

**JCL LAW FIRM, APC**

Jean-Claude Lapuyade (State Bar #248676)  
Sydney Castillo-Johnson (State Bar #343881)  
Perssia Razma (State Bar #351398)  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
Telephone: (619) 599-8292  
Facsimile: (619) 599-8291  
[jlapuyade@jcl-lawfirm.com](mailto:jlapuyade@jcl-lawfirm.com)  
[scastillo@jcl-lawfirm.com](mailto:scastillo@jcl-lawfirm.com)  
[prazma@jcl-lawfirm.com](mailto:prazma@jcl-lawfirm.com)

**ZAKAY LAW GROUP, APLC**

Shani O. Zakay (State Bar #277924)  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
Telephone: (619) 255-9047  
Facsimile: (858) 404-9203  
[shani@zakaylaw.com](mailto:shani@zakaylaw.com)

Attorneys for Plaintiff TATIANA BOVE

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF LOS ANGELES**

TATIANA BOVE, an individual, on behalf of  
herself, and on behalf of all persons similarly  
situated,

Plaintiff,

v.

S&B RESTAURANT GROUP LLC dba  
CHICK-FIL-A, a California limited liability  
company; and DOES 1-50, Inclusive,

Defendants.

Case No. 23STCV02528

**DECLARATION OF PERSSIA RAZMA, ESQ.  
IN SUPPORT OF PLAINTIFF'S MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION AND PAGA SETTLEMENT**

Date: July 26, 2024

Time: 10:30 a.m.

Judge: Hon. Stuart M. Rice

Dept.: 1

1 I, Perssia Razma, Esq., declare as follows:

2 1. I am over eighteen years of age and if called as a witness, I could and would competently  
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law and co-counsel  
4 of record for Plaintiff TATIANA BOVE (hereafter "Plaintiff") in this wage and hour class action filed  
5 against S&B RESTAURANT GROUP LLC dba CHICK-FIL-A. (hereinafter "Defendant").

6 2. This declaration is being submitted in support of Plaintiff's motion for Preliminary  
7 Approval of Class Action and PAGA Settlement.

8 **I. EXHIBITS**

9 3. Attached hereto as **Exhibit "1"** is a true and correct copy of the Class Action and PAGA  
10 Settlement Agreement ("Agreement"). Attached as **Exhibit "A"** to the Agreement is a true and correct  
11 copy of the proposed Class Notice.

12 4. Attached hereto as **Exhibit "2"** is a true and correct redlined copy of the Agreement.  
13 Attached as **"Exhibit "A"** to Exhibit 2 is a true and correct redlined copy of the proposed Class Notice.

14 5. Attached hereto as **Exhibit "3"** is a true and correct copy of the proof of filing with the  
15 Labor and Workforce Development Agency notice of this settlement with the Agreement and Motion  
16 for Preliminary Approval of Class Action and PAGA Settlement evidencing Class Counsel's  
17 compliance with California Labor Code Section 2699(1)(2).

18 6. Attached hereto as **Exhibit "4"** is a true and correct copy of the bid for settlement  
19 administration submitted by Apex Class Action LLC, in the amount of \$8,890.

20 **II. INTRODUCTION**

21 7. An objective evaluation of the Settlement confirms that the relief negotiated on behalf of  
22 the Class is fair, reasonable, and adequate. The Settlement was negotiated by the Parties at arm's length.  
23 The Settlement confers substantial benefits to the Class Members. The relief offered by the Settlement  
24 is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage  
25 and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Participating Class  
26 Members will not have to wait (possibly years) for relief, nor will they have to bear the risk of class  
27 certification being denied or of Defendants prevailing at trial. Finally, the Settlement considers  
28 Defendant's financial condition and ability to satisfy a larger settlement. Given that there are

1 approximately 381 Participating Class Members, *the average gross recovery is approximately \$356.96.*  
2 (Net Settlement Amount divided by Class Members).

3 8. As discussed below, the proposed Settlement satisfies all criteria for preliminary  
4 settlement approval and falls within the range of reasonableness. The average Individual Class Payment  
5 to the Class Members meets or exceeds awards in similar wage and hour class actions. Moreover, the  
6 proposed Class is appropriate for provisional certification. Accordingly, Plaintiff respectfully requests  
7 the Court grant preliminary approval of the Settlement.

### 8 **III. FACTS AND PROCEDURE**

#### 9 **A. Overview of the Litigation**

10 9. Defendant owns, operates, and manages a Chick-fil-A restaurant franchise in the county  
11 of Los Angeles, where Plaintiff worked. This action asserts claims on behalf of all of Defendant's  
12 current and former non-exempt employees employed in California at any time during the Class Period.  
13 Plaintiff worked for Defendant as a non-exempt employee in California from April of 2022 to August  
14 of 2022. At all times during her employment, Plaintiff earned an hourly wage and was entitled to legally  
15 compliant meal and rest periods, and minimum, regular and overtime wages for all hours worked.  
16 Throughout her employment, Plaintiff was subject to Defendant's policies and procedures.

17 10. Generally, Plaintiff claims that Defendant failed to pay for all time worked, failed to  
18 provide compliant meal and rest periods, failed to reimburse for required business expenses, unlawfully  
19 deducted required uniform expenses from wages, failed to furnish accurate itemized wage statements,  
20 and failed to pay all wages when due. Defendant forcefully denies liability for each of Plaintiff's claims.  
21 Further, Defendant asserts that they fully complied with all applicable employment laws and raised  
22 several other significant defenses to Plaintiff's claims, including but not limited to, asserting that it paid  
23 employees for all hours worked, maintained facially compliant meal and rest period policies, did not  
24 engage in unlawful payroll deductions, issued compliant wage statements, and timely paid all wages  
25 when due.

26 11. On December 1, 2022, Plaintiff served Defendant and the Labor and Workforce  
27 Development Agency ("LWDA") with a Notice of Violations ("PAGA Notice"). Plaintiff's PAGA  
28 Notice set forth the facts and theories supporting Defendant's alleged violations of various provisions

1 of the California Labor Code and applicable Industrial Welfare Commissions (“IWC”) Wage Order and  
2 of her intent to pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab.  
3 Code Sections 2698 *et seq.* (“PAGA”).

4 12. On February 6, 2023, Plaintiff filed a class action complaint in the Los Angeles Superior  
5 Court, Case Number 23STCV02528 (“Action”). The Action alleged nine causes of action against  
6 Defendant for: (1) Unfair Competition in Violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*; (2)  
7 Failure to Pay Minimum Wages in Violation Of Cal. Lab. Code §§ 1194, 1197 & 1197.1; (3) Failure to  
8 Pay Overtime Wages in Violation Of Cal. Lab. Code §§ 510, *et seq.*; (4) Failure to Provide Required  
9 Meal Periods in Violation Of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (5)  
10 Failure to Provide Required Rest Periods in Violation Of Cal. Lab Code §§ 226.7 & 512 and the  
11 Applicable IWC Wage Order; (6) Failure to Provide Wages When Due in Violation Of Cal. Labor Code  
12 §§ 201, 202 and 203; (7) Failure to Provide Accurate Itemized Statements in Violation Of Cal. Lab.  
13 Code § 226; (8) Failure Reimburse Employees for Required Expenses in Violation of Cal. Lab. Code §  
14 2802; and (9) Violation of the Private Attorneys General Act [Labor Code §§ 2698 *et seq.*].

15 13. The Parties agreed relatively early to mediate the Action. On January 9, 2024, the Parties  
16 participated in a full day mediation with retired jurist and mediator Hon. Brian C. Walsh (Ret.). After  
17 arms-length negotiations and bargaining, the Parties reached an agreement to settle and signed a  
18 Memorandum of Understanding. After reaching an agreement in principle, the Parties drafted and  
19 negotiated a long-form settlement agreement, which is the subject of the instant motion.

20 **B. Class Counsel Thoroughly Investigated the Factual and Legal Issues**

21 14. Months before filing the Action, Class Counsel began their pre-filing investigation into  
22 Plaintiff’s complaints. Class Counsel’s investigation started with several lengthy interviews with  
23 Plaintiff. As part of the interview process, Plaintiff produced documents related to her employment,  
24 including her wage statements. At the conclusion of the interviews and review of documents, Class  
25 Counsel determined that each Plaintiff’s complaints justified further inquiry.

26 15. Class Counsel subsequently requested Plaintiff’s employee file from Defendant. In  
27 response, Defendant produced various documents, including but not limited to, copies of Plaintiff’s  
28 payroll records. Class Counsel reviewed and analyzed the documents and determined the documents

1 appeared to substantiate Plaintiff's claim that Defendant failed to, among other things, pay for all time  
2 worked and issue accurate itemized wage statements.

3 16. Considering the many anticipated factual disputes, the Parties agreed that it would be in  
4 the best interest of both Parties to mediate the matter. Once the parties decided to attend mediation, they  
5 met and conferred with respect to a sampling of Class Members' time and payroll records. During the  
6 Initial Status Conference, Class Counsel and Defense Counsel requested the Court's guidance on a  
7 sample size needed for purposes of preliminary approval. The Court indicated to Counsel that that a  
8 25% sample of time and payroll records would be sufficient for preliminary approval. Based on the  
9 Court's guidance, The Parties agreed to a 25% sample. Pursuant to the Parties agreement, Defendant  
10 produced time and payroll records for the Class Members, aggregate workweek and pay period data for  
11 the Class Members, average hourly rate for the Class Members, and copies of applicable handbooks,  
12 policies, and agreements.

13 17. Class Counsel then retained the statisticians and economists at Berger Consulting Group  
14 ("BCG") to evaluate the Class Members' payroll and time data. BCG provides data analysis and  
15 damage modeling consulting services, specializing in wage and hour class actions. BCG's team of  
16 financial and data analysts are credentialed and experienced experts in their fields and have provided  
17 their expertise on thousands of cases. Stated differently, the BCG is well-qualified to analyze  
18 Defendant's time and payroll data.

19 18. BCG analyzed Defendant's time and payroll data to assist in the development of various  
20 damage models. Among other things, BCG determined the approximate number of work shifts,  
21 workweeks, pay periods, average length of shift, and average number of hours worked per workweek  
22 and pay periods during the Class Period. BCG also estimated the number of meal and rest period  
23 violations, the amount of unpaid wages, the amount of unlawful deductions, and the amount of off-the-  
24 clock work performed by the Class Members during the Class Period.

25 19. In advance of mediation, Class Counsel created several damage models predicated on the  
26 BCG analysis. Class Counsel's models calculated Defendant's potential liability exposure while  
27 accounting for the uncertainties of continued litigation. These damage models informed and guided  
28 Class Counsel during the mediated settlement discussions.

1           20. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1)  
2 determining Plaintiff's suitability as a putative class representative through interviews, background  
3 investigations, and analysis of her employment file; (2) evaluating all of Plaintiff's potential claims; (3)  
4 researching similar wage and hour class actions as to the claims brought, the nature of the positions,  
5 and the type of employer; (4) analyzing the Class Members' time and payroll records; (5) analyzing  
6 Defendant's labor policies and practices; (6) researching settlements in similar cases as well as  
7 outstanding issues which could affect settlement approval; (7) evaluating Plaintiff's claims and  
8 estimating Defendant's liability for purposes of settlement; (8) drafting the mediation brief; and (9)  
9 participating in the mediation. This investigation allowed Class Counsel to fully assess the nature and  
10 magnitude of the claims being settled, as well as the impediments to recovery, such as to make an  
11 independent assessment of the reasonableness of the terms to which the Parties have agreed.

