

LIDMAN LAW, APC
Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Tiara Gose-Hardy (SBN 323823)
tgose@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
ANA RODRIGUEZ TAPIA

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
ANA RODRIGUEZ TAPIA

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

ANA RODRIGUEZ TAPIA, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

FRANCO WHOLE FOODS, LLC, a California
limited liability company; and DOES 1 through
100, inclusive,

Defendants.

Case No. 37-2023-00046908-CU-OE-CTL

*[Assigned for all purposes to the Hon. Gregory W.
Pollack, Dept. C-71]*

**DECLARATION OF SCOTT M.
LIDMAN IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: May 23, 2025
Time: 9:30 a.m.
Dept.: C-71

1 I, SCOTT M. LIDMAN, declare as follows:

2 1. I am a shareholder and principal of the law firm Lidman Law, APC, and counsel for the
3 named Plaintiff Ana Rodriguez Tapia (“Plaintiff”) and the proposed Settlement Class in the above-
4 captioned matter. I am a member in good standing of the bar of the State of California and am admitted
5 to practice in this Court. I have personal knowledge of the facts stated in this declaration and could
6 testify competently to them if called upon to do so.

7 2. I am a 1998 graduate of Santa Clara University School of Law, where I graduated *summa*
8 *cum laude*. During law school, I worked as a summer associate for the international employment law
9 firm of Littler Mendelson, P.C., located in Los Angeles, California.

10 3. Since graduating from law school, my practice has focused exclusively on employment
11 litigation. In September 1998, I began working as an associate attorney at the international law firm of
12 Littler Mendelson P.C., at its Los Angeles office, which according to its website is the largest law firm
13 in the world exclusively devoted to representing management in employment, employee benefits and
14 labor law matters.

15 4. In 2000, I left Littler Mendelson to work at the Los Angeles office of Jones Day, which
16 was at the time one of the largest international firms in the world. During my employment at Jones
17 Day, I worked exclusively in the labor and employment department. In or around 2003, I went to work
18 at the law firm of Loeb & Loeb, again working exclusively in the Labor & Employment department. In
19 2008, I returned to Littler Mendelson, was promoted to Shareholder in 2009, and from 2008 until the
20 end of 2017, I practiced exclusively labor and employment law, with a strong emphasis and most of my
21 time working on wage and hour class actions venued in both state and federal courts. During that time
22 and my legal career in general, I also worked on a number of single and multi-plaintiff wage and hour
23 matters as well.

24 5. During my employment at Littler Mendelson, I played a significant role in the class
25 actions that I was staffed on, and ran many on my own both as an Of Counsel and as a Shareholder. In
26 particular, I received a wide-array of wage and hour class action experience performing the following
27 types of tasks: drafting demurrers, motions to strike and/or dismiss; removing actions from state court
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1 to federal court; drafting and responding to written discovery; drafting and opposing discovery related
2 motions; arguing discovery related motions; drafting motions to consolidate related matters;
3 interviewing putative class members and obtaining declarations in connection with class certification;
4 drafting oppositions to motions for class certification; drafting motions for decertification following
5 class certification; conducting exposure analyses to assess the strengths and weaknesses of asserted
6 claims, the likelihood of prevailing at class certification and potential damages resulting from such
7 claims; drafting mediation briefs; serving as the primary contact to in-house counsel; deposing named
8 plaintiffs and putative class members; deposing retained expert witnesses; and defending the depositions
9 of corporate witnesses. I also was involved in the negotiations and settlements of many large wage and
10 hour class actions. In short, I played an integral role in all aspects of litigation from the inception of a
11 matter through and beyond class certification. I also supervised the work of several junior attorneys
12 who were staffed on the same wage and hour class actions.

13 6. Although not exhaustive, below is a list of many of the wage and hour class and PAGA
14 actions that I performed substantial work on while I was a shareholder at Littler Mendelson:

- 15 ► *Ortega v. J.B. Hunt Transport, Inc.*, Case No. 07-cv-8336-RGK-AFMx, United
16 States District Court, Central District of California, Honorable Gary Klausner,
17 presiding¹.
- 18 ► *Aceves v. J.B. Hunt Transport, Inc.*, Case No. CIVDS1306133, California
19 Superior Court, County of San Bernardino, Honorable Michael Sachs, presiding.
- 20 ► *Moreno v. J.B. Hunt Transport, Inc.*, Case No. BC388612, California Superior
21 Court, County of Los Angeles, Honorable Mel Red Recana, presiding.
- 22 ► *Newcomb v. J.B. Hunt Transport, Inc.*, Case No. RG16815734, California
23 Superior Court, County of Alameda, Honorable Winifred Smith, presiding.
- 24 ► *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. 12-cv-08590-PA-MAN,
25 United States District Court, Central District of California, Honorable Percy
26 Anderson, presiding.

27 ¹ My work on this matter including proceedings not only in District Court, but also work before the United States Court of
28 Appeals for the Ninth Circuit as well as the United States Supreme Court.

- 1 ▶ *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. BC388612, California
2 Superior Court, County of Los Angeles, Honorable Elihu Berle, presiding.²
- 3 ▶ *Dugan v. Stoneledge Furniture, LLC*, Case No. 16-cv-01125-PA-FFMx, United
4 States District Court, Central District of California, Honorable Percy Anderson,
5 presiding.
- 6 ▶ *Klune v. Stoneledge Furniture, LLC*, Case No. 14-cv-03986-PA-FFMx, United
7 States District Court, Central District of California, Honorable Percy Anderson,
8 presiding.
- 9 ▶ *Diaz v. ABM Industries, Inc.; Ampco Parking*, Case No. BC362932, California
10 Superior Court, County of Los Angeles, Honorable Jane Johnson, presiding.³
- 11 ▶ *Adams v. Luxottica Retail North America, Inc.*, Case No. 07CC01346, California
12 Superior Court, County of Orange, Honorable Thierry Patrick Colaw, presiding.
- 13 ▶ *Sakkab v. Luxottica Retail North America, Inc.*, Case No. 12-cv-00436-GPC-
14 KSC, United States District Court, Southern District of California.⁴
- 15 ▶ *Page v. Oakley, Inc.*, Case No. FCS041512, California Superior Court, County
16 of Solano, Honorable Paul Berman, presiding.
- 17 ▶ *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00731617-CU-OE-CJC California
18 Superior Court, County of Orange, Honorable William Claster, presiding.
- 19 ▶ *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00723846-CU-DE-CXC, California
20 Superior Court, County of Orange, Honorable William Claster, presiding.
- 21 ▶ *Sierra v. Oakley, Inc.*, Case No. 13-cv-00319-AG-JPR, United States District
22 Court, Central District of California, Honorable Andrew Guilford, presiding.⁵
- 23
- 24
- 25

26 ² My work on this matter included proceedings not only in the trial court, but also before the California Courts of Appeal
27 and the California Supreme Court.

28 ³ This matter was consolidated and litigated collectively with Case Nos. BC380923, BC 381523 and BC 406663.

⁴ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

⁵ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

- 1 ▶ *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United
2 States District Court, Central District of California, Honorable Margaret Morrow,
3 presiding.
- 4 ▶ *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United
5 States District Court, Central District of California, Honorable Margaret Morrow,
6 presiding.
- 7 ▶ *Khelghatian v. Comerica Bank, et al.*, Case No. 11-cv-7689-DSF-FFMx, United
8 States District Court, Southern District of California, Honorable John A.
9 Houston, presiding.
- 10 ▶ *Babasa v. Comerica Bank, et al.*, Case No. 11-cv-0595-JAH-BGS, United States
11 District Court, Central District of California, Honorable Margaret Morrow,
12 presiding.
- 13 ▶ *Bernal v. Comerica Bank, et al.*, Case No. 11-cv-01298-JAH-BGS, United States
14 District Court, Central District of California, Honorable Margaret Morrow,
15 presiding.
- 16 ▶ *Khalili v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United
17 States District Court, Northern District of California.
- 18 ▶ *Granata v. Comerica Bank, et al.*, Case No. 37-2011-00086316-CU-OE-CTL,
19 California Superior Court, County of San Diego, Honorable Jeffrey B. Barton,
20 presiding.
- 21 ▶ *Mathews v. Comerica Bank, et al.*, Case No. 111CV194781, California Superior
22 Court, County of Santa Clara.
- 23 ▶ *Gallegos v. Comerica Bank, et al.*, Case No. BC455515, California Superior
24 Court, County of Los Angeles, Honorable Terry Green, presiding.
- 25 ▶ *Rumohr v. Comerica Bank, et al.*, Case No. CGC-11-508433, California Superior
26 Court, County of San Francisco.

