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and the Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

DANIEL MITCHELL, individually and on
behalf of all current and former similarly situated
employees in the State of California,

Plaintiffs,

v.

THOVAN HOSPITALITY, LLC; AGNES
RESTAURANT & CHEESRY; THOMAS
KALB, an individual; VANESSA TILAKA, an
individual; ALLAN LIAO, an individual; and
DOES 1 to 50, inclusive,

Defendants.

) CASE NO.: 30-2024-01377755-CU-OE-CXC

) ASSIGNED FOR ALL PURPOSES TO:

) Hon. Layne H. Melzer

) Dept.: CX-102

) **DECLARATION OF NATALIE**

) **MIRZAYAN, ESQ. IN SUPPORT OF**

) **MOTION FOR FINAL APPROVAL OF**

) **CLASS AND PAGA ACTION**

) **SETTLEMENT**

) Date: July 30, 2026

) Time: 2:00 p.m.

) Courtroom: CX-102

1 I, Natalie Mirzayan, declare as follows:

2 1. I am an attorney at law, duly authorized to practice law before all of the courts of the State of
3 California and I am a shareholder at Mirzayan Law, A Professional Law Corporation. I am the
4 attorney for Plaintiff DANIEL MITCHELL (“Plaintiff” or “Class Representative”) in this case. I
5 submit this Declaration on behalf of the Plaintiff in support of the Motion for Final Approval of
6 Class Action Settlement. I am familiar with the files, pleadings, and facts in this case and could
7 and would competently testify to the following facts on the basis of my personal knowledge.

8 **The Settlement Agreement Contains The Following Material Terms:**

9 2. Plaintiff and defendants THOVAN HOSPITALITY, LLC; AGNES RESTAURANT &
10 CHEESRY; THOMAS KALB; VANESSA TILAKA; and ALLAN LIAO (“Defendants”)
11 (Defendants and Plaintiff are collectively referred to as the “Parties”) entered into a settlement
12 agreement to resolve the action in its entirety. Payors, Thovan Hospitality, LLC dba Agens
13 Restaurant and Cheesery, Vanessa Tilaka and Thomas Kalb (“Payors”) will fully fund the non-
14 revisionary Gross Settlement Amount of Two hundred forty-five thousand three hundred forty-two
15 dollars and fifty-nine cents (\$245,342.59) in two (2) equal installments, with the first installment
16 occurring 30 days from final approval or the appeals deadline on final approval, if there are any
17 objections, the second installment occurring 6 months after the first installment payment. Payors,
18 will separately pay for any required employer payroll taxes and unemployment insurance obligations.
19 The Gross Settlement will resolve all claims, and costs relating to the Settlement. (1) 40%, which is
20 currently estimated to be \$98,137.00, of the Gross Settlement Fund will be allocated towards the
21 payment of the Class Counsel Fees as awarded by the Court; (2) Class Representative Service
22 Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class
23 Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a
24 Participating Class Member); (3) An Administrator Expenses Payment not to exceed \$8,500; (4)
25 \$20,000.00 as payment of PAGA penalties, of which 75% or \$15,000.00 will be paid to the Labor
26 and Workforce Development Agency (“LWDA”) of the State of California; the amount of
27 \$18,715.00 in Litigation Costs reasonably incurred by Plaintiff’s counsel pursuing this action; and
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(6) the Net Settlement Amount, including Net Settlement Payments and Individual PAGA Payments to Participating Class Members. True and correct copies of the Class Action and PAGA Settlement Agreement (“Agreement”) inclusive of Addendums are attached hereto as **Exhibit “1”**.

3. On November 19, 2025, this Court granted preliminary approval of the proposed settlement. A true and correct copy of the Order is attached hereto as **Exhibit “2”**.

4. On February 6, 2024, Plaintiff sent notice to Defendants and the State of California LWDA of his intent to pursue a PAGA claim, premised on the following theories (1) Failure to Pay Minimum and Overtime Wages; (2) Unlawful Taking of Employee Tips and/or Gratuities; (3) Failure to Provide Meal Periods; (4) Failure to Provide Rest Breaks; (5) Failure to Provide Paid Sick Leave; (6) Failure to Provide Requisite Wage Notice Pursuant to Labor Code section 2810.5; (7) Failure to Provide Wage Statements; (8) Failure to Pay All Wages Upon Termination; (9) Failure to Pay All Wages During Employment, and (10) Failure to Keep Accurate Payroll Records.

5. On February 7, 2024, Plaintiff filed a Class Action Complaint (the “class action”) in Orange County Superior Court purporting to assert claims on behalf of himself and all of Agnes’ current and former non-exempt California employees during the relevant statute of limitations periods for (1) Failure to Pay Minimum; (2) Failure to Overtime Wages; (2) Failure to Pay Split Shift Premiums; (3) Failure to Provide Meal Periods; (4) Failure to Provide Rest Breaks; (5) Failure to Provide Wage Statements; (6) Failure to Pay All Wages Upon Termination; (7) Conversion; (8) Injunctive Relief; and (9) Violation of California Business & Professions Code section 17200 (Unfair Competition).

6. On April 17, 2024, Plaintiff amended his Complaint to add an additional cause of action under PAGA for Penalties, Pursuant to Labor Code § 2698 *et seq.* The FAC is the operative complaint in the Action (the “Operative Complaint.”)

The Parties Have Engaged In Discovery And Litigation

7. Class Counsel for Plaintiff obtained substantial payroll and other data related to Class Members for mediation purposes, through informal discovery. Class Counsel obtained Defendant’s employee handbook, policies and procedures, total number of class members during the class period, and their hourly rates. Plaintiff also employed an expert to prepare calculations of the amount of

1 damages to the Class Members.

2 8. Counsel for the respective Parties engaged in extensive discussions about the strengths and
3 weaknesses of the claims and defenses. Plaintiff and Defendants undertook extensive mediation
4 efforts, including attending all day mediation on January 27, 2025, the Parties participated in an all-
5 day mediation presided over by mediator Tagore Subramaniam, which led to this Agreement to settle
6 the Action.

7 **The Parties Extensive Settlement Negotiations**

8 9. Counsel for the respective Parties engaged in extensive discussions about the strengths and
9 weaknesses of the claims and defenses. Plaintiff and Defendant undertook extensive mediation
10 efforts, including attending all day mediation on January 27, 2025. The Parties participated in an all-
11 day mediation presided over by mediator Tagore Subramaniam, which led to this agreement to settle
12 the Action.

