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22 ATHERSTONE FOODS, INC. DBA  
23 GLASS ONION CATERING

24 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
25 **FOR THE COUNTY OF CONTRA COSTA**

26 DEISI CAROLINA SANCHEZ, and individual  
27 and on behalf of others similarly situated,

28 Plaintiffs,

v.

ATHERSTONE FOODS, INC., dba GLASS  
ONION CATERING; and DOES 1 through 50,

Defendants.

CASE NO. C20-01999

Assigned to Department 39 for all purposes  
Hon. Edward G. Weil

**JOINT STIPULATION OF  
SETTLEMENT AND RELEASE**

1 IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Deisi Carolina  
2 Sanchez, on behalf of herself and others similarly situated, and Defendant Atherstone Foods, Inc.  
3 dba Glass Onion Catering, subject to the approval of the Court, that this litigation is compromised  
4 and settled pursuant to the terms and conditions set forth below.

5 **DEFINITIONS**

6 1. "Action" shall mean the case entitled Deisi Carolina Sanchez v. Atherstone Foods,  
7 Inc. dba Glass Onion Catering, Case No. C20-01999 pending in the Superior Court of the State of  
8 California for the County of Contra Costa.

9 2. "Agreement" shall refer to this document.

10 3. "Claims Administrator" shall mean the third-party administrator appointed to  
11 administer the Settlement. The Parties have agreed the third-party administrator will be Phoenix  
12 Settlement Administration.

13 4. "Class" shall mean all current and former non-exempt, hourly-paid employees of  
14 Defendant who worked in California from September 28, 2016 through March 27, 2022 ("Class  
15 Period"). Members of the Class are referred to herein as "Class Member" or "Class Members."

16 5. "Class Claims" shall mean and include all claims, debts, demands, rights,  
17 obligations, liabilities, and any causes of action arising out of the allegations set forth in the Action  
18 at any time during the Class Period, including: (i) failure to pay all hours worked; (ii) minimum  
19 wage violation; (iii) failure to pay all overtime hours; (iv) meal period violations; (ii) rest period  
20 violations; (iii) wage statement violations; (iv) waiting time penalties; (v) Private Attorney General  
21 Act Labor Code § 2699 *et seq.* and (vi) unfair business practices, violation of Business &  
22 Professions Code § 17200 *et seq.* based on the aforementioned allegations; and any and all claims  
23 that could have been alleged based on the factual allegations of the Complaint.

24 6. "Class Period" shall mean the period from September 28, 2016 through March 27,  
25 2022. The "Class Period" shall include no more than 31,000 workweeks. If the number of  
26 workweeks exceed 31,000, the Class Period shall be adjusted to stay within 31,000 workweeks.

27 7. "Complaint" shall mean the Class Action Complaint in this Action filed on  
28 September 28, 2020, in Contra Costa County Superior Court (Case No. C20-01999) on behalf of

1 Plaintiff and the Settlement Class, and any amendments thereto.

2 8. "Court" shall mean the Superior Court of the State of California for the County of  
3 Contra Costa.

4 9. "Defendant" shall refer to Atherstone Foods, Inc. dba Glass Onion Catering

5 10. "Defendant's Counsel" shall mean Audrey Gee and David Marchiano of Brown Gee  
6 & Wenger, LLP.

7 11. "Employer Payroll Contributions" shall mean those payroll taxes and other  
8 monetary contributions required by state and federal law to be made by an employer on wage  
9 payments, including but not limited to FICA, Medicare, FUTA, and SUTA, and any federal and  
10 state unemployment taxes, payable with respect to amounts treated as wages under this Agreement.

11 12. "Fee and Expense Award" shall mean such award of attorneys' fees and costs as the  
12 Court may authorize to be paid to Plaintiff's Counsel for the services they have rendered to the  
13 Plaintiff and the Class in the Action, and the actual costs incurred by Plaintiff's Counsel in the  
14 prosecution of the Action.

15 13. "Final Approval Order and Judgment" means the Order Granting Final Approval of  
16 the Class Settlement and Judgment issued by the Court within the meaning and for purposes of  
17 Code of Civil Procedure Section 277 and 904.1(a), and Rule 3.769 of the California Rules of Court.

18 14. "Final Effective Date" refers to the date the Final Approval Order and Judgment is  
19 entered if no objections to the Settlement are filed. If objections are filed and overruled, and no  
20 appeal of the Final Approval Order is filed, then the Final Effective Date will be sixty (60) calendar  
21 days following date the Final Approval Order is signed. If an appeal is taken from the Final  
22 Approval Order, then the Final Effective Date will be twenty (20) calendar days after the appeal is  
23 withdrawn or after an appellate decision affirming the Final Approval Order becomes final.

24 15. "Individual Settlement Payment" shall mean the total gross amount each Settlement  
25 Class Member is entitled to receive from the Net Settlement Fund under the terms of this  
26 Agreement.

27 16. "LWDA Payment" means the Twenty Thousand Dollars and No Cents (\$20,000) of  
28 the Gross Settlement Amount which the Parties have agreed to pay to the Labor & Workforce

1 Development Agency (“LWDA”) in satisfaction of any claim for penalties that may be owed to that  
2 agency under the Private Attorneys General Act (“PAGA”), Cal. Labor Code section 2698, *et seq.*,  
3 with 25% of said amount being distributed to the Settlement Class Members.

4 17. “Net Settlement Fund” shall mean the settlement funds available for distribution to  
5 Settlement Class Members after deducting from the Gross Settlement Fund the following, as  
6 approved by the Court: (1) the Administration Costs; (2) LWDA Payment; (3) the Fee and Expense  
7 Award; and (4) the Service Award.

8 18. “Notice” shall mean the Court-approved form of notice to Class Members that will  
9 notify Class Members of the conditional certification of the Settlement Class, Preliminary Approval  
10 of the Settlement, the procedures for objecting to the Settlement, and scheduling of the Final  
11 Approval Hearing.

12 19. “Parties” shall collectively refer to Plaintiff and Defendant.

13 20. “Class Release Date” means the latest of any of the following dates: (a) if no Class  
14 Member files an objection to the Settlement, then the date upon which the Court grants Final  
15 Approval of the Settlement; or (b) if any Class Member files an objection but it is subsequently  
16 withdrawn, then the date upon which the Court grants Final Approval of the Settlement, or (c) if an  
17 objection is filed and an appeal or other appellate proceeding is initiated, then the date which is  
18 sixty-five (65) days after (i) service of notice of entry of the Final Approval Order and Judgment on  
19 the Parties to the Action and all objectors to the Settlement, if any, without any appeals or requests  
20 for review being taken, or (ii) orders affirming said Final Approval Order and Judgment or denying  
21 review after exhaustion of all appellate remedies, if appeals or requests for review have been taken.

22 21. “Plaintiff” shall mean Deisi Carolina Sanchez, the Class Representative in the  
23 Action.

24 22. “Plaintiff’s Counsel” or “Class Counsel” shall mean Arlo Garcia Uriarte and Un Kei  
25 Wu of Liberation Law Group, P.C.

26 23. “Preliminary Approval” shall mean that the entry of an Order by the Court  
27 preliminarily approving the terms and conditions of this Agreement, including the manner of  
28 providing notice to Class Members.

1 24. "Settlement" shall mean the terms and conditions set forth in this Agreement.

2 25. "Settlement Class" or "Settlement Class Members" shall mean Class Members who  
3 have not excluded themselves from the Settlement in accordance with the requirements set forth  
4 herein.

5 26. "Qualifying Workweek" shall mean each week, or fraction thereof, an individual  
6 worked for Defendant in a position covered by the definition of Class Member during the Class  
7 Period.

8 **RECITALS**

9 27. **The Complaint.** On September 28, 2020, Plaintiff filed a Complaint against  
10 Defendant individually and on behalf of others similarly situated alleging individual and putative  
11 class claims for: (i) failure to pay all hours worked; (ii) minimum wage violation; (iii) failure to  
12 pay all overtime hours; (iv) meal period violations; (v) rest break violations; (vi) wage statement  
13 violations; (vii) waiting time penalties; (viii) violation of the Private Attorney Generals Act, Labor  
14 Code § 2699 et seq. ("PAGA"); and (ix) violations of Business & Professions Code § 17200 et seq.

15 28. **Amendment to the Complaint.** Plaintiff shall ask the Court for permission to file  
16 the First Amended Complaint attached hereto as Exhibit A. The Parties will jointly determine  
17 whether to seek such permission prior to the hearing on the preliminary approval motion, or at the  
18 time of the preliminary approval motion.

19 29. **Investigation and Discovery.** Plaintiff conducted significant investigation of the  
20 facts and law both before and after the Action was filed. This included review and analysis of  
21 Plaintiff's personnel file, review and analysis of putative class members' timekeeping and payroll  
22 records, and interviews and declarations of class members. Counsel for the Parties have further  
23 investigated the applicable law as applied to the facts discovered regarding Plaintiff's claims, the  
24 defenses thereto, and the damages and penalties claimed by Plaintiff in the Action. The Parties also  
25 exchanged data and information regarding the Class Claims prior to the mediation and negotiating  
26 the Settlement, including data relevant to damages and mediation briefs.

