

1 **CLASS ACTION SETTLEMENT AND RELEASE**

2 This Class Action Settlement and Release (“Settlement Agreement”) is entered into by and
3 between Plaintiffs Cynthia Aroche, Carlos Diaz Moreno, and David Abraham Lopez (collectively
4 “Plaintiffs”), on behalf of themselves and the Class, on the one hand, and Defendants Veracruz
5 Restaurant Rolemo Enterprises, LLC (sued erroneously as Veracruz Restaurant), Zenia Leon, and
6 the Released Parties (collectively “Defendants”), on the other hand. Plaintiffs and Defendants are
7 collectively referred to herein as “Parties” and individually referred to herein as “Party.”

8 In consideration of the mutual covenants, promises, and agreements set forth herein, the
9 Parties agree that, pursuant to the terms and conditions set forth herein, which are subject to
10 approval of the Court, this Action and the Released Claims shall be settled and compromised as
11 between Plaintiffs and the Class on the one hand and Defendants on the other hand.

12 **DEFINITIONS**

13 1. “Action” means *Cynthia Aroche, Carlos Diaz Moreno, and David Abraham Lopez*
14 *v. Veracruz Restaurant and Zenia Leon*, Superior Court of the State of California for the County
15 of Los Angeles, Case No. 19STCV12310.

16 2. “Allegedly Aggrieved Employee” means those Class Members who worked for
17 Defendant as nonexempt hourly paid employees in California at any time from April 26, 2017,
18 through the Preliminary Approval Date (the “PAGA Period”). It is estimated that there are 49
19 Allegedly Aggrieved Employees as of February 2022.

20 3. “Class” means: all non-exempt employees of Defendants who worked for
21 Defendants in California during the Class Period.

22 4. “Class Counsel” means Srourian Law Firm, P.C. and Sirmabekian Law Firm, PC.

23 5. “Class Counsel Award” means attorneys’ fees for Class Counsel’s litigation and
24 resolution of this Action and Class Counsel’s expenses and costs incurred in connection with this
25 Action.

26 6. “Class Information” means information regarding Class Members that Defendants
27 will in good faith compile from their records and provide to the Settlement Administrator. It shall
28 be formatted as a Microsoft Excel spreadsheet or Microsoft Word Document and shall include:

1 each Class Member’s full name; social security number; last known address; last known telephone
2 number; and number of Compensable Work Weeks.

3 7. “Class Member” and/or “Settlement Class Member” means each person who is a
4 member of the Class defined above and who is eligible to participate in this Settlement.

5 8. “Class Period” means the time period from April 10, 2015, through the Preliminary
6 Approval Date.

7 9. “Class Representative Service Award” means the amount that the Court authorizes
8 to be paid to Plaintiffs in recognition of, *inter alia*, Plaintiffs’ efforts and risks in assisting with the
9 prosecution of the Action and in return for executing a general release with Defendants.

10 10. “Compensable Work Week” or “Compensable Work Weeks” mean a reasonable
11 estimate of weeks worked by each Class Member individually and collectively by all Class
12 Members during the Class Period based on Defendants’ records and used as a value to calculate
13 Individual Settlement Payments. The number of Compensable Work Weeks for each Class
14 Member will be determined by adding all the calendar days within the inclusive dates of
15 employment for the employee and dividing that number by seven. Any partial workweek will be
16 expressed as a percentage of a full workweek.

17 11. “Court” means the Superior Court for the County of Los Angeles, State of
18 California.

19 12. “Defendants” means Veracruz Restaurant Rolemo Enterprises, LLC (sued
20 erroneously as Veracruz Restaurant) (“Veracruz”) and Zenia Leon (“Leon”).

21 13. “Effective Date” means the date on which the Superior Court’s Final Approval
22 Order and Judgment becomes final. The Superior Court’s Final Approval Order and Judgment
23 “becomes final” upon the latter of: (a) if there is no Objection to the Settlement, or if there is an
24 Objection but it is withdrawn, then, the date that the Final Approval Order and Judgment is filed
25 by the Court; (b) if there is an Objection to the Settlement that is not withdrawn, but no appeal is
26 commenced thereafter, then, sixty-five (65) calendar days following the date that the Final
27 Approval Order and Judgment is filed by the Court; or (c) if there is an Objection to the
28 Settlement, that is not withdrawn, and any appeal, writ, or other appellate proceeding opposing the

1 Settlement has been filed within sixty-five (65) calendar days following the date that the Final
2 Approval Order and Judgment is filed by the Court, then, when any such appeal, writ, or other
3 appellate proceeding opposing the validity of the Settlement has been resolved finally and
4 conclusively with no right to pursue further remedies or relief.

5 14. “Final Approval Order and Judgment” means an order and judgment that the Court
6 will file which finally approves this Settlement and enters a judgment in favor of Plaintiffs.

7 15. “Gross Settlement Amount” means the maximum amount Defendants are obligated
8 to pay under this Settlement Agreement, which is Two Hundred Thousand Dollars (\$200,000.00),
9 subject to increase under the circumstances as set forth herein. This is a non-reversionary
10 Settlement in which Defendants are required to pay the entire Gross Settlement Amount. No
11 portion of the Gross Settlement Amount will revert to Defendants under any circumstances.
12 Payments of any appropriate and lawfully-required employer share of the payroll taxes on the
13 taxable portion of the settlement payments shall be paid separately from the Gross Settlement
14 Amount by Defendants.

15 16. “Individual Settlement Payment” means the amount payable from the Net
16 Settlement Amount to each Settlement Class Member.

17 17. “LWDA” means the California Labor and Workforce Development Agency.

18 18. “Net Settlement Amount” means the Gross Settlement Amount, less the Class
19 Counsel Award, Class Representative Service Awards, payment to the LWDA for PAGA
20 penalties, Settlement Administration Costs, and True-Up Payments. The amount of \$1,250.00 of
21 the Net Settlement Amount shall first be distributed to the Allegedly Aggrieved Employees as
22 payment of PAGA penalties, per calculations set forth herein. Payment of PAGA penalties from
23 the Net Settlement Amount will be made to Allegedly Aggrieved Employees employed during the
24 PAGA Period regardless of whether they submit a Request for Exclusion Form.

25 19. “Notice of Class Settlement” means the notice, substantially in the form attached
26 hereto as **Exhibit A**, which the Settlement Administrator will mail to each Class Member, and
27 which explains, *inter alia*, the terms of this Settlement Agreement, the settlement process, and
28 each Class Member’s estimated Individual Settlement Payment.

1 20. “Operative Complaint” means the Class Action Complaint in this action filed on
2 April 10, 2019.

3 21. “Objection” means a letter or other written communication submitted by a Class
4 Member to the Settlement Administrator that contains a clear statement by the Class Member that
5 he or she is objecting to any of the terms of the Settlement.

6 22. “Parties” means Plaintiffs and Defendants, collectively, and “Party” means either
7 Plaintiffs or Defendants, individually.

8 23. “Payment Ratio” means the respective Compensable Work Weeks for each
9 Settlement Class Member divided by the total Compensable Work Weeks for all Settlement Class
10 Members.

11 24. “Plaintiffs” collectively refers to Cynthia Aroche, Carlos Diaz Moreno, and David
12 Abraham Lopez.

13 25. “Preliminary Approval Date” means the date upon which the Court filed an order
14 granting preliminary approval of the Settlement.

15 26. “Request for Exclusion” means a letter or other written communication submitted
16 by a Class Member to the Settlement Administrator that contains a clear statement by the Class
17 Member that he or she is electing to be excluded from the Settlement. Allegedly Aggrieved
18 Employees employed during the PAGA Period will receive their representative share of PAGA
19 penalties from the Net Settlement Amount regardless of whether they submit a Request for
20 Exclusion Form.

21 27. “Released Claims by Plaintiffs” is set forth in paragraph 41 below. Plaintiffs
22 release the “Released Claims by Plaintiffs” as of the Effective Date.

23 28. “Released Claims by Settlement Class Members” means: As of the Effective Date,
24 and only after the Settlement has been fully funded by Defendants, Settlement Class Members
25 shall fully and finally release and discharge Released Parties, from any and all claims, debts,
26 liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, or causes
27 of action contingent or accrued for, that are pleaded, or that could have been pleaded, based on the
28 facts and claims alleged in the Operative Complaint and PAGA letter, including all related claims

1 for violations of the Private Attorney General Action, California Labor Code section 2698, *et seq.*
2 and any claims for: (1) failure to pay minimum wage (Cal. Lab. Code §§ 1182.12, 1194, 1197 &
3 1198, *et seq.*); (2) failure to pay overtime compensation (Cal. Lab. Code §§ 1198 & 510, *et seq.*);
4 (3) failure to pay meal period compensation (Cal. Lab. Code §§ 226.7, 512(a) & 1198, *et seq.*); (4)
5 failure to pay rest period compensation (Cal. Lab. Code §§ 226.7 & 1198, *et seq.*); (5) failure to
6 furnish accurate wage and hour statements (Cal. Lab. Code § 226); (6) failure to pay wages upon
7 discharge (Cal. Lab. Code §§ 201 & 202, *et seq.*); (7) failure to indemnify (Cal. Lab. Code §
8 2802); (8) Unfair Competition (Business and Professions Code § 17200, *et seq.*); and (9) Violation
9 of Private Attorney General Act of 2004, California Labor Code § 2698, *et seq.*, predicated on any
10 of the violations of the California Labor Code and applicable IWC Wage Order alleged in the
11 Operative Complaint, including but not limited to statutory, constitutional, or contractual
12 damages; unpaid costs; penalties; punitive damages; interest; attorneys' fees; litigation costs;
13 restitution; and equitable relief. Upon the Effective Date and the funding of the Gross Settlement
14 Amount, all Participating Class Members will forever completely release and discharge the
15 Released Parties from the Released Claims for the Class Period. Plaintiffs and Defendants intend
16 that the Settlement described in this Settlement Agreement will release and preclude any further
17 claim, whether by lawsuit, administrative claim or action, arbitration, demand, or other action of
18 any kind, by each and all of the Participating Class Members to obtain a recovery to any and all of
19 the Released Claims. A copy of the PAGA letter sent in this matter is attached hereto as Exh. B.

20 a. Good Faith Dispute: Plaintiffs, on behalf of themselves and the Settlement
21 Class, acknowledge and agree that the claims asserted in the Action, including, but not
22 limited to claims for unpaid wages and untimely payment of wages, are highly disputed,
23 and that the payments set forth herein constitute payment of all sums allegedly due to them
24 and the Settlement Class. Plaintiffs, on behalf of themselves and the Settlement Class,
25 acknowledge and agree that California Labor Code Section 206.5 is not applicable to the
26 Parties hereto in light of the disputed nature of the claims. Section 206.5 provides in
27 pertinent part as follows: "An employer shall not require the execution of any release of
28 any claim or right on account of wages due, or to become due, or made as an advance on

1 wages to be earned, unless payment of those wages has been made.”

2 29. “Released Parties” collectively mean: (1) Defendants; (2) Defendants’ respective
3 past, present and future parent corporations, affiliates, affiliates’ companies, subsidiaries,
4 divisions, d/b/a’s, predecessors, insurers, successors, franchisees, franchisors, assigns, principals,
5 heirs, their current and former employees, accountants, auditors, attorneys, consultants, officers,
6 managers, members, partners, directors, shareholders, agents, both individually and in their
7 business capacities of any of the following: and (3) any individual or entity which could be jointly
8 liable with any of the foregoing.

