

Kane Moon (SBN 249834)
Allen Feghali (SBN 301080)
Jacquelyne VanEmmerik (SBN 339338)
MOON LAW GROUP, P.C.
725 South Figueroa Street, 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
Email: kmoon@moonlawgroup.com
Email: afeghali@moonlawgroup.com
Email: jvanemmerik@moonlawgroup.com

Attorneys for Plaintiff, *Omar Rodriguez*

Spencer C. Skeen (SBN 182216)
Tim Johnson (SBN 265794)
Nikolas Djordjevski (SBN 294728)
Tyler M. Duncan (SBN 334333)
OGLETREE DEAKINS
4660 La Jolla Village Drive, Suite 900
San Diego, California 92122
Telephone: 858-652-3102
Email: tyler.duncan@ogletreedeakins.com
Email: spencer.skeen@ogletreedeakins.com
Email: nikolas.djordjevski@ogletreedeakins.com
Email: tim.johnson@ogletreedeakins.com

Attorneys for Defendant, *Sansmark, Inc. dba Randy's Donuts*

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

OMAR RODRIGUEZ, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

SANSMARK, INC., a California corporation dba
RANDY'S DONUTS; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 24STCV03110

[Honorable David S. Cunningham III,
Department SS11]

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT**

Complaint Filed: February 5, 2024

1 **PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT**

2 This Private Attorneys General Act Settlement Agreement (“Settlement” or “Agreement”) is made
3 by and between Plaintiff Omar Rodriguez (“Plaintiff”) and Defendant Sansmark, Inc. dba Randy’s Donuts
4 (“Defendant”) (Plaintiff with Defendant, the “Parties”).

5 **1. DEFINITIONS**

6 1.1. “Action” means *Rodriguez, Omar v. Sansmark, Inc. dba Randy’s Donuts*, Superior Court of
7 the State of California for the County of Los Angeles, Case Number 24STCV03110.

8 1.2. “Administrator” means Simpluris, Inc., the neutral entity the Parties have agreed to appoint to
9 administer the Settlement.

10 1.3. “Administration Expenses Payment” means \$2,750.00, the amount allocated to the
11 Administrator from the Gross Settlement Amount for reimbursement of its reasonable fees and expenses,
12 in accordance with the “not to exceed” bid submitted to the Court in connection with the approval of this
13 Settlement.

14 1.4. “Aggrieved Employee” means all current and former non-exempt employees who worked for
15 Defendant in California during the PAGA Period.

16 1.5. “Aggrieved Employee Data” means the Aggrieved Employee identifying information in
17 Defendant’s possession, including the name, last-known mailing address, and Social Security number of
18 the Aggrieved Employee and the number of PAGA Pay Periods that the Aggrieved Employee worked
19 during the PAGA Period.

20 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search
21 for current Aggrieved Employee mailing addresses using all reasonably available sources, methods, and
22 means, including, but not limited to, the National Change of Address database, skip traces, and direct
23 contact with Aggrieved Employees.

24 1.7. “Approval Order” means the Court’s Order Granting Approval of the Settlement.

25 1.8. “Court” means the Superior Court of the State of California for the County of Los Angeles.

26 1.9. “Defendant” means Sansmark, Inc. dba Randy’s Donuts.

27 1.10. “Defense Counsel” means Spencer C. Skeen, Tim Johnson, and Nikolas Djordjevski of
28 Ogletree Deakins.

1 1.11. "Effective Date" means the date by when both of the following have occurred: (a) the Court
2 enters Judgment on its Approval Order, and (b) the Judgment is final. The Judgment is final as of the day
3 the Court enters the Judgment. However, as explained in Section 8.2, if another party appeals the
4 Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as
5 the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the
6 amount of the Net Settlement Amount.

7 1.12. "Gross Settlement Amount" means \$100,000.00, the total amount Defendant agrees to pay
8 under the Settlement, except as provided in Section 7 herein. The Gross Settlement Amount will be used to
9 pay the Individual PAGA Payments, LWDA PAGA Payment, PAGA Counsel Expenses Payment, PAGA
10 Counsel Fees Payment, PAGA Representative Enhancement Payment, and Administration Expenses
11 Payment.