12           21. Class Counsel only agreed to enter the Settlement following this thorough investigation,  
13 evaluation of Plaintiff's claims, and evaluation of Defendant's financial condition. Based on their  
14 investigation of the facts, applicable law, and marketplace for similar settlements, and considering the  
15 risk of significant delay, uncertainty associated with litigation, and the various defenses asserted by  
16 Defendant, Class Counsel firmly believe this Agreement to be in the best interests of the Class  
17 Members. Because the Settlement's terms are fair, reasonable, and adequate, the Court should  
18 preliminarily approve the Settlement.

19           **C. The Parties Settled at Mediation**

20           22. On January 9, 2024, the Parties conducted a full day of mediation with Hon. Brian C.  
21 Walsh (Ret.), a respected jurist and mediator of wage and hour class and representative actions. Judge  
22 Walsh helped manage the Parties' expectations and provided a useful, neutral analysis of the issues and  
23 risks to both sides. The Parties made substantial progress with Judge Walsh's assistance. Namely, the  
24 Parties exchanged information regarding their respective claims and defense, including their respective  
25 evaluation of the damages. The mediation concluded with a settlement, the complete and final terms of  
26 which are now set forth in the Agreement. Class Counsel submit that the Settlement constitutes a fair,  
27 adequate, and reasonable compromise of the claims at issue.

28       ///

1 **IV. ARGUMENT**

2 **A. The Court Should Preliminarily Approve the Proposed Class Action Settlement**

3 1. The Parties Reached the Settlement Through Arm's-Length Bargaining Led by  
4 Experienced Counsel.

5 23. The Parties participated in mediation with the highly respected mediator and retired judge  
6 Hon. Brian C. Walsh (Ret.). Judge Walsh managed the Parties' expectations and provided a useful,  
7 neutral analysis of the issues and risks to both sides. (*In re Apple Computer, Inc. Derivative Litig*, No.  
8 C 06-4128 JF (HRL), 2008 U.S. Dist. LEXIS 108195 (N.D. Cal. Nov. 5, 2008) (mediator's participation  
9 weighs considerably against any inference of a collusive settlement); *D'Amato v. Deutsche Bank* (2d.  
10 Cir. 2001) 236 F.3d 78, 85 (a "mediator's involvement in pre-certification settlement negotiations helps  
11 to ensure that the proceedings were free of collusion and undue pressure.")) At all times, the Parties'  
12 negotiations were at an arm's length, adversarial, and non-collusive. After a full day of mediated  
13 negotiations, the mediation concluded with a settlement.

14 24. Once the Parties reached a settlement, the Parties engaged in negotiations regarding the  
15 written terms of the class action and PAGA settlement. The Agreement is the final product of the  
16 mediated negotiations. Objectively, the Settlement terms are fair, adequate and represent a reasonable  
17 compromise of the claims at issue.

18 2. Class Counsel's Thorough Investigation Provided an Objective Measurement of  
19 the Settlement's Reasonableness.

20 25. As set forth in greater detail above, Class Counsel conducted a very thorough  
21 investigation into the factual and legal issues in dispute. In addition to informal discovery, document  
22 review, data analysis and legal research, Class Counsel also researched similar wage and hour actions.  
23 Although no two cases are identical, this research provided Class Counsel with a marker to inform  
24 settlement discussions and, ultimately, to measure this settlement against. The investigation allowed  
25 Class Counsel to realistically assess the value of the claims and intelligently engage defense counsel in  
26 settlement discussions that culminated in the proposed settlement now before the Court.

27 26. Class Counsel only agreed to enter the Settlement following their thorough investigation,  
28 evaluation of Plaintiff's claims, and evaluation of Defendant's financial condition. Based on an

1 investigation of the facts, applicable law, and marketplace for similar settlements, and considering the  
2 risk of significant delay, uncertainty associated with litigation, and the various defenses asserted by  
3 Defendant, Class Counsel firmly believe this Agreement to be in the best interests of the Class  
4 Members. Because the Settlement's terms are fair, reasonable, and adequate, the Court should  
5 preliminarily approve the Settlement.

6 **A. The Gross Settlement Amount Meets the Recognized Range of Reasonableness.**

7 27. The Gross Settlement Amount of \$300,000.00 is fair and reasonable considering the  
8 nature and magnitude of the claims being settled and the various potential impediments to recovery.  
9 Prior to mediation, Class Counsel retained BCG to develop economic damage models measuring  
10 Defendant's liability exposure while accounting for the uncertainties of continued litigation. The  
11 various models were informed by Class Counsel's investigation, including the analysis of a significant  
12 sample of time and payroll data. Class Counsel projected Defendant's liability exposure for *class claims*  
13 (excluding PAGA penalties) ranged between \$754,907.62 ("Conservative Model") and \$2,232,347.22  
14 ("Aggressive Model") if successful at trial. This range reflects the uncertainty regarding several of the  
15 claims, together with the uncertainty surrounding derivative liability for inaccurate wage statements  
16 and waiting time penalties. Thus, the Gross Settlement Amount of \$300,000.00 represents  
17 approximately between 13.44% ("Aggressive Model") and 39.74% ("Conservative Model") of  
18 Defendant's *class-wide* liability exposure as estimated by Class Counsel at the time of mediation. The  
19 following summarizes Defendant's estimated exposure.

20 (1) Estimated Exposure for Meal Period Violations

21 28. Plaintiff alleged that Defendant failed to provide compliant meal periods and failed to  
22 provide meal period premiums. Specifically, Plaintiff alleged that because of rigorous work schedules  
23 and Defendant's understaffing, Plaintiff and Class Members were unable to take timely and duty-free  
24 meal periods. An analysis of the Class Members' time and payroll data revealed a modest 18.6% meal  
25 period violation rate. A majority of these violations were seen in shifts between 5 and 6 hours, resulting  
26 in a violation rate of 40.7%. Defendant had in place a meal period waiver that was signed by a majority  
27 of the Class Members. However, Plaintiff alleged that a majority of these signed meal period waivers  
28 were unenforceable.

1           29. Defendant argued, *inter alia*, that it provided the Class Members with compliant meal  
2 periods and maintained facially complaint meal period policies, such that any missed meal periods were  
3 by choice of each individual Class Member. Further, Defendant argued that its meal period waiver was  
4 enforceable. Thus, Defendant argued that there was no potential liability for Plaintiff's alleged meal  
5 period violations and any claimed violations required a highly individualized inquiry not suitable to  
6 class treatment.

7           30. Consequently, Plaintiff applied a 90% discount to this claim and estimated that the  
8 damages for this claim ranged from approximately \$21,102.94 to approximately \$211,029.36.

9                               (2) Estimated Exposure for Unlawful Payroll Deductions

10          31. Plaintiff also alleged that Defendant made unlawful deductions from Plaintiff and Class  
11 Members' pay in violation of California Labor Code section 221. Specifically, Plaintiff and Class  
12 Members were required to wear a uniform. However, Plaintiff alleged that Defendant unlawfully  
13 deducted the uniform expenses from Plaintiff and Class Members' wages. Conversely, Defendant  
14 argued that it did not make unlawful deductions from Plaintiff and Class Members' wages. Plaintiff  
15 estimated Defendant's exposure for this claim to be approximately \$34,715.00.

16                               (3) Estimated Exposure for Rest Period Violations

17          32. Plaintiff also alleged that Defendant failed to provide compliant rest periods. Specifically,  
18 Plaintiff alleged that because of rigorous work schedules and Defendant's understaffing, Plaintiff and  
19 Class Members were unable to take timely and duty-free meal periods. Again, Defendant denied liability  
20 and asserted that it maintained legally compliant rest period policies and practices throughout the Class  
21 Period. Moreover, Plaintiff recognizes the evidentiary burdens establishing this claim. Establishing  
22 Plaintiff's rest period claim would rely, almost entirely, on Class Member testimony, making it a riskier  
23 claim at class certification and liability stages. Certification likely would have required depositions of  
24 Class Members who provided declarations, and Defendant surely would have obtained opposing  
25 declarations stating either rest breaks were taken, or rest breaks were voluntarily waived. *See, e.g.,*  
26 *Ordonez v. Radio Shack, Inc.* (C.D. Cal. Jan. 17, 2013) 2013 WL 210223, at \*11 ("Because of the  
27 competing testimony before the Court, plaintiff's evidence that defendant may have an illegal, written  
28 rest break policy is insufficient for this Court to find that common issues predominate."); *Villa v. United*

1 *Site Servs. of California, Inc.* (N.D. Cal. Nov. 13, 2012) 2012 WL 5503550, at \*8 (“Indeed, Plaintiff’s  
2 own evidence confirms that the written policy does not generate uniform practices.”). Consequently,  
3 Plaintiff applied a 50% discount to this claim and estimated that the damages for this claim ranged from  
4 approximately \$105,514.68 to approximately \$211,029.36.

5 (4) Estimated Exposure for Waiting Time Penalties

6 33. Plaintiff also alleged that the Defendant’s labor code violations resulted in derivative  
7 liability for waiting time penalties. Although these *penalties* represented Defendant’s largest dollar  
8 amount of exposure, this is Plaintiff’s most uncertain claim. Specifically, Defendant argued that  
9 Plaintiff could not prove the “willful” prong needed to obtain waiting time penalties under Labor Code  
10 section 203. As a result, Plaintiff discounted this claim 90%. Plaintiff estimated Defendant’s exposure  
11 for these claims ranged between \$84,766.50 and \$847,665.00.

12 (5) Estimated Exposure for Wage Statement Violations

13 34. Plaintiff also alleged that Defendant failed to furnish its employees with accurate itemized  
14 wage statements. Specifically, Plaintiff alleges that as a result of Defendant’s failure to pay all meal and  
15 rest premiums owed, Plaintiff and other Class Members are entitled to derivative wage statement  
16 penalties. (*See Naranjo v. Spectrum Security Services* (2022) 13 Cal. 5th 93 (concluding that meal  
17 premiums are “wages” entitling employees to derivative wage statement penalties). Defendant argued  
18 that this claim would fail because the underlying claims would fail and that, even if it failed to furnish  
19 accurate wage statements, Plaintiff could not establish the injury requirement on a class-wide basis. As  
20 a result, Plaintiff discounted this claim 50% to account for this risk. Plaintiff estimated that Defendant’s  
21 exposure on this claim ranged between \$419,100.00 and \$838,200.00

22 (6) Estimated Exposure for Failure to Reimburse for Business Expenses

23 35. Plaintiff alleged that Defendant required Plaintiff and Class Members to maintain their  
24 own uniforms as a result of and in furtherance of their job duties but were not reimbursed by Defendant.  
25 California employers who require employees to incur personal business expenses for work purposes  
26 must reimburse the employee for the cost incurred. (See Cal. Lab. Code § 2802(a), providing that “[a]n  
27 employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the  
28 employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the

1 directions of the employer....”). Again, Defendant denied any liability for this claim. Defendant argued  
2 that Class Members were not required to maintain their own uniforms and that its written policies  
3 provide for the reimbursement of required business expenses. Plaintiff estimated Defendant’s exposure  
4 for this claim to be approximately \$24,387.50.