9 30. “Response Deadline” means forty-five (45) days after the postmark date of the
10 Notice of Class Settlement that the Settlement Administrator shall mail to Class Members, and the
11 last date on which Class Members may: (a) submit a Request for Exclusion; or (b) submit an
12 Objection and/or dispute to the Settlement.

13 31. “Settlement” means the disposition of the Action pursuant to this Agreement.

14 32. “Settlement Administration Costs” means the amount to be paid to the Settlement
15 Administrator from the Gross Settlement Amount for administration of this Settlement.

16 33. “Settlement Administrator” means Phoenix Settlement Administrators. The
17 Settlement Administrator shall be responsible for, *inter alia*: (a) performing Spanish translations
18 of the Notice of Class Settlement; printing and mailing the Notice of Class Settlement to the Class;
19 (b) receiving and reporting the Requests for Exclusion and Objections submitted by Class
20 Members; (c) providing declaration(s) as necessary in support of preliminary and/or final approval
21 of this Settlement; (d) processing and mailing payments to Plaintiffs, Class Counsel, the LWDA,
22 and Settlement Class Members; and (e) any other tasks as the Parties mutually agree or the Court
23 orders the Settlement Administrator to perform. The Settlement Administrator shall keep the
24 Parties timely apprised of the performance of all Settlement Administrator responsibilities. The
25 Parties agree that they have no financial interest or other relationship with Phoenix Settlement
26 Administrators that could create a conflict of interest. Should a conflict of interest or other issue
27 lead to the disqualification of the selected Settlement Administrator, the Parties will meet and
28 confer as to a suitable replacement.

1 34. “Settlement Class” or “Settlement Class Members” means all Class Members who
2 have not opted out of the Class by submitting a valid and timely Request for Exclusion.

3 **RECITALS**

4 35. Procedural History. On April 10, 2019, Plaintiffs filed a class action complaint
5 against Veracruz in Los Angeles County Superior Court, Case No. Case No. 19STCV12310. On
6 June 10, 2019, Veracruz filed an answer to the complaint. On September 11, 2019, Plaintiffs
7 added Leon as a Doe Defendant. On December 17, 2019, Leon filed an answer to the complaint.

8 36. Investigation and Discovery. The Parties have conducted significant investigation
9 of the facts and law during the prosecution of this Action and before this Settlement was reached.
10 Such discovery and investigation included, *inter alia*, the exchange of information and extensive
11 documents pertaining to Plaintiffs and the Class, and numerous meetings and informal conferences
12 wherein the Parties exchanged information, class data, and theories of the case. Plaintiffs have
13 also investigated the law as applied to the facts of Plaintiffs’ claims and Defendants’ potential
14 defenses thereto.

15 37. The Parties participated in a private mediation session with the Honorable Peter D.
16 Lichtman of Signature Resolution on February 4, 2021, and resolved the matter at the mediation.
17 The Parties entered into a Memorandum of Understanding regarding the material terms for a
18 proposed class action settlement that would fully resolve this matter.

19 38. Benefits of Settlement to Class Members. Plaintiffs and Class Counsel recognize
20 the expense and length of continued proceedings necessary to litigate Plaintiffs’ claims through
21 trial and any possible appeals. Plaintiffs have also taken into account the uncertainty and risk of
22 the outcome of further litigation, and the difficulties and delays inherent in such litigation.
23 Plaintiffs and Class Counsel are also aware of the burdens of proof necessary to establish liability
24 for the claims asserted in the Action, both generally and in response to Defendants’ defenses
25 thereto, and the difficulties in establishing damages for the Class. Plaintiffs and Class Counsel
26 have also taken into account Defendants’ agreement to enter into a settlement that confers
27 substantial relief upon the members of the Class. Based on the foregoing, Plaintiffs and Class
28 Counsel have determined that the Settlement set forth in this Settlement Agreement is a fair,

1 adequate, and a reasonable settlement, and is in the best interests of the Class.

2 39. Defendants' Reasons for Settlement. Defendants have concluded that any further
3 defense of this litigation would be protracted and expensive for all Parties. Substantial amounts of
4 Defendants' time, energy, and resources have been and, unless this Settlement is completed, will
5 continue to be devoted to the defense of the claims asserted by Plaintiffs. Defendants have also
6 taken into account the risks of further litigation in reaching their decision to enter into this
7 Settlement. Even though Defendants continue to contend that they are not liable for any of the
8 claims alleged by Plaintiffs in this Action, Defendants have agreed, nonetheless, to settle in the
9 manner and upon the terms set forth in this Settlement Agreement to put to rest the claims in this
10 Action. As to the Released Claims, Defendants deny and continue to deny each of those claims,
11 deny and continues to deny they have engaged in any unlawful activity, that they have failed to
12 comply with the law in any respect, that they have any liability to anyone under the claims
13 asserted in the Action.

14 **STIPULATION AND AGREEMENT**

15 40. NOW THEREFORE, in consideration of the mutual covenants, promises, and
16 agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

17 41. It is agreed by and among Plaintiffs and Defendants that this Settlement shall bind
18 the Plaintiffs, Settlement Class Members, and Defendants, subject to the terms and conditions
19 hereof.

20 42. Released Claims by Plaintiffs. As of the Effective Date, Plaintiffs, as Class
21 Members, agree to the Release of Claims by Settlement Class Members, which is set forth in
22 paragraph 27 above. In addition to Release of Claims by Settlement Class Members and as a
23 material inducement to Defendants to enter into this Settlement Agreement, Plaintiffs do hereby,
24 for themselves and for their respective spouses, heirs, successors, beneficiaries, devisees, legatees,
25 executors, administrators, trustees, conservators, guardians, personal representatives, and assigns,
26 forever and completely release and discharge the Released Parties from any and all charges,
27 complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions,
28 causes of action, suits, rights, demands, costs, losses, debts, and expenses (including back wages,

1 statutory penalties, civil penalties, liquidated damages, exemplary damages, interest, attorneys’
2 fees, and costs) of any nature whatsoever, from the beginning of time through the execution of this
3 Settlement Agreement, whether known or unknown, suspected or unsuspected, including but not
4 limited to all claims arising out of, based upon, or relating to Plaintiffs’ employment with or work
5 for Defendants or the remuneration for or termination of such employment, and all claims filed by
6 Plaintiffs or on Plaintiffs’ behalf with the California Department of Industrial Relations.

7 Without limiting the generality of the foregoing, Plaintiffs expressly release all claims or
8 rights against Released Parties arising out of or relating to alleged violations of any contracts,
9 express or implied (including but not limited to any contract of employment); any contract or
10 covenant of good faith and fair dealing (express or implied); any tort, including any claim for
11 improper or unauthorized wage deductions, failure to pay the applicable wage, unpaid wages,
12 unpaid vacation benefits, penalties, liquidated damages, other damages, overtime, and alleged “off
13 the clock” work under federal and state law, including California Labor Code Sections 204 and
14 558, waiting time penalties pursuant to California Labor Section 203, damages or penalties
15 pursuant to California Labor Code Section 226, meal period and rest break payments and penalties
16 pursuant to California Labor Code Sections 226.7 and 512, failure to provide itemized wage
17 statements pursuant to California Labor Code Section 226, statutory or civil penalties pursuant to
18 California Labor Code Sections 210, failure to indemnify for business expenses pursuant to Labor
19 Code section 2802, unfair competition and unfair business practices pursuant to Business and
20 Professions Code Section 17200 *et seq.*, interest and costs pursuant to California Civil Code
21 Section 3287 and California Labor Code Section 218.6, statutory or common law rights to
22 attorneys’ fees and costs, including those pursuant to California Labor Code Section 1194 *et seq.*;
23 claims under the Private Attorneys General Act of 2004, Labor Code section 2699 *et seq.*, and the
24 alleged violation or breach of any other state or federal statute, rule and or regulation; including all
25 applicable Industrial Welfare Commission Wage Orders, and all similar causes of action,
26 including but not limited to, any claim for restitution, equitable relief, interest, penalties, costs or
27 attorneys’ fees in connection with any of the foregoing, negligent infliction of emotional distress,
28 intentional infliction of emotional distress, and defamation; any “wrongful discharge,”

1 “constructive discharge,” and “retaliation” claims; any claims relating to any breach of public
2 policy; any legal restrictions on Defendants’ right to discharge employees; and any federal, state,
3 or other governmental statute, regulation, or ordinance, including, without limitation: (1) Title VII
4 of the Civil Rights Act of 1964 (race, color, religion, sex, and national origin discrimination or
5 harassment, including retaliation for reporting discrimination or harassment); (2) 42 U.S.C. § 1981
6 (discrimination); (3) Equal Pay Act, 29 U.S.C. § 209(d)(1) (equal pay); (4) Americans with
7 Disabilities Act, 42 U.S.C. § 12100 et seq. (disability discrimination); (5) Family and Medical
8 Leave Act, 29 U.S.C. § 2601 *et seq.* (family/medical leave); (6) California Fair Employment and
9 Housing Act, Cal. Government Code § 12900 et seq. (discrimination or harassment in
10 employment and/or housing, including discrimination or harassment based on race, religious
11 creed, color, national origin, ancestry, disability, marital status, sex (including pregnancy), or age,
12 including retaliation for reporting discrimination or harassment); (7) California Family Rights Act,
13 Cal. Government Code § 12945.1 *et seq.* (family/medical leave); (8) California Labor Code,
14 including Section 1720 *et seq.*, or any Industrial Welfare Commission Wage Order; (9) Executive
15 Order 11246 (race, color, religion, sex, and national origin discrimination or harassment); (10)
16 Executive Order 11141 (age discrimination); (11) Sections 503 and 504 of the Rehabilitation Act
17 of 1973 (handicap discrimination); (12) the Fair Labor Standards Act; and (13) Employee
18 Retirement Income Security Act, 29 U.S.C. § 1000 *et seq.* (employee benefits).

19 Plaintiffs agree that there is a risk that any injury that they may have suffered by reason of
20 the Released Parties’ relationship with them might not now be known, and there is a further risk
21 that said injuries, whether known or unknown at the date of this Settlement Agreement, might
22 possibly become progressively worse, and that as a result thereof further damages may be
23 sustained. Nevertheless, Plaintiffs agree to forever and fully release and discharge the Released
24 Parties, and understands that by the execution of this Settlement Agreement no further claims for
25 any such injuries that existed at the time of the execution of this Settlement Agreement may ever
26 be asserted by the Plaintiffs with respect to claims arising in the time period from the beginning of
27 time to the execution of this Settlement Agreement.

28 Plaintiffs expressly waive and relinquish all rights and benefits afforded by Section 1542

1 of the Civil Code of the State of California and do so understanding and acknowledging the
2 significance of the waiver of Section 1542. Section 1542 of the Civil Code of the State of
3 California states:

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

10 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a
11 full and complete release and discharge of all parties, Plaintiffs and Class Counsel expressly
12 acknowledge that this Settlement Agreement is intended to include in its effect, without limitation,
13 all claims that Plaintiffs knew of, as well as all claims that they do not know or suspect to exist in
14 their favor against the Released Parties, or any of them, for the time period from the beginning of
15 time to the execution of this Settlement Agreement, and that this Settlement Agreement
16 contemplates the extinguishment of any such claims.

