

Janelle Carney (201570)
Janelle@JanelleCarneyLaw.com
JANELLE CARNEY – ATTORNEY AT LAW, APC
14758 Pipeline Ave., Suite E
Chino Hills, CA 91709
Telephone: (909) 521-9609/ Fax: (909) 393-0471

Adam Rose (210880)
adam@frontierlawcenter.com
Manny Starr (319778)
manny@frontierlawcenter.com
FRONTIER LAW CENTER
23901 Calabasas Rd., #1084
Calabasas, CA 91302
Tel.: (818) 914-3433 / Fax (818) 914-3433

Attorneys for Plaintiff, Sydney Houser

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

SYDNEY HOUSER, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

THE FISH HOUSE VERA CRUZ, INC., a
California Corporation; and DOES 1 to 100,

Defendants.

) CASE NO. 37-2023-00045659-CU-OE-NC

) CLASS ACTION

) Judge: Cynthia A. Freeland

) **CLASS ACTION AND PAGA**
) **SETTLEMENT AGREEMENT**

) Action filed: October 20, 2023

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between the Parties to the civil action entitled *Houser v. The Fish House Vera Cruz, Inc.* Case No. 37-2023-00045659-CU-OE-NC, currently pending in the San Diego Superior Court (the “Action”). Plaintiff Sydney Houser (“Plaintiff”) on behalf of herself, the Class Members, and the PAGA Aggrieved Employees, and The Fish House Vera Cruz, Inc. (collectively referred to as “Defendant”) are collectively referred to as “the Parties” or individually as “Party.”

1. DEFINITIONS.

1.1. “Action” means the civil action entitled *Houser v. The Fish House Vera Cruz, Inc.*, Case No. 37-2023-00045659-CU-OE-NC currently pending in the San Diego Superior Court.

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

1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement. The estimate based on 250 class members is not to exceed \$6,950.00.

1.4. “Class Members” means “all non-exempt hourly employees who worked for Defendant in California at least one (1) day at any time from October 20, 2019, through May 31, 2024.”

1.5. “Class Counsel” means Janelle Carney of Janelle Carney – Attorney at Law, APC, Manny Starr and Adam Rose of Frontier Law Center.

1.6. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.7. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s full name, last-known mailing address, Social Security number, and dates of employment during the class period and PAGA Pay Periods.

1.8. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as a PAGA Representative Action Member).

1.9. “Class Member Address Search” means the Administrator’s investigation and

1 search for current Class Member mailing addresses using all reasonably available sources, methods
2 and means including, but not limited to, the National Change of Address database, skip traces, and
3 direct contact by the Administrator with Class Members.

4 1.10. "Class Notice" means the NOTICE OF CLASS ACTION SETTLEMENT AND
5 HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members, if
6 applicable in the form, without material variation, attached as **Exhibit 1** and incorporated by
7 reference into this Agreement.

8 1.11. "Class Period" means the period from October 20, 2019 through May 31, 2024.

9 1.12. "Class Representative" means Sydney Houser, the named Plaintiff in the operative
10 complaints in the Action seeking Court approval to serve as a Class Representative.

11 1.13. "Court" means the Superior Court of California, County of San Diego.

12 1.14. "Defendant" means The Fish House Vera Cruz, Inc.

13 1.15. "Defense Counsel" means Harvey Berger of Berger & Williams, LLP.

14 1.16. "Effective Date" means the date by when both of the following have occurred:

15 (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement,
16 and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences:
17 (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment;
18 (b) if one or more Participating Class Members objects to the Settlement and intervenes in the
19 action, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely
20 appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues
21 a remittitur.

22 1.17. "Final Approval" means the Court's order granting final approval of the Settlement.

23 1.18. "Final Approval Hearing" means the Court's hearing on the Motion for Final
24 Approval of the Settlement.

25 1.19. "Final Judgment" means the Judgment Entered by the Court upon Granting Final
26 Approval of the Settlement.

27 1.20. "Gross Settlement Amount" means \$172,000.00, which is the total amount Defendant
28 agrees to pay under the Settlement except as provided in Paragraph 10 below. The Gross
Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments,
the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative

1 Service Payment, and the Administrator's Expenses. Class Counsel Fees and Class Counsel
 2 Expenses include, without limitation, all such fees and costs incurred to date, as well as such fees
 3 and costs to be incurred in documenting the settlement, securing Court approval of this Settlement
 4 Agreement, and obtaining judgment in the Action.

5 1.21 Intentionally left blank.

6 1.22 "Individual Settlement Payment" means the amount of each Participating Settlement
 7 Class Member's Gross Individual Settlement Payment less employee portions of state and federal
 8 withholding taxes, including the employee FICA, FUTA, and SDI contributions and any other
 9 applicable payroll deductions required by law as a result of the payment of the amount allocated to
 10 such Participating Settlement Class Member under the terms of this Stipulation

11 1.23. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25%
 12 of the PAGA Allocation calculated according to the number of Pay Periods worked during the
 13 PAGA Period.

14 1.24. "Judgment" means the judgment entered by the Court at Final Approval.

15 1.25. "LWDA" means the Labor and Workforce Development Agency, the agency entitled,
 16 under Labor Code section 2699, subd. (i).

17 1.26. "LWDA PAGA Payment" means the 75% of the PAGA Allocation paid to the LWDA
 18 under Labor Code section 2699, subd. (i).

19 1.27. "Net Settlement Amount" means the Gross Settlement Amount, less the following
 20 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
 21 Payment, Representative Service Award, Class Counsel Fees Payment, Class Counsel Litigation
 22 Expenses Payment, and the Administration Expenses Payment (Defendant's share of employer
 23 taxes will be paid separately). The remainder is to be paid to Participating Class Members as
 24 Individual Class Payments.

25 1.28. "Non-Participating Class Member" means any Class Member who opts out of the
 26 Settlement by sending the Administrator a valid and timely Request for Exclusion.

27 1.29. "PAGA Pay Period" means any Pay Period during which a PAGA Aggrieved
 28 Employee worked for Defendant for at least one day during the PAGA Period.

1.30. "PAGA Period" means the period from October 20, 2022 through May 31, 2024.

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

1.32. "PAGA Notice" means Plaintiff's letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.33. "PAGA Penalties" means the PAGA allocation to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$1,875.00) and the 75% to LWDA (\$5,625.00) in settlement of PAGA.

1.34. "Participating Class Member" refers to a Class Member who does not opt out of the class.

1.35. "Plaintiff" means Sydney Houser, the named plaintiff in the Action.

1.36. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

1.37. "Preliminary Approval Order" means the Order Granting Preliminary Approval and Approval of PAGA Settlement.

1.38. "Released Class Claims" means the claims being released as described in Paragraph 6.2 below.

1.39. "Released PAGA Claims" means the claims being released as described in Paragraph 6.2 below.

1.40. "Released Parties" means: Defendant Rex Butler, Ron Butler, its present, former, or future parent companies, subsidiaries, divisions, trusts, predecessors, successors, assigns, joint venture and/or corporations; each of the foregoing's present, former or future: owners, officers, directors, shareholders, managers, members, administrators, shareholders, partners, companies, employees, insurers, successors, predecessors, and managing agents; and any and all agents, legal representatives, and/or attorneys of all of the foregoing entities or individuals.