1 ► *Smith v. Werner Enterprises*, Case No. 15-cv-02978-RS, United States District
2 Court, Northern District of California, Honorable Richard Seeborg, presiding.

3 7. In January 2018, I voluntarily resigned from Littler Mendelson in order to open my own
4 law firm, Lidman Law, APC, to represent employees with work-related claims, including primarily
5 wage and hour claims and almost exclusively on a class-action basis. I am the President and Shareholder
6 of Lidman Law. Currently, over ninety percent (90%) of my practice is dedicated exclusively to the
7 prosecution of wage and hour class actions, and I am currently responsible for prosecuting over sixty-
8 five (65) wage and hour class actions filed in State courts throughout California, with several of them
9 having been removed to Federal courts. I believe that my professional experience renders me more than
10 qualified to serve as class counsel in this lawsuit involving claims of underpaid overtime and minimum
11 wages, meal and rest period violations, and derivative penalty claims. Not only have I litigated dozens
12 of wage and hour cases throughout my career involving similar claims, including the wage and hour
13 class actions identified above, I have litigated similar claims from both plaintiff and defense
14 perspectives. As a result, I am able to realistically assess and evaluate the facts and legal arguments
15 that can be made in pursuit and defense of similar wage and hour claims, as well as those facts and
16 arguments in support and in opposition to class certification. Consequently, I am able to appreciate the
17 significant risks, uncertainties, and delay involved in wage and hour class action litigation.

18 8. I have been appointed Class Counsel in: *Guardado v. Wesley Allen, Inc.*, Case No.
19 BC683027, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl
20 presiding; *Rodriguez v. Satco, Inc.*, Case No. BC682137, California Superior Court, County of Los
21 Angeles, Honorable Judge Ann I. Jones presiding; *Ong v. Howard's Appliances, Inc.*, Case No. 30-2017-
22 00964213-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge William Cluster
23 presiding; *Hanke v. C&W Facility Services, Inc.*, Case No. CIVDS1814412, California Superior Court,
24 County of San Bernardino, Honorable Judge David Cohn presiding; *Molina v. Mader News, Inc.*, Case
25 No. BC685960, California Superior Court, County of Los Angeles, Honorable Judge Yvette M.
26 Palazuelos presiding; *Alvarez v. Salamander Fire Protection, Inc.*, Case No. BC688326, California
27 Superior Court, County of Los Angeles, Honorable Judge William F. Highberger presiding; *Rodriguez*
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1 v. *H.F. Cox, Inc.*, Case No. BC653164, California Superior Court, County of Los Angeles, Honorable
2 Judge Carolyn B. Kuhl presiding; *Fregoso v. Amerigas Propane, Inc.*, Case No. BC697973, California
3 Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Teran v.*
4 *Western Plastics, Inc.*, Case No. RIC1722619, California Superior Court, County of Riverside,
5 Honorable Judge Sunshine Sykes presiding; *Villegas de Torres v. El Monte Superstore Inc.*, Case No.
6 BC688477, California Superior Court, County of Los Angeles, Honorable Judge Daniel J. Buckley
7 presiding; *Huynh v. Polypeptide Laboratories, Inc.*, Case No. BC680872, California Superior Court,
8 County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Guzman v. Century Blinds*, Case
9 No. RIC1723654, California Superior Court, County of Riverside, Honorable Judge Sunshine S. Sykes
10 presiding; *George v. Convergence Marketing*, Case No. CIVDS1901039, California Superior Court,
11 County of San Bernardino, Honorable Judge David S. Cohn presiding; *Coffee, et al. v. Flyers*
12 *Transportation Energy, LLC*, Case No. 34-2017-00222084, California Superior Court, County of
13 Sacramento, Honorable Judge Alan G. Perkins presiding; *Romero v. Fillmore Hospitality, LLC*, Case
14 No. BC705667, California Superior Court, County of Los Angeles, Honorable Judge Maren E. Nelson
15 presiding; *Wennerstrom, et al. v. Giant Inland Empire R.V. Center*, Case No. CIVDS1617291, California
16 Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Contreras, et al.*
17 *v. Letter Ride, LLC*, Case No. 37-2018-00020841-CU-OE-CTL, California Superior Court, County of
18 San Diego, Honorable Judge Eddie C. Sturgeon presiding; *Davis v. WeDriveU*, Case No. 18CV322578,
19 California Superior Court, County of Santa Clara, Honorable Judge Brian C. Walsh presiding; *Acuna v.*
20 *Canton Food Co., Inc.*, Case No. BC685001, California Superior Court, County of Los Angeles,
21 Honorable Judge David S. Cunningham presiding; and *Contreras v. Worldwide Flight Services, Inc.*,
22 Case No. 2:18-cv-06036-PSG-SS, United States District Court for the Central District of California, the
23 Honorable Judge Philip S. Gutierrez presiding.

24 9. As co-lead counsel for Plaintiff Tapia and the proposed Settlement Class, I have been
25 intimately involved in every aspect of this case from its inception through the present, and I believe that
26 the proposed Settlement is a favorable result for the Settlement Class Members under the circumstances
27 presented.

1 10. Defendant Franco Whole Foods, LLC (“Defendant”) is in the business of developing,
2 manufacturing, and distributing premium uncooked tortillas and other fresh food items with no
3 preservatives and healthy or organic options. On October 27, 2023, Plaintiff filed a putative class action
4 complaint against Defendant in San Diego County Superior Court. On January 4, 2024, after exhausting
5 her administrative remedies, Plaintiff filed a First Amended Class and Representative Action Complaint.
6 Plaintiff’s primary allegations are that Defendant: (1) failed to pay all overtime wages owed; (2) failed
7 to pay all minimum wages owed; (3) failed to provide meal periods; (4) failed to authorize and permit all
8 rest periods; (5) failed to provide accurate, itemized wage statements; (6) failed to pay all wages upon
9 termination; (7) engaged in unfair competition; and (8) is liable for civil penalties under the Labor Code
10 Private Attorneys General Act of 2004 (“PAGA”). A true and correct copy of the LWDA letter is
11 attached hereto as **Exhibit 1**.

12 11. The Parties then engaged in formal discovery. On February 15, 2024, Plaintiff served the
13 following written discovery on Defendant: Form Interrogatories – General (Set One), Form
14 Interrogatories – Employment Law (Set Once), Special Interrogatories (Set One), Special Interrogatories
15 (Set Two), and Requests for Production of Documents (Set One). On April 4, 2024, Defendant served
16 its responses and objections to Plaintiff’s discovery requests.

17 12. Further, after agreeing to participate in an early mediation, Defendant informally produced
18 a sampling of timekeeping and payroll data for the putative class, as well as relevant data points, including
19 without limitation, the number of workweeks and pay periods at issue and total class size. After the
20 detailed review of the time and payroll records produced by Defendants, Class Counsel drew on their
21 extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff’s case. This
22 discovery allowed the parties to assess the merits and value of Plaintiff’s claims and Defendants’ defenses
23 thereto, if a settlement could not be reached.

24 13. On November 13, 2024, after extensive research and analysis, mediation was held with
25 Daniel J. Turner, a well-respected wage and hour class action mediator. During mediation, the parties
26 vigorously debated their opposing legal positions, the likelihood of certification of Plaintiff’s claims, and
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the legal basis for the claims and defenses. Ultimately, through the mediator’s proposal, the Parties were able to reach a class-wide settlement at mediation.

14. In the weeks that followed, the parties finalized and executed the Stipulation of Settlement (“Settlement”). A true and correct copy of the Settlement is attached hereto as **Exhibit 2**. The Notice of Pendency of Class Action and Proposed Settlement is attached as Exhibit A to the Settlement.

15. The monetary terms of the Settlement are summarized below:

Gross Settlement Amount (“GSA”):	\$330,000.00
Minus Court-approved attorneys’ fees (1/3 of GSA):	\$110,000.00
Minus Court-approved, verified costs (up to \$15,000.00):	\$15,000.00
Minus Court-approved Class Representative Service Award:	\$7,500.00
Minus Settlement Administration Costs:	\$7,950.00
Minus PAGA payment to the LWDA:	\$22,500.00
Minus PAGA payment to Aggrieved Employees	\$7,500.00
Net Settlement Amount (“NSA”):	\$159,550.00

16. According to Defendant there are approximately 185 total Settlement Class members defined as:

All current and former non-exempt direct-hire and non-direct hire employees of Defendant Franco Whole Foods, LLC who worked in the State of California during the Class Period.

The Class Period is the time period of October 27, 2019 through March 11, 2025.

