

## **JOINT CLASS ACTION SETTLEMENT AGREEMENT**

This Joint Class Action Settlement Agreement (the “Agreement”) is being entered into between Plaintiff OSCAR A. MARTINEZ (“Plaintiff” or “MARTINEZ”), individually and on behalf of all others similarly situated, and their heirs, personal representatives, assigns, successors, agents, and attorneys; and Defendant RANDALL FOODS, INC. and its predecessors, parents, subsidiaries, affiliated organizations, successors, assigns, directors, officers, employees, managers, partners, members, agents, attorneys, insurers, representatives, past, present, and future shareholders, joint venturers, and their respective heirs and personal representatives, including, but not limited to Sydney and Anne Bloom Farms, Inc. and AJSB, LLC (“RANDALL”), MARTINEZ and RANDALL are jointly referred to as the “PARTIES. “Accordingly, and in exchange for the mutual promises contained herein and for other good and valuable consideration, the receipt of which is expressly acknowledged, the Parties agree as follows:

### **1. BACKGROUND**

On April 4, 2019, MARTINEZ filed an action against RANDALL, styled *Oscar A. Martinez, individually and on behalf of all others similarly situated employees v. Randall Foods, 19STCV11502*, in the Superior Court of the State of California, for the County of Los Angeles, after which on January 16, 2020, a First Amended Complaint was filed. That same day, on January 16, 2020, the Court denied Defendant’s Petition to Compel Arbitration. Thus, on February 25, 2020, RANDALL filed a Notice of Appeal of the Court’s Denial of Defendant’s Petition to Compel Arbitration, in the Second Appellate District, Division 1, which has been assigned *Case No. B304538*. (herein referred to as the “Litigation”). The Appeal is currently pending but is stayed in light of the Parties’ settlement agreement.

In the Litigation, MARTINEZ alleged nine causes of action against RANDALL for wage-

and-hour violations: (1) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (2) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums); (3) Violation of California Labor Code §§ 510, 1194 and 1198 (Unpaid Overtime); (4) Violation of California Labor Code §204 (Late and Unpaid Wages); (5) Violation of Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination); (6) Violation of Labor Code §§ 226(a) (Non-Compliant Wage Statements); (7) Violation of California Labor Code §§ 1194, 1194.2, 1197 and Minimum Wage Order (Failure to Pay Minimum Wage); (8) Violation of California Labor Code §§1174, 1198, and California Code of Regulations, Title 8, §11050(7); and (9) Violation of California Business & Professions Code §§ 17200, et seq.

RANDALL denies any liability associated with the claims and allegations, and that Plaintiff or the putative class members were entitled to relief. RANDALL also denied (and continues to deny) that this case is appropriate for class or representative treatment, both substantively and procedurally in part because the claims in this matter are subject to Arbitration agreements, which would allow only for individual claims. Further, RANDALL denied that MARTINEZ was an adequate class member given MARTINEZ's unique job duties as an employee on modified duty during the relevant time period. RANDALL maintained, among other things, that it complied with federal and California laws in all respects.

The parties actively litigated this case and conducted a thorough investigation into the facts of the case and diligently investigated the allegations in the Complaint. Class Counsel reviewed documents and data produced by RANDALL and other sources, including but not limited to, employment records, job descriptions, class-wide data regarding the number of class members, Workweeks (as defined below), pay periods, and terminations during the time period at issue, and policies, among other information and documents. Class Counsel also reviewed documents



relating to MARTINEZ, including MARTINEZ's pay statements and time records. The parties exchanged information and documents informally.

This Agreement resolves the Litigation and applies to any and all claims that MARTINEZ or the Class Members, as defined in Section 4, made or could have made in the Litigation.

**2. PARTIES' AGREEMENT TO LIFT THE STAY TO EFFECTUATE THE SETTLEMENT**

The trial court proceedings are currently stayed in light of the pending appeal of the court's denial of RANDALL's Petition to Compel Arbitration. The parties agree to lift the stay for the purposes of settling this action. If, for whatever reason, this matter does not settle, or the Court does not grant final approval of the settlement, the appeal shall proceed and the trial court proceedings will continue to be stayed during the pendency of the appeal.

**3. STATEMENT OF NO ADMISSION**

This Agreement does not constitute, is not intended to constitute, and will not be deemed to constitute, an admission by RANDALL as to the merits, validity, or accuracy of any of the allegations or claims made against it in the Litigation. This Agreement and the Settlement it contains are a compromise of disputed claims, as RANDALL has concluded that further litigation would be protracted and expensive, and would also divert management and employee time. RANDALL has taken into account the uncertainty and risks inherent in litigation. RANDALL has therefore concluded that it is desirable that the Action be fully and finally settled in the manner and upon the terms and conditions set forth in this Agreement.