1.41. "Representative Service Award" means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.43. "Response Deadline" means forty-five (45) days after the Administrator mails Notice to Class Members and shall be the last date on which Class Members may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the Settlement.

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

1 the Judgment.

2 1.45. "Workweek" means any week during which a Class Member worked for Defendant
3 for at least one day, during the Class Period.

4
5 **2. RECITALS.**

6 2.1. Plaintiff Houser filed the original complaint in San Diego County Superior Court on
7 October 20, 2023. Thereafter, Plaintiff filed a First Amended Complaint ("FAC") on December
8 15, 2023 alleging eight causes of action: 1. Violation of Unfair Competition Law; 2. Failure to
9 Provide Meal Breaks; 3. Failure to Provide Rest Breaks; 4. Work Expense Reimbursement
10 Violations; 5. Violation of Labor Code §§ 351 and 353; 6. Waiting Time Penalty; 7. Wage
11 Statement Penalty; 8. PAGA. The parties in the Action have engaged in initial pre-certification
12 discovery and informal pre-mediation discovery.

13 2.2 Defendant denies any liability or wrongdoing of any kind associated with the claims
14 alleged in the Action, and further denies that the Action is appropriate for class treatment for any
15 purpose other than pursuant to this settlement. Defendant contends that it has complied at all times
16 with the California Labor Code. It is Defendant's position that, if this case were to be litigated,
17 class certification would be inappropriate because, among other things, Plaintiff is not an adequate
18 class representative, the Plaintiff's claims are not typical of putative class members, and individual
19 issues predominate over class issues.

20 2.3. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written
21 notice to Defendant and the LWDA by sending the PAGA Notice.

22 2.4 On May 8, 2024, the Parties participated in an all-day mediation presided over by
23 Jeff Fuchsman, Esq., which led to this Agreement to settle the Action.

24 2.5. Prior to mediation, Plaintiff obtained, through informal discovery, Defendant's
25 policies and procedures, a sampling of time and pay records of putative class members, and the
26 total workweeks and class members during the relevant time period. Plaintiff's investigation was
27 sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*
28 (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th
116, 129-130 ("*Dunk/Kullar*").

2.6. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

2.7. The Parties agree that the Action, the negotiation and execution of this Settlement Agreement, and all acts performed or documents executed pursuant to or in furtherance of the Settlement Agreement (i) shall not be used as an admission or evidence of wrongdoing by Released Parties; (ii) shall not be an admission or evidence of fault by Released Parties in any action before a civil, criminal, or administrative agency; and (iii) shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of these or similar claims for class certification in the Action or with respect to any other proceeding.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 10 below, Defendant promises to pay \$172,000.00 and no more as the Gross Settlement Amount, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) before the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

3.2.1. To Plaintiff/Class Representative: Representative Service Award to the Class Representative of not more than \$5,000.00 (in addition to any Individual Class Payment, and any Individual PAGA Payment, the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Representative Service Award that does not exceed this amount. As part of the motion for Class Counsel's Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Representative Service Awards no later than sixteen (16) court days before the Final

1 Approval Hearing. If the Court approves a Representative Service Awards less than
2 the amount requested, the Administrator will retain the remainder in the Net
3 Settlement Amount. The Administrator will pay the Representative Service Awards
4 using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee
5 taxes owed on the Representative Service Awards. In exchange for the
6 Representative Service Awards, the Class Representative will execute a complete
7 and full release in favor of Defendant, as described in detail below.

8 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than
9 35%, which is currently estimated to be \$60,200 and a Class Counsel Litigation
10 Expenses Payment of not more than \$10,000.00. Defendant will not oppose requests
11 for these payments provided that do not exceed these amounts. Plaintiff and/or Class
12 Counsel will file a motion for Class Counsel Fees Payment and Class Litigation
13 Expenses Payment no later than 16 court days before the Final Approval Hearing. If
14 the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation
15 Expenses Payment less than the amounts requested, the Administrator will allocate
16 the remainder to the Net Settlement Amount. Released Parties shall have no liability
17 to Class Counsel or any other Plaintiff's Counsel arising from any claim to any
18 portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses
19 Payment. The Administrator will pay the Class Counsel Fees Payment and Class
20 Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel
21 assumes full responsibility and liability for taxes owed on the Class Counsel Fees
22 Payment and the Class Counsel Litigation Expenses Payment and holds Defendant
23 harmless, and indemnifies Defendant, from any dispute or controversy regarding
any division or sharing of any of these Payments.

24 3.2.3. To the Administrator: An Administrator Expenses Payment not to
25 exceed \$6,950.00 except for a showing of good cause and as approved by the Court.
26 To the extent the Administration Expenses are less or the Court approves payment
27 less than \$6,950.00, the Administrator will retain the remainder in the Net
28 Settlement Amount.

1 3.2.4. To Each Participating Class Member: Estimated proportionate share of
2 the Net Settlement Amount shall be determined by the Settlement Administrator
3 pursuant to the following formula: To determine the Gross Individual Settlement
4 Payment for each Participating Settlement Class Members, the Settlement
5 Administrator will:

- 6 a) The Settlement Administrator shall calculate the total aggregate
7 number of weeks that all Class Members were employed by, and worked for,
8 Defendants as non-exempt hourly individuals employed in California at any
9 time during the Class Period, excluding weeks when the Class Members did
10 not work or were on leave for the entire week ("Total Workweeks").
- 11 b) The value of each individual Qualifying Workweek shall then be
12 determined by dividing the Net Settlement Amount by the Total
13 Workweeks, resulting in the "Workweek Value." Each Individual
14 Settlement Share shall then be determined by multiplying the individual
15 Participating Class Member's number of Qualifying Workweeks by the
16 Workweek Value.
- 17 c) For taxation purposes, the Gross Individual Settlement Payment to each Participating
18 Settlement Class Member shall be allocated as follows: Eighty Percent (80%) shall be
19 attributed to penalties and interest and payable on an IRS form 1099 and Twenty
20 Percent (20%) shall be attributed to wages ("Wage Component"), to be reported on a
21 W-2 form.
- 22 d) The Settlement Administrator shall determine the eligibility for, and the amounts of, any
23 Individual Settlement Payments under the terms of this Settlement Agreement.
- 24 e) The Gross Individual Settlement Payments will be reduced by any required legal
25 deductions for each Participating Settlement Class Member. Standard employer and
26 employee payroll deductions will be made for state and federal withholding taxes and
27 any other applicable payroll deductions owed by the Participating Class Members as a
28 result of the Wage Component. The Settlement Administrator will issue a check and
29 W-2 Form to each Participating Settlement Class Member for the Wage Component.

f) The Parties stipulate to a) provisional class certification for purposes of settling the Action only; and b) stipulate to stay the action pending approval. The Parties agree that class certification will be revoked if the Court denies preliminary or final approval of the settlement, or if the settlement does not become final for any other reason. The Parties shall cooperate in good faith to secure a court order staying the Action and all deadlines, pending implementation of the settlement. If the settlement is declared null and void by Defendant pursuant to Paragraph 10, or if the Court denies preliminary or final approval of the settlement, the Parties will resume litigation.