27 30. **Mediation.** On January 26, 2022, the Parties attended and participated in good faith,  
28 arms' length settlement discussions at a mediation before mediator Jeffrey A. Ross, Esq.

1 (“Mediator”). The Parties reached a settlement after extensive negotiations. The Parties believe and  
2 agree that this Settlement is a fair, adequate, and reasonable resolution of the Action and have  
3 arrived at this Settlement in arms-length negotiations, taking into account all relevant factors,  
4 present and potential, each side recognizing the risks of an adverse result.

5 31. **Non-Admissibility.** This Agreement represents the compromise and settlement of  
6 highly disputed claims. Plaintiff has claimed, and continues to claim, that her contentions have  
7 merit and give rise to Defendant’s liability, and Defendant claims and continues to claim that  
8 Plaintiff’s claims lack factual and legal merit and that class certification is unwarranted. Nothing in  
9 this Agreement, the documents referenced in this Agreement, or any action taken to carry out this  
10 Agreement is, or may be construed as, or may be used as, an admission, concession or other  
11 indication by or against Defendant of any fault, wrongdoing, or liability whatsoever, nor construed  
12 or used against the Plaintiff as to the merits or lack thereof of the claims they asserted. Therefore,  
13 whether or not the Settlement is finally approved, and except and to the extent that this Agreement  
14 becomes a release of claims as of the Class Release Date, as provided for herein, neither the  
15 Settlement, nor any of its terms, nor any document, statement, proceeding or conduct related to this  
16 Agreement, nor any reports or accounts thereof, shall be admissible in evidence for any purpose  
17 except for purposes of settling the Action, obtaining Preliminary and Final Approval or enforcing  
18 the terms of this Agreement.

#### 19 **SETTLEMENT COMPONENTS**

20 32. **Conditional Certification of the Class.** Solely for purposes of Settlement, the  
21 Parties agree to the certification of the following Class: all current and former non-exempt, hourly-  
22 paid employees of Defendant who worked in California from September 28, 2016 through March  
23 27, 2022. If, for whatever reason, the Settlement does not become final, the Parties’ stipulation to  
24 settlement and to conditional class certification shall become null and void. In connection with the  
25 proposed certification of the Class, the Parties shall cooperate and present to the Court for its  
26 consideration competent evidence, as may be requested by the Court, under the applicable due  
27 process requirements and standards for class certification. In the event either preliminary or final  
28 approval of the settlement memorialized by this Agreement is not obtained or, if obtained, is

1 reversed upon appeal, the Parties shall be returned to their respective positions in the action as they  
2 existed immediately prior to the execution of this Agreement.

3       33.     **Gross Settlement Fund.** Subject to the terms and conditions of this Agreement, and  
4 in full settlement of the Class Claims and all Released Claims, the Defendant shall pay the total  
5 amount of Seven Hundred Twenty Six Thousand and Six Hundred Dollars (\$726,600) to create a  
6 Gross Settlement Fund (“GSF”). The GSF shall fully cover: (1) all Individual Settlement Payments;  
7 (2) all Fee and Expense Awards to Class Counsel; (3) all Administration Costs; (4) LWDA Payment  
8 and (5) the Service Award. The GSF does not include Employer Payroll Contributions on the wage  
9 portion of Individual Settlement Payments, which Defendant shall pay separately. There shall be no  
10 reversion to the Defendant.

11       34.     **Individual Settlement Payments to Class Members.** The Net Settlement Fund  
12 (“NSF”), representing that part of the GSF after deduction of court-approved Administration Costs,  
13 Fee and Expense Award, LWDA Payment and Service Award, shall be distributed to Settlement  
14 Class Members through Individual Settlement Payments. The entire Net Settlement Fund shall be  
15 allocated to the payment of Individual Settlement Payments to Settlement Class Members.

16       (i)     **Reasonable Allocation Formula.** The Parties recognize and agree that the precise  
17 amounts of compensation claimed in this Action are extremely difficult to determine  
18 with any certainty for any given year, if at all, and are subject to a myriad of different  
19 calculations and formulas. The Parties agree that the formula for allocating the  
20 Individual Settlement Payments to Class Members provided herein is reasonable and  
21 that the payments provided herein are designed to provide a fair settlement for the  
22 Class as a whole, in light of the uncertainties regarding the calculation of alleged  
23 compensation to each Settlement Class Member.

24       (ii)    **Calculation of Individual Settlement Payments.** The Individual Settlement  
25 Payments will be calculated based on the number of the Qualifying Workweeks  
26 worked by each Settlement Class Member. The Claims Administrator shall  
27 determine the Class Member’s Qualifying Workweeks by referencing the  
28 Defendant’s records. Defendant shall provide the Claims Administrator with the start

1 and termination dates of each Settlement Class Member so the Claims Administrator  
2 can calculate the Class Member's Qualifying Workweeks and the Individual  
3 Settlement Payments. Each Settlement Class Member shall be entitled to a  
4 Percentage Share of the Net Settlement Fund, calculated by the following formula:

$$\frac{\text{No. of qualifying workweeks worked by the Settlement Class Member from September 28, 2016 through March 27, 2022}}{\text{Aggregate No. of qualifying workweeks from September 28, 2016 through March 27, 2022}} \times \text{Net Settlement Amount}$$

9 If Settlement Class Members wish to dispute the Claims Administrator's calculation  
10 of the Individual Settlement Payments, Settlement Class Members must contact the  
11 Claims Administrator, explain why they believe Defendant's records are mistaken  
12 and submit all supporting documentation to the Claims Administrator within thirty  
13 (30) days from the date the Notice is mailed. The Claims Administrator shall then  
14 consult with the Parties' counsel for input. However, the Claims Administrator's  
15 decision regarding the final number of Qualifying Workweeks shall be final.

16 (iii) **Allocation and Taxes.** The Individual Settlement Payments shall be allocated for  
17 tax purposes as follows: one-third to unpaid wages, which shall be subject to  
18 required state, federal and local withholdings, and reported on Form W-2; and two-  
19 thirds to penalties and interest, not subject to withholding and reported on Form  
20 1099. The employee's portion of all applicable income and payroll taxes, as well as  
21 the taxes on the penalties and interest damages payment, will be the responsibility of  
22 each individual Class Member. Each Individual Settlement Payment is subject to the  
23 employee's share of taxes with respect to the wage-portion of Individual Settlement  
24 Payment, which the Claims Administrator is responsible for remitting and reporting  
25 to the tax authorities. Employer Payroll Contributions shall be paid by Defendant  
26 on the wage portion of the Individual Settlement Payments separately and outside of  
27 the GSF. The Claims Administrator shall be responsible for notifying Defendant's  
28 Counsel of the total of the employer's share of the payroll and employment taxes



1 and contributions associated with each Individual Settlement Payment, but shall not  
2 be responsible for informational or other reporting, filing, or remission to tax  
3 authorities on behalf of Defendant unless Defendant pays for these services  
4 separately.

5 35. **Fee and Expense Award.** Defendant will not object to an application by Plaintiff  
6 for an award of attorney’s fees not more than one third of the GSF (\$242,200) (the “Fees Cap”) and  
7 for an award of costs and expenses supported by documentation submitted to the Court (collectively  
8 the “Fee and Expense Award”). If the Court does not approve Class Counsel’s request for attorneys’  
9 fees and reimbursement of litigation costs and expenses, the amounts not approved shall be a part  
10 of the Net Settlement Fund to be distributed to Class Members, according to the formula set forth  
11 above. The Parties agree that the Court’s approval of any request for attorneys’ fees is not a  
12 condition of the Settlement Agreement and that an award of less than the amounts requested would  
13 not give rise to a basis to abrogate the Settlement Agreement, however any award for more than  
14 Fees Cap will make the Agreement voidable at Defendant’s discretion. Plaintiff, Class Counsel,  
15 and the Settlement Class waive any additional claim for attorneys’ fees incurred in connection with  
16 this Action, above the Fees Cap.

17 36. **Service Award.** Defendant will not object to an application by Plaintiff for an award  
18 of not more than Five Thousand Dollars (\$5,000) as her Service Award, which is in addition to any  
19 Individual Settlement Payment that Plaintiff is entitled to under this Agreement. The Service  
20 Award is in consideration of Plaintiff initiating and pursuing the action, undertaking the risk of  
21 liability for attorneys’ fees and expenses in the event they are unsuccessful in the prosecution of the  
22 Action, and granting Defendant a general release of claims. The Service Award is not wages, shall  
23 not be subject to payroll withholdings, and shall be reported on an IRS Form 1099. If the Court  
24 does not approve the amount of the Service Award, the amount not approved shall be a part of the  
25 Net Settlement Fund to be distributed to Class Members, according to the formula set forth above.  
26 The Parties agree that the Court’s approval of a Service Award is not a condition of the Settlement  
27 Agreement and that an award of less than the amount requested would not give rise to a basis to  
28 abrogate the Settlement Agreement.

