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Attorneys for Defendant, C&R RESTAURANT
GROUP, L.P.

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

JUAN GARCIA, individually, and on behalf of all
others similarly situated,

Plaintiff,

vs.

C&R RESTAURANT GROUP, L.P., a California
Limited Partnership; and DOES 1 through 10,
inclusive,

Defendants

Case No.: 23STCV19037

[Assigned for all purposes to Hon. Rupert A.
Byrdsong, Dept. 28]

PAGA REPRESENTATIVE ACTION

**JOINT STIPULATION AND
~~PROPOSED~~ ORDER FOR APPROVAL
OF SETTLEMENT OF CLAIMS
BROUGHT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT
OF 2004**

Action Filed: August 10, 2023
Trial: Not yet set

FILED
Superior Court of California
County of Los Angeles
01/31/2025
David W. Stoyan, Executive Officer / Clerk of Court
By: A. Robledo Deputy

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1 more specifically set forth in the First Amended Complaint, as well as the LWDA Notice
2 attached thereto, which is currently on file with the Court in this Action as of approximately
3 November 15, 2024. Defendant denies, and continues to deny, all of the allegations made by
4 Plaintiff, and further denies that it is liable for any of the damages and/or civil penalties as
5 alleged in the Operative Complaint and the LWDA Notice.

6 4. The Parties recognize that the issues presented in this action are likely only to be
7 resolved with extensive and costly pretrial and trial proceedings, and that further litigation will
8 cause inconvenience, distraction, disruption, delay, and expense disproportionate to the
9 maximum potential benefits to the Aggrieved Employees and Plaintiff from continued litigation.

10 5. On June 14, 2024, the Parties participated in a full-day mediation with Tripper
11 Ortman, Esq., an experienced wage and hour mediator. Prior to participating in mediation, the
12 Parties engaged in extensive informal discovery, including production of documents and
13 information. Prior to mediation, Defendant also provided data to Plaintiff's counsel to evaluate
14 the potential value of Plaintiff's civil penalty claims. Thereafter, the Parties engaged in
15 extensive, arm's length negotiations and reached a settlement of the Action that is memorialized
16 in the Settlement Agreement. During the mediation, the Parties agreed to a settlement, which was
17 negotiated in light of all known facts and circumstances, including the difficulty of proving some
18 of Plaintiff's claims, potential defenses asserted by Defendant, the uncertainty associated with
19 litigation, the risks of significant delay, and numerous potential appellate issues. Attached hereto
20 as **Exhibit 2** is the fully executed PAGA Settlement Agreement ("Settlement," "Settlement
21 Agreement," or "Agreement") setting forth the terms of the settlement. The Agreement is based
22 upon the model agreement template made available by the Los Angeles County Superior Court.

23 6. The Settlement Agreement attached as **Exhibit 2** to this Joint Stipulation Approving
24 Settlement of Plaintiff's Claims Brought Pursuant to the Private Attorneys General Act of 2004
25 was submitted to the LWDA. A true and correct copy of the submission receipt is attached to
26 this stipulation as **Exhibit 3**.

27 7. The Parties conducted an investigation of the facts and law. Counsel for the Parties
28 have further investigated the applicable law as applied to the facts discovered regarding

1 Plaintiff's claims, the defenses thereto, and the Labor Code violations claimed by Plaintiff.
2 Based on their own independent investigations and evaluations, Plaintiff and his counsel are of
3 the opinion that the settlement for the consideration and on the terms set forth in the Settlement
4 Agreement is fair, reasonable, and adequate, and is in the best interests of the Plaintiff and the
5 Aggrieved Employees in light of all known facts and circumstances and the risks inherent in
6 litigation, including the potential appellate issues. Further, Plaintiff's counsel believes that the
7 settlement amount is in the best interests of Plaintiff and the Aggrieved Employees and that the
8 settlement for each Aggrieved Employee is fair, reasonable, and adequate, given the inherent
9 risk of litigation.

10 8. The full terms of the settlement are in the Agreement. The key material terms
11 include, but are not limited to, the following:

- 12 a. The Aggrieved Employees: The Aggrieved Employees (also known as the "PAGA
13 Members") are: "All non-exempt employees who are or were employed by Defendant
14 within the State of California from June 5, 2022 to the date of entry of order for
15 approval of the Settlement by the Court, or on the date as modified by Defendant in
16 Defendant's sole discretion pursuant to Paragraph 8 of the Agreement. (Agreement,
17 ¶¶ 1.4, 1.19.)
- 18 b. No Reversion: The Settlement is *non-reversionary*. (Agreement, ¶ 3.1.)
- 19 c. Gross Settlement Amount: Defendant agrees to pay the maximum sum of
20 **\$310,000.00**, subject to modification as provided in Paragraph 8 herein, in
21 Defendant's sole discretion (hereinafter referred to as the "Gross Settlement Amount"
22 or "GSA") for settlement of the PAGA claims, which shall be inclusive of Plaintiff's
23 Counsel attorney's fees and costs, and the settlement administrator's fees and costs,
24 all as more specifically provided in the Settlement Agreement attached hereto as
25 **Exhibit 2**. (Agreement, ¶ 1.10.)
- 26 d. Net Settlement Amount: At least **\$177,218.85** will be available for distribution to the
27 Aggrieved Employees and the LWDA. Of this amount, the LWDA will receive at
28 least **\$132,914.14**, and Aggrieved Employees will receive at least **\$44,304.71**.

(Agreement, ¶¶ 1.15, 1.22.)

- e. Attorney's Fees: Plaintiff's Counsel request an award of attorney's fees in the amount of **\$103,333.33**, which is one third of the GSA. (Agreement, ¶ 3.2.1.)
- f. Litigation Costs: Plaintiff's Counsel's litigation costs are capped to a maximum amount of **\$20,000.00**. Those actual costs are **\$15,497.82** including this stipulation filing and future final report filing fee. Therefore, **\$15,497.82** is requested, by Plaintiff. (Agreement, ¶ 3.2.1)
- g. Settlement Administration: Payment to Aggrieved Employees and administration will be accomplished through third-party settlement administrator ILYM Group, Inc., which has agreed to perform Administrator duties for a flat fee not to exceed **\$13,950.00**, which is reasonable, based on all of the services offered. Attached hereto as **Exhibit 5** is the declaration from the Administrator regarding its qualifications, services and requested fee. (Agreement, ¶ 3.2.2.)
- h. General Release Payment: Upon approval of this settlement Plaintiff shall also receive a general release payment in the amount of **\$10,000.00** in lieu of arbitrating Plaintiff's individual claims and in consideration for representing Aggrieved Employees and for a general release of all Plaintiff's claims beyond the PAGA claims released in this Action in accordance with a separate individual Settlement Agreement and Release entered into between the Parties. The General Release Payment is not included in GSA. (Agreement, ¶¶ 1.10, 5.1-5.1.2.)
- i. Uncashed Checks: Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the California Controller's Unclaimed Property Fund. (Agreement, ¶ 4.4.3.)
- j. Release: In exchange for the above settlement consideration, Defendant shall be entitled to a release from the LWDA and each and every Aggrieved Employee, including Plaintiff, all as more specifically set forth in the Settlement Agreement

1 attached as **Exhibit 2**.¹ (Agreement, ¶¶ 5.1-5.3.)

2 k. Notice to LWDA: **Exhibit 3** confirms that notice was provided to the LWDA and
3 attaches the confirmatory submission documents.

4 9. The settlement in this action provides **\$177,236.85** to the allegedly Aggrieved
5 Employees and the LWDA in exchange for a release of claims under PAGA.² The releases of
6 claims are found in the Settlement Agreement attached hereto as **Exhibit 2**, including but not
7 limited to the releases found in sections 5.1-5.3 of the Settlement Agreement.

8 10. Based on its records, Defendant estimates that, as of the date of mediation, there are
9 approximately 57,533 Pay Periods from June 5, 2022 through June 14, 2024. If the actual
10 number of pay periods worked by Aggrieved Employees during the time period of June 5, 2022
11 through the date of approval grows by more than fifteen percent (15%), or more than 66,163 pay
12 periods, then Defendant will have the option, at Defendant's sole discretion, to either: (1)
13 increase the Gross Settlement Amount proportionately for the excess increase in the total number
14 of pay periods beyond the 66,163 (so that the Gross Settlement Amount will increase by 1% for
15 every 1% increase in pay periods over the 15% threshold), or (2) modify the applicable PAGA
16 Period end date to a date prior to incurring the pro rata increase to keep the maximum pay
17 periods at 66,163 and not trigger the escalator clause. (Agreement, ¶ 8.)

18 11. The Parties request that the Court approve the arm's length Settlement reached between
19 the Parties pertaining to PAGA and the release of PAGA claims, all as more specifically set forth
20 in the Settlement Agreement attached hereto as **Exhibit 2**.

21 **NOW THEREFORE**, in return for the mutual commitments and consideration detailed in
22 the Settlement Agreement attached hereto as **Exhibit 2**, the Parties stipulate as follows:

23 _____
24 ¹ This comports with settled California Supreme Court authority. *See Arias v. Superior*
25 *Court*, 46 Cal. 4th 969, 986 (2009) (concluding that "with respect to the recovery of civil
26 penalties, nonparty employees as well as the government are bound by the judgment in an action
brought under the act....").

27 ² \$177,218.85 is the net amount available to the aggrieved employees and the LWDA from
28 the \$310,000.00 total settlement amount following deduction for Plaintiff's attorney's fees of
\$103,333.33(1/3 of the total settlement amount), Plaintiff's counsel's actual litigation costs of
\$15,497.82 and third-party administration costs of \$13,950.00.

1 1. The Parties stipulate and jointly propose that the Court review and approve the terms
2 contained in the Parties' Settlement Agreement, attached as **Exhibit 2**, in full.

3 2. The Settlement is fair, adequate, and reasonable, as it represents a reasoned
4 compromise reached through arm's length negotiations and considers the risks, complexity, and
5 expense of further litigation.

6 3. The settlement terms reached through mediation provide for a gross payment by
7 Defendant of Three Hundred Ten Thousand Dollars and Zero Cents (\$310,000.00; "Gross
8 Settlement Amount"). The Gross Settlement Amount, which shall cover distribution to the LWDA
9 and the allegedly Aggrieved Employees, Plaintiff's counsel's costs and fees, and costs of
10 administration of the settlement, as follows:

11

Description	Amount
Attorneys' Fees (1/3 of total settlement)	\$103,333.33
Plaintiff's Counsel's Costs (not to exceed amount \$20,000)	\$15,497.82 ³
Third-Party Administration Cost	\$13,950.00

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17 4. Should the Court approve a lesser amount for attorneys' fees, costs, or costs of third-
18 party administration, the difference shall be allocated as follows: 25% to the allegedly aggrieved
19 employees and 75% to the LWDA.

20 5. The Settlement Administrator shall establish a Qualified Settlement Fund pursuant to
21 Section 468B(g) of the Internal Revenue Code for purposes of administering the Settlement. The
22 Settlement Administrator shall furnish the Qualified Settlement Fund with its own Employer ID
23 Number and calculate all settlement checks and withholdings required under law based on
24 information that will be confidentially furnished by Defendant. There are no payroll deductions
25

26

27 ³ The Settlement authorizes reimbursement of actual costs not to exceed \$20,000, at this
28 time, actual out of pocket costs, including the cost of submitting this Stipulation and final report
filing fee total \$15,497.82. A true and correct copy of a ledger of Plaintiff's counsel's costs are
attached hereto as **Exhibit 4**.

1 to be calculated under this Settlement, since no part of the Settlement will be classified as wages.
2 All such obligations and terms applicable to the Settlement Administrator are more particularly set
3 forth in the Settlement Agreement attached hereto as **Exhibit 2**.

4 6. "PAGA Settlement Group Members" (also referred to herein as the "Aggrieved
5 Employees") means all current or former non-exempt employees of Defendant who worked for
6 Defendant during the PAGA Period. The "PAGA Period" means the period from June 5, 2022
7 to the date of entry of order for approval of the Settlement by the Court, or on the date as
8 modified by Defendant in Defendant's sole discretion pursuant to Paragraph 8 of the Agreement.
9 (Agreement, ¶¶ 1.4, 1.19.) The Defendant will be able to modify the PAGA Period date with
10 the Administrator and any other parties without needing a court order.

11 7. Upon the date of entry of an order by the Court in this Action approving this
12 Settlement, and payment of all funds due under this Settlement, the LWDA and PAGA
13 Settlement Group Members, including Plaintiff, fully release and forever discharge the Released
14 Parties from any and all released claims as defined and set forth in the Settlement Agreement
15 attached hereto as **Exhibit 2**, as well as from any claims and allegations set forth in the LWDA
16 Notice and Operative Complaint. The final judgment entered pursuant to this Settlement will
17 bind all those who would be bound by a judgment if the action had been brought by the LWDA,
18 including Plaintiff, the LWDA, and all PAGA Settlement Group Members during PAGA Period,
19 whether requesting exclusion from the Settlement or not, with respect to claims under the
20 California Private Attorneys General Act, California Labor Code § 2698, et. seq.

21 8. Under California law, no notice to the allegedly aggrieved employees is required for
22 the resolution of an action under PAGA. *Arias v. Superior Court*, (2009) 46 Cal.4th 969, 980-988.
23 The Parties have nevertheless agreed to provide an explanatory letter to the allegedly aggrieved
24 employees to accompany the PAGA penalty checks. Attached to the Settlement Agreement as
25 Exhibit A is the proposed letter to the allegedly aggrieved employees that would accompany the
26 checks.

27 9. The Parties further expressly agree that the Court will retain jurisdiction under Code of
28 Civil Procedure section 664.6 to resolve any disputes arising from the settlement of the above-

described action.

IT IS SO STIPULATED.

Dated: January 7, 2025

TUNYAN LAW, APC



Lilit Tunyan
Artur Tunyan

Attorneys for Plaintiff JUAN GARCIA

Dated: January 7, 2025

SAGASER, WATKINS & WIELAND PC

By: 

Ian B. Wieland
Paul M. Parvanian
Attorneys for Defendant C&R
RESTAURANT GROUP, L.P.

Dated: January 7, 2025

**PALMER, TYLER, WIENER,
WILHELM & WALDRON LLP**



By: _____

Erica M. Sorosky
Attorneys for Defendant C&R
RESTAURANT GROUP, L.P.

Exhibit “1”



Lilit Tunyan, Esq.
1336 Rossmoyne Avenue,
Glendale, CA 91207
Tel: (323) 410-5050
ltunyan@tunyanlaw.com

June 5, 2023

VIA ONLINE SUBMISSION

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL

Return Receipt Requested

Agent for Service of Process for
C&R Restaurant Group, L.P.
Brian Cox
151 Kalmus Drive L5
Costa Mesa, CA 92626

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

Re: *Juan Garcia v. C&R Restaurant Group, L.P.*

To Whom It May Concern:

Please be advised that my office has been retained by Juan Garcia (“Plaintiff”) to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employer C&R Restaurant Group, L.P. (“Defendant”). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of himself as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendant in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Plaintiff and the Aggrieved Employees of Defendant suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff's Employment with Defendant

Defendant owns and operates an industry, business, and establishment within the State of California, including Los Angeles County. As such, Defendant is subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission ("IWC").

Plaintiff worked for Defendant as a shift leader from approximately May 2020 to May 2023 primarily in Los Angeles County. Defendant classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendant, Plaintiff typically worked 5 days per week, and between 10 to 12 hours each workday.

Throughout Plaintiff's employment, Defendant committed numerous labor code violations under state law. As discussed below, Plaintiff's experience working for Defendant was typical and illustrative.

