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

JONATHAN GARCIA and OSCAR  
MENDOZA, individually, and on behalf of  
all other aggrieved employees, and the  
general public

Plaintiffs,

vs.

BARNEY'S COLLEGE, INC., a California  
corporation; BARNEY'S PIEDMONT, INC.,  
a California Corporation; BARNEY'S SAN  
FRANCISCO, INC., a California corporation;  
BARNEY'S SAN VICENTE, INC., a  
California corporation; BARNEY'S  
SOLANO, INC., a California corporation;  
BARNEYS BRENTWOOD, INC., a  
California corporation; BARNEYS  
SHATTUCK, INCORPORATED, a  
California corporation; BARNEY'S  
STEINER, LLC, a California limited liability  
company; and DOES 1 through 25, inclusive

Defendants.

Case No.: RG21113350

**JOINT STIPULATION OF CLASS AND  
PAGA ACTION SETTLEMENT AND  
RELEASE**

1               **JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT AND RELEASE**

2               Subject to the condition of Court’s final approval, this Joint Stipulation of Class and PAGA  
 3 Action Settlement and Release (“Settlement” or “Settlement Agreement”) is made and entered into by  
 4 and between Plaintiffs Jonathan Garcia and Oscar Mendoza (“Plaintiffs” or “Class Representatives”), as  
 5 individuals and on behalf of all others similarly situated, and Defendants Barney’s College, Inc.,  
 6 Barney’s Piedmont, Inc., Barney’s San Francisco, Inc., Barney’s San Vicente, Inc., Barney’s Solano,  
 7 Inc., Barney’s Brentwood, Inc., Barney’s Shattuck, Incorporated, and Barney’s Steiner, LLC  
 8 (“Defendants”) (collectively with Plaintiffs, the “Parties”).

9   **DEFINITIONS**

10               The following definitions are applicable to this Settlement Agreement. Definitions contained  
 11 elsewhere in this Settlement Agreement will also be effective:

- 12               1.           “Action” and “Class Action” each means *Garcia v. Barney’s College, Inc.*, Case  
 13 No. RG21113350, currently pending in Alameda County Superior Court.
- 14               2.           “Attorneys’ Fees and Costs” means attorneys’ fees approved by the Court for Class  
 15 Counsel’s litigation and resolution of the Action, and all out-of-pocket costs incurred and to be incurred  
 16 by Class Counsel in the Action approved by the Court, including but not limited to expert/consultant  
 17 fees, investigation costs, and costs associated with documenting the Settlement, providing any notices  
 18 required as part of the Settlement or Court order, securing the Court’s approval of the Settlement,  
 19 administering the Settlement, and obtaining entry of a Judgment terminating the Action. Class Counsel  
 20 will request attorneys’ fees not in excess of one-third (1/3) of the Gross Settlement Amount, or One  
 21 Hundred Ninety One Thousand Six Hundred Sixty Seven Dollars (\$191,667). The Attorneys’ Fees and  
 22 Costs will also mean and include the additional reimbursement of any costs and expenses associated with  
 23 Class Counsel’s litigation and settlement of the Action, up to fifteen thousand dollars (\$15,000), subject  
 24 to the Court’s approval. Defendants have agreed not to oppose Class Counsel’s request for fees and  
 25 reimbursement of costs as set forth above as long as the request does not exceed the amounts set forth  
 26 above. To the extent that the Court approves less than the amount of Attorneys Fees’ and Costs that  
 27 Class Counsel requests, the difference between the requested and awarded amounts will be distributed to  
 28 Class Members on a proportional basis relative to the size of their claims as set forth in this Settlement

1 Agreement's Sections 40(a) and 40(b). Class Counsel understand and agree that this Settlement  
2 Agreement shall remain in full force and effect even if the full amount of Attorneys' Fees and Costs  
3 sought by Class Counsel is not ultimately awarded by the Court.

4 3. "Class Counsel" means Capstone Law APC and Boyamian Law, Inc.

5 4. "Class List" means a complete list of all Class Members that Defendants will diligently  
6 and in good faith compile from their records and provide to the Settlement Administrator within twenty  
7 (20) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in  
8 Microsoft Office Excel and will include, to the degree it is known to Defendants, each Class Member's  
9 full name; last known mailing address and telephone number; Social Security number; dates of  
10 employment; the respective number of Pay Periods that each Class Member worked during the Class  
11 Period and PAGA Period; and any other relevant information needed to calculate settlement payments.  
12 The Settlement Administrator shall keep the class data provided by Defendant strictly confidential, shall  
13 use the class data only for the purposes described in this Agreement. Under no circumstances will the  
14 class data be provided to Class Counsel. The Settlement Administrator's obligation to maintain the strict  
15 confidentiality of the class data continues past and survives the end of the settlement administration by  
16 the Settlement Administrator.

