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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF SACRAMENTO**

16 RANDY KUSNMAN, on behalf of
17 himself and all "aggrieved employees"
pursuant to Labor Code § 2698 et seq.

18 Plaintiff,

19 v.

20 PUNCH BOWL SACRAMENTO, LLC,
21 a Delaware limited liability company;
PUNCH BOWL RANCHO
22 CUCAMONGA, LLC, a Delaware
limited liability company; PUNCH
23 BOWL SAN DIEGO, LLC, a Delaware
limited liability company, and DOES 1
24 through 10, inclusive,

25 Defendants.

Case No. 34-2018-00243175

**DECLARATION OF DANIEL F.
GAINES IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: August 30, 2019

Time: 2 p.m.

Judge: David I. Brown

Dept.: 53

Complaint filed: October 23, 2018

1 I, DANIEL F. GAINES, hereby declare and state as follows:

2 1. I am an attorney duly admitted to the practice of law in the State of California. I am
3 a shareholder of Gaines & Gaines, APLC, counsel for Plaintiff Randy Kunsman in this action. I
4 have personal knowledge of the facts set forth herein and if called as a witness to testify to them, I
5 could and would do so competently.

6 2. I obtained my BS degree from the University California at Berkeley in 2003. I
7 majored in Business Administration at the Haas School of Business.

8 3. Thereafter, I attended the University of Virginia School of Law. At Virginia, I was
9 a member of the editorial board of the Virginia Tax Review. I was also the recipient of the Lacy
10 Armour Scholarship, awarded to recognize academic excellence. At Virginia, I focused my studies
11 on tax and real estate. I earned my JD and became a member of the California Bar in 2007.

12 4. Since becoming a member of the Bar, I have practiced law with my partner/father,
13 Kenneth, at Gaines & Gaines, APLC. Our practice specializes in litigation, with an emphasis in
14 business, real estate, and employment disputes like this one. Over 75% of my practice is devoted to
15 complex employment litigation similar to the instant action.

16 5. My firm has represented employees in complex employment matters such as this
17 one, with an emphasis in wage and hour issues. I have participated in and have been certified as
18 Court-approved class counsel in dozens of class action matters since my admission to the Bar. A
19 true and correct list of the cases in which I have represented employees in wage and hour matters
20 been appointed as class counsel is attached hereto as **Exhibit B**.

21 6. After an exchange of informal discovery, the parties attended a lengthy mediation
22 session with mediator Lisa Klerman, Esq. on May 6, 2019. Ms. Klerman is a highly experienced
23 mediator who is thoroughly familiar with mediating employment class actions. After a full day of
24 negotiations and information exchanges conducted through the mediator, including an exchange and
25 comparison of each parties' damage analysis, the Parties reached a settlement for which they now
26 seek preliminary approval. Attached hereto as **Exhibit A** is a true and correct copy of the Parties'
27 Class Action Settlement and Compromise Agreement.

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1 7. I believe the settlement is fair and reasonable. There is no preferential treatment for
2 any segment of the class. In addition, the Settlement was reached after investigation and analysis of
3 voluminous documents provided by Defendants and the named Plaintiffs including pay records,
4 corresponding detailed time records, and meal period and rest period policies. Based in large part
5 on this analysis, Plaintiff Kunsman agreed to the terms of the Settlement.

6 8. The attorney fee payment represents a reasonable reimbursement for the Plaintiffs
7 attorneys' lodestar accrued during the litigation of the action and recognizes the significant efforts
8 of experienced counsel who obtained this significant result for the class members at the expense of
9 other guaranteed potential hourly work.

10 9. As Plaintiff Kunsman's compensation for his unique efforts, the significant risks
11 undertaken by bringing about this litigation in the internet age when it may easily be discovered by
12 other employers and used as an "unstated" excuse to refuse to hire them, and in exchange for a much
13 broader general release pursuant to California Civil Code section 1542, Defendants will pay Plaintiff
14 Kunsman a service award in the amount of up to \$10,000.

15 10. Plaintiff Kunsman met with my office on numerous occasions, provided valuable
16 factual resources, participated in settlement negotiations, attended and participated at the mediation
17 and they will sign a much more comprehensive general release for any and all known and unknown
18 claims by signing a § 1542 waiver.

19 I declare, under penalty of perjury, under the laws of the State of California, that the
20 foregoing is true and correct. Executed this 6TH day of August 2019 at Calabasas, California.

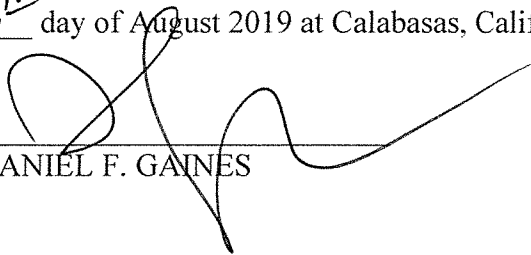
21
22 
23 DANIEL F. GAINES
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EXHIBIT A

CLASS ACTION SETTLEMENT AND COMPROMISE AGREEMENT

This Settlement and Compromise Agreement (“Agreement”) is entered into by and between Plaintiffs RANDALL KUNSMAN and BRIANNA GUIHER, as individuals and on behalf of all other similarly situated employees (collectively, “Plaintiffs”) and Defendants Punch Bowl San Diego, LLC, Punch Bowl Rancho Cucamonga, LLC, Punch Bowl Sacramento, LLC, and PBS Brand Co., LLC (collectively, “Defendants”) (Plaintiffs and Defendants are referred to collectively as the “Parties”). The Parties, represented by their respective counsel of record, have privately settled the putative class action and representative action entitled *Kunzman et al. v. Punch Bowl Sacramento, LLC et al.*, Sacramento County Superior Court, Case No. 34-2018-00243175 filed October 23, 2018 (“Kunzman Action”) and *Guiher v. Punch Bowl San Diego, LLC et al.*, San Diego County Superior Court, Case No. 37-2019-000002512-CU-OE-CTL, filed January 15, 2019 (“Guiher Action”) (together, “Litigation”). The Parties have reached the following Agreement, subject to approval by the Court, which is intended to be a full and final resolution of the Litigation and released claims as set forth below:

WHEREAS, Plaintiffs have brought the Litigation against Defendants making claims for the alleged failure to pay all wages due and owing (including, but not limited to, minimum wage, overtime wage, doubletime wage, reporting time wages, and wages derived from tips) during employment pursuant to Labor Code sections 510 and 1194, provide legally compliant meal breaks pursuant to Labor Code sections 226.7 and 512, provide legally compliant rest breaks pursuant to Labor Code section 226.7, pay all gratuities due pursuant to Labor Code section 350, *et seq.*, pay reporting time pay pursuant to the applicable Wage Orders, provide accurate wage statements pursuant to Labor Code sections 226(a) and (e), to pay all wages during employment and all wages due and owing upon separation of employment pursuant to Labor Code sections 201-204, unfair business practices pursuant to Business & Professions Code section 17200 *et seq.* premised on these claims, and Private Attorneys General Act (PAGA) claims pursuant to Labor Code section 2698 *et seq.* premised on these claims;