13 10. Specifically, the settlement that has been reached is the product of substantial effort by the
14 parties and their counsel. The settlement was reached after extensive factual and legal investigation
15 and research, numerous discussions, exchanges of documents, correspondence, extensive mediation,
16 review of pleadings, evidence and rulings in similar actions litigated elsewhere in the state, and
17 review of similar cases in the same industry elsewhere in the country. The settlement amount is, of
18 course, a compromise figure. It considered, risks related to liability, damages, and all the defenses
19 asserted by Defendant.

20 11. The Parties concluded there was a significant benefit associated with settling the Litigation.
21 Specifically, the Parties concluded, after taking into account the sharply disputed factual and legal
22 issues involved in this Litigation, the substantial cost and risks of further prosecuting this matter, and
23 the substantial benefits to be received pursuant to the compromise and settlement of the Litigation as
24 set forth in the Settlement Agreement, that settlement on the terms set forth herein is in the best
25 interest of the proposed Class, and is fair and reasonable. Through lengthy, arms-length, non-
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1 collusive negotiations, the Parties were able to reach an agreement to settle.

2 12. Plaintiff's counsel *initially* obtained a non-reversionary settlement of \$240,000.00¹. This
3 Settlement was the product that followed an extensive arm's length discussions, which was facilitated
4 with the assistance of a highly experienced and neutral third-party mediator. The settlement was
5 accomplished after vetting facts, legal theories and defenses. The settlement represents a compromise
6 and settlement of highly disputed claims. Class Counsel considers this to be an excellent settlement
7 for class members, when taking into account all issues and risks related to liability and class
8 certification. More importantly, Defendants' ability to pay after reviewing tax records, and also
9 considering the case law regarding fair, reasonable, and adequate settlements.

10 13. THE PRELIMINARY APPROVED SETTLEMENT

11 The Settlement Class

12 The Court's preliminary approval order defines the settlement class as:

13 All current and former non-exempt employees of Defendants in California who worked
14 for Defendants during the Class Period from February 7, 2020 to March 28, 2025.

15 The Court's preliminary approval order defines the PAGA Settlement in this action on
16 behalf of all "Aggrieved Employees", defined as follows:

17 All current and former non-exempt employees of Defendants in California who worked
18 for Defendants during the PAGA Period from February 6, 2023 through March 28,
19 2025.

20 14. Class Counsel obtained a non-reversionary settlement of \$245,342.59, exclusive of the
21 employer portion of payroll taxes and unemployment insurance with respect to the wage portion of
22 the Individual Settlement Payments to Participating Class Members. Class Counsel considers this
23 to be *an excellent* settlement for the 301 Participating Class Members, when taking into account all
24 issues and risks related to liability and class certification, and also considering the case law regarding

25
26 ¹ The total number of workweeks worked by Class Members during the Class Period is 13,534.86,
27 which exceeded the escalator clause threshold and thus the Gross Settlement Amount increased by
28 \$5,342.59. As a result, the Gross Settlement Amount is \$245,342.59. See Nava Decl., ¶ 15.

1 fair, reasonable, and adequate settlements.

2 15. In its preliminary approval Order, the Court appointed Apex Class Action Settlement
3 Administration (“Administrator” or “Apex”) as the Settlement Administrator. *See Exhibit “2”, ¶16.*

4 16. Class Members who wanted to request exclusion were required to submit the Request For
5 Exclusion From the Settlement And Exclusion from Individual Settlement Payment Form included
6 in the Notice Packet, stating (a) the full name, address, telephone number and last four digits of the
7 Social Security Number of the Class Member requesting exclusion; (b) be signed by the Class
8 Member; and (c) be properly and timely submit to the Settlement Administrator prior March 6, 2026.

9 17. Likewise, Class Members who wished to object to the fairness, reasonableness, or adequacy
10 of the Settlement and who did not opt out of the class, were able to do so either by submitting the
11 Objection Form or by appearing at the Final Approval hearing. The Objection Form provided that
12 to object in writing, a Class Member or his/her attorney must submit the form to the Settlement
13 Administrator on or before March 6, 2026, stating the basis of the objection, and provide any papers
14 or briefs in support of his/her position. Class Members were also informed that they could object by
15 appearing at the Final Approval Hearing to orally object or otherwise offer comments.

16 18. The Notice further provided that all written objections must be signed and should contain
17 Class Member’s address, telephone number, the basis of the objection, and verify the Class Member’s
18 membership in the Settlement Class or by appearing at the Final Approval Hearing. The Notice
19 provided that a Class Member is not required to appear at the Final Approval Hearing in order for
20 the Court to consider his/her objection if written objections to the Settlement Administrator was
21 submitted. Additionally, the Notice provided that whether or not a Class Member submits any written
22 objections to the Settlement Administrator, if he/she wish to be heard at the Final Approval Hearing
23 to object, a Class Member may appear, personally or through an attorney (retained at their own
24 expense), appear to present the Class Member’s objection directly to the Court.

25 19. Class Counsel received a number of phone calls from Settlement Class Members, asking
26 questions about how to participate, to other questions. As of this date, all of these questions had
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1 been resolved, and none of these Class Members expressed an interest in objecting to the settlement.

2 20. Plaintiff provided the California Labor and Workforce Development Agency notice of their
3 PAGA claim, and then of the settlement, as part of the preliminary approval process, as required
4 under Cal Lab. Code § 2699.3. Additionally, on July 8, 2026, Class Counsel
5 appraised the Labor and Workforce Development Agency (“LWDA”) of the Final Approval Hearing
6 date set for July 30, 2026 at 2:00 p.m. by electronically submitting the relevant documents, which
7 were filed with this Court, via online filing. A true copy of an auto-reply e-mail from the LWDA’s
8 DIR PAGA Unit confirming receipt of submission of the Settlement Agreement is attached hereto as
9 **Exhibit “3”**.

10 **21. The Class Received Adequate Notice**

11 As part of its order granting preliminary approval, the Court approved the manner and form of
12 notice:

13 “The Court approves, as to form and content, the Class Notice attached as Exhibit “A” to the
14 Agreement, which is attached to the Supplemental Declaration of Natalie Mirzayan, Exhibit
15 ‘1’”.

16 I declare under penalty of perjury under the laws of the State of California that the
17 forgoing is true and correct this 8th day of July 2026 in the state of California.

