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FILED
Superior Court of California
County of Los Angeles

09/13/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: R. Aspiras Deputy

7 Attorneys for Plaintiff KARINA GUEVARA, on behalf
of herself and all others similarly situated and aggrieved

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

11 KARINA GUEVARA, on behalf of herself
and all others similarly situated,

CASE NO.: 19STCV39951

[Assigned to the Hon. Elihu M. Berle in Dept.
6]

13 Plaintiffs,

**FIRST AMENDED ~~PROPOSED~~ ORDER
GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT AND CERTIFYING
CLASS FOR SETTLEMENT PURPOSES
ONLY**

14 v.

15 J & K CULVER, LLC, a California limited
liability company; POTATO CORNER LA
16 GROUP LLC, a California limited liability
company; GUY KOREN, an individual;
17 ARIZONA OUM, an individual; AMIR
JACOBY, an individual; and DOES 1 through
18 100, inclusive,

19 Defendants.

23 This Court, having considered the Motion of plaintiff Karina Guevara (“Plaintiff”), for
24 Preliminary Approval of the Class Action Settlement and Provisional Class Certification for
25 Settlement Purposes Only (“Motion for Preliminary Approval”), the Declaration of David D.
26 Bibiyan, the Stipulation for Class Action and Representative Action Settlement (the “Settlement
27 Agreement”), the Notice of Proposed Class Action Settlement (“Class Notice”) attached hereto as
28 Exhibit “1”, and the other documents submitted in support of the Motion for Preliminary Approval,

1 hereby **ORDERS, ADJUDGES AND DECREES THAT:**

2 1. The definitions set out in the Settlement Agreement are incorporated by reference
3 into this Order; all terms defined therein shall have the same meaning in this Order.

4 1. The Court certifies the following settlement class for the purpose of settlement only:
5 all current and former non-exempt, hourly-paid employees who worked for Potato Corner on behalf
6 of defendants J&K Culver, LLC, Potato Corner LA Group, LLC, Guy Koren, and Amir Jacoby
7 (collectively, “Defendants”) at any time during the period between November 6, 2015 through
8 August 31, 2021 in California.

9 2. “Potato Corner” means J&K Culver, LLC, J&K Oakridge, LLC, J&K Ontario, LLC,
10 J&K Valley Fair, LLC, J&K Lakewood, LLC, NKM Capital Group, LLC and J&K Americana,
11 LLC, each doing business as a Potato Corner quick-serve food restaurant.

12 3. The Court preliminarily appoints named plaintiff Karina Guevara as Class
13 Representative and David D. Bibiyan, Jeffrey D. Klein, and Diego Aviles of Bibiyan Law Group,
14 P.C. as Class Counsel.

15 4. The Court preliminarily approves the proposed class settlement upon the terms and
16 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the
17 settlement appears to be within the range of reasonableness of settlement that could ultimately be
18 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement
19 amount is fair, adequate and reasonable as to all potential settlement class members when balanced
20 against the probable outcome of further litigation relating to liability and damages issues. It further
21 appears that extensive and costly investigation and research has been conducted such that counsel
22 for the parties at this time are reasonably able to evaluate their respective positions. It further
23 appears to the Court that the settlement at this time will avoid substantial additional costs by all
24 parties, as well as the delay and risks that would be presented by the further prosecution of the
25 Action. It further appears that the settlement has been reached as the result of intensive, non-
26 collusive, arms-length negotiations utilizing an experienced third party neutral.

27 5. The Court, approves, as to form and content, the Class Notice that has been submitted
28 herewith.

1 6. Defendants shall make payment of the Gross Settlement Amount, as the same may
2 be escalated pursuant to the Settlement Agreement, and Employer Taxes, to the Settlement
3 Administrator within fifteen (15) business days of the Effective Date, which is the later of: (1) if no
4 appeal or writ is filed after Final Approval, the date that is 61 days from service of Notice of Entry
5 of Judgment; or (2) to the extent any appeals or writs have been filed, the date on which they have
6 been dismissed or finally resolved consistent with the terms of the Settlement and all rights to pursue
7 further relief have been fully exhausted.