This Agreement, and any action taken in negotiation or implementation thereof, and all acts performed or documents executed pursuant to or in furtherance of this Agreement, including but not limited to any and all payments made to MARTINEZ, the Class Members, or Plaintiff's

counsel pursuant to the Agreement (i) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing, omission, or liability on the part of RANDALL, damages owed to the Class Members, or of the truth of any of the factual allegations in the Litigation; (ii) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omission on the part of RANDALL in any civil, criminal, administrative, or arbitral proceeding, or in any court, administrative agency, or other tribunal; (iii) are not, shall not be deemed to be, and may not be used as, an admission or evidence that Martinez's class claims are appropriate notwithstanding the class action waiver in the arbitration agreement that Martinez signed, which Seller contends is applicable to the claims alleged in the action; and (iv) are not, shall not be deemed to be, and may not be used as an admission or evidence of the appropriateness of Plaintiff's or the Class Members' claims, or any similar claims, for class action treatment. This Agreement is a settlement document and shall be inadmissible as evidence in any proceeding, except as necessary in any action or proceeding to approve, interpret, or enforce the terms of this Agreement.

In fact, RANDALL expressly denies that it engaged in any unlawful activity, denies that it failed to comply with the law, denies the allegations in the Complaint and First Amended Complaint, and denies that it has any liability to Plaintiff or the Class Members for the claims that are asserted in this action.

To the extent this Agreement is deemed void or is not granted Final Approval by the Court, RANDALL does not waive, and, instead, expressly reserves its rights to challenge all claims and allegations in the Action upon all procedural, factual and legal grounds, including, without limitation, the ability to challenge class treatment on any grounds, to continue to prosecute its appeal on the denial of the motion to compel arbitration and to dismiss class claims as well as



asserting any and all other potential defenses or privileges. Plaintiff and Class Counsel agree that RANDALL retains and reserves these rights, and agrees not to argue or present any argument, and hereby waives any argument that, based on this Agreement, RANDALL cannot assert any and all other potential defenses and privileges if this Action were to proceed.

#### **4. CERTIFICATION FOR SETTLEMENT PURPOSES**

Solely for the purposes of effectuating this Settlement, and subject to Court approval, the Settling Parties hereby stipulate to class certification of a Settlement Class.

Nothing in this Agreement will be construed as an admission or acknowledgement of any kind that any class should be certified or maintained in the Litigation or in any other action or proceeding. In fact, but for the Settlement, RANDALL maintains that class certification is inappropriate. Further, this Agreement and the Court's actions with regard to this Agreement will not be admissible in any court or other tribunal regarding the propriety of class certification or the maintenance of a class action. In the event this Agreement is not finally approved by the Court, any appellate court, or otherwise fails to be effective and enforceable or is terminated or voided, conditional class certification will automatically be deemed revoked, and RANDALL will not be deemed to have waived, limited, or affected in any way any of its objections or defenses in the Litigation. Such objections and defenses include, but are not limited to, RANDALL's objections and defenses to class certification. Plaintiff and Class Counsel agree that RANDALL retains and reserves the right to contest class certification, and agrees not to argue or present any argument, and hereby waives any argument that, based on this Agreement, RANDALL cannot contest class certification on any grounds if this Action were to proceed.

The term "Class Members" is defined as: All current and/or former non-exempt employees that were employed by RANDALL in California from April 4, 2015, to April 4, 2019, who were

subject to RANDALL's bell schedule (which signified the start and end of Class Members' rest and meal periods and the start and end of their shifts) and who did not sign an arbitration agreement with a class action waiver during their employment with RANDALL. The term "Class Members" does not include those individuals who opt out during the opt-out period. The term "Class Members" only includes those employees who were hired directly through RANDALL and does not include those individuals who were employed through a staffing agency, including Select Staffing.

## **5. PAYMENTS BY RANDALL TO MARTINEZ AND CLASS MEMBERS**

RANDALL agrees to pay a total amount of Seventy Thousand Dollars (\$70,000.00) to MARTINEZ, the Class Members and Plaintiff's counsel to fully, finally, and forever settle all claims in the Litigation, on the terms set forth below in this Section.

### **A. Settlement Amount**

In exchange for the provisions set forth in the Settlement Agreement, within thirty (30) days of the latest of the conditions occurring in Section 8 below, i.e., the "Effective Date" of the Agreement, RANDALL agrees to pay the total or gross settlement amount of Seventy Thousand Dollars and Zero Cents (\$70,000.00) (the "Gross Fund") on a non-reversionary basis. The Net Settlement Fund means the amount remaining after deducting the following from the Gross Fund: (1) attorneys' fees up to Twenty-Three Thousand Three Hundred Ten Dollars (\$23,310) and reimbursement of litigation costs and expenses of up to Three Thousand Dollars (\$3,000); (2) a class representative enhancement payment to Plaintiff of up to Six Thousand Dollars (\$6,000); and (4) settlement administration costs in the amount of Three Thousand Three Hundred and Fifty Dollars (\$3,350). The Net Settlement Fund will be available for distribution to Class Members who do not opt out.



