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UBATUBA ACAI, LLC; UBATUBA ACAI
BEVERLY GROVE, LLC; UBATUBA ACAI
BURBANK, LLC; UBATUBA ACAI
CAMARILLO, LLC; UBATUBA ACAI
EXPANSION LLC; UBATUBA ACAI
KOREATOWN, LLC; UBATUBA ACAI
MELROSE, LLC; UBATUBA ACAI MOORPARK,
LLC; UBATUBA ACAI NORTH, LLC;
UBATUBA ACAI PASADENA, LLC; UBATUBA
ACAI SANTA MONICA, LLC; UBATUBA ACAI
SHERMAN OAKS, LLC; UBATUBA ACAI
STUDIO CITY, LLC; UBATUBA ACAI
THOUSAND OAKS, LLC; UBATUBA ACAI
VALENCIA, LLC; UBATUBA ACAI VENTURA,
LLC, and UBATUBA ACAI WOODLAND HILLS,
LLC

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

KYND DANIEL, on behalf of herself and all
others similarly situated,

Plaintiff,

vs.

UBATUBA ACAI, LLC, a California limited
liability company; UBATUBA ACAI BEVERLY
GROVE, LLC, a California limited liability
company; UBATUBA ACAI BURBANK, LLC,
a California limited liability company;
UBATUBA ACAI CAMARILLO, LLC, a
California limited liability company; UBATUBA
ACAI EXPANSION LLC, a California limited
liability company; UBATUBA ACAI
KOREATOWN, LLC, a California limited
liability company; UBATUBA ACAI
MELROSE, LLC, a California limited liability
company; UBATUBA ACAI MOORPARK,
LLC, a California limited liability company;

Case No.: 23STCV29619

*Assigned for all purposes to Hon. Timothy P.
Dillon, Dept. 15*

**DECLARATION OF PETER SWAIN IN
SUPPORT OF PRELIMINARY
APPROVAL OF CLASS ACTION AND
PAGA ACTION SETTLEMENT**

Action Filed: December 4, 2023
Trial Date: None Set

UBATUBA ACAI NORTH, LLC, a California limited liability company; UBATUBA ACAI PASADENA, LLC, a California limited liability company; UBATUBA ACAI SANTA MONICA, LLC, a California limited liability company; UBATUBA ACAI SHERMAN OAKS, LLC, a California limited liability company; UBATUBA ACAI SLO, LLC, a California limited liability company; UBATUBA ACAI STUDIO CITY, LLC, a California limited liability company; UBATUBA ACAI THOUSAND OAKS, LLC, a California limited liability company; UBATUBA ACAI VALENCIA, LLC, a California limited liability company; UBATUBA ACAI VENTURA, LLC, a California limited liability company; UBATUBA ACAI WOODLAND HILLS, LLC, a California limited liability company; and DOES 1 through 100, inclusive,

Defendants.

DECLARATION OF PETER SWAIN

I, Peter Swain, declare as follows:

1. I am a member of Defendants UBATUBA ACAI, LLC; UBATUBA ACAI BEVERLY GROVE, LLC; UBATUBA ACAI BURBANK, LLC; UBATUBA ACAI CAMARILLO, LLC; UBATUBA ACAI EXPANSION LLC; UBATUBA ACAI KOREATOWN, LLC; UBATUBA ACAI MELROSE, LLC; UBATUBA ACAI MOORPARK, LLC; UBATUBA ACAI NORTH, LLC; UBATUBA ACAI PASADENA, LLC; UBATUBA ACAI SANTA MONICA, LLC; UBATUBA ACAI SHERMAN OAKS, LLC; UBATUBA ACAI STUDIO CITY, LLC; UBATUBA ACAI THOUSAND OAKS, LLC; UBATUBA ACAI VALENCIA, LLC; UBATUBA ACAI VENTURA, LLC, and UBATUBA ACAI WOODLAND HILLS, LLC. (“Defendants”) in the above-captioned matter and am authorized by Defendants to present this declaration on their behalf. Plaintiff KYND DANIEL and Defendants are referred to collectively herein as the “Parties”.

2. In my role as a member of Defendants, I am familiar with Defendants’ operations and any pending actions or proceedings in which Defendants may be involved. I have personal knowledge of the matters contained in this declaration, and if called to do so, can testify competently to the same.

3. This declaration is submitted in support of approval of the proposed Class Action and PAGA settlement (collectively “Settlement”) reached by the Parties in this case.

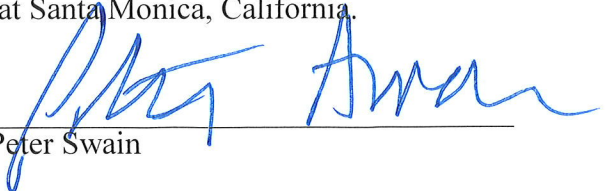
4. I am not aware of any other pending action or proceeding asserting claims that would be extinguished or adversely affected by the Settlement.

5. I understand that the Parties have selected Phoenix Class Action Solutions to act as administrator in this case. I am unaware of any facts to suggest there might be any actual or potential conflicts of interest with respect to Phoenix Class Action Solutions acting as the administrator in this case.

6. I am not aware of any other pending action or proceeding asserting claims that would be extinguished or adversely affected by the Settlement.

1 I declare under penalty of perjury under the laws of the United States and the State of
2 California that the foregoing is true and correct.

3 Executed this 24th day of April, 2026, at Santa Monica, California.

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