1           37.    **Administration Costs.** Administration Costs shall be paid from the Gross  
2 Settlement Fund to the Claims Administrator for administering the settlement and otherwise  
3 performing duties under this Agreement.

4                                   **PRELIMINARY APPROVAL AND CLASS NOTICE**

5           38.    **Preliminary Approval.** Class Counsel shall prepare a motion for preliminary  
6 approval to be submitted to the Court along with this Agreement, and any other documents  
7 necessary to implement the Settlement. The motion will request that the Court enter a Preliminary  
8 Approval Order, preliminarily approving the proposed Settlement, conditionally certifying the Class  
9 for settlement purposes only, conditionally appointing Plaintiff’s Counsel as Class Counsel,  
10 approving the LWDA payment, approving the Claims Administrator, and setting a date for the Final  
11 Approval Hearing. If necessary, the motion will also request permission to file the First Amended  
12 Complaint. The Preliminary Approval Order shall also provide for Notice of the Settlement to be  
13 disseminated to Class Members as specified herein or as may otherwise be ordered by the Court,  
14 provided that such order is also acceptable to the Parties and consistent with the terms of this  
15 Agreement. Counsel for Defendant will be given an opportunity to review and comment on the  
16 motion for preliminary approval of the Settlement at least five days prior to it being filed with the  
17 Court, and such comments will be implemented in good faith to the extent reasonable. However,  
18 Plaintiff shall have discretion to accept or reject Defendant’s comments.

19           39.    **Class List.** Within twenty-one (21) calendar days of the date of Preliminary  
20 Approval, the Defendant will provide the Claims Administrator with the names, social security  
21 numbers, last known addresses, last known telephone numbers, and the hire and termination dates  
22 of each Class Member during the Class Period (collectively the “Class List”). The Class List will  
23 be treated as confidential by the Claims Administrator and will not be disclosed by the Claims  
24 Administrator to anyone, except as may be required to applicable tax authorities, pursuant to the  
25 express written consent of the Defendant, by order of the Court, or as may be necessary to carry out  
26 the reasonable steps described in this Settlement to locate missing Class Members.

27           40.    **Notice to Class.** Within thirty (30) calendar days after Preliminary Approval, the  
28 Claims Administrator shall mail a copy of the Notice in English and Spanish, in the form approved

1 by the Court in its Preliminary Approval Order to all persons shown by Defendant's records to be  
2 Class Members, via first class U.S. mail, using the most current mailing address available. If no  
3 such mailing address is available, the Claims Administrator shall conduct a computer/SSN and "skip  
4 trace" search to obtain an address. The Notice shall state the total approximate amount each Class  
5 Member is estimated to be entitled to receive as their Individual Settlement Payment under the  
6 Settlement. Any Notices returned to the Claims Administrator as undelivered and bearing a  
7 forwarding address shall be re-mailed by the Claims Administrator within three (3) business days  
8 following receipt of the returned mail. For any Notices returned to the Claims Administrator  
9 without a forwarding address, the Claims Administrator shall first conduct a National Change of  
10 Address search as required for undeliverable notices, followed by a computer/SSN and "skip trace"  
11 search to obtain an updated address, and shall promptly re-mail the Notices to any newly-found  
12 address or addresses. The re-mailed Notice shall be identical to the original Notice. The Claims  
13 Administrator shall undertake all reasonable efforts to locate and verify the addresses of Class  
14 Members and send a copy of the Notice to all Class Members. Any costs incurred by having the  
15 Claims Administrator handle these administrative tasks shall be included in the Administration  
16 Costs approved by the Court. If a Class Member cannot be located by reasonable efforts, he or she  
17 shall still be bound by the Settlement. The Claims Administrator shall notify the Parties' counsel of  
18 the number of undeliverable notices.

19       41.     **Procedure for Objecting to or Requesting Exclusion from the Settlement.** Any  
20 Class Member or other person(s) purporting to act on behalf of a Class Member who wishes to  
21 object to the Settlement, or to be excluded (opt-out) from the Settlement Class, must submit timely  
22 written objections or a request for exclusion from the Settlement Class within sixty (60) calendar  
23 days from the date Notice Packet is mailed ("Class Member Deadline"), using the following  
24 procedures:

25             (a)     **Objections.** The Notice shall provide that any Class Member(s) and  
26 person(s) purporting to act on behalf of any Class Member(s) who wish to object to the Settlement  
27 may submit to the Claims Administrator a written statement objecting to the Settlement on or before  
28 the Class Member Deadline. The Claims Administrator shall promptly provide copies of all such

1 submissions to counsel for the Parties. Such objection shall state whether the Class Member intends  
2 to appear at the Final Approval Hearing. A Class Member who fails to submit a timely written  
3 objection shall be deemed to have waived any objections and shall be foreclosed from making any  
4 objection to the Settlement.

5 (b) **Exclusions.** The Notice shall also provide that Class Members who wish to  
6 exclude themselves (opt-out) from the Settlement must mail (with a courtesy copy by email) to the  
7 Claims Administrator no later than the Class Member Deadline a written statement requesting  
8 exclusion from the Settlement Class. The request must contain the name, address, and telephone  
9 number of the Class Member requesting exclusion, a statement that they wish to exclude themselves  
10 from the settlement. Any request for exclusion postmarked later than sixty (60) calendar days from  
11 the date the Notice is mailed by the Claims Administrator shall not be effective. In addition, any  
12 request for exclusion of a Class Member who also submits an objection shall be deemed invalid.  
13 The Claims Administrator will provide Plaintiff's Counsel and Defendant's Counsel the names of  
14 individuals who submit requests for exclusion. Valid requests for exclusion shall exclude the Class  
15 Member from the settlement of all claims brought under Plaintiff's complaint, except for the  
16 settlement of PAGA claims.

17 (c) **Effect of Requesting or Failing to Request Exclusion.** Class Members who  
18 submit a timely (opt-out) and valid request for exclusion shall not be part of the Settlement Class,  
19 will not receive a *pro rata* distribution from the Net Settlement Fund and will not be allowed to  
20 object to this Settlement. Class Members who fail to submit a timely and valid request for exclusion  
21 in the manner described herein shall be Settlement Class Members, and shall be bound by all terms  
22 of the Settlement and the Judgment, if the Settlement is approved by the Court.

23 (d) **Defendant's Right to Rescind.** If more than 8% of the Class Members opt  
24 out of the Settlement Class by submitting valid and timely requests for exclusion, Defendant shall  
25 have the right in its sole discretion to rescind the entire settlement by providing written notice to  
26 Class Counsel within 14 calendar days of the day on which the Claims Administrator provides the  
27 Parties with the number of valid and timely requests for exclusion. If Defendants choose to exercise  
28 this option, the Parties shall be returned to their respective positions in the action as they existed



1 **EFFECTUATION OF SETTLEMENT**

2 46. **Computation of GSF Distribution and Employer Payroll Contributions.**

3 Plaintiff shall immediately submit the Order of Final Approval to the Claims Administrator, who  
4 shall calculate forthwith the amount of the Net Settlement Fund, the Individual Settlement Payments  
5 to the Settlement Class, and the amount of Employer Payroll Contributions on the wage portion of  
6 the Individual Settlement Payments. The Claims Administrator shall provide to the Defendant the  
7 Employer Payroll Contributions due.

8 47. **Deposit of Settlement Funds.** Within fourteen (14) calendar days after the Final  
9 Effective Date, Defendant shall wire the Claims Administrator \$726,600 to fund the GSF.  
10 Defendant shall in addition pay all Employer Payroll Contributions on the wage portion of the  
11 settlement once such amount becomes known.

12 48. **Individual Settlement Payments.** Individual Settlement Payments will be  
13 distributed by the Claims Administrator to Settlement Class Members within ten (10) calendar days  
14 from the date Defendant deposits the settlement funds. The Claims Administrator shall mail the  
15 Individual Settlement Payments to Settlement Class Members directly via first class mail.

16 49. **Payment of Fee and Expense Award.** Not later than ten (10) calendar days from  
17 the date Defendant deposits the settlement funds, the Claims Administrator shall wire Class Counsel  
18 the Court-approved Fee and Expense Award. The Fee and Expense Award shall be reported on an  
19 IRS 1099 Form to the appropriate taxing authorities, with a copy to Class Counsel.

20 50. **Payment of Service Award to Plaintiff.** Not later than ten (10) calendar days from  
21 the date Defendant deposits the settlement funds, the Claims Administrator shall forward to Plaintiff  
22 a check reflecting the Court-approved Service Award, if any. The Service Award shall be reported  
23 on an IRS 1099 Form to the appropriate taxing authorities, with a copy to Plaintiff.