WHEREAS, Defendants deny the validity of Plaintiffs’ claims or that the Litigation is appropriate for class action certification;

WHEREAS, the Parties have engaged in an informal exchange of information to assess the validity of Plaintiffs’ claims, the scope, size, and potential damages ranges for the putative class, and Defendants’ defenses, including issues relating to certification;

WHEREAS, on May 6, 2019 the Parties participated in mediation with Lisa Klerman, Esq. acting as the mediator;

WHEREAS, the Parties, in appreciation of the risks of litigation, establishing damages for the putative class, and class certification both for and against their respective positions, wish to settle and resolve the Litigation and avoid the expense of further civil proceedings;

NOW, THEREFORE, the Parties hereby agree as follows:

1. Amendment of Kunsman Action and Dismissal of Guiher Action. The parties agree, for settlement purposes only, to amend the Kunsman Action to include Plaintiff Guiher and the claims alleged in the Guiher Action, subject to Defendants' review and approval prior to its filing with the court. Plaintiff Guiher agrees to take steps necessary to stay the Guiher Action so the parties may seek approval of a global settlement in the amended Kunsman Action. Within 15 days of the Court granting final approval of settlement of the Kunsman Action, Plaintiff Guiher will dismiss, with prejudice, all claims in the Guiher Action. Should the Court not grant final approval of settlement, the parties agree to work in good faith to resolve the Litigation and all claims in a manner consistent with this Agreement.

2. No Admission of Liability. This Agreement and compliance with this Agreement shall not be construed as an admission by Defendants of any fault or liability whatsoever for the claims asserted or claims that could have been asserted in the Litigation, or as an admission by Defendants that the Litigation is appropriate for class certification other than for purposes of class settlement as described within this Agreement. Defendants contend that, if this matter were to be further litigated, it would have strong defenses on the merits and as to class certification. Whether or not the Judgment becomes Final, neither the Settlement, this Agreement, any document, statement, proceeding or conduct related to the Settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Plaintiffs or Defendants or any of the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, in any further proceeding in the Litigation, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may be admitted in evidence and otherwise used in any and all proceedings for the limited purpose of enforcing any or all terms of this Agreement or defending any claims released or barred by this Agreement.

3. Gross Settlement Payment. In consideration for the releases as described in Paragraphs 3 and 4, and subject to Court approval of this Agreement, Defendants shall agree to pay a gross amount of \$950,000.00 (hereinafter referred to as the Settlement Sum) to Class Members (in accordance with Paragraph 6 below) subject to the following terms and conditions:

- a. From the Settlement Sum, Plaintiffs Randall Kunsman and Brianna Guiher shall be paid up to \$10,000.00 each without deductions, as an enhancement award for their time, effort, expense, and risks associated with being the named representatives, a broader, general waiver of their rights, and participating in the Litigation as the class representatives, in addition to their payment from the Payout Fund. This payment will be reported as 1099 income. Defendants will not oppose any such application for the enhancement award described herein so long as it is consistent with the amount described herein. This amount shall come from, and shall not be in addition to, the Settlement Sum. If the Court reduces the amount of the enhancement award in the course of the settlement approval process, only the amount approved by the Court will be paid to Plaintiffs. Any amount of the

enhancement award not approved by the Court shall become part of the Payout Fund.

- b. From the Settlement Sum, settlement administration fees shall be paid to a third party administrator (Settlement Administrator), not to exceed \$20,000.00. The costs of the Settlement Administrator shall be paid from, and shall not be in addition to, the Settlement Sum. To the extent that the actual costs of administration are more than \$20,000, they will be paid from the Settlement Fund and, if less than \$20,000.00, the remainder shall become part of the Payout Fund.
- c. From the Settlement Sum, the sum of \$7,500.00 will be allocated to Plaintiffs' claims under the PAGA and will be distributed to the California Labor and Workforce Development Agency (LWDA) (which is 75% of the total PAGA allocation of \$10,000.00; the remaining 25%, or \$2,500.00, shall be paid to members of the Settlement Class as part of the Payout Fund). These amounts shall come from, and shall not be in addition to, the Settlement Sum.
- d. From the Settlement Sum, up to thirty-five percent (35%) of the Settlement Sum (\$332,500.00) will be for the payment of attorneys' fees incurred in the Litigation by counsel for Plaintiffs in the Litigation and Defendants will not oppose any request for a payment of attorneys' fees to counsel for Plaintiffs so long as they do not request an amount exceeding this threshold. Plaintiffs' counsel will also be entitled to recover their actual litigation costs incurred from the Settlement Sum as demonstrated to and approved by the Court in an amount not to exceed \$12,000.00. These amounts shall come from, and shall not be in addition to, the Settlement Sum. To the extent any fees or costs are not awarded by the Court they shall become part of the Payout Fund.
- e. The Parties agree that all employer payroll taxes associated with wage payments to Class Members, will be paid by Defendants separate and apart from the Settlement Sum.
- f. There shall be a Payout Fund that is distributed to Participating Class Members in accordance with the allocations set forth in Paragraph 7 below. The Payout Fund shall consist of the Settlement Sum less the amounts identified and awarded/permitted by the Court in accordance with Paragraph 3.a. through 3.d. above (attorneys' fees and costs, costs of administration, representative enhancement awards, and payment to the LWDA). The Payout Fund will be distributed to Participating Class Members who have not timely opted out of the Class, as described in Paragraph 7 below.
- g. Defendants shall deposit the Settlement Sum (\$950,000.00) with the Settlement Administrator within twenty-one (21) calendar days after the Effective Date of this Settlement. The Effective Date of the Settlement will be when the final approval of the settlement can no longer be appealed, or any appeal that has been filed has been dismissed or an an opinion has been issued upholding the settlement; except

that if there are no objections to the Settlement, the Effective Date will be the date the court enters an order granting final approval of the settlement.