3.2.4.1. Tax Allocation of Individual Class Payments. For tax purposes, settlement payments to Class Members shall be allocated (a) 80 percent as penalties and interest and (b) 20 percent as wages. Class Members shall be issued an IRS Form W-2 for amounts paid under this settlement deemed wages, and an IRS Form 1099 for the amounts allocated to penalties and interest. Settlement payments to PAGA Representative Action Members shall be allocated 100 percent as penalties, and PAGA Representative Action Members shall be issued an IRS Form 1099 and be responsible for payment of any and all taxes that are due as a result of their PAGA penalty settlement payments. Any representative service award approved by the Court will result in the issuance of an IRS Form 1099 to Plaintiff, who shall assume full responsibility and liability for the payment of taxes due on such award.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments (i.e., those that have requested exclusion). Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$7,500.00 to be paid from the Gross Settlement Amount, with 75% (\$5,625.00) allocated to the LWDA and 25% (\$1,875.00) allocated to the Individual PAGA Payments.

3.2.5.1. PAGA Representative Action Members estimated proportionate share of the PAGA Settlement Amount shall be determined by the Settlement Administrator pursuant to the following formula:

3.2.5.1.1. Individual PAGA Aggrieved Employees who worked as current and former non-exempt hourly individuals employed by Defendant at any time from October 20, 2022 until May 31, 2024;

3.2.5.1.2. To calculate each Aggrieved Employee's proportionate share: The Settlement Administrator shall calculate the total aggregate number of Pay Periods that all PAGA Individuals were employed by, and worked for, Defendant as non-exempt hourly individuals employed in California at any time during the PAGA Period. The value of each individual Pay Period shall then be determined by dividing the PAGA Payment Amount of \$1,875.00 by the Total pay periods resulting in the "Pay Period Value." Each Individual PAGA Share shall then be determined by multiplying the Individual PAGA Member's number of Pay Periods by the Pay Period Value.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Based on a review of its records as of May 31, 2024, Defendant estimates there are 256 Class Members and 11,212 workweeks. Defendant estimates there are 131 PAGA Aggrieved Employees who worked a total of 2,285 PAGA Pay Periods.

4.2. Class Data. Not later than fifteen (15) days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Upon the Court entering an order granting Final

1 Approval of the settlement, Defendant shall fund the Gross Settlement Amount, and also fund the
2 amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the
3 Administrator, as follows:

4 (a) Within 60 days of the Court entering an order granting final approval or March
5 1, 2025, whichever occurs later, Defendant shall deposit \$172,000.00 with the
6 Administrator in an interest-bearing escrow account.

7 **5. DISTRIBUTION OF SETTLEMENT FUNDS.**

8 5.1. Payments from the Gross Settlement Amount. Within fourteen (14) days after
9 Defendant funds the total Gross Settlement Amount, the Administrator will mail checks for all
10 Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the
11 Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation
12 Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class
13 Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class
14 Representative Service Payment shall not precede disbursement of Individual Class Payments and
15 Individual PAGA Payments.

16 5.1.1. The Administrator will issue checks for the Individual Class Payments
17 and/or Individual PAGA Payments and send them to the Class Members via First
18 Class U.S. Mail, postage prepaid. The face of each check shall prominently state
19 the date (180 days after the date of mailing) when the check will be
20 voided. The Administrator will cancel all checks not cashed by the void date. The
21 Administrator will send checks for Individual Settlement Payments to all
22 Participating Class Members (including those for whom Class Notice was
23 returned undelivered). The Administrator will send checks for Individual PAGA
24 Payments to all Aggrieved Employees including Non-Participating Class
25 Members who qualify as Aggrieved Employees (including those for whom Class
26 Notice was returned undelivered). The Administrator may send Participating
27 Class Members a single check combining the Individual Class Payment and the
28 Individual PAGA Payment. Before mailing any checks, the Settlement
Administrator must update the recipients' mailing addresses using the National
Change of Address Database.

5.1.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member before the void date.

5.1.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" under Code of Civil Procedure Section 384, subd. (b). The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the California Controller's Unclaimed Property Fund.

5.1.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits, compensation or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement, nor, for current employees, shall such payments be included for any overtime, compensation or benefit purposes.

6. RELEASE OF CLAIMS.

Effective the earlier of the date when Court enters Judgment, or on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Participating Class Members, and Class Counsel will release claims against all Released Parties as follows:

6.1 Plaintiff's Release. As part of the consideration for the settlement of Plaintiff's representative service award, Plaintiff individually general releases of all known and unknown claims of any type whatsoever that they may have against the Released

Parties. This release is entitled “Individual General Release,” (“Releases”). This Release is incorporated by reference and attached as Exhibit 2. This Release will include, but will not be limited to, a release of all claims under the Fair Employment and Housing Act, Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964, and all claims for wage and hour violations or compensation. This will also include a release of any and all claims, known or unknown, contingent or accrued arising out of any act or event that occurred before execution of the release, including a California Civil Code section 1542 waiver.

6.1.1 Plaintiff’s Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiff’s Release, the named Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the Civil Code, which reads:

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

6.1.2 Plaintiff expressly acknowledges that the Release will include in their effect, without limitation, all claims which Plaintiff does not know of or suspect to exist at the time of signing this Agreement, and that this Agreement contemplates the release of any such claims.

6.2 Release by Class Members:

Each Class Member who does not opt out of the settlement shall be deemed to release the Released Parties from any and all claims, known or unknown, that: were asserted in any and/or all of the complaints in the Action and/or any of Plaintiff’s letters to the LWDA (including any subsequently amended complaints or letters); and/or any and all claims, that could have been asserted based on the factual allegations in all of the complaints in the Action and/or any of Plaintiff’s letters to the LWDA (including any subsequently amended complaints or letters). This includes but is not limited to claims for or related to: pay for all hours worked/compensation due for services; calculation of the regular rate of pay; meal periods; rest periods; meal and/or rest period premiums pay, including the calculation of premium pay; wage statements; failure to reimburse for work related out-of-pocket expenses, payment of wages at termination; maintain accurate and complete records; unfair competition related to any or all of the foregoing; any unpaid

wages or compensation related to any or all of the foregoing; restitution related to any or all of the foregoing; and any penalties, including statutory or civil penalties, related to any or all of the foregoing. This release includes, but is not limited to, any and all claims pursuant to: California Labor Code §§ 200, 201, 202, 203, 204, 218, 226, 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, and 2802, and 2698, et seq.; Business & Professions Code § 17200; and Industrial Welfare Commission Wage Order 5-01. The release shall run through May 31, 2024.