Thus, the average Individual Settlement Award (assuming all Settlement Class members worked the same length of time) is projected to be approximately **\$862.43**.

Additionally, Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) of the Gross Settlement Amount has been designated as the “PAGA Amount”. According to Defendants there are approximately 135 total PAGA Employees. Thus, the average PAGA payment is projected to be approximately **\$55.55**.

17. Settlement Class members’ claims arise from Defendant’s common, uniform policies and practices that applied to Settlement Class members during the class period. Specifically, Plaintiff alleged

1 that Defendant's common and uniform policies and practices resulted in the following violations: (1)
2 failure to pay all overtime wages owed; (2) failure to pay all minimum wages owed; (3) failure to provide
3 meal periods; (4) failure to authorize and permit all rest periods; (5) failure to provide accurate, itemized
4 wage statements; (6) failure to pay all wages upon termination; (7) unfair competition; and (8) liability
5 for civil penalties under the PAGA.

6 18. As described in the accompanying Motion for Preliminary Approval, Plaintiff alleges that
7 she and Settlement Class members were not fully compensated for all of their time worked. Specifically,
8 Plaintiff was required by Defendant to arrive at work approximately 10 to 15 minutes prior to clocking
9 in and the start of her scheduled shift in order to don her safety gear and complete stretches. However,
10 despite being under Defendant's direction and control during this time, Defendant only paid Plaintiff
11 from the time she clocked in and failed to pay Plaintiff for the time she was required by Defendant to don
12 her safety gear and stretch. Further, Plaintiff was required to doff her safety gear after clocking out. As a
13 result of Defendant's policies and practices, Plaintiff and Settlement Class members were routinely
14 underpaid for their time worked. Plaintiff estimates she and other non-exempt employees were underpaid
15 approximately 15 per shift or 75 minutes per workweek (employees regularly and consistently worked
16 over eight hours) as a result of Defendant's timekeeping policies and practices. Accordingly, Plaintiff
17 calculated Defendants' maximum exposure for unpaid wages at \$150,928 (14,973 workweeks x .42 per
18 workweek x \$24.00 average overtime rate).

19 19. Defendant contends that it compensated Settlement Class members for all of their time
20 worked. Defendant also contends that any unpaid time was *de minimis* and therefore non-compensable.
21 Defendant further asserts that Plaintiff would be unable to certify this class given the individualized
22 inquiries that would be required. In light of these defenses, Plaintiff discounted the maximum exposure
23 by 45% for the risk of non-certification, and an additional 60% to account for Defendants' defenses on
24 the merits, to arrive at an estimated exposure of \$33,204.16.

25 20. Plaintiff alleges that she and Settlement Class members were not provided with all legally-
26 required off-duty first meal periods beginning before the end of the fifth hour of work. Specifically, due
27 to the work demands imposed by Defendant, Plaintiff alleges she was often prevented from taking meal
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1 periods that commenced before the end of the fifth hour of work. Further, Defendant required Plaintiff
2 to remove her safety gear when taking a meal period, and then put such gear back on before she returned
3 to work from her meal period. Plaintiff was required to doff her safety gear after clocking out for her
4 meal period and to don her safety gear prior to clocking back in from her meal period. Plaintiff was
5 required to clock in and be ready to work after 30 minutes, meaning Plaintiff had to cut her meal period
6 short, to approximately 25 minutes, in order to have time to put her safety equipment back on and clock
7 in to be ready to work after 30 minutes. This resulted in Plaintiff not being provided a full 30 minutes of
8 duty-free time for her meal periods. Accordingly, Plaintiff estimates there was at least one meal period
9 violation during every shift over 6 hours during the relevant time period. Therefore, Plaintiff calculated
10 Defendant's maximum exposure for the alleged meal period violations at approximately \$1,197,840
11 (14,973 workweeks x 5 meal period violations/week x \$16.00 average hourly rate).

12 21. Defendant counters that it has always provided non-exempt employees with an
13 opportunity to take legally compliant meal periods, and any non-compliant meal periods reflected in
14 employee timekeeping records, if any, were solely the result of employee choice, rather than any policy
15 or practice of Defendant. Defendant points out that under *Brinker Restaurant Corp. v. Superior Court*
16 (2012) 53 Cal. 4th 1004, it is only required to "provide" the opportunity to take meal periods, not "ensure"
17 meal periods are taken, and that they have always done so. Further, Defendant argues that Settlement
18 Class members were allowed a full 30 minutes for meal periods. Finally, Defendant contends that
19 Plaintiff's meal period claim is not suited for class certification since individual inquiries would be
20 required to assess which employees took non-compliant meal periods, how many meal periods were non-
21 compliant or missed, and the reasons why a particular employee took a non-compliant meal period or
22 missed a meal period during a particular shift. Accordingly, Plaintiff discounted the maximum exposure
23 by 45% for the risk of non-certification, and an additional 50% to account for Defendants' defenses on
24 the merits to arrive at an estimated exposure of \$329,406.00.

25 22. Plaintiff alleges that she and Settlement Class members were also not authorized and
26 permitted to take legally compliant rest periods when they worked shifts in excess of 3.5 hours.
27 Specifically, Defendant failed to provide rest periods of at least 10 minutes. Similar to meal periods,
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1 Plaintiff could not take a rest period until they were relieved by the lead and the employees were required
2 to leave their workstation for rest periods. As a result of having to leave the processing plant, Plaintiff
3 was required to don and doff safety gear during the rest periods, resulting in breaks of less than the
4 requisite 10 minutes. Plaintiff estimates there was at least one rest period violation on each shift worked
5 over 3.5 hours and virtually all the during the relevant time period, and from the records produced by
6 Defendant, virtually 100 percent of the shifts worked were in excess of 3.5 hours. Accordingly, Plaintiff
7 calculated Defendants' maximum exposure for rest period violations at \$1,197,840 (14,973 workweeks
8 x 5 shifts over 3.5 hours x \$16.00 average hourly rate).

9 23. Defendant contends it has always maintained and enforced lawful rest period policies and
10 practices, and that Settlement Class Members were authorized and permitted to take all off-duty rest
11 periods in compliance with California law. Defendant counters that Plaintiff and Settlement Class
12 members were permitted to take all rest periods and at a full 10 minutes. Defendant argues that Plaintiff's
13 rest period claim is inherently unsuited for class treatment because the claim requires an individualized
14 inquiry into whether each Settlement Class Member was in fact authorized and permitted to take a
15 compliant rest period, which would devolve into an unmanageable series of mini-trials. Accordingly,
16 Plaintiff discounted the maximum exposure by 50% for the risk of non-certification, and an additional
17 65% to account for Defendants' defenses on the merits to arrive at an estimated exposure of \$209,622.

18 24. Plaintiff further alleges that Defendant issued inaccurate wage statements in violation of
19 Labor Code section 226 as a result of the alleged unpaid wages and meal and rest period premium wages
20 described above. Specifically, Plaintiff contends that this conduct violated Labor Code section 226(a)
21 because the wage statements issued to Settlement Class Members did not include all hours worked and
22 the rate at which they were being paid. Plaintiff's data analysis reflected that there were approximately
23 4,212 wage statements issued during the relevant time period. Therefore, Plaintiff calculated Defendant's
24 maximum exposure for wage statement violations at approximately \$416,150 (\$50 initial violation rate
25 x 101 current employees) + (\$100 subsequent violation rate x 4,111 subsequent violations)).

26 25. Defendant argues that its alleged wage statement violations could not be shown to be
27 "knowing and intentional," and that Plaintiff cannot show that she or any other employee "suffer[ed]"
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injury” as a result of the alleged wage statement violations, as required by Lab. Code § 226(e) for imposition of penalties. As such, Plaintiff discounted the calculated exposure by 20% for a risk of non-certification and an additional 20% for a risk of being unsuccessful on the merits, to arrive at an estimated total of \$266,336.00.

26. Plaintiff alleges that Defendant is also liable for waiting time penalties under Labor Code section 203 as a result of its failure to pay all wages. Based on the data provided by Defendant, there were approximately 84 Settlement Class members who have separated their employment with Defendant during the relevant time period who could be entitled to waiting time penalties. Therefore, Plaintiff calculated Defendant’s maximum exposure for waiting time penalties at approximately \$322,560 (\$16.00 average hourly rate x 8 hours x 30 days x 84 former employees).

27. Defendant asserts it has strong defenses to the waiting time claim because there exist good-faith disputes as to Plaintiff’s underlying claims, precluding imposition of penalties. Accordingly, Plaintiff discounted the maximum exposure by 45% for the risk of non-certification, and an additional 40% to account for Defendant’s defenses on the merits, to arrive at an estimated exposure of \$106,444.80.