17 5. "Class Member(s)" or "Settlement Class" means all persons who worked for Defendants  
18 in non-exempt positions in the State of California at any time during the period from September 21, 2017  
19 to the earlier of December 1, 2022 or the date of Preliminary Approval. This includes all members of the  
20 Settlement Class whose employment ended during the Class Period (including but not limited to any  
21 terminated individuals).

22 6. "Class Period" means the period from September 21, 2017 to the earlier of December 1,  
23 2022 or the date of Preliminary Approval.

24 7. "Class Representative Service Award" means the Court award of a Class Representative  
25 Service Award to Class Representatives in recognition of their effort and work in prosecuting the Action  
26 on behalf of Class Members, and for their general release of known and unknown claims. Subject to the  
27 Court granting final approval of this Settlement Agreement and subject to the exhaustion of any and all  
28 appeals, Class Representatives will request Court approval of Class Representative Service Award of up

1 to Ten Thousand Dollars (\$10,000), each. To the extent that the Court approves less than the amount of  
2 Class Representative Service Award that Class Representatives or Class Counsel requests, the difference  
3 between the requested and awarded amounts will be distributed to Class Members on a proportional  
4 basis relative to the size of their claims as set forth in this Settlement Agreement's Sections 40(a) and  
5 40(b). Class Representatives understand and agree that this Settlement Agreement shall remain in full  
6 force and effect even if the full amount of Class Representative Service Awards sought by Plaintiffs is  
7 not ultimately awarded by the Court.

8 8. "Court" means the Alameda County Superior Court.

9 9. "Defendants" means Defendants Barney's College, Inc., Barney's Piedmont, Inc.,  
10 Barney's San Francisco, Inc., Barney's San Vicente, Inc., Barney's Solano, Inc., Barney's Brentwood,  
11 Inc., Barney's Shattuck, Incorporated, and Barney's Steiner, LLC.

12 10. "Effective Date" means the later of: (a) if no timely objections are filed, or are  
13 withdrawn prior to Final Approval, then the date of Final Approval; or (b) if a Class Member files an  
14 objection to the Settlement, the Effective Date shall be the sixty-first (61) calendar day after the date of  
15 Final Approval, provided no appeal is initiated by an objector; or (c) if a timely appeal is initiated by an  
16 objector, then the Effective Date will be the date of final resolution of that appeal (including any requests  
17 for rehearing and/or petitions for certiorari), resulting in final judicial approval of the Settlement.

18 11. "Final Approval" means the date on which the Court enters an order granting final  
19 approval of the Settlement Agreement.

20 12. "Gross Settlement Amount" means the combined, total Gross Settlement Amount of  
21 Five Hundred Seventy Five Thousand Dollars (\$575,000), to be paid by Defendants in full satisfaction of  
22 all Released Class Claims and Released PAGA Claims, which includes all Individual Settlement  
23 Payments, Attorneys' Fees and Costs, the Class Representative Enhancement Payments, the PAGA  
24 Settlement Amount, and Settlement Administration Costs. This Gross Settlement Amount has been  
25 agreed to by Plaintiffs and Defendants based on arms-length negotiations, which included the aggregated  
26 settlement value of individual claims. In no event will Defendants be liable for more than the Gross  
27 Settlement Amount except as otherwise explicitly set forth herein. There will be no reversion of the  
28 Gross Settlement Amount to Defendants. Defendants will be separately responsible for any employer

1 payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions, which shall  
2 not be paid from the Gross Settlement Amount.

3 13. "Individual Settlement Payment" means each Participating Class Member's and PAGA  
4 Member's respective shares of the Net Settlement Fund and PAGA Fund.

5 14. "Net Settlement Fund" means the portion of the Gross Settlement Amount remaining  
6 after deducting the Attorneys' Fees and Costs, the Class Representative Enhancement Payments, the  
7 PAGA Settlement Amount, and Settlement Administration Costs. The Net Settlement Fund will be  
8 distributed to Participating Class Members. There will be no reversion of the Net Settlement Fund to  
9 Defendants.

10 15. "Notice of Objection" means a Class Member's valid and timely written objection to the  
11 Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the objector's full  
12 name, signature, address, and telephone number, (b) a written statement of all grounds for the objection  
13 accompanied by any legal support for such objection; (c) copies of any papers, briefs, or other  
14 documents upon which the objection is based; and (d) a statement whether the objector intends to appear  
15 at the final fairness hearing.

16 16. "Notice Packet" means the Notice of Class Action Settlement, substantially in the form  
17 attached as Exhibit A.

18 17. "PAGA Members" means all persons who worked for Defendants in non-exempt  
19 positions in the State of California at any time during the period from July 9, 2020 to the earlier of  
20 December 1, 2022 or the date of Preliminary Approval.