5 (7) Estimated Exposure for Off-the-Clock Work Resulting in Minimum Wage  
6 and Overtime Violations

7 36. Plaintiff further alleged that Defendant failed pay for time spent working while off-the-  
8 clock, resulting in Defendant’s failure to pay all minimum and overtime wages. Specifically, Plaintiff  
9 alleged that Plaintiff and Class Members were required to work while clocked out during what was  
10 supposed to be their off-duty meal breaks. As a result, Defendant failed to pay for Class Members  
11 minimum wage and overtime compensation. Defendant denied any liability for this claim. Defendant  
12 argued that it maintained legally compliant meal period policies and practices throughout the Class  
13 Period, that Class Members were required to accurately record their hours worked, and that Class  
14 Members were instructed not to perform any work-related tasks off-the-clock. Plaintiff estimated  
15 Defendant’s exposure for this claim to be approximately \$65,321.00.

16 (8) Defendant’s PAGA Exposure

17 37. In all, Class Counsel projected Defendants’ liability exposure for PAGA claims ranged  
18 between \$42,575.00 (“Conservative Model”) and \$2,376,150.00 (“Aggressive Model”) if successful at  
19 trial.

20 38. Here, the Parties negotiated a good faith PAGA Payment in the amount of \$20,000 which  
21 is 6.67% of the Gross Settlement Amount. This amount falls well within the range of approved PAGA  
22 Payment. The LWDA Payment of \$15,000.00 represents seventy-five percent (75%) of the PAGA  
23 Payment and will be paid to the LWDA. The Aggrieved Employee Payment of \$5,000.00 represents  
24 the remaining twenty-five percent (25%) of the PAGA Payment, which shall be distributed to the  
25 Aggrieved Employees and is within the range of PAGA Payment approved by courts and should be  
26 approved.

27 39. In order to recover any PAGA penalties, Plaintiff would be required at trial to prove each  
28 of the underlying Labor Code violations. *See Cardenas v. McLane Foodservice, Inc.*, 2011 U.S. Dist.

1 LEXIS 13126, \*10 (C.D. Cal. 2011) ("Given the statutory language [of PAGA], a plaintiff cannot  
2 recover on behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor  
3 Code by the defendant."). Here, Plaintiff would need to prove that each Aggrieved Employee suffered  
4 a violation for each pay period the employee worked. Again, Defendant raised several defenses that  
5 presented serious threats to the claims of the Plaintiff and the Aggrieved Employees. In addition to  
6 those arguments discussed, *supra*, Defendant also argued that the Court of Appeals decision in *Cacho*  
7 *v. Eurostar, Inc.* (2019) 43 Cal.App.5th 885, weakened Plaintiff's claims, on liability, value, and  
8 manageability as to the rest period claims.

9 **B. Inherent Risks of Continued Litigation and Defendant's Financial Condition**  
10 **Support Preliminary Approval.**

11 40. With respect to the most immediate challenge, i.e., class certification, the risks attendant  
12 to the certification of similar wage and hour claims are demonstrated by *Magadia v. Wal-Mart*  
13 *Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit, vacated reversed and remanded  
14 a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed  
15 the trial court to enter judgement in favor of the employer. *See also O'Conner v. Uber Technologies,*  
16 *Inc.* (9<sup>th</sup> Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action); *see also*  
17 *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor  
18 plaintiffs in a wage and hour class action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th  
19 1077, 1088 ("[T]he reason, if any, that employees might not take their breaks were predominantly  
20 individualized questions of fact not susceptible to class treatment."); *Ali v. U.S.A. Cab Ltd.* (2009) 176  
21 Cal.App.4th 1333, 1341 (affirming denial of certification because employees' declarations attesting to  
22 having taken meal and rest breaks demonstrated that individualized inquiries were required to show  
23 harm); *Campbell v. Best Buy Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at \*11-13 (following  
24 *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack  
25 of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying  
26 certification of driver meal and rest period claims based on the predominance of individual issues).  
27 Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently,  
28

1 the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring  
2 settlement.

3 41. Finally, continuing to litigate this action would require continued and extensive resources  
4 coupled with significant Court time to proceed through trial and post-trial motions; which can often  
5 take years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates  
6 extensive expert testimony, particularly with regards to damages. But even if Plaintiff is successful at  
7 trial, Plaintiff is acutely aware that a judgment does not end the litigation. Plaintiff fully expects that  
8 Defendants would appeal any favorable judgment. As demonstrated by *Magadia, supra*, 999 F.3d 668,  
9 the risk of an appeal and subsequent reversal is real.

10 42. Further, Defendant's poor financial condition supports preliminary approval of the  
11 settlement. During the litigation, Defendant raised the possibility that it would be unable to satisfy a  
12 class-wide settlement due to its financial condition. Not accepting Defendant's representation, Class  
13 Counsel requested supporting financial documents from Defendant. Additionally, Class Counsel  
14 retained Certified Public Accountant, Kenneth L. Creal, to analyze Defendant's financial condition and  
15 assess Defendant's ability to satisfy a class-wide settlement. Mr. Creal analyzed Defendant's publicly  
16 available financial information, and a number of Defendant's financial documents that it produced to  
17 Class Counsel, including Defendant's tax returns for 2021 and 2022, and Defendant's balance sheet and  
18 income and expense figures for Defendants' business. Based on a review of Defendant's financial  
19 documents, Mr. Creal determined that Defendant could not afford a settlement larger than the one  
20 contemplated here. Moreover, the payment plan contemplated by the Agreement is appropriate here  
21 because it allows for Defendant to work toward accumulating the settlement funds.

22 43. In this matter, Class Counsel negotiated a Gross Settlement Amount of \$300,000.00 that  
23 is roughly between 13.44% ("Aggressive Model") and 39.74% ("Conservative Model") of Defendant's  
24 maximum class wide liability exposure for damages and statutory penalties. Given the amount of the  
25 settlement here, as compared to potential value of the claims, offset by the various inherent risks to  
26 continued litigation, the settlement is fair and reasonable. Notably, as discussed above, Defendant  
27 raised the possibility that it would be unable to satisfy a class-wide settlement due to its financial  
28

1 condition. Accordingly, the Gross Settlement Amount accounts for the risk that Defendant would be  
2 unable to satisfy a larger settlement than the one contemplated here.

3 **B. Proposed Notice Informs the Class About the Case and Settlement**

4 44. The Parties jointly drafted the Class Notice which fairly and neutrally informs the Class  
5 Members of their rights and remedies. The Administrator will first verify addresses, then mail the  
6 proposed Class Notice in English and Spanish to all Class Members. The Notice will include  
7 information regarding the nature of the lawsuit, a summary of the substance of the Settlement's terms,  
8 the procedure, and time period within which to requests for exclusions or objections to the Settlement,  
9 the date for the final approval hearing, the formula used to calculate settlement payments, and the terms  
10 and scope of the Released Class Claims. Agreement at § 7.4.

11 45. The Parties negotiated this method to ensure delivering the most reasonable method of  
12 notice to the Class Members while ensuring cost effective administration of the Settlement.

13 **C. The Court Should Preliminarily Approve the Class Representative Payment**

14 46. The Settlement provides for a Class Representative Payment of \$10,000.00 for Plaintiff.  
15 The service award is fair and reasonable compensation for the Plaintiff's efforts bringing the action,  
16 assisting Class Counsel with the litigation and settlement, regularly conferring with Class Counsel on  
17 the status of her case and the strategies for prosecuting the claims, and reviewing the proposed  
18 Settlement to ensure that its terms are fair and provide adequate relief for the Class Members.

19 47. Class Counsel on behalf of Plaintiff will file a formal motion for the negotiated Class  
20 Representative Payment once preliminary approval of the Settlement is granted. Plaintiff respectfully  
21 submits that the above showing is sufficient for preliminary approval of the negotiated Class  
22 Representative Payment.

23 **D. The Court Should Preliminary Approve the Attorneys' Fees and Litigation Costs**

24 48. Class Counsel took this matter on a contingency fee basis and invested significant time  
25 and expense successfully prosecuting Plaintiff's claims. As discussed *supra*, the estimated average  
26 Individual Class Payment illustrates the demonstrably positive outcome for the Participating Class  
27 Members. Considering the positive outcome for the Class Members, and in light of the supporting  
28 authority, the proposed Attorneys' Fees and Litigation Costs payment is fair and reasonable.

49. Plaintiff will file a formal motion for the negotiated Attorneys' Fees and Litigation Costs, including arguments and lodestar information in support of the request, once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the negotiated attorneys' fees.

## E. The Court Should Provisionally Certify the Settlement Class

50. For Settlement, Plaintiff contends, and Defendant does not dispute, that provisional certification of the Class is appropriate.

51. Because all Class Members are Defendant's current and former employees, the class is readily ascertainable from Defendant's regular business records, i.e., payroll records.

52. The statutes relating to each of Plaintiff's claims apply with equal force and effect to the entire Class. Factually, Defendant's policies and practices apply class-wide and Defendant's liability can be determined by facts common to all members of the class. The wage and hour issues are both numerous and substantial, and a class action is the most advantageous method of dealing with the claims of the Class Members.

53. Plaintiff's wage and hour claims are typical of the proposed Class because they arise from the same factual basis and are based on the same legal theories applicable to the other Class Members. Likewise, Plaintiff's interests are entirely coextensive with the interests of the Class Members. Plaintiff alleges that she was injured by the same company-wide practices to which the proposed Class Members were subject to and seek the same relief. Plaintiff has already demonstrated her ability to advocate for the interests of the Class Members by initiating this litigation, undertaking extensive class discovery, and evaluating the proposed settlement to assure that it is fair.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 2nd day of July 2024, at San Diego, California.

**JCL LAW FIRM, APC**

By: Perssia Razma  
Perssia Razma, Esq.  
Attorneys for Plaintiff

# **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 Tatiana Bove (“Plaintiff”) and Defendant S&B Restaurant Group LLC dba Chick-fil-A Cienega Triangle (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

## 1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Tatiana Bove v. S&B Restaurant Group LLC*, Los Angeles County Superior Court Case Number 23STCV02528, initiated on February 6, 2023.
- 1.2. “Administrator” means Apex Class Action LLC, located at 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all employees who worked for Defendant in California during the PAGA Period.
- 1.5. “Attorneys’ Fees and Litigation Costs” means ” the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures in an amount of up to one-third (1/3) of the Gross Settlement Amount. The Attorneys’ Fees Payment shall be divided between Class Counsel as follows: 50% to JCL Law Firm, APC, and 50% to Zakay Law Group, APLC.
- 1.6. “Class Counsel” means Jean Claude Lapuyade, Esq. of JCL Law Firm, APC, and Shani Zakay of Zakay Law Group, APLC.
- 1.7. “Class” shall mean all persons who are or previously were employed by Defendant in California and classified as non-exempt employees at any time during the Class Period.
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession that Defendant will provide to the Administrator. To the extent available, the Class Data shall include the Class Member’s full name, last-known mailing address, Social

Security number, telephone number, 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 means the Court-approved Notice of Class Action Settlement in a form substantively similar to Exhibit A, to be mailed to Class Members, with a Spanish translation, informing them of the settlement, including their rights to request exclusion or to object to the Settlement, the right to dispute their estimated workweeks/payment, of their estimated payment to be received without the need to return a claim form, and the date set for the Final Approval Hearing.
- 1.12. “Class Period” means the period commencing February 6, 2019, through January 9, 2024.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as Class Representative.
- 1.14. “Class Representative 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 Los Angeles.
- 1.16. “Defendant” means Defendant S&B Restaurant Group LLC dba Chick-fil-A Cienega Triangle.
- 1.17. “Defense Counsel” means Fishman, Larsen & Callister.
- 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” 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. “Funding Date” means the date on which Defendant delivers the Second Installment payment (as defined herein below) and fully funds the Gross Settlement Amount to the Administrator.
- 1.23. “Gross Settlement Amount” means Three Hundred Thousand Dollars and Zero Cents (\$300,000.00) which is the total amount Defendant agrees 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 Payment, Attorneys’ Fees, Litigation Costs, Class Representative Payment, and the Administration Expenses Payment.
- 1.24. “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. Any Class Member who submits a timely and valid request for exclusion pursuant to the procedures set forth herein, is not eligible to receive an Individual Class Payment.
- 1.25. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Payment calculated according to the number of Workweeks worked during the PAGA Period.
- 1.26. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.27. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.28. “LWDA Payment” means the 75% of the PAGA Payment paid to the LWDA under

Labor Code section 2699, subd. (i).