8 7. The Court directs the mailing of the Class Notice by first-class mail to the Class
9 Members in accordance with the procedures set forth in the Settlement Agreement. The Court finds
10 that dissemination of the Class Notice set forth in the Settlement Agreement complies with the
11 requirements of law and appears to be the best notice practicable under the circumstances.

12 8. The Court hereby preliminarily approves the definition and disposition of the Gross
13 Settlement Amount of \$350,000.00, which is inclusive of: attorneys' fees not to exceed thirty-five
14 percent (35%) of the Gross Settlement Amount, which, if not escalated pursuant to the Settlement
15 Agreement, amounts to \$122,500.00, in addition to actual costs incurred not to exceed \$25,000.00;
16 an incentive award of \$7,500.00 to Plaintiff, costs of settlement administration of no more than
17 \$11,000.00; and Private Attorneys' General Act of 2004 ("PAGA") penalties in the amount of
18 \$10,000.00, of which \$7,500.00 (75%) will be paid to the Labor and Workforce Development
19 Agency ("LWDA") and \$2,500.00 to "Aggrieved Employees," defined as all Class Members
20 working for Defendants as non-exempt, hourly-paid employees during the period from November
21 6, 2018 through August 31, 2021 ("PAGA Period"), regardless of whether a Class Member opts-out
22 of the Settlement.

23 9. The Gross Settlement Amount expressly excludes Employer Taxes, which will be
24 paid separately and apart by Defendants on the wages portion of the Gross Settlement Amount.

25 10. Class Members' "Workweeks" means the number of payroll periods times two that
26 a Settlement Class Member performed work for Potato Corner on behalf of Defendants in a non-
27 exempt, hourly position during the Class Period in California, based on hire dates, re-hire dates,
28 termination dates and paycheck data from Defendants' payroll records. (*i.e.*, one payroll period

1 equals two Workweeks.).

2 11. The Settlement is based on Defendants' representation that there are no more than
3 20,000 Workweeks worked during the Class Period by Class Members. In the event the number of
4 Workweeks worked by Class Members during the Class Period increases by more than 5%, or 1,000
5 Workweeks, then the Gross Settlement Amount shall be increased proportionally by the percent of
6 Workweeks in excess of 21,000 Workweeks (20,000 Workweeks + 1,000 Workweeks) multiplied
7 by the Workweek Value. The Workweek Value shall be calculated by dividing the originally agreed-
8 upon Gross Settlement Amount (\$350,000.00) by 20,000, which amounts to a Workweek Value of
9 \$17.50. For example, should there be 22,000 Workweeks in the Class Period, then the Gross
10 Settlement Amount shall be increased by \$17,500.00 ((22,000 Workweeks – 21,000 Workweeks) x
11 \$17.50).

12 12. The Court deems Phoenix Settlement Administrators ("Phoenix") the Settlement
13 Administrator, and payment of administrative costs, not to exceed \$11,000.00, out of the Gross
14 Settlement Amount for services to be rendered by Phoenix on behalf of the class.

15 13. The Settlement Administrator shall prepare and submit to Class Counsel and
16 Defendants' Counsel a declaration attesting to the completion of the notice process as set forth in
17 the Settlement Agreement, including the number of attempts to obtain valid mailing addresses for
18 and re-sending of any returned Class Notices, as well as the identities, number of, and copies of all
19 opt-outs and objections received. The Settlement Administrator's declaration shall be filed with the
20 Court by January 6, 2022.

21 14. The Court directs Defendants to, by September 22, 2022, provide the Settlement
22 Administrator with the "Class List" for Class Members. The Class List will include for Class
23 Members: (1) name; (2) last known address(es) currently in Defendants' possession, custody, or
24 control; (3) last known telephone number(s) currently in Defendants' possession, custody, or
25 control; (4) last known Social Security Number(s) in Defendants' possession, custody, or control;
26 (5) the dates of employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation
27 date(s)) for each Settlement Class Member; and number of Workweeks worked by the Class
28 Member during the applicable Class Period and PAGA Period ("Class List"), which shall be made

1 available to Class Counsel upon request for the purpose of effectuating the Settlement..