17 43. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this
18 section, the “acknowledging party” and each Party to this Agreement other than the
19 acknowledging party, an “other party”) acknowledges and agrees that (1) no provision of this
20 Agreement, and no written communication or disclosure between or among the Parties or their
21 attorneys and other advisers, is or was intended to be, nor shall any such communication or
22 disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United
23 States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging
24 party (a) has relied exclusively upon his, her, or its own, independent legal and tax counsel for
25 advice (including tax advice) in connection with this Agreement, (b) has not entered into this
26 Agreement based upon the recommendation of any other party or any attorney or advisor to any
27 other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or
28 adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging

1 party; and (3) no attorney or adviser to any other party has imposed any limitation that protects the
2 confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such
3 limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or
4 tax structure of any transaction, including any transaction contemplated by this Agreement.

5 44. Class Certification. For settlement purposes only, Defendants will stipulate that the
6 Settlement Class Members described herein who do not request exclusion from the Settlement
7 Class may be conditionally certified as a settlement class. This stipulation to certification is in no
8 way an admission that class action certification is proper and shall not be admissible in this or in
9 any other action except for the sole purposes of enforcing this Agreement. Should the Court fail
10 to issue Final Approval for any reason, the Parties' stipulation to class certification as part of the
11 Settlement Agreement shall become null and void *ab initio* and shall have no bearing on but
12 remains protected by California Evidence Code Section 1152 and shall not be admissible in
13 connection with, the issue of whether or not certification would be appropriate in a non-settlement
14 context. Defendants expressly reserve their rights and declare that they will continue to oppose
15 class certification and contest the substantive merits of the case should the Court fail to issue Final
16 Approval. Plaintiffs expressly reserve their rights and declare that they will continue to pursue
17 class certification and a trial should the Court fail to grant Final Approval.

18 45. Approval of Settlement. Plaintiffs' motion for preliminary approval shall be filed
19 no later than April 30, 2021 and heard by the Court on the earliest available hearing date.
20 Plaintiffs will prepare the motion for preliminary approval, and supporting papers, and motion for
21 final approval, and supporting papers. Defendants agree not to oppose the aforementioned
22 motions provided that drafts of the motions are provided to Defendants' counsel at least two (2)
23 business days prior to their filing with the Court. The Parties agree to work diligently and
24 cooperatively to have this matter presented to the Court for preliminary and final approval.

25 46. Release of Claims by Settlement Class Members. Settlement Class Members
26 release the "Released Claims by Settlement Class Members" as of the Effective Date and upon
27 Defendants fully funding the Gross Settlement Amount.

28 47. Settlement Administration. Within seven (7) calendar days after the Preliminary

1 Approval Date, Defendants shall provide the Settlement Administrator with the Class Information.

2 48. Notice to the Class. Upon receipt of the Class Information, the Settlement
3 Administrator will perform a search based on the National Change of Address Database to update
4 and correct any known or identifiable address changes. Within fourteen (14) calendar days after
5 receiving the Class Information, the Settlement Administrator shall mail copies of the Notice of
6 Class Settlement to all Class Members via regular First Class U.S. Mail. The Settlement
7 Administrator shall exercise its best judgment to determine the current mailing address for each
8 Class Member. The address identified by the Settlement Administrator as the current mailing
9 address shall be presumed to be the best mailing address for each Class Member.

10 a. Undeliverable Notices. Any Notice of Class Settlement returned to the
11 Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed
12 to the forwarding address affixed thereto within seven (7) calendar days. If no forwarding address
13 is provided, the Settlement Administrator shall promptly attempt to determine a correct address by
14 use of skip-tracing, or other search using the name, address and/or Social Security number of the
15 Class Member involved, and shall then perform a re-mailing, if another mailing address is
16 identified by the Settlement Administrator. Class Members who receive a re-mailed Notice of
17 Class Settlement shall have forty-five (45) days after the postmark date of the re-mailed Notice of
18 Class Settlement to: (a) submit a Request for Exclusion; or (b) submit an Objection and/or dispute
19 to the Settlement.

20 b. Disputes Regarding Individual Settlement Payments. Class Members will
21 have the opportunity, should they disagree with Defendants' records regarding the dates of
22 employment stated in the Notice of Class Settlement, to provide documentation and/or an
23 explanation to show contrary information by the Response Deadline. The dispute form must: (a)
24 contain the full name, address, and telephone number of the Class Member, and the last four digits
25 of the Class Member's social security number or full employee ID number; (b) contain the case
26 name and case number; (c) a clear statement by the Class Member that he or she is disputing the
27 number of Compensable Workweeks and the basis for the dispute; (d) any documentation
28 demonstrating that the number of Compensable Workweeks listed in the Notice of Class

1 Settlement is incorrect; (e) be signed by the Class Member; and (f) be postmarked by the
2 Response Deadline. The date of the postmark on the return mailing envelope on the dispute form
3 shall be the exclusive means used to determine whether it has been timely submitted. If there is a
4 dispute, the Settlement Administrator will consult with the Parties to determine whether an
5 adjustment is warranted. The Settlement Administrator shall then determine the eligibility for, and
6 the amounts of, any Individual Settlement Payments under the terms of this Agreement. In the
7 absence of circumstances indicating fraud, manipulation or destruction, Defendants' records shall
8 be given a rebuttable presumption of accuracy.

9 Request for Exclusion. Class Members who wish to exclude themselves from the
10 Settlement must mail to the Settlement Administrator a Request for Exclusion by the Response
11 Deadline. The Request for Exclusion must: (a) contain the full name, address, and telephone
12 number of the Class Member, and the last four digits of the Class Member's social security
13 number or full employee ID number; (b) contain the case name and case number; (c) a clear
14 statement by the Class Member that he or she is electing to be excluded from the Settlement; (d)
15 be signed by the Class Member; and (e) be postmarked by the Response Deadline. The date of the
16 postmark on the return mailing envelope on the Request for Exclusion shall be the exclusive
17 means used to determine whether it has been timely submitted. Any Class Member who requests
18 to be excluded from the Settlement Class shall not be entitled to any recovery under the Settlement
19 and shall not be bound by the terms of the Settlement or have any right to object, appeal or
20 comment thereon. Class Members who fail to submit a valid and timely Request for Exclusion on
21 or before the Response Deadline shall be bound by all terms of the Settlement and any Final
22 Approval Order and Judgment entered in this Action. Allegedly Aggrieved Employees employed
23 during the PAGA Period will receive their representative share of PAGA penalties from the Net
24 Settlement Amount regardless of whether they submit a Request for Exclusion Form and shall be
25 deemed to have released any claims for PAGA penalties related to the Released Claims, as defined
26 in this Agreement.

27 c. Objections. Class Members who wish to object to the Settlement must mail
28 to the Settlement Administrator a written Objection by the Response Deadline. The Objection

1 must: (a) contain the full name, address, and telephone number of the Class Member, and the last
2 four digits of the Class Member's social security number or full employee ID number; (b) contain
3 the case name and case number; (c) the dates of employment of the Class Member; (d) state
4 whether the Class Member intends to appear at the final approval hearing; (e) be signed by the
5 Class Member; (f) state the basis for the Objection, including any legal briefs, papers or
6 memoranda in support of the Objection; and (g) be postmarked by the Response Deadline. The
7 date of the postmark on the return mailing envelope on the Objection shall be the exclusive means
8 used to determine whether the Objection has been timely submitted. Class Members may also
9 appear at the Settlement Fairness Hearing and orally object without first providing a written
10 objection. At no time shall any of the Parties or their counsel seek to solicit or otherwise
11 encourage Class Members to submit Objections to the Settlement or appeal from the Final
12 Approval Order and Judgment. Class Counsel shall not represent any Class Members with respect
13 to any such Objections. The Settlement Administrator will provide the Parties with any Objection
14 within five (5) calendar days of receipt of the Objection. Plaintiffs will file any and all Objections
15 with the Court in advance of the Final Approval Hearing.

16 d. If more than fifteen percent (15%) of the Class Members submit elections to
17 opt-out of the Settlement or a number of class members whose share of the Net Settlement
18 Amount is seven and a half percent (7.5%) or more, Defendants will have the right to rescind and
19 terminate the Settlement without prejudice to its pre-settlement positions and defenses in the
20 Action. Should the fifteen percent (15%) threshold for opt-outs be exceeded, the Settlement
21 Administrator shall notify counsel for all parties via email immediately

22 e. Except for those Settlement Class Members who exclude themselves in
23 compliance with the Request for Exclusion procedures set forth above, all Settlement Class
24 Members will: (i) be deemed to be Participating Class Members for all purposes under this
25 Settlement Agreement; (ii) will be bound by the terms and conditions of this Settlement
26 Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise provided
27 herein, will be deemed to have waived all objections and oppositions to the fairness,
28 reasonableness, and adequacy of the Settlement.

1 49. Funding Gross Settlement Amount. Within fifteen (15) calendar days of the
2 Effective Date, Defendants shall wire transfer the full Gross Settlement Amount to the Settlement
3 Administrator.

4 50. Allocation of Settlement. Individual Settlement Payments will be paid from the
5 Net Settlement Amount and shall be paid pursuant to the settlement formula set forth herein.
6 Individual Settlement Payments shall be mailed by regular First Class U.S. Mail to Settlement
7 Class Members' last known mailing address.

8 a. Prior to distribution of Individual Settlement Payments to Participating
9 Class Members who have not opted out or objected, payment of Two Hundred and Two Dollars
10 (\$202.00), will be deducted from the Gross Settlement Amount and shall be made to each of the
11 20 Class Members who did not sign a "Pick-Up Stix" release and accept a "Pick-Up Stix"
12 payment from Defendants while the Action was pending ("True-Up Payments"). True-Up
13 Payments are contemplated to assure equal treatment of all Class Members.

14 b. Further, and prior to distribution of Individual Settlement Payments to
15 Participating Class Members who have not opted out or objected, \$1,250.00 from the Net
16 Settlement Amount shall be distributed to the Allegedly Aggrieved Employees employed during
17 the PAGA Period for PAGA penalties on a pro rata basis based on the number of pay periods
18 worked during the PAGA Period.

19 c. The Settlement Administrator shall calculate the total Compensable Work
20 Weeks for all Settlement Class Members based on the Class Information provided by Defendants.
21 The respective Compensable Work Weeks for each Settlement Class Member will be divided by
22 the total Compensable Work Weeks for all Settlement Class Members, resulting in the Payment
23 Ratio for each Settlement Class Member. Each Settlement Class Member's Payment Ratio will
24 then multiplied by the Net Settlement Amount to determine his or her Individual Settlement
25 Payment.

26 d. Individual Settlement Payments due to each Settlement Class Member shall
27 be designated as follows:

28 1. Forty percent (40%) of the Individual Settlement Payment shall

1 represent payment of penalties, and forty percent (40%) of the Individual Settlement Payment
2 shall represent interest. These payments will not be subject to withholding of local, state, and
3 federal taxes. The Settlement Administrator will issue an IRS Form 1099 to each Settlement Class
4 Member in relation to these payments.