12 1.13. "Individual PAGA Payment" means an Aggrieved Employee's *pro rata* share of 25% of the
13 PAGA Penalties, calculated according to the number of PAGA Pay Periods of the Aggrieved Employee
14 and pursuant to Labor Code section 2699, subd. (m).

15 1.14. "Judgment" means the Judgment entered by the Court based on its Approval Order.

16 1.15. "LWDA" means the California Labor and Workforce Development Agency, the agency
17 entitled under Labor Code section 2699, subd. (a).

18 1.16. "LWDA PAGA Payment" means the LWDA's 75% share of the PAGA Penalties,
19 calculated pursuant to Labor Code section 2699, subd. (m).

20 1.17. "Net Settlement Amount" means the Gross Settlement Amount less the following payments
21 in the amounts approved by the Court: the LWDA PAGA Payment, PAGA Counsel Expenses Payment,
22 PAGA Counsel Fees Payment, PAGA Representative Enhancement Payment, and Administration
23 Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.

24 1.18. "PAGA Counsel" means Kane Moon, Allen Feghali, and Jacquelyne VanEmmerik of Moon
25 Law Group, P.C.

26 1.19. "PAGA Counsel Expenses Payment" means \$14,500.00, the amount allocated to PAGA
27 Counsel for reimbursement of their reasonable expenses incurred to prosecute the Action.
28

1 1.20. "PAGA Counsel Fees Payment" means one third of the Gross Settlement Amount, the
2 amount allocated to PAGA Counsel for their reasonable fees incurred to prosecute the Action.

3 1.21. "PAGA Pay Period" means any Pay Period in which an Aggrieved Employee engaged in
4 any productive work activity for which he or she was paid as a non-exempt employee.

5 1.22. "PAGA Period" means the period from February 4, 2023, through the earlier of the date
6 elected pursuant to Paragraph 7 herein or the date the Court issues the Approval Order.

7 1.23. "PAGA Notice" means the Notice of Labor Code Violations and PAGA Penalties that
8 Plaintiff submitted to the LWDA, and sent via certified mail to Defendant, on February 4, 2024, pursuant
9 to Labor Code section 2699.3, subd.(a).

10 1.24. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the
11 Gross Settlement Amount. The PAGA Penalties will be allocated 75% to the LWDA and 25% to the
12 Aggrieved Employees, pursuant to Labor Code section 2699, subd. (m).

13 1.25. "PAGA Representative" or "Plaintiff" means Omar Rodriguez, the named Plaintiff in the
14 Action.

15 1.26. "PAGA Representative Enhancement Payment" means \$7,500.00, the total amount allocated
16 to Plaintiff for his role, services, and risks undertaken as PAGA Representative and for his general release,
17 as set forth in Paragraph 5.1 herein.

18 1.27. "Released Claims" means the claims being released by the Aggrieved Employees, as
19 described in Paragraph 5.2 herein.

20 1.28. "Released Parties" means Defendant and each of its insurers, brands, concepts, franchisors,
21 affiliates, subsidiaries, parent companies, predecessors, successors, assigns, employees, officers, directors,
22 agents, attorneys, administrators, representatives, heirs, estates, powers-of-attorney, and any individual or
23 entity which could be jointly liable with Defendant.

24 **2. RECITALS**

25 2.1. On February 4, 2024, Plaintiff submitted to the LWDA, and sent via certified mail to
26 Defendant, a Notice of Labor Code Violations and PAGA Penalties, pursuant to Labor Code section
27 2699.3, subd. (a).
28

1 2.2. On February 5, 2024, Plaintiff filed a Class Action Complaint against Defendant, which
2 alleged eight individual and class causes of action under the California Labor Code (“Labor Code”) and
3 California Business and Professions Code.

4 2.3. On April 18, 2024, Plaintiff filed a First Amended Class and Representative Action
5 Complaint against Defendant, which alleged a ninth cause of action for civil penalties under PAGA.

6 2.4. On June 11, 2024, the Parties attended private mediation with an experienced wage and hour
7 mediator, Lisa Klerman, Esq. The mediation session resulted in a settlement in principle, the terms of
8 which are encompassed in this Agreement.

9 2.5. Between February and June 2024, in preparation for mediation, the Parties agreed to an
10 informal exchange of data and documents, which included, but was not limited to, a twenty (20) percent
11 sample of the time and corresponding payroll records of the Aggrieved Employees and the employee
12 handbooks and policies in effect during the PAGA Period.