- 1.29. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the PAGA Payment, Class Representative Payment, Attorneys’ Fees and Litigation Costs, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.30. “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.
- 1.31. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.32. “PAGA Period” means the period between December 1, 2021, through January 9, 2024.
- 1.33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. Et seq.).
- 1.34. “PAGA Notice” means Plaintiff’s December 1, 2022, letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.35. “PAGA Payment” means Twenty Thousand Dollars and Zero Cents (\$20,000.00) which is the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000.00) and the 75% to LWDA (\$15,000.00) in settlement of PAGA claims.
- 1.36. “Plaintiff” means Tatiana Bove, the named Plaintiff in the Action.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

- 1.39. “Released Class Claims” means all class claims alleged, or reasonably could have been alleged based on the facts alleged, in the operative complaint in the Action which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and class claims outside of the Class Period .
- 1.40. “Released PAGA Claims” means all PAGA claims alleged in the operative complaint in the Action and Plaintiff’s PAGA notice to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and PAGA claims outside of the PAGA Period.
- 1.41. “Released Parties” means Defendant and all of its respective current and former partners, parents, subsidiaries, predecessors and successors, joint employers, and their affiliated entities, and each of their respective owners, officers, directors, managing agents, exempt-employees, partners, shareholders, and agents, and any other successors, heirs, assigns, or legal representatives, any attorneys, insurers, and claims representatives.
- 1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.43. “Response Deadline” means forty-five (45) days after the Administrator mails Notice to Class Members and 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 fourteen (14) calendar days beyond the Response Deadline has expired.
- 1.44. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.45. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.46. “Workweek” means any week during which a Class Member worked for Defendant

for at least one day, during the Class Period.

## **2. RECITALS.**

- 2.1. On December 1, 2022, Plaintiff filed a Notice of Violations with the Labor and Workforce Development Agency (“LWDA”) and served the same on Defendant.
- 2.2. On February 6, 2023, Plaintiff filed a Class and Representative Action Complaint alleging nine (9) causes of action against Defendant for (1) Unfair Competition in Violation of Bus. & Prof. Code sections 17200 et seq; (2) Failure to pay minimum wages in violation of California Labor Code sections 1194, 1197 and 1197.1; (3) Failure to pay overtime wages in violation of California Labor Code sections 510 et seq; (4) Failure to provide required meal periods in violation of California Labor Code sections 226.7 and 512 and the applicable IWC wage order; (5) Failure to provide required rest periods in violation of California Labor Code sections 226.7 and 512 and the applicable IWC wage order; (6) Failure to provide wages when due in violation of California Labor Code sections 201, 202 and 203; (7) Failure to provide accurate itemized wage statements in violation of California Labor Code section 226; (8) Failure to reimburse employees for required business expenses in violation of California Labor Code section 2802; and (9) Violation of the Private Attorneys General Act [Labor Code §§ 2698 et seq. Defendant denies the allegations in the Operative Complaint and PAGA Notice, denies any failure to comply with the laws identified in in the Operative Complaint and PAGA Notice and denies any and all liability for the causes of action alleged the Operative Complaint and violation alleged in the PAGA Notice.
- 2.3. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.4. On January 9, 2024, the Parties participated in an all-day mediation presided over by the Honorable Brian C. Walsh (Ret.), a respected jurist and mediator of wage and hour class actions which led to this Agreement to settle the Action.
- 2.5. Prior to mediation, Plaintiff obtained, through informal discovery, timekeeping records, and payroll records for the Class Members. 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*”).
- 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

### 3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay Three Hundred Thousand Dollars and Zero Cents (\$300,000.00) and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
  - 3.2.1. To Plaintiff: Class Representative Payment to the Class Representative of not more than \$10,000.00. Defendant will not oppose Plaintiff's request for a Class Representative Payment that does not exceed this amount. As part of the motion for Attorneys' Fees and Litigation Costs, Plaintiff will seek Court approval for any Class Representative Payments no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Payment.
  - 3.2.2. To Class Counsel: Attorneys' Fees of not more than one-third of the Gross Settlement Amount, which is currently estimated to be One Hundred Thousand Dollars and Zero Cents (\$100,000) and a Litigation Costs of up to Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Attorneys' Fees and Litigation Costs no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a payment for Attorneys' Fees and/or Litigation Costs 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 Class Counsel arising from any claim to any portion any Attorneys' Fees and/or Litigation Costs. The Administrator will pay the Attorneys' Fees and Litigation Costs using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability

for taxes owed on the Attorneys' Fees and Litigation Costs and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: The Administration Expenses Payment not to exceed Nine Thousand Dollars and Zero Cents (\$9,000.00) except for a showing of good cause and as approved by the Court. Defendant will not oppose requests for these payments provided that do not exceed this amount. To the extent the Administration Expenses Payment is less or the Court approves payment less than \$9,000.00, 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 worked during the Class Period.

3.2.4.1. Tax Allocation of Individual Class Payments. Twenty percent (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. Eighty percent (80%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for 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 Member 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 Payment in the amount of \$20,000.00 to be paid from the Gross Settlement Amount, with 75% (\$15,000.00) allocated to the LWDA 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 Payment (\$5,000.00) 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.

3.2.5.2.If the Court approves PAGA Payment 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 and Aggrieved Employee PAGA Pay Periods. Based on a review of its records to date, Defendant estimate that there are 381 Class Members who collectively worked a total of 18,425 Workweeks, and 278 Aggrieved Employees who worked a total of 8,515 PAGA Pay Periods.
- 4.2. Class Data. Not later than fifteen (15) days after the Court grants Preliminary Approval of the Settlement, Defendant 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. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes as follows: Defendant will make the first payment in the amount of \$195,000.00 by April 11, 2025, or 60 days after the Court grants final approval of the settlement, whichever is later ("First Installment"). Defendant will make the second payment in the amount of \$105,000.00 by February 11, 2026 ("Second Installment").
- 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendant funds the First Installment, including required payroll taxes, the Administrator will mail on a pro rata basis checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA Payment, and the Class Representative

Payment. Within fourteen (14) days after Defendant funds the Second Installment, including required payroll taxes, the Administrator will mail checks for Attorneys' Fees, Litigation Costs, and the Administration Expenses Payment. Disbursements of payment for Attorneys' Fees, Litigation Costs, and Class Representative Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

- 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (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 Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" 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 Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

**5. RELEASES OF CLAIMS.** Effective on the Funding Date, Plaintiff, Participating Class Members, and the Aggrieved Employees will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff and her 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 ("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: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims.

5.3 Release by Aggrieved Employees: As of the Funding Date, all Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.

6. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree, as described in sections 6.1-6.4, 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 Defendant’s Declaration in Support of Preliminary Approval. Within thirty (30) days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Defendant 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 all documents necessary 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; and (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; (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 and 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 seventy-five (75) 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 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 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 Class Action LLC to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action LLC agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for Administration Expenses Payment. 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 to 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 PAGA Pay Periods in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than fourteen (14) 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 three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the forty-five (45) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5 If the Administrator, Defendant or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

## 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 forty-five (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a 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 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' Releases under Paragraphs 5.2 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 Any funds allocated to Class Members who opted out will be added to the Net Settlement Amount for distribution to the Participating Class Members.

- 7.6 Challenges to Calculation of Workweeks. Each Class Member shall have forty-five (45) after the Administrator mails the Class Notice (plus an additional fourteen (14) 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 PAGA 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 PAGA 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 Attorneys' Fees and Litigation Costs and/or Class Representative 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 to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than forty-five (45) days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) 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 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Attorneys' Fees and Litigation Costs and Class Representative Payment, the Final Approval and the Judgment. The Administrator will also 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 five (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 PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include 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 PAGA 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 PAGA 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 fourteen (14) days before the date by which Plaintiff are required to file the Motion for Final Approval of the Settlement, 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 Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List, the high, low, and average Individual Class Payments, and the high, low, and average Individual PAGA Payments. 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 ten (10) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (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 and ESCALATOR CLAUSE** Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 381 Class Members and 18,425 Total Workweeks during the Class Period and (2) there were 278 Aggrieved Employees who worked 8,515 Pay Periods during the PAGA Period. If it is determined that the workweeks through the Class Period increase by more than 10% of 18,425 workweeks, the Gross Settlement Amount will increase proportionally for the number of workweeks over 110% of 18,425. For example, if the total workweeks in the Class Period are 115% of 18,425, the Gross Settlement Amount shall increase by 5%. Defendant will provide a declaration under penalty of perjury confirming the number of applicable Class Members and workweeks they worked during the applicable Class Period one week prior to Plaintiff's deadline to file their motion for preliminary approval of the settlement.
9. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant 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, Defendant will remain responsible for paying all Administration Expenses Payment incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days within learning this information; late elections will have no effect.
10. **MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer 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 (5) 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 Class Members), 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 Payment, Attorneys' Fees, and Litigation Costs and/or Administration 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 Attorneys' Fees and Litigation Costs 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 Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses Payment reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative 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. ADDITIONAL PROVISIONS.**

- 11.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be

intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserve the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 11.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant 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, Defendant 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.

- 11.3 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.
- 11.4 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.

- 11.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, 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.
- 11.6 Cooperation. The Parties will work together expeditiously to obtain preliminary and final approval of this settlement.
- 11.7 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.
- 11.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant 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.
- 11.9 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.
- 11.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 11.11 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.
- 11.12 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.
- 11.13 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.
- 11.14 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 Defendant 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 Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

- 11.15 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.
- 11.16 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.
- 11.17 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:

**JCL LAW FIRM, APC**  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
T: 619-599-8292  
[jlapuyade@jcl-lawfirm.com](mailto:jlapuyade@jcl-lawfirm.com)

**ZAKAY LAW GROUP, APLC**  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
T: 619-892-7095  
F: 858-404-9203  
[Shani@zakaylaw.com](mailto:Shani@zakaylaw.com)

To Defendant:

**FISHMAN, LARSEN & CALLISTER**  
7112 N. Fresno Street, Suite 450  
Fresno, CA 93720

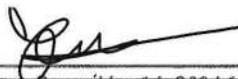
T: 559-256-5000  
F: 559-256-5005  
[larsen@flclaw.net](mailto:larsen@flclaw.net)  
[green@flclaw.net](mailto:green@flclaw.net)

- 11.18 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 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.
- 11.19 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 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.