5 2. Twenty percent (20%) of the Individual Settlement Payment shall
6 represent payment for alleged unpaid wages. This payment shall be subject to the withholding of
7 all applicable local, state, and federal taxes. Applicable payroll taxes and/or contributions will be
8 deducted from the amount paid to Settlement Class Members. The Settlement Administrator will
9 issue a W-2 Form to each Settlement Class Member in relation to this payment. Settlement Class
10 Members bear sole responsibility for any and all tax liabilities.

11 (e). Class Members With Missing/Unverifiable Social Security Numbers and
12 Withholdings of Taxes and Applicable Penalties. In the event that an Individual Settlement
13 Payment exceeds the threshold amount that must be reported to the Internal Revenue Service by
14 means of a Form 1099, Class Counsel, and the Settlement Administrator, will take all necessary
15 and reasonable steps to obtain W-9's from Class Members and to comply with applicable IRS
16 regulations on issuing 1099's without a social security number or tax entity identification number,
17 and shall take all reasonable and necessary steps to avoid imposition of IRS penalties against the
18 Gross Settlement Amount, including, but not limited to limiting payments below the reportable
19 threshold and/or withholding of taxes and any applicable penalties. The Settlement Administrator
20 will contact Class Members who are entitled to payments that exceed the taxable income threshold
21 twice, with at least 30 days between the two contacts.

22 Uncashed Settlement Checks. Individual Settlement Payment checks shall remain
23 negotiable for one hundred and eighty (180) days from the postmark date of issuance. If the
24 Settlement Check is not cashed, deposited, or otherwise negotiated within the 180-day deadline,
25 the un-cashed check(s) shall be voided by the Settlement Administrator and any monies remaining
26 in the distribution account shall be distributed to the Controller of the State of California to be held
27 pursuant to the Unclaimed Property Law, California Civil Code § 1500 et. Seq., for the benefit of
28 those Settlement Class Members who did not cash their checks until such time that they claim

1 their property. The Parties agree that this disposition results in no “unpaid residue” under
2 California Civil Procedure Code § 384, because the entire Net Settlement Amount will be paid out
3 to Settlement Class Members, whether or not they all cash their settlement checks. Therefore,
4 unless the Court requires otherwise, Defendant will not be required to pay any interest on funds
5 distributed to the Claims Administrator.

6 e. Certification By Settlement Administrator. The Parties have the right to
7 monitor and review administration of the Settlement. Any disputes not resolved by the Settlement
8 Administrator concerning the administration of the Settlement will be resolved by the Court, under
9 the laws of the State of California. Prior to any such involvement of the Court, counsel for the
10 Parties will confer in good faith to resolve the disputes without the necessity of involving the
11 Court. Upon completion of administration of the Settlement, the Settlement Administrator shall
12 provide written certification of such completion to counsel for the Parties, and which shall be filed
13 with the Court as necessary.

14 f. Settlement Awards Do Not Trigger Additional Benefits. All monies
15 received by Settlement Class Members shall be deemed to be income to such Settlement Class
16 Members solely in the year in which such awards actually are received by the Settlement Class
17 Members. It is expressly understood and agreed that the receipt of such Individual Settlement
18 Payments will not entitle any Settlement Class Member to additional compensation or benefits
19 under any company compensation or benefit plan or agreement in place during the period covered
20 by the Settlement, nor will it entitle any Settlement Class Member to any increased pension and/or
21 retirement, or other deferred compensation benefits. It is the intent of this Settlement that any
22 Individual Settlement Payments provided for in this Agreement are the sole payments to be made
23 by Defendants to the Settlement Class Members in connection with this Settlement, and that the
24 Settlement Class Members are not entitled to any new or additional compensation or benefits as a
25 result of having received the Individual Settlement Payments (notwithstanding any contrary
26 language or agreement in any benefit or compensation plan document that might have been in
27 effect during the period covered by this Settlement).

28 g. Class Representative Service Award. Defendants agree not to oppose or

1 object to a Class Representative Service Award to Plaintiffs of up to Five Thousand Dollars
2 (\$5,000.00), each, subject to Court approval. The Settlement Administrator shall issue an IRS
3 Form 1099 – MISC to Plaintiffs in connection with the Class Representative Service Award
4 payment. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on
5 their Class Representative Service Awards and shall hold harmless Defendants and Class Counsel
6 from any claim or liability for taxes, penalties, or interest arising as a result of the Class
7 Representative Service Award payment. This Settlement is not contingent upon the Court
8 awarding Plaintiffs Class Representative Service Awards in any amount, and any amount
9 requested by Plaintiffs for the Class Representative Service Award that is not granted by the Court
10 shall return to the Net Settlement Amount and be distributed to Settlement Class Members as
11 provided in this Agreement. The Service Award will be in addition to any True-Up Payment,
12 PAGA payment (where applicable), and each Class Representative’s allocated portion of the Net
13 Settlement Amount.

14 h. Class Counsel Award. Defendants agree not to oppose or object to any
15 application or motion by Class Counsel for attorneys’ fees not to exceed one-third from the Gross
16 Settlement Amount, or Sixty-Six Thousand Six Hundred Sixty Six Dollars (\$66,666.00).
17 Defendants further agree not to oppose any application or motion by Class Counsel for the
18 reimbursement of any costs or expenses associated with Class Counsel’s prosecution of this matter
19 from the Gross Settlement Amount not to exceed Ten Thousand Dollars (\$10,000.00). Class
20 Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made
21 pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 – MISC to
22 Class Counsel for the payments made pursuant to this paragraph. This Settlement is not contingent
23 upon the Court awarding Class Counsel any particular amount in attorneys’ fees and costs. Any
24 amount requested by Class Counsel for the Class Counsel Award and costs that is not granted by
25 the Court shall return to the Net Settlement Amount and be distributed to Settlement Class
26 Members as provided in this Agreement.

27 i. Settlement Administration Costs. The Settlement Administrator shall be
28 paid for the costs of administration of the Settlement from the Gross Settlement Amount. The

1 costs of notice and administration for the disbursement of the Gross Settlement Amount shall not
2 exceed Ten Thousand Dollars (\$10,000.00). Prior to the filing of a motion for final approval of
3 this Settlement, the Settlement Administrator shall provide the Parties with a statement detailing
4 the costs of administration. In the event that the Court awards any amount less than \$10,000.00 for
5 Settlement Administration Costs, the Parties agree that any amount not awarded shall become part
6 of the Net Settlement Amount to be distributed to Settlement Class Members as provided in this
7 Agreement.

8 j. Payment to the LWDA. Five Thousand Dollars (\$5,000.00) from the Gross
9 Settlement Amount will be allocated to penalties under the Private Attorneys General Act of 2004.
10 Seventy-five percent (75%) of that amount, or \$3,750.00, will be paid to the LWDA and twenty-
11 five (25%) of that amount, or \$1,250.00, will become part of the Net Settlement Amount to be
12 made available for distribution to Allegedly Aggrieved Employees employed during the PAGA
13 Period. This PAGA Payment is made pursuant to California Labor Code § 2699(i). Pursuant to
14 California Labor Code sections 2699(1)(2)-(3), Plaintiff's Counsel shall (1) submit this Agreement
15 to the LWDA at the same time that it is submitted to the Court; and (2) submit the Court's
16 judgment to the LWDA within 10 days after entry of the judgment.

17 51. Tax Liability: Class Counsel and Defendants make no representation as to the tax
18 treatment or legal effect of payments called for hereunder, and Plaintiffs and the Settlement Class
19 Members are not relying on any statement or representation by Class Counsel or Defendants in
20 this regard. Plaintiffs and Participating Class Members understand and agree that they will be
21 solely responsible for the payment of any taxes and penalties assessed on their respective
22 payments described herein. The amount of federal income tax withholding will be based upon a
23 flat withholding rate for supplemental wage payments in accordance with Treas. Reg. §
24 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be made
25 pursuant to applicable state and/or local withholding codes or regulations. Forms W-2 and/or
26 Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code
27 of 1986 (the "Code") and consistent with this Settlement Agreement. If the Code, the regulations
28 promulgated thereunder, or other applicable tax law, is changed after the date of this Settlement

1 Agreement, the processes set forth in this Section may be modified in a manner to bring
2 Defendants into compliance with any such changes.

3 52. Distribution of Settlement Payments. Individual Settlement Payments to
4 Participating Settlement Class Members, the Class Representative Service Awards, the Class
5 Counsel Award, Settlement Administration Costs, and payment to the LWDA, shall all be
6 distributed by the Settlement Administrator within fourteen (14) calendar days of receipt of the
7 Gross Settlement Amount from Defendants. No person shall have any claim against Defendants,
8 Defendants' Counsel, Plaintiffs, Settlement Class Members, Class Counsel, or the Settlement
9 Administrator based on distributions and payments made in accordance with this Agreement.

10 53. Work Weeks. Prior to mediation Defendants represented there are approximately
11 9,054 workweeks during the Class Period. Defendants anticipate that by the time of Preliminary
12 Approval, the total number of workweeks during the Class Period will be 10,014¹. If the actual
13 number of workweeks during the Class Period at the time of Preliminary Approval is more than
14 Ten Percent (10%) greater than 10,014 workweeks (i.e. 11,015), the Gross Settlement Amount
15 will be increased pro rata reflecting such increase in workweeks. For example, if the number of
16 actual workweeks is 11,015 or less, the Gross Settlement Amount will remain the same; if the
17 number of actual workweeks is Fifteen Percent (15%) more than 10,014 workweeks (i.e. 11,516),
18 the Gross Settlement Amount will be correspondingly increased by 15%. It is estimated that there
19 are approximately 3,261 PAGA Pay periods during the PAGA Period.

20 54. Final Settlement Approval Hearing and Entry of Final Judgment. Upon expiration
21 of the Response Deadline, a final approval hearing shall be conducted to determine, *inter alia*,
22 final approval of the Settlement and amounts properly payable for: (a) Individual Settlement
23 Payments; (b) the Class Counsel Award; (c) the Class Representative Service Award; (d) payment
24 to the LWDA; and (e) the Settlement Administration Costs.

25 55. Nullification of Settlement Agreement. In the event: (a) the Court does not enter
26

27 ¹ 30 employees x 4 workweeks per month = 120 workweeks per month x 8 months for preliminary
28 approval = 960 additional workweeks.

1 the Order for preliminary approval of the Settlement; (b) the Court does not finally approve the
2 Settlement; (c) the Court does not enter a Final Approval Order and Judgment as provided herein;
3 (d) the Settlement does not become final for any other reason; or (e) the Court fails or refuses to
4 approve any material condition of this Settlement Agreement which effects a fundamental change
5 of the Settlement Agreement, this entire Settlement Agreement shall be null and void and
6 unenforceable as to all Parties herein at the option of any Party but remains protected by California
7 Evidence Code Section 1152, and any order or judgment entered by the Court in furtherance of
8 this Settlement shall be treated as void from the beginning. In such cases, the Parties and any
9 funds to be awarded under this Settlement shall be returned to their respective statuses as of the
10 date and time immediately prior to the execution of this Agreement, and the Parties shall proceed
11 in all respects as if this Agreement had not been executed, except that any fees already incurred by
12 the Settlement Administrator shall be paid by Defendants. Further, if the Settlement Agreement is
13 voided or fails for any reason, Plaintiffs and Defendants will have no further obligations under the
14 Settlement Agreement, including any obligation by Defendants to pay the Settlement Amount, or
15 any amounts that otherwise would have been owed under this Settlement Agreement. In the event
16 an appeal is filed from the Court's Final Approval Order and Judgment, or any other appellate
17 review is sought, administration of the Settlement shall be stayed pending final resolution of the
18 appeal or other appellate review, and any fees incurred by the Settlement Administrator prior to it
19 being notified of the filing of an appeal from the Court's Final Approval Order and Judgment, or
20 any other appellate review, shall be paid to the Settlement Administrator by the party or person
21 that filed the appeal, within thirty (30) calendar days of said notification.