6.3. Release by PAGA Representative Action Members:

Each PAGA Representative Action Member, irrespective of whether he or she opts out of the settlement as a Non-Participating Class Member, shall be deemed to release the Released Parties from any and all claims, known or unknown, for civil penalties under Labor Code section 2698 et seq. (PAGA) that: were asserted in any and/or all of the complaints in the Action and/or any of Plaintiffs' letter to the LWDA (including any subsequently amended complaints or letters); and/or any and all claims, that could have been asserted based on any or all the factual allegations in any and/or all of the complaints in the Action and/or any of Plaintiff's letters to the LWDA (including any subsequently amended complaints or letters). This release includes, but is not limited to, claims for, or related to, PAGA civil penalties premised on: Labor Code §§ 200, 201, 202, 203, 204, 218, 226, 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, 2698, 2699, and 2802; failure to pay overtime; failure to pay for all hours worked/compensation due for services; calculation of the regular rate of pay, including failure to include all remuneration into the regular rate for overtime, rest period premiums and meal period premiums; failure to provide meal periods and rest periods; failure to pay meal period and rest period premiums, including the calculation of the premium pay; failure to reimburse for work related out-of-pocket expenses, failure to provide accurate itemized wage statements; inaccurate wage statements; and failure to timely pay wages at termination; The release shall run through May 31, 2024

7. MOTION FOR PRELIMINARY APPROVAL. Plaintiff will prepare and file a motion for preliminary approval ("Motion for Preliminary Approval").

7.1 Plaintiff's Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including a draft of the notice to be sent to the class.

7.2 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible

1 for expeditiously finalizing this agreement; and for appearing in Court to advocate in favor of the
2 Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's
3 Preliminary Approval to the Administrator.

4 **8. SETTLEMENT ADMINISTRATION.**

5 8.1. Selection of Administrator. The Parties have jointly selected ILYM to serve as the
6 Administrator and verified that, as a condition of appointment, ILYM agrees to be bound by this
7 Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for
8 payment of Administration Expenses. The Parties and their Counsel represent that they have no
9 interest or relationship, financial or otherwise, with the Administrator other than a professional
10 relationship arising out of previous experiences administering settlements.

11 8.2. Employer Identification Number. The Administrator shall have and use its own
12 Employer Identification Number for purposes of calculating payroll tax withholdings and providing
13 reports to state and federal tax authorities.

14 8.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that
15 meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation
16 section 468B-1.

17 8.4. Notice to Class Members.

18 8.4.1 No later than three (3) business days after receipt of the Class Data, the
19 Administrator shall notify Class Counsel that the list has been received and state
20 the number of Class Members, PAGA Members, earnings and Pay Periods in
21 the Class Data.

22 8.4.2. Using best efforts to perform as soon as possible, and in no event later than
23 fourteen (14) days after receiving the Class Data, the Administrator will send to all
24 Class Members identified in the Class Data, via first-class United States Postal
25 Service ("USPS") mail, the Class Notice, substantially in the form attached to this
26 Agreement as **Exhibit 1**. The first page of the Class Notice shall prominently
27 estimate the dollar amounts of any Individual Class Payment and/or Individual
28 PAGA Payment payable to the Class Member, and the total earnings during the
class period and PAGA Pay Periods (if applicable) used to calculate these amounts.
Before mailing Class Notices, the Administrator shall update Class Member

addresses using the National Change of Address database.

8.4.3. Not later than three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

8.4.4. The deadlines for Class Members' written objections, Challenges to total earnings and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the forty-five (45) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

8.4.5 If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

8.5 Requests for Exclusion (Opt-Outs).

8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by mail, a signed written Request for Exclusion not later than forty-five (45) days after the Administrator mails the Class Notice. A Request for Exclusion is a letter from a Class Member

1 or his/her representative that reasonably communicates the Class Member's
2 election to be excluded from the Settlement and includes the Class Member's
3 name, address and email address or telephone number. To be valid, a Request for
4 Exclusion must be timely received by the Response Deadline.

5 8.5.2 The Administrator may not reject a Request for Exclusion as invalid because
6 it fails to contain all the information specified in the Class Notice. The
7 Administrator shall accept any Request for Exclusion as valid if the Administrator
8 can reasonably ascertain the identity of the person as a Class Member and the
9 Class Member's desire to be excluded. The Administrator's determination shall
10 be final and not appealable or otherwise susceptible to challenge. If the
11 Administrator has reason to question the authenticity of a Request for Exclusion,
12 the Administrator may demand additional proof of the Class Member's identity.
13 The Administrator's determination of authenticity shall be final and not
14 appealable or otherwise susceptible to challenge.

15 8.5.3 Every Class Member who does not submit a timely and valid Request for
16 Exclusion is deemed to be a Participating Class Member under this Agreement,
17 entitled to all benefits and bound by all terms and conditions of the Settlement,
18 including the Participating Class Members' Releases under Paragraphs 6.2 and
19 6.3 of this Agreement, regardless of whether the Participating Class Member
20 actually receives the Class Notice or objects to the Settlement.

21 8.5.4 Every Class Member who submits a valid and timely Request for Exclusion
22 is a Non-Participating Class Member, and shall not receive an Individual Class
23 Payment or have the right to object to the class action components of the
24 Settlement. Because future PAGA claims are subject to claim preclusion upon
25 entry of Judgment, Non-Participating Class Members who are Aggrieved

26 Employees are deemed to release the claims identified in Paragraph 6.3 of this
27 Agreement and are eligible for an Individual PAGA Payment.

28 8.6 Challenges to Calculation of Earnings. Each Class Member shall have forty-five (45)
days after the Administrator mails the Class Notice to challenge the amount and number of the total
earnings and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The

Class Member may challenge the allocation by communicating in writing with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the earnings contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of earnings and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of earnings and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

8.7 Objections to Settlement.

8.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

8.7.2 Participating Class Members may send written objections to the Administrator by mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than forty-five (45) days after the Administrator's mailing of the Class Notice.

8.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

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

8.8.1 Toll-Free Number. The Administrator will also maintain a toll-free telephone number to receive Class Member calls.

8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their

1 validity. Not later than five (5) days after the expiration of the deadline for
2 submitting Requests for Exclusion, the Administrator shall email a list to Class
3 Counsel and Defense Counsel containing (a) the names and other identifying
4 information of Class Members who have timely submitted valid Requests for
5 Exclusion ("Exclusion List"); (b) the names and other identifying information of
6 Class Members who have submitted invalid Requests for Exclusion; (c) copies of
7 all Requests for Exclusion from Settlement submitted (whether valid or invalid).

8 8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide
9 written reports to Class Counsel and Defense Counsel that, among other things,
10 tally the number of: Class Notices mailed or re-mailed, Class Notices returned
11 undelivered, Requests for Exclusion (whether valid or invalid) received,
12 objections received, challenges to earnings and/or Pay Periods received and/or
13 resolved, and checks mailed for Individual Class Payments and Individual PAGA
14 Payments ("Weekly Report"). The Weekly Reports must provide the
15 Administrator's assessment of the validity of Requests for Exclusion and attach
16 copies of all Requests for Exclusion and objections received.

17 8.8.4 Earnings Challenges. The Administrator has the authority to address and
18 make final decisions consistent with the terms of this Agreement on all Class
19 Member challenges over the calculation of total earnings. The Administrator's
20 decision shall be final and not appealable or otherwise susceptible to challenge.