24 51. **Uncashed Checks.** If funds that are not claimed within sixty (60) days after the  
25 settlement checks have been mailed exceed \$30,000, these funds shall be redistributed to Settlement  
26 Class members who cashed their settlement checks after first distribution. If any unnegotiated  
27 amount remains sixty (60) days after the second round of distribution, it shall be paid to Legal Aid  
28 at Work in Antioch, California as the *cy pres* recipient or such other charitable organization as

1 approved by the Court.

2 52. **Administration Costs.** Administration Costs as authorized by the Court shall be  
3 paid from the Gross Settlement Fund upon completion of all duties required to be performed by the  
4 Claims Administrator under the terms of this Agreement, or as otherwise required by the Court.

#### 5 **RELEASES**

6 53. **Release by the Settlement Class Members.** The Settlement will fully release all  
7 claims asserted in the Complaint, and any claims that could have been asserted in the Complaint  
8 based on the facts and circumstances alleged in this lawsuit. Upon final approval by the Court, and  
9 in exchange for the consideration provided, Settlement Class Members and their respective heirs,  
10 beneficiaries, devisees, executors, administrators, trustees, conservators, guardians, personal  
11 representatives, successors-in-interest, and assigns, will have forever and completely released  
12 Defendant and the Released Parties (defined as Atherstone Foods, Inc., dba Glass Onion Catering,  
13 and its operating entities, divisions, subsidiaries, affiliates, facilities, parent companies or related  
14 business entities, past or present officers, directors, shareholders, owners, members, legal successors  
15 and assigns, employees (whether present or former), agents, principals, heirs, representatives,  
16 accountants, auditors, consultants, attorneys, insurers and reinsurers, and their respective successors  
17 and predecessors in interest, affiliated companies, and all other representatives acting for Defendant  
18 or in concert with Defendant) from any and all claims, charges, complaints, causes of action, debts,  
19 liabilities, demands, grievances, obligations, guarantees, costs, expenses, attorneys' fees, penalties,  
20 damages, restitution, interest, injunctive relief, and remedies of any other type during the Class  
21 Period that are based on, arise out of, or are related to conduct asserted in this Complaint or could  
22 have been asserted in this Complaint based on the facts and circumstances alleged in this Complaint,  
23 including but not limited to such claims made pursuant to the California Industrial Welfare  
24 Commission Wage Orders, the California Labor Code and/or the Fair Labor Standards Act  
25 ("FLSA") for the alleged failure to provide meal breaks and rest breaks; alleged violations relating  
26 to on-duty meal periods and rest periods, meal period waivers and on-duty meal period agreements;  
27 alleged meal and rest period premium pay and penalties; the alleged failure to provide adequate  
28 wage statements; the alleged failure to timely pay wages ("waiting time" penalties); the alleged

1 failure to reimburse business expenses (FLSA and/or California Labor Code section 2802 claim),  
2 the alleged failure to pay for all hours worked, including any and all allegations related to donning  
3 and doffing, the alleged failure to pay minimum wage, the alleged failure to pay overtime, unfair  
4 business practices under Business and Professions Code section 17200 et seq.; and for alleged  
5 penalties and interest pursuant to the California Labor Code and the Private Attorneys General Act  
6 of 2004 (“PAGA”), up to and including the date of entry of a Court order granting Preliminary  
7 Approval of this Settlement. However, claims under the FLSA shall be released only by those Class  
8 Members who negotiate their settlement checks. Class Members who do not negotiate their  
9 settlement Checks will not be deemed to have released claims under the FLSA.

10       54.     **Release By Representative Plaintiff:** The Class Representative also will broadly  
11 release any and all claims that they have or could have against Defendant and will waive all rights  
12 under California Civil Code Section 1542, which provides as follows

13             **A general release does not extend to claims that the creditor or releasing party does**  
14             **not know or suspect to exist in his or her favor at the time of executing the release and**  
15             **that, if known by him or her, would have materially affected his or her settlement with**  
16             **the debtor or released party.**

17 Upon final approval by the Court, and in exchange for the consideration provided to Representative  
18 Plaintiff, Representative Plaintiff will fully and finally release and discharge the Released Parties  
19 (as defined above) from any and all of the claims released in Paragraph 53 above, and will also fully  
20 and finally release and discharge the Released Parties from any and all other claims, charges,  
21 complaints, liens, demands, causes of action, obligations, damages, and liabilities, known or  
22 unknown, suspected or unsuspected, that they had, now has, or may hereafter claim to have against  
23 Defendant and the Released Parties up to and including the date of Preliminary Approval of this  
24 Settlement. Representative Plaintiff’s released claims include, without limitation, all claims arising  
25 from or dependent upon the California Labor Code, including but not limited to PAGA; the wage  
26 orders of the California Industrial Welfare Commission; California Business and Professions Code  
27 section 17200 et seq.; the California Fair Employment and Housing Act, Cal. Gov’t Code section  
28 12900 et seq.; the California common law of contract and tort; Title VII of the Civil Rights Act of



1 1964; the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.; the Fair Labor Standards Act;  
2 the Age Discrimination in Employment Act; ERISA; and the Portal to Portal Act that have accrued  
3 up to and including the date of Preliminary Approval of this Settlement.

4 55. Named Plaintiff and Settlement Class, to the fullest extent allowed by law, are  
5 prohibited from asserting any claims released by them in this Agreement, and from commencing,  
6 joining in, prosecuting, or voluntarily assisting in a lawsuit or adversarial proceeding against the  
7 Released Parties, based on claims released by them in this Agreement. Excluded from this  
8 prohibition are any instances where any individual is legally compelled to testify through service of  
9 a subpoena or other legal process.

10 56. Named Plaintiff and Class Counsel agree that they will not publicize this case and/or  
11 the fact, amount of terms of the settlement, or the names of Defendant or its officers associated with  
12 the claims in the Action/this settlement, through any mass media, including any social media,  
13 websites, marketing materials, or the press (press releases, contact with a member of the press, or  
14 press conferences), except as provided for by the Settlement Agreement for purposes of effectuating  
15 notice of the settlement to the Settlement Class. If Named Plaintiff and her counsel are contacted  
16 by media about the settlement, they will respond only that the case has been resolved. Nothing in  
17 this paragraph shall prevent Class Counsel from communicating with the settlement class members,  
18 the LWDA, the DLSE, or the court in which the Action is pending, as may be required to carry out  
19 the terms of this settlement and/or fulfill their ethical responsibilities under the Settlement and to  
20 their respective clients. Class Counsel may also list this case in future declarations identifying cases  
21 in which Class Counsel was appointed Class Counsel (if the Court so appoints them).

## 22 **TAXES AND OTHER CONSEQUENCES OF SETTLEMENT PAYMENTS**

23 57. **Tax Payments and Reporting Obligations.** The Claims Administrator shall be  
24 responsible for making all necessary tax payments to governmental agencies, including but not  
25 limited to income taxes, required deductions and withholdings, and Employer Payroll  
26 Contributions, as well as all tax reports and filings in connection with all payments made under this  
27 Agreement, including but not limited to issuance of Forms W-2 and 1099.

28 58. **No Tax Advice.** Neither Plaintiff's Counsel nor Defendant's Counsel intend

1 anything contained herein to constitute legal advice regarding the taxability of any amount paid  
2 hereunder, nor shall it be relied upon as such. The tax issues for each Settlement Class Member are  
3 unique, and each Settlement Class Member is advised to obtain tax advice from his or her own tax  
4 advisor with respect to any payments resulting from the Individual Settlement Payments. In  
5 addition, Defendant makes no representations or warranties or promises of any kind or nature  
6 regarding the taxability of any sums paid to Plaintiff and Plaintiff's Counsel in settlement pursuant  
7 to this Agreement, the risk of which rests entirely with Plaintiff and Plaintiff's Counsel.

8         **59. Tax Obligations of Plaintiff and Plaintiff's Counsel.** Plaintiff and Plaintiff's  
9 Counsel acknowledge and agree that they are and will be responsible for the payment of any and all  
10 Federal, State, and Local taxes or penalties associated with their respective allocated portions of the  
11 payments described herein. The Parties acknowledge and agree that Plaintiff's Counsel is not  
12 responsible for the payment of any or all Federal, State, and local taxes or penalties associated with  
13 the Service Award to Plaintiff and Individual Settlement Payments to Settlement Class Members.  
14 In the event that the Defendant or any Released Party receives any notice or demand regarding a  
15 claim by a taxing authority that Plaintiff or Plaintiff's Counsel has failed to pay or underpaid their  
16 share of any taxes associated with payments they received under this Agreement, the Defendant  
17 agrees to notify Plaintiff or Plaintiff's Counsel so as to provide each of them with an opportunity to  
18 defend, at their own expense, the Released Parties from any such claim based on their respective  
19 payments; provided, however, that the opportunity to defend the Released Parties shall not relieve  
20 Plaintiff or Plaintiff's Counsel (or both, as applicable) of their obligation to indemnify and defend  
21 the Defendant and/or the Released Parties for their respective share.