2 15. Because Social Security Numbers are included in the Class List, the Settlement
3 Administrator shall maintain the Class List in confidence and shall only access and use the list to
4 administer the settlement in conformity with the Court’s orders.

5 16. Upon receipt of the Class List, the Settlement Administrator shall perform an address
6 search using the United States Postal Service National Change of Address (the “NCOA”) database
7 and update the addresses contained on the Class List with the newly found addresses, if any. To the
8 extent that this process yields an updated address, that updated address shall replace the last known
9 address and be treated as the new last known address for purposes of this Settlement, and for
10 subsequent mailings.

11 17. By October 6, 2022, the Settlement Administrator shall mail the Class Notice, in
12 English and Spanish, to the Settlement Class Members, via first-class regular U.S. Mail, using the
13 most current mailing address information available.

14 18. The deadline by which Class Members may dispute the number of Workweeks
15 worked, and the deadline by which Class Members may opt out or object, shall be sixty (60) days
16 from the date of the mailing of the Class Notice, or December 6, 2022, unless the Class Member
17 had their Class Notice re-mailed. Class Members who are re-mailed a Class Notice shall have fifteen
18 (15) calendar days from the re-mailing, or sixty (60) days from the date of the initial mailing,
19 whichever is later, in which to postmark a Request for Exclusion, objection, or to dispute the
20 information provided in the Class Notice. This shall be known as the “Response Deadline.”

21 19. The Class Notice shall instruct Settlement Class Members on how to exclude
22 themselves from the Settlement Class. Any Settlement Class Member may request exclusion from
23 (i.e., “opt out” of) the Settlement by mailing a written request to be excluded from the Settlement
24 (the “Request for Exclusion”) to the Settlement Administrator, postmarked on or before the
25 Response Deadline. To be valid, a Request for Exclusion must include the Class Member’s name,
26 last four digits of his or her Social Security Number, and should be signed by the Settlement Class
27 Member or a lawful representative. The Request for Exclusion must also include the following
28 statement or something to its effect: “Please exclude me from the Settlement Class in the *Guevara*

1 v. *J&K Culver, LLC, et al.* matter” or a statement of similar meaning. The date of the postmark on
2 the return mailing envelope receipt confirmation will be the exclusive means to determine whether
3 a Request for Exclusion has been timely submitted. All Requests for Exclusion will be submitted
4 to the Settlement Administrator, who will certify jointly to Class Counsel and counsel for
5 Defendants the Requests for Exclusion that were timely submitted.

6 20. Any Class Member who does not submit a timely and valid Request for Exclusion
7 shall be deemed a “Participating Class Member” and be bound by the terms of the Settlement,
8 including the releases provide therein.

9 21. Each Settlement Class Member may dispute the number of Workweeks attributed to
10 him or her on his or her Class Notice (“Workweek Dispute”). Any such disputes must be mailed to
11 the Settlement Administrator by the Settlement Class Member, postmarked on or before the
12 Response Deadline. The Settlement Administrator shall immediately provide copies of all disputes
13 to Class Counsel and counsel for Defendants and shall immediately attempt to resolve all such
14 disputes directly with relevant Settlement Class Member(s) with the assistance of Defendants and
15 Class Counsel. If the dispute cannot be resolved in this manner, the Court shall adjudicate the dispute.

16 22. Only Participating Class Members may object to the Settlement. In order for any
17 Settlement Class Member to object to this Settlement in writing, or any term of it, he or she must do
18 so by mailing a written objection to the Settlement Administrator at the address or phone number
19 provided on the Class Notice no later than the Response Deadline. The Settlement Administrator
20 shall email a copy of the Objection forthwith to Class Counsel and Defendants’ counsel and attach
21 copies of all Objections to the Declaration it provides Class Counsel, which Class Counsel shall file
22 in support of Plaintiff’s Motion for Final Approval.