13 2.6. On July 9, 2024, Plaintiff filed a Request for Dismissal of Class Allegations Without
14 Prejudice based on the arbitration agreement Plaintiff signed at the commencement of his employment
15 with Defendant.

16 2.7. On October 1, 2024, the Parties fully executed a Memorandum of Understanding
17 encompassing the terms agreed on at mediation and incorporated herein.

18 **3. MONETARY TERMS**

19 3.1. *Gross Settlement Amount.* The Gross Settlement of \$100,000.00 is the total amount Defendant
20 agrees to pay under the Settlement, except as provided in Section 7 herein. Defendant has no obligation to
21 pay the Gross Settlement Amount before the deadline stated in Paragraph 4.2 of this Agreement. The
22 Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved
23 Employees to submit a claim as a condition of payment. None of the Gross Settlement Amount will revert
24 to Defendant. The Administrator will make and deduct the following payments from the Gross Settlement
25 Amount in the amounts specified by the Court in its Approval Order:

26 3.1.1. *To PAGA Counsel:* A PAGA Counsel Expenses Payment of not more than
27 \$14,500.00 for reimbursement of their reasonable expenses incurred to prosecute the Action; and a PAGA
28 Counsel Fees Payment of not more than one third of the Gross Settlement Amount, or \$33,333.33, for their

1 reasonable fees incurred to prosecute the Action. Defendant will not oppose requests for Court approval of
2 these payments provided such payments do not exceed these amounts. Plaintiff and/or PAGA Counsel will
3 file a Motion for Court approval of the PAGA Counsel Expenses Payment and PAGA Counsel Fees
4 Payment. If the Court approves a PAGA Counsel Expenses Payment and/or a PAGA Counsel Fees
5 Payment in amounts less than requested, the Administrator will allocate the remainder to the Net
6 Settlement Amount. Released Parties shall have no liability to PAGA Counsel arising from any claim to
7 any portion of any PAGA Counsel Expenses Payment or PAGA Counsel Fees Payment. The
8 Administrator will pay the PAGA Counsel Expenses Payment and PAGA Counsel Fees Payment using
9 one or more IRS 1099 Forms. PAGA Counsel assume full responsibility and liability for taxes owed on
10 the PAGA Counsel Expenses Payment and PAGA Counsel Fees Payment, and hold Defendant harmless,
11 and indemnify Defendant, from any dispute or controversy regarding any division of any of these
12 Payments.

13 3.1.2. *To the PAGA Representative:* A PAGA Representative Enhancement Payment of
14 not more than \$7,500.00 for Plaintiff's role, services, and risks undertaken as PAGA Representative of the
15 State of California and for his general release of claims, as described in Paragraph 5.1 herein.

16 3.1.3. *To the Administrator:* An Administration Expenses Payment of not more than
17 \$2,750.00 for reimbursement of the Administrator's reasonable fees and expenses. To the extent the
18 Administration Expenses Payment is less or the Court approves payment less than \$2,750.00, the
19 Administrator will retain the remainder in the Net Settlement Amount. Simpluris, Inc. has been mutually
20 selected as the Administrator.

21 3.1.4. *To the LWDA and Aggrieved Employees:* PAGA Penalties to be paid from the Gross
22 Settlement Amount equal to the Gross Settlement Amount less the PAGA Counsel Expenses Payment,
23 PAGA Counsel Fees Payment, PAGA Representative Enhancement Payment, and Administration
24 Expenses Payment. PAGA Penalties will be allocated 75% to the LWDA ("LWDA PAGA Payment") and
25 35% to the Aggrieved Employees ("Individual PAGA Payments"), pursuant to Labor Code section 2699,
26 subd. (m).

27 3.1.4.1. The Administrator will calculate each Individual PAGA Payment by (a)
28 dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (i.e., the Net Settlement

Amount) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms. The Individual PAGA Payments shall be allocated 100% as penalties and interest.

4. SETTLEMENT FUNDING AND PAYMENTS

4.1. *Aggrieved Employee Data.* No later than thirty (30) calendar days after the complete execution of this Agreement, Defendant shall deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of the Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.2. *Funding of Gross Settlement Amount.* No later than twenty-one (21) calendar days after the Effective Date, Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator.