28. Plaintiff also seeks civil penalties under the PAGA as a result of the foregoing alleged Labor Code violations. Plaintiff calculated Defendant’s maximum exposure at \$421,200 (4,212 pay periods x \$100 initial violation rate).

29. Defendant argues that Plaintiff’s PAGA claim will fail for the same reasons that her underlying claims will fail. Defendant also maintains that, given its good faith defenses, this Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find Defendant liable for any of Plaintiff’s claims. Therefore, Plaintiff discounted the maximum exposure figure by 45% for a risk of being unsuccessful on the merits, and an additional 60% to account for the possibility of this Court reducing penalties, to arrive at an estimated exposure of \$92,644.00.

30. Using these estimated figures for each of the claims described above, Plaintiff predicted the realistic total recovery for the Settlement Class would be approximately \$1,037,676.96. The proposed settlement of \$330,000.00 therefore represents approximately 30.8% of the reasonably forecasted recovery for the Settlement Class. Preliminary approval is appropriate as the settlement will provide

1 tangible monetary relief to Settlement Class members, and will still provide an average recovery to
2 Settlement Class members of nearly \$860, which is good result.

3 31. Here, Class Counsel will also apply for an attorneys' fees award of one-third of the GSA,
4 which is currently estimated to be \$110,000.00, and up to \$15,000.00 in verified costs reimbursement.
5 Plaintiff submits the requested fee is fair compensation for undertaking complex, risky, expensive, and
6 time-consuming litigation on a purely contingent fee basis. Further, Plaintiff has provided written
7 approval of the split of attorneys' fees in this action. Class Counsel has incurred substantial attorney fees
8 conducting pre-filing investigation, analyzing Plaintiff's claims, conducting legal research, drafting and
9 serving discovery requests, reviewing discovery responses, analyzing Settlement Class members'
10 timekeeping data and payroll records, preparing for and attending mediation, negotiating and revising the
11 memorandum of understanding and long-form settlement agreement, preparing this Motion, and
12 otherwise litigating the case. Class Counsel expect to expend additional attorney time in attending the
13 hearing on this Motion, overseeing the Notice process and fielding questions from Settlement Class
14 members, preparing the final approval papers, and attending the Final Approval hearing.

15 32. Class Counsel is not aware of any conflict of interest with the Settlement Class.

16 33. Plaintiff will seek a service award of \$7,500.00 at the time of seeking final approval, and
17 I believe this is reasonable given Plaintiff's efforts in this case and the risks she undertook on behalf of
18 the Settlement Class members, including the risk that she could be liable for Defendants' costs if this
19 case was unsuccessful. Plaintiff was integral in the prosecution of this action, by, among other things,
20 providing substantial factual information and documents to Class Counsel, attending multiple meetings
21 with Class Counsel to discuss the claims and theories at issue in the litigation, and otherwise actively
22 participating in the prosecution of their claims.

23 34. Although the parties engaged in some formal discovery and significant informal discovery
24 throughout this action, the parties still had significant discovery to complete in formal litigation had the
25 matter not settled. Moreover, Plaintiff still had to notice depositions, file for class certification, and faced
26 the prospect of appeals in the wake of a disputed class certification ruling for Plaintiff and/or an adverse
27 summary judgment ruling. Even if the classes sought to be certified by Plaintiff were in fact certified,
28

1 the parties would incur considerably more attorneys' fees and costs through a possible decertification
2 motion, trial, and possible appeal. This Settlement avoids those risks and the accompanying expense.

3 35. Plaintiff will serve the Motion for Preliminary Approval and proposed Settlement
4 Agreement on the LWDA on the same date he files his Motion for Preliminary Approval.

5 I declare under penalty of perjury under the laws of the State of California that the foregoing is
6 true and correct. Executed on April 23, 2025 at El Segundo, California.

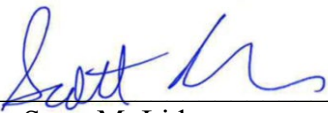
7 
8 _____
9 Scott M. Lidman

EXHIBIT 1

EXHIBIT 1

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

October 30, 2023

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

**VIA U.S. CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

Franco Whole Foods, LLC
c/o Gustavo Franco
8646 Robles Drive
San Diego, CA 92119

Re: *Ana Rodriguez Tapia v. Franco Whole Foods, LLC*

To Whom It May Concern:

Please be advised that this law firm represents Ana Rodriguez Tapia (“Ms. Tapia”) in claims arising from her employment with Franco Whole Foods, LLC (“Defendant”). Ms. Tapia is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, an “aggrieved employee” should be considered to include all current and former hourly, non-exempt employees working for Defendant in California (including any and all individuals who: (i) worked for Defendant directly or (ii) worked for and/or provided services for Defendant through a staffing agency) during the one year immediately preceding the date of this letter through the present date, and continuing through a civil judgment if the LWDA takes no action and Ms. Tapia files a civil lawsuit seeking civil penalties.

Defendant does business by developing, manufacturing, and distributing premium uncooked tortillas and other quality fresh food items with no preservatives and healthy or organic options. Ms. Tapia, a former employee, was employed by Defendant as a non-exempt employee from approximately December 2020 through approximately April 23, 2022. During her employment with Defendant, Ms. Tapia held the title of Packager and her job duties included without limitation, packaging tortillas.

Ms. Tapia was generally scheduled to work five to six days a week from 3:30 p.m. to 1:00 a.m. Ms. Tapia and other hourly, non-exempt employees would use their thumbprint to clock in and out. Ms. Tapia and other hourly, non-exempt employees would often work more than 8 hours in a workday and/or 40 hours in a workweek.

During her employment with Defendant, Defendant did not compensate Ms. Tapia and other hourly, non-exempt employees for all hours worked. Specifically, prior to being allowed to clock in at the beginning of her shift, Defendant required Ms. Tapia and other hourly, non-exempt employees to complete stretching exercises. Additionally, Defendant required Ms. Tapia and other hourly, non-exempt employees to wear protective safety gear in connection with the performance of their duties. Specifically, Ms. Tapia and other hourly, non-exempt employees were required to wear a hair net, apron, and gloves. Defendant required them to put on their protective safety gear and complete their morning stretches prior to clocking in. Therefore, Ms. Tapia and other hourly, non-exempt employees would be required by Defendant to arrive at work approximately 10 to 15 minutes prior to the start of their scheduled shift in order to don their safety gear and complete their stretches. However, despite being under Defendant's direction and control during this time, Defendant only paid them from the time she clocked in and failed to pay them for the time they were required by Defendant to don their safety gear and stretch. Accordingly, because Defendant failed to pay Ms. Tapia and other hourly, non-exempt employees for the time they were required to don their safety equipment and stretch, Defendant failed to pay them for all minimum wages owed. Further, Ms. Tapia and other hourly, non-exempt employees often worked over eight hours in a day and/or forty hours in a workweek, and Defendant's policy and practice of failing to compensate them for all hours worked also deprived them of all overtime wages owed.

Throughout Ms. Tapia's employment with Defendant, Ms. Tapia and other hourly, non-exempt employees were not provided all legally required meal periods due to Defendant's meal period policies and practices. Due to the work demands imposed by Defendant, Ms. Tapia and other hourly, non-exempt employees were often provided with a meal period that was late, short, missed, and/or otherwise unlawful. Further, Defendant required Ms. Tapia and other hourly, non-exempt employees to remove their safety gear when taking a meal period, and then put such gear back on before they returned to work from their meal period. Ms. Tapia and other hourly, non-exempt employees were required to doff their safety gear after clocking out for their meal period. Then Ms. Tapia and other hourly, non-exempt employees were required to don their safety gear prior to clocking back in from their meal period. However, they were required to clock in and be ready to work after 30 minutes. This means that they had to cut their meal period short, to approximately 25 minutes, in order to have time to put their safety equipment back on and clock in to be ready to work after 30 minutes. This resulted in Ms. Tapia and other hourly, non-exempt employees not being provided a full 30 minutes of duty-free time for their meal periods. Additionally, this also resulted in unpaid minimum and/or overtime wages for the time spent donning safety gear off the clock during meal periods. Further, Defendant's meal period policies and practices fail to provide Ms. Tapia and the other hourly, non-exempt employees a second meal period for shifts over 10.0 hours. As a result, when Ms. Tapia and other hourly, non-exempt employees worked in excess of 10.0 hours, they were not provided with a second 30-minute meal period in violation of California law.