21 18. "PAGA Period" means the period from July 9, 2020 to the earlier of December 1, 2022  
22 or the date of Preliminary Approval.

23 19. "PAGA Settlement Amount" means the amount that, subject to Court approval, the  
24 Parties have agreed to pay to the Labor and Workforce Development Agency ("LWDA") and PAGA  
25 Members in connection with Plaintiffs' claim under the Labor Code Private Attorneys General Act of  
26 2004 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA") ("PAGA Settlement"). The Parties have agreed to  
27 request that Twenty Thousand Dollars (\$20,000) of the Gross Settlement Amount will be allocated to the  
28 PAGA Settlement (the "PAGA Allocation"). Pursuant to PAGA, Seventy-Five Percent (75%), or

1 Fifteen Thousand Dollars (\$15,000), of the PAGA Settlement Amount will be paid to the California  
2 Labor and Workforce Development Agency (“Labor and Workforce Development Agency Payment”),  
3 and Twenty-Five Percent (25%), or Five Thousand Dollars (\$5,000) (“PAGA Fund”), of the PAGA  
4 Settlement will be disbursed to PAGA Members, and regardless whether they request to be excluded  
5 from the Settlement Class. If the Court does not approve the PAGA Allocation, then the entire  
6 Agreement will be, at Defendant’s sole discretion, void and unenforceable. In the event Defendant  
7 exercises this option, the Settlement Administration Costs for the administration of the Settlement up to  
8 the date that Defendant exercises this option shall be borne by Defendant.

9 20. “Parties” means Plaintiffs and Defendants collectively.

10 21. “Participating Class Members” means all Class Members who do not submit timely and  
11 valid Requests for Exclusion.

12 22. “Pay Period(s)” means, consistent with the definition provided by Labor Code section  
13 204, the number of pay periods during which each Class Members/PAGA Member worked during the  
14 applicable Class Period/PAGA Period. All Class Members will be deemed to have worked during at  
15 least one Pay Period during the Class Period, and all PAGA Members will be deemed to have worked  
16 during at least one Pay Period during the PAGA Period.

17 23. “Plaintiffs” or “Class Representatives” means Plaintiffs Jonathan Garcia and Oscar  
18 Mendoza.

19 24. “Preliminary Approval” means the date on which the Court enters an order granting  
20 preliminary approval of the Settlement Agreement.

21 25. “Released Class Claims” means all claims, rights, demands, liabilities, and causes of  
22 action arising from, or related to, the same set of operative facts as those set forth in the operative  
23 complaint during the Class Period, including: (a) all claims for unpaid overtime; (b) all claims for meal  
24 and rest break violations; (c) all claims for unpaid minimum wages; (d) all claims for the failure to  
25 reimburse for necessary business expenses; (e) all claims for reporting time violations; (f) all claims for  
26 split-shift violations; (g) all claims for the failure to timely pay wages upon termination based on the  
27 preceding claims; (h) all claims for the failure to timely pay wages during employment based on the  
28 preceding claims; (i) all claims for wage statement violations based on the preceding claims; (j) all

1 known and unknown claims arising under California Labor Code sections 200, 201, 202, 203, 204,  
2 206.5, 226, 226.7, 450, 510, 512, 516, 558, 1174, 1182.12, 1194, 1197, 1197.1, 1198, 2698-2699.5,  
3 2802; (k) the corresponding sections of the IWC Wage Order 4 and 5; (l) the California Unfair  
4 Competition Law, Business and Professions Code section 17200 *et seq.* based on the preceding claims;  
5 and (m) the Released PAGA Claims.

6 26. “Released PAGA Claims” means all claims for civil penalties under California Labor  
7 Code §§ 2698, *et seq.*, that were brought or could reasonably have been brought based on the facts  
8 alleged in Plaintiffs’ LWDA letter during the PAGA Period.

9 27. “Released Parties” means Defendants, and each of them, and each of their respective  
10 past, present and/or former members, parent companies, subsidiaries, affiliates, joint ventures, joint-  
11 employers (if any), and licensees, and each of their respective shareholders, members, managers,  
12 officers, directors, employees, agents, servants, contractors, representatives, principals, heirs, attorneys,  
13 accountants, auditors, consultants, insurers, reinsurers, subsidiaries, affiliates, parents, successors and  
14 assigns, and any other persons or entities acting by through, under or in concert with any of them.

15 28. “Request for Exclusion” means a timely letter submitted by a Class Member indicating a  
16 request to be excluded from the Settlement Class. The Request for Exclusion must: (a) set forth the  
17 name, address, telephone number and last four digits of the Social Security Number of the Class  
18 Member requesting exclusion; (b) be signed by the Class Member; (c) be returned to the Settlement  
19 Administrator; (d) clearly state that the Class Member does not wish to be included in the Settlement;  
20 and (e) be faxed or postmarked on or before the Response Deadline.