4.3. *Payments from the Gross Settlement Amount.* No later than fourteen (14) calendar days after Defendant fully funds the Gross Settlement Amount, the Administrator shall mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the PAGA Counsel Expenses Payment, the PAGA Counsel Fees Payment, the PAGA Representative Enhancement Payment, and the Administration Expenses Payment. Disbursement of the PAGA Counsel Expenses Payment and PAGA Counsel Fees Payment shall not precede disbursement of Individual PAGA Payments.

1 4.3.1. The Administrator will issue checks for the Individual PAGA Payments and send
2 them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid, along with the Notice of
3 PAGA Settlement Agreement attached hereto as **Exhibit A**. The face of each check shall prominently state
4 the date when the check will be voided (the “void date”). The void date is 180 days after the date of
5 mailing. The Administrator will cancel all checks not cashed by the void date.

6 4.3.2. The Administrator must update the recipients’ mailing addresses using the National
7 Change of Address Database before mailing any checks.

8 4.3.3. The Administrator must conduct an Aggrieved Employee Address Search for all
9 Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. The
10 Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained
11 through the Aggrieved Employee Address Search within seven (7) business days of receiving a returned
12 check. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-
13 mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to
14 any Aggrieved Employee whose original check was lost, misplaced, or requested by the Aggrieved
15 Employee before the void date.

16 4.3.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed
17 and canceled after the void date, the Administrator shall transmit the funds represented by such checks to
18 the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

19 4.3.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer
20 any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k)
21 contributions or bonuses) beyond those specified in this Agreement.

22 **5. RELEASE OF CLAIMS**

23 5.1. *Plaintiff’s Release*. Effective on the date Defendant fully funds the Gross Settlement Amount,
24 Plaintiff and his former and/or present spouses, representatives, agents, attorneys, heirs, administrators,
25 successors, and assigns, will be deemed to release the Released Parties from all claims, transactions, or
26 occurrences that occurred during his employment with Defendant, including, but not limited to all claims
27 that were, or reasonably could have been, alleged based on the facts contained in the operative Complaint
28 and PAGA Notice, which shall include, but not be limited to, claims for violations of the California Labor

Code based on Defendant's alleged failure to pay all wages due (including minimum wages, straight time wages, regular rate wages, and overtime wages), failure to provide compliant meal periods, failure to authorize and permit compliant rest periods, failure to provide accurate and itemized wage statements, failure to factor bonus payments into regular rate of pay, failure to timely pay all wages due during employment and at the time of termination, failure to reimburse employees for all business-related expenses, and all damages, interest, penalties, attorneys' fees, costs, and other amounts recoverable under said causes of action ("Plaintiff's Release").

5.1.1. 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, or workers' compensation benefits. Plaintiff acknowledges that he may discover facts or law different from, or in addition to, the facts or law Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.2. Plaintiff specifically stipulates and agrees that, upon the date Defendant fully funds the Gross Settlement Amount, he shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

5.2. *Release by Aggrieved Employees.* Effective on the date Defendant fully funds the Gross Settlement Amount, the Aggrieved Employees and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, will be deemed to release the Released Parties from (i) all PAGA claims asserted in the operative Complaint and PAGA Notice, (ii) all PAGA claims that could have reasonably been asserted in the operative Complaint and PAGA Notice, and (iii) all PAGA claims arising out of the same operative facts, including claims for civil penalties under PAGA for violations of the California Labor Code based on Defendant's failure to pay all wages due (including

1 minimum wages, straight time wages, regular rate wages, and overtime wages), failure to provide
2 compliant meal periods, failure to authorize and permit compliant rest periods, failure to provide accurate
3 itemized wage statements, failure to factor bonus payments into regular rate of pay, failure to timely pay
4 all wages due during employment and at the time of termination, failure to reimburse employees for all
5 business-related expenses, and all damages, interest, penalties, attorneys' fees, costs, and other amounts
6 recoverable under said representative causes of action under California law, to the extent permissible
7 ("Released Claims").

8 5.3. *Release by PAGA Counsel.* Effective on the date Defendant fully funds the Gross Settlement
9 Amount, PAGA Counsel and their present and former attorneys, employees, agents, successors, and
10 assigns, will be deemed to release the Released Parties from all claims for fees or expenses incurred in
11 connection with the claims alleged in the operative Complaint and the facts stated in the operative
12 Complaint and PAGA Notice.