21 8.8.5 Administrator's Declaration. Not later than ten (10) days before the date by
22 which Plaintiffs are required to file the Motion for Final Approval of the Settlement,
23 the Administrator will provide to Class Counsel and Defense Counsel, a signed
24 declaration suitable for filing in Court attesting to its due diligence and compliance
25 with all of its obligations under this Agreement, including, but not limited to, its
26 mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of
27 Class Notices, attempts to locate Class Members, the total number of Requests for
28 Exclusion from Settlement it received (both valid or invalid), the number of written
objections and attach the Exclusion List. The
Administrator will supplement its declaration as needed or requested by the Parties

and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

8.8.6 Final Report by Settlement Administrator. Within ten (10) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

9. CLASS SIZE ESTIMATES

Based on its records, Defendant estimates that, as of May 31, 2024, (1) there are 256 Class Members who worked a total of 11,212 workweeks and (2) there are 131 PAGA Representative Action Members who worked a total of 2,285 Pay Periods during the PAGA Period current as of May 31, 2024.

10. DEFENDANT'S RIGHT TO WITHDRAW.

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds five percent (5%) of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

11. MOTION FOR FINAL APPROVAL.

Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of the Proposed Judgment to Defense Counsel before filing the Motion for

1 Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person
2 or by telephone, and in good faith, to resolve any disagreements concerning the Proposed Order
3 and Judgment.

4 11.1 Response to Objections. Each Party retains the right to respond to any objection raised
5 by a Participating Class Member, including the right to file responsive documents in Court no later
6 than five (5) court days before the Final Approval Hearing, or as otherwise ordered or accepted by
7 the Court.

8 11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
9 Approval on any material change to the Settlement (including, but not limited to, the scope of
10 release to be granted by Class Members), the Parties will expeditiously work together in good faith
11 to address the Court's concerns and negotiate revisions to the Agreement as necessary to obtain
12 Final Approval. The Court's decision to award less than the amounts requested for the
13 Representative Service Awards, Class Counsel Fees Payment, Class Counsel Litigation Expenses
14 Payment and/or Administrator Expenses Payment shall not constitute a material modification to the
15 Agreement within the meaning of this paragraph.

16 11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment,
17 the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
18 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,
19 and (iii) addressing such post-Judgment matters as are permitted by law.

20 11.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms
21 and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
22 Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
23 respective counsel, and all Participating Class Members who did not object to the Settlement as
24 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
25 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for
26 new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the
27 right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties'
28 obligations to perform under this Agreement will be suspended until such time as the appeal is
finally resolved and the Judgment becomes final, except as to matters that do not affect the amount
of the Net Settlement Amount.

11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

12. ADDITIONAL PROVISIONS.

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the FAC have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

1 12.3 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
2 together with its attached exhibits shall constitute the entire agreement between the Parties relating
3 to the Settlement, superseding any and all oral representations, warranties, covenants, or
4 inducements made to or by any Party.

5 12.4 Attorney Authorization. Class Counsel and Defense Counsel separately warrant
6 and represent that they are authorized by Plaintiff and Defendant, respectively, to take all
7 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to
8 effectuate its terms, and to execute any other documents reasonably required to effectuate the terms
9 of this Agreement including any amendments to this Agreement.

10 12.5 Cooperation. The Parties and their counsel will cooperate with each other and use
11 their best efforts, in good faith, to implement the Settlement by, among other things, modifying the
12 Settlement Agreement, submitting supplemental evidence and supplementing points and authorities
13 if requested by the Court. In the event the Parties are unable to agree upon the form or content of
14 any document necessary to implement the Settlement, or on any modification of the Agreement
15 that may become necessary to implement the Settlement, the Parties will seek the assistance of a
16 mediator and/or the Court for resolution.

17 12.6 No Previous Assignments. The Parties separately represent and warrant that they have
18 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
19 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
20 action, or right released and discharged by the Party in this Settlement.

21 12.7 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are
22 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
23 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part
24 10, as amended) or otherwise. The Parties acknowledge and agree that (i) no provision of this
25 Agreement, and no written communication or disclosure between or among the Parties or their
26 attorneys and other advisers, is or was intended to be, nor shall any such communication or
27 disclosure constitute or be construed or be relied upon as, tax advice within the meaning of the
28 United States Treasury Department circular 230 (31 C.F.R. part 10, as amended); (ii) the
acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal and tax
counsel for advice (including tax advice) in connection with this Stipulation of Settlement, (b) has

1 not entered into this Agreement based upon the recommendation of any other party or any attorney
2 to any other party, and (c) is not entitled to rely upon any communication or disclosure by any
3 attorney or adviser to any other party to avoid any tax penalty that may be imposed on the
4 acknowledging part, and (iii) no attorney or adviser to any other party has imposed any limitation
5 that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of
6 whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax
7 treatment or structure of any transaction, including any transaction contemplated by this
8 Agreement.

9 12.8 Modification of Agreement. This Agreement, and all parts of it, may be amended,
10 modified, changed, or waived only by an express written instrument signed by all Parties or their
11 representatives, and approved by the Court.

12 12.9 Agreement Binding on Successors. This Agreement will be binding upon, and inure to
13 the benefit of, the successors of each of the Parties.

14 12.10 Applicable Law. All terms and conditions of this Agreement and its exhibits will
15 be governed by and interpreted according to the internal laws of the state of California, without
16 regard to conflict of law principles.

17 12.11 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation
18 of this Agreement. This Agreement will not be construed against any Party on the basis that the
19 Party was the drafter or participated in the drafting.

20 12.12 Confidentiality. To the extent permitted by law, all agreements made, and orders
21 entered during Action and in this Agreement relating to the confidentiality of
22 information shall survive the execution of this Agreement.

23 12.13 Headings. The descriptive heading of any section or paragraph of this Agreement
24 is inserted for convenience of reference only and does not constitute a part of this Agreement.

25 12.14 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement
26 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
27 weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

28 12.15 Notice. All notices, demands or other communications between the Parties in
connection with this Agreement will be in writing and deemed to have been duly given as of the
third business day after mailing by United States mail, or the day sent by email (with read receipt)

or messenger, addressed as follows:

To Plaintiffs:

Janelle Carney, Esq.
JANELLE CARNEY – ATTORNEY AT LAW, APC
14758 Pipeline Ave., Suite E
Chino Hills, CA 91709
Tel. (909) 521-9609
Email: Janelle@JanelleCarneyLaw.com

Manny Starr, Esq.
Adam Rose, Esq.
FRONTIER LAW CENTER
23901 Calabasas Road, #1084
Calabasas, CA 91302
Telephone: (818) 914-3433
Email: Manny@frontierlawcenter.com;
Adam@frontierlawcenter.com

To Defendant:

Harvey C. Berger
Berger & Williams, LLP
401 B Street, Suite 2000
San Diego, California 92101
berger@bergerwilliams.com
and to: waller@bergerwilliams.com
and to: fhvcfile@gmail.com
and to: rexbutler@mac.com
and to: rjbutlerusa@gmail.com

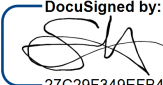
12.16 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument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

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

12.18 Parties' Authority. The signatories represent that they are fully authorized to enter

1 into and bind the Parties to the terms and conditions of this Agreement.