Failure to Pay for All Hours Worked, Including Overtime

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the time period involved in this case, Defendant maintained a policy and practice of failing to pay Plaintiff and the Aggrieved Employees for all hours worked including minimum wages, straight time wages and overtime wages. Throughout the statutory period, Defendant maintained a policy and practice of requiring Plaintiff and the Aggrieved Employees to perform work "off-the-clock". Defendant required Plaintiff and the Aggrieved Employees to arrive earlier than their scheduled shifts in order to make sure they clock in to work on time considering the wait time for the cash register to be available for employees to clock in to work. Starting from approximately March-April 2020, Plaintiff and the Aggrieved Employees were required to undergo COVID pre-screening by checking their temperature and answering questions prior to

clocking in to work. Defendant failed to compensate for that time. Throughout the statutory period, Defendant required Plaintiff and the Aggrieved Employees to work through their meal periods requiring them to clock out for meal periods but continue working since Defendant were short- staffed and the Aggrieved Employees had to work through their meal periods to serve Defendant's customers. Throughout statutory period, Plaintiff and the Aggrieved Employees were required to use their personal cellular telephones for work purposes at home after their scheduled work time to communicate with Defendant's supervisors regarding their work schedules and work assignments. Plaintiff and the Aggrieved Employees were also required to wash and maintain their heavily soiled uniforms off- the- clock without compensation. In maintaining a practice of not paying all wages owed, Defendant failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendant wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of work. Moreover, Defendant did not have adequate written policies or practices providing meal periods for Plaintiff and the Aggrieved Employees. Plaintiff and the Aggrieved Employees would often times miss their meal periods, have interrupted, late or short meal periods. Defendant required Plaintiff and the Aggrieved Employees to work through their meal periods by requiring them to clock out for meal periods but continue working since Defendant was short-staffed and the Aggrieved Employees had to work through their meal periods to serve Defendant's customers. Often time Plaintiff's and the Aggrieved Employees' meal periods were interrupted, short or late. Accordingly, Defendant's policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit periods of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest periods. Each failure to authorize rest periods as so required is itself a violation of California's rest period laws.

Defendants, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Defendant did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and the Aggrieved Employees. Defendant required Plaintiff and the Aggrieved Employees to work through their rest periods since Defendant was short-staffed. Plaintiffs and the Aggrieved Employees' rest breaks were often times short, late or interrupted. Accordingly, Defendant's policy and practice was for Plaintiff and the Aggrieved Employees to work through rest periods and to not authorize or permit them to take any rest periods.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendant, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendant's failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods.

Failure to Reimburse and Indemnify Expenses

California Labor Code § 2802 requires employers to reimburse employees for their necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of the employer.

Throughout the statutory period, Defendant wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendant without reimbursement. Plaintiff and the Aggrieved Employees were required to wash and maintain their heavily soiled uniforms and purchase a special detergent for the uniform washing but were not compensated for that. Further, Plaintiff and the Aggrieved Employees were required to use their personal cellular telephones for work purposes to communicate with supervisors and coworkers regarding their work schedules and work assignments but were not

compensated for cell phone usage. Plaintiff and the Aggrieved Employees were also required to use their personal vehicles to drive to the grocery stores to purchase groceries when Defendant was out of stock but were not reimbursed for mileage. Plaintiff and the Aggrieved Employees incurred these substantial expenses as a direct result of performing their job duties for Defendant, and Defendant has failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendant failed, and continue to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

Defendants' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to Labor Code § 203.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units

earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. Lab. Code § 226(e)(2)(B)(iii).

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” Lab. Code § 226(e)(1).

Defendant intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify hourly rates, the failure to correctly list gross wages earned, the failure to list the true net wages earned, wages for rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked. Additionally, Defendant failed to provide the employer entity correct address and names on the wage statements and wrongfully listed sick pay in the total number of hours worked.

As a result of Defendant violating Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendants’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendant also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the

26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. Lab. Code § 204(a). The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period. Lab. Code § 204(d).

Throughout the statute of limitations period applicable to this cause of action, employees were also entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked. As a result, Defendant owes employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Provide Suitable Seats

Pursuant to applicable IWC Section 14(A) all working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats. IWC Section 14(B) states that when employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work areas and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

However, Defendant failed to provide Plaintiff and the Aggrieved Employees with suitable seats. Defendant failed to provide Plaintiff and the Aggrieved Employees with sits when their work allowed them to sit as well during meal and rest periods. Plaintiff and the Aggrieved Employees were required to eat their meals and spend their breaks standing when they had an opportunity to take those breaks.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendant violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;

2. Labor Code § 226.7, 512 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
5. Labor Code § 2802 by failing to reimburse and indemnify employees for expenses and losses in the direct consequence and discharge of their duties;
6. Labor Code § 227.3 by failing to pay all vacation wages at termination;
7. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
8. Labor Code § 226 by failing to provide accurate itemized wage statements;
9. Labor Code § 204 by failing to pay all earned wages two times per month; and
10. Applicable IWC Section 14(A) for failure to provide suitable seating.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, 2802, and 2699(f)(2).

Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence to their corporate address and address of the agent for service, as indicated on the first page.

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Plaintiff becomes aware of additional compensation owed or losses incurred by Plaintiff or by any other aggrieved employee of Defendant, Plaintiff expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



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October 23, 2024

VIA ONLINE SUBMISSION

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**AMENDED NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

Re: *Juan Garcia v. C&R Restaurant Group, L.P.*

To Whom It May Concern:

Please be advised that my office has been retained by Juan Garcia ("Plaintiff") to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, et

seq.) against his former employer C&R Restaurant Group, L.P. (“Defendant”). The purpose of this amended letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of himself as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendant in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the “aggrieved employees”)

Plaintiff and the Aggrieved Employees of Defendant suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff’s Employment with Defendant

Defendant owns and operates an industry, business, and establishment within the State of California, including Los Angeles County. As such, Defendant is subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission (“IWC”).

Plaintiff worked for Defendant as a shift leader from approximately May 2020 to May 2023 primarily in Los Angeles County. Defendant classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendant, Plaintiff typically worked 5 days per week, and between 10 to 12 hours each workday.

Throughout Plaintiff’s employment, Defendant committed numerous labor code violations under state law. Among other things, Defendant (1) failed and continue to fail to keep accurate and complete time records for Plaintiff and non-exempt aggrieved employees; (2) failed and continue to fail to pay Plaintiff and non-exempt aggrieved employees for all hours worked; (3) failed and continue to fail to pay Plaintiff and non-exempt aggrieved employees at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continue to fail to pay proper overtime wages to non-exempt aggrieved employees for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continue to fail to provide Plaintiff and non-exempt aggrieved employees with proper meal and/or rest breaks, and/or compensate Plaintiff and non-exempt aggrieved employees an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continue to refuse to make and/or falsely denied the amount of payments due to Plaintiff and non-exempt aggrieved employees, including but not limited to owed sick pay; (7) failed and continue to fail to place Plaintiff and non-exempt aggrieved employees on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continue to fail to provide legally compliant wage statements to Plaintiff and non-exempt aggrieved employees and exempt aggrieved employees; (9) made unlawful deductions from Plaintiff’s and other non-exempt aggrieved employees and exempt aggrieved employees’ paychecks; (10) failed and continue to fail to timely pay wages to Plaintiff and non-exempt aggrieved employees and exempt aggrieved employees during employment and/or upon separation of employment; (11) failed and

continue to fail to reimburse Plaintiff and non-exempt aggrieved employees and exempt aggrieved employees for business expenses incurred on behalf of Defendant; (12) conducted and continue to conduct illegal criminal and/or financial background checks as a condition of Plaintiff, non-exempt aggrieved employees' and exempt aggrieved employees' hire and continued employment; (13) required and continue to require Plaintiff and non-exempt aggrieved employees and exempt aggrieved employees to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continue to inquire into Plaintiff's, non-exempt aggrieved employees', and/or exempt aggrieved employees' criminal history on their employment applications and sign off on same as a condition of employment; (14) failed and continue to fail to provide suitable seating; and (15) required and continue to require Plaintiff, non-exempt aggrieved employees, and exempt aggrieved employees to agree in writing to a term or condition that violates the law as a condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

As discussed below, Plaintiff's experience working for Defendant was typical and illustrative.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. Defendant, at all relevant times, was an employer or person acting on behalf of employer(s) who violated Plaintiff's and other non-exempt aggrieved employees and exempt aggrieved employees' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "a natural person who is an owner, director, officer, or managing agent of the employer." The "managing agent" definition mirrors that found in California's punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

Plaintiff intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. Plaintiff will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. Plaintiff asks and demands that Defendant put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, Plaintiff also offers to Defendant to place those individuals on notice if Defendant voluntarily provides their contact information.

Failure to Pay for All Hours Worked, Including Overtime

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is the time during which an employee is subject to the control of an employer and

includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code § 1197 provides the California requirement that employees must be paid at least the minimum wage fixed by the IWC, and any payment of less than the minimum wage is unlawful. Furthermore, "in any action under Labor Code §§ 98, 1193 .6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon ... " See California Labor Code § 1194.2.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the time period involved in this case, Defendant maintained a policy and practice of failing to pay Plaintiff and non-exempt aggrieved employees for all hours worked including minimum wages, straight time wages and overtime wages. Throughout the statutory period, Defendant regularly used a system of time rounding for shift start and shift end times and meal period start and end times in a manner that resulted, over a period of time, in failing to compensate Plaintiff and non-exempt aggrieved employees properly for all the time they have actually worked, even though the realities of Defendant's operations are such that it is possible, practical, and feasible to count and pay for work time to the minute. Accordingly, Defendant frequently paid Plaintiff and non-exempt aggrieved employees less than all their work time. Some of this unpaid work also should have been paid at the overtime rate. Throughout the statutory period, Plaintiff and non-exempt aggrieved employees received additional remuneration in the form of non-discretionary compensation including but not limited to bonuses and shift differentials. However, Defendant has not compensated Plaintiff and non-exempt aggrieved employees at the proper overtime and sick pay rate. Defendant did not include the additional remuneration paid to Plaintiff and non-exempt aggrieved employees in the regular rate of pay for purposes of calculating overtime rate of pay and sick pay. Throughout the statutory period, Defendant maintained a policy and practice of requiring Plaintiff and non-exempt aggrieved employees to perform work "off-the-clock". Defendant required Plaintiff and non-exempt aggrieved employees to arrive earlier than their scheduled shifts in order to make sure they clock in to work on time considering the wait time for the cash register to be available for employees to clock in to work, considering the time necessary for donning and doffing uniforms and/or

personal protective equipment, completing work tasks prior to the scheduled shifts and/or prior to clocking in or completing the work tasks after the scheduled shift and/or clocking out to work. Starting from approximately March-April 2020, Plaintiff and non-exempt aggrieved employees were required to undergo COVID pre-screening by checking their temperature and answering questions prior to clocking in to work. Defendant failed to compensate for that time. Throughout the statutory period, Defendant required Plaintiff and non-exempt aggrieved employees to work through their meal periods requiring them to clock out for meal periods but continue working since Defendant were short- staffed and non-exempt aggrieved employees had to work through their meal periods to serve Defendant's customers. Throughout statutory period, Plaintiff and non-exempt aggrieved employees were required to use their personal cellular telephones for work purposes at home after their scheduled work time to communicate with Defendant's supervisors regarding their work schedules and work assignments. Plaintiff and non-exempt aggrieved employees were also required to wash and maintain their heavily soiled uniforms as well as participate in work meetings and perform other work tasks off- the- clock without compensation. In maintaining a practice of not paying all wages owed, Defendant failed to maintain accurate records of the hours Plaintiff and non-exempt aggrieved employees worked.

Based on information and belief, defendant violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by Plaintiff and other non-exempt aggrieved employees and not paying proper overtime rates for overtime worked by virtue of same.

Namely, Defendant's automatic deduction and time rounding policies and practices for meal periods and shift start times and shift end times, payment according to scheduled hours worked rather than actual time worked, off-the clock/unpaid work completed during meal periods and/or time spent restricted to Defendant's premises and/or subject to Defendant's control during off-the-clock meal periods (described above), and/or other off-the-clock work resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to Plaintiff and non-exempt aggrieved employees who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

Based on information and belief, Defendant failed and continue to fail to pay a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

Based on information and belief, Defendant failed and continue to fail to pay twice non-exempt aggrieved employees' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

Based on information and belief, Defendant calculated the owed overtime rate(s) based on the California minimum wage rate as opposed to calculating the overtime rate(s) based on the minimum wage established for the cities and/or counties within which non-exempt aggrieved

employees worked, resulting in the miscalculation and underpayment of overtime wages owed to non-exempt aggrieved employees who worked in cities and/or counties in California with minimum wage rates above the California minimum wage rate.

Based on information and belief, Defendant failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to Plaintiff and other non-exempt aggrieved employees.

For example, based on information and belief, Plaintiff and other non-exempt aggrieved employees earned non-discretionary bonuses/incentive pay (e.g., non-discretionary production-based bonuses) and/or other non-discretionary compensation, however, Defendant failed to factor all non-discretionary compensation into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation of the owed overtime rate(s) of pay and the underpayment of overtime wages owed to plaintiff and other non-exempt aggrieved employees.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime. This conduct also results in violations of Labor Code sections 218.5, 510, 558.1, 1198-1199, and all applicable IWC Wage Orders, section 12(A). These violations subject Defendant to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a separate civil penalty, for each non-exempt aggrieved employee, for each pay period during which the referenced statutes and Wage Order provisions were violated.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendant wrongfully failed to provide Plaintiff and non-exempt aggrieved employees with legally compliant meal periods. Defendant regularly required Plaintiff and non-exempt aggrieved employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and non-exempt aggrieved employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work.

Defendant did not adequately inform Plaintiff and non-exempt aggrieved employees of their right to take a meal period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of work. Moreover, Defendant did not have adequate written policies or practices providing meal periods for Plaintiff and non-exempt aggrieved employees. Plaintiff and non-exempt aggrieved employees would often times miss their meal periods, have interrupted, late or short meal periods. Defendant required Plaintiff and non-exempt aggrieved employees to work through their meal periods by requiring them to clock out for meal periods but continue working since Defendant was short- staffed and non-exempt aggrieved employees had to work through their meal periods to serve Defendant's customers. Often time Plaintiff's and non-exempt aggrieved employees' meal periods were interrupted, short or late. Accordingly, Defendant's policy and practice was to not provide meal periods to Plaintiff and non-exempt aggrieved employees in compliance with California law.

Plaintiff and non-exempt aggrieved employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendant, however, regularly failed to pay Plaintiff and non-exempt aggrieved employees the additional wages to which they were entitled for meal periods and that were not provided.

Plaintiff and other non-exempt aggrieved employees consistently worked shifts of five and a one-half (5 ½) hours or more, entitling to at least one meal period.

Plaintiff and other non-exempt aggrieved employees would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, non-exempt aggrieved employees were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant meal breaks or skip meal breaks completely.

For example, based on information and belief, non-exempt aggrieved employees were forced to take late meal periods in order to complete assigned job duties. Based on information and belief, non-exempt aggrieved employees were at times interrupted during purported meal periods and/or had meal periods cut short and/or restricted to Defendant's premises due to the need to continue assigned job duties.

For example, Plaintiff was at times required to take shortened meal periods and/or interrupted meal periods and/or take his meal period late (i.e. after working more than five (5) hours) due to the need to complete assigned job duties.

For example, based on information and belief, on at least five (5) occasions, Plaintiff was required to take his meal period after working more than five (5) hours, however, Defendant did

not pay Plaintiff a meal period premium for each late and/or otherwise legally non-compliant meal period.

Based on information and belief, other non-exempt aggrieved employees were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to Defendant's premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet Defendant's goals and expectations.

Based on information and belief, Defendant implemented policies and/or practices that failed to relieve non-exempt aggrieved employees of all duties and Defendant's control during unpaid meal periods.

Based on information and belief, Defendant required non-exempt aggrieved employees to complete off-the-clock work prior to their scheduled shift time which Defendant failed to take into account when scheduling meal periods for non-exempt aggrieved employees. Based on information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

Based on information and belief, Defendant had actual and/or constructive knowledge that their policies and practices resulted in the denial of uninterrupted meal periods which were free of Defendant's control owed to Plaintiff and other non-exempt aggrieved employees in violation of California's meal period laws.

Based on information and belief, per Defendant's uniform policy and practice, non-exempt aggrieved employees who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute second meal break.

Based on information and belief, despite Defendant's failure to provide lawful meal periods, Defendant implemented a policy and/or practice of rounding the start and end times of Plaintiff's and other non-exempt aggrieved employees' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to Defendant's premises), despite having actual and/or constructive knowledge that Plaintiff and other non-exempt aggrieved employees did not receive lawful meal periods.