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19 Natalie Mirzayan
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EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff DANIEL MITCHELL (“Plaintiff”), on behalf of himself, the Class, the State of California, and Aggrieved Employees, and Defendants THOVAN HOSPITALITY, LLC dba AGNES RESTAURANT & CHEESERY; THOMAS KALB; VANESSA TILAKA; and ALLAN LIAO (“Defendants”). The Agreement refers to Plaintiff and Defendants collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1 “Action” means the Plaintiff’s lawsuit against Defendants captioned *Daniel Mitchell v. Thovan Hospitality, LLC et al.* initiated on December 13, 2023, and amended on February 7, 2024, and pending in the Superior Court of the State of California, County of Orange, Case No. 30-2024-01377755-CU-OE-CXC.
- 1.2 “Administrator” means Apex Class Action, LLC (“Apex”), the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4 “Aggrieved Employee” means all current and former non-exempt employees of Defendants in California who worked for Defendants during the PAGA Period.
- 1.5 “Class” means all current and former non-exempt employees of Defendants in California who worked for Defendants during the Class Period.
- 1.6 “Class Counsel” means Natalie Mirzayan of Mirzayan Law, APLC.
- 1.7 “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.
- 1.8 “Class Data” means Class Member identifying information in Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security number, email address (if available), and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9 “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 an Aggrieved Employee).
- 1.10 “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available

sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

- 1.11 “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members, attached as **Exhibit A** and incorporated by reference into this Agreement. [The Class Notice shall be translated into Spanish by the Administrator.]
- 1.12 “Class Period” means the period from February 7, 2020 to March 28, 2025.
- 1.13 “Class Representative” means Daniel Mitchell.
- 1.14 “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15 “Court” means the Superior Court of California, County of Orange.
- 1.16 “Defendants” means named Defendants Thovan Hospitality, LLC dba Agnes Restaurant & Cheesery, Thomas Kalb, Vanessa Tilaka, and Allan Liao.
- 1.17 “Defense Counsel” means Katherine Den Bleyker and Janna Akers of O’Hagan Meyer LLP.
- 1.18 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19 “Final Approval” or “Final Approval Order” means the Court’s Order Granting Final Approval of the Settlement.
- 1.20 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21 “Final Judgment” means the Judgment entered by the Court upon granting Final Approval of the Settlement.
- 1.22 “Gross Settlement Amount” means \$240,000.00, which is the total amount Payors agree to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments,

Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses, Class Representative Service Payment, and the Administrator's Expenses Payment.

- 1.23 "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24 "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25 "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.26 "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subdivision (i).
- 1.27 "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).
- 1.28 "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29 "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30 "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.
- 1.31 "PAGA Period" means the period from February 6, 2023 through March 28, 2025.
- 1.32 "PAGA" means the Private Attorneys General Act (Lab. Code, § 2698 *et seq.*).
- 1.33 "PAGA Notice" means Plaintiff's February 6, 2024, letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subdivision (a).
- 1.34 "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000) and 75% to LWDA (\$15,000) in settlement of PAGA claims.
- 1.35 "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

- 1.36 “Payors” means Thovan Hospitality, LLC dba Agens Restaurant and Cheesery, Vanessa Tilaka and Thomas Kalb, or all Defendants, other than Allan Liao.
- 1.37 “Plaintiff” means Daniel Mitchell, the named plaintiff in the Action.
- 1.38 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.39 “Preliminary Approval Order” means the proposed Court Order Granting Preliminary Approval of PAGA Settlement.
- 1.40 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.41 “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.42 “Released Parties” means Defendants, any potential “joint employer,” and any and all of Defendants’ affiliated companies and their respective parent companies, subsidiaries, affiliates, shareholders, members, agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys, and any past, present, or future directors, officers, employees, or other person acting on Defendants’ behalf), owners, predecessors, successors, and assigns.
- 1.43 “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.
- 1.44 “Response Deadline” means 45 days after the Administrator mails a Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 7 calendar days beyond the Response Deadline has expired.
- 1.45 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.46 “Workweek” means any week during which a Class Member worked for Defendants for at least one day, during the Class Period.

2. RECITALS.

- 2.1 On February 6, 2024, Plaintiff sent notice to Defendant and the State of California LWDA of his intent to pursue a PAGA claim, premised on the following theories

(1) Failure to Pay Minimum and Overtime Wages; (2) Unlawful Taking of Employee Tips and/or Gratuities; (3) Failure to Provide Meal Periods; (4) Failure to Provide Rest Breaks; (5) Failure to Provide Paid Sick Leave; (6) Failure to Provide Requisite Wage Notice Pursuant to Labor Code section 2810.5; (7) Failure to Provide Wage Statements; (8) Failure to Pay All Wages Upon Termination; (9) Failure to Pay All Wages During Employment, and (10) Failure to Keep Accurate Payroll Records.

- 2.2 On February 7, 2024, Plaintiff filed a Class Action Complaint (the “class action”) in Orange County Superior Court purporting to assert claims on behalf of himself and all of Agnes’ current and former non-exempt California employees during the relevant statute of limitations periods for (1) Failure to Pay Minimum; (2) Failure to Overtime Wages; (2) Failure to Pay Split Shift Premiums; (3) Failure to Provide Meal Periods; (4) Failure to Provide Rest Breaks; (5) Failure to Provide Wage Statements; (6) Failure to Pay All Wages Upon Termination; (7) Conversion; (8) Injunctive Relief; and (9) Violation of California Business & Professions Code section 17200 (Unfair Competition).
- 2.3 On April 17, 2024, Plaintiff amended his Complaint to add an additional cause of action under PAGA for Penalties, Pursuant to Labor Code § 2698 *et seq.* The FAC is the operative complaint in the Action (the “Operative Complaint.”)] Defendants deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in in the Operative Complaint and deny any and all liability for the causes of action alleged.
- 2.4 Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiff gave timely written notice to Defendants and the LWDA by sending the PAGA Notice.
- 2.5 On January 27, 2025, the Parties participated in an all-day mediation presided over by mediator Tagore Subramaniam, which led to this Agreement to settle the Action.
- 2.6 Prior to negotiating the Settlement, Plaintiff obtained, through informal discovery, a class list of putative Class Members with unique employee identifying numbers, dates of employment, and hourly rates; information regarding the number of Workweeks worked during the Class Period and pay periods worked during the PAGA Period; a 20% randomized sampling of employee time and payroll records; and various policies and procedural documents, including employee handbooks and documents related to tips. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.7 The Court has not granted class certification.
- 2.8 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.

3. MONETARY TERMS.

- 3.1 Gross Settlement Amount. Except as otherwise provided by Section 8 below, Payors promise to pay \$240,000.00 (Two Hundred and Forty Thousand Dollars and Zero Cents) in settlement of this matter, 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. Payors have no obligation to pay the Gross Settlement Amount prior to the deadlines stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Payors.
- 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 Service Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class Payment [and any Individual PAGA Payment] the Class Representative is entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.
- 3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than 40%, which is currently estimated to be \$96,000. Defendants will not oppose requests for Court approval of this payment provided that it does not exceed this amount. A Class Counsel Litigation Expenses Payment for reasonable costs, subject to proof, and provided that Plaintiff's/Class/PAGA Counsel submits a declaration substantiating the costs. As part of the Final Approval motion, Plaintiff and/or Class Counsel will file an application or motion for a Class Counsel Fees Payment and/or a Class Litigation Expenses Payment. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The

Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed \$8,500 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$8,500, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4 To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1 Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for [e.g., interest and penalties] (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. 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 \$20,000.00 (Twenty Thousand Dollars and Zero Cents) to be paid from the Gross Settlement Amount, with 75% (\$15,000.00) allocated to the LWDA PAGA Payment and 25% (\$5,000.00) allocated to the Individual PAGA Payments.