2
3 Executed at San Marcos, California, this 6/10/2024 day of _____, 2023.
4 (print name of city) (print name of state)

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
DocuSigned by:

27C29F349EFB411...
Signature of Employee
Sydney Houser

Executed at _____, _____, this ____ day of _____, 2023.
(print name of city) (print name of state)

Defendant The Fish House Vera Cruz

By: _____

1 into and bind the Parties to the terms and conditions of this Agreement.

2

3 Executed at _____, _____, this ____ day of _____, 2023.

4

(print name of city) (print name of state)

5

6

Signature of Employee
Sydney Houser

7

8

9

Executed at Newport Beach, CA, this 14th day of June, 2023.
(print name of city) (print name of state)

10

11

Defendant The Fish House Vera Cruz

12

13

By: [Signature]

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 Janelle Carney (201570)
2 Janelle@JanelleCarneyLaw.com
3 JANELLE CARNEY – ATTORNEY AT LAW, APC
4 14758 Pipeline Ave., Suite E
5 Chino Hills, CA 91709
6 Telephone: (909) 521-9609/ Fax: (909) 393-0471

7 Adam Rose (210880)
8 adam@frontierlawcenter.com
9 Manny Starr (319778)
10 manny@frontierlawcenter.com
11 **FRONTIER LAW CENTER**
12 23901 Calabasas Rd., #1084
13 Calabasas, CA 91302
14 Tel.: (818) 914-3433 / Fax (818) 914-3433

15 Attorneys for Plaintiff, Sydney Houser

16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

SYDNEY HOUSER, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

THE FISH HOUSE VERA CRUZ, INC., a
California Corporation; and DOES 1 to 100,

Defendants.

) CASE NO. 37-2023-00045659-CU-OE-NC

) CLASS ACTION

) Judge: Cynthia A. Freeland

) **NOTICE OF CLASS ACTION**

) **SETTLEMENT AND HEARING DATE**

) **FOR FINAL COURT APPROVAL**

) Action filed: October 20, 2023

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

3
4

5
6

7
8
9
10
11
12
13

14
15
16

17
18
19
20

21
22
23
24
25
26
27
28

1 If you believe that you worked more during the class period, you can submit a challenge by
2 the deadline date. See Section 4 of this Notice.

3 The Court has already preliminarily approved the proposed Settlement and approved this
4 Notice. The Court has not yet decided whether to grant final approval. Your legal rights are
5 affected whether you act or do not act. Read this Notice carefully. You will be deemed to have
6 carefully read and understood it. At the Final Approval Hearing, the Court will decide whether
7 to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and
8 Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment
9 that requires Defendant to make payments under the Settlement and requires Class Members and
10 Aggrieved Employees to give up their rights to assert certain claims against Defendant.

11 If you worked for Defendant during the Class Period and/or the PAGA Period, you have two
12 basic options under the Settlement:

13 (1) **Do Nothing.** You don't have to do anything to participate in the proposed
14 Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment.
15 As a Participating Class Member, though, you will give up your right to assert Class Period wage
16 and hour claims and PAGA Period penalty claims against Defendant.

17 (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class
18 Settlement (opt-out) by submitting a written Request for Exclusion or otherwise notifying the
19 Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class
20 Payment. You will, however, preserve your right to personally pursue Class Period wage claims
21 against Defendant. *You cannot opt-out of the PAGA portion of the proposed Settlement.*

22 **Defendant will not retaliate against you for any actions you take with respect to the
23 proposed Settlement.**

24 SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage and hour claims against Defendant that are covered by this Settlement (Released Claims).
---	---

You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____ (45 days)	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees, and the Aggrieved Employees must give up their rights to pursue Released PAGA Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by _____ (45 days)	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class.
You can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend, but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Total Workweeks/Pay Periods Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment is based on the total workweeks you worked during the class period and your PAGA payment is based on the total pay periods, respectively. Your total workweeks and total PAGA pay periods are based on Defendant's records, as stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.

1 **1. WHAT IS THE ACTION ABOUT?**

2 Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating
3 California labor laws by failing to pay all wages due to failing to provide compliant, off-premises
4 meal periods and rest breaks and failure to provide accurate itemized wage statements, failing to
5 reimburse for work related expenses, and waiting time penalties. Based on the same claims,
6 Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General
7 Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action:
8 Janelle Carney of Janelle Carney – Attorney at Law, APC, Manny Starr and Adam Rose of Frontier
9 Law Center. (“Class Counsel.”)

10 Defendant strongly denies violating any laws or failing to pay any wages and contend they
11 complied with all laws.

12 **2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?**

13 So far, the Court has made no determination whether Defendant or Plaintiff is correct on the
14 merits. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator in an effort
15 to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than
16 continuing the expensive and time-consuming process of litigation. The negotiations were
17 successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing
18 to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement,
19 Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final
20 Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By
21 agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

22 The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate,
23 authorized this Notice, and scheduled a hearing to determine Final Approval.

24 **3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?**

25 1. Defendant Will Pay \$172,000.00 as the Gross Settlement Amount (Gross
26 Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the
27 Administrator of the Settlement no earlier than March 1, 2025. The Administrator will use the
28 Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class
Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s

1 expenses, and penalties to be paid to the California Labor and Workforce Development Agency
2 (“LWDA”).

3 2. Funding of Gross Settlement Amount. Upon the Court entering an order granting
4 Final Approval of the settlement, Defendant shall fund the Gross Settlement Amount, and also fund
5 the amounts necessary to fully pay Defendant’s share of payroll taxes by transmitting the funds to
6 the Administrator, as follows:

- 7 (a) Within 60 days of the Court entering an order granting final approval or March 1,
8 2025, whichever occurs later, Defendant shall deposit \$172,000.00 with the
9 Administrator in an interest-bearing escrow account.

10 Within fourteen (14) days after Defendant fully funds the Gross Settlement Amount, the
11 Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments,
12 the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees
13 Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service
14 Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
15 Payment and the Class Representative Service Payment shall not precede disbursement of
16 Individual Class Payments and Individual PAGA Payments.

17 The Judgment will be final on the date the Court enters Judgment, or a later date if
18 Participating Class Members object to the proposed Settlement or the Judgment is appealed.

19 2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing,
20 Plaintiff and/or Class Counsel will ask the Court to approve the following deductions
21 from the Gross Settlement, the amounts of which will be decided by the Court at the
22 Final Approval Hearing:

- 23 A. Up to \$60,200 (35% of the Gross Settlement] to Class
24 Counsel for attorneys’ fees and up to \$10,000.00 for their litigation
25 expenses. To date, Class Counsel have worked and incurred expenses on
26 the Action without payment.
27 B. Class Representative Award of up to \$5,000.00 to the Class
28 Representative for filing the Action, working with Class Counsel, and
representing the Class (in addition to any Individual Class Payment, and

any Individual PAGA Payment, the Class Representative is entitled to receive as a Participating Class Member).