Moreover, based on information and belief, Defendant failed to keep accurate records of the true start and end times of Plaintiff's and non-exempt aggrieved employees' meal periods. Based on information and belief, to the extent meal period were recorded, Defendant illegally rounded the start and end times of purported meal periods resulting in Plaintiff and other non-exempt aggrieved employees not being paid for all time worked as well as late and/or shortened meal periods. See *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

Based on information and belief, Defendant failed to instruct Plaintiff and other non-exempt aggrieved employees as to the timing and duty-free nature of meal periods. Based on further information and belief, Defendant did not have a compliant written meal break policy, nor did Defendant have any sort of compliant policy in practice. Liability for the non-exempt aggrieved employees can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. (*Brinker, supra*, 53 Cal.4th 1004.)

Plaintiff is further informed and believes and thereon alleges that Defendant had actual and/or constructive knowledge that their time-rounding and/or auto-deduction policies and practices resulted in the denial of lawful meal periods owed to Plaintiff and other non-exempt aggrieved employees, in violation of California's meal period laws.

Defendant failed to pay Plaintiff and other non-exempt aggrieved employees, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. Defendant either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages. The aforementioned conduct also results in violations of Labor Code sections 226.7, 512, and 1198- 1199, and all applicable IWC Wage Orders, section 1 l(A) and (C) along with all applicable IWC Wage Orders. These violations subject Defendant to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a separate civil penalty, for each non-exempt aggrieved employee for each pay period during which the referenced statutes and Wage Order provisions were violated. Defendant's failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit periods of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest periods. Each failure to authorize rest periods as so required is itself a violation of California's rest period laws.

Defendant, however, wrongfully failed to authorize and permit Plaintiff and non-exempt aggrieved employees to take timely and duty-free rest periods. Defendant regularly required Plaintiff and non-exempt aggrieved employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and non-exempt aggrieved employees for rest periods that were not authorized or permitted. Defendant did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and non-exempt aggrieved employees. Defendant required Plaintiff and non-exempt aggrieved employees to work through their rest periods since Defendant was short-staffed. Plaintiffs and non-exempt aggrieved employees' rest breaks were often times short, late or interrupted. Accordingly, Defendant's policy and practice was for Plaintiff and non-exempt aggrieved employees to work through rest periods and to not authorize or permit them to take any rest periods.

Plaintiff and non-exempt aggrieved employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiff and non-exempt aggrieved employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

Defendant did not properly authorize and provide Plaintiff and other non-exempt aggrieved employees with legally compliant rest periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work period, as required by law.

Plaintiff and other non-exempt aggrieved employees were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, Defendant had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, Defendant did not have a compliant written rest period policy, nor did Defendant have any sort of compliant rest period policy in practice.

For example, based on information and belief, non-exempt aggrieved employees were at times unable to take compliant rest periods due to their need to complete assigned job duties and/or were unable to take a net ten-minute rest period in a suitable rest area and/or had purported rest periods restricted to Defendant's premises.

For example, Plaintiff was restricted to the work premises during any rest periods and as such was not relieved of all duties and Defendant's control during any rest periods, in violation of California rest period law.

Based on information and belief, Defendant did not have a lawful policy, instruction, or practice as to the taking, timing, or duty-free nature of rest periods. Based on information and belief, Defendant failed to authorize and permit rest periods that were a "net" ten minutes in a suitable rest area, and instead, to the extent rest periods were provided, Defendant limited Plaintiff and other non-exempt aggrieved employees to only ten-minute rest periods, requiring them to be back at their workstations within ten minutes of leaving their work stations, in violation of California rest period law.

Based on information and belief, non-exempt aggrieved employees' rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring non-exempt aggrieved employees to skip rest breaks completely or otherwise take non-compliant rest periods.

Moreover, based on information and belief, Defendant failed to provide any form of a third rest period on shifts lasting longer than ten hours.

Based on information and belief, Defendant implemented policies and/or practices that failed to relieve Plaintiff and other non-exempt aggrieved employees of all duties and Defendant's control during rest periods.

Based on information and belief, non-exempt aggrieved employees were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed, and/or as time permitted.

Furthermore, Defendant failed to pay a rest period premium for each day in which non-exempt aggrieved employees experienced a missed or otherwise unlawful rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872. Defendant failed to pay Plaintiff and other non-exempt aggrieved employees, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. Defendant either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages. The aforementioned conduct also results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject Defendant to civil penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, § 20. Each violation of each Labor Code section and

Wage Order provision results in a separate civil penalty, for each non-exempt aggrieved employee for each pay period during which the referenced statutes and Wage Order provisions were violated

Failure to Provide Suitable Resting Facilities

Per section 13 of all applicable IWC Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage Orders provides: "Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours."

Defendant's locations/facilities are generally similar in layout and design, and there was, and continues to be, space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. Defendant could have provided non-exempt aggrieved employees with a resting facility within Defendant's facilities/locations with reasonable or no modification, but instead denied and continues to deny, employees with suitable areas to rest (e.g. a breakroom). As a result, non-exempt aggrieved employees were forced to adjust to areas not conducive to resting, including but not limited to leaning up against the wall, or search for facilities outside of Defendant's premises which are not designated or reserved for rest, such as their personal vehicles.

Defendant did not provide non-exempt aggrieved employees with suitable resting facilities during their hours of work, particularly during meal and/or rest periods.

Defendant's failure to provide suitable resting facilities to non exempt aggrieved employees violated and continues to violate the applicable Wage Order, section 13(B) and the California Labor Code, including but not limited to section 1198.

Minimum Wage Violations

"Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit." Labor Code section 1194.

Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they were not paid. Pursuant to section 4 of the applicable Wage Order, "Every employer shall pay to each employee not less than the applicable minimum wage for all hours worked in the payroll period... " The applicable Wage Order defines "hours worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is

suffered or permitted to work, whether or not required to do so." See §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. An employer's failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. (*Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.) Furthermore, "in any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon..." (Cal. Lab. Code § 1194.2.)

Defendant failed to compensate Plaintiff and other non-exempt aggrieved employees for all hours worked by virtue of Defendant's automatic deduction and time rounding policies for shift start and shift end times and meal period start and end times, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods as explained above.

Based on information and belief, Defendant implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that Plaintiff and other non-exempt aggrieved employees were subject to Defendant's control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving Plaintiff and non-exempt aggrieved employees of all wages owed.

Based on information and belief, non-exempt aggrieved employees were not paid for all hours worked due to Defendant's policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices.

For example, based on information and belief, Defendant required non-exempt aggrieved employees to be at their assigned workstations at the start of a scheduled shift, thereby forcing non-exempt aggrieved employees to gather work-related equipment and/or safety gear, make any necessary adjustments to tools/equipment and/or perform maintenance/cleaning tasks, don work clothing/uniforms and/or protective equipment, and/or complete other work tasks prior to their scheduled shift and/or prior to clocking in/signing in, thereby resulting in pre-shift off-the-clock work.

Based on information and belief, non-exempt aggrieved employees were required to complete other off-the-clock work tasks after clocking out for the end of their shifts and/or during uncompensated meal periods, resulting in off-the-clock work and the underpayment of minimum and overtime wages owed to non-exempt aggrieved employees.

For example, based on information and belief, Defendant required non-exempt aggrieved employees to clock out for the end of their shifts but to continue working due to the need to return/maintain tools, clean and/or organize their work stations/areas, provide shift status updates and/or debriefings and/or participate in work meetings, respond to work-related communications and/or perform other work tasks off-the-clock, resulting in the underpayment of minimum wages and overtime wages owed to non-exempt aggrieved employees.

For example, Plaintiff was required to perform off-the-clock work, including but not limited to, attending off-the-clock work-related meetings and/or completing other off-the-clock work tasks prior to clocking in for the start of his shift and/or after clocking out for the end of his shift, during unpaid meal periods and/or otherwise outside of Plaintiff scheduled shift times.

For example, Plaintiff was required to attend at least two work-related meetings outside of his scheduled shift times, with one off-the-clock work-related meeting lasting at least two (2) to three (3) hours and the other lasting at least twenty (20) to thirty (30) minutes in length, resulting in Defendant's failure to compensate Plaintiff for all hours worked and the underpayment of wages owed to Plaintiff.

Based on information and belief, Defendant did not compensate non-exempt aggrieved employees for time spent donning and doffing personal protective equipment and/or uniforms (e.g., rubber gloves, hairnets, aprons, hats, and/or face masks) during meal periods, before the start of a scheduled shift, and/or after completing a scheduled shift, resulting in the underpayment of wages owed to non-exempt aggrieved employees.

Based on information and belief, at times, non-exempt aggrieved employees were required to complete off-the-clock work outside of scheduled shifts due to work-related phone calls and/or messages they received to their phones/mobile devices and were required to respond to, including but not limited to, communications from supervisors regarding scheduling and/or other work tasks, resulting in the underpayment of wages owed to non-exempt aggrieved employees.

Plaintiff and other non-exempt aggrieved employees were required to perform other off-the-clock work for which they were not compensated. For example, based on information and belief, at times, Defendant's biometric/electronic employee time-keeping system malfunctioned such that non-exempt aggrieved employees were required to either reinitiate and/or otherwise troubleshoot the system prior to being able to clock in and/or were unable to clock in at all for the start of their shifts and/or clock back in from meal periods, resulting in off-the-clock work and the underpayment of wages owed to non-exempt aggrieved employees. Based on information and belief, non-exempt aggrieved employees experienced the same issues when docking out for shifts and/or back in for meal periods. This time spent under Defendant's control was not recorded and not compensated and resulted in unpaid minimum wages owed to non-exempt aggrieved employees.

Moreover, based on information and belief, non-exempt aggrieved employees who opened their work locations were required to first unlock the doors, turn on all the lights in the restaurant/facility and/or deactivate the alarm before clocking in for work, resulting in pre-shift off-the-clock work and the underpayment of wages owed to non-exempt aggrieved employees. Based on further information and belief, non-exempt aggrieved employees in charge of closing their location(s) were required to first clock out for their shifts before enabling the alarm, turning off all the lights in the facility and/or locking the doors. This resulted in additional off-the-clock post-shift work that was not compensated and the underpayment of wages owed to non-exempt aggrieved employees. Based on information and belief, Defendant required non-exempt aggrieved employees to undergo COVID-19 temperature screenings and/or complete questionnaires prior to beginning their scheduled shift and/or prior to clocking/signing in, thereby, resulting in pre-shift off-the-clock work.

Based on information and belief, at times, Defendant required non-exempt aggrieved employees to travel between Defendant's restaurants, facilities and/or locations without compensating non-exempt aggrieved employees for the travel time. For example, based on information and belief, due to scheduling issues and/or understaffing, non-exempt aggrieved employees were at times required after working at their scheduled facility location to cover a shift at another of Defendant restaurants/facilities/locations but were not compensated for the time spent driving to the second restaurant/facility, resulting in the underpayment of minimum and overtime wages owed to non-exempt aggrieved employees.

Based on information and belief, Defendant failed to compensate non-exempt aggrieved employees for all time spent completing Defendant required trainings and/or courses (e.g., food safety and/or food handler courses) and/or testings and/or certifications (e.g., food handler certifications).

Based on information and belief, Defendant failed to pay non-exempt aggrieved employees the applicable minimum wage for the county and/or city within which the non-exempt aggrieved employee worked in California.

Moreover, based on information and belief, Defendant failed to pay Plaintiff and/or other non-exempt aggrieved employees split shift premium wages when they worked split shifts during the relevant period. For example, based on information and belief, at times, Defendant required Plaintiff and/or other non-exempt aggrieved employees to work two separate shifts in the same day. Based on information and belief, Defendant failed to pay Plaintiff and/or other non-exempt aggrieved employees split shift compensation whenever Plaintiff's and/or other non-exempt aggrieved employees' work schedules were interrupted by non-paid non-working periods established by Defendant, which resulted in a violation of the applicable Wage Order (See section 4 of all applicable Wage orders, "When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday...). See, also, Cal. Code Regs. Tit. 8, § 11050 (when an employee works a split shift, one (1) hour's

pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment). Defendant also failed to separately itemize these split shift premium wages on Plaintiff's and/or other non-exempt aggrieved employees' wage statements, in violation of Labor Code sections 510, 1194 and all applicable IWC Wage Orders. See, https://www.dir.ca.gov/dlse/split_shift.htm. (The employer must itemize the premium payment on the pay stub provided to the employee, and it should be shown as a separate category such as "Split Shift Premium" and should not be lumped into another category such as wages, bonus, etc. Defendant failed to separately account for the split shift premiums earned by Plaintiff and/or other non-exempt aggrieved employees on their wage statements.

Based on information and belief, Defendant failed to pay non-exempt aggrieved employees for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by Defendant. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, Defendant implemented a time-rounding system that as applied systematically deprived Plaintiff and other non-exempt aggrieved employees of compensable time because the time-rounding system implemented by Defendant would almost always, if not always, result in understating actual compensable work time. Defendant's failure to pay for all time worked by virtue of their time-rounding practices resulted in the underpayment of minimum wages owed to Plaintiff and non-exempt aggrieved employees as well as unpaid overtime wages for those non-exempt aggrieved employees who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Defendant's failure to pay for all time worked by virtue of their time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to Plaintiff and non-exempt aggrieved employees as well as unpaid overtime wages for those non-exempt aggrieved employees who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, Defendant had actual and/or constructive knowledge that their time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to Plaintiff and other non-exempt aggrieved employees, in violation of California's minimum wage laws.

These violations subject Defendant to civil penalties under Labor Code sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a separate civil penalty, for each non-exempt aggrieved

employee, for each pay period during which the referenced statutes and Wage Order provisions were violated.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendant, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendant's failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and non-exempt aggrieved employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records. Therefore, Plaintiff and non-exempt aggrieved employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant. As a direct result, Plaintiff and non-exempt aggrieved employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and non-exempt aggrieved employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Based on information and belief, Defendant failed, and continue to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when Plaintiff and other non-exempt aggrieved employees began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, Defendant failed and continue to fail to keep accurate and complete records showing total hours worked by plaintiff and non-exempt aggrieved employees by virtue of Defendant's time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

Defendant failed and continue to fail to keep accurate and complete records showing total hours worked by virtue of Defendant's failure to relieve Plaintiff and non-exempt aggrieved employees of all duties and Defendant's control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, Defendant further failed, and continue to fail, to record the true start and end times of Plaintiff's and non-exempt aggrieved employees' meal periods.

Based on further information and belief, Defendant further failed and continue to fail, to record the true start and end times of Plaintiff and non-exempt aggrieved employees' work shifts.

Additionally, Defendant failed, and continue to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for Plaintiff and non-exempt aggrieved employees.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods. Defendant's failure to keep accurate and complete payroll records for Plaintiff and non-exempt aggrieved employees violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject Defendant to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each non-exempt aggrieved employee, results in a separate civil penalty.

Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432:

Time and Pay Records

Labor Code section 226 and all applicable IWC Wage Orders, section 7 require that employers keep the following information on file for each employee for a minimum of three years: The employee's dates of employment; the employee's hourly rates and the corresponding number of hours worked by the employee at each hourly rate, when the employee begins and ends each work period (including meal periods) and split intervals; total hours worked by the employee; all deductions; gross wages earned; and net wages earned.

Section (b) of Labor Code section 226 further requires employers to "afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer." Section (c) of Labor Code section 226 provides that, "an employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction." An employer's failure to comply within this timeframe entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 226(f).

Personnel Records

In addition to their right to time and pay records, employees, and their representatives, have the right to inspect and receive a copy of their personnel files pursuant to Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code section 432 further specifies that employers must furnish copies of all employment records bearing the employee's signature.

Labor Code section 1198.5 also requires that the file be made available for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date the employer receives a written request." An employer's failure to comply within this timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 1198.5(k).

Based on information and belief, Defendant failed to timely produce or make available a current or former employee's personnel records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. Based on information and belief, Defendant failed and continues to fail to timely produce complete payroll and personnel records when requested by non-exempt aggrieved employees and/or exempt aggrieved employees.

These violations subject Defendant to penalties under Labor Code sections 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for each non-exempt aggrieved employee and each exempt aggrieved employee, results in a separate civil penalty.