**[REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK.]**

IT IS SO AGREED TO AS TO FORM AND CONTENT BY PLAINTIFF:

Dated: 03/14/2024, 2024

  
\_\_\_\_\_  
Tatiana Bove (Mar 14, 2024 15:56 PDT)  
Plaintiff Tatiana Bove

Dated: 03/14, 2024

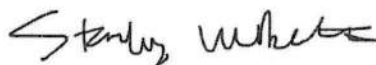
  
\_\_\_\_\_  
Shani O. Zakay  
Zakay Law Group, APLC  
Attorney for Plaintiff

Dated: 03/14, 2024

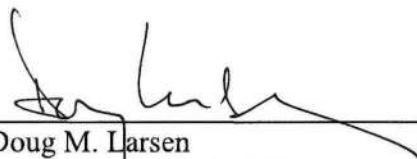
  
\_\_\_\_\_  
Jean-Claude Lapuyade  
The JCL Law Firm, APC  
Attorney for Plaintiff

IT IS SO AGREED TO AS TO FORM AND CONTENT BY DEFENDANT:

Dated: 3/19, 2024

  
\_\_\_\_\_  
For Defendant  
S&B Restaurant Group LLC dba Chick-fil-A Cienega  
Triangle

Dated: 3/19, 2024

  
\_\_\_\_\_  
Doug M. Larsen  
Fishman, Larsen & Callister  
Attorney for Defendant

Dated: 3/19, 2024

  
\_\_\_\_\_  
Michael W. Green  
Fishman, Larsen & Callister  
Attorney for Defendant

## **Exhibit A**

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR  
FINAL COURT APPROVAL**

*Tatiana Bove v. S&B Restaurant Group LLC Case No. 23STCV02528*

***The Superior Court for the State of California authorized this Notice. Read it carefully!  
It is not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

**You may be eligible to receive money** from an employee class action lawsuit (“Action”) against S&B Restaurant Group LLC dba Chick-fil-A Cienega Triangle (“Defendant”) for alleged wage and hour violations. The Action was filed by former employee, Tatiana Bove (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class of current and former non-exempt employees who worked for Defendant in California (“Class Members”) during the Class Period (February 6, 2019, through January 9, 2024); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all current and former employees who worked for Defendant in California during the PAGA Period [December 1, 2021, through January 9, 2024] (“Aggrieved Employees”).

The proposed settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ XX (less withholding) and your Individual PAGA Payment is estimated to be \$ XX**. The actual amount you may receive may be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant’s records you are not eligible for an Individual PAGA Payment under the Settlement because you did not work during the PAGA Period.)

The above estimates are based on Defendant’s records showing that **you worked XX workweeks** during the Class Period, and **you worked XX PAGA Pay Periods** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two

basic options under the Settlement:

- (1) **Do Nothing.** You do not have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

#### **SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

|                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>You Do not Have to Do Anything to Participate in the Settlement</b>                                                 | If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>You Can Opt-out of the Class Settlement but not the PAGA Settlement</b><br><br><b>The Opt-out Deadline is _____</b> | <p>If you do not want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).</p> |

|                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement</b></p> <p><b>Written Objections Must be Submitted by</b></p> | <p>All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel.</p>                                                                                                                          |
| <p><b>You Can Participate in the Final Approval Hearing</b></p>                                                                                                | <p>The Court’s Final Approval Hearing is scheduled to take place on. You do not have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.</p>                                                                                                                |
| <p><b>You Can Challenge the Calculation of Your Workweeks/Pay Periods</b></p> <p><b>Written Challenges Must be Submitted by</b></p>                            | <p>The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many PAGA Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Pay Periods you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.</p> |

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

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by failing to pay minimum wages, including overtime wages; failing to provide legally compliant meal and rest periods; failing to pay wages due upon termination; failure to reimburse for mandatory business expenses; failing to provide accurate itemized wage statements. Based on the same claims, Plaintiff have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff are represented by attorneys in the Action:

The JCL Law Firm, APC, and the Zakay Law Group, APLC (“Class Counsel.”)

Defendant strongly deny violating any laws or failing to pay any wages and contend it complied with all applicable laws.

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

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

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

1. Gross Settlement Amount. Defendant will pay \$300,000.00 as the Gross Settlement Amount (“Gross Settlement Amount”). Defendant has agreed to deposit the Gross Settlement Amount into an account controlled by the Administrator of the Settlement in two installment payments. The Administrator will use the Gross Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming

the Court grants Final Approval, Defendant will fund the Gross Settlement Amount as follows: Defendant will make the first payment in the amount of \$195,000.00 by April 11, 2025, or 60 days after the Court grants final approval of the settlement, whichever is later (“First Installment”). Defendant will make the second payment in the amount of \$105,000.00 by February 11, 2026 (“Second Installment”). The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement Amount. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:
  - A. Up to \$100,000 (One-third of the Gross Settlement Amount) to Class Counsel for attorneys’ fees and up to \$25,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
  - B. Up to \$10,000.00 to the Class Representative as a Class Representative Payment for filing the Action, working with Class Counsel, and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than each Plaintiff’s respective Individual Class Payment and any Individual PAGA Payment.
  - C. Up to \$9,000.00 to the Administrator for services administering the Settlement.
  - D. Up to \$20,000.00 for PAGA Payment, allocated 75% to the LWDA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement Amount (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages (“Wage Portion”) and 80% to interests and penalties (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you do not cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check are sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than **MONTH XX, 202X**, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by **MONTH XX, 202X**, Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against Defendant.

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

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.
8. Administrator. The Court has appointed a neutral company, Apex Class Action LLC (the Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re- mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final and Defendant have fully funded the Gross Settlement Amount, and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or related entities for wages based on the Class Period facts and PAGA Payment based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release: all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all class claims alleged, or reasonably could have been alleged based on the facts alleged, in the operative complaint in the Action which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Defendant, has paid the Gross Settlement Amount (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement. The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from All PAGA claims alleged in the operative complaint in the Action and Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

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

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$5,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/PAGA Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until **MONTH XX, 202X** to challenge the number of Workweeks and/or PAGA Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email, or fax. Section 9 of this Notice has the Administrator's contact information.

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

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

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who does not opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

**Your check will be sent to the same address as in this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.**

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Tatiana Bove v. S&B Restaurant Group*

LLC, Case No. 23STCV02528, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must receive your request to be excluded by MONTH XX, 202X, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

## 7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least twenty-eight (28) days before the **MONTH XX, 202X** Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Attorneys' Fees and Litigation Costs and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website <https://www.apexclassaction.com/> or the Court's website <https://www.lacourt.org/casesummary/ui/>.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Attorneys' Fees and Litigation Costs, and Service Award may wish to object. **The deadline for sending written objections to the Administrator is MONTH XX, 202X.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Tatiana Bove v. S&B Restaurant Group LLC*, Case No. 23STCV02528 and include your name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

## 8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but do not have to, attend the Final Approval Hearing on **MONTH XX, 202X** at **XX:XX am/pm** in Department 1 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comments from objectors, Class Counsel and Defense

Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It is possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website <https://www.apexclassaction.com/> beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

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

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to Apex Class Action LLC's website at <https://www.apexclassaction.com/>. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<https://portal.sccourt.org/search>) and entering the Case Number for the Action, Case No. 23STCV02528. You can also make an appointment to personally review court documents in the Clerk's Office at the Los Angeles Superior Court.

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

**JCL LAW FIRM, APC**  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
T: 619-599-8292  
[jlapuyade@jcl-lawfirm.com](mailto:jlapuyade@jcl-lawfirm.com)

**ZAKAY LAW GROUP, APLC**  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
T: 619-892-7095  
F: 858-404-9203  
[Shani@zakaylaw.com](mailto:Shani@zakaylaw.com)

#### Settlement Administrator:

**Apex Class Action LLC**  
18 Technology Drive, Suite 164, Irvine, CA 92618;  
Tel: (800) 355-0700

## **10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

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

#### **11. WHAT IF I CHANGE MY ADDRESS?**

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

# **EXHIBIT 2**

## CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff [Tatiana Bove](#) (“Plaintiff”) and Defendant [S&B Restaurant Group LLC dba Chick-fil-A Cienega Triangle](#) (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

### 1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned [Tatiana Bove v. S&B Restaurant Group LLC, Los Angeles County Superior Court Case Number 23STCV02528, initiated on February 6, 2023.](#)
- 1.2. “Administrator” means [Apex Class Action LLC, located at 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: \(800\) 355-0700,](#) the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means [all employees who worked for Defendant in California during the PAGA Period.](#)
- 1.5. “Attorneys’ Fees and Litigation Costs” means [” the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures in an amount of up to one-third \(1/3\) of the Gross Settlement Amount. The Attorneys’ Fees Payment shall be divided between Class Counsel as follows: 50% to JCL Law Firm, APC, and 50% to Zakay Law Group, APLC.](#)
- 1.6. “Class Counsel” means [Jean Claude Lapuyade, Esq. of JCL Law Firm, APC, and Shani Zakay of Zakay Law Group, APLC.](#)
- 1.7. “Class” shall mean [all persons who are or previously were employed by Defendant in California and classified as non-exempt employees at any time during the Class Period.](#)
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession that Defendant will provide to the Administrator. To the extent available, the Class Data shall include the Class Member’s [full](#) name, last-known mailing address, Social

Security number, telephone number, 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 means the Court-approved Notice of Class Action Settlement in a form substantively similar to Exhibit A, to be mailed to Class Members, with a Spanish translation, informing them of the settlement, including their rights to request exclusion or to object to the Settlement, the right to dispute their estimated workweeks/payment, of their estimated payment to be received without the need to return a claim form, and the date set for the Final Approval Hearing.
- 1.12. “Class Period” means the period commencing February 6, 2019, through January 9, 2024.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as Class Representative.
- 1.14. “Class Representative 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 Los Angeles.
- 1.16. “Defendant” means Defendant S&B Restaurant Group LLC dba Chick-fil-A Cienega Triangle.
- 1.17. “Defense Counsel” means Fishman, Larsen & Callister.
- 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

**Deleted:** the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement

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filed, the day after the appellate court affirms the Judgment and issues a remittitur.

- 1.19. “Final Approval” 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. “Funding Date” means the date on which Defendant delivers the Second Installment payment (as defined herein below) and fully funds the Gross Settlement Amount to the Administrator.
- 1.23. “Gross Settlement Amount” means Three Hundred Thousand Dollars and Zero Cents (\$300,000.00), which is the total amount Defendant agrees 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 Payment, Attorneys’ Fees, Litigation Costs, Class Representative Payment, and the Administration Expenses Payment.
- 1.24. “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. Any Class Member who submits a timely and valid request for exclusion pursuant to the procedures set forth herein, is not eligible to receive an Individual Class Payment.
- 1.25. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Payment calculated according to the number of Workweeks worked during the PAGA Period.
- 1.26. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.27. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.28. “LWDA Payment” means the 75% of the PAGA Payment paid to the LWDA under

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Labor Code section 2699, subd. (i).

