void.
27 In such event, neither this Agreement, nor any negotiations leading to this Settlement, will be used
28 or construed by or against any Party as a determination, admission, or concession of any issue of

1 law or fact in the litigation; and the Parties do not waive, and instead expressly reserve, their
2 respective rights regarding the prosecution and defense of the Actions, including all available
3 defenses and affirmative defenses, and to challenge any claim, as if this Settlement Agreement never
4 existed.

5 54. **Nullification.**

6 If: (1) the Court should for any reason fail to enter the Final Order and Judgment; or (2) the
7 Court's Final Order and Judgment is reversed or modified as to any material term as defined above,
8 or declared or rendered void as to any material term as defined above, then (a) the Settlement
9 Agreement shall become null and void; (b) the Parties will revert to their respective positions
10 immediately prior to reaching the settlement; and (c) Defendant will be responsible for any
11 Settlement Administration Costs.

12 55. **Invalidation.**

13 Invalidation of any material term of this Settlement Agreement will invalidate this
14 Agreement in its entirety unless the Parties subsequently agree in writing that the remaining
15 provisions will remain in full force and effect.

16 56. **Confidentiality/No Publicity.**

17 Representative Plaintiffs and their counsel agree that the terms of this Settlement Agreement
18 (including, but not limited to, the Gross Settlement Amount), the negotiations leading to the
19 execution of this Settlement Agreement, and the Settlement Agreement itself, shall not be discussed
20 with or publicized or promoted to the media (including, without limitation, legal periodicals and
21 publications such as "Jury Verdicts," disclosure of the Settlement Agreement on any web site of
22 Representative Plaintiffs' counsel or any other website, or on any blogs, articles, or on any social
23 media platforms or channels), or the public at large, without the advance written consent of
24 Defendant. The Parties intend this Paragraph 56 to prohibit Plaintiffs and their counsel from
25 discussing, answering questions about, promoting or publicizing the Settlement Agreement, its
26 terms, or the negotiations leading to the Settlement Agreement with anyone other than the Court or
27 those individuals necessary to effectuate the terms of the Agreement. Notwithstanding the
28 foregoing, Representative Plaintiffs and their counsel (1) may tell the public in general only that

1 certain claims “have been resolved by the Parties;” and (2) may disclose the terms of the Settlement
2 Agreement (a) in appropriate filings with the Court in this case; (b) where required by law (*e.g.*,
3 income tax returns); and (c) to accountants or other tax professionals for the purpose of preparing
4 tax returns. In addition, PAGA Counsel may respond to questions received from, and discuss any
5 aspect of this Agreement with Aggrieved Employees. Nothing shall prevent PAGA Counsel from
6 referring to the Actions in a declaration before the courts relating to the adequacy of counsel.

7 57. **Entire Agreement.**

8 This Settlement Agreement constitutes the entire integrated agreement between the Parties
9 relating to the Actions, and no oral representations, warranties, or inducements have been made to
10 any party concerning this Settlement Agreement other than the representations, warranties, and
11 covenants contained and memorialized in this Settlement Agreement.

12 58. **Authorization To Act.**

13 PAGA Counsel warrants and represents that they are authorized by the Representative
14 Plaintiffs, and counsel of record for Defendant warrants that they are authorized by Defendant, to
15 take all appropriate action required or permitted to be taken by such Parties pursuant to this
16 Settlement Agreement to effectuate its terms, and to execute any other documents required to
17 effectuate the terms of this Settlement Agreement, except for any documents, including but not
18 limited to this Settlement Agreement, that are required to be executed by the Parties.

19 59. **Modification Only In Writing.**

20 This Settlement Agreement may be amended or modified only by a written instrument signed
21 by all Parties or their successors in interest.

22 60. **Binding On Successors.**

23 This Settlement Agreement is binding upon and will inure to the benefit of the Parties to this
24 Agreement, as well as their respective attorneys, past, present, and future predecessors, successors,
25 shareholders, officers, directors, employees, agents, trustees, representatives, administrators,
26 fiduciaries, assigns, insurers, executors, partners, parent corporations, subsidiaries, and related or
27 affiliated entities.

28 61. **No Prior Assignments.**

1 The Aggrieved Employees are deemed by operation of the Final Order and Judgment to
2 represent, covenant, and warrant that they have not directly or indirectly assigned, transferred,
3 encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any
4 liability, claim, demand, cause of action, or rights released and discharged by this Agreement.

5 62. **Governing Law.**

6 All terms of this Settlement Agreement will be governed by and interpreted according to the
7 laws of the State of California, without giving effect to conflicts of laws principles.

8 63. **Counterparts.**

9 This Settlement Agreement may be executed in one or more counterparts. All executed
10 counterparts and each of them will be deemed to be one and the same instrument. Counsel for the
11 Parties will exchange among themselves any signed counterparts.

12 64. **Headings For Convenience Only.**

13 The descriptive headings of any paragraphs or sections of this Settlement Agreement are
14 inserted for convenience of reference only and do not constitute a part of this Settlement Agreement.