22 56. No Effect on Employee Benefits. Amounts paid to Plaintiffs or other Settlement
23 Class Members pursuant to this Agreement shall be deemed not to be pensionable earnings and
24 shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g.,
25 vacations, holiday pay, retirement plans, etc.) of Plaintiffs or Settlement Class Members.

26 57. No Admission by Defendants. Defendants deny any and all claims alleged in this
27 Action and deny all wrongdoing whatsoever. This Settlement Agreement is not a concession or
28 admission and shall not be used against Defendants as an admission or indication with respect to

1 any claim of any fault, concession, or omission by Defendants. Nonetheless, Defendants wish to
2 settle and compromise the matters at issue in the Action to avoid further substantial expense and
3 the inconvenience and distraction of protracted and burdensome litigation. Defendants also have
4 taken into account the uncertainty and risks inherent in litigation, and without conceding any
5 infirmity in the defenses that they have asserted or could assert against Plaintiffs and/or any
6 Settlement Class Member, have determined that it is desirable and beneficial that the claims of
7 Plaintiffs and the Settlement Class be settled in the manner and upon the terms and conditions set
8 forth in this Settlement Agreement.

9 58. Exhibits and Headings. The terms of this Settlement Agreement include the terms
10 set forth in any attached Exhibits, which are incorporated by this reference as though fully set
11 forth herein. Any Exhibits to this Agreement are an integral part of the Settlement. The descriptive
12 headings of any paragraphs or sections of this Agreement are inserted for convenience of reference
13 only and do not constitute a part of this Agreement.

14 59. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the
15 Action, except such proceedings necessary to implement and complete the Settlement, holding the
16 Action in abeyance pending the final approval hearing to be conducted by the Court.

17 60. Dispute Resolution. Except as otherwise set forth herein, all disputes concerning
18 the interpretation, calculation or payment of Settlement claims, or other disputes regarding
19 compliance with this Agreement shall be resolved as follows:

20 a. If Plaintiffs or Class Counsel, on behalf of Plaintiffs or any Settlement Class
21 Member, or Defendants' Counsel, on behalf of Defendants, at any time believe that the other Party
22 has breached or acted contrary to the Agreement, that Party shall notify the other Party in writing
23 of the alleged violation.

24 b. Upon receiving notice of the alleged violation or dispute, the responding
25 Party shall have ten (10) calendar days to correct the alleged violation and/or respond to the
26 initiating Party with the reasons why the Party disputes all or part of the allegation.

27 c. If the response does not address the alleged violation to the initiating
28 Party's satisfaction, the Parties shall negotiate in good faith for up to ten (10) calendar days to

1 resolve their differences.

2 d. If Class Counsel and Defendants' Counsel are unable to resolve their
3 differences after twenty (20) calendar days, either Party shall first contact the mediator (he
4 Honorable Peter D. Lichtman of Signature Resolution) to try to resolve the dispute. If that proves
5 unsuccessful, the party may file an appropriate motion for enforcement with the Court. The
6 briefing of such motion should be in letter brief form and shall not exceed five (5) single-spaced
7 pages (excluding exhibits).

8 e. Reasonable attorneys' fees and costs for work done in resolving a dispute
9 under this Section may be recovered by any Party that prevails under the standards set forth within
10 the meaning of applicable law.

11 61. Notice. Unless otherwise specifically provided herein, all notices, demands or other
12 communications given hereunder shall be in writing and shall be deemed to have been duly given
13 as of the third business day after (i) emailing and (ii) mailing by United States registered or
14 certified mail, return receipt requested, addressed:

15 To the Settlement Class:

16 Daniel Srourian
17 SROURIAN LAW FIRM, P.C.
18 3435 Wilshire Blvd., Suite 1710
19 Los Angeles, California 90010
20 Telephone: 310.601.3131
21 Facsimile: 310.388.8444
22 Email: *daniel@slfla.com*

23 Sarkis Sirmabekian
24 SIRMABEKIAN LAW FIRM, PC
25 3435 Wilshire Blvd., Suite 1710
26 Los Angeles, California 90010
27 Telephone: 818.473.5003
28 Facsimile: 818.476.5619
 Email: *contact@slawla.com*

 To Defendants:

 Scott K. Dauscher
 Jon M. Setoguchi
 ATKINSON, ANDELSON, LOYA, RUUD & ROMO
 12800 Center Drive South, Suite 300
 Cerritos, CA 90703
 Telephone.: (562) 653-3200
 Facsimile: (562) 653-3333

1 Emails: sdauscher@aalrr.com, jsetoguchi@aalrr.com

2 62. Amendment or Modification. This Agreement may be amended or modified only
3 by a written instrument signed by counsel for all Parties.

4 63. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute
5 the entire Agreement among these Parties, and no oral or written representations, warranties, or
6 inducements have been made to any Party concerning this Agreement or its Exhibits other than the
7 representations, warranties, and covenants contained and memorialized in the Agreement and its
8 Exhibits.

9 64. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
10 and represent they are expressly authorized by the Parties whom they represent to negotiate this
11 Agreement and to take all appropriate actions required or permitted to be taken by such Parties
12 pursuant to this Agreement to effectuate its terms, and to execute any other documents required to
13 effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each
14 other and use their best efforts to effect the implementation of the Settlement. In the event the
15 Parties are unable to reach agreement on the form or content of any document needed to
16 implement the Settlement, or on any supplemental provisions that may become necessary to
17 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court or the
18 mediator to resolve such disagreement. The persons signing this Agreement on behalf of
19 Defendants represent and warrant that they are authorized to sign this Agreement on behalf of
20 Defendants. Plaintiffs represent and warrant that they are authorized to sign this Agreement and
21 that they have not assigned any claim, or part of a claim, covered by this Settlement to a third-
22 party.

23 65. Binding on Successors and Assigns. This Agreement shall be binding upon, and
24 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

25 66. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
26 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,
27 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
28 cause of action or rights released and discharged by this Settlement Agreement.

1 67. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval
2 Order and Judgment, nothing contained herein, nor the consummation of this Settlement
3 Agreement, is to be construed or deemed an admission of liability, culpability, negligence, or
4 wrongdoing on the part of Defendants or any of the other Released Parties. Each of the Parties
5 hereto has entered into this Settlement Agreement with the intention of avoiding further disputes
6 and litigation with the attendant inconvenience and expenses. This Settlement Agreement is a
7 settlement document, and it, along with all related documents such as the notices, and motions for
8 preliminary and final approval, shall, pursuant to California Evidence Code section 1152 and/or
9 Federal Rule of Evidence 408, be inadmissible as evidence in any proceeding, except an action or
10 proceeding to approve the Settlement, and/or interpret or enforce this Settlement Agreement. The
11 stipulation for class certification as part of this Settlement Agreement is for settlement purposes
12 only and if for any reason the Settlement is not approved, the stipulation will be of no force or
13 effect.

14 68. California Law Governs. All terms of this Settlement Agreement and the Exhibits
15 hereto shall be governed by and interpreted according to the laws of the State of California.

16 69. Counterparts. This Settlement Agreement may be executed in one or more
17 counterparts. All executed counterparts and each of them shall be deemed to be one and the same
18 instrument.

19 70. This Settlement is Fair, Adequate and Reasonable. The Parties believe this
20 Settlement is a fair, adequate, and reasonable settlement of this Action and have arrived at this
21 Settlement after extensive arms-length negotiations, taking into account all relevant factors,
22 present and potential.

23 71. Jurisdiction of the Court. Pursuant to California Code of Civil Procedure section
24 664.6, the Court shall retain jurisdiction with respect to the interpretation, implementation, and
25 enforcement of the terms of this Settlement Agreement and all orders and judgments entered in
26 connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the
27 Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this
28 Agreement and all orders and judgments entered in connection therewith. All terms of this

1 Settlement Agreement are subject to approval by the Court.

2 72. Construction. The Parties hereto agree that the terms and conditions of this
3 Settlement Agreement are the result of lengthy, intensive arms'-length negotiations among the
4 Parties and that this Settlement Agreement shall not be construed in favor of or against any Party
5 based on the extent to which any Party or her or its counsel participated in the drafting of this
6 Settlement Agreement. Plaintiffs and Defendants expressly waive the common-law and statutory
7 rule of construction that ambiguities should be construed against the drafter of an agreement and
8 further agree, covenant, and represent that the language in all parts of this Settlement Agreement
9 shall be in all cases construed as a whole, according to its fair meaning.

10 73. Captions and Interpretations. Paragraph titles or captions contained herein are
11 inserted as a matter of convenience and for reference, and in no way define, limit, extend, or
12 describe the scope of this Settlement Agreement or any provision hereof. Each term of this
13 Settlement Agreement is contractual and not merely a recital.

14 74. Binding On Assigns. This Settlement Agreement shall be binding upon and inure to
15 the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
16 successors and assigns.

17 75. Signatures of All Class Members Unnecessary to be Binding. It is agreed that,
18 because the members of the Settlement Class are numerous, it is impossible or impractical to have
19 each Settlement Class Member execute this Settlement Agreement. The Notice will advise all
20 Settlement Class Members of the binding nature of the release provided herein and such Release
21 shall have the same force and effect as if this Settlement Agreement were executed by each
22 Settlement Class Member.

23 76. Voluntary Agreement. The Parties acknowledge that they have entered into this
24 Settlement Agreement voluntarily, on the basis of their own judgment and without coercion,
25 duress, or undue influence of any Party, and not in reliance on any promises, representations, or
26 statements made by the other Parties other than those contained in this Settlement Agreement.
27 Each of the Parties hereto expressly waves any right she/it might ever have to claim that this
28 Settlement Agreement was in any way induced by fraud.

1 77. Opportunity to Consult with Counsel. Prior to execution of this Settlement
2 Agreement, each Party has read this entire Settlement Agreement and has been given the
3 opportunity to consult with independent counsel of their choosing and to have such independent
4 counsel advise as to the meaning of this Settlement Agreement and its legal effect.

5 78. Counterparts. This Settlement Agreement may be executed in counterparts, and
6 when each Party has signed and delivered at least one such counterpart, each counterpart shall be
7 deemed an original, and, when taken together with other signed counterparts, shall constitute one
8 fully-signed Settlement Agreement, which shall be binding upon and effective as to all Parties.
9 Electronic signatures shall have the same force and effect as an original.

10 79. Invalidity of Any Provision. Before declaring any provision of this Settlement
11 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest
12 extent possible consistent with applicable precedents so as to define all provisions of this
13 Agreement valid and enforceable.