3.2.5.1 The Administrator will calculate each Individual PAGA Payment by: (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$5,000.00) by the total number of PAGA Period

Pay Periods worked by all Aggrieved Employees during the PAGA Period; and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2 If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1 Class Workweeks. Based on a review of their records to date, Defendants estimate there are 263 Class Members who collectively worked a total of 12,036.29 Workweeks.
- 4.2 Class Data. Not later than 30 days after service on Defendants of the Court grant of Preliminary Approval of the Settlement, Defendants will simultaneously 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. Defendants have a continuing duty to immediately notify Class Counsel if they discover 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 Defendants 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. Payors shall fully fund the Gross Settlement Amount in three equal installments, with the first installment occurring 30 days from final approval or the appeals deadline on final approval, if there are any objections, the second installment occurring 6 months after the first installment payment, and the final payment occurring 6 months after the second installment payment.
- 4.4 Payments from the Gross Settlement Amount. Within 7 days after Agnes makes the first payment to fund the Gross Settlement Amount, the Administrator will mail checks to (a) the Administration Expenses Payment; (b) the Class Counsel Litigation Expenses Payment; and (c) the Class Representative Service Payment. Within 7 days after the Agnes makes the second payment to fund the Gross Settlement Amount, the Administrator will mail checks to the LWDA PAGA Payment, the Class Counsel Fees Payment. The Administrator shall make a

settlement disbursement by check within 7 days of the third and final payment of the Gross Settlement Amount to Individual Class Payments, all Individual PAGA Payments to facilitate tax reporting and reduce administration costs when payment is made within the same year.

- 4.4.1 The Administrator will issue checks for the Individual Class Payments and PAGA Payments and send them to the Participating Class Members and Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2 The Administrator must conduct a Class Member and Aggrieved Employee Address Search for all other Participating Class Members and Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member and Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Participating Class Members and Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Participating Class Member and/or Aggrieved Employee whose original check was lost, misplaced, or requested by the Participating Class Member and/or Aggrieved Employee prior to the void date.
- 4.4.3 For any Participating Class Member and/or Aggrieved Employee 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" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 4.4.4 The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to the Participating Class Members or Aggrieved

Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when Payors fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action and released under 5.2, below]. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

5.2 Release by Participating Class Members Who Are Not Aggrieved Employees: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in Plaintiff's pleadings, including but not limited to, (a) any and all claims involving any alleged (1) Failure to Pay Minimum Wages, Lab Code §§ 1182.12, 1197, 1194, 1194.2, 1197.1; (2) Failure to Pay Overtime Wages, Lab Code §§ 510, 1194, 1194.2, 1197, 1197.1, 1198; (3) Failure to Pay Split-Shift Premiums, Lab Code § 1198, IWC Wage Order 5-2001, §§4(C); (4) Failure to Provide Meal Periods, Lab Code §§ 226.7, 512; (5) Failure to Authorize and Permit Rest Breaks, Lab Code §§

226.7, 512; (6) Waiting Time Penalties, Lab Code §§ 201-203; (7) Failure to Provide Accurate Itemized Wage Statements, Lab Code §§ 226, 226.3; (8) Unlawful Taking of Tips/Gratuities, Lab Code §§ 350-351; (9) Failure to Provide Sick Leave, Lab Code § 245.5, 246, 246.5, 247, 247.5, 248.5, 249; and (10) Failure to Provide Timely Wages, Lab Code § 204. Participating Class Members only release these claims for the duration of the Class Period. Except as set forth in Section 5.3 of this Agreement, Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

- 5.3 PAGA Release by Plaintiff as Representative of the LWDA, and all Aggrieved Employees. Plaintiff as representative of the LWDA, and all Aggrieved Employees release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on Plaintiff's PAGA Notice lodged with the LWDA for the alleged (1) Failure to Pay Minimum Wages, Lab Code §§ 1182.12, 1197, 1194, 1194.2, 1197.1; (2) Failure to Pay Overtime Wages, Lab Code §§ 510, 1194, 1194.2, 1197, 1197.1, 1198; (3) Failure to Pay Split-Shift Premiums, Lab Code § 1198, IWC Wage Order 5-2001, §§4(C); (4) Failure to Provide Meal Periods, Lab Code §§ 226.7, 512; (5) Failure to Authorize and Permit Rest Breaks, Lab Code §§ 226.7, 512; (6) Waiting Time Penalties, Lab Code §§ 201-203; (7) Failure to Provide Accurate Itemized Wage Statements, Lab Code §§ 226, 226.3; (8) Unlawful Taking of Tips/Gratuities, Lab Code §§ 350-351; (9) Failure to Provide Sick Leave, Lab Code § 245.5, 246, 246.5, 247, 247.5, 248.5, 249; and (10) Failure to Provide Timely Wages, Lab Code § 204; and (11) Failure to Provide Requisite Wage Notice, Lab Code § 2810.5. Plaintiff as representative of the LWDA and all Aggrieved Employees only release these claims, as contained in Plaintiff's PAGA Notice lodged with the LWDA, for the duration of the PAGA Period.

6. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

- 6.1 Defendants' Declaration in Support of Preliminary Approval. Within 21 days of the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel a signed Declaration from Defendants and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Defendants shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

- 6.2 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.3 Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 14 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.
- 6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected Apex to serve as the Administrator and verified that, as a condition of appointment, Apex agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.

7.4 Notice to Class Members.

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

7.4.2 Using best efforts to perform as soon as possible, and in no event later than 7 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice (with Spanish translation) substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks 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.

7.4.3 Not later than 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.

7.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 7 days beyond the 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.

7.4.5 If the Administrator, Defendants, 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 7 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 7 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a signed letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

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

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Release under Paragraphs 5.2 and 5.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion

is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.5.5 The Parties agree that if 10% or more of the Class Members opt out of the settlement, Defendants shall have the option to cancel the Agreement within 30 days of the expiration of the opt-out period. Defendants agree not to induce or influence Class Members to opt out of the settlement. If Defendants exercise this option, Defendants will pay all costs incurred by the Administrator.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 7 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating 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 Workweeks 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 Workweeks 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 Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 Objections to Settlement.