23 23. The Objection should set forth in writing: (1) the Objector’s name; (2) the Objector’s
24 address; (3) the last four digits of the Objector’s Social Security Number; (4) the Objector’s
25 signature; (5) a statement of whether the Objector plans to appear at the Final Approval Hearing;
26 and (6) the reason(s) for the Objection, along with whatever legal authority, if any, the Objector
27 asserts in support of the Objection. If a Settlement Class Member objects to the Settlement, the
28 Settlement Class Member will remain a member of the Settlement Class and if the Court approves

1 this Agreement, the Settlement Class Member will be bound by the terms of the Settlement in the
2 same way and to the same extent as a Settlement Class Member who does not object. The date of
3 mailing of the Class Notice to the objecting Settlement Class Member shall be conclusively
4 determined according to the records of the Settlement Administrator. Settlement Class Members
5 need not object in writing to be heard at the Final Approval Hearing; they may object or comment
6 in person at the hearing at their own expense. Class Counsel and Defendant’s Counsel may respond
7 to any objection lodged with the Court no later than January 6, 2022.

8 24. If a Settlement Class Members submits both an Objection and a Request for
9 Exclusion, the Request for Exclusion will control and the Objection will be void.

10 25. Defendants shall deposit the Gross Settlement Amount, as the same may be escalated
11 pursuant to the Settlement Agreement, into a Qualified Settlement Account (“QSA”) to be
12 established by the Settlement Administrator. Defendants shall provide all information necessary for
13 the Settlement Administrator to calculate necessary payroll taxes including their official name, 8-
14 digit state unemployment insurance tax ID number, and other information requested by the
15 Settlement Administrator.

16 26. Not more than seven (7) calendar days after payment of the full Gross Settlement
17 Amount by Defendants, as well as payment by Defendants of the Employer Taxes, the Settlement
18 Administrator shall distribute all payments due under the Settlement, including the Individual
19 Settlement Payments to Participating Class Members and Individual PAGA Payments to Aggrieved
20 Employees, as well as the Court-approved payments for the Service Award to Plaintiff, attorneys’
21 fees and litigation costs and expenses to Class Counsel, administration costs to the Settlement
22 Administrator, and the LWDA Payment.

23 27. Any checks issued by the Settlement Administrator to Participating Class Members
24 and Aggrieved Employees will be negotiable for one hundred eighty (180) calendar days after the
25 date of their issuance. If a Participating Class Member’s Individual Settlement Payment or
26 Individual PAGA Payment check is not cashed within 120 days after the initial mailing to the
27 Participating Class Member and/or Aggrieved Employee, the Settlement Administrator will send
28 each such individual a letter informing him or her that unless the check is cashed in the next 60 days,

1 it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced
2 but not cashed. If any checks remain uncashed after expiration of the 180-day check cashing period,
3 the checks will be cancelled and the funds represented by those checks shall be transmitted to the
4 California State Controller's Unclaimed Property Fund in the name of the applicable Participating
5 Class Member and/or Aggrieved Employee.

6 28. All papers filed in support of final approval, including supporting documents for
7 attorneys' fees and costs, shall be filed by November 7, 2022.

8 29. A Final Approval Hearing shall be held with the Court on January 18, 2022 at 9:00
9 a.m. in Department "6" of the above-entitled Court to determine: (1) whether the proposed
10 settlement is fair, reasonable, and adequate and should be finally approved by the Court; (2) the
11 amount of attorneys' fees and costs to award Class Counsel; (3) the amount of incentive award to
12 the Class Representatives; (4) the amount to be paid to the Settlement Administrator; and (5) the
13 amount to be apportioned to PAGA and/or paid to the LWDA and PAGA Settlement Members.

14 30. In the event the settlement does not become effective in accordance with the terms
15 of the Settlement, or the settlement is not finally approved, or is terminated, cancelled or fails to
16 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
17 and the parties shall revert to their respective positions as of the entry of the Settlement Agreement.
18 The Parties will be free to assert any claim or defense that could have been asserted at the time of
19 entry of the Settlement Agreement.