The Net Settlement Fund will be distributed to Class Members within thirty (30) days of the latest of the conditions occurring in Section 8 below based on their Workweeks employed for RANDALL during the Class Period and no portion shall revert to RANDALL. Each Class Member's Individual Settlement Payment will be calculated by determining the number of Workweeks that each Class Member worked as an hourly-paid or non-exempt employee of RANDALL in the State of California during the Class Period and multiplying the Class Member's individual Workweeks by the Weekly Rate, which is derived by dividing the Net Settlement Fund by the total Workweeks worked by all Class Members.

Individual Settlement Payment checks will remain valid and negotiable for one hundred and eighty (180) days after the date of issuance. If an Individual Settlement Payment check is returned before the expiration of the 180-day period ("Returned Check"), within five (5) days of receipt of the Returned Check, the Settlement Administrator shall undertake a skip-trace search for an alternate mailing address and re-mail the Returned Check to an alternate mailing address (if one is located), under a cover letter indicating that the Returned Check will continue to be valid and negotiable for thirty (30) days after the date of re-mailing. In the event that any checks mailed to Class Members are not cashed, deposited, or otherwise negotiated within the 180-day period, no forwarding address can be located for a Returned Check, or a Returned Check is remailed but not cashed, deposited, or otherwise negotiated within the 30-day period from the re-mailing of the Returned Check, then the checks shall be cancelled by the Settlement Administrator, and the funds associated with such cancelled checks shall be transmitted by the Settlement Administrator pursuant to governing California law to the State of California Unclaimed Property Fund, to be held there in the name of and for the benefit of such Class Members under California's escheatment laws, and such Class Members shall nevertheless be bound to the Settlement and the Final

### Approval Order.

Individual Settlement Payments shall be allocated in two parts: (1) thirty percent (30%) as wages and (2) seventy percent (70%) as penalties, interest, and other non-wage damages. The wage portion will be reported on an IRS Form W-2, and the portions allocated to penalties and interest will be reported on an IRS Form-1099. The Claims Administrator shall be responsible for issuing claimants a Form W-2 for amounts allocated to wages and a Form 1099 for amounts allocated to penalties and interest. The Individual Settlement Shares will be reduced by any required deductions and withholdings with respect to the wage portion of the Individual Settlement Shares from the Net Settlement Fund. Class Members otherwise shall be responsible for their own tax obligations with respect to the settlement payments sent to them, and agree that they are not relying on any information provided by RANDALL concerning the tax consequences of payments made under this Agreement. RANDALL shall not be responsible for payroll tax payments on any portion of the Gross Fund that is attributable to Class Counsel's attorneys' fees and litigation costs, Claims Administration Costs, penalties, or interest. However, RANDALL is to pay its share of payroll taxes which will be paid by RANDALL separately and in addition to the Gross Fund of \$70,000.

The Class Members agree to indemnify and hold harmless RANDALL, Plaintiff's Counsel, and RANDALL's Counsel for any tax liability, including penalties and interest, arising out of or relating to the Class Members' failure to pay taxes on any amounts paid pursuant to this Settlement.

#### **B. Payment of Martinez's and Class Members' Attorneys' Fees and Costs**

Within thirty (30) days of the latest of the conditions occurring in Section 8 below, RANDALL will pay a gross sum of Twenty-Three Thousand Three Hundred Ten Dollars (\$23,310) in attorneys' fees in full settlement of any claims MARTINEZ and any Class Member



has, had, or may have as to the recovery of attorneys' fees and costs incurred in the Litigation in the manner specified in this Paragraph. MARTINEZ's former attorneys, Law Offices of Gary R. Carlin, are asserting a right to attorneys' fees based on the lien served on RANDALL'S counsel on July 29, 2020. MARTINEZ's current attorneys, Law Offices of Buchsbaum & Haag, LLP and MARTINEZ's former attorneys currently are not able to agree on the amount owed to each firm in attorneys' fees pursuant to this settlement agreement. There is a pending lawsuit between MARTINEZ's current and former attorneys that in relevant part seeks an accounting related to the allocation of attorneys' fees to MARTINEZ's former and current attorneys relating to this action. Given that MARTINEZ's current and former attorneys are making potentially conflicting claims to the attorneys' fees that will be paid pursuant to this settlement agreement, if this conflict remains unresolved as of the date that the Court grants final approval of the settlement, then RANDALL will pay the attorneys' fees and costs set forth above by way of an interpleader action. RANDALL shall be entitled to seek attorneys' fees and costs from MARTINEZ's former and current counsel relating to the interpleader action.