7.7.1 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.

7.7.2 Participating Class Members may send written objections to the Administrator by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney at their own expense 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 30 days after the Administrator's mailing of the Class Notice (plus an additional 7 days for Class Members whose Class Notice was re-mailed).

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

7.8 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.

7.8.1 Email Address and Toll-Free Number. The Administrator will maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes, and emails.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5 Administrator’s Declaration. Not later than 14 days after the Response Deadline, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of the Class Notice, the total number of Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from the 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.

7.8.6 Final Report by Settlement Administrator. Within 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.

8. CLASS SIZE ESTIMATES

8.1 Based on their records, Defendants estimate that, as of the date of this Settlement Agreement, there are 263 Class Members who worked a total of 12,036.29 Workweeks during the Class Period. If the number of workweeks is more than 10% higher or more than 13,266.92 workweeks worked, then Defendants shall, increase the Gross Settlement Amount proportionally by workweeks worked in excess of 13,266.92 multiplied by the workweek value.

9. DEFENDANT'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 25% of the total of all Class Members, Defendants may, but are not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, 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; provided, however, Payors will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. MOTION FOR FINAL APPROVAL. Not later than 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 these documents to Defense Counsel as soon as practicable prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

10.1 Response to Objections. Each Party retains the right to respond to any objection

raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

- 10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members or Aggrieved Employees), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action and the Settlement solely for purposes of: (i) enforcing this Agreement and/or Judgment; (ii) addressing settlement administration matters; and (iii) addressing such post-Judgment matters as are permitted by law.
- 10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' 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.
- 10.5 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 Participating Class Members or Aggrieved Employees), 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.

11. **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

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 Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' 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 grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve 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 Defendants' 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 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.3 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.

- 12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

- 12.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.
- 12.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 12.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 12.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Natalie Mirzayan
mirzayan@outlook.com
Mirzayan Law, APLC
26632 Towne Centre Drive, Suite 300
Foothill Ranch, CA 92610

To Defendants:

Kate Den Bleyker
kdenbleyker@ohaganmeyer.com
Janna K. Akers
jakers@ohaganmeyer.com

O'Hagan Meyer LLP
550 S. Hope Street, Suite 2400
Los Angeles, CA 90071

12.18 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.

12.19 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 Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

Dated: 06/02/2025


Daniel Mitchell (Jun 3, 2025 16:40 PDT)

Plaintiff Daniel Mitchell

Dated: Jun 12, 2025


Vanessa Tilaka (Jun 12, 2025 12:26 PDT)

Vanessa Tilaka for:
Defendant Thovan Hospitality LLC dba Agnes
Restaurant & Cheesery

Dated: Jun 12, 2025


Vanessa Tilaka (Jun 12, 2025 12:26 PDT)

Defendant Vanessa Tilaka

Dated: Jun 12, 2025

Thomas Kalb
Thomas Kalb (Jun 12, 2025 16:28 PDT)

Defendant Thomas Kalb

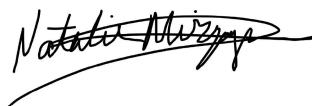
Dated: Jun 18, 2025


Allan Liao (Jun 18, 2025 15:07 PDT)

Defendant Allan Liao

Dated: June 10, 2025

MIRZAYAN LAW, APLC



Natalie Mirzayan
Attorney for Plaintiff, the Class, and Aggrieved
Employees

Dated: Jun 18, 2025

O'HAGAN MEYER LLP



Janna Akers (Jun 18, 2025 15:59 PDT)

Kate Den Bleyker
Janna K. Akers
Attorneys for Defendants

1 **ADDENDUM # 1 TO CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND**
2 **CLASS NOTICE**

3 This addendum is for the purpose of amending the Class Action and PAGA Settlement
4 Agreement (“Agreement”). This Addendum is hereafter referred to as (“Addendum to Agreement”)
5 previously entered into by and between Plaintiff DANIEL MITCHELL (“Plaintiff”), on behalf of
6 himself, the Class, the State of California, and Aggrieved Employees, and Defendants THOVAN
7 HOSPITALITY, LLC dba AGNES RESTAURANT & CHEESERY; THOMAS KALB; VANESSA
8 TILAKA; and ALLAN LIAO (“Defendants”). Defendants and Plaintiff are referred to as the
9 “Parties”.

10 WHEREAS, the Parties sought Preliminary Approval of Class and PAGA settlement on
11 August 14, 2025;

12 WHEREAS, the Parties hereby revised the Agreement and address the Court’s concerns
13 stated in the August 14, 2025 Minute Order, as described below:

14 NOW THEREFORE, in consideration of the promises contained in the Agreement, it is
15 agreed as follows:

16 1. The above-mentioned recitals are hereby incorporated into, and made part of, the
17 Agreement signed by the Parties on the following dates:

18 On June 2, 2025 by Plaintiff Daniel Mitchell.

19 On June 10, 2025 by Class Counsel Natalie Mirzayan, Esq.

20 On June 12, 2025 by the following:

- 21 • Vanessa Tilaka for Defendant Thovan Hospitality, LLC dba Agnes Restaurant &
22 Cheesery
- 23 • Vanessa Tilaka
- 24 • Thomas Kalb

25 On June 18, 2025 by the following:

- 26 • Allan Liao
- 27 • Janna Akers Defense Counsel

28 2. No further consideration, will be made, has been made, or been promised to be made
to Plaintiff or his counsel for the promises made by herein.

3 3. The Parties agree that Paragraph 3.2.2 is amended to read as follows:

1 3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than 40%, which is currently
2 estimated to be \$96,000. Defendants will not oppose requests for Court approval of this
3 payment provided that it does not exceed this amount. A Class Counsel Litigation
4 Expenses Payment for reasonable costs not to exceed \$45,000.00, subject to proof, and
5 provided that Plaintiff's/Class/PAGA Counsel submits a declaration substantiating the
6 costs. As part of the Final Approval motion, Plaintiff and/or Class Counsel will file an
7 application or motion for a Class Counsel Fees Payment and/or a Class Litigation Expenses
8 Payment. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel
9 Litigation Expenses Payment less than the amounts requested, the Administrator will
10 allocate the remainder to the Net Settlement Amount. Released Parties shall have no
11 liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any
12 portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses
13 Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel
14 Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full
15 responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class
16 Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies
17 Defendants, from any dispute or controversy regarding any division or sharing of any of
18 these Payments.

12 4. The Parties agree that Paragraph 4.3 is amended to read as follows:

13 4.3 Funding of Gross Settlement Amount. Payors shall fully fund the Gross Settlement
14 Amount in two (2) equal installments, with the first installment occurring 30 days from
15 final approval or the appeals deadline on final approval, if there are any objections, and
16 the second installment occurring 6 months after the first installment payment.