Although Ms. Tapia and other hourly, non-exempt employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Ms. Tapia and other hourly, non-exempt employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

In addition, throughout Ms. Tapia's employment with Defendant, Ms. Tapia and other hourly, non-exempt employees were not authorized and permitted to take legally required rest periods due to Defendant's unlawful rest period policies and practices. Defendant's rest period policies and practices fail to authorize and permit paid rest periods for every four hours worked, *or major fraction thereof*.

Further, Defendant required Ms. Tapia and other hourly, non-exempt employees to take their rest periods in the designated break room which was about two or three minutes from their workstation. As a result, Ms. Tapia and other hourly, non-exempt employees were not authorized and permitted to take rest breaks of at least net ten minutes in violation of California law. Additionally, Ms. Tapia and other hourly, non-exempt employees were not authorized and permitted to take a third rest period when they worked shifts in excess of 10.0 hours.

On those occasions when Ms. Tapia and other hourly, non-exempt employees were not authorized and permitted to take all legally-compliant rest periods to which they were entitled, Defendant failed to compensate them with the required rest period premium for each workday in which they experienced a rest period violation as mandated by Labor Code § 226.7.

As a result of Defendant's failure to pay all minimum and overtime wages, as well as meal and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Tapia and other hourly, non-exempt employees.

As a further result of Defendant's failure to pay all overtime and/or minimum wages owed, and failure to pay all meal and rest period premium wages, Defendant failed to provide pay Ms. Tapia and other hourly, non-exempt employees all wages owed upon their separation of employment with Defendant.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 1 ("Wage Order 1"):

Minimum Wage Violations

Defendant was required to pay Ms. Tapia and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197, 1197.1; The Wage Order 1, § 4. Plaintiff and other aggrieved employees were not paid for all hours worked due to Defendant's unlawful practices and procedures. As alleged above, Defendant's unlawful policies and procedures were to pay pursuant to the scheduled hours, even though Defendant knowingly permitted and required work to be performed off-the-clock. Additionally, the time spent donning safety gear off the clock during meal periods resulted in unpaid minimum wages. These practices by Defendant resulted in Defendant not paying Ms. Tapia and other aggrieved employees for all wages owed for the work they performed, including failing to pay them all required minimum wages.

Overtime Violations

Defendant was required to pay Ms. Tapia and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 1, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee." As alleged above, Defendant's unlawful policies and procedures were to pay pursuant to the scheduled hours, even though Defendant knowingly permitted and required work to be performed off-the-clock. Additionally, the time spent donning safety gear off

the clock during meal periods resulted in unpaid overtime wages. As a result of Defendant's policies and/or practices that fail to compensate for all hours worked, Ms. Tapia and other aggrieved employees were deprived all required overtime wages earned.

Meal Period Violations

As alleged above, Defendant failed to provide the aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. As described above, Defendant failed to provide Ms. Tapia and other aggrieved employees with all legally compliant meal periods due to Defendant's meal period policies/practices, which have frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes), and missed meal periods. Further, Defendant required Ms. Tapia and other hourly, non-exempt employees to remove their safety gear when taking a meal period, and then put such gear back on before they returned to work from their meal period, which resulted in short meal periods. In addition, Defendant failed to provide Ms. Tapia or other aggrieved employees with second meal periods on shifts over 10.0 hours. Therefore, the aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."). Although Ms. Tapia and other aggrieved employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate them with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant also failed to authorize and permit their aggrieved employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 1, § 12. Specifically, Ms. Tapia and other aggrieved employees were not authorized and permitted to take all required rest periods due to Defendant's rest period policies/practices, which upon information and belief, fail to authorize and permit all rest periods for every four hours worked, or *major fraction thereof*. Specifically, Defendant required Ms. Tapia and other hourly, non-exempt employees to take their rest periods in the designated break room which was about two or three minutes from their workstation. Additionally, Defendant has often failed to authorize and permit a third rest period when Ms. Tapia worked a shift in excess of 10.0 hours. As a result, Ms. Tapia and the aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Tapia and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and/or overtime wages earned, meal and rest period premiums, total gross wages earned, and total net wages earned, in violation of Labor

Code § 226 *et seq.* Defendant's failure to furnish Ms. Tapia and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and/or overtime wages earned and meal and rest period premiums, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

Waiting Time Penalties

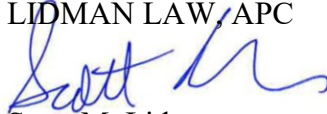
Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Ms. Tapia and other aggrieved employees all of their final wages at the time of separation, which included, among other things, unpaid minimum and/or overtime wages, and meal and rest period premium wages.

As an "aggrieved employee," Ms. Tapia will initiate a civil action on behalf of herself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Tapia's own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Ms. Tapia and other aggrieved employees the statutory minimum wage for all hours worked;
- b) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Tapia and other aggrieved employees all overtime compensation earned;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Ms. Tapia and the aggrieved employees;
- d) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Ms. Tapia and the aggrieved employees;
- e) Defendant violated Labor Code § 226 by failing to furnish Ms. Tapia and other aggrieved employees with accurate and compliant itemized wage statements;
- f) Defendant violated Labor Code §§ 204 and 210 by failing to pay Ms. Tapia and other aggrieved employees all earned wages at least twice during each calendar month;
- g) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Tapia and other aggrieved employees; and
- h) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Tapia and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT 2

EXHIBIT 2

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement” or “Settlement”) is reached by and between Plaintiff Ana Rodriguez Tapia (“Plaintiff”), individually and on behalf of all members of the Settlement Class (defined below), on the one hand, and Defendant Franco Whole Foods, LLC (“Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Scott M. Lidman, Milan Moore, and Tiara Gose-Hardy of Lidman Law, APC and Paul K. Haines of Haines Law Group, APC (collectively, “Class Counsel”). Defendant is represented by Tracy A. Warren, Alicia A. Belock, and Taylor K. King of Buchalter, A Professional Corporation.

On October 27, 2023, Plaintiff filed a Complaint against Defendant in San Diego County Superior Court, in the matter entitled *Ana Rodriguez Tapia v. Franco Whole Foods, LLC*, Case No. 37-2023-00046908-CU-OE-CTL (the “Action”). On January 4, 2024, Plaintiff filed the operative First Amended Class and Representative Action Complaint alleging that Defendant: (i) failed to pay all overtime wages owed; (ii) failure to pay all minimum wages owed; (iii) failed to provide meal periods; (iv) failed to authorize and permit all rest periods; (v) failed to provide accurate, itemized wage statements; and (vi) failed to pay all wages owed upon termination. As a result of the foregoing alleged violations, Plaintiff contends that Defendant is further liable to Plaintiff and the Settlement Class (defined below) because it engaged in unlawful business practices. Plaintiff further alleges that Defendant is liable for civil penalties pursuant to the Labor Code Private Attorneys General Act, Cal. Labor Code § 2698 *et seq.* (“PAGA”) as a result of the aforementioned alleged violations of the California Labor Code. Defendant denies Plaintiff’s claims.

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the certification of the following settlement Class:

All current and former non-exempt direct-hire and non-direct hire employees of Defendant Franco Whole Foods, LLC who worked in the State of California during the Class Period.

For purposes of this Settlement Agreement, the “Class Period” shall mean the time period of October 27, 2019 through March 11, 2025 or the date of preliminary approval by the Court of the Settlement, whichever is sooner.

The Parties agree that certification for purposes of this Settlement Agreement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **PAGA Employees.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the following definition of PAGA Employees:

All current and former non-exempt direct-hire and non-direct hire employees of Defendant Franco Whole Foods, LLC who worked in the State of California during the PAGA Period.

For purposes of this Settlement Agreement, the “PAGA Period” and release under the PAGA shall mean the time period of October 30, 2022 through March 11, 2025 or the date of preliminary approval by the Court of the Settlement, whichever is sooner.

3. **Release by Settlement Class Members and Plaintiff.** Plaintiff and every member of the Settlement Class (except those who timely and properly submit a Request for Exclusion as set forth below) will fully and forever completely release Defendant and each of its subsidiaries, affiliates, shareholders, members, agents, officers, predecessors, successors and assigns (collectively the “Released Parties”) as follows:

- A. Settlement Class Members’ Release: Settlement Class Members (except those who timely and properly submit a Request for Exclusion as set forth below) and Plaintiff will release any and all claims, demands, rights, liabilities and causes of action that were pled in the operative First Amended Complaint or arising from the same operative facts and/or allegations as those set forth in the operative First Amended Complaint in the Action, that arose during the Class Period defined above including with respect to the following claims: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods; (d) failure to authorize and permit all rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to pay all wages owed upon termination; and (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above (collectively, the “Released Claims”).
- B. The time period for the release of the Released Claims against the Released Parties shall be the same time period as the Class Period (as defined above in Paragraph 1).
- C. PAGA Release: PAGA Employees (including employees who submit a Request for Exclusion and Plaintiff), will release and forever discharge all claims, demands, rights, liabilities and causes of action under the California Labor Code Private Attorneys General Act of 2004 against the Released Parties based on the following (and as alleged in Plaintiff’s letter to the Labor & Workforce Development Agency (“LWDA”) dated October 30, 2023): (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods; (d) failure to authorize and permit all rest periods; (e) failure to provide accurate, itemized wage statements; and (f) failure to pay all wages owed upon termination that occurred during the PAGA Period (collectively, “PAGA Released Claim”).