22         **60. Settlement Class Member Tax Obligations.** Each Settlement Class Member will  
23 be responsible for paying all applicable state, local, and federal income taxes on all amounts the  
24 Settlement Class Member receives pursuant to this Agreement. Should any taxing authority or  
25 agency challenge the allocation of Individual Settlement Payments to wage and non-wage portions,  
26 each Settlement Class Member shall cooperate with the Defendant and provide documentation as  
27 requested to demonstrate such payment and the appropriateness of any withholding.

28         **61. No Effect on Employee Benefits.** The Individual Settlement Payments available to

1 Settlement Class Members and the Service Award paid to Plaintiff shall not be deemed to be  
2 “pensionable” earnings and shall not have any effect on the eligibility for, or calculation of, any of  
3 the employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the Plaintiff or Class  
4 Members. The Parties agree that any Individual Settlement Payment or Service Award paid under  
5 the terms of this Agreement does not represent any modification of Settlement Class Members’  
6 previously credited hours of service or other eligibility criteria under any employee pension benefit  
7 plan or employee welfare benefit plan sponsored by the Defendant. Further, any Individual  
8 Settlement Payment or the Service Award paid hereunder shall not be considered “compensation”  
9 in any year for purposes of determining eligibility for, or benefit accrual within, an employee  
10 pension benefit plan, employee welfare benefit plan, employee bonuses, or employee past, current,  
11 or future compensation levels. The Parties further agree that Plaintiff and all Settlement Class  
12 Members will be deemed to have waived any claims or benefits under the Employee Retirement  
13 Income Security Act of 1974 (29 U.S.C §1001 et seq.) premised upon any and all amounts they  
14 receive under this Settlement as part of their Released Claims under this Agreement.

15 **CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL,**  
16 **CANCELLATION AND TERMINATION**

17 62. **Nullification of Agreement.** The Parties expressly agree that this Agreement shall  
18 be null and void, and shall not be enforceable, in the event:

- 19 (i) the Court does not enter any order specified herein; or  
20 (ii) the Court does not enter a Final Approval Order finally approving the Settlement as  
21 provided herein or as otherwise acceptable to the Parties; or  
22 (iii) The Final Approval Order does not otherwise become final due to the non-  
23 occurrence of the Class Release Date.

24 (a) If the Settlement does not become final for any reason, this Agreement shall  
25 be null and void, no Party shall be bound by the terms thereof. This Agreement shall not be  
26 admissible or offered into evidence in the litigation or any other action for any purpose whatsoever,  
27 and any order or judgment entered by the Court in furtherance of this Settlement shall be treated as  
28 withdrawn or vacated by stipulation of the Parties. In such case, the Parties shall be returned to

1 their respective positions as of the date immediately prior to the execution of this Agreement, the  
2 Parties shall proceed in all respects as if this Agreement had not been executed, and the Defendant  
3 shall have no obligation to make any payments provided in this Agreement.

4 (b) Notwithstanding the foregoing, an appeal of, a modification of, a reversal on appeal, or the  
5 reduction of any Fee and Expense Award or Service Award shall not constitute grounds for  
6 cancellation and termination of this Agreement.

7 **GENERAL PROVISIONS**

8 63. **Cooperation.** The Parties agree to cooperate in the settlement administration  
9 process, to use their best efforts to carry out the terms of this Settlement, and make all reasonable  
10 efforts to control and minimize the costs and expenses in settlement administration.

11 64. **No Solicitation of Objections or Exclusions.** Neither the Parties nor their counsel  
12 or agents will contact Class Members for the purpose of attempting to influence them to not  
13 participate in this Settlement. If contacted by a Class Member, Class Counsel and representatives  
14 of the Defendant may provide information or assistance regarding any aspect of the Settlement  
15 requested by the Class Member. At no time shall any of the Parties or their counsel, agents, or  
16 representatives solicit or otherwise encourage Class Members or any other persons (including but  
17 not limited to the State of California Labor & Workforce Development Agency) to submit written  
18 objections to the Settlement or requests for exclusion from the Settlement, or encourage Class  
19 Members or any other person to appeal from the Judgment.

20 65. **General Duties of Claims Administrator.** In addition to those obligations detailed  
21 elsewhere in this Agreement, the Claims Administrator shall consult with counsel for the Parties  
22 concerning any relevant issue, shall keep counsel for the Parties apprised of the status of the  
23 distributions of Individual Settlement Payments, and shall perform such other tasks as the Parties  
24 mutually agree or the Court orders the Claims Administrators to perform, including responding to  
25 questions from Class Members.

26 66. **No Liability for Carrying Out Settlement Terms.** No person shall have any claim  
27 against the Parties based on mailings, distributions, and payments made, or any other action taken,  
28 in accordance with, or pursuant to, this Agreement or any order of the Court. In addition, no person

1 shall have any claim against the Parties or the Claims Administrator based on mailings,  
2 distributions, and payments made in accordance with this Agreement or any order of the Court. The  
3 Claims Administrator shall not be deemed to be an employee or agent of any Party.

4 67. **Headings and Captions.** The headings and captions contained in this Agreement  
5 are inserted for convenience and in no way define, limit, extend, or describe the scope of this  
6 Agreement or the intent of any provision thereof.

7 68. **Interim Stay of Proceedings.** Pending the Final Approval Hearing to be conducted  
8 by the Court, or earlier if for any reason the settlement contemplated by this Agreement will not  
9 occur, the Parties agree to hold in abeyance all proceedings in the Action, except such proceedings  
10 as are necessary to implement and complete the Settlement, or to comply with any Court Order.

11 69. **Amendment or Modification.** This Agreement may not be amended or modified  
12 in any respect except by a written instrument duly executed by all of the Parties to this Agreement  
13 or their counsel, and approved by the Court.

14 70. **Entire Agreement.** This Agreement and its Exhibits constitute the entire  
15 Agreement of the Parties with respect to the matters discussed herein, and no oral or written  
16 representations, warranties, or inducements have been made to any Party concerning this Agreement  
17 or its Exhibits other than the representations, warranties, and covenants contained and memorialized  
18 in such documents. All prior or contemporaneous negotiations, agreements, understandings, and  
19 representations, whether written or oral, are expressly superseded and are of no further force and  
20 effect. Each of the Parties acknowledges that it has not relied on any promise, representation, or  
21 warranty, express or implied, not contained in this Agreement.

22 71. **Authorization to Enter into Settlement Agreement.** Each signatory to this  
23 Agreement warrants and represents that he or she has the authority to execute this Agreement,  
24 thereby binding the respective party to take all appropriate action required or permitted to be taken  
25 by the Parties pursuant to this Agreement to effectuate its terms and to execute any other documents  
26 required to effectuate the terms of this Agreement. The Parties and their counsel agree to cooperate  
27 with each other and to use their best efforts to effect the implementation of this Agreement.

28 72. **Binding Effect of the Agreement.** This Agreement shall be binding upon, and inure

1 to the benefit of, the Parties and their respective heirs, legal representatives, executors,  
2 administrators, successors, and assigns.

3 73. **Choice of Law.** In determining the rights of the Parties hereto, this Agreement shall  
4 be governed by, construed, and interpreted in accordance with the laws of the State of California,  
5 without regard to the conflict of laws principles thereof.

6 74. **Counterparts.** This Agreement may be executed in one or more counterparts, each  
7 of which shall be an original, provided that counsel for the Parties shall exchange among themselves  
8 original signed counterparts.

9 75. **Representation by Counsel and Cooperation in Drafting.** All of the Parties  
10 acknowledge that they have been represented by counsel throughout negotiations and in the  
11 execution of this Agreement, and that this Agreement has been executed with the consent and advice  
12 of counsel. Each of the Parties has cooperated in the drafting and preparation of this Agreement.  
13 Hence, any rule which construes ambiguities against the drafter shall have no force or effect.

14 76. **Invalidity of Any Provision.** If any provision of this Agreement is held to be  
15 invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect.

16 77. **Terminology and Construction.** All personal pronouns used in this Agreement,  
17 whether used in the masculine, feminine, or neutral gender, shall include all other genders, and the  
18 singular shall include the plural and *vice versa*.

19 78. **Notices.** Any notices or other documents that must or may be transmitted to  
20 Plaintiff's Counsel and/or Defendant's Counsel, pursuant to any provision of this Agreement, shall  
21 be transmitted to each of the following:

<b>For documents to Defendant's Counsel:</b>	<b>For documents to Plaintiff's Counsel:</b>
Audrey A. Gee agee@bgwcounsel.com David M. Marchiano dmarchiano@bgwcounsel.com BROWN, GEE & WENGER LLP 200 Pringle Avenue, Suite 400 Walnut Creek, CA 94596 Telephone: (925) 943-5000	Arlo Garcia Uriarte arlo@liberationlawgroup.com Un Kei Wu unkei@liberationlawgroup.com LIBERATION LAW GROUP, P.C. 2760 Mission Street San Francisco, California 94110 Telephone: (415) 695-1000

1 Facsimile: (925) 933-2100

2 Facsimile: (415) 695-1006

3  
4 79. The Parties and all counsel acknowledge and agree that for the purposes of any  
5 claims, actions, and/or proceedings arising out of this Agreement, notice provided to Plaintiff's  
6 Counsel shall be deemed to be notice to the Plaintiff.