13 5.4. *Release by LWDA.* Effective on the date Defendant fully funds the Gross Settlement Amount,
14 the LWDA shall release the Released Parties from any claim for civil penalties arising out of the Released
15 Claims. As consideration for this release, the LWDA shall receive 75% of the PAGA Penalties and the
16 Aggrieved Employees shall receive 25% of the PAGA Penalties, consistent with the requirements of the
17 Labor Code sections 2698, *et seq.*

18 **6. SETTLEMENT ADMINISTRATION**

19 6.1. *Selection of Administrator.* The Parties have jointly selected Simpluris, Inc. to serve as the
20 Administrator and verified that, as a condition of appointment, Simpluris, Inc. agrees to be bound by this
21 Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment
22 of any administration expenses. The Parties and their Counsel represent that they have no interest or
23 relationship, financial or otherwise, with the Administrator other than a professional relationship arising
24 out of prior experiences administering settlements.

25 6.2. *Employer Identification Number.* The Administrator shall have and use its own Employer
26 Identification Number for purposes of calculating payroll tax withholdings and providing reports to state
27 and federal tax authorities.
28

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

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

7. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE

Defendant represents that an estimated 325 Aggrieved Employees worked 6,000 total pay periods from February 4, 2023, to June 10, 2024. If the number of pay periods during the PAGA Period is more than 10% greater than this figure (*i.e.*, if there are approximately 6,601 or more pay periods worked by Aggrieved Employees), Defendant agrees to increase the Gross Settlement Amount proportionately by one percent (1%) (*i.e.*, if there is an 11% increase in the number of pay periods during the PAGA Period, Defendant agrees to increase the Gross Settlement Amount proportionately by 1%); or in the alternative, elect to end the PAGA Period at an earlier date to limit the PAGA Pay Periods to 6,600 or less.

8. CONTINUING JURISDICTION OF THE COURT

8.1. *Continuing Jurisdiction.* The Parties agree that, after entry of Judgment, the Court shall retain jurisdiction over the Parties, Action, and Settlement for purposes of (i) enforcing this Agreement and/or the Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law. This Agreement shall be binding and enforceable pursuant to California Code of Civil Procedure section 664.6.

8.2. *Waiver of Right to Appeal.* Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Expenses Payment and PAGA Counsel Fees Payment, the Parties and their respective counsel 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 another party 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.

1 **9. ADDITIONAL PROVISIONS**

2 9.1. *Duty to Cooperate.* If the Parties disagree on any aspect of the proposed stipulation or motion
3 for approval of the Settlement, PAGA Counsel and Defense Counsel will expeditiously work together on
4 behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement.
5 If the Court does not grant the motion for approval of the Settlement or conditions its approval on any
6 material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together
7 on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement
8 and otherwise satisfy the Court's concerns.

9 9.2. *No Admission of Liability or Representative Manageability for Other Purposes.* This
10 Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement
11 is intended or should be construed as an admission by Defendant that any of the allegations in the
12 operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be
13 intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The
14 Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the
15 Court does not approve the Settlement, Defendant reserves all available defenses to the claims in the
16 Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement,
17 and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in
18 connection with, any litigation, except for proceedings to enforce or effectuate the Settlement and this
19 Agreement.

20 9.3. *Integrated Agreement.* Upon execution by all Parties and their counsel, this Agreement,
21 together with any attached exhibits, shall constitute the entire agreement between the Parties relating to the
22 Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or
23 by any Party.

24 9.4. *Attorney Authorization.* PAGA Counsel and Defense Counsel separately warrant and
25 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action
26 required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to
27 execute any other documents reasonably required to effectuate the terms of this Agreement including any
28 amendments to this Agreement.

1 9.5. *Cooperation.* The Parties and their counsel will cooperate with each other and use their best
2 efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement
3 Agreement, submitting supplemental evidence and supplementing points and authorities as requested by
4 the Court. In the event the Parties are unable to agree upon the form or content of any document necessary
5 to implement the Settlement, or on any modification of this Agreement that may become necessary to
6 implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

7 9.6. *No Prior Assignments.* The Parties separately represent and warrant that they have not directly
8 or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person
9 or entity and portion of any liability, claim, demand, action, cause of action, or right released and
10 discharged by the Party in this Settlement.