20

21 **IT IS SO ORDERED.**



Elihu M. Berle

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23 Dated: 01/18/22, 2022

~~Elihu M. Berle / Judge~~
Judge of the Superior Court

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EXHIBIT 1

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

Guevara v. J&K Culver, LLC, et al.

(County of Los Angeles, California Superior Court Case No. 19STCV39951)

**As a current or former non-exempt, hourly-paid California employee of Potato Corner,
you are entitled to receive money from a class action settlement.**

Please read this Notice carefully. This Notice relates to a proposed settlement of class action litigation. If you are a Class Member, it contains important information about your right to receive a payment from the Settlement fund.

You have received this Notice of Class Action Settlement because the records of J&K Culver, LLC, Potato Corner LA Group, LLC, Guy Koren, and Amir Jacoby (“collectively, “Defendants”) show you are a “Class Member,” and therefore entitled to a payment from this class action Settlement. Class Members are all persons who currently work or formerly worked for Potato Corner on behalf of Defendants as non-exempt, hourly-paid employees in the State of California at any time from November 6, 2015 through August 31, 2021 (“Class Period”).

- The settlement is to resolve a class action lawsuit, *Guevara v. J&K Culver, LLC, et al.*, pending in the Superior Court of California for the County of Los Angeles, Case Number: 19STCV39951 (the “Lawsuit”), which alleges that Defendants: (1) failed to pay Class Members for overtime and minimum wages; (2) failed to provide compliant meal periods or compensation in lieu thereof; (3) failed to provide rest periods or compensation in lieu thereof; (4) failed to pay all wages due upon termination or resignation from employment; (5) failed to issue compliant and accurate wage statements; (6) failed to reimburse employees for business expenses; (7) failed to permit inspection or copying of wage statements; (8) failed to permit inspection and/or copying of personnel records; and (9) engaged in unfair competition. Based on these and other alleged Labor Code violations, Plaintiff also seeks penalties under the California Labor Code Private Attorney Generals Act (“PAGA”).
- On [REDACTED], the Los Angeles County Superior Court granted preliminary approval of this class action settlement and ordered that all Class Members be notified of the Settlement. The Court has not made any determination of the validity of the claims in the Lawsuit. Defendants vigorously deny the claims in the Lawsuit and contends that they fully complied with all applicable laws.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment and give up your legal rights to pursue claims released by the settlement of the Lawsuit.
OPT OUT OF THE SETTLEMENT	Exclude yourself from the Settlement, get no payment for settlement of the class claims, and retain your legal rights to individually pursue the class claims that would otherwise be released by the settlement of the Lawsuit. If you worked from November 6, 2018 through August 31, 2021, ("PAGA Period") as a non-exempt, hourly-paid employee of Potato Corner on behalf of Defendants, as well, then you will be deemed an “Aggrieved Employee” and you will still receive your share of the proceeds available from the settlement of the PAGA Released

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

	Claims, defined below, (your “Individual PAGA Payment”) even if you opt out of the class settlement.
OBJECT TO THE SETTLEMENT	If you do not opt out, you may write to the Settlement Administrator, Phoenix Settlement Administrators, about why you object to the settlement, and they will forward your concerns to counsel which will then be provided to the Court. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement. You or your attorney may also address the Court during the Final Approval Hearing scheduled for January 18, 2022 at 9:00 a.m. in Department 6 of the Spring Street Courthouse of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012 even if you did not submit a written objection.

The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at 9:00 a.m. on January 18, 2022, in the Spring Street Courthouse of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012, in Department 6. You are not required to attend the Hearing, but you are welcome to do so at your own expense.

Why Am I Receiving This Notice?

Defendants’ records show that you currently work, or previously worked, for Potato Corner on behalf of Defendants as a non-exempt, hourly-paid employee in the State of California at some point during the Class Period. You were sent this Class Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options before the Court decides whether to finally approve the settlement. If the Court approves the settlement and then any objections and appeals are resolved, a “Settlement Administrator” appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

What Is This Case About?