- C. In light of her Class Representative Service Award, Plaintiff has agreed to release, in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. Plaintiff understands that this release includes unknown claims and that she is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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

Notwithstanding the above, nor anything else in this Settlement, the waiver and release in this Settlement by Plaintiff does not apply to (i) those rights that as a matter of law cannot be waived, including, but not limited to, workers' compensation claims, pending or otherwise and/or benefits to be received by Plaintiff in workers' compensation pursuant to the jurisdiction of workers' compensation; and (ii) rights or claims arising out of this Settlement.

- D. The time period for the release of the PAGA Released Claims against the Released Parties shall be the same time period as the PAGA Period (as defined above in Paragraph 2).
- E. The releases identified herein will only be effective upon the date that Defendant fully funds the Gross Settlement Amount.

4. **Gross Settlement Amount.** As consideration, Defendant agrees, to pay a "Gross Settlement Amount" of Three Hundred Thirty Thousand Dollars and Zero Cents (\$330,000.00) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrators as the "Settlement Administrator" to administer this Settlement. All administrative costs shall be paid from the Gross Settlement Amount.
- B. The Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund set up by the Settlement Administrator for the benefit of participating Settlement Class Members. Defendant shall fund the Gross Settlement Payment thirty (30) days after the Effective Date (as defined below). Defendant shall pay employer taxes separately from, and in addition to, the Gross Settlement Amount.
- C. This Settlement shall become effective on the "Effective Date" which is defined as the later of: (a) the Court's final approval of the settlement if no objections by or

on behalf of Class Members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been filed.

D. This is a non-reversionary settlement. The Gross Settlement Amount includes:

- (1) All payments (including interest) to the Settlement Class Members;
- (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Seven Thousand Nine Hundred Fifty Dollars and Zero Cents (\$7,950.00);
- (3) Up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for Plaintiff's Class Representative Service Award, in recognition of her contributions to the Action, her releases herein, and her service to the Settlement Class. In the event that the Court reduces or does not approve the requested Class Representative Service Award, Plaintiff shall not have the right to revoke this Settlement Agreement, and this Settlement shall remain binding;
- (4) Up to one-third of the Gross Settlement Amount, currently approximately One Hundred Ten Thousand Dollars and Zero Cents (\$110,000.00) (including one-third of any increase to the Gross Settlement Amount pursuant to the Escalator Clause in Paragraph 4.F. below), in Class Counsel's attorneys' fees, plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than Fifteen Thousand Dollars and Zero Cents (\$15,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees or costs, Class Counsel shall not have the right to revoke this Settlement Agreement, and it will remain binding; and
- (5) Thirty Thousand Dollars and Zero Cents (\$30,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Twenty-Two Thousand Five Hundred Dollars and Zero Cents (\$22,500.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), will be payable to certain Settlement Class Members as the "PAGA Amount," as described below.

E. Defendant's share of payroll taxes shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount.

F. **Escalator Clause.** Defendant represents that there are an estimated 15,000 Workweeks worked by Class Members from October 27, 2019 through November 13, 2024 (date of mediation). If the number of workweeks during this

period is more than 10 percent greater than this figure (i.e., if there are 16,501 or more workweeks worked by the settlement Class Members during this period), Defendant shall either (i) increase the Gross Settlement Amount on a pro-rata basis equal to the percentage increase in the number of workweeks worked by the Class members above 10 percent, or (ii) shorten the release period to an earlier date at which only the represented number of workweeks plus 10 percent are covered by the Class Period.

5. **Payments to the Settlement Class.** Settlement Class Members are not required to submit a claim form to receive a payment (“Settlement Award”) from the Settlement. Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel’s attorneys’ fees, Class Counsel’s costs and expenses, Plaintiff’s Class Representative Service Award, the Settlement Administrator’s fees and expenses for administration, and the amount designated as PAGA civil penalties payable to the LWDA and the PAGA Employees. The remaining amount shall be known as the “Net Settlement Amount.”
- B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member’s Settlement Award based on the following formula:
 - i. The Net Settlement Amount shall be allocated to Settlement Class Members who worked during the Class Period, as follows: each participating Settlement Class member shall receive a proportionate settlement share based upon the number of Workweeks worked during the Class Period, the numerator of which is the Settlement Class member’s total Workweeks worked during the Class Period, and the denominator of which is the total Workweeks worked by all Settlement Class Members who worked during the Class Period.
 - ii. PAGA Amount: Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) of the Gross Settlement Amount has been designated as the “PAGA Amount” as described above. Each PAGA Employee shall receive a portion of the PAGA Amount proportionate to the number of any periods that he or she worked during the PAGA Period, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Employee’s number of pay periods worked during this time period, and the denominator of which is the total number of pay periods worked by all PAGA Employees during the PAGA Period.
- C. Within seven (7) calendar days following Defendant’s deposit of the Gross Settlement Amount and required employer-side payroll taxes with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for the Parties for review and approval. Within seven (7) calendar days of approval by counsel for the Parties, the

Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class Members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant's counsel.

- D. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: Eighty percent (80%) as penalties and interest; and Twenty percent (20%) as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class Members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Each Settlement Class member who receives a Settlement Award will be responsible for correctly characterizing the payment for tax purposes and for payment of any taxes owing on said amount. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- E. Each member of the Settlement Class who receives a Settlement Award must cash the check(s) within 180 days from the date the Settlement Administrator mails it/them. Any funds payable to Settlement Class Members whose checks were not cashed within 180 days after mailing will escheat to the California State Controller's Office - Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class member.
- F. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

6. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Gross Settlement Amount (including one-third of any increase to the Gross Settlement Amount pursuant to the Escalator Clause in Paragraph 4.F. above), which is currently estimated to be One Hundred Ten Thousand Dollars and Zero Cents (\$110,000.00). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00) from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court.

7. **Class Representative Service Award.** Defendant will not object to a request for a Class Representative Service Award of up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) to Plaintiff for her time and risk in prosecuting this case, and her service to the

Settlement Class. This award will be in addition to Plaintiff's Settlement Award as a Settlement Class member and shall be reported on an IRS Form 1099 issued by the Settlement Administrator. In the event that the Court reduces or does not approve the requested Service Award, Plaintiff shall not have the right to revoke this Settlement, and it will remain binding.

8. **Settlement Administrator.** Defendant will not object to the appointment of Phoenix Settlement Administrators as the Settlement Administrator. Defendant will not object to Plaintiff's seeking permission to pay up to Seven Thousand Nine Hundred Fifty Dollars and Zero Cents (\$7,950.00) for its services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices and for calculating Settlement Awards and preparing all checks and mailings, calculating Defendant's share of taxes payable on the wages, which shall be paid by Defendant separate and apart from the Gross Settlement Amount, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Settlement Awards have been mailed to all participating Settlement Class Members.

9. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Scott M. Lidman, Milan Moore and Tiara Gose-Hardy of Lidman Law, APC and Paul K. Haines of Haines Law Group, APC as Class Counsel;
- C. Appointing Ana Rodriguez Tapia as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Notice of Pendency of Class Action and Settlement, and Notice of Settlement Award, drafts of which are attached collectively hereto as **Exhibit A**), and directing the mailing of the same; and
- G. Scheduling a Final Approval hearing.

10. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within ten (10) business days after entry of an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, the dates of employment and the number of Workweeks worked by each Settlement Class member while employed during the Class Period (the "Class Data"). The Class

Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.

- B. Within ten (10) business days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class Members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class Members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).
 - i. The Notice Packet shall state that Settlement Class Members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion not containing a Class Member’s telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon.
 - ii. The Parties agree that there is no statutory or other right for any Settlement Class Member to opt out or otherwise exclude himself or herself from the PAGA portion of the Settlement. A Settlement Class member who submits a valid and timely Request for Exclusion shall still receive his or her proportionate share of the PAGA Amount.
- D. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant’s counsel, as well as file all such

objections with the Court). Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval. To be valid, any written objection must: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than the Response Deadline. Members of the Settlement Class who do not request exclusion may also object to the Settlement by appearing at the Final Approval Hearing irrespective of whether they submitted any written objections.