4. **Release.** For and in consideration of the mutual promises and consideration set forth in this Agreement, the sufficiency of which is hereby acknowledged by the Parties, a release of liability is understood and agreed to as follows:

- a. Released Parties means Defendants and their subsidiaries, affiliates, parents and attorneys and each of their company-sponsored employee benefit plans, and their respective successors and predecessors in interest, all of their respective officers, directors, employees, administrators, fiduciaries, trustees and agents, and each of their past, present and future officers, directors shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, attorneys, insurers and reinsurers.
- b. Released Claims means all claims for wages, damages, statutory and civil penalties, fees and costs that were or could have been alleged under the laws of California arising out of the allegations in the Lawsuit during the Class Period, whether known or unknown, including, but not limited to, claims related to Defendants' failure to (1) issue legally compliant wage statements to Class Members (Labor Code sections 226(a) and (e)); (2) pay all wages due and owing during employment to Class Members (Labor Code sections 510 and 1194); (3) provide legally compliant meal breaks to Class Members (Labor Code sections 226.7 and 512); (4) provide legally compliant rest breaks to Class Members (Labor Code section 226.7); (5) pay all gratuities due to Class Members (Labor Code section 351); (6) pay all wages due and owing upon separation of employment to Class Members (Labor Code sections 201-203); (7) claims pursuant to the California Unfair Competition Law (Business & Professions Code section 17200 *et seq.*) for the violations alleged herein; and (8) claims pursuant to PAGA (Labor Code section 2698 *et seq.*) for the violations alleged herein, and including, but not limited to, any legal or factual claim or theory or basis under California Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 351, 450, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1195, 1197, 1198, 2698, and under IWC Wage Orders applicable to Defendants, and includes all remedies that could have been claimed in connection with the Released Claims including, but not limited to, statutory, constitutional, contractual damages, liquidated damages, unpaid costs, penalties, punitive damages, interest, attorneys' fees, litigation costs, restitution, and equitable relief, during the Class Period.
- c. As of the Effective Date, Plaintiffs and individuals in the Class who do not opt out of the Settlement, release the Released Parties from the Released Claims during the time period in which they worked as a Class Member for Defendants in exchange for the consideration provided by this Settlement. Such individuals may hereafter discover facts in addition to or different from those they now know or believe to be true with respect to the subject matter of the Released Claims, but upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment

shall have, fully, finally, and forever settled and released any and all of the Released Claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed, upon any theory of law or equity now existing, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. The release shall not extend to any claims outside of those asserted in the Litigation and/or the Class Period, from October 23, 2014 through and including the date on which a motion for preliminary approval of class action settlement is filed, or July 4, 2019, whichever comes first.

5. **California Civil Code Section 1542.** Plaintiffs and Defendants hereby agree that all rights under section 1542 of the Civil Code of the State of California are hereby waived as to the individual or other claims they may have against each other. Section 1542 has been explained to Plaintiffs and Defendants by their respective counsel and provides as follows:

A general release does not extend to claims which 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, which if known by him or her, must would have materially affected his or her settlement with the debtor or released party.

As part of this Agreement, Named Plaintiffs Brianna Guiher and Randall Kunsman also agree to release any and all claims against Defendants arising from contract (express or implied), tort, public policy, and equity, and any and all claims of wrongful discharge, retaliation, harassment, and/or employment discrimination under local, state, and/or federal law and statutes.

6. **Motion for Preliminary Approval of Class Action Settlement.** Plaintiffs and Plaintiffs' Counsel shall make their best efforts to file a motion seeking preliminary approval of this Agreement as soon as reasonably possible after this Agreement is executed by the Parties. Defendants agree to cooperate with Plaintiffs in these efforts so that the motion seeking preliminary approval is filed in a timely manner. Counsel for Defendant shall have five (5) calendar days to review and comment on the preliminary approval before it is filed with the Court Thereafter, Plaintiffs and Plaintiffs' counsel shall seek certification of a class for settlement purposes only. Plaintiffs shall timely transmit the settlement, the Motion for Preliminary Approval, and the final judgment to the LWDA in accordance with the requirements of PAGA.

7. **Settlement Administrator and Distribution Method.** The Parties agree that Plaintiffs' and Defendants' counsel will jointly select the Settlement Administrator to process and distribute the Settlement Sum in accordance with the Agreement. In addition, and subject to Court approval, timelines, and methods related to the administration of this Agreement shall be as follows:

- a. Individuals identified as being within the class definition, as set forth in Paragraph 10, who do not timely opt out shall be considered Participating Class Members.

- b. Following the Court's preliminary approval of this Settlement, the Settlement Administrator shall provide notice to class members of the class action settlement and their *estimated* shares from the Payout Fund. As such, the Settlement Administrator shall mail and distribute to all individuals within the Settlement Class definition a notice in the form attached hereto as Exhibit A, which will inform them of the basic information regarding the settlement's terms, how to submit objections or how to exclude themselves from this proposed settlement, their estimated shares of the Payout Fund, and the date for a final fairness hearing.
- c. Each Participating Class Member's respective share of the Payout Fund will be calculated by dividing the Payout Fund by the total number of workweeks for all Participating Class Members while employed in California during the Class Period (the Total Value Per Workweeks Statement); the Total Value Per Workweeks Statement will then be multiplied by each Participating Class Member's individual total workweeks while employed in California during the Class Period to yield his or her respective share of the Payout Fund.
- d. Each individual payment made to Participating Class Members and all other recipients under this settlement will be allocated 10% as wages and shall be reported on an IRS Form W-2, and 90% as penalties and interest and shall be reported on an IRS Form 1099. The Settlement Administrator shall be responsible for issuing to Plaintiff, Participating Class Members, and Class Counsel any IRS Forms W-2 and 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Agreement. The Settlement Administrator shall also be responsible for forwarding all payroll taxes and penalties to the appropriate government authorities, if required. Defendants make no representation as to the tax treatment or legal effect of the payments called for hereunder.
- e. Within ten (10) calendar days after the date that the Court grants preliminary approval of this Agreement and appoints a Settlement Administrator, Defendants shall provide a list of all class members and all necessary information to the Settlement Administrator to locate class members, process payments, and process claims for payments, including each class member's most recent mailing address, telephone number, Social Security number, and respective number of workweeks each class member received while employed in California during the applicable Class Period.
- f. The class list, and any other data provided by Defendants to the Settlement Administrator, shall be treated as confidential and not subject to disclosure by the Settlement Administrator except (a) relevant information may be provided to Class Counsel to the extent necessary to address a disputed claim or to respond to a specific inquiry from a class member; (b) to allow Defendants' and Plaintiffs' Counsel to review and confirm the calculation of an estimated share is accurate and based on the correct information; and (c) as is otherwise necessary for the Settlement Administrator to perform its obligations described in this Agreement. Further, the Settlement Administrator and Plaintiffs' counsel shall use

commercially reasonable efforts to secure the data provided by Defendants at all times so as to avoid inadvertent or unauthorized disclosure or use of such data other than as permitted by this Agreement, and shall destroy the data (and all copies of it) in a complete and secure manner when such data is no longer required for purposes of this Agreement. The Settlement Administrator shall ensure that the Notice and any other communications to class members shall not include the class members' Social Security Number, except for the last four digits.