16 4.4 Payments from the Gross Settlement Amount. Within 7 days after Payors make the first
17 payment to fund the Gross Settlement Amount, the Administrator will mail checks to (a)
18 Individual Class Payments; (b) Individual PAGA Payments; and (c) the LWDA PAGA
19 Payment. Within 7 days after the Payors make the second payment to fund the Gross
20 Settlement Amount, the Administrator will mail checks to (a) the Administration
21 Expenses Payment; (b) the Class Representative Service Payment, (c) Class Counsel
22 Fees Payment; and (d) the Class Counsel Litigation Expenses Payment.

21 5. The Parties agree that Paragraph 7.4.4, 7.5.1, 7.5.2, 7.6, and 7.7.2 are amended to read
22 as follow:

22 1.44 "Response Deadline" means 45 days after the Administrator mails a Notice to Class
23 Members and Aggrieved Employees, and shall be the last date on which Class Members
24 may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email,
25 or mail his or her Objection to the Settlement. Class Members to whom Notice Packets
are resent after having been returned undeliverable to the Administrator shall have an
additional 30 calendar days beyond the Response Deadline has expired.

26 7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or
27 Pay Periods, and Requests for Exclusion will be extended an additional 30 days beyond
28 the 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.

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 30 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a signed letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2 The Administrator may not reject a signed Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be subject to the Court's review. The Court's decision regarding authenticity and validity of the Request for Exclusion shall be final and not appealable or otherwise susceptible to challenge.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 30 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating 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 Workweeks 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 Workweeks 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 Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7.2 Participating Class Members may send written objections to the Administrator by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney at their own expense 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 45 days after the Administrator's mailing of the Class Notice (plus an additional 30 days for Class Members whose Class Notice was re-mailed).

6. The Parties agree that Paragraph 7.8.1 is amended to read as follows:

7.8.1 Email Address, Toll-Free Number, and Posting. The Administrator will maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes, and emails. The Administrator will post the Settlement Agreement, Class Notice, preliminary and final approval orders, and Final Judgment on its website for 180 days

1 following the Final Judgment.

2 7. The Parties agree that Paragraph 9 is amended to read as follows:

3 **9. DEFENDANT’S RIGHT TO WITHDRAW.** If the number of valid Requests for
4 Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members,
5 Defendants may, but are not obligated, elect to withdraw from the Settlement. The
6 Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no
7 force or effect whatsoever, and that neither Party will have any further obligation to
8 perform under this Agreement; provided, however, Payors will remain responsible for
9 paying all Settlement Administration Expenses incurred to that point. Defendants must
10 notify Class Counsel and the Court of its election to withdraw not later than 7 days after
11 the Administrator sends the final Exclusion List to Defense Counsel; late elections will
12 have no effect.

13 8. The Parties agree that Paragraph 10.3 is amended to read as follows:

14 10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
15 Court shall retain jurisdiction over the Parties, Action and the Settlement solely for purposes of:
16 (i) interpreting, implementing, and enforcing this Agreement and/or Judgment; (ii) addressing
17 settlement administration matters; and (iii) addressing such post-Judgment matters as are permitted
18 by law pursuant to California Code of Civil Procedure section 664.6 and CRC 3.769(h).

19 9. Except as specifically stated in this Addendum, the provisions of the Class Action and
20 PAGA Settlement Agreement previously entered into by the Parties, shall remain in full force and
21 effect.

22 **SO AGREED AND STIPULATED:**

23 [SIGNATURES ON NEXT PAGE]
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Dated: 01/10/2025 _____


D. Mitchell (Oct 1, 2025 16:19:50 PDT)

Plaintiff Daniel Mitchell

Dated: _____

Vanessa Tilaka for:
Defendant Thovan Hospitality LLC dba Agnes
Restaurant & Cheesery

Dated: _____

Defendant Vanessa Tilaka

Dated: _____

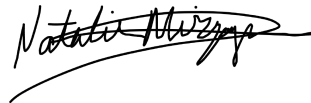
Defendant Thomas Kalb

Dated: _____

Defendant Allan Liao

Dated: October 10, 2025 _____

MIRZAYAN LAW, APLC



Natalie Mirzayan
Attorney for Plaintiff, the Class, and Aggrieved
Employees

Dated: _____

O'HAGAN MEYER LLP

Kate Den Bleyker
Attorneys for Defendants

1 Dated: _____

2 Plaintiff Daniel Mitchell

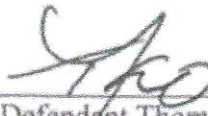
3
4 Dated: 10/7/25


5 Vanessa Tilaka for:
6 Defendant Thovan Hospitality LLC dba Agnes
7 Restaurant & Cheesery

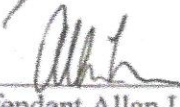
8 Dated: 10/7/25


9 Defendant Vanessa Tilaka

10 Dated: 10-7-2025


11 Defendant Thomas Kalb

12 Dated: 10/8/25


13 Defendant Allan Liao

14
15 Dated: _____

16 MIRZAYAN LAW, APLC

17
18
19 Natalie Mirzayan
20 Attorney for Plaintiff, the Class, and Aggrieved
21 Employees

22 Dated: 10-8-25

23 O'HAGAN MEYER LLP


24
25 Kate Den Bleyker
26 Attorneys for Defendants
27
28

**ADDENDUM # 2 TO CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND
CLASS NOTICE**

This addendum is for the purpose of amending the Class Action and PAGA Settlement Agreement (“Agreement”), and Addendum # 1 previously entered into by and between Plaintiff DANIEL MITCHELL (“Plaintiff”), on behalf of himself, the Class, the State of California, and Aggrieved Employees, and Defendants THOVAN HOSPITALITY, LLC dba AGNES RESTAURANT & CHEESERY; THOMAS KALB; VANESSA TILAKA; and ALLAN LIAO (“Defendants”). This Addendum # 2 to Class Action and PAGA Settlement Agreement and Class Notice is hereafter referred to as (“Addendum # 2”). Defendants and Plaintiff are referred to as the “Parties”.