- E. Notice of Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Settlement Award as well as all of the information that was used from Defendant's records in order to calculate the Settlement Award, including the Settlement Class member's number of Actual Workweeks worked during the Class Period and the number of pay periods worked during the PAGA Period. Settlement Class Members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Settlement Class member and the Parties, unless the Court determines otherwise.
- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within three (3) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class Members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. Nothing else shall be required of, or done

by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement.

11. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative Service Award, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769.

12. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. In particular, but without limiting the generality of the foregoing, nothing about this Settlement Agreement shall be offered or construed as an admission of liability, wrongdoing, impropriety, responsibility, or fault whatsoever on the part of Defendant and/or the Released Parties, and it shall not be construed as or deemed to be evidence of, or an admission or concession that the any Settlement Class member has suffered any damage. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

13. **Non-disclosure and Non-publication.** Plaintiff and Class Counsel agree not to disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Settlement Class Members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel. Class Counsel may also include a general description of the Settlement on their respective websites but may not include the name(s) of any of the Parties, or the case name or case number of the Action.

14. **Legal Developments.** The Parties agree that Plaintiff will submit to the Court a motion for preliminary approval of this Settlement containing all of the terms and conditions contained herein notwithstanding any new legal developments regarding the Released Claims.

15. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject

to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

16. **Attorneys' Fees:** In the event of any dispute arising out of the interpretation, performance, or breach of any provision of this Settlement Agreement, the prevailing party in such dispute(s) shall be entitled to recover her and/or its reasonable attorneys' fees and costs incurred arising from such dispute. The Parties further agree that the time within which to bring the Action to trial under CCP Section 583.310 shall be tolled from the date of the signing of this Agreement by all Parties until the entry of the final approval order and judgment or the Court's denial of a preliminary approval motion or final approval motion, whichever is later.

17. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Tracy A. Warren, Alicia A. Belock, and Taylor K. King of Buchalter, A Professional Corporation, 655 West Broadway, Suite 1600, San Diego, California 92101; twarren@buchalter.com, abelock@buchalter.com; and tking@buchalter.com

if to Plaintiff: Scott M. Lidman, Milan Moore, and Tiara Gose-Hardy of Lidman Law, APC, 2155 Campus Drive, Suite 150, El Segundo, California 90245; slidman@lidmanlaw.com, mmoore@lidmanlaw.com and tgose@lidmanlaw.com

Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, California 90245; phaines@haineslawgroup.com

18. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed.

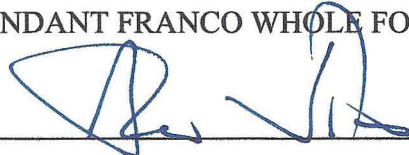
19. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

20. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts by facsimile, electronic signature, scan or email, and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

DATED:

3/18/25

DEFENDANT FRANCO WHOLE FOODS, LLC

By: 

Its: _____

DATED: Feb 28, 2025

PLAINTIFF ANA RODRIGUEZ TAPIA

By: 
Ana Rodriguez De Tapia (Feb 28, 2025 18:45 PST)
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED:

BUCHALTER, A PROFESSIONAL
CORPORATION

By: _____
Tracy A. Warren
Attorneys for Defendant

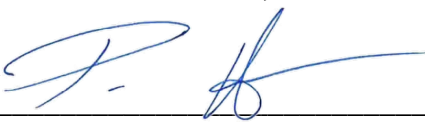
DATED: March 3, 2025

LIDMAN LAW, APC

By: 
Scott M. Lidman
Attorneys for Plaintiff

DATED: April 23, 2025

HAINES LAW GROUP, APC

By: 
Paul K. Haines
Attorneys for Plaintiff

Its: _____

DATED:

PLAINTIFF ANA RODRIGUEZ TAPIA

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: March 26, 2025

BUCHALTER, A PROFESSIONAL
CORPORATION

By:  _____
Tracy A. Warren
Alicia A. Belock
Attorneys for Defendant

DATED:

LIDMAN LAW, APC

By: _____
Scott M. Lidman
Attorneys for Plaintiff

DATED:

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Attorneys for Plaintiff

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

ANA RODRIGUEZ TAPIA,

Plaintiff,

vs.

FRANCO WHOLE FOODS, LLC., a California
limited liability company; and Does 1 through 100,

Defendants.

Case No. 37-2023-00046908-CU-OE-CTL

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED SETTLEMENT**

To: All current and former non-exempt direct hire and non-direct hire employees of Defendant Franco Whole Foods, LLC (“Defendant”) who worked in the State of California during the time period of October 17, 2019 until March 11, 2025, or [the date of preliminary approval by the Court]. Collectively, these employees will be referred to as “Settlement Class members.”

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the “Settlement”) in *Ana Rodriguez Tapia v. Franco Whole Foods, LLC*, Case No. 37-2023-00046908-CU-OE-CTL (the “Lawsuit”). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendant’s records show that you were employed as a non-exempt direct-hire or non-direct hire employee of Franco Whole Foods, LLC during the time period of October 27, 2019 through March 11, 2025, or [the date of preliminary approval by the Court] (the “Class Period”). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Ana Rodriguez Tapia (“Plaintiff”) brought this Lawsuit against Defendant Franco Whole Foods, LLC (“Defendant”), seeking to assert claims on behalf of a class of current and former non-exempt direct-hire or non-direct hire employee of Franco Whole Foods, LLC during the time period of October 27, 2019 through March 11, 2025, or [the date of preliminary approval by the Court]. Plaintiff Ana Rodriguez Tapia is known as the “Class Representative,” and her attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

The Lawsuit alleges that Defendant failed provide pay all minimum and overtime wages owed, and failed to provide all required meal and rest periods. The Lawsuit also alleges that Defendant failed to provide Settlement Class members with itemized wage statements in compliance with California law. As a result of the foregoing alleged violations, Plaintiff also alleges that Defendant failed to pay all wages owed upon termination, engaged in unfair business practices, and is liable for civil penalties under the Labor Code Private Attorney General Act.

Defendant denies that it has done anything wrong. Defendant further denies that it owes Settlement Class members any wages, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, which expressly denies all

liability.

The Court has not ruled on the merits of Plaintiff's claims or Defendant's defenses. However, to avoid additional expense, inconvenience, and interference with their business operations, Defendant has concluded that it is in its best interests and the interests of Settlement Class members to settle the Lawsuit on the terms summarized in this Notice. After Defendant provided relevant information to Class Counsel, the Settlement was reached after mediation between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendant, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by Defendant, your decision about whether to participate in the Settlement will not affect your employment. California law and Defendant's policies strictly prohibit unlawful retaliation. Defendant will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of the Settlement Class member's decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for the Plaintiff / Settlement Class Members: LIDMAN LAW, APC Scott M. Lidman slidman@lidmanlaw.com Milan Moore mmoore@lidmanlaw.com Tiara Gose-Hardy tgose@lidmanlaw.com 2155 Campus Drive, Suite 150 El Segundo, California 90245 Tel: (424) 322-4772 Fax: (424) 322-4775 www.lidmanlaw.com HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com 155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com	Attorneys for Defendant Franco Whole Foods, LLC BUCHALTER, A PROFESSIONAL CORPORATION Terry A. Warren Alicia A. Belock Taylor K. King 655 West Broadway, Suite 1600 San Diego, California 92101 twarren@buchalter.com abelock@buchalter.com tking@buchalter.com Tel: (619) 219-5335
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What are the terms of the Settlement?

On **[INSERT DATE OF PRELIMINARY APPROVAL]**, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt direct-hire or non-direct hire employee of Franco Whole Foods, LLC during the time period of October 27, 2019 through March 11, 2025, or **[the date of preliminary approval by the Court]**. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Defendant as described below.

Defendant has agreed to pay \$330,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Lawsuit, which includes payments to Settlement Class members, attorneys' fees and expenses, payment to the Labor Workforce

Development Agency (“LWDA”), settlement administration costs, the Class Representative’s Service Award and monies to be paid to the LWDA. Defendant’s share of employer-side payroll taxes associated with any wage payments to Settlement Class members shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount.

The following deductions from the Gross Settlement Amount will be requested by the parties:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$7,950.00 from the Gross Settlement Amount to pay the Settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of the Settlement Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to one-third of the Gross Settlement Amount, which is currently estimated to be \$110,000.00, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement in an amount not to exceed \$15,000.00 for verified costs Class Counsel incurred in connection with the Lawsuit.