7 80. The Parties and their Counsel will fully cooperate with each other and use their best  
8 efforts, including all efforts contemplated by this Settlement and any other efforts that may become  
9 necessary or ordered by the Court, or otherwise, to accomplish the terms of this Settlement,  
10 including but not limited to, executing such documents and taking such other action as may  
11 reasonably be necessary to obtain preliminary and final approval of this Settlement and to  
12 implement its terms.

13 81. It is agreed that, because the Class Members are so numerous, it is impossible or  
14 impractical to have each Class Member who does not timely and validly opt-out execute this  
15 Agreement. Therefore, the Notice Packet will inform all Class Members of the binding nature of  
16 the releases contained in this Agreement will have the same force and effect as if this Agreement  
17 were executed by each Class Member who does not timely and validly opt-out.

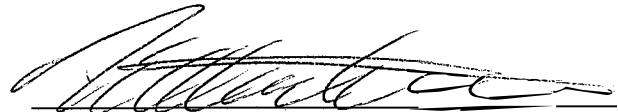
18 **EXECUTION BY PARTIES AND COUNSEL**

19 The Parties and their counsel hereby execute this document to evidence their acceptance of  
20 and agreement to the Settlement memorialized in this Agreement.

21  
22  
23 Dated: 06/15/2022, 2022

  
\_\_\_\_\_  
Deisi Carolina Sanchez  
Plaintiff/Class Representative

1  
2 Dated: July 6, 2022



Atherstone Foods, Inc. dba Glass Onion  
Catering  
By: *Thomas Atherstone*  
Title: *President*  
Defendant's Representative

3  
4  
5  
6  
7  
8  
9 Dated: June 15, 2022

LIBERATION LAW GROUP, P.C.

10  
11 By:

  
\_\_\_\_\_

12 Arlo G. Uriarte  
13 Un Kei Wu  
14 Attorneys for Plaintiff Deisi Carolina Sanchez

15  
16 Dated: July 6, 2022

BROWN, GEE & WENGER LLP

17  
18 By:

  
\_\_\_\_\_

19 Audrey A. Gee  
20 David M. Marchiano  
21 Attorneys for Defendant Atherstone Foods, Inc.  
22 dba Glass Onion Catering  
23  
24  
25  
26  
27  
28



# **EXHIBIT A**

1 Arlo García Uriarte, SBN 231764  
Un Kei Wu, SBN 270058  
2 Elizabeth Lyons, SBN 327742  
LIBERATION LAW GROUP, P.C.  
3 2760 Mission Street  
San Francisco, CA 94110  
4 Telephone: (415) 695-1000  
5 Facsimile: (415) 695-1006  
arlo@liberationlawgroup.com  
6 unkei@liberationlawgroup.com  
elizabeth@liberationlawgroup.com

7  
8 Attorneys for Plaintiff  
Deisi Carolina Sanchez

9  
10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF CONTRA COSTA**

12  
13  
14 Deisi Carolina Sanchez, an individual and on behalf  
of others similarly situated,

15 Plaintiff,

16 v.

17 Atherstone Foods, Inc., dba Glass Onion Catering.;  
18 and DOES 1 through 50,

19 Defendants.

Case No.: C20-01999

**FIRST AMENDED CLASS ACTION  
COMPLAINT**

- 20 (1) **FAILURE TO PAY ALL HOURS  
WORKED**
- 21 (2) **MINIMUM WAGE VIOLATION**
- 22 (3) **FAILURE TO PAY ALL OVERTIME  
HOURS UNDER THE CAL. LABOR  
CODE**
- 23 (4) **FAILURE TO PAY ALL OVERTIME  
HOURS UNDER THE FAIR LABOR  
STANDARDS ACT**
- 24 (5) **MEAL PERIOD VIOLATIONS**
- 25 (6) **REST PERIOD VIOLATIONS**
- 26 (7) **FAILURE TO REIMBURSE  
BUSINESS EXPENSES**
- 27 (8) **WAGE STATEMENT VIOLATIONS**
- 28 (9) **WAITING TIME PENALTIES**
- (10) **PRIVATE ATTORNEY GENERAL  
ACT (Labor Code §§2699, et seq.)**
- (11) **BUS. AND PROF. CODE §§ 17200**

**JURY TRIAL DEMANDED**



1 each of said fictitious DEFENDANTS was responsible in some way for the matters alleged herein and  
2 proximately caused PLAINTIFF and members of the class to be subject to the illegal employment practices,  
3 wrongs and injuries complained of herein.

4 **III. STATEMENT OF FACTS**

5 9. PLAINTIFF worked as a food preparer in the assembly line area of DEFENDANTS.

6 10. The class period is four years from the filing of this action, through the entry of final  
7 judgment in this action (“CLASS PERIOD”).

8 11. PLAINTIFF worked for DEFENDANTS from July 2019 until on or around February 2020.  
9 PLAINTIFF is a non-exempt, hourly employee of DEFENDANTS. PLAINTIFF worked at 200 West Ohio  
10 Avenue, Richmond, California 94804.

11 12. PLAINTIFF and putative class members were scheduled for five days per week in shifts of at  
12 least eight (8) hours.

13 13. PLAINTIFF and putative class members worked “off-the-clock” hours. DEFENDANTS had  
14 a policy and practice of requiring employees to be in full gear in the line area. DEFENDANTS required  
15 PLAINTIFF and putative class members to donning and doffing uniforms, protective gear and shoes before  
16 entering and/or leaving the assembly line area where DEFENDANTS’ timekeeping system was located.  
17 Additionally, PLAINTIFF and putative class members’ meal periods were often interrupted and were  
18 required to work during their meal periods without proper compensation.

19 14. Because these “off-the-clock” hours were not compensated at all, PLAINTIFF and putative  
20 class members received less than minimum wage pay for such hours worked.

21 15. Throughout their employment, DEFENDANTS failed to pay PLAINTIFF and putative class  
22 members for the time worked “off-the-clock.”

23 16. When PLAINTIFF and putative class members worked off-the-clock hours over eight (8)  
24 hours per day or more than forty (40) hours per week they were not paid at the overtime rate.

25 17. DEFENDANTS’ requirement of PLAINTIFF and putative class members to donning and  
26 doffing gear before entering or leaving the assembly area interrupted PLAINTIFF’s and putative class  
27 members meal periods and rest breaks. Such policy caused PLAINTIFF and putative class members to have  
28 meal periods and rest breaks cut shorter than thirty (30) minutes and ten (10) minutes respectively.

1           18.     DEFENDANTS also failed to authorize and permit PLAINTIFF and putative class members  
2 to take timely rest periods for every four (4) hours worked or major fraction thereof and meal periods for  
3 every five (5) hours worked or major fraction thereof.

4           19.     DEFENDANTS did not have a policy or practice to pay meal period premiums (equal to one  
5 additional hour of pay at the employee's regular rate of compensation) when meal periods were not properly  
6 provided to PLAINTIFF and putative class members.

7           20.     DEFENDANTS did not have a policy or practice to pay rest break premiums when rest  
8 breaks were not provided to PLAINTIFF and putative class members.

9           21.     As a condition of employment, DEFENDANTS required putative class members to purchase  
10 anti-slip shoes at putative class members' own expense. Putative class members were required to leave their  
11 anti-slip shoes at DEFENDANTS' premises and were not allowed to take them home or wear them  
12 elsewhere.

13           22.     DEFENDANTS failed to reimburse PLAINTIFF and putative class members for the cost of  
14 anti-slip shoes required as part of the employees' uniform and as a condition of employment.

15           23.     DEFENDANTS failed to issue accurate itemized wage statements to PLAINTIFF and  
16 similarly situated employees. The wage statements were not accurate in that they did not reflect the true  
17 number of hours worked at the correct compensation for PLAINTIFF, and similarly situated current and  
18 former employees for all hours worked and overtime hours.

#### 19 IV. CLASS ACTION ALLEGATIONS

20           24.     **DEFINITION:** PLAINTIFF brings this action on behalf of herself and a putative class of  
21 similarly situated employees pursuant to California Code of Civil Procedure § 382. The class is defined as:

22            “All current and former hourly or non-exempt employees of DEFENDANTS who worked in the  
23           State of California at any time from four years from the date of the filing of this action through the  
24           entry of final judgment in this action.”

25           25.     **NUMEROSITY AND ASCERTAINABILITY:** The members of the class are so numerous  
26 that joinder of all members would be impractical, if not impossible. PLAINTIFF is informed and believes  
27 that there are over fifty (50) employees working for DEFENDANTS in California at any one time. The  
28 identity of putative class members is readily ascertainable by review of DEFENDANTS' records. Notice can

1 be provided to DEFENDANTS' employees using techniques and a form of notice similar to those  
2 customarily used in class action lawsuits.