WHEREAS, the Parties sought Preliminary Approval of Class and PAGA settlement on August 14, 2025;

WHEREAS, the Parties revised the Agreement to address the Court’s concerns stated in the August 14, 2025 Minute Order by entering into Addendum # 1 to Class Action and PAGA Settlement Agreement and Class Notice (“Addendum # 1”), and sought Preliminary Approval on October 23, 2025 after complying with the Court’s August 14, 2025 Order;

WHEREAS, on October 23, 2025, the Court Conditionally Granted Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement pending submission of a further amendment to the Agreement and Addendum # 1 to address the ambiguity as to Defendants’ deadline to withdraw from the settlement under the blowup clauses set forth in ¶¶ 7.5.5 and 9 (as amended by Addendum # 1) of the Agreement;

WHEREAS, the Parties hereby revise the Agreement and the Addendum # 1 to resolve the one issue addressed by the Court in its October 23, 2025 Minute Order;

NOW THEREFORE, in consideration of the promises contained in the Agreement, it is agreed as follows:

1. The above-mentioned recitals are hereby incorporated into, and made part of, the Agreement signed by the Parties on the following dates:

On June 2, 2025 by Plaintiff Daniel Mitchell.

1 On June 10, 2025 by Class Counsel Natalie Mirzayan, Esq.

2 On June 12, 2025 by the following:

- 3 • Vanessa Tilaka for Defendant Thovan Hospitality, LLC dba Agnes Restaurant & Cheesery
- 4 • Vanessa Tilaka
- 5 • Thomas Kalb

6 On June 18, 2025 by the following:

- 7 • Allan Liao
- 8 • Janna Akers Defense Counsel

9 2. No further consideration, will be made, has been made, or been promised to be made to Plaintiff or his counsel for the promises made by herein.

10 3. The Parties agree that the amendment to Paragraph 9 in Addendum # 1 is null and void.

11 4. The Parties agree that Paragraph 9 in the Agreement is amended to read as follows:

12 **9. DEFENDANT’S RIGHT TO WITHDRAW.** If the number of valid Requests for
13 Exclusion identified in the Exclusion List is 10% or more of the total of all Class
14 Members, Defendants may elect, but are not obligated, to withdraw from the Settlement.
15 The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio,
16 have no force or effect whatsoever, and that neither Party will have any further obligation
17 to perform under this Agreement; provided, however, Payors will remain responsible for
18 paying all Settlement Administration Expenses incurred to that point. Defendants must
19 notify Class Counsel and the Court of its election to withdraw within 30 days of the
20 expiration of the opt-out period; late elections will have no effect.

21 **SO AGREED AND STIPULATED:**

22 [SIGNATURES ON NEXT PAGE]

1 Dated: 05/11/2025
2


Daniel Mitchell (Nov 5, 2025 00:04:03 PST)

Plaintiff Daniel Mitchell

3
4 Dated: _____

Vanessa Tilaka for:
Defendant Thovan Hospitality LLC dba Agnes
Restaurant & Cheesery

7
8 Dated: _____

Defendant Vanessa Tilaka

9
10 Dated: _____

Defendant Thomas Kalb

11
12 Dated: _____

Defendant Allan Liao

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14
15 Dated: November 4, 2025

MIRZAYAN LAW, APLC

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17 
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Natalie Mirzayan
Attorney for Plaintiff, the Class, and Aggrieved
Employees

19
20
21 Dated: _____

O'HAGAN MEYER LLP

22
23
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25 Kate Den Bleyker
26 Attorneys for Defendants
27
28

1 Dated: _____

2 Plaintiff Daniel Mitchell

3
4 Dated: 11/3/25

5 Vanessa Tilaka for:
6 Defendant Thovan Hospitality LLC dba Agnes
7 Restaurant & Cheesery

8 Dated: 11/3/25

9 Defendant Vanessa Tilaka

10 Dated: 11/3/25

11 Defendant Thomas Kalb

12 Dated: 11/7/2025

13 Defendant Allan Liao

14
15 Dated: _____

16 **MIRZAYAN LAW, APLC**

17
18
19 Natalie Mirzayan
20 Attorney for Plaintiff, the Class, and Aggrieved
21 Employees

22 Dated: 11/3/25

23 **O'HAGAN MEYER LLP**

24
25 Kate Den Bleyker
26 Attorneys for Defendants
27
28

EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

DANIEL MITCHELL, individually and on behalf of all current and former similarly situated employees in the State of California,	) CASE NO.: 30-2024-01377755-CU-OE-CXC
	) ASSIGNED FOR ALL PURPOSES TO:
Plaintiffs,	) Hon. Layne H. Melzer
	)
v.	) Dept.: CX-102
	)
	) [PROPOSED] ORDER GRANTING
	) PRELIMINARY APPROVAL OF
THOVAN HOSPITALITY, LLC; AGNES	) CLASS ACTION AND PAGA
RESTAURANT & CHEESRY; THOMAS	) SETTLEMENT AND FOR
KALB, an individual; VANESSA TILAKA, an	) PROVISIONAL CLASS
individual; ALLAN LIAO, an individual; and	) CERTIFICATION FOR SETTLEMENT
DOES 1 to 50, inclusive,	) PURPOSES ONLY
	)
Defendants.	)
	)
	)
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	)
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	)

On October 23, 2025, at 2:00 p.m., the Honorable Layne H. Melzer considered, Plaintiff DANIEL MITCHELL (“Plaintiff” or “Class Representative”), unopposed Motion for Preliminary Approval of Class Action and PAGA Settlement and Provisional Class Certification for Settlement Purposes only, the Class Action and PAGA Settlement Agreement (“Agreement”), the Class Notice, and the documents submitted in support of this Motion. Having considered the Motion and all supporting legal authorities and documents, the Court orders as follows:

IT IS HEREBY ORDERED THAT:

1) This Order incorporates by reference the definitions in (i) the Agreement, attached as Exhibit “1” to the Declaration of Natalie Mirzayan, ROA No. 94; (ii) the Addendum # 1 to Class Action and PAGA Settlement Agreement and Class Notice, attached as Exhibit “2” to the Supplemental Declaration of Natalie Mirzayan, ROA No. 122; (iii) the Addendum # 2 to Class Action and PAGA Settlement Agreement and Class Notice, attached as Exhibit “2” to the Second Supplemental Declaration of Natalie Mirzayan, ROA No. 133, and all terms defined therein shall have the same meaning in this Order as set forth in the Agreement;

2) The Court GRANTS Preliminary Approval of the proposed Class Action Settlement in this Action;

3) For Settlement purposes only, the Court certifies the following Class:

All current and former non-exempt employees of Defendants in California who worked for Defendants during the Class Period.

4) For Settlement purposes only, the Court also GRANTS Preliminary Approval of the proposed PAGA Settlement in this Action on behalf of all “Aggrieved Employees”, defined as follows:

All current and former non-exempt employees of Defendants in California who worked for Defendants during the PAGA Period.