- g. Within fourteen (14) calendar days from the date the Court preliminarily approves this Agreement and a Settlement Administrator is appointed, the Settlement Administrator will provide the Parties the spreadsheet showing the Administrator's calculations for anticipated payments to Class Members and the allocation of wage statements to Class Members. The Settlement Administrator will redact any identifying information and instead use an employee number to differentiate in order to protect Class Members' confidential information. This will allow Plaintiffs and Defendants the opportunity to review the Settlement Administrator's calculations, and the Settlement Administrator will confirm receipt and approval of the spreadsheet by the Parties prior to disbursing the class notices, as noted below.
- h. Within twenty-one (21) calendar days from the date the Court preliminarily approves this Agreement and a Settlement Administrator is appointed, the Settlement Administrator will perform an NCOA check for Class Members' most current address based on the information provided by Defendants and will mail the Court approved notices to the class members. The Class Members will have forty-five (45) days from the date of mailing the notices in which to postmark returned information either contesting the number of wage statements allocated to them, request to opt-out of the class action settlement and/or object to the proposed settlement. For any notices returned as undeliverable or notifying the Settlement Administrator that the class member is no longer at the address, the Settlement Administrator shall perform a skip-trace on that individual and re-mail the notice within three (3) business days of receiving information that the mailing was undeliverable or the class member was no longer at the address to the new address found in under the skip-trace. Individuals who have notices re-mailed to them shall have an additional fourteen (14) calendar days to contest the number of wage statements allocated to them or request to opt out of the class action settlement. In no case shall the deadline to object to the settlement be extended for any reason, including purported non-receipt of the class notice.
 - (a) In order to opt-out of the Settlement Class, a Class Member must timely postmark a letter to the Settlement Administrator (within the time frames set forth above) which includes their (1) name; (2) address; (3) telephone number; (4) last four digits of social security number; (5) signature and date; and (6) a statement that they wish to be excluded from the Settlement Class in the *Kunzman v Punch Bowl* litigation. Those individuals who timely exclude themselves from the Settlement Class shall not be bound by the releases herein,

shall not receive any payment from the Payout Fund, and may not object to the settlement.

- (b) In order to object to the settlement, a Class Member must not opt out of the Settlement and must timely postmark a letter to the Settlement Administrator (within the time frames set forth above) which states the basis for their objection to the settlement.
- i. The Settlement Administrator will investigate and will have the final decision on disputes as to the class members' information (*e.g.*, wage statements).
- j. Within seven (7) calendar days after the last day for class members to object to the proposed settlement, dispute their information, and/or request to be excluded from the settlement, the Settlement Administrator shall provide a declaration to be submitted to Court detailing the administration process thus far, the number of objections received, the number of opt-out requests received, the number of disputes submitted, and the final status of all such items.
- k. Within three (3) calendar days after the Effective Date, the Settlement Administrator shall provide the Parties the final calculations of settlement payments to Participating Class Members in accordance with the terms of Paragraph 7.c. The Settlement Administrator will redact any identifying information and instead assign an employee value, such that the Parties can review and approve the final distribution amounts to Participating Class Members.
- l. Within fourteen (14) calendar days after the Effective Date, Defendants shall pay the Settlement Sum into a Qualified Settlement Fund set up by the Settlement Administrator by bank wire.
- m. No later than thirty (30) days after the Effective Date the Settlement Administrator will disburse payment for the administration costs, class representative awards, attorneys' costs, attorneys' fees, and the settlement payments to the Participating Class Members. The total amount of monies to Participating Class Members will be disclosed by the Settlement Administrator by the method delineated in Paragraph 7.k.
- n. Participating Class Members shall have one hundred eighty (180) days to cash their respective settlement checks under this Agreement. Any checks not negotiated within one hundred eighty (180) days will be voided and transmitted by the Settlement Administrator to the California Women's Law Center, a cy pres recipient jointly selected by the Parties.
- o. Within ten (10) calendar days after the Settlement Administrator distributes the unclaimed funds in accordance with Paragraph 7.n, the Settlement Administrator shall provide the Parties a declaration outlining the settlement administration

process through the completion of the distribution of the unclaimed funds as specified in Paragraph 7.n.

- p. The Parties agree the Class Members' contact information and social security numbers will be used only by the Settlement Administrator counsel for the sole purpose of effectuating the Agreement.

8. **Class Counsel.** The Parties agree to the designation of Gaines & Gaines, APLC and ShortLegal, APC as class counsel for purposes of the settlement class.

9. **Defense or Defendants' Counsel** means John LeCrone and Paul Rodriguez of Davis Wright Tremaine LLP.

10. **Scope of the Class.** Class Member(s) are defined as all persons employed by Defendants Punch Bowl SanDiego, LLC, Punch Bowl Rancho Cucamonga, LLC, Punch Bowl Sacramento, LLC, and/or PBS Brand Co., LLC, in California as a non-exempt employee from October 23, 2014 through and including the date on which a motion for preliminary approval of class action settlement is filed, or July 4, 2019, whichever comes first ("Class Period") ("Settlement Class"). It was represented to Plaintiffs as of February 28, 2019 that there were no more than 1,289 putative class members who were subject to the claims alleged during this Class Period. Plaintiffs may terminate this settlement at any time if this representation is not correct and the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

11. **Class Representatives.** The Parties agree to the designation of Randall Kunsman and Brianna Guiher as the class representatives for purposes of the settlement class

12. **Attorneys' Fees and Costs.** Except as otherwise set forth in this Agreement, the Parties agree that each shall bear their own respective attorneys' fees and costs incurred in this Litigation, with the exception of any dispute regarding the payment of the Settlement Sum, or the enforcement of this Agreement. In the case of a dispute regarding the payment of the Settlement Sum or the enforcement of this Agreement, the prevailing party shall be entitled to recover their attorneys' fees and costs.

13. **No Prior Assignments:** The Parties represent, covenant 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 in this Settlement Agreement. None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written consent of each other Party and their respective counsel. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement, and shall not be construed to confer any right or to avail any remedy to any other person

14. **Enforcement and Judgment.** After final approval of this settlement, the Court may enter judgment in accordance with California Rules of Court, Rule 3.769. Pursuant thereto and in

accordance with California Code of Civil Procedure section 664.6, the Parties agree that the Court shall retain jurisdiction to effectuate the terms of this Agreement and enforce the judgment in this Litigation. This Agreement shall be admissible in any proceeding for its enforcement in accordance with sections 1118 and 1123 of the California Evidence Code. Should any dispute arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, a representative of Class Counsel and a representative of Defendant's Counsel shall meet and confer in an attempt to resolve such disputes prior to submitting such disputes to the Court.

15. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE ACKNOWLEDGING PARTY AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN OTHER PARTY) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISOR'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

16. Counterparts. This Agreement may be executed in one or more counterparts and each counterpart, when executed, shall have the efficacy of an original. Photographic or facsimile copies of any such signed counterparts may be used in lieu of the original for any said purpose.

17. Stay of Litigation. The Parties agree that upon the signing of this Agreement by the Parties, the Parties will work in good faith to stay and/or seek court-ordered stays to the Guier Action pending an order regarding the consolidation of the Litigation. Further, Litigation shall be stayed and the time to bring the Litigation to trial shall be extended pending the outcome of the settlement process.

18. Entire Agreement. This Agreement sets forth the entire understanding between the Parties and supersedes any and all prior agreements, oral or written, pertaining to the subject matter hereof. This Agreement may not be modified or amended except in writing, signed by all Parties.