The fee dispute between MARTINEZ's current and former counsel will not affect the timing of distribution of payments to the Class Members and any enhancement payment, if awarded, to MARTINEZ.

The Parties acknowledge and agree that this portion of the settlement represents compensation for disputed claims for attorneys' fees and costs incurred by MARTINEZ and Class Members and, therefore, as to this portion of the settlement payment, RANDALL will issue a Form 1099, and will not make any deductions or withholdings. MARTINEZ, Class Members, and Plaintiff's current and former counsel otherwise shall be responsible for their own tax obligations with respect to the attorneys' fees and costs payment. If the Court approves a fee to Plaintiff's

counsel of less than this amount, the remainder will be retained in the Net Settlement Fund for distribution to the Class Members.

In consideration for an award of attorney's fees and costs in accordance with this Settlement, Plaintiff's Counsel irrevocably and forever waives any and all claims to any further attorney's fees and costs in connection with this Action against RANDALL.

**C. Incentive Payment to Martinez**

Within thirty (30) days of the latest of the conditions occurring in Section 8 below, RANDALL will pay to MARTINEZ, through Plaintiff's counsel, an incentive payment in the total gross amount of Six Thousand Dollars and Zero Cents (\$6,000) for his provision of services to the Class Members during the Litigation in order to compensate him for initiating the action and performing work in support of the action. The incentive payment shall not be considered wages, and therefore, it is not subject to any tax withholding or contribution and a Form 1099 will be issued with respect to the payments. MARTINEZ shall otherwise be responsible for his own tax obligations with respect to the incentive payment. The Parties agree that the incentive payment to MARTINEZ is fair and reasonable. If the Court approves a Class Representative Service Payment of less than \$6,000, the remainder will be retained in the Net Settlement Fund for distribution to the Class Members.

**D. Settlement Administrator Costs**

The Settlement Administrator will be paid out of the Gross Fund in the amount of Three Thousand Three Hundred and Fifty Dollars (\$3,350), which represents a reasonable fee for administering the settlement in the manner set forth in Section 6B. If the Court approves Settlement Administrator Costs that are less than \$3,350, the remainder will be retained in the Net Settlement Fund for distribution to the Class Members.



**E. No Additional Payments**

The Parties agree that the payments set forth in this Section 5 constitute RANDALL's sole monetary obligation to MARTINEZ, the Class Members, and Plaintiff's counsel under this Agreement, and that, once made by RANDALL in accordance with this Section 5, shall completely and finally discharge RANDALL's obligations to pay MARTINEZ, Class Members, the Settlement Administrator, and Plaintiff's current and former Counsel under this Agreement, and that the payment process does not create any residual funds.

**6. NOTICE OF CLASS ACTION SETTLEMENT AND SETTLEMENT OPT-OUT FORM**

**A. Filing of Complaint, Notice of Settlement, and Motion for Preliminary Approval**

Within thirty (30) days of this Settlement Agreement becoming fully executed by the Parties, the Parties shall file a joint motion for preliminary approval of the class settlement and for notice to the class and setting a hearing date for the Final Approval Hearing.

**B. Appointment of Settlement Administrator**

The parties have selected Phoenix as the Settlement Administrator to handle the notice and administration of the Settlement. Phoenix is a Class Action Settlement Administration company that has managed thousands of class action settlements. The Settlement Administrator will mail a Class Notice to each Class Member; receive, review, and process Requests for Exclusion, Notices of Objection, and Workweek Disputes; calculate Individual Settlement Payments; withhold applicable taxes and withholdings; prepare and transmit necessary tax documentation and filings; and transmit all required payments. The Settlement Administrator will also handle inquiries from Class Members regarding the Settlement and perform any other usual and customary duties for administering a class action settlement.

**C. Mailing Notice of Class Action Settlement and Settlement Opt-Out Form**

Within fifteen (15) calendar days following the entry of an Order preliminarily approving the Settlement Agreement, RANDALL will provide the Settlement Administrator with a list of the Class Members and their last known addresses for notice and settlement administration (“Class List”). Within thirty (30) calendar days of receipt of the Class List, the Settlement Administrator will send by first-class mail to all putative class members a Notice of Class Action Settlement and Settlement Opt-Out Form in a form that substantially conforms to the forms agreed to by the Parties and approved by the Court. This Notice shall be in English and in Spanish. Prior to mailing the Class Notices, the Settlement Administrator shall attempt to locate the Class Members’ updated addresses by a search of the National Change of Address Database or any other similar service available. If a Class Notice is returned as undeliverable, the Settlement Administrator will promptly re-mail it to a forwarding address, if provided, or to an updated address obtained from a skip-trace search.