5) The Court preliminarily appoints Plaintiff DANIEL MITCHELL as the Class Representative, and Natalie Mirzayan of Mirzayan Law, APLC as Class Counsel;

6) The Court hereby preliminarily approves the proposed class settlement upon the terms and conditions set forth in the Agreement. The Court finds that on a preliminary basis the Settlement appears to be within the range of reasonableness of settlement that could ultimately be given final

1 approval by the Court. It appears to the Court on a preliminary basis that the Settlement amount is
2 fair, adequate, and reasonable as to all potential Class Members and Aggrieved Employees when
3 balanced against the probable outcome of further litigation relating to liability and damages issues.
4 It further appears to the Court that the Settlement at this time will avoid substantial prolonged and
5 costly litigation, as well as the risks that would be presented by further prosecution of the Action.
6 It further appears that the Settlement has been reached as the result of intensive, non-collusive,
7 arms-length negotiations utilizing a highly experienced third party neutral;

8 7) The Court approves, as to form and content, the Class Notice attached as Exhibit “A” to the
9 Agreement, which is attached to the Supplemental Declaration of Natalie Mirzayan, Exhibit “1”;

10 8) The Court directs the mailing of the Class Notice by first-class mail to the Class Members
11 in accordance with the schedule and procedure set forth in the Agreement and this Order. The
12 Court finds that the procedure meets the requirements of due process, provides the best notice
13 practicable under the circumstances, and constitutes due and sufficient notice to all persons entitled
14 to notice;

15 9) The Court hereby preliminarily approves the definition and disposition of the Gross
16 Settlement Amount of Two Hundred and Forty Thousand Dollars and No Cents (\$240,000.00) for
17 the Settlement of all claims. The Gross Settlement Amount shall be used to pay for Individual
18 Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, a portion of Class
19 Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service
20 Payments and the Administrator’s Expenses Payment. Payors, Thovan Hospitality, LLC dba Agens
21 Restaurant and Cheesery, Vanessa Tilaka and Thomas Kalb, Payors shall fully fund the Gross Settlement
22 Amount in two (2) equal installments, with the first installment occurring 30 days from final
23 approval or the appeals deadline on final approval, if there are any objections, the second
24 installment occurring 6 months after the first installment payment. Payors, shall separately pay for
25 any required employer payroll taxes and unemployment insurance obligations. Within 7 days after
26 Payors make the first payment to fund the Gross Settlement Amount, the Administrator will mail
27 checks to (a) Individual Class Payments; (b) Individual PAGA Payments; and (c) the LWDA

1 PAGA Payment. Within 7 days after the Payors make the second payment to fund the Gross
2 Settlement Amount, the Administrator will mail checks to (a) the Administration Expenses
3 Payment; (b) the Class Representative Service Payment, (c) Class Counsel Fees Payment; and (d)
4 the Class Counsel Litigation Expenses Payment;

5 10) The Court preliminarily approves the Class Representative Service Payment of \$10,000.00
6 to be paid from the Gross Settlement Amount (“Class Representative Service Payment”);

7 11) The Court preliminarily approves an award of attorneys’ fees not to exceed Ninety Six
8 Thousand Dollars (\$96,000.00), and Litigation Expenses as supported by invoices to be paid from
9 the Common Settlement Fund;

10 12) The Court preliminarily approves the payment of Twenty Thousand Dollars (\$20,000.00)
11 from the Gross Settlement Amount to fully settle and resolve all PAGA penalty claims. Fifteen
12 Thousand Dollars (\$15,000.00), representing seventy-five percent (75%), to be paid to the Labor
13 and Workforce Development Agency (“LWDA”) of the State of California, and the remaining Five
14 Thousand Dollars \$5,000.00, which represents twenty-five percent (25%), to become part of the
15 Net Settlement Amount and distributed to the Aggrieved Employees on a pro-rata basis based on
16 the total number of PAGA Workweeks as described in the Agreement;

17 13) The Court confirms the appointment of Apex Class Action Administration (“Apex”) as the
18 settlement administrator and payment of the costs of administration of the Settlement in the amount
19 estimated not to exceed \$8,500.00 to be paid from the Gross Settlement Amount (“Administration
20 Expenses Payment”);

21 14) The Court directs Defendants to produce to the Administrator with the “Class Data” for
22 Class Members which contains identifying information in their possession including the Class
23 Member’s name, last-known mailing address, Social Security number, the dates of employment
24 and total number of Class Period Workweeks and PAGA Period Workweeks, and any other
25 information identified in the Agreement, within thirty (30) days after the Court grants preliminary
26 approval of this Settlement;

27 15) The Administrator shall mail, by U.S. first class mail, the Notice to Class Members no
28

1 later than seven (7) days of receipt of the Class Data from Defendant. The Administrator shall, no
2 later than fourteen (14) days prior to the date by which Plaintiff is required to file their Motion for
3 Final Approval of the Settlement, provide counsel for Defendant and Class Counsel with a
4 declaration attesting to the completion of the Notice process, as set forth in the Agreement,
5 including an explanation of efforts to resend of any returned Notices, as well as the number of opt-
6 outs, objections and deficiencies which the Administrator received;

7 16) The deadline for submitting Requests for Exclusion from the settlement shall be forty-
8 five (45) calendar days from the date on which the Notice is mailed to Class Members;

9 17) The deadline to file written objections to the class settlement shall be forty-five (45)
10 calendar days after the date which the Notice is mailed to Class Members;

11 18) Class Counsel and Counsel for Defendant shall file any responses to any written
12 objections submitted to the Court at least five (5) court days before the Final Fairness and Approval
13 Hearing;

14 19) The Fairness and Final Approval Hearing shall be held in Department CX-102 of the
15 Orange County Superior Court of the State of California, located at 751 W Santa Ana Blvd, Santa
16 Ana, CA 92701 on May 7, 2026 at 2PM to determine (1) whether the proposed settlement is fair,
17 reasonable and adequate and should be finally approved by the Court; (2) the amount of attorneys'
18 fees and costs to award Class Counsel; (3) the amount of incentive award to the Class
19 Representatives; and (4) costs for class administration;

20 20) In the event the Settlement does not become effective in accordance with the terms of the
21 Agreement, or the Settlement is not finally approved, or is terminated, cancelled or fails to become
22 effective for any reasons, this Order shall be rendered null and void and shall be vacated, and the
23 Parties shall revert to their respective positions immediately prior to their agreement to settle. The
24 Parties will be free to assert any claim or defense that could have been asserted prior to their
25 agreement to settle;

1 21) The Court shall retain jurisdiction of this action pursuant to California Code of Civil
2 Procedure section 664.6 and CRC 3.769(h) for the purpose of interpreting, implementing, and
3 enforcing this Settlement consistent with the terms set forth herein.

4
5
6 **IT IS SO ORDERED.**

7
8 Dated: November 19, 2025



Honorable Layne H. Melzer
Judge of the Superior Court