Each party acknowledges that there is no representation, inducement, promise or agreement which has been made, orally or otherwise, by the other party, concerning the terms or conditions of this Agreement, which is not expressly embodied in this Agreement. In entering into this Agreement, the Parties represent that the terms of this Agreement are fully understood and voluntarily accepted by the Parties.

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

20. Attorney Authorization. Class Counsel and Defendants' Counsel warrant and represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement including any amendments to this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the mediator for resolution.

21. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, irrespective of the State of California's choice of law principles

22. Agreement to Cooperate. The Parties agree to cooperate in, and participate in, any and all acts necessary to effectuate the terms of this Agreement, including the drafting or executing of any documents.

23. Fair Settlement. The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Litigation and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.

24. Use and Return of Documents and Data. All originals, copies, and summaries of documents and data provided to Class Counsel by Defendants in connection with the mediation or other settlement negotiations in this matter 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. Within thirty days after the Judgment becomes Final, Class Counsel will return or destroy and confirm in writing to Defendants the destruction of all such documents and data except that Class Counsel may retain an archival copy of these documents and data for their files.

25. Limitation on Public Statements About Settlement. Plaintiffs and Class Counsel represent that they have not and will not issue any press, publications, or other media releases about the Settlement (including, but not necessarily limited to advertising or marketing materials or on social media) or have any communication with the press or media or anyone else regarding the Settlement, or make any statements about the Settlement or Defendants on any social media, including, but not limited to, Facebook, Instagram, Snapchat, and Twitter until after the settlement

is preliminarily approved by the Court. This provision also does not limit Class Counsel from complying with ethical obligations or from posting court-filed documents on their website for viewing by Class Members. None of these prohibitions on public comment shall prohibit Class Counsel's communications with the Court as necessary to finalize the settlement.

26. Representations and Warranties of Defendant's Records: Defendants represent and warrant that the documents and information provided to Class Counsel prior to and during mediation are substantially accurate to the best of their knowledge.

27. No Reliance on Representation: The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any other matters. No representations, warranties, or inducements have been made to any party concerning this Agreement

28. 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.

29. Notice. All notices, demands or other communications given under 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, addressed as follows:

To Plaintiffs and the Class:

Daniel F. Gaines
Evan S. Gaines
Gaines & Gaines APLC
27200 Agoura Road, Suite 101
Calabasa, CA 91301
Tel: (818) 703-8985
Fax: (81) 703-8984
Email: ken@gaineslawfirm.com / daniel@gaineslawfirm.com

Brian R. Short
Dorota A. James
ShortLegal, APC
350 10th Ave., Suite 1000
San Diego, CA 92101
Tel.: (619) 272-0720
Fax: (619) 839-3129
Email: brian@shortlegal.com / dorota@shortlegal.com

To Defendants:

John LeCrone
Paul Rodriguez
Davis Wright Tremaine LLP
865 S. Figueroa Street, Suite 2400
Los Angeles, CA 90017
Tel.: (213) 633-6800
Fax: (213) 633-6899
Email: johnlecrone@dwt.com / paulrodriguez@dwt.com

[SIGNATURES TO FOLLOW]

BY SIGNING BELOW, THE PARTIES AND THEIR COUNSEL EVIDENCE THEIR UNDERSTANDING OF AND AGREEMENT TO EACH OF THE FOREGOING TERMS AND CONDITIONS

FOR PLAINTIFFS:

Dated: _____, 2019

Randall Kunsman
Plaintiff, Class Representative

Dated: _____, 2019

Brianna Guiher
Plaintiff, Class Representative

FOR DEFENDANTS:

Dated: 7-12-19, 2019

Robert F. LeBeau, on behalf of
Defendant Punch Bowl San Diego, LLC

Dated: 7-12-19, 2019

Robert F. LeBeau, on behalf of
Defendant Punch Bowl Rancho Cucamonga, LLC

Dated: 7-12-19, 2019

Robert F. LeBeau, on behalf of
Defendant Punch Bowl Sacramento, LLC

Dated: 7-12-19, 2019

Robert F. LeBeau, on behalf of
Defendant PBS Brand Co., LLC

BY SIGNING BELOW, THE PARTIES AND THEIR COUNSEL EVIDENCE THEIR UNDERSTANDING OF AND AGREEMENT TO EACH OF THE FOREGOING TERMS AND CONDITIONS

FOR PLAINTIFFS:

Dated: _____, 2019

Randall Kunsman
Plaintiff, Class Representative

Dated: Jul 5, 2019 _____, 2019

Brianna Guiher
Plaintiff, Class Representative

FOR DEFENDANTS:

Dated: _____, 2019

_____, on behalf of
Defendant Punch Bowl SanDiego, LLC

Dated: _____, 2019

_____, on behalf of
Defendant Punch Bowl Rancho Cucamonga, LLC

Dated: _____, 2019

_____, on behalf of
Defendant Punch Bowl Sacramento, LLC

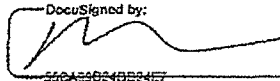
Dated: _____, 2019

_____, on behalf of
Defendant PBS Brand Co., LLC

BY SIGNING BELOW, THE PARTIES AND THEIR COUNSEL EVIDENCE THEIR UNDERSTANDING OF AND AGREEMENT TO EACH OF THE FOREGOING TERMS AND CONDITIONS

FOR PLAINTIFFS:

Dated: 6/28/2019, 2019

DocuSigned by:

550A339348E24E7

Randall Kunsman
Plaintiff, Class Representative

Dated: _____, 2019

Brianna Guiher
Plaintiff, Class Representative

FOR DEFENDANTS:

Dated: _____, 2019

_____, on behalf of
Defendant Punch Bowl San Diego, LLC

Dated: _____, 2019

_____, on behalf of
Defendant Punch Bowl Rancho Cucamonga, LLC

Dated: _____, 2019

_____, on behalf of
Defendant Punch Bowl Sacramento, LLC

Dated: _____, 2019

_____, on behalf of
Defendant PBS Brand Co., LLC

APPROVED AS TO FORM:

Dated: _____, 2019

Evan S. Gaines, Esq.
Gaines & Gaines, APLC
Counsel for Plaintiff Kunsman and the Settlement
Class

Dated: July 5, 2019



Brian Short, Esq.
Short Legal, APC
Counsel for Plaintiff Guiher and the Settlement Class

Dated: _____, 2019

John LeCrone, Esq.
Paul Rodriguez, Esq.
Davis Wright Tremaine LLP
Counsel for Defendants

APPROVED AS TO FORM:

Dated: July 1, 2019



Evan S. Gaines, Esq.
Gaines & Gaines, APLC
Counsel for Plaintiff Kunsman and the Settlement
Class

Dated: _____, 2019

Brian Short, Esq.
Short Legal, APC
Counsel for Plaintiff Guiher and the Settlement Class

Dated: _____, 2019

John LeCrone, Esq.
Paul Rodriguez, Esq.
Davis Wright Tremaine LLP
Counsel for Defendants

APPROVED AS TO FORM:

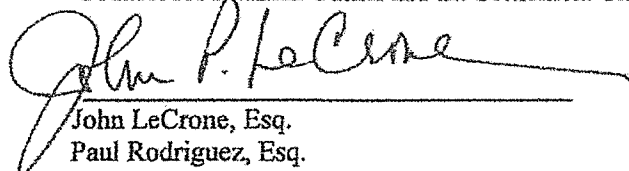
Dated: _____, 2019

Evan S. Gaines, Esq.
Gaines & Gaines, APLC
Counsel for Plaintiff Kunsman and the Settlement
Class

Dated: _____, 2019

Brian Short, Esq.
Short Legal, APC
Counsel for Plaintiff Guiher and the Settlement Class

Dated: July 12 _____, 2019



John LeCrone, Esq.
Paul Rodriguez, Esq.
Davis Wright Tremaine LLP
Counsel for Defendants

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

RANDY KUNSMAN and BRIANNA GUIHER,

Plaintiffs,

v.