3           **26. ADEQUACY OF REPRESENTATION:** PLAINTIFF is a member of the putative class.  
4 PLAINTIFF does not have any conflicts of interest with other putative class members and will prosecute the  
5 case vigorously on behalf of the putative class. PLAINTIFF will fairly and adequately represent and protect  
6 the interests of putative class members. PLAINTIFF's counsel is competent and experienced in litigating  
7 wage and hour class actions.

8           **27. SUPERIORITY OF CLASS ACTION:** A class action is superior to all other available  
9 means of fair and efficient adjudication of this controversy. Individual joinder of all putative class members  
10 is not practicable, and questions of law and fact common to the putative class predominate over any  
11 questions affecting only individual members of the class. DEFENDANTS' employees have been damaged  
12 and are entitled to recovery by reason of DEFENDANTS' unlawful policies and/or practices described  
13 herein. Because the damages suffered by individual putative class members may be relatively small, albeit  
14 significant, the expense and burden of individual litigation make it impractical for most putative class  
15 members to seek individual redress for the wrongful conduct alleged. Class action treatment will allow those  
16 similarly situated persons to litigate their claims in the manner that is most efficient and economical for the  
17 parties and the judicial system.

18           **28.** The Labor Code and the applicable IWC Wage Order, are broadly remedial in nature. These  
19 laws and labor standards serve an important public interest in establishing minimum working conditions and  
20 standards in California. These laws and labor standards protect the average working employee from  
21 exploitation by employers who may seek to take advantage of superior economic conditions and bargaining  
22 power in setting onerous terms and conditions of employment.

23           **29.** The nature of this action and the format of laws available to PLAINTIFF and members of the  
24 putative class identified herein make the class action format a particularly efficient and appropriate procedure  
25 to redress the wrongs alleged herein. If each employee were required to file an individual lawsuit, the  
26 corporate DEFENDANTS would necessarily gain an unconscionable advantage since it would be able to  
27 exploit and overwhelm the limited resources of each individual PLAINTIFF with their vastly superior  
28 financial and legal resources. Requiring each putative class member to pursue an individual remedy would

1 also discourage the assertion of lawful claims by employees who would be disinclined to file an action  
2 against their former and/or current employer for real and justifiable fear of retaliation and permanent damage  
3 to their careers at subsequent employment.

4 30. The prosecution of separate actions by individual putative class members, even if possible,  
5 would create a substantial risk of: (a) Inconsistent or varying adjudications with respect to individual  
6 putative class members against the DEFENDANTS, which would establish potentially incompatible  
7 standards of conduct for the DEFENDANTS; and/or (b) Adjudications with respect to individual putative  
8 class members which would, as a practical matter, be dispositive of the interest of the other putative class  
9 members not parties to the adjudications, or which would substantially impair or impede the ability of  
10 DEFENDANTS' aggrieved employees to protect their interests. Further, the claims of the individual  
11 members of the putative class are not sufficiently large to warrant vigorous individual prosecution  
12 considering all of the concomitant costs and expenses.

13 31. **COMMON QUESTIONS OF LAW AND FACT:** There are questions of law and fact  
14 common to putative class members that predominate over any questions affecting only individual members  
15 of the class. These common questions of law and fact include:

- 16 a. Whether DEFENDANTS have failed to pay employees their wages for all hours worked;
- 17 b. Whether DEFENDANTS have failed to pay employees the prevailing minimum wage;
- 18 c. Whether DEFENDANTS have failed to pay employees their wages for all overtime hours  
19 worked;
- 20 d. Whether DEFENDANTS have failed to provide compensation to employees who were not  
21 provided rest periods in accordance with applicable law;
- 22 e. Whether DEFENDANTS have failed to provide compensation to employees who were not  
23 provided meal periods in accordance with applicable law;
- 24 f. Whether DEFENDANTS have failed to reimburse employees necessary business expenses;
- 25 g. Whether wage statements provided to DEFENDANTS' employees are adequate under  
26 applicable law, and whether employees are entitled to receive statutory penalties from  
27 DEFENDANTS for each wage statement violation committed; and  
28

1 h. Whether DEFENDANTS willfully failed to pay all wages due to DEFENDANTS'  
2 employees who were discharged or quit, and whether such employees are entitled to receive  
3 statutory penalties from DEFENDANTS for each violation committed.

4 32. **TYPICALITY:** PLAINTIFF's claims are typical to the claims of all members of the  
5 putative class. PLAINTIFF is a member of the putative class and has suffered the alleged, class-wide  
6 violations described herein.

7 **FIRST CAUSE OF ACTION**

8 *(Failure to Pay All Hours Worked)*

9 33. PLAINTIFF realleges and incorporates by reference the allegations of paragraphs above.

10 34. DEFENDANTS were required to compensate PLAINTIFF and similarly situated employees  
11 of DEFENDANTS for all hours worked.

12 35. PLAINTIFF and similarly situated current and former employees of DEFENDANTS,  
13 performed work for DEFENDANTS.

14 36. DEFENDANTS failed to pay PLAINTIFF and similarly situated current and former  
15 employees for all hours worked.

16 37. As a result of DEFENDANTS' unlawful acts, PLAINTIFF and similarly situated current and  
17 former employees of DEFENDANTS, have been deprived of compensation for all hours worked in an  
18 amount to be determined at trial, and are entitled to recovery of such amounts, plus interest thereon, under  
19 Labor Code §218.6.

20 38. By violating the applicable IWC Wage Order and Labor Code §§ 201, 202 and 1194,  
21 DEFENDANTS are liable for attorneys' fees and costs in an amount equal to the wages unlawfully unpaid  
22 and interest thereon under Labor Code § 218.5.

23 39. PLAINTIFF, on behalf of herself and similarly situated current and former employees of  
24 DEFENDANTS, requests relief as described below.

25 **SECOND CAUSE OF ACTION**

26 *(Minimum Wage Violation)*

27 40. PLAINTIFF realleges and incorporates by reference the allegations of the paragraphs above.



1           41.     DEFENDANTS were required to compensate PLAINTIFF, and similarly situated employees  
2 of DEFENDANTS, at the minimum wage for all hours worked.

3           42.     PLAINTIFF and similarly situated current and former employees of DEFENDANTS,  
4 performed work for DEFENDANTS.

5           43.     DEFENDANTS failed to compensate PLAINTIFF and similarly situated current and former  
6 employees of DEFENDANTS, at the minimum wage when PLAINTIFF and similarly situated current and  
7 former employees of DEFENDANTS worked off-the-clock hours.

8           44.     As a result of DEFENDANTS' unlawful acts, PLAINTIFF, and similarly situated current and  
9 former employees of DEFENDANTS, have been deprived of minimum wages due for all hours worked in an  
10 amount to be determined at trial, and are entitled to recovery of such amounts, plus interest thereon, under  
11 Labor Code §218.6.

12           45.     By violating the applicable IWC Wage Order and Labor Code § 1194 DEFENDANTS are  
13 liable for attorneys' fees and costs and liquidates damages in an amount equal to the wages unlawfully  
14 unpaid and interest thereon under Labor Code §§ 218.5 and 1194.2.

15           46.     PLAINTIFF, on behalf of herself and similarly situated current and former employees of  
16 DEFENDANTS, requests relief as described below.

17                                   **THIRD CAUSE OF ACTION**

18                                   *(Failure to Pay Overtime Hours Worked Under the Cal. Labor Code)*

19           47.     PLAINTIFF realleges and incorporates by reference the allegations of the paragraphs above.

20           48.     DEFENDANTS were required to compensate PLAINTIFF and similarly situated employees  
21 of DEFENDANTS, for all overtime hours worked.

22           49.     As a result of DEFENDANTS' unlawful acts, PLAINTIFF and similarly situated current and  
23 former employees of DEFENDANTS, have been deprived of compensation for all hours worked in an  
24 amount to be determined at trial, and are entitled to recovery of such amounts, plus interest thereon, under  
25 Labor Code §218.6.

26           50.     By violating the applicable IWC Wage Order and Labor Code §§510 and 1194,  
27 DEFENDANTS are liable for civil penalties, attorneys' fees and costs under Labor Code §§ 218.5 and 558.



1 U.S.C. sections 216(b) and 255(a), and such other legal and equitable relief as the Court deems just and  
2 proper.

3 59. PLAINTIFF, on behalf of herself and the collective class, seeks recovery of their attorneys'  
4 fees and costs to be paid by DEFENDANTS, as provided by the FLSA, 29 U.S.C. section 216(b).

5 **FIFTH CAUSE OF ACTION**

6 *(Failure to Pay Compensation for Improper Meal Periods)*

7 60. PLAINTIFF realleges and incorporates by reference the allegations of the paragraphs above.