14 Dated: _____

By: _____
Cynthia Aroche

16 Dated: _____

By: _____
Carlos Diaz Moreno

18 Dated: _____

By: _____
David Abraham Lopez

Veracruz Restaurant Rolemo Enterprises,
LLC (sued erroneously as Veracruz
Restaurant)

21 Dated: _____

By: _____
Title: _____

23 Dated: _____

By: _____
Zenía Leon

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APPROVED AS TO FORM:

Dated: _____

By: _____

Daniel Srourian
Srourian Law Firm, P.C.

Dated: _____

By: _____

Sarkis Sirmabekian
Sirmabekian Law Firm, PC.

Counsel for Plaintiffs, Cynthia Aroche, Carlos
Diaz Moreno, and David Abraham Lopez

Dated: _____

By: _____

Scott K. Dauscher
Jon M. Setoguchi
Atkinson, Andelson, Loya,
Ruud & Romo


Counsel for Defendants, Veracruz Restaurant
Rolemo Enterprises, LLC (sued erroneously
as Veracruz Restaurant) and Zenia Leon

1 77. Opportunity to Consult with Counsel. Prior to execution of this Settlement
2 Agreement, each Party has read this entire Settlement Agreement and has been given the
3 opportunity to consult with independent counsel of their choosing and to have such independent
4 counsel advise as to the meaning of this Settlement Agreement and its legal effect.

5 78. Counterparts. This Settlement Agreement may be executed in counterparts, and
6 when each Party has signed and delivered at least one such counterpart, each counterpart shall be
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11 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest
12 extent possible consistent with applicable precedents so as to define all provisions of this
13 Agreement valid and enforceable.

14 2/14/2022
15 Dated: _____

DocuSigned by:

24B1173E15E9400...
By: _____
Cynthia Aroche

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17 Dated: _____

By: _____
Carlos Diaz Moreno

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19 Dated: _____

By: _____
David Abraham Lopez

Veracruz Restaurant Rolemo Enterprises,
LLC (sued erroneously as Veracruz
Restaurant)

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By: _____
Title: _____

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28 Dated: _____

By: _____
Zenía Leon

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79. Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

14 Dated: _____

By: _____
Cynthia Aroche

17 Dated: 3/2/22

By: carlos diaz moreno
Carlos Diaz Moreno

19 Dated: 3/2/2022

By: David Abraham Lopez
David Abraham Lopez

Veracruz Restaurant Rolemo Enterprises,
LLC (sued erroneously as Veracruz
Restaurant)

ated: _____

By: _____

Title: _____

By: _____
Zenía Leon

1 77. Opportunity to Consult with Counsel. Prior to execution of this Settlement
2 Agreement, each Party has read this entire Settlement Agreement and has been given the
3 opportunity to consult with independent counsel of their choosing and to have such independent
4 counsel advise as to the meaning of this Settlement Agreement and its legal effect.

5 78. Counterparts. This Settlement Agreement may be executed in counterparts, and
6 when each Party has signed and delivered at least one such counterpart, each counterpart shall be
7 deemed an original, and, when taken together with other signed counterparts, shall constitute one
8 fully-signed Settlement Agreement, which shall be binding upon and effective as to all Parties.
9 Electronic signatures shall have the same force and effect as an original.

10 79. Invalidity of Any Provision. Before declaring any provision of this Settlement
11 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest
12 extent possible consistent with applicable precedents so as to define all provisions of this
13 Agreement valid and enforceable.

14 Dated: _____

By: _____
Cynthia Aroche

16 Dated: _____

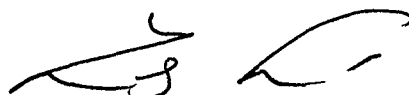
By: _____
Carlos Diaz Moreno

18 Dated: _____

By: _____
David Abraham Lopez

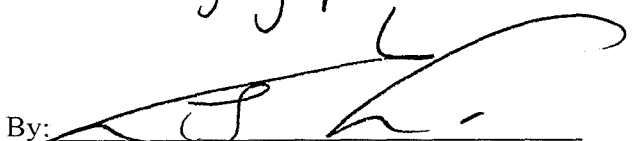
21 Veracruz Restaurant Rolemo Enterprises,
22 LLC (sued erroneously as Veracruz
23 Restaurant)

24 Dated: _____

By:  _____

Title: Managing partner


26 Dated: _____

By:  _____
Zenía Leon


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APPROVED AS TO FORM:

Dated: 2/14/22

By: 
Daniel Srourian
Srourian Law Firm, P.C.

Dated: 2/14/22

By: 
Sarkis Sirmabekian
Sirmabekian Law Firm, PC.

Text Counsel for Plaintiffs, Cynthia Aroche, Carlos Diaz Moreno, and David Abraham Lopez

Dated: _____

By: _____
Scott K. Dauscher
Jon M. Setoguchi
Atkinson, Andelson, Loya,
Ruud & Romo

Counsel for Defendants, Veracruz Restaurant Rolemo Enterprises, LLC (sued erroneously as Veracruz Restaurant) and Zenia Leon

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APPROVED AS TO FORM:

Dated: _____


By: _____
Daniel Srourian
Srourian Law Firm, P.C.

Dated: _____

By: _____
Sarkis Sirmabekian
Sirmabekian Law Firm, PC.

Counsel for Plaintiffs, Cynthia Aroche, Carlos Diaz Moreno, and David Abraham Lopez

Dated: _____

By:  _____
Scott K. Dauscher
Jon M. Setoguchi
Atkinson, Andelson, Loya,
Ruud & Romo

Counsel for Defendants, Veracruz Restaurant Rolemo Enterprises, LLC (sued erroneously as Veracruz Restaurant) and Zenia Leon

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.

Why did I get this Notice?

A proposed settlement (the “Settlement”) has been reached in the class action lawsuit entitled *Cynthia Aroche, Carlos Diaz Moreno, and David Abraham Lopez v. Veracruz Restaurant and Zenia Leon*, Superior Court of the State of California for the County of Los Angeles, Case No. 19STCV12310 (the “Action”). The purpose of this Notice of Class Action Settlement (“Notice”) is to briefly describe the case, and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT

DO NOTHING	If you do nothing, you will be considered part of the Settlement Class and will receive settlement benefits. You will also give up your rights to pursue a separate legal action against Defendants for the claims released under the Settlement
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS	You may have the option to pursue separate legal action against Defendants about the claims in this lawsuit. If you choose to do so, you must exclude yourself, in writing, from the Settlement. However, if you do so, you will not receive any payment under the Settlement.
OBJECT	To object to the Settlement, you must write to the Settlement Administrator about why you do not like the Settlement. This option is available only if you do not exclude yourself from the Settlement.

Who is affected by the Settlement?

The Court has certified, for settlement purposes only, the following Class:

All non-exempt employees of Defendants who worked for Defendants in California during the time period of April 10, 2015, through {insert}

According to Defendants’ records, you are a member of the Class (a “Class Member”).

What is this Lawsuit about?

In the Action, Plaintiffs allege on behalf of themselves and the Class the following claims against Defendants: (1) failure to pay minimum wage (Cal. Lab. Code §§ 1182.12, 1194, 1197 & 1198, *et seq.*); (2) failure to pay overtime compensation (Cal. Lab. Code §§ 1198 & 510, *et seq.*); (3) failure to pay meal period compensation (Cal. Lab. Code §§ 226.7, 512(a) & 1198, *et seq.*); (4) failure to pay rest period compensation (Cal. Lab. Code §§ 226.7 & 1198, *et seq.*); (5) failure to furnish accurate wage and hour statements (Cal. Lab. Code § 226); (6) failure to pay wages upon discharge (Cal. Lab. Code §§ 201 & 202, *et seq.*); (7) failure to indemnify (Cal. Lab. Code § 2802); (8) Unfair Competition (Business and Professions Code § 17200, *et seq.*); and (9) Violation of Private Attorney General Act of 2004, California Labor Code § 2698, *et seq.*, predicated on any of the violations of the California Labor Code and applicable IWC Wage Order alleged in the Operative Complaint

Defendants deny any and all wrongdoing, and maintain that they have complied with all laws alleged to have been violated in the Operative Complaint. Defendants note that this Settlement was established specifically to avoid the cost of proceeding with litigation and does not constitute an admission of liability by Defendants. The Court has not ruled

on the merits of Plaintiffs' claims or Defendant's defenses, however, the Court has granted preliminary approval of this Settlement.

This Settlement is a compromise reached after good faith, arm's length negotiations between Plaintiffs and Defendants (the "Parties"), through their attorneys. Both sides agree that in light of the risks and expenses associated with continued litigation, this Settlement is fair, adequate and reasonable. Plaintiffs and Class Counsel believe this Settlement is in the best interests of the Class.

Who are the attorneys in this lawsuit?

Class Counsel

SROURIAN LAW FIRM, P.C.
Daniel Srourian
3435 Wilshire Blvd., Suite 1710
Los Angeles, California 90010
Telephone: 310.601.3131

SIRMABEKIAN LAW FIRM, PC
Sarkis Sirmabekian
3435 Wilshire Blvd., Suite 1710
Los Angeles, California 90010
Telephone: 818.473.5003

Defendant's Counsel

ATKINSON, ANDELSON, LOYA, RUUD & ROMO
Scott K. Dauscher
Jon M. Setoguchi
12800 Center Court Drive South, Suite 300
Cerritos, California 90703
Telephone: 562.653.3200

What will I receive under the Settlement?

Subject to final Court approval, Defendants will pay \$200,000 (the "Gross Settlement Amount"). It is estimated that, subject to Court approval, after deducting the attorney's fees and costs, a service award to Plaintiffs, payment to the California Labor and Workforce Development Agency ("LWDA") for PAGA penalties, settlement administration costs, and True-Up Payments from the Gross Settlement Amount there will be a Net Settlement Amount of at least \$**{insert}**.

Prior to distribution of Individual Settlement Payments to each Class Member who does not opt-out of the Settlement Class ("Settlement Class Members"), payment of Two Hundred and Two Dollars (\$202.00), will be deducted from the Gross Settlement Amount and shall be made to each of the 20 Class Members who did not sign a "Pick-Up Stix" release and accept a "Pick-Up Stix" payment from Defendants while the Action was pending ("True-Up Payments"). True-Up Payments are contemplated to assure equal treatment of all Class Members. Further, and prior to distribution of Individual Settlement Payments, \$1,250.00 will be deducted from the Net Settlement Amount as payment of PAGA penalties to those Class Members who worked for Defendant as nonexempt hourly paid employees in California at any time from April 26, 2017 through the Preliminary Approval Date ("Allegedly Aggrieved Employees" and "PAGA Period"). This amount will be distributed on a pro-rata basis based on the number of pay periods the Allegedly Aggrieved Employee worked during the PAGA Period. Payment of PAGA penalties from the Net Settlement Amount will be made to Allegedly Aggrieved Employees employed during the PAGA Period regardless of whether they submit a Request for Exclusion Form.

The Settlement Administrator shall then calculate the total Compensable Work Weeks for all Settlement Class Members based on the Class Information provided by Defendants. The respective Compensable Work Weeks for each Settlement Class Member will be divided by the total Compensable Work Weeks for all Settlement Class Members, resulting in the Payment Ratio for each Settlement Class Member. Each Settlement Class Member's Payment Ratio will then multiplied by the Net Settlement Amount to determine his or her Individual Settlement Payment.