Karina Guevara was a non-exempt, hourly-paid employee of Defendants. She is the “Plaintiff” in this case and is suing on behalf of herself and Class Members for Defendants’ alleged failure to pay overtime and minimum wages, failure to provide meal periods or compensation in lieu thereof, failure to provide rest periods or compensation in lieu thereof, failure to pay all wages due upon termination or resignation from employment, failure to issue compliant and accurate wage statements, failure to reimburse employees for business expenses, failure to permit inspection or copying of wage statements, failure to permit inspection and/or copying of personnel records, and unfair competition.

Based on these and other alleged Labor Code violations, Plaintiff also seeks to recover penalties under the California Labor Code Private Attorney Generals Act.

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

Defendants deny all of the allegations made by Plaintiff and deny that they violated any law. The Court has made no ruling on the merits of Plaintiff's claims. The Court has only preliminarily approved this class action settlement. The Court will decide whether to give final approval to this settlement at the Final Approval Hearing.

Summary of the Settlement Terms

Plaintiff and Defendants have agreed to settle this case on behalf of themselves and Class Members and Aggrieved Employees for the Gross Settlement Amount, which unless escalated pursuant to the Settlement Agreement, amounts to \$350,000.00. The Gross Settlement includes: (1) Administration Costs up to \$11,000.00; (2) a service payment of up to \$7,500.00 to Plaintiff Karina Guevara for her time and effort in pursuing this case and in exchange for a broader release of claims against Defendants; (3) up to 35% of the Gross Settlement Amount in attorneys' fees which, unless escalated pursuant to the Settlement Agreement, shall amount to \$122,500.00; (4) up to \$25,000.00 in litigation costs to Class Counsel, according to proof; and (5) payment allocated to PAGA penalties in the amount of \$10,000.00, of which 75% (or \$7,500.00) will be paid to the California Labor and Workforce Development Agency ("LWDA") and 25% (\$2,500.00) will be distributed to Aggrieved Employees. After deducting these sums, a total of approximately not less than \$174,000.00 will be available for distribution to Class Members ("Net Settlement Amount").

The Settlement is based on Defendants' representation that there are no more than 20,000 Workweeks worked during the Class Period by Class Members. Workweeks were calculated based on the number of payroll periods Class Members worked during the Class Period times two. In the event the number of Workweeks worked by Class Members during the Class Period increases by more than 5%, or 1,000 Workweeks, then the Gross Settlement Amount shall be increased proportionally by the percent of Workweeks in excess of 21,000 Workweeks (20,000 Workweeks + 1,000 Workweeks) multiplied by the Workweek Value. The Workweek Value shall be calculated by dividing the originally agreed-upon Gross Settlement Amount (\$350,000.00) by 20,000, which amounts to a Workweek Value of \$17.50. For example, should there be 22,000 Workweeks in the Class Period, then the Gross Settlement Amount shall be increased by \$17,500.00 ((22,000 Workweeks – 21,000 Workweeks) x \$17.50).

Distribution to Class Members

Class Members who do not opt out will receive a *pro rata* payment of the Net Settlement Amount based on the number of Workweeks worked by Class Members in non-exempt, hourly-paid positions for Potato Corner on behalf of Defendants in California during the Class Period ("Eligible Workweeks"). Specifically, Class Members' payments will be calculated by dividing the number of Eligible Workweeks attributed to the Class Member by all Eligible Workweeks attributed to members of the Settlement Class, multiplied by the Net Settlement Amount. Otherwise stated, the formula for a Class Member is: (Individual's Eligible Workweeks ÷ total Settlement Class Eligible Workweeks) x Net Settlement Amount. In addition, Class Members who worked during the PAGA Period (*i.e.*, Aggrieved Employees) will receive a *pro rata* share of the \$2,500.00 allocated as PAGA penalties, whether or not they opt out, based on the number of Workweeks worked by each Aggrieved Employee during the PAGA Period.