8 61. DEFENDANTS are required to authorize and permit PLAINTIFF, and similarly situated  
9 current and former employees of DEFENDANTS, the opportunity to take meal periods based upon total  
10 hours worked, at a rate of thirty (30) minutes net break time per five (5) hours worked or major fraction  
11 thereof.

12 62. DEFENDANTS have violated Labor Code §§ 226.7, 512, and the applicable IWC Wage  
13 Order, by failing to pay PLAINTIFF and similarly situated current and former employees of  
14 DEFENDANTS, one (1) hour of pay at their regular rate of pay for each work day meal periods were  
15 required but not provided.

16 63. By violating the applicable IWC Wage Order and Labor Code §226.7 and 512,  
17 DEFENDANTS are liable for attorneys' fees and costs under Labor Code §§ 218.5 and 1194.

18 64. PLAINTIFF, on behalf of herself and similarly situated current and former employees of  
19 DEFENDANTS, requests relief as described below.

20 **SIXTH CAUSE OF ACTION**

21 *(Failure to Pay Compensation for Improper Rest Periods)*

22 65. PLAINTIFF realleges and incorporates by reference the allegations of the paragraphs above.

23 66. DEFENDANTS are required to authorize and permit PLAINTIFF, and similarly situated  
24 current and former employees of DEFENDANTS, the opportunity to take rest periods based upon total hours  
25 worked, at a rate of ten (10) minutes net rest time per four (4) hours worked or major fraction thereof, with  
26 no deduction from wages.

27 67. By violating the applicable IWC Wage Order and Labor Code §226.7, DEFENDANTS are  
28 liable for attorneys' fees and costs under Labor Code §§ 218.5 and 1194.



1 the initial pay period in which the violation occurred, and \$100.00 for each subsequent violation, up to a  
2 maximum of \$4000.00, pursuant to Labor Code § 226, as well as reasonable attorney's fees and costs of suit.

3 77. PLAINTIFF, on behalf of herself and similarly situated current and former employees of  
4 DEFENDANTS, request relief as described below.

5 **NINTH CAUSE OF ACTION**

6 *(Labor Code §§ 201-203- Waiting Time Penalties)*

7 78. PLAINTIFF realleges and incorporates by reference the allegations of the paragraphs above.

8 79. California Labor Code § 201 requires an employer who discharges an employee to pay all  
9 compensation due to that employee immediately upon discharge

10 80. California Labor Code § 202 requires an employer to pay all compensation due to employees  
11 who quit within 72 hours of that employee quitting, unless the employee provides at least 72 hours' notice of  
12 quitting, in which case all compensation is due at the end of the employee's final day of work.

13 81. Labor Code § 203 provides that if an employer willfully fails to pay compensation as  
14 required by § 201 or § 202, then the employer is liable for waiting time penalties in the form of continued  
15 compensation of up to thirty (30) work days.

16 82. As a result of DEFENDANTS unlawful acts, DEFENDANTS are liable to separated  
17 employees of DEFENDANTS, for waiting time penalties, together with interest thereon, under Labor Code §  
18 203.

19 83. PLAINTIFF, on behalf of separated employees of DEFENDANTS, requests relief as  
20 described below.

21 **TENTH CAUSE OF ACTION**

22 *(Civil Penalties Pursuant to Private Attorney General Act Labor Code §§2698, et seq)*

23 84. PLAINTIFF realleges and incorporates by reference the allegations of the paragraphs above.

24 85. Pursuant to the foregoing violations of statutes and regulations to permit PLAINTIFF to  
25 recover civil penalties through this action. The PAGA imposes a civil penalty of one hundred dollars (\$100)  
26 per pay period, per aggrieved employee for initial violations, and two hundred (\$200) per pay period per  
27 aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not  
28 specifically provided.



1           95.     The conduct of DEFENDANTS, as alleged herein, has been and continues to be unfair,  
2 unlawful, and deleterious to PLAINTIFF and similarly situated current and former employees, and to the  
3 general public.

4           96.     PLAINTIFF hereby seeks to enforce important rights affecting the public interest within the  
5 meaning of Code of Civil Procedure § 1021.5. PLAINTIFF is a “person” within the meaning of Business  
6 and Professions Code § 17204 and therefore has standing to bring this suit for injunctive relief and  
7 restitution.

8           97.     The prompt and proper payment of wages is a fundamental public policy of the State of  
9 California. It is also the public policy of the State to enforce minimum labor standards ensuring that  
10 employees are not required or permitted to work under substandard and unlawful conditions and to protect  
11 those employers who comply with the law from losing competitive advantage to other employers that fail to  
12 comply with labor standards and requirements.

13           98.     Through the conduct alleged herein, DEFENDANTS acted contrary to these public policies  
14 and have thus engaged in unlawful and/or unfair business practices in violation of Business and Professions  
15 Code §§ 17200 et. seq. depriving PLAINTIFF and similarly situated current and former employees of  
16 DEFENDANTS, the rights, benefits, and privileges guaranteed to employees under California law.

17           99.     Beginning at an exact date unknown to PLAINTIFF, but at least four years prior to the filing  
18 of this action, DEFENDANTS have committed unlawful, unfair, and/or fraudulent business acts and  
19 practices as defined by Cal. Business & Professions Code § 17200, by engaging in the following:

- 20           a.     Failing to pay all hours worked;
- 21           b.     Failing to pay minimum wage;
- 22           c.     Failing to pay all overtime hours worked;
- 23           d.     Failing and refusing to authorize and permit proper meal periods to PLAINTIFF and  
24                 similarly situated current and former employees of DEFENDANTS;
- 25           e.     Failing to pay all accrued meal periods compensation to PLAINTIFF and similarly situated  
26                 current and former employees of DEFENDANTS;
- 27           f.     Failing and refusing to authorize and permit proper rest breaks to PLAINTIFF and similarly  
28                 situated current and former employees of DEFENDANTS;

- g. Failing to pay all accrued rest break compensation to PLAINTIFF and similarly situated current and former employees of DEFENDANTS;
- h. Failing to reimburse employees necessary business expenses;
- i. Failing to provide accurate itemized wage statements to PLAINTIFFS and similarly situated current and former employees of DEFENDANTS; and
- j. Failing to pay all wages owed to separated employees of DEFENDANTS, at the end of their employment.

100. By engaging in these business practices, which are unfair and unlawful within the meaning of Business and Professions Code §§ 17200 et. seq., DEFENDANTS harmed PLAINTIFF, similarly situated current and former employees of DEFENDANTS, and the general public, and have gained an unfair competitive edge.

101. Under Business and Professions Code § 17203, PLAINTIFF is entitled to obtain restitution on behalf of herself and others similarly affected by the unfair and/or unlawful business practices as set forth herein.

102. Pursuant to Business and Professions Code § 17202, PLAINTIFF is entitled to specific relief enforcing the penalty provisions of various Labor Code sections for herself and for members of the general public in amounts to be proven at trial. Failure to enforce the penalties due would result in the unlawful enrichment of DEFENDANTS and would promote unfair competition.

103. Pursuant to Business & Professions Code § 17203, injunctive relief is necessary to prevent DEFENDANTS from continuing to engage in the unfair business practices as alleged herein.

104. PLAINTIFF alleges, on information and belief, that DEFENDANTS, and persons acting in concert with them, have committed and will continue to commit the above-described unlawful and/or unfair acts unless restrained or enjoined by this Court. Unless the relief prayed for below is granted, a multiplicity of actions will result. PLAINTIFF and other interested persons have no plain, speedy, or adequate remedy at law, in that pecuniary compensation alone would not afford adequate and complete relief. The above-described acts will cause great and irreparable damage to PLAINTIFF and other interested persons unless DEFENDANTS are restrained from committing further illegal acts.





10. Statutory penalties under Labor Code §558;
11. Liquidated Damages pursuant to Labor Code §1194.2 and under the FLSA;
12. An award of twenty-five percent (25%) of all penalties due under California law, interest, attorneys' fees and costs to PLAINTIFF as an aggrieved employee on behalf of himself and other current and former employees of DEFENDANTS, pursuant to Labor Code §2699(i) and an award of seventy-five percent (75%) of the penalties in favor of the LWDA.
13. Pursuant to Business & Professions Code § 17203, an award of restitution for the unjustly amounts earned or retained DEFENDANTS by virtue of their engaging in unlawful conduct, according to proof;
14. For reasonable attorney's fees and costs made payable to Liberation Law Group, P.C., under applicable laws; and
15. Such other and further relief as the Court deems just and proper.

14 Dated: LIBERATION LAW GROUP, P.C.

16 By: \_\_\_\_\_  
17 Un Kei Wu  
18 Attorneys for PLAINTIFF

19 **VI. DEMAND FOR JURY TRIAL**

20 PLAINTIFF hereby demands a trial by jury.

21 Dated: LIBERATION LAW GROUP, P.C.

23 By: \_\_\_\_\_  
24 Un Kei Wu  
25 Attorneys for PLAINTIFF