The Class Notices will advise individual Class Members of their right to opt out of the Settlement Agreement, object to all or any part of the Settlement Agreement, and/or dispute the number of Workweeks credited to them. Any Class Member who wishes to opt out from the Settlement Agreement, object to the Settlement Agreement, and/or dispute the number of Workweeks credited to him or her, must do so in writing to the Settlement Administrator postmarked no later than forty-five (45) calendar days from the date of mailing of the Notice to the Class Members (“Response Deadline”).

**D. Time and Manner for Class Members to File Objections**

All potential Class Members shall have forty-five (45) days from the original mailing of the Notice of Class Action Settlement and Settlement Opt-Out Form to mail to the Settlement



Administrator objections to this Agreement. A complete and timely Notice of Objection must: (1) contain the name, address, telephone number, last four digits of the Social Security number, and signature of the Class Member; (2) contain the case name and number of the Lawsuit (in this Lawsuit: *Martinez v. Randall Foods, Inc.*, Case No. 19STCV11502); (3) clearly state that the Class Member seeks to object to the Settlement; (4) state the legal and factual basis for the objection; and (5) state whether the Settlement Class Member intends to appear at the Final Approval Hearing. The Notice of Objection must be in writing to the Settlement Administrator postmarked no later than forty-five (45) calendar days from the date of mailing of the Notice to the Class Members ("Response Deadline").

Any potential Class Member who fails to file a timely written objection in accordance with these procedures shall be foreclosed from objecting to the Agreement, unless otherwise ordered by the Court. Any Class Member who files a valid Opt-Out Form is barred from filing objections.

Unless the Court directs otherwise, the forty-five (45) day period applies notwithstanding any claim regarding non-receipt of the Notice of Class Action Settlement and Settlement Opt-Out Form. All objections must state with particularity the basis therefore. Further, if any objector intends to appear at the hearing on Final Approval, either in person or through counsel, he or she will include notice of that fact and state the purpose for his or her appearance in his or her objection. The Parties will be permitted to respond in writing to such objections within the time period set by the Court. If a Class Member submits a Notice of Objection in conformity with the requirements set forth in the Notice, the Class Member does not have to come to the Final Approval Hearing to talk about it, and the Court will consider the Class Member's objection. The Court will hear from any Class Member who attends the Final Approval Hearing and asks to speak. Thus, regardless

of whether a Class Member has submitted a Notice of Objection, the Class Member may attend the Final Approval Hearing and request to be heard. If a Class Member objects to the Joint Stipulation, the Class Member will remain a member of the Class, and if the Court approves the Joint Stipulation, the Class Member will be bound by the terms of the Joint Stipulation and Final Judgment in the same way and to the same extent as a Class Member who does not object.

**E. Time and Manner for Filing Settlement Opt-Out Form**

Class Members shall have forty-five (45) days from the date of mailing of the Notice of Class Action Settlement and Settlement Opt-Out Form to have postmarked and mailed to the Settlement Administrator a proper Settlement Opt-Out Form. Upon expiration of this forty-five (45) day period, any Class Member who fails to submit a Settlement Opt-Out Form will be bound by all terms of the Agreement, including the release provision of Section 7(C). Unless the Court directs otherwise, the forty-five (45) day period applies notwithstanding any claim regarding non-receipt of the Notice of Class Action Settlement and Settlement Opt-Out Form.

If 10% or more of Class Members file Opt-Out forms, RANDALL at its sole option may abrogate the Settlement, in which case the Settlement shall be null and void. RANDALL shall exercise this right within ten (10) days after notification by the Claims Administrator of the total number of Class Members who submitted a valid Opt-Out forms.

**F. Time and Manner for Disputing Workweeks**

A Class Member's dispute of the number of Workweeks credited and used to calculate the Class Member's Individual Settlement Share, ("Workweek Dispute") must include: (i) the full name, current mailing address, telephone number, signature, and last four digits of the Social Security number of the disputing Class Member; (ii) the case name and number of the Litigation; (iii) a statement indicating that the Class Member seeks to dispute the number of Workweeks