21 29. “Response Deadline” means the deadline by which Class Members must postmark or  
22 fax to the Settlement Administrator Requests for Exclusion, postmark or fax disputes concerning the  
23 calculation of Individual Settlement Payments, or postmark Notices of Objection to the Settlement  
24 Administrator. The Response Deadline will be forty-five (45) calendar days from the initial mailing of  
25 the Notice Packet by the Settlement Administrator, unless the forty-fifth (45th) calendar day falls on a  
26 Sunday or State holiday, in which case the Response Deadline will be extended to the next day on which  
27 the U.S. Postal Service is open.

28 30. “Settlement Administration Costs” means the costs payable from the Gross Settlement

1 Amount to the Settlement Administrator for administering this Settlement, including, but not limited to,  
2 printing, distributing, and tracking documents for this Settlement, tax reporting, distributing the Gross  
3 Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The  
4 Settlement Administration Costs will be paid from the Gross Settlement Amount, including, if necessary,  
5 any such costs in excess of the amount represented by the Settlement Administrator as being the  
6 maximum costs necessary to administer the Settlement. Based on an estimated Settlement Class of  
7 approximately Five Hundred Seventy-Five (575) Class Members, the Settlement Administration Costs  
8 are currently estimated to be Eleven Thousand Five Hundred Dollars (\$11,500.00).

9 31. "Settlement Administrator" means Phoenix Class Action Administration Solutions, or  
10 any other third-party class action settlement administrator agreed to by the Parties and approved by the  
11 Court for the purposes of administering this Settlement. The Parties each represent that they do not have  
12 any financial interest in the Settlement Administrator or otherwise have a relationship with the  
13 Settlement Administrator that could create a conflict of interest.

#### 14 **TERMS OF AGREEMENT**

15 The Plaintiffs, on behalf of themselves and the Settlement Class, and Defendants agree as  
16 follows:

17 32. Funding of the Gross Settlement Amount. Defendants will make a one-time deposit of  
18 the Gross Settlement Amount of Five Hundred Seventy Five Thousand Dollars (\$575,000) into a  
19 Qualified Settlement Account to be established by the Settlement Administrator. Defendants will pay the  
20 employer's share of payroll taxes separately. After the Effective Date, the Gross Settlement Amount will  
21 be used for: (a) Individual Settlement Payments; (b) the Labor and Workforce Development Agency  
22 Payment; (c) the Class Representative Enhancement Payments; (d) Attorneys' Fees and Costs; and (e)  
23 Settlement Administration Costs. Defendants will deposit the Gross Settlement Amount and the  
24 employer's share of payroll taxes within ten (10) calendar days of the Effective Date or September 2,  
25 2023, whichever is later ("Funding Date").

26 33. Attorneys' Fees and Costs. Defendants agree not to oppose or impede any application or  
27 motion by Class Counsel for Attorneys' Fees and Costs of not more than One Hundred Ninety One  
28 Thousand Six Hundred Sixty Seven Dollars (\$191,667), plus the reimbursement of all out-of-pocket



1 costs and expenses associated with Class Counsel's litigation and settlement of the Action (including  
2 expert/consultant fees, investigations costs, etc.), not to exceed fifteen thousand dollars (\$15,000), both of  
3 which will be paid from the Gross Settlement Amount. The Court's award of attorneys' fees will be  
4 divided as follows: Thirty Percent (30%) to Capstone Law APC and Seventy Percent (70%) to  
5 Boyamian Law, Inc. To the extent that the Court approves less than the amount of Attorneys Fees' and  
6 Costs that Class Counsel requests, the difference between the requested and awarded amounts will be  
7 distributed to Class Members on a proportional basis relative to the size of their claims as set forth in this  
8 Settlement Agreement's Sections 36-40. Class Counsel understand and agree that this Settlement  
9 Agreement shall remain in full force and effect even if the full amount of Attorneys Fees' and Costs  
10 sought by Class Counsel is not ultimately awarded by the Court.

11       34.     Class Representative Service Award. In exchange for a general release of known and  
12 unknown claims, and in recognition of their effort and work in prosecuting the Action on behalf of Class  
13 Members, Defendants agree not to oppose or impede any application or motion for Class Representative  
14 Service Award of up to Ten Thousand Dollars (\$10,000), each, to Class Representatives. The Class  
15 Representative Service Awards will be paid from the Gross Settlement Amount and will be in addition  
16 to the Class Representatives' Individual Settlement Payments paid pursuant to the Settlement. The  
17 Court's approval of the Class Representative Service Award in the amount requested is not a material  
18 term of this Agreement. To the extent that the Court approves less than the amount of Class  
19 Representative Service Award that Class Representatives or Class Counsel requests, the difference  
20 between the requested and awarded amounts will be distributed to Class Members on a proportional  
21 basis relative to the size of their claims as set forth in this Settlement Agreement's Sections Settlement  
22 Agreement's Sections 40(a) and 40(b). Class Representatives will be solely and legally responsible to pay  
23 any and all applicable taxes on the Class Representative Enhancement Payments. Class Representatives  
24 understand and agree that this Settlement Agreement shall remain in full force and effect even if the full  
25 amount of Class Representative Enhancement Payments sought by Plaintiffs is not ultimately awarded  
26 by the Court.