- 1.29. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the PAGA Payment, Class Representative Payment, Attorneys’ Fees and Litigation Costs, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.30. “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.
- 1.31. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.32. “PAGA Period” means the period between December 1, 2021, through January 9, 2024.
- 1.33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. Et seq.).
- 1.34. “PAGA Notice” means Plaintiff’s December 1, 2022, letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.35. “PAGA Payment” means Twenty Thousand Dollars and Zero Cents (\$20,000.00) which is the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000.00) and the 75% to LWDA (\$15,000.00) in settlement of PAGA claims.
- 1.36. “Plaintiff” means Tatiana Bove, the named Plaintiff in the Action.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

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1.39. “Released Class Claims” means all class claims alleged, or reasonably could have been alleged based on the facts alleged, in the operative complaint in the Action which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and class claims outside of the Class Period .

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1.40. “Released PAGA Claims” means all PAGA claims alleged in the operative complaint in the Action and Plaintiff’s PAGA notice to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and PAGA claims outside of the PAGA Period.

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1.41. “Released Parties” means Defendant and all of its respective current and former partners, parents, subsidiaries, predecessors and successors, joint employers, and their affiliated entities, and each of their respective owners, officers, directors, managing agents, exempt-employees, partners, shareholders, and agents, and any other successors, heirs, assigns, or legal representatives, any attorneys, insurers, and claims representatives.

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

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1.43. “Response Deadline” means forty-five (45) days after the Administrator mails 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 fourteen (14) calendar days beyond the Response Deadline has expired.

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1.44. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

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1.45. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

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1.46. “Workweek” means any week during which a Class Member worked for Defendant

for at least one day, during the Class Period.

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## 2. RECITALS.

- 2.1. On December 1, 2022, Plaintiff filed a Notice of Violations with the Labor and Workforce Development Agency (“LWDA”) and served the same on Defendant.
- 2.2. On February 6, 2023, Plaintiff filed a Class and Representative Action Complaint alleging nine (9) causes of action against Defendant for (1) Unfair Competition in Violation of Bus. & Prof. Code sections 17200 et seq; (2) Failure to pay minimum wages in violation of California Labor Code sections 1194, 1197 and 1197.1; (3) Failure to pay overtime wages in violation of California Labor Code sections 510 et seq; (4) Failure to provide required meal periods in violation of California Labor Code sections 226.7 and 512 and the applicable IWC wage order; (5) Failure to provide required rest periods in violation of California Labor Code sections 226.7 and 512 and the applicable IWC wage order; (6) Failure to provide wages when due in violation of California Labor Code sections 201, 202 and 203; (7) Failure to provide accurate itemized wage statements in violation of California Labor Code section 226; (8) Failure to reimburse employees for required business expenses in violation of California Labor Code section 2802; and (9) Violation of the Private Attorneys General Act [Labor Code §§ 2698 et seq. Defendant denies the allegations in the Operative Complaint and PAGA Notice, denies any failure to comply with the laws identified in in the Operative Complaint and PAGA Notice and denies any and all liability for the causes of action alleged the Operative Complaint and violation alleged in the PAGA Notice.
- 2.3. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.4. On January 9, 2024, the Parties participated in an all-day mediation presided over by the Honorable Brian C. Walsh (Ret.), a respected jurist and mediator of wage and hour class actions which led to this Agreement to settle the Action.
- 2.5. Prior to mediation, Plaintiff obtained, through informal discovery, timekeeping records, and payroll records for the Class Members. 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*”).
- 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

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### 3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay Three Hundred Thousand Dollars and Zero Cents (\$300,000.00) and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
- 3.2.1. To Plaintiff: Class Representative Payment to the Class Representative of not more than \$10,000.00. Defendant will not oppose Plaintiff's request for a Class Representative Payment that does not exceed this amount. As part of the motion for Attorneys' Fees and Litigation Costs, Plaintiff will seek Court approval for any Class Representative Payments no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Payment.
- 3.2.2. To Class Counsel: Attorneys' Fees of not more than one-third of the Gross Settlement Amount, which is currently estimated to be One Hundred Thousand Dollars and Zero Cents (\$100,000) and a Litigation Costs of up to Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Attorneys' Fees and Litigation Costs no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a payment for Attorneys' Fees and/or Litigation Costs 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 Class Counsel arising from any claim to any portion any Attorneys' Fees and/or Litigation Costs. The Administrator will pay the Attorneys' Fees and Litigation Costs using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability

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for taxes owed on the Attorneys' Fees and Litigation Costs and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

- 3.2.3. To the Administrator: The Administration Expenses Payment not to exceed Nine Thousand Dollars and Zero Cents (\$9,000.00) except for a showing of good cause and as approved by the Court. Defendant will not oppose requests for these payments provided that do not exceed this amount. To the extent the Administration Expenses Payment is less or the Court approves payment less than \$9,000.00, 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 worked during the Class Period.
- 3.2.4.1. Tax Allocation of Individual Class Payments. Twenty percent (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. Eighty percent (80%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for 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 Member 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 Payment in the amount of \$20,000.00 to be paid from the Gross Settlement Amount, with 75% (\$15,000.00) allocated to the LWDA 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 Payment (~~\$5,000.00~~) 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.

3.2.5.2.If the Court approves PAGA Payment 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 and Aggrieved Employee PAGA Pay Periods. Based on a review of its records to date, Defendant estimate that there are 381 Class Members who collectively worked a total of 18,425 Workweeks, and 278 Aggrieved Employees who worked a total of 8,515 PAGA Pay Periods.
- 4.2. Class Data. Not later than fifteen (15) days after the Court grants Preliminary Approval of the Settlement, Defendant 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. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes as follows: Defendant will make the first payment in the amount of \$195,000.00 by April 11, 2025, or 60 days after the Court grants final approval of the settlement, whichever is later ("First Installment"). Defendant will make the second payment in the amount of \$105,000.00 by February 11, 2026 ("Second Installment").
- 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendant funds the First Installment, including required payroll taxes, the Administrator will mail on a pro rata basis checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA Payment, and the Class Representative

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Payment. Within fourteen (14) days after Defendant funds the Second Installment, including required payroll taxes, the Administrator will mail checks for Attorneys' Fees, Litigation Costs, and the Administration Expenses Payment. Disbursements of payment for Attorneys' Fees, Litigation Costs, and Class Representative Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

- 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (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 Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" 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 Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

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5. **RELEASES OF CLAIMS.** Effective on the Funding Date, Plaintiff, Participating Class Members, and the Aggrieved Employees will release claims against all Released Parties as follows:

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5.1 Plaintiff's Release. Plaintiff and her 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, ("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.

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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: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims.

**Deleted:** (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint [and ascertained in the course of the Action] [including, e.g., "(a) any and all claims involving any alleged failure to pay minimum wage; etc.]. Except as set forth in Section 6.3 of this Agreement, Participating Class Members 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 Release by Aggrieved Employees: As of the Funding Date, all Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.

**Deleted:** all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint[,] [and] the PAGA Notice [and ascertained in the course of the Action][including, e.g., "(a) any and all claims involving any alleged failure to pay minimum wage; etc.]....

6. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree, [as described in sections 6.1-6.4](#), 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 Defendant’s Declaration in Support of Preliminary Approval. Within thirty (30) days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Defendant 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.

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6.2 Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary 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; and (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; (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, and 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.

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6.3 Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than seventy-five (75) 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 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 by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

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## 7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected [Apex Class Action LLC](#) to serve as the Administrator and verified that, as a condition of appointment, [Apex Class Action LLC](#) agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for Administration Expenses Payment. 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 to 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 PAGA Pay Periods in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than fourteen (14) 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

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

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

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

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## 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 forty-five (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a 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 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' Releases under [Paragraphs 5.2](#) 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.

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7.5.5 [Any funds allocated to Class Members who opted out will be added to the Net Settlement Amount for distribution to the Participating Class Members.](#)

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have forty-five (45) ~~after~~ the Administrator mails the Class Notice (plus an additional ~~fourteen~~ (14) 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 PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide

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copies of all challenges to calculation of Workweeks and/or PAGA 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 Attorneys' Fees and Litigation Costs and/or Class Representative Payment.

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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 to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than forty-five (45) days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) 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 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Attorneys' Fees and Litigation Costs and Class Representative Payment, the Final Approval and the Judgment. The Administrator will also 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 five (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

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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 PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include 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 PAGA 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 PAGA 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 fourteen (14) days before the date by which Plaintiff are required to file the Motion for Final Approval of the Settlement, 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 Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List, the high, low, and average Individual Class Payments, and the high, low, and average Individual PAGA Payments. 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 ten (10) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (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.

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Class Counsel is responsible for filing the Administrator's declaration in Court.

8. **CLASS SIZE ESTIMATES and ESCALATOR CLAUSE** Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 381 Class Members and 18,425 Total Workweeks during the Class Period and (2) there were 278 Aggrieved Employees who worked 8,515 Pay Periods during the PAGA Period. If it is determined that the workweeks through the Class Period increase by more than 10% of 18,425 workweeks, the Gross Settlement Amount will increase proportionally for the number of workweeks over 110% of 18,425. For example, if the total workweeks in the Class Period are 115% of 18,425, the Gross Settlement Amount shall increase by 5%. Defendant will provide a declaration under penalty of perjury confirming the number of applicable Class Members and workweeks they worked during the applicable Class Period one week prior to Plaintiff's deadline to file their motion for preliminary approval of the settlement.
9. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant 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, Defendant will remain responsible for paying all Administration Expenses Payment incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days within learning this information; late elections will have no effect.
10. **MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (1), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer 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 (5) 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 Class Members), 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

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amounts requested for the Class Representative Payment, Attorneys' Fees, and Litigation Costs and/or Administration 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 Attorneys' Fees and Litigation Costs 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 Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses Payment reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative 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. ADDITIONAL PROVISIONS.

- 11.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be

**Deleted:** <#>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.¶

intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserve the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 11.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant 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, Defendant 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.

- 11.3 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.
- 11.4 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.

- 11.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, 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.
- 11.6 Cooperation. The Parties will work together expeditiously to obtain preliminary and final approval of this settlement.
- 11.7 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.
- 11.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant 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.
- 11.9 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.
- 11.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 11.11 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.
- 11.12 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.
- 11.13 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.
- 11.14 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 Defendant 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 Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

- 11.15 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.
- 11.16 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.
- 11.17 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:

**JCL LAW FIRM, APC**  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
T: 619-599-8292  
[jlapuyade@jcl-lawfirm.com](mailto:jlapuyade@jcl-lawfirm.com)

**ZAKAY LAW GROUP, APLC**  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
T: 619-892-7095  
F: 858-404-9203  
[Shani@zakaylaw.com](mailto:Shani@zakaylaw.com)

To Defendant:

**FISHMAN, LARSEN & CALLISTER**  
7112 N. Fresno Street, Suite 450  
Fresno, CA 93720

T: 559-256-5000  
F: 559-256-5005  
[larsen@flclaw.net](mailto:larsen@flclaw.net)  
[green@flclaw.net](mailto:green@flclaw.net)

- 11.18 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 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.
- 11.19 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 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.