Failure to Reimburse and Indemnify Expenses

California Labor Code § 2802 requires employers to reimburse employees for their necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of the employer.

Throughout the statutory period, Defendant wrongfully required Plaintiff and exempt and non-exempt aggrieved employees to pay expenses that they incurred in direct discharge of their duties for Defendant without reimbursement. On information and belief, Plaintiff and exempt and non-exempt aggrieved employees were required to purchase uniforms and personal protective gear and/or work tools and wash and maintain their heavily soiled uniforms and personal protective/safety gear and/or work tools and purchase a special detergent for the uniform washing but were not compensated for that. Further, Plaintiff and exempt and non-exempt aggrieved employees were required to use their personal cellular telephones for work purposes to communicate with supervisors and coworkers regarding their work schedules and work assignments but were not compensated for cell phone usage. Plaintiff and exempt and non-exempt aggrieved employees were also required to use their personal vehicles to drive to the grocery stores to purchase groceries when Defendant was out of stock but were not reimbursed

for mileage. Plaintiff and exempt and non-exempt aggrieved employees incurred these substantial expenses as a direct result of performing their job duties for Defendant, and Defendant has failed to indemnify Plaintiff and exempt and non-exempt aggrieved Employees for these employment-related expenses.

Based on information and belief, Plaintiff and non-exempt aggrieved employees and exempt aggrieved employees were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

Based on information and belief, Defendants shifted the costs of doing business onto non-exempt aggrieved employees and exempt aggrieved employees by requiring them to pay for their business expenses including but not limited to, uniforms/work clothing/work shoes, personal protective/safety gear and/or the use of non-exempt aggrieved employees' and exempt aggrieved employees' personal mobile phone and data usage for work-related purposes including but not limited to receiving and responding to work-related messages and/or phone calls. For example, on information and belief, non-exempt aggrieved employees and/or exempt aggrieved employees received calls/messages to their personal cell phones/mobile devices from supervisors and/or other non-exempt aggrieved employees and/or exempt aggrieved employees regarding scheduling and/or other work tasks but were not provided any and/or full reimbursement from Defendant for this personal cell phone use.

Based on information and belief, non-exempt aggrieved employees and exempt aggrieved employees were not reimbursed for the cost of using their personal phone for work-related purposes and/or the cost of purchasing and/or maintaining work uniforms/work clothing/work shoes, personal protective/safety gear and/or work tools (e.g., hand tools) and/or equipment required to carry out their assigned job duties. For example, based on information and belief, non-exempt aggrieved employees and/or exempt aggrieved employees were not reimbursed for the costs of purchasing and/or maintaining work uniforms/work clothing/work shoes, personal protective/safety gear, such as, but not limited to, face masks, gloves, hairnets and/or work shoes.

For example, Plaintiff was required to purchase and/or maintain his own uniforms, work clothing, protective and/or safety gear, including but not limited to, work pants, work shoes and/or other uniforms, work clothing, protective and/or safety gear, however, Defendant failed to reimburse Plaintiff at all and/or in full for the business expenses Plaintiff incurred in connection therewith.

Based on information and belief, at times, Defendant required non-exempt aggrieved employees and/or exempt aggrieved employees to use their personal vehicles for work without reimbursing them for the personal vehicle expenses they incurred in connection therewith. For example, based on information and belief, at times, Defendant required non-exempt aggrieved employees and/or exempt aggrieved employees to travel from one of Defendant's facilities/restaurants to a second of Defendant's facilities/restaurants for work and/or otherwise required non-exempt

aggrieved employees and/or exempt aggrieved employees to use their personal vehicles to carry out their assigned job duties without reimbursing non-exempt aggrieved employees and/or exempt aggrieved employees for the expenses incurred in connection with Defendant's business use of their personal vehicles. As such, Defendant failed to compensate non-exempt aggrieved employees and/or exempt aggrieved employees at the legally mandated Internal Revenue Service (IRS) per mile compensation rates in effect during the relevant period.

As explained above, based on information and belief, non-exempt aggrieved employees and exempt aggrieved employees were not reimbursed for the cost of using their personal phone for work-related purposes and/or the cost of purchasing and/or maintaining work uniforms/work clothing/work shoes, personal protective/safety gear.

Based on information and belief, non-exempt aggrieved employees and exempt aggrieved employees were improperly required to pay for business expenses that are supposed to be the responsibility of Defendant.

As a pattern and practice, Defendant regularly failed to reimburse and indemnify non-exempt aggrieved employees and exempt aggrieved employees for business expenses. Pursuant to California Labor Code section 2802, Plaintiff, non-exempt aggrieved employees and exempt aggrieved employees were entitled to be reimbursed for all reasonable expenses associated with carrying out Defendant's orders and/or carrying out the duties assigned by Defendant.

As described herein, Defendant regularly failed to reimburse and indemnify Plaintiff, non-exempt aggrieved employees and exempt aggrieved employees for all reasonable expenses associated with carrying out their job duties. Defendant's failure to provide Plaintiff, non-exempt aggrieved employees and exempt aggrieved employees with full reimbursement for all reasonable expenses associated with carrying out their duties required that Plaintiff, non-exempt aggrieved employees and exempt aggrieved employees subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Labor Code § 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. California Labor Code § 201(a) provides, in relevant part, that "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." California Labor Code section 202(a) provides, in

relevant part, that "[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting." Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

Based on information and belief, Defendant failed to timely pay non-exempt aggrieved employees and exempt aggrieved employees all wages that were due and owing upon termination or resignation. Based on information and belief, Defendant untimely provided final wages to non-exempt aggrieved employees and exempt aggrieved employees without regard to the timing requirements of Labor Code sections 201-202.

Upon separation of employment, non-exempt aggrieved employees' and exempt aggrieved employees' final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, non-exempt aggrieved employees' final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, shift differentials).

For example, Defendant failed to furnish Plaintiff with any final paycheck at the time of termination, instead requiring Plaintiff to wait at least until the end of the pay period to receive a final paycheck, and Plaintiff's late final paycheck was devoid of all wages owed including but not limited to all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, any shift differentials).

Based on further information and belief, Defendant failed to timely provide all owed wages immediately upon discharge of employment. Based on information and belief, at times, non-exempt aggrieved employees experienced breaks in employment caused by Defendant whereby non-exempt aggrieved employees would not be called in for work for longer than a single pay period due to including but not limited to Defendant's lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet, Defendant failed to timely pay all owed wages at the end of such periods of employment, in violation of including but not limited to Labor Code section 201-202.

Within the applicable statute of limitations, the employment of Plaintiff and many other non-exempt aggrieved employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendant failed, and continue to fail to pay Plaintiff and terminated non-exempt aggrieved employees, without abatement, all wages required to be paid by Labor Code §§ 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

Defendant's conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with §§ 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

These violations subject Defendant to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a separate civil penalty, for each exempt aggrieved employee and each non-exempt aggrieved employee for each pay period during which the statute provisions were violated. Moreover, Defendant is liable to Plaintiff and non-exempt aggrieved employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. Lab. Code § 226(e)(2)(B)(iii).

The statute further provides: "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay

period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees." Lab. Code § 226(e)(1).

Defendant intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify hourly rates, the failure to correctly list gross wages earned, the failure to list the true net wages earned, wages for rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked. Additionally, Defendant failed to provide the employer entity correct address and names on the wage statements and wrongfully listed sick pay in the total number of hours worked.

As Defendant failed to provide Plaintiff and non-exempt aggrieved employees with meal and rest periods that complied with Labor Code section 226.7, the wage statements Defendant issued to Plaintiff and non-exempt aggrieved employees failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

Defendant issued wage statements to Plaintiff and all non-exempt aggrieved employees that also failed to indicate the earned gross and net wages earned during the pay period, the correct applicable rates of pay for all hours worked, and the "total hours worked" by Plaintiff and all non-exempt aggrieved employees (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve non-exempt aggrieved employees of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices described above), which results in a violation of Labor Code section 226(a).

Separately, and independent of the above allegations, based on information and belief, Defendant issued wage statements to non-exempt aggrieved employees that failed to list the total hours worked, in violation of including but not limited to, Labor Code section 226 (a)(2).

Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226. (*Maldonado v. Epsilon Plastics, Inc.* (2018) 22 Cal.App.5th 1308, 1337).

Based on information and belief, wage statements issued by Defendant failed to list the inclusive dates of the pay period for which the non-exempt aggrieved employee or exempt aggrieved employee is being paid.

For example, based on information and belief, wage statements issued by Defendant failed to list the inclusive dates of the pay period for which the non-exempt aggrieved employee is being paid.

For example, based on information and belief, at times, Defendant issued wage statements to non-exempt aggrieved employees containing payment for hours worked during previous pay periods, yet Defendant's wage statements do not include the inclusive dates of the accurate pay period for that retroactive pay, further failing to list the total hours worked for the pay period, including but not limited to, the total hours worked for the pay period the retroactive pay corresponds with.

For example, based on information and belief, at times, Defendant issued wage statement(s) to non-exempt aggrieved employees that list a category for "Retro" pay without including the inclusive dates of the accurate pay period for that "Retro" pay, further failing to list the total hours worked for the pay period, including but not limited to, the total hours worked for the pay period the retroactive pay corresponds with, in violation of including but not limited to, Labor Code section 226(a)(2) and/or Labor Code section 226(a)(6).

Defendant's failure to accurately list all hours worked on all wage statements caused confusion to Plaintiff and caused and continue to cause confusion to the non-exempt aggrieved employees over whether they received all wages owed to them. Plaintiff and non-exempt aggrieved employees were injured by Defendant's failure to provide accurate wage statements.

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper rates, and failing to provide meal and rest break premiums, Defendant has violated California Labor Code § 226 by willfully failing to furnish Plaintiff and all non-exempt aggrieved employees with accurate, itemized wage statements. As described herein, based on information and belief, Defendant also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by Plaintiff and other non-exempt aggrieved employees.

Based on information and belief, wage statements issued by Defendant have failed to list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

For example, based on information and belief, wage statements issued by Defendant have failed to list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9) due to Defendant's failure to list an overtime rate category at all and/or failure to list a category containing the proper overtime rate.

Based on information and belief, Defendant issued wage statements that failed to accurately list all deductions, in violation of Labor Code section 226(a)(4).

Moreover, based on information and belief, Defendant issued wage statements to Plaintiff, non-exempt aggrieved employees and exempt aggrieved employees that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer.

As a result, the wage statements provided to Plaintiff, non-exempt aggrieved employees and exempt aggrieved employees were not accurate and did not include all of the statutorily required information.

These violations subject Defendant to civil penalties under Labor Code section 226. Each violation results in a separate civil penalty, for each non-exempt aggrieved employee and each exempt aggrieved employee, for each pay period during which the statute provisions were violated.

As a result of Defendant violating Labor Code § 226, Plaintiff and similarly aggrieved employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and similarly aggrieved employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant's failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendant is liable to Plaintiff and non-exempt aggrieved employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Produce Personnel Records

The Aggrieved Employees have the right to inspect and receive a copy of their personnel files pursuant to Labor Code § 1198.5. This statute applies to both former and current employees. Labor Code § 1198.5 requires that the file be made available for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date the employer receives a written request." An employer's failure to comply within this the frame likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Labor Code § 1198.5(k). Labor Code § 432 further specifies that employers must furnish copies of all employment records bearing the employee's signature.

Based on information and belief, Defendant failed to timely produce or make available a current or former employee's personnel records and/or payroll records when requested pursuant to Labor Code §§ 226, 1198.5, 432, and/or the applicable Wage Order. Based on information and belief, Defendant failed and continue to fail to timely produce complete payroll and personnel records when requested by exempt or non-exempt aggrieved employees.

Refusal to Make Payment

Labor Code § 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

Defendant violated and continue to violate Labor Code § 216 by failing to pay Plaintiff and non exempt aggrieved employees for all hours worked at the proper wage rate and by failing to pay Plaintiff and non exempt aggrieved employees an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject Defendant to civil penalties under Labor Code § 225.5. Each violation results in a separate civil penalty, for each non-exempt aggrieved employee, for each pay period during which the statute's provisions were violated.

Unlawful Deductions

Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer to said employee." Based on information and belief Defendant made unlawful deductions from non-exempt aggrieved employees and/or exempt aggrieved employees paychecks during the relevant period including without limitation, deducting costs of uniforms and/or other business costs and/or deducting wages for purported overpayments from previous pay periods and/or unlawfully deducting wages for negligently damaged property. Such a practice is in violation of including but not limited to, Labor Code Sections 221-222 which subjects Defendant to civil penalties under Labor Code Section 2699.

Each violation results in a separate civil penalty, for each non-exempt aggrieved employee and exempt aggrieved employee, for each pay period during which the statute provisions were violated. See Lab. Code §225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty... for each failure to pay each employee").

Failure to Pay All Earned Wages Twice Per Month (Semimonthly Payment Violations)

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendant also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. Lab. Code § 204(a). The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the

wages are paid not more than seven calendar days following the close of the payroll period. Lab. Code § 204(d).

Throughout the statute of limitations period applicable to this cause of action, employees were also entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked. As a result, Defendant owes employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Defendant violated this section by, including but not limited to, failing to pay Plaintiff and other non-exempt aggrieved employees an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked, and by failing to pay proper premium wage rates for all hours worked. These violations subject Defendant to civil penalties under Labor Code section 210. Each violation results in a separate civil penalty, for each non-exempt aggrieved employee for each pay period during which the statute's provisions were violated.

Moreover, Defendant is liable to Plaintiff and non-exempt aggrieved employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Provide Suitable Seats

Pursuant to applicable IWC Section 14(A) all working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats. IWC Section 14(B) states that when employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work areas and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

However, Defendant failed to provide Plaintiff and non-exempt aggrieved employees with suitable seats. Defendant failed to provide Plaintiff and non-exempt aggrieved employees with seats when their work allowed them to sit as well during meal and rest periods. Plaintiff and non-exempt aggrieved employees were required to eat their meals and spend their breaks standing when they had an opportunity to take those breaks.

Based on information and belief, Defendant failed to provide non-exempt aggrieved employees with suitable seating, and when such employees were not engaged in duties which required them to stand, no seating was placed in reasonable proximity to their workstations.

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that non-exempt aggrieved employees were working. Lastly, based on information and belief, there were periods of time when non-exempt aggrieved employees were not engaged in active duties of their employment, yet there were no suitable seats in reasonable proximity to the work area and use of seats would not interfere with the performance of their duties.

Defendant's non-exempt aggrieved employees worked in various positions. The nature of non-exempt aggrieved employees' work reasonably permitted the use of seats. However, Defendant failed to provide suitable seating in reasonable proximity to non-exempt aggrieved employees' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting Defendant to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each non-exempt aggrieved employee, results in a separate civil penalty. Defendant is liable to Plaintiff and non-exempt aggrieved Employees for the civil penalties provided for in Labor Code §§ 1199 and 2699(f)(2).

Failure to Pay All Accrued Vacation Wages at Termination

California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, Defendant had and continue to have a uniform policy and practice of failing to allow non-exempt aggrieved employees and exempt aggrieved employees to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, shift differentials) to non-exempt aggrieved employees and/or exempt aggrieved employees upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

Failure to Provide One Day of Rest in Seven

Under California law, every employee in California is "entitled" to "one day's rest [from labor] in seven"; and, no employer may "cause" their employees "to work more than six days in seven." See Labor Code Sections 551 and 552. Labor Code section 553 provides that a violation of the foregoing sections is a misdemeanor.

Based on information and belief, Defendant has and continues to have a uniform policy and practice of requiring non-exempt aggrieved employees to work at least seven days consecutively

in a workweek, in violation of including but not limited to, Labor Code Section 551. Based on information and belief, Plaintiff and/or other non-exempt aggrieved employees were suffered, permitted, or required to work at least seven (7) days consecutively in a workweek, in violation of California law, including but not limited to Labor Code Section 551.

Failure to Provide Paid Sick Leave and Written Notice of Available Paid Sick Leave (Violations of Labor Code §§ 245-248.5)

Throughout the relevant time period, Defendant failed to provide proper paid sick leave to Plaintiff and other non-exempt aggrieved employees. Defendant either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to Plaintiff and other non-exempt aggrieved employees by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to work completed during unpaid meal periods and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, Defendant further failed to provide notice of the correct sick leave amount balance available to Plaintiff and other non-exempt aggrieved employees on their wage statements or other written statements.