27       35.     Settlement Administration Costs. The Settlement Administrator will be paid for the  
28 reasonable costs of administration of the Settlement and distribution of payments from the Gross

1 Settlement Amount, which is currently estimated to be Eleven Thousand Five Hundred Dollars  
2 (\$11,500.00). These costs, which will be paid from the Gross Settlement Amount, will include, *inter*  
3 *alia*, the required tax reporting on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS  
4 Forms, distributing Notice Packets, calculating and distributing the Gross Settlement Amount, and  
5 providing necessary reports and declarations.

6 36. PAGA Settlement Amount. Subject to Court approval, the Parties agree that the amount  
7 of Twenty Thousand Dollars (\$20,000) from the Gross Settlement Amount will be designated for  
8 satisfaction of Plaintiffs' PAGA claim. Pursuant to PAGA, Seventy-Five Percent (75%), or Fifteen  
9 Thousand Dollars (\$15,000), of this sum will be paid to the LWDA; and Twenty-Five Percent (25%), or  
10 Five Thousand Dollars (\$5,000) (the later 25% is hereinafter referred to as the "PAGA Fund"), will be  
11 paid to PAGA Members in proportion to the number of Pay Periods worked during the PAGA Period.

12 37. No Right to Exclusion or Objections to the PAGA Settlement. Because this settlement  
13 resolves claims and actions brought pursuant to PAGA by Plaintiffs acting as proxies and as Private  
14 Attorneys General of, and for, the State of California and the LWDA, the Parties agree that no PAGA  
15 Member has the right to exclude himself or herself from the release of the Released PAGA Claims, and  
16 all PAGA Members will receive their shares of the PAGA Fund. The Parties also agree that no PAGA  
17 Member has the right to object to the PAGA Settlement Amount.

18 38. Net Settlement Fund. The entire Net Settlement Fund will be distributed to Participating  
19 Class Members. No portion of the Net Settlement Fund will revert to or be retained by Defendants.

20 39. PAGA Fund. The entire PAGA Fund will be distributed to all PAGA Members. No  
21 portion of the PAGA Fund will revert to or be retained by Defendants.

22 40. Individual Settlement Payment Calculations. Individual Settlement Payments will be  
23 calculated and apportioned from the Net Settlement Fund and PAGA Fund based on the number of Pay  
24 Periods a Class Member worked during the Class Period and PAGA Period. Specific calculations of  
25 Individual Settlement Payments will be made as follows:

26 40(a) Payments from the Net Settlement Fund. Defendants will calculate the total  
27 number of Pay Periods worked by each Class Member during the Class  
28 Period and the aggregate total number of Pay Periods worked by all Class

1 Members during the Class Period. To determine each Class Member's  
2 estimated "Individual Settlement Payment" from the Net Settlement Fund,  
3 the Settlement Administrator will use the following formula: The Net  
4 Settlement Fund will be divided by the aggregate total number of Pay  
5 Periods, resulting in the "Pay Period Value." Each Class Member's  
6 "Individual Settlement Payment" will be calculated by multiplying each  
7 individual Class Member's total number of Pay Periods by the Pay Period  
8 Value. The Individual Settlement Payment will be reduced by any required  
9 deductions for each Participating Class Member as specifically set forth  
10 herein, including employee-side tax withholdings or deductions. The entire  
11 Net Settlement Fund will be disbursed to all Class Members who do not  
12 submit timely and valid Requests for Exclusion. If there are any valid and  
13 timely Requests for Exclusion, the Settlement Administrator shall  
14 proportionately increase the Individual Settlement Payment for each  
15 Participating Class Member according to the number of Pay Periods  
16 worked, so that the amount actually distributed to the Settlement Class  
17 equals 100% of the Net Settlement Fund.

18 40(b) Payments from the PAGA Fund. Defendants will calculate the total number  
19 of Pay Periods worked by each PAGA Member during the PAGA Period  
20 and the aggregate total number of Pay Periods worked by all PAGA  
21 Members during the PAGA Period. To determine each PAGA Member's  
22 estimated "Individual Settlement Payment," the Settlement Administrator  
23 will use the following formula: The PAGA Fund will be divided by the  
24 aggregate total number of Pay Periods, resulting in the "PAGA Pay Period  
25 Value." Each PAGA Member's "Individual Settlement Payment" will be  
26 calculated by multiplying each individual PAGA Member's total number of  
27 Pay Periods by the PAGA Pay Period Value. The entire PAGA Fund will  
28 be disbursed to all PAGA Members.