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IT IS SO AGREED TO AS TO FORM AND CONTENT BY PLAINTIFF:

Dated: \_\_\_\_\_, 2024  
\_\_\_\_\_  
Plaintiff Tatiana Bove

Dated: \_\_\_\_\_, 2024  
\_\_\_\_\_  
Shani O. Zakay  
Zakay Law Group, APC  
Attorney for Plaintiff

Dated: \_\_\_\_\_, 2024  
\_\_\_\_\_  
Jean-Claude Lapuyade  
The JCL Law Firm, APC  
Attorney for Plaintiff

IT IS SO AGREED TO AS TO FORM AND CONTENT BY DEFENDANT:

Dated: \_\_\_\_\_, 2024  
\_\_\_\_\_  
For Defendant  
S&B Restaurant Group LLC dba Chick-fil-A Cienega  
Triangle

Dated: \_\_\_\_\_, 2024  
\_\_\_\_\_  
Doug M. Larsen  
Fishman, Larsen & Callister  
Attorney for Defendant

Dated: \_\_\_\_\_, 2024  
\_\_\_\_\_  
Michael W. Green  
Fishman, Larsen & Callister  
Attorney for Defendant

## **Exhibit A**

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR  
FINAL COURT APPROVAL

Tatiana Bove v. S&B Restaurant Group LLC Case No. 23STCV02528

*The Superior Court for the State of California authorized this Notice. Read it carefully!  
It is not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.*

You may be eligible to receive money from an employee class action lawsuit ("Action") against S&B Restaurant Group LLC dba Chick-fil-A Cienega Triangle ("Defendant") for alleged wage and hour violations. The Action was filed by former employee, Tatiana Bove ("Plaintiff") and seeks payment of (1) back wages and other relief for a class of current and former non-exempt employees who worked for Defendant in California ("Class Members") during the Class Period (February 6, 2019, through January 9, 2024); and (2) penalties under the California Private Attorney General Act ("PAGA") for all current and former employees who worked for Defendant in California during the PAGA Period [December 1, 2021, through January 9, 2024] ("Aggrieved Employees").

The proposed settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on Defendant's records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be \$XX (less withholding) and your Individual PAGA Payment is estimated to be \$XX.** The actual amount you may receive may be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you did not work during the PAGA Period.)

The above estimates are based on Defendant's records showing that **you worked XX workweeks** during the Class Period, and **you worked XX PAGA Pay Periods** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two

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basic options under the Settlement:

- (1) **Do Nothing.** You do not have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

#### **SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

|                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>You Do not Have to Do Anything to Participate in the Settlement</b>                                                 | If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>You Can Opt-out of the Class Settlement but not the PAGA Settlement</b><br><br><b>The Opt-out Deadline is _____</b> | <p>If you do not want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).</p> |

|                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement</b></p> <p><b>Written Objections Must be Submitted by</b></p> | <p>All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel.</p>                                                                                                                          |
| <p><b>You Can Participate in the Final Approval Hearing</b></p>                                                                                                | <p>The Court’s Final Approval Hearing is scheduled to take place on. You do not have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.</p>                                                                                                                |
| <p><b>You Can Challenge the Calculation of Your Workweeks/Pay Periods</b></p> <p><b>Written Challenges Must be Submitted by</b></p>                            | <p>The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many PAGA Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Pay Periods you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.</p> |

## 1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by failing to pay minimum wages, including overtime wages; failing to provide legally compliant meal and rest periods; failing to pay wages due upon termination; failure to reimburse for mandatory business expenses; failing to provide accurate itemized wage statements. Based on the same claims, Plaintiff have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff are represented by attorneys in the Action:

The JCL Law Firm, APC, and the Zakay Law Group, APLC (“Class Counsel.”)

Defendant strongly deny violating any laws or failing to pay any wages and contend it complied with all applicable laws.

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

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

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

## 3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Gross Settlement Amount. Defendant will pay \$300,000.00 as the Gross Settlement Amount (“Gross Settlement Amount”). Defendant has agreed to deposit the Gross Settlement Amount into an account controlled by the Administrator of the Settlement in two installment payments. The Administrator will use the Gross Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming

the Court grants Final Approval, Defendant will fund the Gross Settlement Amount as follows: Defendant will make the first payment in the amount of \$195,000.00 by April 11, 2025, or 60 days after the Court grants final approval of the settlement, whichever is later (“First Installment”). Defendant will make the second payment in the amount of \$105,000.00 by February 11, 2026 (“Second Installment”). The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

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

- A. Up to \$100,000 (One-third of the Gross Settlement Amount) to Class Counsel for attorneys’ fees and up to \$25,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- B. Up to \$10,000.00 to the Class Representative as a Class Representative Payment for filing the Action, working with Class Counsel, and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than each Plaintiff’s respective Individual Class Payment and any Individual PAGA Payment.
- C. Up to \$9,000.00 to the Administrator for services administering the Settlement.
- D. Up to \$20,000.00 for PAGA Payment, allocated 75% to the LWDA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Pay Periods.

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Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement Amount (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages (“Wage Portion”) and 80% to interests and penalties (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you do not cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check are sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than **MONTH XX, 202X**, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by **MONTH XX, 202X** Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against Defendant.

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

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.
8. Administrator. The Court has appointed a neutral company, [Apex Class Action LLC](#) (the Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

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9. Participating Class Members' Release. After the Judgment is final and Defendant have fully funded the Gross Settlement Amount, and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or related entities for wages based on the Class Period facts and PAGA Payment based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release: all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all class claims alleged, or reasonably could have been alleged based on the facts alleged, in the operative complaint in the Action which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Defendant, has paid the Gross Settlement Amount (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement. The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from All PAGA claims alleged in the operative complaint in the Action and Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

#### 4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

**Deleted:** (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint [and ascertained in the course of the Action] [including, e.g., "(a) any and all claims involving any alleged failure to pay minimum wage; etc.]. Except as set forth in Section 6.3 of the Settlement Agreement, Participating Class Members 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

**Deleted:** all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint[,] [and] the PAGA Notice [and ascertained in the course of the Action][including, e.g., (a) any and all claims involving any alleged failure to pay minimum wage; etc.].

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$5,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/PAGA Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until MONTH XX, 202X to challenge the number of Workweeks and/or PAGA Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email, or fax. Section 9 of this Notice has the Administrator's contact information.

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

#### 5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who does not opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

**Your check will be sent to the same address as in this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.**

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as Tatiana Bove v. S&B Restaurant Group

*LLC, Case No. 23STCV02528*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must receive your request to be excluded by MONTH XX, 202X, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

## 7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least twenty-eight (28) days before the **MONTH XX, 202X** Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Attorneys' Fees and Litigation Costs and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website <https://www.apexclassaction.com/> or the Court's website <https://www.lacourt.org/casesummary/ui/>.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Attorneys' Fees and Litigation Costs, and Service Award may wish to object. **The deadline for sending written objections to the Administrator is MONTH XX, 202X.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Tatiana Bove v. S&B Restaurant Group LLC, Case No. 23STCV02528* and include your name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

## 8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but do not have to, attend the Final Approval Hearing on **MONTH XX, 202X** at **XX:XX am/pm** in Department **1** of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comments from objectors, Class Counsel and Defense

Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It is possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website <https://www.apexclassaction.com/> beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

## 9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to [Apex Class Action LLC's](https://www.apexclassaction.com/) website at <https://www.apexclassaction.com/>. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<https://portal.sccourt.org/search>) and entering the Case Number for the Action, Case No. [23STCV02528](#). You can also make an appointment to personally review court documents in the Clerk's Office at the Los Angeles Superior Court.

Field Code Changed

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

**JCL LAW FIRM, APC**  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
T: 619-599-8292  
[jlapyade@jcl-lawfirm.com](mailto:jlapyade@jcl-lawfirm.com)

**ZAKAY LAW GROUP, APLC**  
5440 Morehouse Drive, Suite 3600  
San Diego, CA 92121  
T: 619-892-7095  
F: 858-404-9203  
[Shani@zakaylaw.com](mailto:Shani@zakaylaw.com)

### Settlement Administrator:

**Apex Class Action LLC**  
18 Technology Drive, Suite 164, Irvine, CA 92618;  
Tel: (800) 355-0700

## 10. WHAT IF I LOSE MY SETTLEMENT CHECK?

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

#### **11. WHAT IF I CHANGE MY ADDRESS?**

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

# **EXHIBIT 3**

# **EXHIBIT 4**

**Quotation Request:**

Perssia Razma  
JCL Law Firm, A.P.C.  
prazma@jcl-lawfirm.com  
888.498.6999

**Case Name:**

**Bove v. S&B Restaurant Group LLC**

**Date:**

Wednesday, February 7, 2024

**RFP Number:**

69990045

**Prepared By:**

Sean Hartranft  
Apex Class Action LLC  
Sean@apexclassaction.com  
949.878.3676

**Settlement Specifications**

|                                  |     |
|----------------------------------|-----|
| Estimated Class Size:            | 381 |
| Certified Language Translation:  | Yes |
| Static Settlement Website        | No  |
| Percentage of Undeliverable Mail | 20% |

| Professional Services | Fee Calculation | Rate(s) | Quantity | Estimated Cost |
|-----------------------|-----------------|---------|----------|----------------|
|-----------------------|-----------------|---------|----------|----------------|

**Data Analytics and Standardization**

|                                                                                                                    |          |          |   |          |
|--------------------------------------------------------------------------------------------------------------------|----------|----------|---|----------|
| Import and Standardize Data*                                                                                       | Per Hour | \$125.00 | 2 | \$250.00 |
| Data Analyst                                                                                                       | Per Hour | \$150.00 | 2 | \$300.00 |
| *Data provided must be in a workable format. Apex can standardize provided data at an additional cost of \$150/hr. |          |          |   |          |
| Sub Total:                                                                                                         |          |          |   | \$550.00 |

**Mailing of Class Notice**

|                                                            |             |            |     |            |
|------------------------------------------------------------|-------------|------------|-----|------------|
| Form Set Up                                                | Per Hour    | \$120.00   | 1   | \$120.00   |
| Print & Mail Class Notice                                  | Per Piece   | \$1.50     | 381 | \$571.50   |
| USPS First Class Postage                                   | Per Piece   | \$0.68     | 381 | \$259.08   |
| Remail Undeliverable Mail (Skip-Trace)                     | Per Piece   | \$2.15     | 76  | \$163.83   |
| Receive and Process Undeliverable Mail                     | Per Hour    | \$75.00    | 1   | \$75.00    |
| Process Class Member Correspondence via mail, e-mail & fax | Per Piece   | \$75.00    | 2   | \$150.00   |
| NCOA Address Update (USPS)                                 | Static Rate | \$55.71    | 1   | \$55.71    |
| Certified Language Translation: Spanish                    | Static Rate | \$1,200.00 | 1   | \$1,200.00 |
| Sub Total:                                                 |             |            |     | \$2,595.12 |