credited to him or her, the time period(s) he or she worked for RANDALL in a non-exempt position subject to Randall Foods' bell schedule in California during the Settlement Class Period, and the number of Workweeks that he or she contends should be credited to him or her; and (iv) documentation and/or other facts supporting the Class Member's position. In response to any timely Workweeks Dispute, RANDALL will first verify the information contained in the disputing Class Member's personnel file and RANDALL's payroll records. Unless the Class Member can establish that the number of Workweeks credited to him or her is incorrect, by providing documentation in support thereof or other details to substantiate his or her position, the total number of Workweeks established by RANDALL's records will control. Class Counsel and RANDALL's Counsel will then make a good faith effort to resolve the dispute informally before the Final Approval Hearing. If counsel for the Parties cannot agree, the dispute shall be resolved by the Settlement Administrator before the Final Approval Hearing, who shall examine the records provided by RANDALL and the Class Member, and shall be the final arbiter of disputes relating to a Class Member's Workweeks. The Settlement Administrator's determination regarding any such dispute shall be final and non-appealable for purposes of administering notice of the Settlement, subject to final review, determination, and approval by the Court.

**7. MARTINEZ'S AND CLASS MEMBERS' OBLIGATIONS TO RANDALL**

**A. Joint Motion for Approval of Settlement Agreement**

MARTINEZ and Class Members agree that, within thirty (30) days of the date this Agreement becomes fully executed by the Parties, MARTINEZ, on behalf of himself and the Class Members, will jointly file with RANDALL a Motion for Approval of Class Action Settlement seeking approval of this Agreement.

**B. Representations**

MARTINEZ represents and warrants to RANDALL that, other than the Litigation, the lawsuit styled *Martinez v. Randall Foods, Inc.*, Case No. 19STCV11502 and Appellate Case No. Case No. B304538, he has no pending charges, complaints, claims, or actions against RANDALL arising out of his employment with RANDALL in which he asserts a claim for unpaid wages, compensation, or penalties for alleged wage and hour violations.

**C. Release and Waiver of Claims**

As of the date RANDALL funds the Settlements, MARTINEZ and the Class Members, individually and in their class capacity, do hereby irrevocably release, acquit, waive, relinquish, and forever discharge RANDALL of and from any and all claims, rights, demands, complaints, causes of action, obligations or liabilities of any and every kind, damages (including liquidated damages), penalties, interest, costs or fees, including but not limited to all professional fees and costs incurred in relation to the Litigation (except as specified in this Agreement), that were asserted in the Litigation against RANDALL. This release includes any and all claims, rights, demands, liabilities and causes of action under California law that the Class has had or now has against the Releasees for any acts occurring within the Class Period that were pled in the First Amended Complaint or that could have been pled based on the factual predicate for the allegations in the First Amended Complaint, specifically including, but not limited to claims for failure to provide or pay for missed or non-compliant meal breaks, failure to authorize and permit or pay for missed or non-compliant rest breaks, failure to pay or underpaying wages of any type (including minimum and/or overtime wages), failure to timely pay wages of any type, including at the time of termination or resignation,, , failure to keep records relating to time worked or wages paid, failure to furnish accurate itemized wage statements, failure to provide and maintain accurate timekeeping and/or payroll records, ,



violation of the California Unfair Competition Law, California Business Code Section 17200 *et seq.*, California Labor Code Sections 201, 202, 203, 204, 226.3, 226.7, 510, 512(a), 558, 1174, 1194, 1194.2, 1197, 1198, California Code of Regulations Title 8, Sections 11050(7) and 11090(7), violation of the Industrial Welfare Commission Wage Orders relating to the claims listed herein, or any other wage and hour claim that was asserted in the First Amended Complaint or that arises out of the facts alleged in the First Amended Complaint, including any claims in connection therewith for damages, restitution, interest, penalties, costs and attorneys' fees, including pursuant to California Labor Code Sections 218.5, 218.6, 1021.5, and 1194.

In addition, MARTINEZ, as the Class Representative, and for the consideration that he will receive in the form of the representative enhancement payment, expressly waives all rights that MARTINEZ might have under any law that is intended to protect MARTINEZ from waiving unknown Claims and MARTINEZ understand the significance of doing so. This release by MARTINEZ is intended to settle any and all of the Settled Claims, including all Unknown Claims. Therefore, as to the Settled Claims, MARTINEZ waives any and all rights conferred upon him under Section 1542 of the California Civil Code, which provides as follows:

**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.**

MARTINEZ has read and understands California Civil Code Section 1542, and expressly acknowledges and agrees that any and all rights under Section 1542 of the California Civil Code, other than any rights specifically reserved by law or regulation, are waived.

To the extent required or permitted under applicable law, Class Members will be deemed to have opted-in to the settlement for purposes of the FLSA by operation of cashing, depositing, or otherwise negotiating their Individual Settlement Payment check.