1           41.     No Credit Toward Benefit Plans. The Individual Settlement Payments made to  
2 Participating Class Members under this Settlement, as well as any other payments made pursuant to this  
3 Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any  
4 Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k)  
5 plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan.  
6 Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions,  
7 or amounts to which any Class Members may be entitled under any benefit plans.

8           42.     Administration Process. The Parties agree to cooperate in the administration of the  
9 settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in  
10 administration of the Settlement.

11           43.     Delivery of the Class List. Within twenty (20) calendar days of Preliminary Approval,  
12 Defendants will provide the Class List to the Settlement Administrator.

13           44.     Notice by First-Class U.S. Mail. Within ten (10) calendar days after receiving the Class  
14 List from Defendants, the Settlement Administrator will mail a Notice Packet to all Class Members via  
15 regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class  
16 List.

17           45.     Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement  
18 Administrator will perform a search based on the National Change of Address Database for information  
19 to update and correct for any known or identifiable address changes. Any Notice Packets returned to the  
20 Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly  
21 via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement  
22 Administrator will indicate the date of such re-mailing on the Notice Packet. If no forwarding address is  
23 provided, the Settlement Administrator will promptly attempt to determine the correct address using a  
24 skip-trace, or other search using the name, address and/or Social Security number of the Class Member  
25 involved, and will then perform a single re-mailing. Those Class Members who receive a re-mailed  
26 Notice Packet, whether by skip-trace or by request, will have either (a) an additional fifteen (15) calendar  
27 days or (b) until the Response Deadline, whichever is later, to submit a Request for Exclusion or an  
28 objection to the Settlement.

1           46.     Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice Packet  
2 will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's  
3 principal terms; (c) the Settlement Class and PAGA Member definitions; (d) the total number of Pay  
4 Periods each respective Class Member and PAGA Member worked for Defendants during the Class  
5 Period and PAGA Period; (e) each Class Member's and PAGA Member's estimated Individual  
6 Settlement Payment and the formula for calculating Individual Settlement Payments; (f) the dates which  
7 comprise the Class Period and PAGA Period; (g) instructions on how to submit Requests for Exclusion  
8 or Notices of Objection; (h) the deadlines by which the Class Member must postmark or fax Request for  
9 Exclusions, or postmark Notices of Objection to the Settlement; and (i) the claims to be released.

10           47.     Disputed Information on Notice Packets. Class Members will have an opportunity to  
11 dispute the information provided in their Notice Packets. To the extent Class Members dispute their  
12 employment dates or the number of Pay Periods on record, Class Members may produce evidence to the  
13 Settlement Administrator showing that such information is inaccurate. Defendants' records will be  
14 presumed correct, but the Settlement Administrator shall contact the Parties regarding the dispute and the  
15 Parties will work in good faith to resolve it. All disputes must be submitted by the Response Deadline,  
16 and will be decided within ten (10) business days after the Response Deadline.

17           48.     Defective Submissions. If a Class Member's Request for Exclusion is defective as to the  
18 requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The  
19 Settlement Administrator will mail the Class Member a cure letter within three (3) business days of  
20 receiving the defective submission to advise the Class Member that his or her submission is defective  
21 and that the defect must be cured to render the Request for Exclusion valid. The Class Member will have  
22 until (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter,  
23 whichever date is later, to postmark or fax a revised Request for Exclusion. If the revised Request for  
24 Exclusion is not postmarked or received by fax within that period, it will be deemed untimely.

25           49.     Request for Exclusion Procedures. Any Class Member wishing to opt-out from the  
26 Settlement Agreement must sign and fax or postmark a written Request for Exclusion to the Settlement  
27 Administrator within the Response Deadline. In the case of Requests for Exclusion that are mailed to the  
28 Settlement Administrator, the postmark date will be the exclusive means to determine whether a Request

1 for Exclusion has been timely submitted.

2 50. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member  
3 who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid  
4 Request for Exclusion will be bound by all of its terms, including those pertaining to the Released Class  
5 Claims, as well as any Judgment that may be entered by the Court if it grants final approval to the  
6 Settlement.

7 51. Releases by Participating Class Members. Upon the Funding Date, and except as to such  
8 rights or claims as may be created by this Settlement Agreement, each Participating Class Member,  
9 together and individually, on their behalf and on behalf of their respective heirs, executors,  
10 administrators, spouse, common law spouses, family members, agents, and attorneys, and any other  
11 party claiming by or through the Participating Class Member, shall fully and forever release and  
12 discharge all of the Released Parties, or any of them, from each of the Released Class Claims arising  
13 during the Class Period.