PUNCH BOWL SACRAMENTO, LLC, a Delaware limited liability company; PUNCH BOWL RANCHO CUCAMONGA, LLC, a Delaware limited liability company; PUNCH BOWL SAN DIEGO, LLC, a Delaware limited liability company, PBS Brand Co., LLC, a Delaware limited liability company, and DOES 1 through 10, inclusive,

Defendants.

Case No. 34-2018-00243175

Assigned to Honorable David I. Brown, Dept. 53

NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT AND FINAL HEARING

YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A SETTLEMENT

A California court authorized this notice. This is not a solicitation from a lawyer.

If You Qualify For Inclusion in The Settlement Class And You Wish To Participate In The Settlement And Receive A Settlement Payment, You Are Not Required To Take Any Action.

- A settlement will provide \$950,000 to pay claims to current and former non-exempt employees of Defendants Punch Bowl San Diego, LLC, Punch Bowl Rancho Cucamonga, LLC, Punch Bowl Sacramento, LLC, and PBS Brand Co., LLC (collectively, "Defendants"), who worked at any location in California at any time during the period October 23, 2014 to July 4, 2019.
- The settlement resolves a lawsuit over whether Defendants failed to pay all wages due and owing (including, but not limited to, minimum wages, overtime wages, double-time wages, reporting time wages, and wages derived from tips) during employment, failed to provide legally compliant meal breaks, failed to provide legally compliant rest breaks, failed to pay all gratuities due, failed to pay reporting time pay, failed to provide accurate wage statements, and failed to pay all wages timely during employment and all wages due and owing upon separation of employment. It avoids costs and risks to you from continuing the lawsuit; pays money to employees; and releases Defendants from liability from the claims asserted in this lawsuit.
- Lawyers for the employees will ask the Court to award them up to \$332,500 as attorneys' fees and \$12,000 as expenses for investigating the facts, litigating the case, and negotiating the settlement. This will be paid from the settlement amount.
- Defendants deny liability and the Parties disagree on how much money could have been awarded if employees won at trial. Furthermore, Defendants contend that they have fully complied with California law regarding the allegations in Plaintiffs' lawsuit. Defendants further deny all of Plaintiffs' remaining material allegations, and by entering into the settlement, Defendants do not

admit any liability to Plaintiffs or to any class members, and do not admit that they have violated the rights of Plaintiffs, class members, or any other employees, former employees or any other person(s). Defendants also deny that this case is suitable as a class action for liability purposes and only agree to class certification for settlement purposes.

- **Your legal rights are affected whether you act or do not act. Read this notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT!	
Do Nothing	You do not need to take any action if you wish to receive your settlement payment. If the settlement is approved by the Court, you will automatically be mailed a settlement check at the address on file with the Settlement Administrator. If you move, you must notify the Settlement Administrator of your new address.
Exclude Yourself	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against Defendants about the legal claims that were brought in this case.
Object	Write to the Court about why you don't like the settlement.
Go to a Hearing	Ask to speak in Court about the fairness of the settlement.

WHY DID YOU RECEIVE THIS NOTICE?

This notice explains a proposed settlement of a class action lawsuit, and informs you of your legal rights under that proposed settlement. You are receiving this notice because you may be a member of the Class on whose behalf this class action lawsuit has been brought.

WHAT IS THIS LAWSUIT ABOUT?

On October 23, 2018, Plaintiff Randy Kunsman filed this lawsuit in the Sacramento County Superior Court. On January 15, 2019, Plaintiff Brianna Guiher filed a similar lawsuit in the San Diego County Superior Court, Case No. 37-2019-000002512-CU-OE-CTL. The cases were subsequently joined into one. As amended, the lawsuit alleges violations of the California Labor Code. The Lawsuit seeks to certify the following class: all persons employed by Defendants Punch Bowl San Diego, LLC, Punch Bowl Rancho Cucamonga, LLC, Punch Bowl Sacramento, LLC, and/or PBS Brand Co., LLC, in California as a non-exempt employee from October 23, 2014 through July 4, 2019 (the "Class Period"). The lawsuit alleges that members of the Class were not paid all wages due and owing during employment, including minimum, overtime, double-time, and reporting time wages, were not timely issued wages during employment and upon separation of employment, were not provided all meal and rest periods or compensation in lieu thereof, were not paid all gratuities due, and were not issued accurate and complete wage statements. It seeks recovery of wages, damages, interest, statutory and civil penalties, attorneys' fees and costs. Defendants deny all of the material allegations in the Lawsuit.

The lawyers for the parties are:

<u>Plaintiffs' Attorneys</u>	<u>Defendants' Attorneys</u>
Daniel F. Gaines, Esq. Alex P. Katofsky, Esq. Gaines & Gaines, APLC 27200 Agoura Road, Suite 101 Calabasas, CA 91301 Phone: (866) 550-0855	John LeCrone, Esq. Paul Rodriguez, Esq. Davis Wright Tremaine LLP 865 S. Figueroa Street, Suite 2400 Los Angeles, CA 90017
Brian R. Short, Esq. Dorota A. James, Esq. ShortLegal, APC 350 10 th Ave., Suite 1000 San Diego, CA 92101 Phone: (619) 272-0720	

SUMMARY OF THE SETTLEMENT

A. Why is there a Settlement?

The Court did not decide in favor of Plaintiffs or Defendants. Plaintiffs believe they would have prevailed on their claims at a trial. Defendants do not believe that Plaintiffs would have won anything from a trial. But there was no trial. Instead, both sides agreed to a settlement. That way, they all avoid the costs, risks, and uncertainty of a trial, and the people affected will get compensation. Plaintiffs and Plaintiffs' Attorneys think the settlement is fair, reasonable and adequate and in the best interests of all Class members.

B. Who is in the Settlement Class?

The Settlement encompasses the following class: all persons employed by Defendants Punch Bowl San Diego, LLC, Punch Bowl Rancho Cucamonga, LLC, Punch Bowl Sacramento, LLC, and/or PBS Brand Co., LLC, in California as a non-exempt employee from October 23, 2014 through July 4, 2019.