Service Award to Class Representative. Class Counsel will ask the Court to award the Class Representative a service award in the amount not to exceed \$7,500.00, to compensate her for her service and extra work provided on behalf of the Settlement Class members.

LWDA Payment. Class Counsel will ask the Court to approve a payment in the total amount of \$30,000.00 as and for alleged civil penalties, payable pursuant to the California Labor Code Private Attorney General Act (“PAGA”). Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or \$22,500.00 will be payable to the LWDA, and the remaining twenty-five percent (25%), or \$7,500.00, will be payable to certain Settlement Class members as the “PAGA Amount,” as described below.

Calculation of Individual Settlement Class Members’ Settlement Award. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount (“NSA”), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated at approximately <<\$ >> to be shared among an up to << >> estimated Settlement Class members.

The NSA will be divided as follows: Each participating Settlement Class Member shall receive a proportionate settlement share based upon the number of Workweeks the Settlement Class Member worked during the Class Period, the numerator of which is the Settlement Class Member’s total Workweeks worked during the Class Period, and the denominator of which is the total Workweeks worked by all Settlement Class Members (who do not opt out) who worked during the Class Period.

In addition, Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) of the Gross Settlement Amount has been designated as the “PAGA Amount” as described above. Each Settlement Class Member who was employed by Defendant at any time from October 30, 2022 and March 11, 2025 or [the date of preliminary approval by the Court] is a PAGA Employee and shall receive a portion of the PAGA Amount proportionate to the number of pay periods that he or she worked during the period of October 30, 2022 and March 11, 2025 or [the date of preliminary approval by the Court], and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Employee’s number of pay periods worked during the time period from October 30, 2022 and March 11, 2025 or [the date of preliminary approval by the Court], and the denominator of which is the total number of pay periods worked by all PAGA Employees during the time period of October 30, 2022 and March 11, 2025 or [the date of preliminary approval by the Court].

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Settlement Awards will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion in approximately << >>.

If you submit a Request for Exclusion, you will still receive a proportionate share of the PAGA Payment regardless of whether you exclude yourself from the Settlement if you are a PAGA Employee.

Each Settlement Class Member and PAGA Employee who receives a Settlement Award must cash the check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class Members or PAGA Employees who checks were not cashed within 180 days after mailing will be transferred to the California State Controller's Office - Unclaimed Property Fund in the name of the Settlement Class Member or PAGA Employee.

Payment by Defendant of the Gross Settlement Amount. The Gross Settlement Amount shall be paid by Defendant to the Settlement Administrator within thirty (30) days after the Effective Date.

The "Effective Date" is defined as the latter of: (a) the Court's final approval of the settlement if no objections by or on behalf of Class Members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been filed.

Based on the above, the Gross Settlement Amount is expected to be paid by approximately << >>.

Within ten (10) calendar days following Defendant's deposit of the Gross Settlement Amount and required employer-side payroll taxes with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for the Parties for review and approval. Within seven (7) calendar days of approval by counsel for the Parties, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to Participating Settlement Class members.

Allocation and Taxes. For tax purposes, each Settlement Award shall be allocated as follows: eighty percent (80%) as penalties and interest; and twenty percent (20%) as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Settlement Class members are responsible for the proper income tax treatment of the Individual Settlement Awards. The Settlement Administrator, Defendant and their counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, the Settlement Class, and each Settlement Class member except those who timely and properly submit a Request for Exclusion as set forth below) will fully and forever completely release and discharge Defendant, and all of its past and present owners, officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys (collectively the "Released Parties") from any and all claims, demands, rights, liabilities and causes of action that were pled in the operative First Amended Complaint or arising from the same operative facts and/or allegations as those set forth in the operative First Amended Complaint in the Action, that arose during the Class Period defined above including with respect to the following claims: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods; (d) failure to authorize and permit all rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to pay all wages owed upon termination; and (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above (collectively, the "Released Claims")

The time period of the Release shall be the same time as the Class Period.

PAGA Release and PAGA Employees. If the Court approves the Settlement, all PAGA Employees (including employees who submit a Request for Exclusion and Plaintiff), will release and forever discharge all claims, demands, rights, liabilities and causes of action under the California Labor Code Private Attorneys General Act of 2004 against the Released Parties based on the following (and as alleged in the letter to the Labor & Workforce Development Agency ("LWDA") dated October 30, 2023): (a) failure to pay all overtime wages owed; (b) failure to pay all minimum

wages owed; (c) failure to provide meal periods; (d) failure to authorize and permit all rest periods; (e) failure to provide accurate, itemized wage statements; (f) failure to pay all wages owed upon termination, that of which occurred during the PAGA Period (collectively, “PAGA Released Claim”)

PAGA Employees includes all current and former non-exempt direct-hire or non-direct hire employee of Franco Whole Foods, LLC during the time period of October 30, 2022 through March 11, 2025, or [the date of preliminary approval by the Court]. The time period of the PAGA Released Claim is October 30, 2022 and [the date of preliminary approval by the Court] (“PAGA Period”).

The releases are null and void if Defendant fails to fully fund the Gross Settlement Amount.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of workweeks you worked during the Class Period (as explained above), and as stated in the accompanying Notice of Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Settlement Award. Your award is based on the proportionate number of Workweeks you worked during the Class Period. The information contained in Defendant’s records regarding all of these factors, along with your estimated Settlement Award, is listed on the accompanying Notice of Settlement Award. If you disagree with the information in your Notice of Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator’s decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written “Request for Exclusion from the Class Action Settlement” letter or card postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, and your signature. The Request for Exclusion should state:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE RODRIGUEZ TAPIA V. FRANCO WHOLE FOODS LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE CLASS ACTION SETTLEMENT OF THIS LAWSUIT.”

Send the Request for Exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who files a timely Request for Exclusion from the Settlement shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement. **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

You will still receive a portion of the PAGA Amount if you submit a Request for Exclusion and be bound by the PAGA Release.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail a written objection to the Settlement Administrator. Your written objection must include your name, address, as well as contact information for any attorney representing you regarding your objection, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection. Written objections must be postmarked on or before <<RESPONSE DEADLINE>>.

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department C-71 of the San Diego County Superior Court, located at 330 West Broadway, San Diego, California 92101. You have the right to appear either virtually, in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. All objections or other correspondence must state the name and number of the case: *Ana Rodriguez Tapia v. Franco Whole Foods, LLC*, Case No. 37-2023-00046908-CU-OE-CTL.

For information on how to access a hearing virtually, please visit the Court's website at www.sdcourt.ca.gov or visit <https://www.sdcourt.ca.gov/virtualhearings>

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department C-71 of the San Diego County Superior Court, located at 330 West Broadway, San Diego, California 92101. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Service Award to the Class Representative. The Final Approval Hearing may be postponed without further notice to Settlement Class members. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

The Court's final judgment and any changes to the date, time, or location of the Final Approval Hearing will be posted on the Settlement Administrator's website at (<http://.com>).

How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the San Diego County Superior Court, located at 330 West Broadway, San Diego, California 92101, during regular court hours. For more information on how to view the file online, request a copy of the file to be mailed to you, or viewing the filing in person, please visit the Court's website at www.sdcourt.ca.gov, and click on "General Info", "Access Court Records", and "Obtain a Copy of File". You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANT, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

BY ORDER OF THE COURT ENTERED ON <<PRELIM APPROVAL DATE>>.

NOTICE OF INDIVIDUAL SETTLEMENT AWARD

ANA RODRIGUEZ TAPIA V. FRANCO WHOLE FOODS, LLC

SAN DIEGO COUNTY SUPERIOR COURT CASE NO. 37-2023-00046908-CU-OE-CTL

Please complete, sign, date and return this form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Individual Settlement Award:

According to the records of Franco Whole Foods, LLC (“Defendant”):

(a) You were employed by Defendant and worked a total of [] workweeks between October 27, 2019 and March 11, 2025 or [the date of preliminary approval by the Court]; and

(b) You were employed by Defendant and worked a total of [] pay periods between October 30, 2022 and March 11, 2025 or [the date of preliminary approval by the Court].

Based on the above, your Individual Settlement Award is estimated to be \$ [].

(IV) If you disagree with items (a) – (b) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this form:

If you dispute the above information from Defendant’s records, Defendant’s records will control unless you are able to provide documentation that establishes that Defendant’s records are mistaken. If there is a dispute about whether Defendant’s information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Parties and the Settlement Administrator as described in the “Notice of Pendency of Class Action and Proposed Settlement” that accompanies this Form. Any unresolved disputes will be submitted to the Court for a final determination.

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED
NO LATER THAN <<RESPONSE DEADLINE>>.**