14 52. Releases by PAGA Members. Upon the Funding Date, and except as to such rights or  
15 claims as may be created by this Settlement Agreement, each PAGA Member, together and individually,  
16 on their behalf and on behalf of their respective heirs, executors, administrators, agents, and attorneys,  
17 shall fully and forever release and discharge all of the Released Parties, or any of them, from each of the  
18 Released PAGA Claims during the PAGA Period.

19 53. Settlement Class Cap. Defendants estimate that there are approximately 575 Class  
20 Members who worked at Defendants' restaurant locations during the Class Period. In the event the  
21 number of Class Members exceeds this number by 150 Class Members for the relevant Class Period,  
22 then the Parties agree to modify the definitions of "Class Members" and "PAGA Members" to: All  
23 persons who worked for Defendants in non-exempt positions in the State of California at any time during  
24 the period from September 21, 2017 (for Class Members) / July 9, 2020 (for PAGA Members) to the  
25 date on which the number of Class Members was no greater than 725.

26 54. Right To Terminate. Defendants shall also have the right to withdraw from this  
27 Settlement Agreement if any one of the following occurs prior to Final Approval: (i) the Court sustains  
28 any objection to the Settlement Agreement resulting in a change to any material term of the Settlement

1 Agreement or any material increase in the Gross Settlement Amount; or (ii) the total number of Class  
2 Members who opt out exceeds Ten Percent (10%) of the entire Settlement Class. In order to effectuate  
3 any such withdrawal, Defendants must notify Class Counsel in writing within ten (10) calendar days of  
4 the occurrence of any of the events enumerated in items (i) or (ii) in the preceding sentence. If  
5 Defendants terminate this Settlement Agreement, Defendants agree to pay the Settlement Administrator  
6 for all costs and expenses reasonably incurred by the Settlement Administrator prior to that termination  
7 for work performed pursuant to this Settlement Agreement.

8         55.     Objection Procedures. To object to the Settlement Agreement, a Class Member may  
9 either postmark a valid Notice of Objection to the Settlement Administrator on or before the Response  
10 Deadline, or appear in person at the Final Approval Hearing. Class Members who fail to object either by  
11 submitting a valid Notice of Objection or appearing in person at the Final Approval Hearing will be  
12 deemed to have waived all objections to the Settlement and will be foreclosed from making any  
13 objections, whether by appeal or otherwise, to the Settlement Agreement. At no time will any of the  
14 Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written  
15 objections to the Settlement Agreement or appeal from the final approval order and judgment. Class  
16 Counsel will not represent any Class Members with respect to any such objections to this Settlement. If a  
17 Class Member timely submits both a Notice of Objection and a Request for Exclusion, the Request for  
18 Exclusion will be given effect and considered valid, the Notice of Objection shall be rejected, and the  
19 Class Member shall not participate in or be bound by the Settlement.

20         56.     Certification Reports Regarding Individual Settlement Payment Calculations. The  
21 Settlement Administrator will provide Defendants' counsel and Class Counsel a weekly report that  
22 certifies the number of Class Members who have submitted valid Requests for Exclusion or objections to  
23 the Settlement, and whether any Class Member has submitted a challenge to any information contained  
24 in their Notice Packet. Additionally, the Settlement Administrator will provide to counsel for both Parties  
25 any updated reports regarding the administration of the Settlement Agreement as needed or requested.

26         57.     Distribution Timing of Individual Settlement Payments. Within ten (10) calendar days  
27 of the Funding Date, the Settlement Administrator will issue payments to: (a) Participating Class  
28 Members and PAGA Members; (b) the Labor and Workforce Development Agency; (c) Plaintiffs; and

1 (d) Class Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved  
2 services performed in connection with the Settlement.

3 58. Un-cashed Settlement Checks. Subject to Court approval, funds represented by  
4 Individual Settlement Payment checks returned as undeliverable and Individual Settlement Payment  
5 checks remaining un-cashed for more than one hundred and eighty (180) calendar days after issuance  
6 will be tendered to the Legal Aid Society - Employment Law Center as the cy pres recipient. The Parties  
7 do not have a connection to or a relationship with the Legal Aid Society - Employment Law Center that  
8 could reasonably create the appearance of impropriety as between the selection of the Legal Aid Society  
9 - Employment Law Center as the cy pres recipient of the unclaimed residuals and the interests of the  
10 class.

11 59. Certification of Completion. Upon completion of administration of the Settlement, the  
12 Settlement Administrator will provide a written declaration under oath to certify such completion to the  
13 Court and counsel for all Parties.