Defendants' records indicate that you worked [Eligible Workweeks] as a non-exempt, hourly-paid employee in California during the Class Period and [Eligible Workweeks] during the PAGA Period. Based on these records, your estimated payment as a Class Member would be [\$Estimated Award] and your estimated payment as an Aggrieved Employee would be [\$Estimated Award]. If you believe this information is incorrect and wish to dispute it, you must mail a dispute to the Settlement Administrator no later than December 6, 2022. Please include any documentation you have that you contend supports your dispute.

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

Tax Reporting

100% of the payments for PAGA penalties to Aggrieved Employees will be allocated as penalties reported on IRS Form 1099. 25% of each Settlement Payment to Class Members who do not opt out will be allocated as wages and reported on an IRS Form W-2, and 75% will be allocated as penalties and interest reported on IRS Form 1099. This notice is not intended to provide legal or tax advice on your Settlement Share.

Your Options Under the Settlement

Option 1 – Do Nothing and Receive Your Payment

If you do not opt out, you are automatically entitled to your Individual Settlement Payment (*i.e.*, your share of the Net Settlement Amount) because you are a Class Member. If you do not dispute your settlement share calculation and do not opt out of the settlement, you will be bound by the entire release in the settlement and receive a your Individual Settlement Payment, as well as your Individual PAGA Payment if you are also an Aggrieved Employee. **In other words, if you are a Class Member, you do not need to take any action to receive the settlement payment(s) set forth above.**

Class Members who do not submit a valid and timely opt out (pursuant to Option 2 below), will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Claims he or she may have or had upon final approval of this Settlement and payment by Defendants to the Settlement Administrator.

“Released Claims” refers to all claims, rights, causes of action and damages against the Released Parties asserted in the Operative Complaint filed in the Action, or which could have been alleged or asserted against the Released Parties based on the factual allegations in the Operative Complaint under any federal, state, local or common law, as follows: For the duration of the Class Period, the release includes, for Participating Class Members, including Plaintiff: (a) all claims for failure to pay overtime wages; (b) all claims for failure to pay minimum wages; (c) all claims for failure to provide compliant meal periods or premium compensation in lieu thereof; (d) all claims for failure to provide compliant rest periods or premium compensation in lieu thereof; (e) all claims for the failure to timely pay wages upon termination or resignation; (f) all claims for failure to provide accurate wage statements; (g) all claims for failure to reimburse employees for business expenses; (h) all claims for failure to permit inspection or copying of employees’ wage statements; (i) all claims for failure to permit inspection and/or copying of employees’ personnel records; and (j) all claims asserted through California Business & Professions Code section 17200, et seq. arising out of the Labor Code violations and applicable Wage Orders referenced in the Operative Complaint (the “Class Released Claims”). The Class Released Claims shall also include the release of all related claims for civil penalties, statutory penalties, liquidated damages, attorneys’ fees, costs, expenses, interest and any other losses or damages that could have been asserted based on the claims alleged in the Operative Complaint. The Parties additionally agree that the scope of the release under this Agreement shall include the release of claims under the federal Fair Labor Standards Act (“FLSA”) pursuant to *Rangel v. Check Cashers*, 899 F.3d 1106 (9th Cir. 2018). (the “Class Released Claims”).

Aggrieved Employees, including Plaintiff, (and, to the fullest extent permitted by law, the State of California), the release includes for the duration of the PAGA Period, all claims asserted in the PAGA Notice, Amended PAGA Notice, and alleged in the Operative Complaint against the Released Parties, or which could have been alleged or asserted against the Released Parties based on the factual allegations in the PAGA Notice, Amended PAGA Notice, and the Operative Complaint, for PAGA civil penalties pursuant to Labor Code sections, 226.3,

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

558, 1174.5, 1197.1, and 2699, *et seq.*, in connection with alleged violations of Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 226, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 432, 510, 512, 558.1, 1102.5, 1174, 1194, 1194.2, 1197, 1197.5, 1198.5, 2802, and 2810.5 (the “PAGA Released Claims” and collectively with Class Released Claims, the “Released Claims”).