C. What does the Settlement provide?

1. Gross Settlement Amount.

Defendants will pay \$950,000 (the "Settlement Sum") to settle the lawsuit. The following sums will be paid from the Settlement Sum: (1) \$7,500 to the California Labor and Workforce Development Agency ("LWDA"); (2) Class Counsel's attorneys' fees in an amount set by the Court not to exceed \$332,500 and Class Counsel's documented litigation costs in an amount set by the Court not to exceed \$12,000; (3) a service payment to the Class Representatives set by the court, not to exceed \$10,000 each, for their service in the Action; and (4) a reasonable amount set by the Court to the settlement administrator for administering the settlement, not to exceed \$20,000. The amount of the Settlement Sum remaining after these payments is the "Payout Fund."

2. Individual Payment Amount.

Your share of the Payout Fund will be determined by the formula detailed in section E below.

D. What are you giving up to get a payment or stay in the Class?

Upon the Court's final approval of the class settlement and entry of final judgment, each Class Member shall be deemed to have released and discharged Defendants and their subsidiaries, affiliates, parents and attorneys and each of their company-sponsored employee benefit plans, and their respective successors and predecessors in interest, all of their respective officers, directors, employees, administrators, fiduciaries, trustees and agents, and each of their past, present and future officers, directors shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, attorneys, insurers and reinsurers (collectively "Released Parties") from the "Released Claims" defined below:

"Released Claims" means all claims for wages, damages, statutory and civil penalties, fees and costs that were or could have been alleged under the laws of California arising out of the allegations in the Lawsuit during the Class Period, whether known or unknown, including, but not limited to, claims related to Defendants' failure to (1) issue legally compliant wage statements to Class Members (Labor Code sections 226(a) and (e)); (2) pay all wages due and owing during employment to Class Members (Labor Code sections 510 and 1194); (3) provide legally compliant meal breaks to Class Members (Labor Code sections 226.7 and 512); (4) provide legally compliant rest breaks to Class Members (Labor Code section 226.7); (5) pay all gratuities due to Class Members (Labor Code section 351); (6) pay all wages due and owing upon separation of employment to Class Members (Labor Code sections 201-203); (7) claims pursuant to the California Unfair Competition Law (Business & Professions Code section 17200 *et seq.*) for the violations alleged herein; and (8) claims pursuant to PAGA (Labor Code section 2698 *et seq.*) for the violations alleged herein, and including, but not limited to, any legal or factual claim or theory or basis under California Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 227.3, 351, 450, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1195, 1197, 1198, 2698, and under IWC Wage Orders applicable to Defendants, and includes all remedies that could have been claimed in connection with the Released Claims including, but not limited to, statutory, constitutional, contractual damages, liquidated damages, unpaid costs, penalties, punitive damages, interest, attorneys' fees, litigation costs, restitution, and equitable relief, during the Class Period.

As of the Effective Date, Plaintiffs and individuals in the Class who do not opt out of the Settlement, release the Released Parties from the Released Claims during the time period in which they worked as a Class Member for Defendants in exchange for the consideration provided by this Settlement. Such individuals may hereafter discover facts in addition to or different from those they now know or believe to be true with respect to the subject matter of the Released Claims, but upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever settled and released any and all of the Released Claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed, upon any theory of law or equity now existing, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. The release shall not extend to any claims outside of those asserted in the Litigation and/or the Class Period, from October 23, 2014 through and including the date on which a motion for preliminary approval of class action settlement is filed, or July 4, 2019, whichever comes first.

E. How is my share of the Settlement calculated?

Each participating claimant (those who do not opt out of the Settlement) shall receive an individual payment amount, which is a share of the Payout Fund (Payout Fund is calculated by deducting attorneys' fees and costs, claims administration costs, any service payment to the Class

Representatives, and the LWDA's share of the PAGA penalty payment from the Settlement Sum) ("Individual Payment Amount").

Each Participating Class Member's respective share of the Payout Fund will be calculated by dividing the Payout Fund by the total number of workweeks worked by all Participating Class Members while they were employed by Defendants in California during the Class Period (the Total Value Per Workweeks Statement); the Total Value Per Workweeks Statement will then be multiplied by each Participating Class Member's individual total workweeks worked for Defendants while employed in California during the Class Period to yield his or her respective share of the Payout Fund.

For tax purposes, each individual payment made to Participating Class Members and all other recipients under this settlement will be allocated 10% as wages and shall be reported on an IRS Form W-2, and 90% as penalties and interest and shall be reported on an IRS Form 1099. The Settlement Administrator shall be responsible for issuing to Plaintiffs, Participating Class Members, and Class Counsel any IRS Forms W-2 and 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Agreement. The Settlement Administrator shall also be responsible for forwarding all payroll taxes and penalties to the appropriate government authorities, if required.

According to the records of Defendants, you worked [_____] weeks while employed in California between October 23, 2014 through July 4, 2019. Based on these weeks worked, you are entitled to an Individual Payment Amount of approximately \$[_____]. This amount is subject to change based on the final ruling of the Court.

Please be advised that the individual data above is presumed to be correct unless you submit documentation proving otherwise. If you disagree with the data, please submit an explanation and evidence in support of your position to the Settlement Administrator no later than _____, 2019. In the event of a dispute, the Settlement Administrator will resolve the challenge with input from the Defendants and will make a final and binding determination without a hearing or right of appeal by you.

THE SETTLEMENT HEARING

The Court will conduct a final fairness hearing regarding the proposed settlement (the "Final Settlement Hearing") on _____, 2019, at _____, in the Courtroom of Judge David I. Brown of the Sacramento County Superior Court, located at 813 6th St, Sacramento, CA 95814. The Court will determine: (i) whether the lawsuit should finally be certified as a class action for settlement purposes; (ii) whether the settlement should be given the Court's final approval as fair, reasonable, adequate and in the best interests of the Settlement Class Members; (iii) whether the Settlement Class Members should be bound by the terms of the settlement; (iv) the amount of the attorneys' fees and costs to be awarded to Plaintiffs' Attorneys; and (v) the amount that should be awarded to Plaintiffs as a service payment. At the Final Settlement Hearing, the Court will hear all properly filed objections, as well as arguments for and against the proposed settlement. You have a right to attend this hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, or to enter an appearance and represent yourself.

WHAT ARE YOUR OPTIONS?

- **OPTION 1 – DO NOTHING AND PARTICIPATE IN THE SETTLEMENT**

IF YOU TAKE NO ACTION IN RESPONSE TO THIS NOTICE, YOU WILL AUTOMATICALLY RECEIVE YOUR SHARE OF THE SETTLEMENT IF IT IS APPROVED

BY THE COURT. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE. If you move, you must update your address with the Settlement Administrator. If you disagree with the pre-printed data indicated in section E above, you must submit an explanation and/or documentation to the Settlement Administrator to justify your position, postmarked no later than [45 days after mailing]. The Settlement Administrator's address is [Settlement Administrator address].