15 65. **Construction Of This Agreement.**

16 The Parties agree that the terms and conditions of this Settlement Agreement are the result
17 of arms-length negotiations between the Parties and that this Settlement Agreement will not be
18 construed in favor of or against any Party by reason of the extent to which any Party, or her or its
19 counsel participated in the drafting of this Agreement. This Settlement Agreement constitutes the
20 entire agreement between the Parties. Except as expressly provided in this Agreement, this
21 Settlement Agreement has not been executed in reliance upon any other oral or written
22 representations or terms and no such extrinsic oral or written representations or terms will modify,
23 vary or contradict the terms of this Settlement Agreement. In entering this Settlement Agreement,
24 the Parties explicitly recognize California Civil Code section 1625 and California Code of Civil
25 Procedure section 1856(a), which provide that a written agreement is to be construed according to
26 its terms and may not be varied or contradicted by extrinsic evidence. The Representative Plaintiffs
27 and Defendant had available to them the advice and assistance of independent counsel. As such,
28 neither Representative Plaintiffs nor Defendant may claim that any ambiguity in this Settlement

1 Agreement should be construed against the other.

2 66. **Corporate Signatories.**

3 Any person executing this Settlement Agreement or any related document on behalf of a
4 corporate signatory warrants and promises for the benefit of all Parties that such person has been
5 duly authorized by such corporation to execute this Settlement Agreement or any related document.

6 67. **Representation By Counsel.**

7 All of the Parties hereto acknowledge that they have been represented by counsel throughout
8 all negotiations which preceded the execution of this Settlement Agreement and that this Agreement
9 has been executed with the consent and advice of counsel.

10 68. **Attorneys' Fees And Costs.**

11 Except as otherwise provided in this Agreement, the Parties will bear responsibility for their
12 own attorneys' fees and costs, taxable or otherwise, incurred by them or arising out of this Action
13 and will not seek reimbursement thereof from any Party to this Settlement Agreement. In the event
14 of a proven breach of this Agreement, the breaching party will be required to pay the prevailing
15 Party's reasonable attorneys' fees and costs incurred in enforcing this Agreement.

16 [SIGNATURE PAGE TO FOLLOW]
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IT IS SO AGREED:

Dated: 2-22-2024

Elfego Villalpando
Elfego Villalpando

Dated:

Juan Mejia

Dated:

LAZY DOG RESTAURANTS, LLC

By:
Its:

Dated: 4/22/2024

APPROVED AS TO FORM AND AGREEMENT TO BE
BOUND BY PARAGRAPH 56:

By:

Farrah Mirabel
Farrah Mirabel
Law Offices of Farrah Mirabel
Attorneys for Plaintiff Elfego Villalpando, as an
individual, on behalf of himself and all aggrieved
employees

Dated:

APPROVED AS TO FORM AND AGREEMENT TO BE
BOUND BY PARAGRAPH 56:

By:

Scott Ernest Wheeler
Scott Ernest Wheeler
LAW OFFICE OF SCOTT ERNEST WHEELER
Attorneys for Plaintiff Juan Mejia, as an individual,
on behalf of himself and all aggrieved employees

Dated:

APPROVED AS TO FORM:

By:

Maria Z. Stearns
Kenneth J. Zielinski
Jonas Trevethan
RUTAN & TUCKER, LLP
Attorneys for Defendant Lazy Dog Restaurants, LLC

IT IS SO AGREED:

Dated:

Elfego Villalpando

Dated: 4/16/2024

Juan Mejia

DocuSigned by:

29D42E6DA8D249F...

Dated:

LAZY DOG RESTAURANTS, LLC

By:
Its:

Dated:

APPROVED AS TO FORM AND AGREEMENT TO BE
BOUND BY PARAGRAPH 56:

By:

Farrah Mirabel
Law Offices of Farrah Mirabel
Attorneys for Plaintiff Elfego Villalpando, as an
individual, on behalf of himself and all aggrieved
employees

Dated: April 18, 2024

APPROVED AS TO FORM AND AGREEMENT TO BE
BOUND BY PARAGRAPH 56:

By:


Scott Ernest Wheeler
LAW OFFICE OF SCOTT ERNEST WHEELER
Attorneys for Plaintiff Juan Mejia, as an individual,
on behalf of himself and all aggrieved employees

Dated:

APPROVED AS TO FORM:

By:

Maria Z. Stearns
Kenneth J. Zielinski
Jonas Trevethan
RUTAN & TUCKER, LLP
Attorneys for Defendant Lazy Dog Restaurants, LLC

1 **IT IS SO AGREED:**

2 Dated:

3 _____
Elfego Villalpando

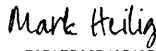
4 Dated:

5 _____
Juan Mejia

6 Dated:

LAZY DOG RESTAURANTS, LLC

DocuSigned by:

7 

8 By: Mark Heilig

Its: General Counsel

9 Dated:

10 APPROVED AS TO FORM AND AGREEMENT TO BE
BOUND BY PARAGRAPH 56:

11 By: _____

12 Farrah Mirabel

13 Law Offices of Farrah Mirabel

14 Attorneys for Plaintiff Elfego Villalpando, as an
individual, on behalf of himself and all aggrieved
employees

15 Dated:

16 APPROVED AS TO FORM AND AGREEMENT TO BE
BOUND BY PARAGRAPH 56:

17 By: _____

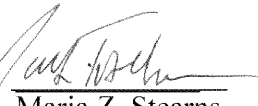
18 Scott Ernest Wheeler

19 LAW OFFICE OF SCOTT ERNEST WHEELER

20 Attorneys for Plaintiff Juan Mejia, as an individual,
on behalf of himself and all aggrieved employees

21 Dated: May 3, 2024

APPROVED AS TO FORM:

22 By: 

23 Maria Z. Stearns

24 Kenneth J. Zielinski

25 Jonas Trevethan

26 RUTAN & TUCKER, LLP

27 Attorneys for Defendant Lazy Dog Restaurants, LLC