Based on information and belief, Defendant failed to put non-exempt aggrieved employees on notice of their paid sick leave rights-or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, Defendant failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the non-exempt aggrieved employee throughout the relevant time period.

Based on information and belief, throughout the relevant period, Defendant failed to provide notice of sick leave amount balance left for Plaintiff and other non-exempt aggrieved employees, thus affecting their intelligent exercise of their paid sick leave. But for this failure, Plaintiff and other non-exempt aggrieved employees would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and Plaintiff seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of Plaintiff and all non-exempt aggrieved employees.

In violation of Labor Code section 247.5, Defendant failed to maintain records documenting the hours worked and paid sick days accrued and used by Plaintiff and all non-exempt aggrieved

employees, permitting the presumption that Plaintiff and all non-exempt aggrieved employees were entitled to the maximum number of hours accruable under this article.

Upon information and belief, Defendant further failed and continues to fail to comply with Labor Code section 246, by failing to provide Plaintiff and all non-exempt aggrieved employees with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

Defendant unlawfully retained and continues to retain paid sick leave that should have been paid but was not, as a result of Defendant's failure to properly institute a paid sick leave program.

On information and belief, Plaintiff alleges that all of these practices were experienced and continue to be experienced by other non-exempt aggrieved employees.

Plaintiff requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to Defendant's sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, Plaintiff and other non-exempt aggrieved employees are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. Plaintiff requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure to Pay Reporting Time Pay

Section 5 of all applicable IWC Wage Orders, provides as follows:

(A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage. (B) If an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid two (2) hours at the regular rate of pay, which shall not be less than the minimum wage. Reporting time pay constitutes wages. *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal. 4th 1094.

Non-exempt aggrieved employees were not paid reporting time wages in accordance with California law, including but not limited to the applicable IWC Wage Order. For example, based on information and belief, at times, Plaintiff and/or other non-exempt aggrieved employees reported to work for a scheduled shift but were sent home and/or were not put to work and were not paid all owed reporting time pay wages in accordance with California law.

Based on information and belief, Defendant has a policy and practice of failing to pay all reporting time wages to non-exempt aggrieved employees, in violation of California law, including but not limited to, the applicable IWC Wage Order, Section 5. Defendant's failure to pay all reporting time wages to non-exempt aggrieved employees violated and continue to violate the applicable Wage Order, section S(A)-(B) and the California Labor Code, including but not limited to section 1198.

Plaintiff and non-exempt aggrieved employees were not paid reporting time wages in accordance with California law, including but not limited to the applicable IWC Wage Order.

Failure to Pay Gratuities (Violation of Labor Code sections 351 and 353)

Labor Code § 351 provides that no employer or agent shall collect, take, or receive any gratuity or a part thereof that is paid, given to, or left for an employee by a patron, or deduct any amount from wages due an employee on account of a gratuity, or require an employee to credit the amount, or any part thereof, of a gratuity against and as a part of the wages due the employee from the employer. Every gratuity is hereby declared to be the sole property of the employee or employees to whom it was paid, given, or left for. Based on further information and belief, Defendant also failed to keep accurate records of all tips received, in violation of Labor Code § 353.

Throughout the statutory period, based on information and belief Defendant failed to pay Plaintiff and the Aggrieved Employees all gratuities received by them from Defendant's customers. Based on information and belief, Defendant failed to ensure that non-exempt aggrieved employees fully received the gratuities left for them by patrons, in that Defendant and their agents would collect and/or take a portion of the gratuities for themselves, in violation of Labor Code Section 351. Based on further information and belief, Defendant also failed/fails to keep accurate records of all tips received, in violation of Labor Code Section 353. Based on information and belief, Defendant failed to pay gratuities paid by customers using credit cards to non-exempt aggrieved employees by the next regular payday following the credit card payment, in violation of Labor Code section 351.

Based on information and belief, Defendant charged an additional service charge to their customers/patrons. Customers are led to believe that the service charge will be paid to Defendant's non-exempt aggrieved employees. Instead, Defendant keeps a majority (if not the entirety) of the service charge, thereby depriving non-exempt aggrieved employees of the service charge/gratuity that is left by the patron/customer for the non-exempt aggrieved employees. (See *O'Grady v Merchant Exchanges Production, Inc.*, 41 Cal.App.5th 771, 790 (a mandatory service charge can constitute a gratuity that is intended to the employees providing the service).)

Pursuant to PAGA, Defendant is liable for penalties of \$100 per pay period payable to each non-exempt aggrieved employee for the first violation of Labor Code Sections 351 and 353 they experienced within the statutory period, and \$200 per pay period for each additional violation.

As a result, Defendant is liable to Plaintiff and non-exempt aggrieved employees for the civil penalties provided for in Labor Code § 2699(f)(2).

Standard Conditions of Labor Violations

Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, Defendant's violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, business expenses, suitable resting facilities, seating, reporting time pay, split shift premium wages, and other violations described herein result in separate violations of sections 1198 and 1199, which subject Defendant to civil penalties under Labor Code sections 1197.1 and 2699.

Statutory Wage Violations

Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, Defendant willfully and systematically denied Plaintiff and other non-exempt aggrieved employees of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. Defendant acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, Defendant paid Plaintiff and other non-exempt aggrieved employees lower wages than those they were entitled to while purporting that Plaintiff and all non-exempt aggrieved employees were properly paid. As such, Plaintiff and all non-exempt aggrieved employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that "no employer... shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer ... to be prohibited by law." Based on information and belief, Defendant required Plaintiff, non-exempt aggrieved employees and exempt aggrieved employees to agree in writing to unlawful conditions of employment including but not limited to unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful meal period waivers, unlawful forum selection

clauses and/or choice of law provisions/agreements and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

Labor Code section 432.6(a), provides that "a person shall not, as a condition of employment, continued employment, or the receipt of any employment-related benefit, require any applicant for employment or any employee to waive any right. .."Based on information and belief, Defendant required non-exempt aggrieved employees to sign meal period waivers that were universally signed as a condition of employment, including but not limited to, during the onboarding process. By requiring non-exempt aggrieved employees to sign unlawful meal period waivers as a condition of obtaining and/or maintaining employment, Defendant violated Labor Code section 432.5. Further, these invalid waivers are otherwise unlawful under Labor Code section 432.6.

The California Labor Code places certain procedural and substantive limit on employers' ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA- CA Civil Code section 1786, et seq.) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, et seq.) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, Defendant ordered unlawful financial credit checks on non-exempt aggrieved employees and exempt aggrieved employees, in violation of Labor Code section 1024.5, and required non-exempt aggrieved employees and exempt aggrieved employees to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, Defendant also required non-exempt aggrieved employees and exempt aggrieved employees to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA.

Based on information and belief, Defendant required non-exempt aggrieved employees and exempt aggrieved employees to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, et seq. and 15 U.S.C. section 1681, et

seq., including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FRCA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring non-exempt aggrieved employees and exempt aggrieved employees to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, Defendant violated Labor Code section 432.5.

Based on information and belief, Defendant also required non-exempt aggrieved employees and exempt aggrieved employees to agree in writing to provide ongoing consent to Defendant to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, Defendant knew that requiring non-exempt aggrieved employees and exempt aggrieved employees to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring non-exempt aggrieved employees, and exempt aggrieved employees agree in writing to unlawful provisions as a condition of employment, Defendant violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, Defendant asked non-exempt aggrieved employees, and exempt aggrieved employees about arrests not resulting in convictions on their employment application, in violation of California law.

Upon information and belief, Defendant, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act ("FEHA"), asked non-exempt aggrieved employees and exempt aggrieved employees about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on their employment application in violation of California law.

By asking about arrests not resulting in convictions, Defendant violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment

offer, Defendant violated California's Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring non-exempt aggrieved employees and exempt aggrieved employees to agree in writing to disclose arrests and/or convictions as a condition of employment.

Unlawful PAGA Waiver

Additionally, Defendant violated Labor Code section 432.5 by requiring non-exempt aggrieved employees and exempt aggrieved employees to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

An action pursuant to PAGA "' ... is a representative action on behalf of the state.'" (*Kim v Reins Int'l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87.) It is well settled that agreements purporting to waive an employee's right to a trial of PAGA claims is contrary to California law and unenforceable. (See *Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 ("We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.").)

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee's individual PAGA claim because there is no such thing as an individual PAGA claim. (*Kim v Reins Int'l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 ("There is no individual component to a PAGA action because 'every PAGA action ... is a representative action on behalf of the state.'").)

Upon information and belief, Defendant required non-exempt aggrieved employees and exempt aggrieved employees to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring non-exempt aggrieved employees and exempt aggrieved employees to agree, in writing, to an unlawful PAGA waiver, Defendant required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5.

As such, Plaintiff, non-exempt aggrieved employees and exempt aggrieved employees continue to be subject to various unlawful provisions as a condition of employment.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendant has violated the above provisions of the Labor Code and the law with respect to non-exempt and exempt aggrieved employees, as well as the provisions that include but are not limited to Labor Code §§ 201-203, 204, 208, 216, 221-223, 226, 226.7, 245-248.6, 351-352, 432, 432.5, 432.6, 432.7, 510, 512, 551, 552, 558, 558.1,

1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

Defendant has violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, including but not limited to all applicable Wage Orders, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs. The civil penalties Plaintiff and other non-exempt aggrieved employees and exempt aggrieved employees seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 218.5, 225.5, 226, 226.3, 226.6, 233, 234, 558, 558.1, 1174.5, 1197.1, 1198, 1198.5, 1199, 2802, and 2699(f)(2).

Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence to their corporate address and address of the agent for service, as indicated on the first page.

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Plaintiff becomes aware of additional compensation owed or losses incurred by Plaintiff or by any other aggrieved employee of Defendant, Plaintiff expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Lilit Tunyan, Esq.
Partner
TUNYAN LAW, APC

Exhibit “2”

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Attorneys for Defendant C&R RESTAURANT GROUP, L.P.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JUAN GARCIA, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

C&R RESTAURANT GROUP, L.P., a
California Limited Partnership; and DOES 1
through 10, inclusive,

Defendants

Case No. 23STCV19037

[Assigned for all purposes to Hon. Rupert A.
Byrdsong, Dept. 28]

PAGA SETTLEMENT AGREEMENT

Complaint Filed: August 10, 2023
Trial: None Yet Set

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement” or “Settlement”) is made by and between Plaintiff JUAN GARCIA (“Plaintiff”) and Defendant C&R RESTAURANT GROUP, L.P. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

1.1. “Action” means the Plaintiff’s PAGA lawsuit alleging wage and hour violations against Defendant captioned *Garcia v. C&R Restaurant Group, L.P.*, Case No. 23STCV19037, initiated on August 10, 2023 and pending in the Superior Court of the State of California, County of Los Angeles.

1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.

1.4. “Aggrieved Employee” means a current or former non-exempt employee of Defendant who worked for Defendant during the PAGA Period.

1.5. “Aggrieved Employee Data” means the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.

1.7. “Court” means the Superior Court of California, County of Los Angeles.

1.8. “Defense Counsel” means SAGASER, WATKINS & WIELAND, PC and PALMER, TYLER, WIENER, WILHELM & WALDRON LLP.

1.9. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment if no objections are filed to this settlement or if all objections are withdrawn prior to the Court ruling on them; or (b) sixty-one (61) days after the date of entry of the settlement approval order if objections are filed and overruled and no appeal is taken from the order approving the settlement; or (c) if a timely appeal is made, ten (10) business days after the final resolution of that appeal if the appeal is rejected, the settlement is upheld, and the settlement approval order is no longer subject to further judicial review.

1.10. "Gross Settlement Amount" means \$310,000.00 which is the total amount Defendant agrees to pay under the Settlement, subject to modification as provided in Paragraph 8 herein, in Defendant's sole discretion. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment. In addition to the Gross Settlement Amount, Defendant will pay \$10,000.00 to Plaintiff in lieu of arbitrating Plaintiff's individual claims and in consideration for representing Aggrieved Employees and for a general release of all Plaintiff's claims beyond the PAGA claims released in this action in accordance with a separate individual Settlement Agreement and Release entered into between the Parties (the separate individual Settlement Agreement and Release is subject to all terms and provisions stated in that agreement, and is also conditioned on court approval of this Agreement).

1.11. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

1.12. "Judgment" means the judgment entered by the Court based upon the Approval Order of this PAGA Settlement.

1.13. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.14. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.15. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.

1.16. "PAGA Counsel" means Tunyan Law, APC.

1.17. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.

1.18. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.19. "PAGA Period" means the period from June 5, 2022 to the date of entry of order for approval of the Settlement by the Court, or on the date as modified by Defendant in Defendant's sole discretion pursuant to Paragraph 8 of the Agreement.

1.20. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.21. "PAGA Notice" means Plaintiff's June 5, 2023 letter to Defendant and the LWDA and Plaintiff's amended letter or letters to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.22. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to LWDA in settlement of PAGA claims.

1.23. "Plaintiff" means JUAN GARCIA, the named plaintiff in the Action.

1.24. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.

1.25. "Released PAGA Claims" means the claims being released by the Plaintiff, Aggrieved Employees, and PAGA Counsel and as described in Section 5 below.

1.26. "Released Parties" means: the Defendant, together with its present and former parents, subsidiaries, affiliated and related entities, present and former owners, boards, officers, directors, trustees, shareholders, members, partners, agents, insurers, attorneys, representatives, heirs, executors, administrators, successors and assigns.

1.27. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.28. "Defendant" means named Defendant C&R RESTAURANT GROUP, L.P.

2. RECITALS.

2.1. On August 10, 2023, Plaintiff brought this Action against Defendant for civil penalties under the Private Attorneys General Act of 2004, California Labor Code §§ 2698 et seq. ("PAGA"), as more specifically set forth in the original complaint filed in this Action..

2.2. Prior to filing the PAGA settlement approval motion or application, Plaintiff intends to submit an amended letter to Defendant and the LWDA providing amended notice pursuant to Labor Code section 2699.3, subd.(a) and file a First Amended Complaint (the "Operative Complaint") in the Action as more specifically set forth in Section 6.4 herein. Defendant denies the allegations in the Operative Complaint and any complaint in this Action, denies any failure to comply with the laws identified in the Action, and denies any and all liability for the causes of action alleged.

2.3. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.

2.5. On June 14, 2024, the Parties participated in an all-day mediation presided over by Tripper Ortman, Esq., which led to this Agreement to settle the Action.

2.6. Prior to mediation, Plaintiff obtained, through informal discovery, employee and payroll data, policy documents, and additional information regarding Defendant's non-exempt, hourly employees in California, which Plaintiff's Counsel reviewed and analyzed.

3. MONETARY TERMS.

3.1 Gross Settlement Amount., Defendant promises to pay Three Hundred Ten Thousand Dollars and Zero Cents (\$310,000.00) and no more as the Gross Settlement Amount, subject to

modification as provided in Paragraph 8 herein, in Defendant's sole discretion, as well as \$10,000.00 pursuant to a separate individual Settlement Agreement and Release (subject to all terms and provisions stated in that separate agreement). Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Approval Order:

3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 33 1/3% which is currently estimated to be \$103,333.33 and PAGA Counsel Litigation Expenses Payment of not more than \$20,000. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will request approval for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment with the motion or joint stipulation for approval of the Settlement. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2. To the Administrator: An Administrator Expenses Payment not to exceed \$20,000 except for showing of good cause and as approved by the Court. To the extent the

Administration Expenses are less or the Court approves payment less than \$20,000, the Administrator will retain the remainder in the Net Settlement Amount. ILYM Group, Inc. has been selected as the Administrator, based upon its estimate of \$13,950.00.

3.2.3. To the LWDA and Aggrieved Employees: PAGA Penalties to be paid from the Gross Settlement Amount, with 75% allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments.

3.2.3.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.3.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. For tax purposes, Aggrieved Employees' Individual PAGA Payments shall be allocated and treated as 100% penalties and the Administrator will record the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records, Defendant estimates there are a total of 57,533 of PAGA Pay Periods from June 5, 2022 through June 14, 2024.