According to Defendants' records, you {are} {are not} entitled to a True-Up Payment {because you did not sign a release or accept compensation from Defendants while the Action was pending} {because you signed a release and accepted compensation from Defendants while the Action was pending}.

According to Defendants' records, you {are} {are not} an Allegedly Aggrieved Employee. During the period from April 26, 2017 through {insert}, you worked {insert} pay periods during the PAGA Period. As such, your estimated allocation for PAGA penalties is \$ {insert}.

According to Defendants' records, during the period from April 10, 2015 through {insert}, you worked {insert} Compensable Workweeks for Defendants in California as a non-exempt employee. Based on your Compensable Workweeks, your Individual Settlement Payment is estimated to be \$ {insert}.

Your Individual Settlement Payment and PAGA payment are only an estimates. Your actual payment may be higher or lower than estimated.

If you wish to dispute the number of Compensable Workweeks credited to you, you must submit a written dispute to the Settlement Administrator by mail, postmarked no later than {insert}. The dispute must: (1) contain your full name, current address, telephone number, the last four digits of your Social Security number or full employee ID number, and be signed by you; (2) contain the case name and case number; and (3) contain a clear statement explaining that you wish to dispute the number of Compensable Workweeks and the basis for your dispute. You may also wish to attach any documentation demonstrating that you were not credited with the correct number of Compensable Workweeks. **It is important that you keep the Settlement Administrator advised of any change of address.**

When and how will I receive payment under the Settlement?

If the Court grants final approval of the Settlement, and only after the Effective Date of the Settlement defined below, the Settlement Administrator will send you a settlement check. The settlement approval process takes time so please be patient.

Any and all settlement checks mailed to you under the Settlement shall remain negotiable for 180 days. If you do not negotiate (e.g. cash or deposit) a settlement check within this time period, your check will be voided by the Settlement Administrator, but you will remain bound by the terms of the Settlement. If the Settlement Check is not cashed, deposited, or otherwise negotiated within the 180-day deadline, the un-cashed check(s) shall be voided by the Settlement Administrator and any monies remaining in the distribution account shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 et. Seq., for the benefit of those Settlement Class Members who did not cash their checks until such time that they claim their property. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, because the entire Net Settlement Amount will be paid out to Settlement Class Members, whether or not they all cash their settlement checks. Therefore, unless the Court requires otherwise, Defendant will not be required to pay any interest on funds distributed to the Claims Administrator.

The settlement payment issued to you will be allocated as follows: twenty percent (20%) as wages, forty percent (40%) as penalties, and forty percent (40%) as interest. The wage portion of the Individual Settlement Payment shall be subject to withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable payroll taxes from the wage portion of the Individual Settlement Payment. None of the Parties or attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. Settlement Class Members should consult with their own tax advisors concerning the tax consequences of this Settlement.

In the event that an Individual Settlement Payment allocated to penalties and interest exceeds the threshold amount that must be reported to the Internal Revenue Service by means of a Form 1099, Class Counsel, and the Settlement Administrator, will take all necessary and reasonable steps to obtain W-9's from Class Members and to comply with applicable IRS regulations on issuing 1099's without a social security number or tax entity identification number, and shall take all reasonable and necessary steps to avoid imposition of IRS penalties against the Gross Settlement Amount, including, but not limited to limiting payments below the reportable threshold and/or withholding of taxes

and any applicable penalties. The Settlement Administrator will contact Class Members who are entitled to payments that exceed the taxable income threshold twice, with at least 30 days between the two contacts.

How will the lawyers be paid and how will other funds be distributed under the Settlement?

Class Counsel will ask the Court to award attorneys' fees up to Sixty-Six Thousand Six Hundred Sixty-Six Dollars and No Cents (\$66,666.00) (1/3 of the Gross Settlement Amount) and reimbursement of reasonable litigation costs not to exceed Ten Thousand Dollars (\$10,000.00). In addition, Class Counsel will ask the Court to authorize Class Representative Service Award payments of up to Five Thousand Dollars (\$5,000.00) to each of the Plaintiffs for their efforts in representing the Class. The cost of administering the Settlement will not exceed Ten Thousand Dollars (\$10,000.00). Five Thousand Dollars (\$5,000.00) has also been allocated to penalties under the Private Attorneys General Act of 2004. Seventy-five percent (75%) of that amount, or \$3,750.00, will be paid to the LWDA and twenty-five (25%) of that amount, or \$1,250.00, will become part of the Net Settlement Amount to be made available for distribution to Allegedly Aggrieved Employees employed during the PAGA Period.

What claims are being released under the Settlement?

As of the Effective Date, and only after the Settlement has been fully funded by Defendants, Settlement Class Members shall fully and finally release and discharge Released Parties, from any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action contingent or accrued for, that are pleaded, or that could have been pleaded, based on the facts and claims alleged in the Operative Complaint and PAGA letter, including all related claims for violations of the Private Attorney General Act, California Labor Code section 2698, *et seq.*, and any claims for: (1) failure to pay minimum wage (Cal. Lab. Code §§ 1182.12, 1194, 1197 & 1198, *et seq.*); (2) failure to pay overtime compensation (Cal. Lab. Code §§ 1198 & 510, *et seq.*); (3) failure to pay meal period compensation (Cal. Lab. Code §§ 226.7, 512(a) & 1198, *et seq.*); (4) failure to pay rest period compensation (Cal. Lab. Code §§ 226.7 & 1198, *et seq.*); (5) failure to furnish accurate wage and hour statements (Cal. Lab. Code § 226); (6) failure to pay wages upon discharge (Cal. Lab. Code §§ 201 & 202, *et seq.*); (7) failure to indemnify (Cal. Lab. Code § 2802); (8) Unfair Competition (Business and Professions Code § 17200, *et seq.*); and (9) Violation of Private Attorney General Act of 2004, California Labor Code § 2698, *et seq.*, predicated on any of the violations of the California Labor Code and applicable IWC Wage Order alleged in the Operative Complaint, including but not limited to statutory, constitutional, or contractual damages; unpaid costs; penalties; punitive damages; interest; attorneys' fees; litigation costs; restitution; and equitable relief. Upon the Effective Date and the funding of the Gross Settlement Amount, all Participating Class Members will forever completely release and discharge the Released Parties from the Released Claims for the Class Period.

The Effective Date is the date on which the Court's Final Approval Order and Judgment becomes final. The Court's Final Approval Order and Judgment "becomes final" upon the latter of: (a) if there is no objection to the Settlement, or if there is an objection but it is withdrawn, then, the date that the Final Approval Order and Judgment is filed by the Court; (b) if there is an objection to the Settlement that is not withdrawn, but no appeal is commenced thereafter, then, sixty-five (65) calendar days following the date that the Final Approval Order and Judgment is filed by the Court; or (c) if there is an objection to the Settlement, that is not withdrawn, and any appeal, writ, or other appellate proceeding opposing the Settlement has been filed within sixty-five (65) calendar days following the date that the Final Approval Order and Judgment is filed by the Court, then, when any such appeal, writ, or other appellate proceeding opposing the validity of the Settlement has been resolved finally and conclusively with no right to pursue further remedies or relief.

What are my options?

You have two options under this Settlement. You may: (A) remain in the Class and receive payment under the Settlement; or (B) exclude yourself from the Settlement. If you choose option (A), you may also object to the Settlement.

OPTION A. Remain in the Class. If you remain in the Class, you will be represented by Class Counsel. If you wish to remain in the Class and be eligible to receive a payment under the Settlement, you do *not* need to take any action.

By remaining in the Class and receiving settlement monies, you consent to the release of the Released Claims as described above.

OPTION B. If You Do Not Want To Be Bound By The Settlement. If you do not want to be part of the Settlement, you must mail a Request for Exclusion to the Settlement Administrator at {insert}. Your Request for Exclusion must: (1) contain your full name, address, and telephone number, the last four digits of your social security number or full employee ID number, and be signed by you; (2) contain the case name and case number; and (3) a clear statement you are electing to be excluded from the Settlement. In order to be timely, your Request for Exclusion must be postmarked on or before {insert}. The date of the postmark on the return mailing envelope on the Request for Exclusion shall be the exclusive means used to determine whether it has been timely submitted. Any Class Member who requests to be excluded from the Settlement Class shall not be entitled to any recovery under the Settlement and shall not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon. Class Members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any Final Approval Order and Judgment entered in the Action.

Objecting to the Settlement: If you believe the proposed Settlement is not fair, reasonable or adequate in any way, you may object to it. To object, you must mail to the Settlement Administrator at {insert}, a written statement of objection. In order to be valid, the Objection must: (1) contain your full name, address, and telephone number, the last four digits of your social security number or full employee ID number, and be signed by you; (2), contain the case name and case number; (3) the dates of your employment with Defendant; (4) state whether you intend to appear at the final approval hearing; and (5) state the basis for the Objection, including any legal briefs, papers or memoranda in support of the Objection. The date of the postmark on the return mailing envelope on the objection shall be the exclusive means used to determine whether the objection has been timely submitted. Class Members may also appear at the Settlement Fairness Hearing and orally object without first providing a written objection.

You cannot object to the Settlement if you request exclusion from the Settlement.

What is the next step in the approval of the Settlement?

The Court will hold a final approval hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement and the plan of distribution of the payments described herein, on {insert} in Department 14 of the Los Angeles County Superior Court, Spring Street Courthouse located at 312 N. Spring Street, Los Angeles, CA 90012.

The final approval hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing in order to receive payment under the Settlement. However, you may appear by audio or video at the final approval hearing if you wish to do so. You may obtain information regarding doing so at the court's website www.lacourt.org. Notice of any final judgment will be posted on the settlement website located at: {insert}. Further, any notice of any change of the date or location of the final approval hearing will also be posted on the settlement website.

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. For more complete information, the pleadings and other records in this litigation may be examined during regular court hours at the Los Angeles County Superior Court - Spring Street Courthouse located at 312 N. Spring Street, Los Angeles, CA 90012. You can also visit the settlement website located at: {insert} for more information, including a copy of the Settlement Agreement.

Los Angeles Superior Court Social Distancing Procedures

Please go to <http://www.lacourt.org/newsmedia/ui/HfySfy.aspx> for all updates regarding the Court's current social distancing procedures for attendance at hearings and review of court files.

PLEASE DO NOT CALL OR WRITE TO THE JUDGE OR TO THE COURT REGARDING THIS NOTICE OR THE ACTION

EXHIBIT B



SIRMABEKIAN
LAW FIRM

3435 Wilshire Blvd., Suite 1710
Los Angeles, CA 90010

6314 San Fernando Rd.
Glendale, CA 91201

T (818) 473-5003
F (818) 476-5619

sarkis@slawla.com
www.slawla.com

April 26, 2018

VERACRUZ RESTAURANT
9931 Orr and Day Road
Santa Fe Springs, California 90670

By U.S. Certified Mail

Labor and Workforce Development Agency
Department of Industrial Relations
Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

Filed online at <http://www.dir.ca.gov/>

RE:Cynthia Aroche, Juan Carlos Diaz Moreno, and David Abraham Lopez's Notice of Labor Code Violations Pursuant to California Labor Code Section 2699 Et. Seq.