**Project Management**

|                            |          |          |   |          |
|----------------------------|----------|----------|---|----------|
| Project Management         | Per Hour | \$150.00 | 2 | \$300.00 |
| Project Coordinator        | Per Hour | \$90.00  | 2 | \$180.00 |
| Data Analyst and Reporting | Per Hour | \$140.00 | 1 | \$140.00 |
| Sub Total:                 |          |          |   | \$620.00 |



| Professional Services | Fee Calculation | Rate(s) | Quantity | Estimated Cost |
|-----------------------|-----------------|---------|----------|----------------|
|-----------------------|-----------------|---------|----------|----------------|

| Toll-Free Contact Center, Website & Reporting |             |          |            |         |
|-----------------------------------------------|-------------|----------|------------|---------|
| Bilingual Toll-Free Contact Center            | Static Rate | \$60.00  | 1          | \$60.00 |
| Settlement Status Reports                     | Static Rate | \$750.00 | 1          | Waived  |
|                                               |             |          | Sub Total: | \$60.00 |

| Distribution & Settlement Fund Management                   |             |            |            |            |
|-------------------------------------------------------------|-------------|------------|------------|------------|
| Settlement Calculations (Preliminary and Final)             | Per Hour    | \$120.00   | 3          | \$360.00   |
| Account Management and Reconciliation                       | Per Hour    | \$140.00   | 3          | \$420.00   |
| Print & Mail Distribution Settlement Check (W-2/1099)       | Per Piece   | \$1.50     | 381        | \$571.50   |
| USPS First Class Postage                                    | Per Piece   | \$0.66     | 381        | \$251.46   |
| Remail Distribution to Updated Address (Skip Trace)         | Per Piece   | \$2.15     | 38         | \$81.92    |
| Individual Income Tax Preparation & Reporting               | Per Hour    | \$100.00   | 8          | \$800.00   |
| QSF Income Tax Reporting (per calendar year)                | Per Year    | \$1,250.00 | 1          | \$1,250.00 |
| Unclaimed Funds: State Controller's Unclaimed Property Fund | Static Rate | \$500.00   | 1          | \$500.00   |
|                                                             |             |            | Sub Total: | \$4,234.88 |

| Post Distribution Reconciliation  |          |          |            |          |
|-----------------------------------|----------|----------|------------|----------|
| Bank Account Reconciliation       | Per Hour | \$135.00 | 2          | \$270.00 |
| Project Management Reconciliation | Per Hour | \$100.00 | 2          | \$200.00 |
| Declarations                      | Per Hour | \$120.00 | 3          | \$360.00 |
|                                   |          |          | Sub Total: | \$830.00 |

|                                             |  |  |  |                   |
|---------------------------------------------|--|--|--|-------------------|
| <b>TOTAL ESTIMATED ADMINISTRATION COST:</b> |  |  |  | <b>\$8,890.00</b> |
|---------------------------------------------|--|--|--|-------------------|

Thank you for your business!



## Terms & Conditions

The following Terms and Conditions govern the provision of all services to be provided by Apex Class Action and its affiliates ("Apex") to the Client. These terms and conditions are binding and shall apply to all services provided by Apex in relation to any related services or products.

1. **Services:** Apex commits to providing the Client with the administrative services detailed in the attached Proposal (the "Services").

2. **Payment Terms:** As compensation for the legal services to be provided, the Client agrees to pay Apex all fees detailed in the Proposal. The fees quoted in the Proposal (and any subsequent proposals for additional services) are estimates based on the information provided to Apex by the Client. Apex makes no representation that the estimated fees in the Proposal or any subsequent proposals for additional services shall equal the actual fees charged by Apex to the Client, which fees (including individual line items) may be greater or less than estimated. If additional services are requested on an hourly basis and are not specifically detailed in the Proposal, Apex will prepare estimates for such services subject to approval by the Client. In the performance of such additional services, Apex will charge standard hourly fees which shall apply.

3. **Incurred Expenses:** In relation to the provision of services outlined in this agreement, the Client agrees to reimburse Apex for all reasonable out-of-pocket expenses incurred. Such expenses may include, but are not limited to, costs associated with postage, media production or publication, banking fees, brokerage fees, messenger and delivery service expenses, travel expenses, filing fees, office supplies, meals, staff overtime expenses, and other related costs and expenses. If not otherwise specified in writing, fees for print notice and certain expenses, such as media publication and postage, must be paid immediately upon invoicing and, in certain cases, at least ten (10) days prior to the date on which such expenses will be incurred.

4. **Invoicing:** Apex shall present invoices for its fees and expenses on a monthly basis, except as provided in Section 3. The Client agrees to pay each invoice within 30 days of receipt. In case of non-payment within 90 days of the billing date, an additional service charge of 1.5% per month may apply. Apex reserves the right to increase its prices, charges, and rates annually, subject to reasonable adjustments. If any price increases exceed 10%, Apex shall give thirty (30) days' notice to the Client. In the event of any unpaid invoices beyond 120 days of the due date, Apex reserves the right to withhold services and reports until payment is received, subject to notice to the Client. It is important to note that Apex's failure to provide services and reports in such instances shall not constitute a default under this agreement.

5. **Case Duration:** The duration of these Terms and Conditions, except for the data storage obligations stated in Section 13, shall be in effect until 30 days following the completion of the Services as described in the Proposal. The parties may extend these Terms and Conditions in writing for a mutually agreed-upon period beyond this initial 30-day period.

6. **Termination of Services:** Either party may terminate the Services by providing thirty (30) days written notice to the other party. Alternatively, termination may occur immediately upon written notice for Cause, as defined below. Cause means (i) Apex's gross negligence or willful misconduct that causes serious and material harm to the Client; (ii) the Client's failure to pay Apex invoices for more than one hundred twenty (120) days from the date of the invoice; or (iii) the accrual of invoices or unpaid services where Apex reasonably believes it will not be paid. Termination of the Services shall not relieve the Client of its obligation to pay Apex for services rendered prior to the termination.

7. **Independent Contractor:** As an independent contractor, Apex will provide services under the terms of this agreement. It is agreed that neither Apex nor any of its employees will be considered an employee of the Client. Consequently, Apex and its employees will not be eligible for any benefits provided by the Client to its employees. The Client will not make any tax deductions from the payments due to Apex for state or federal tax purposes. Apex will be solely responsible for paying all taxes and other payments due on payments received from the Client under this agreement.

8. **Apex warrants** that the Services outlined in the Proposal will be performed in accordance with the standards generally adhered to by professionals providing similar services. It is acknowledged that the Services may entail the likelihood of some human and machine errors, omissions, delays, and losses that may result in damage. However, Apex shall not be held liable for such errors, omissions, delays, or losses unless they are caused by its gross negligence or willful misconduct. In the event of any breach of this warranty by Apex, the Client's sole remedy will be limited to Apex's rerunning, at its expense, any inaccurate output provided that such inaccuracies occurred solely as a result of Apex's gross negligence or willful misconduct under this agreement.

9. **Limitation of Liability:** The Client acknowledges that Apex shall not be held liable for any consequential, special, or incidental damages incurred by the Client in relation to the performance of Services, whether the claim is based on breach of warranty, contract, tort (including negligence), strict liability, or any other grounds. Under no circumstances shall Apex's liability to the Client, for any Losses (including court costs and reasonable attorney's fees), arising out of or in connection with these Terms and Conditions, exceed the total amount charged or chargeable to the Client for the specific service(s) that caused the Losses.

10. **Indemnification:** The Client agrees to indemnify and hold harmless Apex from any losses, suits, actions, judgments, fines, costs, liabilities, or claims arising from any action or proceeding relating to the Services provided by Apex, regardless of whether or not it results in liability (collectively referred to as "Indemnified Claims"). However, this indemnification provision shall not apply to the extent that such Indemnified Claims are caused by Apex's willful misconduct, gross negligence, or breach of these Terms and Conditions. This provision shall survive termination of the Services.

11. **Confidentiality:** Apex will uphold strict confidentiality between Apex and the Client and applies to all non-public records, documents, systems, procedures, processes, software, and other information received by either party in connection with the performance of services under these terms. Both Apex and the Client agree to keep confidential all such non-public information, including any material marked or identified as confidential or proprietary. Any such confidential information shall not be disclosed, provided, disseminated, or otherwise made available to any third party, except as required to fulfill the parties' obligations under these terms. The parties acknowledge that in the event of any request to disclose any confidential information in connection with a legal or administrative proceeding, or otherwise to comply with a legal requirement, prompt notice of such request must be given to the other party to enable that party to seek an appropriate protective order or other remedy or to waive compliance with the relevant provisions of these terms. If the Client seeks a protective order or another remedy, Apex, at the Client's expense, will cooperate with and assist the Client in such efforts. If the Client fails to obtain a protective order or waives compliance with the relevant provisions of these terms, Apex will disclose only that portion of the confidential information that it determines it is required to disclose. This confidentiality provision shall survive termination of the services provided. Both parties acknowledge and agree that any breach of this terms may cause irreparable harm to the non-breaching party and that injunctive relief may be necessary to prevent any actual or threatened breach. The terms set forth between the parties supersede all prior negotiations, understandings, and agreements between the parties concerning confidentiality. These terms may only be amended in writing and signed by both parties.

12. **Ownership of the programs, system data, and materials provided by Apex to the Client during the course of providing services herein shall solely belong to Apex. It is acknowledged that fees and expenses paid by the Client do not confer any rights in such property. It is also understood that the said property is made available to the Client solely for the purpose of using it during and in connection with the services provided by Apex.**

13. **Upon the completion of the administration and unless retention instructions are ordered by the court, Apex will notify the client that it will destroy and/or return all confidential information and property within 90 days upon the client's written request. Alternatively, the material may be stored for one year at a monthly fee of \$1.50 per storage box for paper documents and \$0.01 per image for electronic copies over a period of three years, which compensates Apex for its electronic and hard-copy storage costs. Apex will not be liable for any damages, liability, or expenses incurred in connection with any delay in delivery of, or damage to disks, magnetic tapes, or any input data provided by the client or its representatives unless Apex has agreed in writing to assume such responsibility.**

14. **COMPLETE AGREEMENT.** These Terms and Conditions, along with the attached Proposal, represent the complete agreement and understanding between the parties and override any prior agreements (whether written or oral) between Apex and the Client regarding the subject matter. Any modification to these Terms and Conditions may only be made in writing and must be signed by both Apex and the Client. The headings in this document are included for convenience only and do not alter or restrict any provisions in these Terms and Conditions. They may not be used in the interpretation of these Terms and Conditions.

15. **This provision outlines the requirements for providing notice or other communication under this agreement. All such communications must be in writing and can be delivered either by personal delivery or through U.S. Mail with prepaid postage or overnight courier. Once delivered personally or sent through the mail, the notice will be considered given after five (5) days from the deposit date in the U.S. Mail. Alternatively, if sent through an overnight courier, the notice will be considered given one business day after delivery to the such courier. It's important to note that the notice must be provided to a responsible officer or principal of the Client or Apex, depending on the case.**

16. **Force Majeure:** In the event of any failure or delay in performance due to circumstances beyond Apex's control, including but not limited to strikes, lockouts, fires, floods, acts of God or public enemy, riots, civil disorders, insurrections, war or war conditions, or interference by civil or military authorities, Apex shall not be held liable for any resulting loss or damage. The time for performance under this agreement shall be extended for a period equal to the duration of the disabling cause and a reasonable time thereafter. This provision shall constitute a force majeure clause and shall be construed accordingly.

17. **The applicable state and federal laws shall govern the interpretation and enforcement of these Terms and Conditions. No choice of law or conflict of laws provisions shall affect this governing law provision.**

18. **Severability:** This applies to all clauses and covenants contained within these Terms and Conditions. In the event that any clause or covenant is deemed invalid, illegal, or unenforceable, the remaining provisions shall remain valid and enforceable to the fullest extent permissible by law. The validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired by the invalidity, illegality, or unenforceability of any provision deemed so.

19. **Nonwaiver:** This applies to these Terms and Conditions. This means that any failure by one party to enforce a provision of these terms on one or more occasions shall not be construed as a waiver of that provision. In other words, any failure to enforce a provision does not give up the right to enforce it in the future. All provisions of these Terms and Conditions remain in full force and effect, regardless of any prior failure to enforce them.