“Released Parties” refers to Defendants and each of their past, present, and future respective parents, subsidiaries, dba’s, affiliates, related entities, including but not limited to J&K Oakridge, LLC, J&K Ontario, LLC, J&K Valley Fair, LLC, J&K Lakewood, LLC, NKM Capital Group, LLC and J&K Americana, LLC, insurers and reinsurers, and company-sponsored employee benefit plans of any nature, and each of their successors, assigns and predecessors in interest, including all of their respective owners, officers, directors, shareholders, members, partners, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, attorneys, administrators, fiduciaries, trustees, and agents.

Option 2 – Opt Out of the Settlement

If you do not wish to receive your Individual Settlement Payment or release the Class Released Claims, you may exclude yourself by submitting a written request to be excluded from the Class. Your written request must expressly and clearly indicate that you do not want to participate in the Settlement, and you desire to be excluded from the Settlement. The written request for exclusion must include your name, Social Security Number, and the following statement or something to its effect: “Please exclude me from the Settlement Class in the *Guevara v. J&K Culver, LLC, et al.* matter.” Sign, date, and mail your written request for exclusion by U.S. First-Class Mail to the address below.

Phoenix Settlement Administrators
[Add Mailing Address]

Your written request for exclusion must be mailed to the Administrator not later than December 6, 2022.

The proposed settlement includes the settlement of the PAGA Released Claims. An employee may not request exclusion from the settlement of a PAGA claim. Thus, if the court approves the settlement, then even if you request exclusion from the settlement, if you are an Aggrieved Employee, you will still receive your Individual PAGA Payment and will be deemed to have released the PAGA Released Claims. A request for exclusion will preserve your right, if any, to individually pursue only the Class Released Claims.

Option 3 – File an Objection to the Settlement

If you wish to object to the Settlement, you may file an objection in writing stating why you object to the Settlement. Your written objection must provide your name, address, the last four digits of your Social Security Number, and a statement of the reason(s) why you believe that the Court should not approve the Settlement. Your written objection must be mailed the Administrator no later than December 6, 2022. Please note that you cannot both object to the Settlement and opt out of the Settlement. If you exclude yourself, then your objection will be overruled. If the Court overrules your objection, you will be bound by the Settlement and will receive your Settlement Share.

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Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

Final Approval Hearing

You may, if you wish, also appear at the Final Approval Hearing set for January 18, 2022 at 9:00 a.m. in the Spring Street Courthouse of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012, in Department 6, and orally object to the Settlement, discuss your written objections with the Court and the Parties, or otherwise comment on the Settlement at your own expense. You may also retain an attorney to represent you at the Hearing at your own expense.

Additional Information

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may call the Settlement Administrator at [PHONE NUMBER] or Class Counsel, whose information appears below:

BIBIYAN LAW GROUP, P.C.

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You may also visit the Settlement Administrator's website at [WEBSITE] to gain access to key documents in this case, including the Settlement Agreement, the Class Notice, the Order Granting Preliminary Approval of this Settlement, the Order Granting Final Approval of this Settlement, and the Final Judgment.

You may also refer to the pleadings, the Settlement Agreement, and other papers filed in this case, which may be inspected at the Spring Street Courthouse of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012, during regular business hours of each court day. You may also obtain these documents through the Court's website at <https://www.lacourt.org/casesummary/ui/>.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE,
DEFENDANTS, OR DEFENDANTS' ATTORNEYS WITH INQUIRIES.**

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my mailing address is 8484 Wilshire Boulevard, Suite 500, Beverly Hills, California 90211.

On September 9, 2022, I caused a true and correct copy of the foregoing document(s) described as **FIRST AMENDED [PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND CERTIFYING CLASS FOR SETTLEMENT PURPOSES ONLY** to be served by electronic transmission via Case Anywhere to the following recipients.

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Attorney for Defendant Amir Jacoby

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 9, 2022 at Beverly Hills, California.

/s/ Emanuel Munguia

Emanuel Munguia