C. Up to \$6,950.00 to the Administrator for services administering the Settlement.

D. Up to \$7,500.00 for PAGA Penalties, allocated 75% (\$5,625.00) to the LWDA PAGA Payment and 25% (\$1,875.00) in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods. Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After deducting the amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement ("Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period total workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to [e.g., interest, and penalties] ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms.

Defendant will separately pay employer payroll taxes it owes on the Wage Portion outside the gross settlement fund. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms. It will be your responsibility to pay any tax owing on these amounts.

Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check

1 expires (the void date). If you don't cash it by the void date, your check will be automatically
2 cancelled, and the monies will be deposited with the California Controller's Unclaimed Property
3 Fund in your name. If the monies represented by your check are sent to the Controller's Unclaimed
4 Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

5 6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as
6 a Participating Class Member, participating fully in the Class Settlement, unless you notify
7 the Administrator in writing, not later than _____, that you wish to opt-out. The easiest
8 way to notify the Administrator is to send a written and signed Request for Exclusion by the
9 _____ Response Deadline. The Request for Exclusion should be a letter from a Class
10 Member or his/her representative setting forth a Class Member's name, present address, telephone
11 number, and a simple statement electing to be excluded from the Settlement. Excluded Class
12 Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but
13 will preserve their rights to personally pursue wage and hour claims against Defendant.

14 You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude
15 themselves from the Class Settlement (Non-Participating Class Members) remain eligible for
16 Individual PAGA Payments and are required to give up their right to assert PAGA claims against
17 Defendant based on the PAGA Period facts alleged in the Action.

18 7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is
19 possible the Court will decline to grant Final Approval of the Settlement or decline to enter a
20 Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff
21 and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay
22 any money and Class Members will not release any claims against Defendant.

23 8. Administrator. The Court has appointed a neutral company, ILYM Group, Inc. (the
24 "Administrator") to send this Notice, calculate and make payments, and process Class Members'
25 Requests for Exclusion. The Administrator will also decide Class Member Challenges over total
26 workweeks, mail and remail settlement checks and tax forms, and perform other tasks necessary to
27 administer the Settlement. The Administrator's contact information is contained in Section 9 of this
28 Notice.

1 9. Participating Class Members' Release. After the Judgment is final and Defendant
2 has fully funded the Gross Settlement and separately paid all employer payroll taxes,
3 Participating Class Members will be legally barred from asserting any of the claims released under
4 the Settlement. This means that unless you opted out by validly excluding yourself from the Class
5 Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against The Fish House
6 Vera Cruz, Inc., or related entities for wages and penalties based on the Class Period facts and
7 PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this
8 Settlement.

9 Participating Class Members will be bound by the following release which includes all the
10 released parties as stated in the settlement agreement on file with the court including but not limited
11 to Defendant, and their subsidiaries, facilities, parents and attorneys, and agents, and each of their
12 past, present and future officers, directors shareholders, managers, general partners, employees,
13 agents, principals, owners, founders, heirs, representatives, accountants, auditors, consultants,
14 attorneys, and insurers.:

15 Each Class Member who does not opt out of the settlement shall be deemed to
16 release the Released Parties from any and all claims, known or unknown, that: were
17 asserted in any and/or all of the complaints in the Action and/or any of Plaintiff's
18 letters to the LWDA (including any subsequently amended complaints or letters);
19 and/or any and all claims, that could have been asserted based on the factual
20 allegations in all of the complaints in the Action and/or any of Plaintiff's letters to
21 the LWDA (including any subsequently amended complaints or letters). This
22 includes but is not limited to claims for or related to: pay for all hours
23 worked/compensation due for services; calculation of the regular rate of pay; meal
24 periods; rest periods; meal and/or rest period premiums pay, including the
25 calculation of premium pay; wage statements; failure to reimburse for work related
26 out-of-pocket expenses, payment of wages at termination; maintain accurate and
complete records; unfair competition related to any or all of the foregoing; any
unpaid wages or compensation related to any or all of the foregoing; restitution
related to any or all of the foregoing; and any penalties, including statutory or civil
penalties, related to any or all of the foregoing. This release includes, but is not
limited to, any and all claims pursuant to: California Labor Code §§ 200, 201, 202,
203, 204, 218, 226, 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, and
2802, and 2698, et seq.; Business & Professions Code § 17200; and Industrial
Welfare Commission Wage Order 5-01. The release shall run through May 31,
2024.

27 10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and
28 Defendant has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all

1 Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or
2 not they exclude themselves from the Settlement. This means that all Aggrieved Employees,
3 including those who are Participating Class Members and those who opt-out of the Class
4 Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against The Fish
5 House Vera Cruz, Inc., or their related entities based on the PAGA Period facts alleged in the
6 Action and resolved by this Settlement.

7 The Aggrieved Employees' Releases for Participating and Non-Participating Class
8 Members are as follows:

9 Each PAGA Representative Action Member, irrespective of whether he or she opts
10 out of the settlement as a Non-Participating Class Member, shall be deemed to
11 release the Released Parties from any and all claims, known or unknown, for civil
12 penalties under Labor Code section 2698 et seq. (PAGA) that: were asserted in any
13 and/or all of the complaints in the Action and/or any of Plaintiffs' letter to the
14 LWDA (including any subsequently amended complaints or letters); and/or any and
15 all claims, that could have been asserted based on any or all the factual allegations in
16 any and/or all of the complaints in the Action and/or any of Plaintiff's letters to the
17 LWDA (including any subsequently amended complaints or letters). This release
18 includes, but is not limited to, claims for, or related to, PAGA civil penalties
19 premised on: Labor Code §§ 200, 201, 202, 203, 204, 218, 226, 226.7, 510, 512,
20 558, 1194, 1194.2, 1197, 1197.1, 1198, 2698, 2699, and 2802; failure to pay
21 overtime; failure to pay for all hours worked/compensation due for services;
22 calculation of the regular rate of pay, including failure to include all remuneration
23 into the regular rate for overtime, rest period premiums and meal period premiums;
24 failure to provide meal periods and rest periods; failure to pay meal period and rest
25 period premiums, including the calculation of the premium pay; failure to reimburse
26 for work related out-of-pocket expenses, failure to provide accurate itemized wage
27 statements; inaccurate wage statements; and failure to timely pay wages at
28 termination; The release shall run through May 31, 2024.

21 **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

22 A. The estimated proportionate share of the Net Settlement Amount shall be
23 determined by the Settlement Administrator pursuant to the following formula:

- 24 1. To determine the Gross Individual Settlement Payment for each Participating
25 Settlement Class Members, the Settlement Administrator:
- 26 a) Shall calculate the total aggregate number of weeks that all
27 Class Members were employed by, and worked for, Defendant as non-
28 exempt hourly individuals employed in California at any time during the

1 Class Period, excluding weeks when the Class Members did not work or were
2 on leave for the entire week (“Total Workweeks”).