Dear Sir or Madam:

Please be advised that Cynthia Aroche, Juan Carlos Diaz Moreno, and David Abraham Lopez (hereinafter collectively "Plaintiffs") have retained Sirmabekian Law Firm, P.C. to represent them and other aggrieved employees for various California Labor Code violations including wage and hour claims against VERACRUZ RESTAURANT (hereafter referred to as "Employer" or "You" and/or referred to with "Your" and "Yours", and "VERACRUZ RESTAURANT").

VERACRUZ RESTAURANT is hereby on notice that Plaintiffs seek compensation and all other available relief. Pursuant to the procedures specified in California Labor Code Section 2699.3, Plaintiffs claim that VERACRUZ RESTAURANT have violated, and/or caused to be violated, several Labor Code provisions, and is therefore liable for civil penalties under California Labor Code 2698 *et seq.*

Plaintiff Cynthia Aroche was employed as a bus boy at VERACRUZ RESTAURANT from approximately March 2017 through March 2018. Plaintiff Juan Carlos Diaz Moreno was employed as a waiter at VERACRUZ RESTAURANT for approximately eleven (11) years, until he was terminated in June 2017. Plaintiff David Abraham Lopez was employed as a cook and a dishwasher at VERACRUZ RESTAURANT for approximately three (3) years. VERACRUZ RESTAURANT willfully and wrongfully misclassified as independent contractors Plaintiffs and other aggrieved employees.

VERACRUZ RESTAURANT deprived Plaintiffs and other aggrieved employees of certain protections of the Industrial Welfare Commission Orders, including overtime pay, minimum wage, meal and rest periods, and failure to reimburse under Labor Code 2802, among numerous other California Labor Code violations, and treated Plaintiffs and the other aggrieved employees as exempt from those protections. Plaintiffs and other aggrieved employees primarily engage(d) in duties that failed to meet the requirements of the various exemptions.

Plaintiffs and other aggrieved employees engaged in working as waiters, bus boys, cooks, and dishwashers at VERACRUZ RESTAURANT but failed to primarily engage in managerial duties. They lacked the requisite discretion and independent judgment required by the labor code and the IWC Orders (without limitation). By misclassifying Plaintiffs and other aggrieved employees, VERACRUZ RESTAURANT deprived them of many protections. In addition, VERACRUZ RESTAURANT's non-exempt employees, including waiters, bus boys, cooks, and dishwashers, and other employees are and were also deprived of the same.

Misclassification of Employee as Independent Contractor

It unlawful for any person or employer to willfully misclassify an individual as an independent contractor. Cal. Lab. Code § 226.8(a)(1). This permits Plaintiffs to recover a civil penalty from five thousand dollars (\$5,000) to twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law. Cal. Lab. Code § 226.8(b)-(c). Here, VERACRUZ RESTAURANT improperly and willfully classified Plaintiffs and others as independent contractors. VERACRUZ RESTAURANT deliberately classified Plaintiffs and others into complete independent contractors, while the employees' continued to maintain the same positions and perform the same employment duties. Plaintiffs and others were always employees as evidenced by the following facts: Plaintiffs position required them to work as waiters, bus boys, cooks, and dishwashers for VERACRUZ RESTAURANT, among many other duties which were directly related to the services provided by VERACRUZ RESTAURANT. VERACRUZ RESTAURANT supplied the instrumentalities, tools, and the place for the employees to do their work (all work was done under VERACRUZ RESTAURANT's supervision; the employees' investment in the equipment or materials required were limited or non-existent; no special skills were required of the employees; the employees' services were to be performed for a long period of time with a high degree of permanence in the working relationship; and the parties believed they were maintaining an employer-employee relationship.

Unlawful Failure to Pay Overtime

VERACRUZ RESTAURANT fails to maintain a policy that compensates Plaintiffs and other employees for all hours worked, including overtime. Specifically, VERACRUZ RESTAURANT only pays employees for the majority of time that they spend at work. Many employees, including Plaintiffs, routinely worked work over eight (8) hours per day and/or forty (40) hours per week but are not paid one and one-half their regular rate of pay for overtime work.

As a result of violations of California Labor Code §§ 510, 1194, and Industrial Welfare Commission Wage Orders 2, 4 and 17 for failure to pay overtime, VERACRUZ RESTAURANT is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Provide Unpaid Balance of Full Amount of Overtime Compensation

As described above, VERACRUZ RESTAURANT has required employees to work hours in excess of eight hours in a day and forty in a week but has not paid these employees overtime compensation. As a result, Plaintiffs and other employees have been denied "the unpaid balance of the full amount of this ... overtime compensation" as required by California Labor Code § 1194, and VERACRUZ RESTAURANT is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Unlawful Failure to Pay Minimum Wage

VERACRUZ RESTAURANT has failed to maintain a policy that compensates Plaintiffs and other employees an amount equal to or greater than the minimum wage for all hours worked, as required by California Labor Code §§ 1194, 1197, 1197.1 and Industrial Welfare Commission Wage Orders 2, 4 and 17. All hours must be paid at the statutory or agreed rate and no part of this rate may be used as a credit against a minimum wage obligation. VERACRUZ RESTAURANT did not compensate Plaintiffs and other employees for time spent waiting between jobs, starting early, ending late, among other VERACRUZ RESTAURANT tasks. As a result of violations of California Labor Code §§ 1194, 1197, 1197.1 and Industrial Welfare Commission Wage Orders 2, 4 and 17, for failure to pay minimum wage, VERACRUZ RESTAURANT is liable for civil penalties pursuant to California Labor Code §§ 558, 1197.1, and 2698 *et seq.*

Unlawful Failure to Provide Uninterrupted Off-Duty Meal Periods

VERACRUZ RESTAURANT has failed to maintain a policy that provides Plaintiffs and other employees with off-duty meal periods as required by California law. Plaintiffs and similarly situated employees regularly worked in excess of five (5) hours a day without being provided at least half-hour meal periods in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512, and Wage Orders 2, 4 and 17. VERACRUZ RESTAURANT failed to pay Plaintiffs and other employees the premium compensation mandated by Labor Code § 226.7(b) for these missed meal periods. Many employees, including Plaintiffs, were forced to skip or take untimely breaks without appropriate compensation. As a result of violations of California Labor Code §§ 226.7 and 512 and Wage Orders 2, 4 and 17, VERACRUZ RESTAURANT is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Provide Uninterrupted Off-Duty Rest Periods

VERACRUZ RESTAURANT has failed to maintain a policy that provides Plaintiffs and other employees with off-duty rest periods as required by California law. Plaintiffs and other employees regularly worked in excess of four hours or major fraction thereof during work days without being provided at least a ten-minute rest period in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512 and Wage Orders

2, 4 and 17. VERACRUZ RESTAURANT failed to pay Plaintiffs and other employees the premium compensation mandated by Labor Code § 226.7(b) for these missed rest periods. Many employees, including Plaintiffs, were forced to skip or take untimely rest breaks without appropriate compensation. As a result of violations of California Labor Code §§ 226.7, 512 and Wage Orders 2, 4 and 17, VERACRUZ RESTAURANT is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Reimburse Expenses

VERACRUZ RESTAURANT has failed to indemnify Plaintiffs and other employees for all necessary expenditures or losses incurred by Plaintiffs. VERACRUZ RESTAURANT did not reimburse Plaintiffs for various work-related expenses. California Labor Code § 2802 requires the employer to indemnify employees for all necessary expenditures or losses incurred by employees in direct consequence of the discharge their duties. As a result of violations of California Labor Code § 2802, VERACRUZ RESTAURANT is liable for civil penalties pursuant to California Labor Code §§ 558, 2802 and 2698 *et seq.*

Unlawful Failure to Furnish Wage Statements

VERACRUZ RESTAURANT has violated California Labor Code § 226(a) by willfully failing to furnish Plaintiffs and other employees with required wage statement information. As a result of violations of California Labor Code § 226(a), VERACRUZ RESTAURANT is liable for civil penalties pursuant to California Labor Code Labor Code §§ 226.3 and 2698 *et seq.*

Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

Plaintiffs and others were deprived of wage statements altogether, or various necessary items of information such as total hours worked, applicable hourly rates, and the employers' address. Moreover, VERACRUZ RESTAURANT's employees' work hours, overtime time hours and pay, missed rest or meal break premiums, wages, without limitation, were misreported on their wage statements. As a result of violations of California Labor Code § 226(a), VERACRUZ RESTAURANT is liable for civil penalties pursuant to California Labor Code Labor Code §§ 226.3 and 2698 *et seq.*

Unlawful Failure to Keep Accurate Payroll Records of Daily Hours Worked

VERACRUZ RESTAURANT has failed to keep payroll records showing total hours worked and wages paid to Plaintiffs and other employees. Under California Labor Code § 1174(d), employers must keep "payroll records showing the hours worked daily by and the wages paid to ... employees." Because VERACRUZ RESTAURANT did not keep accurate time records reflecting hours worked for Plaintiffs and other employees, including but not limited to beginning work prior to opening, and after closing, it is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.* To the extent that VERACRUZ RESTAURANT's failure to keep accurate payroll records was willful, it is liable for civil penalties under California Labor Code § 1174.5.

Unlawful Violation of California Labor Code § 1199

Under California Labor Code §§ 1199(a) and (c) and 2699.5 *et seq.*, an employer who "requires or causes any employee to work for longer hours than those fixed" or "violates or refuses or neglects to comply with any provision of the Labor Code regarding employees' wages, hours, and working conditions, is subject to PAGA penalties. As described above, VERACRUZ RESTAURANT has required Plaintiffs and other employees to work hours in excess of eight (8) in a day and forty (40) in a week (thereby violating § 1199(a)), failed to provide adequate rest and meal breaks, failed to pay minimum wage, failed to appropriately account for and pay for commissions, and has violated numerous provisions of the Labor Code pertaining to employee wages and hours (thereby violating § 1199(b)).

Accordingly VERACRUZ RESTAURANT is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Unlawful Failure to Pay Wages Due Upon Termination

VERACRUZ RESTAURANT has violated California Labor Code § 201 and 202 by willfully failing to pay all compensation due and owing to Plaintiffs and other employees at the time employment was terminated, VERACRUZ RESTAURANT willfully failed to pay Plaintiffs and other employees who are no longer employed by it all compensation due upon termination of employment as required under California Labor Code §§ 201 and 202. Plaintiffs and other employees' overtime work were deliberately ignored, and payment avoided by VERACRUZ RESTAURANT. Pursuant to §§ 203 and 256 of the Labor Code, Plaintiffs and other employees are now also entitled to recover up to thirty (30) days of wages due to Defendant's "willful" failure to comply with the statutory requirements of sections 201 and 202 of the Labor Code.

Additionally, because VERACRUZ RESTAURANT violated California Labor Code §§ 201, 201 and 203 of the Labor Code, VERACRUZ RESTAURANT is liable for civil penalties pursuant to California Labor Code § 2698 et seq.

Conclusion

VERACRUZ RESTAURANT has violated or has caused to be violated a number of California wage and hour laws. Plaintiffs therefore intend to file civil claims for the aforementioned violations of the Labor Code and other law. Plaintiffs request the agency review this notice per PAGA's provisions.

Sincerely,

SIRMABEKIAN LAW FIRM, P.C.

A handwritten signature in black ink, appearing to read 'Sarkis Sirmabekian', with a stylized flourish at the end.

Sarkis Sirmabekian, Esq.

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Cynthia Aroche, et al.
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