4.2. Aggrieved Employee Data. Within twenty one (21) days after the Effective Date, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. The Administrator shall not

disclose any Aggrieved Employee information to Plaintiff, PAGA Counsel, third parties, or to any of their agents, consultants, experts, or subcontractors, without Defendant's prior written consent. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than thirty (30) days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid along with the Notice of PAGA Representative Action Settlement (attached hereto as **Exhibit A**). The face of each check shall prominently state the date (180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to

the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS.

Effective on the date when Defendant fully funds the entire Gross Settlement Amount and Plaintiff's general release payment pursuant to the separate agreement entered into between the Parties, Plaintiff will release claims against all Released Parties as follows:

5.1 Plaintiff's Release.

5.1.1 Scope of Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint (including any past complaints) in the Action and the any PAGA notices, including any amended PAGA notices that may relate to Plaintiff and/or the Action, and (b) all claims and allegations relating in any way to PAGA for (i) failure to pay for all hours worked, including overtime violations, (ii) failure to provide meal periods (meal period violations), (iii) failure to authorize and permit rest periods (rest period violations), (iv) failure to maintain accurate records of hours worked and meal periods, (v) failure to reimburse and

indemnify expenses (business expense violations), (vi) failure to timely pay all wages at termination and final pay violations (vii) failure to furnish accurate itemized wage statements (wage statement violations), (viii) failure to pay all earned wages twice per month (ix) failure to provide suitable seats (seating violations), (x) individual liability under Labor Code section 558.1, (xi) recordkeeping requirement violations, (xii) violations of Labor Code sections 226(b)-(c), 11198.5, and 432, including relating to time, pay, and personnel records, (xiii) failure to provide suitable resting facilities, (xiv) minimum wage violations, (xv) violation of California Labor Code §§ 245-248.5, (xvi) refusal to make payment, (xvii) unlawful deductions, (xviii) semimonthly payment violations, (xix) reporting time pay violations, (xx) violation of California Day of Rest Law, (xxi) violation of Labor Code sections 351 and 353, (xxii) statutory wage violations, (xxiii) failure to pay vested vacation/paid time off, and (xxiv) unlawful agreements, unlawful criminal history inquiries, and unlawful PAGA waivers (collectively referred to hereafter as “Released PAGA Claims”). The Released PAGA Claims shall also include the alleged violations of Labor Code sections 201-203, 204, 204b, 204.1, 204.2, 205, 205.5, 208, 210, 212, 216, 218.5, 221-223, 225.5, 226, 226.3, 226.6, 226.7, 227.3, 233, 234, 245-248.6, 256, 351-352, 353, 432, 432.5, 432.6, 432.7, 510, 512, 551, 552, 553, 558, 558.1, 1024.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1197.5, 1198, 1198.5, 1199, 2699 et seq., 2802, 2804, 2810.5, all applicable Wage Orders, and 8 Cal. Code Reg. § 11050. Collectively, the Plaintiff’s release of all claims, allegations, transactions, and occurrences in any complaint, PAGA notice, and law set forth in this section, including the Released PAGA Claims, shall be referred to as the “Plaintiff’s Release”. Plaintiff’s Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff’s Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff’s discovery of them.

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

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

5.2 Release by Aggrieved Employees: Effective on the date when Defendant fully funds the entire Gross Settlement Amount and Plaintiff's general release payment pursuant to the separate agreement entered into between the Parties, all Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint (including any past complaints) in the Action, and in any PAGA Notices, including any amended PAGA notices that may relate to Plaintiff and/or the Action, and all claims for PAGA penalties based on the violations listed in the Released PAGA Claims (defined previously herein) (collectively referred to hereafter as the "Released Claims").

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

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.

Plaintiff shall file a motion or application for approval of this Settlement.

6.1. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement and Proposed Judgment; (ii) a signed declaration from the Administrator attaching its "not to exceed"

1 bid for administering the Settlement and attesting to its willingness to serve; competency;
2 operative procedures for protecting the security of Aggrieved Employee Data; amounts of
3 insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts
4 relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA;
5 and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense
6 Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission
7 to the LWDA of all necessary PAGA documents (initial and amended notice of violations (Labor
8 Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)),
9 this Agreement (Labor Code section 2699, subd. (l)(2)); and (iv) all facts relevant to any actual
10 or potential conflict of interest with Aggrieved Employees and/or the Administrator.

11 6.2. Responsibilities of Counsel. PAGA Counsel and Defense Counsel are jointly
12 responsible for expeditiously finalizing and filing the joint stipulation or motion for approval of
13 this Settlement no later than thirty (30) days after the full execution of this Agreement and, if
14 necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in
15 favor of the motion. PAGA Counsel is responsible for delivering the Approval Order to the
16 Administrator.

17 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed joint
18 stipulation or motion for approval of this Settlement and/or the supporting declarations and
19 documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of
20 the Parties by meeting in person or by telephone, and in good faith, to attempt to resolve the
21 disagreement. If the Court does not grant the motion for approval of this Settlement or
22 conditions its approval on any material change to this Agreement, PAGA Counsel and Defense
23 Counsel will expeditiously work together on behalf of the Parties by meeting in person or by
24 telephone, and in good faith, to attempt to modify the Agreement and otherwise attempt to
25 satisfy the Court's concerns.

26 6.4 Amended PAGA Notice and Amended Complaint: Subject to the review, revisions,
27 changes, and written approval from Defendant, Plaintiff will: (i) submit an amended PAGA
28 notice to the LWDA, and (ii) amend the operative complaint, to add and include all claims and

1 allegations necessary to encompass the claims and allegations in the PAGA letter dated on or
2 about February 15, 2024 from Joe Lopez, and to effectuate the release of all claims and
3 allegations set forth in the releases described in this Agreement. Defendant shall be provided
4 with drafts of the amended PAGA notice and amended complaint in advance of any filings or
5 submissions, and Defendant shall be provided an adequate and reasonable opportunity to
6 comment, make changes, and make revisions to the amended PAGA notice and amended
7 complaint before any filings or submissions. Plaintiff can only file an amended PAGA notice
8 and amended complaint with the prior written approval of Defendant. This section constitutes a
9 material term of this Agreement, and should Defendant: (i) not be provided copies of an
10 amended PAGA notice and an amended complaint in advance of any submissions or filings,
11 and/or (ii) propose changes and/or revisions to the amended PAGA notice and to the amended
12 complaint at any time that are not made by Plaintiff, Defendant may, in its sole discretion, elect
13 to invalidate this Agreement, and make this Agreement void ab initio and of no force or effect of
14 any kind. Should Defendant make such an election, this Agreement shall not be admissible in
15 any judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue,
16 substantive or procedural. No approval motion of any kind will be filed by Plaintiff without first
17 filing and submitting an amended PAGA notice and an amended complaint in the Action, all of
18 which require the pre-approval in writing by Defendant as set forth herein.

19 **7. SETTLEMENT ADMINISTRATION.**

20 7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to
21 serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc.
22 agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
23 Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel
24 represent that they have no interest or relationship, financial or otherwise, with the Administrator
25 other than a professional relationship arising out of prior experiences administering settlements.

26 7.2. Employer Identification Number. The Administrator shall have and use its own
27 Employer Identification Number for purposes of calculating payroll tax withholdings and
28 providing reports state and federal tax authorities.

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

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

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE

Based on its records, Defendant estimates that, as of the date of mediation, there are approximately 57,533 Pay Periods from June 5, 2022 through June 14, 2024. If the actual number of pay periods worked by Aggrieved Employees during the time period of June 5, 2022 through the date of approval grows by more than fifteen percent (15%), or more than 66,163 pay periods, then Defendant will have the option, at Defendant’s sole discretion, to either: (1) increase the Gross Settlement Amount proportionately for the excess increase in the total number of pay periods beyond the 66,163 (so that the Gross Settlement Amount will increase by 1% for every 1% increase in pay periods over the 15% threshold), or (2) modify the applicable PAGA Period end date to a date prior to incurring the pro rata increase to keep the maximum pay periods at 66,163 and not trigger the escalator clause.

9. CONTINUING JURISDICTION OF THE COURT.

The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10. ADDITIONAL PROVISIONS.

10.1. No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in any complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant’s defenses in the Action have merit. The Parties agree that representative treatment is for purposes

1 of this Settlement only. If, for any reason the Court does not approve this Settlement, no
2 representative treatment shall be provided through this Agreement or through this Settlement,
3 Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the
4 right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness
5 to settle the Action will have no bearing on, and will not be admissible in connection with, any
6 litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

7 10.2. Integrated Agreement. Upon execution by all Parties and their counsel, this
8 Agreement together with its attached exhibits shall constitute the entire agreement between the
9 Parties relating to the Settlement, superseding any and all oral representations, warranties,
10 covenants, or inducements made to or by any Party.

11 10.3. Cooperation. The Parties and their counsel will cooperate with each other and use
12 their best efforts, in good faith, to implement the Settlement by, among other things, modifying
13 the Settlement Agreement, submitting supplemental evidence and supplementing points and
14 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
15 or content of any document necessary to implement the Settlement, or on any modification of the
16 Agreement that may become necessary to implement the Settlement, the Parties will seek the
17 assistance of a mediator and/or the Court for possible resolution. No Party shall be obligated to
18 agree to any material change (including but not limited to changes to the Gross Settlement
19 Amount or the releases set forth herein) in the Agreement, whether or not such material change
20 is caused or requested by the Court.

21 10.5. No Prior Assignments. The Parties separately represent and warrant that they have
22 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
23 encumber to any person or entity any portion of any liability, claim, demand, action, cause of
24 action, or right released and discharged by the Party in this Settlement.

25 10.6. No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel
26 are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be
27 relied upon as such within the meaning of United States Treasury Department Circular 230 (31
28 CFR Part 10, as amended) or otherwise.

1 10.7. Modification of Agreement. This Agreement, and all parts of it, may be amended,
2 modified, changed, or waived only by an express written instrument signed by all Parties or their
3 authorized representatives, and approved by the Court.

4 10.8. Agreement Binding on Successors. This Agreement will be binding upon, and
5 inure to the benefit of, the successors of each of the Parties.

6 10.9. Applicable Law. All terms and conditions of this Agreement and its exhibits will
7 be governed by and interpreted according to the internal laws of the state of California, without
8 regard to conflict of law principles.

9 10.10. Cooperation in Drafting. The Parties have cooperated in the drafting and
10 preparation of this Agreement. This Agreement will not be construed against any Party on the
11 basis that the Party was the drafter or participated in the drafting.

12 10.11. Confidentiality. The Plaintiff and PAGA Counsel will keep all complaints,
13 PAGA notices, and this Settlement confidential through settlement approval. Thereafter,
14 Plaintiff and PAGA Counsel will further agree to keep this Settlement, all complaints, and all
15 PAGA notices confidential, including without limitation no disclosures to current or former
16 employees of the Defendant, to the media, or on any websites, blogs, social media, and/or online
17 platforms. Exceptions to the obligation of confidentiality in this section are: (i) disclosures
18 necessary to comply with the law, judicial process, or for financial planning or tax preparation
19 purposes; (ii) to obtain and seek approval of this Settlement in court and as is necessary to
20 provide settlement information to Aggrieved Employees and to the LWDA, and (iii) if any party
21 seeks to enforce any term or condition of this Agreement against any other party. To the extent
22 permitted by law, all agreements made, and orders entered during Action and in this Agreement
23 relating to the confidentiality of information shall survive the execution of this Agreement.

24 10.12. Use and Return of Aggrieved Employee Data. Information provided to PAGA
25 Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data
26 provided to PAGA Counsel by Defendant in connection with the mediation, other settlement
27 negotiations, or in connection with the Settlement, may be used only with respect to this
28 Settlement, and no other purpose, and may not be used in any way that violates any existing

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

10.13. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

10.14. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

10.15. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Lilit Tunyan (SBN 329351)
ltunyan@tunyanlaw.com
Artur Tunyan (SBN 349174)
atunyan@tunyanlaw.com
TUNYAN LAW, APC
535 N Brand Blvd. Suite 285
Glendale, California 91203
Telephone: (323) 410-5050

To Defendant:

Ian B. Wieland
ian@sw2law.com
Paul M. Parvanian
paulp@sw2law.com
SAGASER, WATKINS & WIELAND, PC
5260 North Palm Avenue, Suite 400
Fresno, California 93704
Telephone: (559) 421-7000
Facsimile: (559) 473-1483

Erica M. Sorosky
esorosky@ptwww.com

PALMER, TYLER, WIENER, WILHELM & WALDRON LLP
1900 Main Street, Suite 700
Irvine, California 92614
Telephone: (949) 851-7217
Facsimile: (949) 851-1554

10.16. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.17. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

10.18. Prior Memorandum of Understanding. The Parties agree that upon full execution of this Agreement and upon Court approval of this Agreement, the document entitled "Memorandum of Understanding Regarding PAGA Settlement" that was signed on June 14, 2024 by the Parties relating to the Action (the "MOU") shall be replaced and superseded in full by this Agreement and by the separate individual Settlement Agreement and Release signed by the Parties relating to this Action, and the MOU shall be of no further force or effect upon full execution of this Agreement and upon Court approval of this Agreement.

The Parties hereby execute this Agreement.

Dated: 10/3/2024 | 4:05 PM PDT

JUAN GARCIA

By:  Firmado por:
4B01085D162E402...

JUAN GARCIA

Dated: **C&R RESTAURANT GROUP, L.P.**

By: _____

[NAME]

[TITLE]

Dated: 10/3/2024 | 4:10 PM PDT

TUNYAN LAW, APC

DocuSigned by:

By: _____

Lilit Tunyan

C1FEE94AA91E49A...

Lilit Tunyan

Artur Tunyan

Attorneys for Plaintiff JUAN GARCIA

Dated: **SAGASER, WATKINS & WIELAND, PC**

By: _____

Ian B. Wieland

Paul M. Parvanian

Attorneys for Defendant C&R RESTAURANT GROUP, L.P.

Dated: **PALMER, TYLER, WIENER, WILHELM & WALDRON LLP**

By: _____

Erica M. Sorosky

Attorneys for Defendant C&R RESTAURANT GROUP, L.P.

1 Dated: 10/01/2024

C&R RESTAURANT GROUP, L.P.

2

3

By: 

4

[NAME] NANCY OSHAROW

5

[TITLE] COO

6

Dated:

TUNYAN LAW, APC

7

8

By:

Lilit Tunyan

9

Artur Tunyan

10

Attorneys for Plaintiff JUAN GARCIA

11

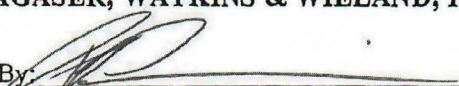
Dated:

10/2/2024

SAGASER, WATKINS & WIELAND, PC

12

13

By: 

Ian B. Wieland

14

Paul M. Parvanyan

15

Attorneys for Defendant C&R RESTAURANT GROUP, L.P.

16

Dated: 10/2/2024

PALMER, TYLER, WIENER, WILHELM & WALDRON LLP

17

18

By: 

Erica M. Sorosky

19

20

Attorneys for Defendant C&R RESTAURANT GROUP, L.P.

21

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Exhibit “A”

NOTICE OF PAGA ACTION SETTLEMENT

Juan Garcia v. C&R Restaurant Group, L.P., Los Angeles County Superior Court Case No. 23STCV19037
This is not a solicitation by a lawyer. You are not being sued.

IF YOU ARE OR WERE EMPLOYED AS A NON-EXEMPT EMPLOYEE BY DEFENDANT C&R RESTAURANT GROUP, L.P. ("DEFENDANT") DURING THE PAGA PERIOD (June 5, 2022 through -----), THIS PAGA SETTLEMENT AFFECTS YOUR RIGHTS.

A settlement (the "Settlement") has been reached in the lawsuit entitled *Juan Garcia v. C&R Restaurant Group, L.P.*, Los Angeles County Superior Court Case No. 23STCV19037 (the "Action"), asserting claims under the California Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.* ("PAGA"). The purpose of this Notice is to advise you as to why you have received a portion of the Settlement proceeds. The Settlement resolves the Action.

Who is affected by this proposed Settlement?

The Court has designated, for settlement purposes only, the following persons as "Aggrieved Employees":

All current or former non-exempt employees who worked for Defendant in California at any time during the PAGA Period (the "PAGA Period" refers to the period of June 5, 2022 through -----).