**D. No Prior Assignments**

MARTINEZ and the Class Members represent, covenant, and warrant that they have not directly or indirectly assigned or transferred to any person not a party to this Agreement any released matter or any right to any payment or other consideration provided pursuant to this Agreement. MARTINEZ and the Class Members agree to defend, indemnify, and hold RANDALL harmless from any and all claims based on, in connection with, and or arising out of any such assignment or transfer made, purported, or claimed.

**E. Martinez's Waiver of Right to Opt-Out and Object**

By signing below, the Representative Plaintiff agrees to be bound by the terms herein and further agrees not to request to opt out from the Class and agrees not to object to any terms of the Joint Stipulation.

**8. CONDITIONS OF SETTLEMENT**

Performance by RANDALL of the obligations set forth in this Agreement is subject to all of the following material conditions:

1. Entry by the Court of the Order of Preliminary Approval of the Settlement Agreement and Certification of the Class Members;
2. Mailing of the Notice of Class Action Settlement and Settlement Opt-Out Form to the Class Members in accordance with the Court's Order of Preliminary Approval and Certification of the Class Members;



3. Entry by the Court of the Order of Final Approval of the Settlement Agreement and Dismissal with Prejudice of the Litigation and Judgment Dismissing the Litigation;
4. Said Orders and Judgment and the "Effective Date" shall be when the first of the following occurs: (a) expiration of all potential appeal periods without an appeal being noticed of the Order of Final Approval and entry of Judgment; (b) final affirmance of the Order of Final Approval and entry of Judgment by an appellate court as a result of any appeal, or final dismissal or denial of all such appeals (including any petitions for review, rehearing, certiorari, etc.); or (c) final disposition of any supplemental or subsequent proceedings resulting from any appeal that affirms and makes final the Order of Final Approval and entry of Judgment. If for any reason this Settlement is materially modified on appeal, then this Settlement will become null and void, no payment under this Settlement will be made, and the Settlement shall not be used, nor be admissible in any subsequent proceeding either in this Court or in any other Court or forum.

Until and unless all events listed in (1) – (4) above occur, RANDALL shall have no obligation to perform under this Agreement, except for obligations provided in this Agreement that are necessary to support achievement of the material conditions listed above. RANDALL may only waive the above listed material conditions to its performance in a separate writing signed by RANDALL's counsel after the date this Agreement has been signed by all signatories listed at the end of this Agreement.

**9. MISCELLANEOUS PROVISIONS**

**A. Miscellaneous Definitions Not Defined Elsewhere in the Agreement**

1. The term "Court" as used herein means the Los Angeles County Superior Court.
2. "RANDALL's counsel" shall mean Warren J. Higgins and Erika A. Silverman at Hill, Farrer & Burrill LLP.
3. "Plaintiff's counsel" or "Plaintiff's current counsel" shall mean Brent S. Buchsbaum and Laurel N. Haag at the Law Offices of Buchsbaum & Haag, LLP who represent MARTINEZ and the Class Members.
4. "Plaintiff's former counsel" shall mean Gary R. Carlin of Law Offices of Gary R. Carlin, APC.

**B. Authorized Representative**

By signing this Agreement, MARTINEZ, the Class Members, and Plaintiff's counsel represent and warrant that they are duly authorized by the Class Members to execute this Agreement on behalf of the Class Members and have the authority to bind the Class Members to the terms and conditions set forth in this Agreement.

**C. No Effect On Employee Benefits**

The Net Settlement Fund paid to Eligible Class Members shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the Class Members. The Parties agree that any monetary settlement payments to Eligible Class Members under the terms of this Agreement do not represent any modification of Class Members' previously credited hours



of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by RANDALL. Any amounts paid to former employees of RANDALL pursuant to this Agreement shall not be considered "compensation" in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by RANDALL.

**D. No Right to Appeal**

Neither Martinez nor RANDALL shall have any right to appeal any order or judgment finally approving this Joint Stipulation so long as the final approval and Judgment by the Court is consistent with the terms of this Joint Stipulation.

**E. Notices**

Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by overnight certified mail, addressed as follows:

To the Representative Plaintiff, the Class and the Settlement Class:

Laurel Haag  
Buchsbaum Haag  
100 Oceangate, Ste 1200  
Long Beach, CA 90802

To RANDALL:

Warren J. Higgins and Erika A. Silverman  
Hill, Farrer & Burrill LLP  
One California Plaza, 37th Floor  
300 South Grand Avenue  
Los Angeles, CA 90071-3147

Either party may re-designate the person to receive notices, requests, demands or other communications required or permitted by this Joint Stipulation by providing written notice to the other Party and the Court.

**F. No-Publication Provision**

Plaintiff and Plaintiff's counsel shall not, other than necessary filings related to completing the settlement and obtaining preliminary and final approval, publicize, advertise, or otherwise draw public or media attention to the fact or terms of settlement, including but not limited to postings on social media (such as Twitter, Instagram, Facebook, LinkedIn, Plaintiff's counsel's firm website, or other social media platform).