11 9.7. *No Tax Advice.* Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are
12 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as
13 such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as
14 amended) or otherwise.

15 9.8. *Modification of Agreement.* This Agreement, and all parts of it, may be amended, modified,
16 changed, or waived only by an express written instrument signed by all Parties or their representatives, and
17 approved by the Court.

18 9.9. *Agreement Binding on Successors.* This Agreement will be binding upon, and inure to the
19 benefit of, the successors of each of the Parties.

20 9.10. *Applicable Law.* All terms and conditions of this Agreement and any attached exhibits will
21 be governed by and interpreted according to the internal laws of the State of California, without regard to
22 conflict of law principles.

23 9.11. *Cooperation in Drafting.* The Parties have cooperated in the drafting and preparation of this
24 Agreement. This Agreement will not be construed against any Party on the basis that the Party was the
25 drafter or participated in the drafting.

26 9.12. *Confidentiality.* To the extent permitted by law, all agreements made, and orders entered
27 during the Action and in this Agreement relating to the confidentiality of information shall survive the
28 execution of this Agreement.

1 9.13. *Use and Return of Aggrieved Employee Data.* Information provided to PAGA Counsel
2 pursuant to Evidence Code section 1152, and all copies and summaries of the Aggrieved Employee Data
3 provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations,
4 or in connection with the Settlement, may be used only with respect to this Settlement, and no other
5 purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule
6 of court. No later than ninety (90) days after the Administrator discharges its obligation to pay out of all
7 Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data
8 received from Defendant unless, prior to the Administrator's payment of all Settlement funds, Defendant
9 makes a written request to PAGA Counsel for the return, rather than the destruction, of Aggrieved
10 Employee Data.

11 9.14. *Headings.* The descriptive heading of any section or paragraph of this Agreement is inserted
12 for convenience of reference only and does not constitute a part of this Agreement.

13 9.15. *Calendar Days.* Unless otherwise noted, all reference to "days" in this Agreement shall be to
14 calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal
15 legal holiday, such date or deadline shall be on the first business day thereafter.

16 9.16. *Notice.* All notices, demands or other communications between the Parties in connection
17 with this Agreement will be in writing and deemed to have been duly given as of the third business day
18 after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

19 To Plaintiff:

20 Kane Moon
21 Allen Feghali
22 Jacquelyne VanEmmerik
23 **MOON LAW GROUP, P.C.**
24 725 South Figueroa Street, 31st Floor
25 Los Angeles, California 90017
26 Telephone: (213) 232-3128
27 Email: kmoon@moonlawgroup.com
28 Email: afeghali@moonlawgroup.com
 Email: jvanemmerik@moonlawgroup.com

 To Defendant:

 Spencer C. Skeen
 Tim Johnson
 Nikolas Djordjevski
 OGLETREE DEAKINS

4660 La Jolla Village Drive, Suite 900
San Diego, California 92122
Telephone: 858-652-3102
Email: tyler.duncan@ogletreedeakins.com
Email: spencer.skeen@ogletreedeakins.com
Email: nikolas.djordjeovski@ogletreedeakins.com
Email: tim.johnson@ogletreedeakins.com

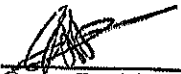
9.17. *Execution in Counterparts.* This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or by email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same 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.

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

The Parties hereby execute this Agreement.

Signatures on following page.

1 Dated: November 18, 2024


Omar Rodriguez, Plaintiff

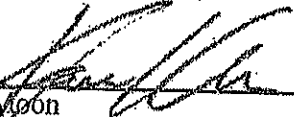
2
3 Dated: 12/2/2024


Sansmark Inc. dba Randy's Donuts, Defendant

PRESIDENT - MARK KELEGIAN
Title

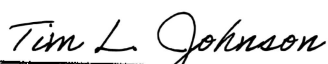
4
5
6
7 Dated: November 18, 2024

MOON LAW GROUP, P.C.

8
9 By: 
Kane Moon
Allen Feghali
Jacquelyne VanEmmerik
Attorneys for Plaintiff, Omar Rodriguez

10
11
12 Dated: 12/2/2024

OGLETREE DEAKINS

13
14 By: 
Spencer C. Sleen
Tim Johnson
Nikolas Djordjevski
Attorneys for Defendant, Sansmark, Inc. dba Randy's
Donuts