According to Defendant's records, you are one of the Aggrieved Employees.

What is this case about?

In the Action, Plaintiff Juan Garcia asserted claims that Defendant violated provisions of the Labor Code giving rise to civil penalty liability under the California Private Attorneys General Act of 2004 ("PAGA") [Lab. Code §§ 2698, *et seq.*].

Defendant denies all liability based on legal and factual defenses to these claims, but Defendant has agreed to settle, in recognition of the risks, distractions, and costs associated with litigation.

This Settlement is a compromise reached after good faith, arm's length negotiations between Plaintiff and Defendant (the "Parties") and is not an admission of liability on the part of Defendant.

The Court has not ruled on the merits of Plaintiff's claims or Defendant's defenses but did approve the Settlement.

What are the Settlement terms?

By operation of the Settlement's terms, all Aggrieved Employees are deemed to release Defendant and each of its present and former parents, subsidiaries, affiliated and related entities, present and former owners, boards, officers, directors, trustees, shareholders, members, partners, agents, insurers, attorneys, representatives, heirs, executors, administrators, successors and assigns (collectively, the "Released Parties") from all claims based on PAGA and for PAGA penalties that occurred during the PAGA Period that were alleged or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint (including any past complaints) in the Action, and in any PAGA Notices including any amended PAGA notices that may relate to Plaintiff and/or the Action, and including, but not limited to all claims and allegations relating in any way to PAGA for (i) failure to pay for all hours worked, including overtime violations, (ii) failure to provide meal periods (meal period violations), (iii) failure to authorize and permit rest periods (rest period violations), (iv) failure to maintain accurate records of hours worked and meal periods, (v) failure to reimburse and indemnify expenses (business expense violations), (vi) failure to timely pay all wages at termination and final pay violations (vii) failure to furnish accurate itemized wage statements (wage statement violations), (viii) failure to pay all earned wages twice per month (ix) failure to provide suitable seats (seating violations), (x) individual liability under Labor Code section 558.1, (xi) recordkeeping requirement violations, (xii) violations of Labor Code sections 226(b)-(c), 11198.5, and 432, including relating to time, pay, and personnel records, (xiii) failure to provide suitable resting facilities, (xiv) minimum wage violations, (xv) violation of California Labor Code §§ 245-248.5, (xvi) refusal to make payment, (xvii) unlawful deductions, (xviii) semimonthly payment violations, (xix) reporting time pay violations, (xx) violation of California Day of Rest Law, (xxi) violation of Labor Code sections 351 and 353, (xxii) statutory wage violations, (xxiii) failure to pay vested vacation/paid time off, and (xxiv) unlawful agreements, unlawful criminal history inquiries, and unlawful PAGA waivers (collectively referred to hereafter as "Released PAGA Claims"). The Released PAGA Claims shall also include the alleged violations of Labor Code sections 201-203, 204, 204b, 204.1, 204.2, 205, 205.5, 208, 210, 212, 216, 218.5, 221-223, 225.5, 226, 226.3, 226.6, 226.7, 227.3, 233, 234, 245-248.6, 256, 351-352, 353, 432, 432.5, 432.6, 432.7, 510, 512, 551, 552, 553, 558, 558.1, 1024.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1197.5, 1198, 1198.5, 1199, 2699 *et seq.*, 2802, 2804, 2810.5, all applicable Wage Orders, and 8 Cal. Code Reg. § 11050. As a result of this settlement, you will be unable to bring a claim under the California Private Attorneys General Act, California Labor Code § 2698 *et seq.*, for civil penalties for any violations of the PAGA claims in Plaintiff's Complaint (and any amendments thereto), all applicable California Wage Orders, the Released PAGA Claims, and

all claims or allegations outlined in Plaintiff's PAGA notice letter to the LWDA (and any amendments thereto) in connection with the Action. There is no statutory right for you to object, opt out, or otherwise exclude yourself from this Settlement.

This payment may be subject to federal, state, and local taxes and may be reported to the appropriate taxing authorities. Enclosed is an IRS Form 1099 for 100% of this payment. Please consult a tax advisor to determine your individual payment, if any, and reporting situation.

All checks will remain valid and negotiable for one hundred eighty (180) days from the date of the checks' issuance and shall thereafter automatically be void if not cashed within that time. Uncashed checks will be sent to the California State Controller's Unclaimed Property division, in the name of the PAGA Settlement Member. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.

Exhibit “3”

From: [DIR PAGA Unit](#)
To: ltunyan@tunyanlaw.com
Subject: Thank you for your Proposed Settlement Submission
Date: Wednesday, January 8, 2025 3:35:39 PM

01/08/2025 03:35:02 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

Case Number: LWDA-CM-959669-23

Plaintiff for PAGA Case: Juan Garcia

Filer/Attorney for PAGA Case: Lilit Tunyan

Law Firm for PAGA Plaintiff: Tunyan Law, APC

Employer: C&R Restaurant Group, L.P.

Date Case Received:

Filer for Employer:

Employer Filer Firm:

Court Type: California Superior Courts

Court Name: Los Angeles Superior Court

PAGA Court Case Number: 23STCV19037

Violation Type:

Related BOFE Case:

Submission Details

Please note that certain documents, including court related documents (i.e. court complaints, proposed settlements, and court orders/judgments) are available for download. PAGA Claim Notices, Amended Claim Notices, Employer Responses or Cure Notices, Employee's Cure Dispute, Other Response or Documents are not available at this time. To access these documents please submit a Public Record Acts Request via email at PAGAInfo@dir.ca.gov.

Actions	Submission Name	Description	Date Submitted	Type
View/Download	AP-5673744	Proposed Order for PAGA Settlement Approval Final.pdf	1/8/2025 11:35 PM	Proposed Settlement
View/Download	AP-5673745	Proposed Final Judgment.pdf	1/8/2025 11:35 PM	Proposed Settlement
--	AP-5548065	Amended PAGA Letter FINAL.pdf	10/23/2024 7:12 PM	Amended Notice
View/Download	AP-5673731	FAC conformed.pdf	1/8/2025 11:30 PM	Court Complaint
View/Download	AP-4732101	Complaint conformed.pdf	8/16/2023 3:30 PM	Court Complaint
--	AP-4215668	PAGA letter Garcia v. C^0R Restaurant Group, LP.pdf	6/5/2023 4:33 PM	PAGA Notice
View/Download	AP-5673743	Joint stipulation for PAGA settlement approval.pdf	1/8/2025 11:35 PM	Proposed Settlement

Exhibit “4”

Date	Description	Rate (\$)	
6/5/2023	PAGA notice mailing costs to Defendant	9.24	
6/6/2023	LWDA PAGA notice submission fee	75	
8/10/2023	Complaint filing fee	454.22	
8/27/2023	Complaint and Summons process service fee	123.54	
8/25/2023	Notice of Case Management Conference mailing cost	0.9	
8/25/2023	Proof of Service and Notice of Case Management Conference court filing fee	7.26	
11/30/2023	Case Management Statement court filing fee	7.26	
5/23/2024	Mediation fee	13000	
7/10/2024	Joint stipulation to continue Case Management Conference court filing fee	27.81	
8/6/2024	Economic damages expert fee	1725	
11/4/2024	Case Management Statement court filing fee	11.76	
11/15/2024	First Amended Complaint court filing fee	11.76	
	Joint stipulation for settlement approval court fiing fee	32.31	
	Final report court filing fee	11.76	
Total costs		15497.82	

Exhibit “5”

1 Lilit Tunyan (SBN 329351)
2 ltunyan@tunyanlaw.com
3 Artur Tunyan (SBN 349174)
4 atunyan@tunyanlaw.com
5 **TUNYAN LAW, APC**
6 535 N Brand Blvd. Suite 285
7 Glendale, California 91203
8 Telephone: (323) 410-5050

9 Attorneys for Plaintiff JUAN GARCIA,
10 as an individual and on behalf of all employees
11 similarly situated

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES**

14 JUAN GARCIA, individually, and on behalf
15 of all others similarly situated,

16 Plaintiff,

17 vs.

18 C&R RESTAURANT GROUP, L.P., a
19 California Limited Partnership; and DOES 1
20 through 10, inclusive,

21 Defendants

Case No.: 23STCV19037

[Assigned for all purposes to Hon. Rupert A.
Byrdsong, Dept. 28]

**DECLARATION OF LISA MULLINS ON
BEHALF OF ILYM GROUP, INC. IN
SUPPORT OF APPROVAL OF
SETTLEMENT OF CLAIMS BROUGHT
PURSUANT TO THE PRIVATE
ATTORNEY GENERAL'S ACT OF 2004**

Action Filed: August 10, 2023

Trial Date: Not Set

DECLARATION OF LISA MULLINS

1
2
3 1. I am a resident of the United States of America and am over the age of 21. I am the
4 President for ILYM Group, Inc., (herein after referred to as “ILYM Group”), a professional class action
5 services provider. I am preparing this declaration at the request of Plaintiff’s Counsel. I have personal
6 knowledge of the facts herein, and, if called upon to testify, I could and would testify competently to such
7 facts.

8 2. ILYM Group has extensive experience in disseminating PAGA settlements and
9 administering class action settlements, including direct mail services, telephone, and web-based support,
10 database management, opt-out processing, and settlement fund distribution services for class actions
11 ranging in size from 26 to 4.5 million Class Members. Attached hereto, as **Exhibit A**, is a true and
12 correct copy of ILYM Group’s current CV, reflecting our primary competencies as they relate to class
13 action administration. Attached hereto, as **Exhibit B** is ILYM Group’s Security Summary and Protocol.
14 ILYM Group is insured with E&O and Cyber Insurance policies.

15 3. ILYM Group has never had any financial interests in nor affiliation with the parties or
16 counsel in the *Garcia v. C&R Restaurant Group, L.P.* matter.

17 4. Upon appointment, ILYM Group will provide a mailing address and toll-free telephone
18 number to receive correspondence and inquiries from aggrieved employees. After receiving the data file
19 from Defendant, which should contain the aggrieved employees’ names, last known addresses, and
20 social security numbers, ILYM Group will upload the data into our database and check for duplicates
21 and other possible discrepancies.

22 5. As part of the preparation for notice and disbursement, ILYM Group will process
23 aggrieved employees’ names and addresses against the National Change of Address (“NCOA”) database,
24 maintained by the United States Postal Service (“USPS”), to update and confirm the mailing addresses of
25 the aggrieved employees before the mailing of the notice. To the extent an updated address is found in
26 the NCOA database, ILYM Group will use the updated address for mailing the notice. If ILYM Group
27 does not locate an updated address in the NCOA database, it will use the original address provided by
28 Defendant for mailing the notice.

6. ILYM Group's Disbursement Process will include but is not limited to; (a) applying for case EIN; (b) establishing Qualified Settlement Fund ((QSF) Escrow Account), with administering tasks including but not limited to overview and reconciliation of account; (c) calculating the individual settlement amounts; (d) preparing, administering, and distributing settlement award checks to the Participating Aggrieved Employees, including necessary tax forms (W2 and/or 1099); (e) calculating and withholding all applicable state and federal taxes; (f) should any disbursements be returned to ILYM Group's office as undeliverable, ILYM Group will attempt to locate an updated address using the NCOA database and/or other skip trace efforts and will promptly remail the disbursement; (g) performing other such duties as the Parties and/or the Courts direct. The above services are included in ILYM Group's initial quote. Attached hereto, as **Exhibit C**, is a true and correct copy of ILYM Group's quote for this matter.

7. ILYM Group's fees associated with the administration of this settlement are: **\$13,950.00.**

I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 22nd day of November 2024, at Tustin, California.

EXHIBIT “A”

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Overview of Our Firm:

ILYM Group, Inc is a class action administration, legal notification, and direct media outlets firm. With over 20 years of combined experience, our primary commitments are to client satisfaction, cutting edge technology and data management security, seamless case management and delivery of case expectations. Because, of our adherence to these commitments, ILYM Group, Inc is a one of the fastest growing, Woman Owned Business (NAPW), in the industry and has become the go-to firm for class action administration and legal notification. ILYM Group, Inc works with the top defense and plaintiff firms across the United States.

AREAS OF EXPERTISE:

- Wage and Hour
- FLSA
- Insurance and Health Care
- Consumer
- Finance
- ERISA
- TCPA
- Antitrust
- Securities

Ramirez v JC Penney.

- ERISA Case with a class size of 26,000.

Kruger, et al. v. Novant Health

- ERISA Case with a class size of \$32 million.

Abbott, et al. v. Lockheed Martin Corp.

- ERISA Case with \$62 million.

Jacqueline Jones vs. I.Q. Data International, Inc.

- TCPA Case with a class size of 93,993. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 93.82% of the Class that did not have a name or address.

Reza Barani vs. Wells Fargo Bank, N.A.

- TCPA Case with a class size of 82,874. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 87.84% of the Class that did not have a name or address.

Kimberly Roberts, et al. v. T.J. Maxx of CA, LLC, et al.

- Wage & Hour Case with a class size of 82,549.

Robert Stone, et al. v. Universal Protection Services, LP, et al.

- Wage & Hour Case with a class size of 75,351.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

ILYM Group, Inc. is operational 24/7 delivering true client and class member availability. Our call center is open 24/7/365 days a year, even holidays and is full digital, automated and multilingual. ILYM Group Inc.'s mail and media center is a state-of-the-art facility, fully digital and USPS integrated. We can accommodate cases of any size, from ten class members to multi-millions. ILYM Group, Inc. prides itself on its commitment to service, quality, value pricing and availability. We've committed ourselves to being the best Class Action Administration and Notification Company in our industry. Through our years of experience, ILYM Group, Inc. is dedicated to exceeding our client's expectations.

PRE-SETTLEMENT CONSULTATION

- **Administration Consultation:** Meeting to determine objectives and expectations by both parties. All reporting and responsibilities will be agreed upon as will the seamless process to access data. We will also discuss the opportunities to identify class members with the proposed print and web-based media for optimum reach. Additionally, all expectations and delivery of those results will be planned for and mapped accordingly.

MAILING AND NOTIFICATION

- **Fulfillment and Correspondence:** All provided settlement information will be published via United States Postal Service (USPS first class standards) to the proposed mailing class. Notifications will include a Claim ID and how to respond, or Opt-Out, based on the stipulations.
- **Reverse Lookup:** A confidential reverse phone or reverse cell lookup will provide; owner's name, location, address history, carrier, phone type (landline or cell phone) and more. Our reverse lookup is powered by an extensive database which includes hundreds of millions of cell phone, landline, residential and unlisted number. Our software collects data from multiple data sources and carriers across the US. Our average "hit ratio" ranges from 93% - 98%.
- **Creating Class Database:** All Data is verified and filtered to eliminate duplication against the United States Postal Service (USPS) National Change of Address (NCOA) database. ILYM Group, Inc. will also certify and validate with the Coding Accuracy Support System (CASS) and Track Your Class (TYC) for zone delivery.
- **Claim Forms:** ILYM Group, Inc. will email all claim forms, whenever possible, to have accurate reporting and tracking of all class requests. Emails will contain full text claim forms.
- **Translations:** When needed, ILYM Group, Inc. will translate notices to any language needed to reach Class members.
- **Remails:** Returned mail will be scanned, re-verified and re-mailed. All returned mail is data warehoused and reported to both parties' counsels in a weekly report.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

MEDIA & INTERNET BANNER ADS

Notice Publication

- **Legal Notices:** ILYM Group, Inc. can provide a Media Proposal to maximize reach based on quantitative and qualitative methodologies.
- **Electronic Publication (Banner Ads):** ILYM Group, Inc. will utilize Internet Banner Noticing efforts and web technologies for maximum reach via the World Wide Web.
- **Electronic Mail Notices:** ILYM Group, Inc. can email an estimated number of class members a full text notice. We are compliant with all search engines and Internet Service Providers (ISP) so that our emails are always “White List” accepted with minimal returns.
- **Reach:** Every case has its own proposed reach and exposure percentage. We filter, verify and scrub the data to improve reach results.
- **Services Included:** Analysis, Documentation, Research and Methodologies, Execution and Reporting.