Further, the Parties shall keep the terms and conditions of this Settlement confidential until the Motion for Preliminary Approval is filed with the Court.

**G. No Solicitation**

The Parties and their respective counsel represent that neither the Parties nor their respective counsel have or will solicit or otherwise encourage directly or indirectly any Class Member to opt-out of the Settlement, object to the Settlement, appeal from the Judgment, or elect not to participate in the Settlement.

**H. Attorneys' Fees And Costs**

Other than as set forth in Section 5(B), above, the Parties agree to bear their own attorneys' fees and costs in connection with the Litigation, including in the preparation and implementation of this Agreement. However, in the event that either party institutes an action to enforce any provision contained in this Agreement, the prevailing party shall be entitled to recover attorneys' fees and costs from the other party, including any fees and costs on any appeal(s). RANDALL shall be entitled to recover its attorneys' fees relating to the interpleader action set forth in Section 5(B) above.



**I. Entire Agreement**

The Agreement represents the sole and entire agreement between the Parties and supersedes any and all prior agreements, negotiations, or discussions between the Parties and/or their respective counsel with respect to the subject matter covered in the Agreement. The Parties further agree that the Agreement may not be modified orally and that any modification of this Agreement must be in writing and executed by the Parties.

**J. Severability**

If one or more paragraph(s) of this Agreement are ruled invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the Agreement, which shall remain in full force and effect.

**K. Captions**

Section or paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of the Agreement or any provision hereof.

**L. Counterparts**

The Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. A fax, scan, or a copy shall be deemed the same as an original.

**M. Informed, Voluntary Signature**

In entering into this Agreement, MARTINEZ, individually and on behalf of the Class Members, represents that, before executing this Agreement, he has completely read all the terms herein and that he fully understands and voluntarily accepts the terms after having the opportunity to consult adequate legal counsel of his choice. MARTINEZ, individually and on behalf of all of

the Class Members, further acknowledges and agrees that he has received a reasonable period of time to consider this Agreement and that the subsequent discovery of any facts by him, whether or not existing on the date of this Agreement and no matter how material, shall have no effect on the validity of the Agreement.

**N. Binding on Assigns**

This Joint Stipulation shall be binding upon and inure to the benefit of RANDALL, RANDALL'S Counsel, the Representative Plaintiff, Class Counsel, and the Class Members and their respective heirs, trustees, and executors, administrators, successors and assignees.

**O. Waiver**

A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition in this Agreement shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

**10. CONTINUING JURISDICTION**

The Parties agree that after the Effective Date of this Agreement, this Agreement shall be enforceable by the Court and the Court shall retain jurisdiction over the Parties and the Class Members to enforce the terms, conditions and obligations of the Agreement.

**11. CIRCULAR 230 DISCLAIMER**

The Parties acknowledge and agree that (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their Counsel 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 Circular 230 (31



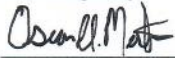
CFR part 10, as amended); (2) each Party (a) has relied exclusively upon his, her or its own, independent legal and tax advisors for advice (including tax advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any other Party or any Counsel or advisor to any other Party, and (c) is not entitled to rely upon any communication or disclosure by any other Counsel or advisor to any other Party to avoid any tax penalty that may be imposed on that 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 Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

Entered and agreed to on this 22 day of October, 2021.

[Signatures on next page]

AGREED TO BY MARTINEZ AND CLASS MEMBERS:

DocuSigned by:



Oscar Martinez, Individually and on Behalf of  
All Class Members

10/26/2021

Date



Counsel for Plaintiff and Class Members

10/26/21

Date

AGREED TO BY RANDALL:

\_\_\_\_\_  
Randall Foods, Inc.

\_\_\_\_\_  
Date

Its: \_\_\_\_\_

\_\_\_\_\_  
Counsel for RANDALL

\_\_\_\_\_  
Date

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AGREED TO BY MARTINEZ AND CLASS MEMBERS:

\_\_\_\_\_  
Oscar Martinez, Individually and on Behalf of  
All Class Members

\_\_\_\_\_  
Date

\_\_\_\_\_  
Counsel for Plaintiff and Class Members

\_\_\_\_\_  
Date

AGREED TO BY RANDALL:

          DBO            
\_\_\_\_\_  
Randall Foods, Inc.

          10/25/2021            
\_\_\_\_\_  
Date

Its:           General Counsel            
\_\_\_\_\_

                      
\_\_\_\_\_  
Counsel for RANDALL

          10/26/21            
\_\_\_\_\_  
Date

HFB:2425761.1