- 3 b) The value of each individual Qualifying Workweek shall then be
4 determined by dividing the Net Settlement Amount by the Total
5 Workweeks, resulting in the “Workweek Value.” Each Individual
6 Settlement Share shall then be determined by multiplying the individual
7 Participating Class Member’s number of Qualifying Workweeks by the
8 Workweek Value.
- 9 c) The Gross Individual Settlement Payments will be reduced by any required
10 legal deductions for each Participating Settlement Class Member. Standard
11 employer and employee payroll deductions will be made for state and federal
12 withholding taxes and any other applicable payroll deductions owed by the
13 Participating Class Members as a result of the Wage Component. The
14 Settlement Administrator will issue a check and W-2 Form to each
15 Participating Settlement Class Member for the Wage Component, as stated
16 above.

17 2. PAGA Representative Action Members estimated proportionate share of the
18 PAGA Settlement Amount shall be determined by the Settlement Administrator pursuant to the
19 following formula:

- 20 i. Individual PAGA Aggrieved Employees who worked as current and former
21 non-exempt hourly individuals employed by Defendant at any time from
22 October 20, 2022 until May 31, 2024;
- 23 ii. To calculate each Aggrieved Employee’s proportionate share: The
24 Settlement Administrator shall calculate the total aggregate number of Pay
25 Periods that all PAGA Individuals were employed by, and worked for,
26 Defendant as non-exempt hourly individuals employed in California at any
27 time during the PAGA Period. The value of each individual Pay Period shall
28 then be determined by dividing the PAGA Payment Amount of \$1,875.00 by

1 the Total pay periods resulting in the “Pay Period Value.” Each Individual
2 PAGA Share shall then be determined by multiplying the Individual PAGA
3 Member’s number of Pay Periods by the Pay Period Value.

4 B. Total Workweek/Pay Period Challenges. The total workweeks you worked during
5 the Class Period and the number of PAGA Pay Periods you worked during the PAGA
6 Period, as recorded in Defendant’s records, are stated in the first page of this Notice. You
7 have until _____ to challenge these figures. You can submit your challenge by signing
8 and sending a letter to the Administrator via mail. (See Section 9 of this Notice for the
9 Administrator’s contact information.)

10 You need to support your challenge by sending copies of pay stubs or other records. The
11 Administrator will accept Defendant’s calculation of your total workweeks and/or Pay Periods
12 based on Defendant’s records as accurate unless you send copies of records containing contrary
13 information. You should send copies rather than originals because the documents will not be
14 returned to you. The Administrator will resolve challenges based on your submission and on input
15 from Class Counsel (who will advocate on behalf of Participating Class Members), and
16 Defendant’s Counsel. The Administrator’s decision is final. You cannot appeal or otherwise
17 challenge its final decision.

17 **5. HOW WILL I GET PAID?**

18 1. Participating Class Members. The Administrator will send, by U.S. mail, a single
19 check to every Participating Class Member (i.e., every Class Member who doesn’t opt-out)
20 including those who also qualify as Aggrieved Employees. The single check will combine the
21 Individual Class Payment and the Individual PAGA Payment. Please make sure the administrator
22 has your correct address. Payments will not be made until after March 1, 2025.

23 2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a
24 single Individual PAGA Payment check to every Aggrieved Employee who opts out of the
25 Class Settlement (i.e., every Non-Participating Class Member). Your check will be sent to the same
26 address as this Notice. If you change your address, be sure to notify the Administrator as soon as
27 possible. Section 9 of this Notice has the Administrator’s contact information.
28

1 **6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?**

2 Submit a written and signed letter with your name, present address, telephone number, and
3 a simple statement that you do not want to participate in the Settlement. The Administrator
4 will exclude you based on any writing communicating your request be excluded. Be sure to
5 personally sign your request, identify the Action as *Houser v. The Fish House Vera Cruz, Inc.*, and
6 include your identifying information (full name, address, telephone number, approximate dates of
7 employment, and social security number for verification purposes). You must make the request
8 yourself. If someone else makes the request for you, it will not be valid. **The Administrator must**
9 **be sent your request to be excluded by _____, or it will be invalid.** Section 9 of the
10 Notice has the Administrator's contact information.

11 **7. HOW DO I OBJECT TO THE SETTLEMENT?**

12 Only Participating Class Members have the right to object to the Settlement. Before
13 deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court
14 to approve. At least sixteen (16) court days before the _____ Final Approval Hearing,
15 Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes,
16 among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees,
17 Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for
18 attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class
19 Representative Service Award. Upon reasonable request, Class Counsel (whose contact
20 information is in Section 9 of this Notice) will send you copies of these documents at no cost to
21 you.

22 A Participating Class Member who disagrees with any aspect of the Agreement, the Motion
23 for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to
24 object, for example, that the proposed Settlement is unfair, or that the amounts requested
25 by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written**
26 **objections to the Administrator is _____.** Be sure to tell the Administrator what
27 you object to, why you object, and any facts that support your objection. Make sure you
28

1 identify the Action *Houser v. The Fish House Vera Cruz, Inc.*, and include your name, current
2 address, telephone number, and approximate dates of employment for Defendant and sign the
3 objection.

4 Section 9 of this Notice has the Administrator's contact information.

5 Alternatively, a Participating Class Member can object (or personally retain a lawyer to
6 object at your own cost) by attending the Final Approval Hearing. You (or your attorney)
7 should be ready to tell the Court what you object to, why you object, and any facts that support
8 your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final
9 Approval Hearing.

10 **8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

11 You can, but do not have to, attend the Final Approval Hearing on _____, 2024 at
12 _____ in Department N-27 of the San Diego Superior Court – North County, located at 325 S.
13 Melrose Dr., Vista, CA 92081-6695. At the Hearing, the judge will decide whether to grant Final
14 Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel,
15 Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and
16 Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either
17 personally, or virtually. Check the Court's website for the most current information.

18 It's possible the Court will reschedule the Final Approval Hearing. You should check the
19 Court's website at <https://roa.sdcourt.ca.gov/roa/> beforehand or contact Class Counsel to verify the
20 date and time of the Final Approval Hearing.

21 **9. HOW CAN I GET MORE INFORMATION?**

22 The Agreement sets forth everything Defendant and Plaintiff have promised to do under the
23 proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement
24 documents is to go to the court's website at <https://roa.sdcourt.ca.gov/roa/>. You can also
25 telephone or send an email to Class Counsel or the Administrator using the contact information
26 listed below. You can also make an appointment to personally review court documents in the
27 Clerk's Office at the San Diego Superior Court courthouse by calling (619) 450-7064.

28 **DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION
ABOUT THE SETTLEMENT.**

Class Counsel:

Janelle Carney, Esq.
JANELLE CARNEY – ATTORNEY AT LAW, APC
14758 Pipeline Ave., Suite E
Chino Hills, CA 91709
Tel. (909) 521-9609
Email: Janelle@JanelleCarneyLaw.com

Manny Starr, Esq.
Adam Rose, Esq.
FRONTIER LAW CENTER
23901 Calabasas Road, #1084
Calabasas, CA 91302
Telephone: (818) 914-3433
Email: Manny@frontierlawcenter.com; Adam@frontierlawcenter.com;

Settlement Administrator: ILYM Group, Inc.
Name of Company:
Email Address:
Mailing Address:
Telephone:
Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund https://www.sco.ca.gov/upd_inss.html, for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.