• **OPTION 2 – OBJECT TO THE SETTLEMENT**

If you wish to remain a Settlement Class Member, but you object to the proposed settlement (or any of its terms) and wish the Court to consider your objection at the Final Settlement Hearing, you may object to the proposed settlement in writing. If you object in writing, you may also appear at the Final Approval Hearing, either in person or through an attorney at your own expense. All written objections, supporting papers, and/or notices of intent to appear at the Final Approval Hearing must clearly identify the case name and number and be mailed to the Settlement Administrator at [Settlement Administrator address]. Objections must be postmarked no later than _____ [45 days after mailing].

• **OPTION 3 – EXCLUDE YOURSELF FROM THE SETTLEMENT**

You have a right to exclude yourself ("opt out") from the Settlement Class, but if you choose to do so, you will not receive any benefits from the proposed settlement. You will not be bound by a judgment in this case and you will have the right to file your own lawsuit against the Defendants and pursue your own claims in a separate suit. You can opt out of the Class by sending a letter to the Settlement Administrator at [address], postmarked no later than _____ [45 days after mailing], which states your (1) name; (2) address; (3) telephone number; (4) last four digits of your social security number; (5) your signature and the date; and (6) a statement that you wish to be excluded from the Settlement Class in the *Kunzman v Punch Bowl* litigation.

ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should review the detailed "Class Action Settlement and Compromise Agreement" which is on file with the Clerk of the Court. The pleadings and other records in the Lawsuit may be examined at any time during regular business hours at the Office of the Clerk of the Sacramento County Superior Court, located at Gordon D. Schaber Sacramento County Courthouse, 720 9th Street, Sacramento, CA 95814.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at [address], [telephone number] or Plaintiffs' Counsel, Gaines & Gaines, APLC, at 866-550-0855. Please refer to the Punch Bowl Social Class Action Settlement.

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

**BY ORDER OF THE SUPERIOR COURT OF
THE STATE OF CALIFORNIA**

EXHIBIT B

Adams v. Newell Rubbermaid, USDC – Central District of California (Los Angeles), Case No. EDCV 08-1499 JTM (CTx)

Adams v. Sam's West, Inc., San Bernardino County Superior Court, Case No. CIVDS1403987

Agredano v. GS Brothers, Inc., Los Angeles County Superior Court, Case No. BC445561

Allen v. Toms Sierra Company, Nevada County Superior Court, Case No. CU18-082823

Allen v. Valley Inventory Service, Inc., Solano County Superior Court, Case No. FCS034682

Alvarez v. Pilot Travel Centers, LLC, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-4605

Alonzo v. Camblin Steel Service, Inc., Placer County Superior Court, Case No. SCV0034165

Amenhotep v. Google, Inc., Santa Clara County Superior Court, Case No. 17CV311528

Anaya v. Progressive Logistics Services, LLC, Riverside County Superior Court, Case No. RIC1308270

Andre v. Newell Rubbermaid, Inc., San Bernardino County Superior Court, Case No. CIVVS1200282

Anduha v. ABC Phones of North Carolina, Inc., Stanislaus County Superior Court, Case No. 2022729

Anslow v. Wellington Energy, Inc., USDC – Northern District of California (San Francisco), Case No. CV11-1596-JCS

Aranda, et al. v. Universal Lumpers of California, Inc., San Joaquin County Superior Court, Case No. STK-UOE-2017-7826

Armendariz v. Integrated Pain Management Medical Group, Inc., Kern County Superior Court, Case No. BCV-19-100267-SDS

Barrow, et al. v. Desmond Foods, L.P., Sacramento County Superior Court, Case No. 34-2015-00187227

Batmanghelich v. Sirius XM Radio Inc., USDC – Central District of California (Los Angeles), Case No. CV 09-9190 VBF (JCx)

Bosser v. Hooked on Solar, Yolo County Superior Court, Case No. CVCV-2016-876

Bourland v. Horizon Personnel Services, Inc., Sacramento County Superior Court, Case No. 34-2014-00161365-CU-OE-GDS

Bowen v. IMI Material Handling Logistics, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-0000192

Branson v. Mladen Buntich Construction, San Bernardino County Superior Court, Case No. CIVDS1609129

Brandt v. Sacramento Auto Insurance Center, Inc., San Joaquin County Superior Court, Case No. 39-2009-00202938-CU-OE-STK

Brown v. 22nd District Agricultural Association, United States District Court, Southern District of California, Case No. 15-cv-2578-DHB

Burgess v. Blue Cross and Blue Shield of South Carolina, San Joaquin County Superior Court, Case No. 39-2012-00277449-CU-BT-STK

Burgess v. Strategic Retail Solutions, LLC, Los Angeles County Superior Court, Case No. BC413791

Calhoun v. Celadon Trucking Services, Inc., USDC – Central District of California (Los Angeles), Case No. 5:16-cv-01351-PSG-FFM

Caporicci v. Owens & Minor Distribution, Inc., San Joaquin County Superior Court, Case No. 39-2013-00295662-CU-OE-STK

Carl v. Advanced Call Center Technologies, LLC, Sacramento County Superior Court, Case No. 34-2013-00148310

Carrete v. Gamestop, Inc., Imperial County Superior Court, Case No. ECU08501

Carrillo v. Bimbo Bakeries, Inc., San Bernardino County Superior Court, Case No. CIVDS1606813

Caudillo v. Aegis Treatment Centers, LLC, Merced County Superior Court, Case No. 18CV-0744

Cerami v. Metlife, Inc., USDC – Central District of California (Orange County), Case No. 11-CV-00681-CJC (MLGx)

Charles v. Aaron's Inc., Los Angeles County Superior Court, Case No. BC431468

Charles v. Nursefinders, LLC, Imperial County Superior Court, Case No. ECU07422

Cheifer v. JetBlue Airways Corporation, Los Angeles County Superior Court, Case No. BC451887

Cheifer, et al. v. WHGM, Inc., Los Angeles County Superior Court, Case No. LC104900

Church v. GameStop, Inc., et al., USDC – Central District of California (Los Angeles), Case No. 11-CV-00132-VAP-RZ

Clothier v. Spar Marketing Services, Inc., Alameda County Superior Court, Case No: RG12-639317

Coleman v. Wireless Lifestyle, Inc., USDC – Western District of Missouri, Case No. 4:12-cv-00855-ODS

Colombo-Beyeler, et al. v. Viking River Cruises, Inc., San Bernardino County Superior Court, Case No. CIVDS1611608

Conlee v. Clark Pacific Corporation, Yolo County Superior Court, Case No. CV14-1409

Contreras v. Osmose Utilities Services, Inc., San Bernardino County Superior Court, Case No. CIVDS1513998

Contreras v. West American Service Corporation, Kings County Superior Court, Case No. 14C0280

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