PROJECT MANAGEMENT

- **Case Notification, Maintenance and Management:** ILYM Group, Inc.’s Senior Project Managers will provide all Account Management, Pre-Consultation to Case Conclusion, Reporting and Claims Processing. Design, negotiation and implementation, upon approval, of all forms and notices, all distribution reporting and filings with the court.
- **Claims Processing:** All claims can be submitted by USPS, Internet, Fax, and Email or Online submission. Claims will be processed and recorded with matching ILYM database ID's. E-claims will have corresponding records of intake. All deficient claims will be notified via USPS and make provisions for class member to re-submit claims.
- **Call Center:** ILYM Group, Inc. will support class members with a toll-free number to get the most up-to-date case settlement information. Customer service representatives will be available 24/7/365 as will recorded messages. All class members are given the options to best serve their needs and to receive case information.
- **Internet Support:** Class members can log on to a provided website and view, print or submit information and claim forms regarding the settlement. Frequently Asked Questions (FAQ's) will be provided as well. Class members may download the claim form with mailing and fax instructions provided on the form.
- **Objection and Request for Exclusion:** All objections and request for exclusion, opt-out, will be data warehoused, dated and reported. Postmarks will serve for exclusion dating and will be forwarded to both counsels' no more than 5 days post submission. Objection will be reviewed by ILYM Group, Inc. to determine the timeliness and basis of the objection. All information will be forwarded to both parties counsel, along with any representation information from the class member, within 5 days.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

DATA ADMINISTRATION AND NETWORK SECURITY

- **Network Security:** All provided data is encrypted, stored and hosted in a Tier 4, SAS70 certified environment.
- **Database Administration:** To be developed with all electronically provided data. Class members will be assigned ILYM Group, Inc. internal tracking ID's to ensure all collected member data coincides with all received claims.

DISTRIBUTION AND SETTLEMENT FUNDING

- **Distribution and Management:** Upon receipt of settlement funds, ILYM Group, Inc. will open a QSF Account for proceeds of the Gross Settlement Payment. The deposited funds will then be managed per the Settlement Agreement. All funds will be settled with class members and counsel along with all federal and state income tax reporting.
- **Check Printing and Mailing:** Claims processed, quantified and approved by clients, will be processed for distribution. All checks will be printed and mailed via USPS first class standards. ILYM Group, Inc. will reissue checks in accordance with the Settlement Agreement.
- **Preparation, Filing and Reporting of Taxes:** ILYM Group, Inc. will ensure taxes are filed in accordance to all federal, state and local employment tax returns. All taxes associated with the settlement will be paid on time to tax authorities. All filings and returns (e.g., 1099s, W-2s, etc.) will be done properly and timely with the appropriate authorities. All QSF steps and obligations with federal, state and/or local law will be followed.

CASE CONCLUSION

- **Data Manager Final Report:** All database and electronic documentation will be sent in reports weekly and at the conclusion of the Administration engagement. Call center activity, e-claims, mailed, and faxed claims will be included in all reporting.
- **Project Manager Final Report:** All case and class related information will be provided on a weekly basis and at the conclusion of the Administration engagement. Mailing and media final analysis, exclusions, objections, and all other claims processing outcomes, status reports and final court documentations will be included.
- **Affidavits:** ILYM Group, Inc. will provide all affidavits in support of analysis and media reach, final approvals and settlement. Expert Testimony and Media Methodologies will be determined.
- **Document Retention:** Unless otherwise directed, ILYM Group, Inc. will destroy all undeliverable notices on the effective date of the settlement or when the case is no longer subject to appeal. ILYM Group, Inc. will correspond for one year after the final distribution or until the case is no longer subject to appeal.

EXHIBIT “B”

ILYM Group, Inc. (ILYM) in conjunction with our security and Information Technology (IT) vendor(s), maintains the highest level of confidentiality of class member data. The class data and all forms of communication received by ILYM, will be held in strict confidentiality and will not be disclosed. Data provided to the administrator for purposes of notice, settlement, or award administration will be used solely for settlement implementation and for no other purpose. ILYM will set up a login for Defense Counsel to transmit the class data through our encrypted secure portal. ILYM processes adhere to the Settlement Administration Data Protection Checklist in the Northern District of California and are summarized in the tables below.

Technical Controls

Firewalls and intrusion detection/prevention systems	Yes
Endpoint Detection and Response (EDR) Systems	Yes
Complex Password Requirements	Yes
MultiFactor Authentication for Access to Systems and Data	Yes
Malware Protection and AntiVirus	Yes
Vulnerability Scanning/Pen Testing	Yes
Data Encryption	Yes
Key Management for access to encrypted Data	Yes
Access only provided on need-to-know basis	Yes
Security Operations Center (SOC)	Yes
Managed Detection and Response (MDR)	Yes
Security Information and Event Management (SIEM)	Yes
Software Defined Global Network (SGN) with next gen firewall	Yes

Administrative Policies

Personnel and support staff risk assessment and management, including pre-hire background checks and screening processes	Yes
Personnel and support staff required to enter into non-disclosure and confidentiality agreements	Yes
Access controls to systems and data, including guidance for granting, modifying, and reviewing access rights	
Information security and privacy policy training, including policy review, best practices, and data security	Yes
No remote access to systems for Employees	No
Exit interviews/confirmation that terminated/departed employees are immediately cut off from access	Yes
Robust audits of data privacy policies by third-party vendors	Yes
Accreditation in accordance with ISO 27001 and SOC2 (among the industry standards listed below)	Compliant
Disclosure of external certifications and any notice of expiration	Yes

Crisis and Risk Management

Incident response/disaster plan for immediate response to security incidents such as data breach.	Yes
Process and timing for notification to attorneys, claimants, and other stakeholders of a data breach and consideration of resources and/or remedies to provide thereto	Yes
Vendor management program that determines and defines requirements to manage risk associated with outsourcing	Core Vendors are limited and have been vetted. New program being implemented as part of SOC 2

Physical Access Controls

Physical Access Security Security Guards Access Cards to facilities with assignment of identification card subject to approval and review Logs of Access	Logs and “codes” No cards – just codes No security guards Logs are kept
Alarm Systems	Yes
CCTV recording Systems	Yes

Data Collection and Retention

Minimization of collection of personally identifiable information, e.g., social security numbers and banking information	Yes
Data collection only required to extent necessary for settlement administration	Yes
Various methods for ensuring data protection and security of Data classification (including implementation of appropriate safeguards to protect from theft, loss, and/or unauthorized disclosure, use, access, destruction) Compliance with applicable laws and regulations (see below) Secure data transfer	Yes

Data Destruction

Preservation of data only for so long as required for administration of the settlement and any relevant reporting required following the payments or distributions	Yes
Secure data destruction (e.g., 6 months – 1 year or when no longer required)	Yes
Physical media (e.g., paper, CDs) shredded or destroyed to point where they cannot be reconstructed	Yes
Destruction of all derivative copies and/or back-ups	Yes

Applicable Laws, Standards, and Other Regulation

Industry standards: National Institute of Standards and Technology (NIST), HIPAA, FISMA, System and Organization Controls (SOC1 and SOC2) or more advanced assessment, ISO 27001	Yes
Local, national, international privacy regulations (including CCPA)	Yes

Ethical Rules

Administrative policies and/or employee handbook incorporating commitment to ethical rules (e.g., company, court ethical rules) setting forth standards of ethical and legal behavior	Yes
Enforcement clauses, violation resulting in disciplinary action including and up to termination of employment	Yes

Customer Service Measures

Description of settlement website and posting thereto of relevant privacy policies or statements (including portal for reporting suspected loss of confidential data submitted with claim)	Yes
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Explanation of role of claims administrator and how to prevent phishing (e.g., clear indication that administrator will not request confidential information by e-mail and how to identify a valid e-mail sent from the administrator)	Yes
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EXHIBIT “C”

Case Name: Garcia v. C&R Restaurant Group, L.P.

Wednesday, June 19, 2024

Requesting Attorneys Name:	Lilit Tunyan, Esq.
E-Mail:	ltunyan@tunyanlaw.com
ILYM Contact:	Lisa Mullins
E-Mail:	Lisa@ilymgroup.com
Contact Number:	714.878.8836

Estimate For Administrative Solutions: PAGA

KEY ASSUMPTIONS	
Total Number of Aggreived Employees	2,750
Estimated Percentage of Remails	15%
Certified Spanish Translation	Yes
ILYM Group Static Website	No
NCOA	Yes
Case Duration (Years)	1

Summary Estimate: ILYM Group Fees & Expenses

Case Startup:	\$2,845.00
Distribution (Includes EIN, Bank Acct * /QSF Setup):	\$10,335.00
Case Conclusion:	\$770.00

All-In, Flat Fees & Expenses: \$13,950.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Garcia v. C&R Restaurant Group, L.P.

Wednesday, June 19, 2024

Requesting Attorneys Name: Lilit Tunyan, Esq.

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - <i>Import and Formatting of Data*</i>	Hourly	\$150.00	2	\$300.00
Project Manager (Case notification and maintenance)	Hourly	\$120.00	3	\$360.00
Certified Spanish Translation	Flat Fee	\$750.00	1	\$750.00
NCOA	Flat Rate	\$700.00	1	\$700.00
Toll-Free Call Center	Flat Rate	\$735.00	1	\$735.00

**ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.*

Subtotal \$2,845.00

DISTRIBUTION (Includes EIN, Bank Acct /QSF Setup)*				
Distribution Setup & Management	Hourly	\$150.00	5	\$750.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	5	\$625.00
Notice, Check, Stub & Release - (including 1099)	Per Check	\$1.50	2,750	\$4,125.00
USPS First Class 1oz Postage	Per Piece	\$0.64	2,750	\$1,760.00
Remails (Forward/Skip Trace Undeliverables)	Per Piece	\$2.00	413	\$825.00
Preparation of Taxes	Hourly	\$150.00	5	\$750.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal \$10,335.00

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	1	\$100.00
Process Unclaimed Funds to the State	Flat Fee	\$550.00	1	\$550.00
Declaration	Hourly	\$120.00	1	\$120.00

Subtotal \$770.00

All-In, Flat Fees & Expenses: \$13,950.00

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.

1 **[PROPOSED] ORDER**

2 Plaintiff JUAN GARCIA (“Plaintiff”), individually and in his capacity as a representative
3 of the State of California on behalf of other allegedly aggrieved employees, and Defendant C&R
4 RESTAURANT GROUP, L.P. (“Defendant”) (collectively, “the Parties”) submitted a Joint
5 Stipulation for Approval of Settlement of Claims Brought Pursuant to the Private Attorneys
6 General Act of 2004 (“PAGA”) (the “Joint Stipulation”). The Court having considered all the
7 papers filed and otherwise being fully informed, and good cause appearing therefor,

8 **IT IS HEREBY ORDERED THAT:**

9 1. The Joint Stipulation for approval of settlement of claims brought pursuant to PAGA is
10 GRANTED.

11 2. All terms used for purposes of this Order, not otherwise defined, shall have the same
12 meaning as given in the PAGA Settlement Agreement (“Settlement” or “Settlement Agreement”),
13 attached as **Exhibit 2** to the Joint Stipulation. The terms, provisions, and obligations set forth in the
14 Settlement Agreement attached as **Exhibit 2** to the Joint Stipulation are deemed a part of this Order
15 and incorporated herein in their entirety.

16 3. Pursuant to PAGA, California Labor Code § 2699(1)(2), the Labor and Workforce
17 Development Agency (the “LWDA”) has been given timely notice of the Settlement Agreement.
18 The Court finds and determines that Plaintiff’s notice of the Settlement to the LWDA complied with
19 the statutory requirements of PAGA.

20 4. The Court has determined that the Settlement is, in all respects, fair, reasonable and
21 accurate, and meets the requirements for approval under PAGA. Accordingly, the Court approves
22 the Settlement.

23 5. The Court finds that the Gross Settlement Amount, Net Settlement Amount, and the
24 methodology used to calculate and pay the LWDA Payment, and the PAGA Settlement payments to
25 the PAGA Settlement Members, in accordance with the Settlement, are fair and reasonable.

26 6. The Court confirms approval of the Settlement as to the following group of individuals,
27 collectively referred to as the “PAGA Settlement Group Members” (sometimes also referred to as
28 “Aggrieved Employees”):

1 All current or former non-exempt employees of Defendant who worked for
2 Defendant from June 5, 2022 to the date of entry of this order for approval of the
3 Settlement by the Court, or on the date as modified by Defendant in Defendant's
4 sole discretion pursuant to Paragraph 8 of the Settlement Agreement.

5 The Defendant will be able to modify the PAGA Period date with the Settlement
6 Administrator and any other parties without needing a court order.

7 7. The Court approves the Notice to PAGA Settlement Group Members, attached as
8 **Exhibit A** to the Settlement Agreement.

9 8. The Court finds that Plaintiff and each PAGA Settlement Group Member releases all
10 such claims and allegations as set forth in the Settlement Agreement.

11 9. The Court authorizes ILYM Group Inc. to act as the Settlement Administrator.

12 10. The Court authorizes the Settlement Administrator to calculate and pay the Settlement
13 payments, in accordance with the terms of the Settlement.

14 11. Defendant is directed to deliver the Gross Settlement Amount to the Settlement
15 Administrator within thirty (30) days after the Effective Date, as set forth in the Settlement
16 Agreement.

17 12. The Court awards the Settlement Administrator in this Action its fees and costs of
18 **\$13,950.00** in accordance with the terms of the Settlement Agreement.

19 13. The Court awards to Plaintiff's Counsel in this Action its fees of **\$103,333.33** in
20 accordance with the terms of the Settlement Agreement. The Court awards to Plaintiff's Counsel
21 actual costs of **\$15,497.82** as shown by the ledger of costs attached as **Exhibit 4** to the Joint
22 Stipulation.

23 14. The Court approves the allocations and gross settlement amount of **\$310,000.00** for the
24 release of claims brought under PAGA, to be paid in accordance with the terms of the Settlement.

25 15. Under the terms of the Settlement, the Net Settlement Amount is **\$177,218.85**. Seventy-
26 five percent (75%) of the Net Settlement Amount will be paid to the State of California Labor and
27 Workforce Development Agency ("LWDA Payment"), and the remaining amount of the Net
28 Settlement Amount shall be distributed to the PAGA Settlement Group Members in accordance with
the terms of the Settlement.

1 16. Checks for Settlement Shares sent to PAGA Settlement Group Members shall be valid
2 for one hundred eighty (180) days after issuance. Funds remaining from any checks for Settlement
3 Shares uncashed after one hundred eighty (180) days will be disbursed to the California Controller's
4 Unclaimed Property Fund in the name of the PAGA Settlement Group Member.

5 17. Nothing in this Order or the Settlement shall be construed as an admission or concession
6 by any party. The Settlement and this resulting Order simply represent a compromise of disputed
7 allegations.

8 18. Plaintiff is directed to submit a copy of this Order to the LWDA within ten (10) days of
9 the date of this Order.

10 19. The Court will enter Final Judgment in accordance with this Order.

11 20. The Court shall retain jurisdiction with respect to all matters related to the
12 administration and consummation of the Settlement, and any and all claims asserted in, arising out
13 of, or related to the subject matter of the lawsuit, including but not limited to all matters related to
14 the Settlement and the determination of all controversies relating thereto.

15 **IT IS SO ORDERED.**

16 Dated: 01/31/2025



Rupert A. Byrdsong
Rupert A. Byrdsong / Judge

Hon. Rupert A. Byrdsong
LOS ANGELES COUNTY SUPERIOR COURT
JUDGE

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COUNTY OF LOS ANGELES

On the date indicated below, I served the document described as: **JOINT STIPULATION AND [PROPOSED] ORDER FOR APPROVAL OF SETTLEMENT OF CLAIMS BROUGHT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004** on the interested parties in this action by sending a true copy thereof to interested parties as follows and as stated on the attached service list:

Sagaser, Watkins & Wieland PC
5260 N. Palm Avenue, Suite 400
Fresno, CA 93704

Palmieri, Tyler, Wiener, Wilhelm & Waldron LLP
1900 Main Street, Suite 700
Irvine, CA 92614
Direct Dial (949) 851-7271
Fax (949) 825-5438

[✓] **BY E-MAIL:** I hereby certify that this document was served from Glendale, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 9, 2025 at Glendale, California.

Thurs

Signature