14 60. Treatment of Individual Settlement Payments. All Individual Settlement Payments will  
15 be allocated as follows: (a) Twenty- Percent (20%) of each Individual Settlement Payment will be  
16 allocated as wages for which IRS Forms W-2 will be issued; and (b) Eighty (80%) will be allocated as  
17 non-wages for which IRS Forms 1099-MISC will be issued.

18 61. Administration of Taxes by the Settlement Administrator. The Settlement Administrator  
19 will be responsible for issuing to Plaintiffs, Participating Class Members, PAGA Members, and Class  
20 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to  
21 this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes  
22 and penalties to the appropriate government authorities.

23 62. Tax Liability. Defendants make no representation as to the tax treatment or legal effect  
24 of the payments called for hereunder, and Plaintiffs and Participating Class Members are not relying on  
25 any statement, representation, or calculation by Defendants or by the Settlement Administrator in this  
26 regard.



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

24           64.     No Prior Assignments. The Parties and their counsel represent, covenant, and warrant  
25 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,  
26 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of  
27 action or right herein released and discharged.  
28

1           65.     Nullification of Settlement Agreement. In the event that: (a) the Court does not finally  
2 approve the Settlement as provided herein; or (b) the Settlement does not become final for any other  
3 reason, then this Settlement Agreement, and any documents generated to bring it into effect, including  
4 the anticipated Amended Class Action Complaint, will be null and void. Any order or judgment entered  
5 by the Court in furtherance of this Settlement Agreement will likewise be treated as void from the  
6 beginning.

7           66.     Preliminary Approval Hearing and Amended Complaint. Plaintiffs will amend the  
8 Complaint to include the class factual allegations and causes of action; cause the Amended Class Action  
9 Complaint to be the operative Complaint; and then obtain a hearing before the Court to request the  
10 Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order for:  
11 (a) conditional certification of the Settlement Class for settlement purposes only, (b) preliminary  
12 approval of the proposed Settlement Agreement, (c) setting a date for a final fairness hearing. The  
13 Preliminary Approval Order will provide for the Notice Packet to be sent to all Class Members as  
14 specified herein. In conjunction with the Preliminary Approval hearing, Plaintiffs will submit this  
15 Settlement Agreement, which sets forth the terms of this Settlement, and will include the proposed  
16 Notice of Class Action Settlement, attached as Exhibit A. Class Counsel will be responsible for drafting  
17 all documents necessary to obtain preliminary approval.

18           67.     Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the  
19 deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement, and with the  
20 Court's permission, a final fairness hearing will be conducted to determine the Final Approval of the  
21 Settlement Agreement along with the amounts properly payable for: (a) Attorneys' Fees and Costs; (b)  
22 the Class Representative Enhancement Payments; (c) Individual Settlement Payments; (d) the Labor and  
23 Workforce Development Agency Payment; (e) all Settlement Administration Costs. The final fairness  
24 hearing will not be held earlier than thirty (30) calendar days after the Response Deadline. Class Counsel  
25 will be responsible for drafting all documents necessary to obtain final approval. Class Counsel will also  
26 be responsible for drafting the attorneys' fees and costs application to be heard at the final approval  
27 hearing.  
28

1           68.     Judgment and Continued Jurisdiction. Upon final approval of the Settlement by the  
2 Court or after the final fairness hearing, the Parties will present the Judgment to the Court for its  
3 approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of  
4 addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) Settlement  
5 administration matters, and (c) such post-Judgment matters as may be appropriate under court rules or as  
6 set forth in this Settlement Agreement. A copy of the Judgment will be posted to the Settlement  
7 Administrator’s website.

8           69.     Release by Plaintiffs. Upon the Funding Date, in addition to the claims being released by  
9 all Participating Class Members, Plaintiffs will release and forever discharge the Released Parties, to the  
10 fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and not  
11 asserted, which Plaintiffs have or may have against the Released Parties as of the date of execution of  
12 this Settlement Agreement. To the extent the foregoing release is a release to which Section 1542 of the  
13 California Civil Code or similar provisions of other applicable law may apply, Plaintiffs expressly waive  
14 any and all rights and benefits conferred upon them by the provisions of Section 1542 of the California  
15 Civil Code or similar provisions of applicable law which are as follows:

16                   A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE  
17                   CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO  
18                   EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE  
19                   AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY  
20                   AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED  
21                   PARTY.

22           70.     Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the  
23 terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth  
24 herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.

25           71.     Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the  
26 entirety of the Parties’ settlement terms. No other prior or contemporaneous written or oral agreements  
27 may be deemed binding on the Parties. The Parties expressly recognize California Civil Code Section  
28 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is

1 to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and  
2 the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or  
3 contradict the terms of this Settlement Agreement.

4 72. Amendment or Modification. No amendment, change, or modification to this Settlement  
5 Agreement will be valid unless in writing and signed, either by the Parties or their counsel.

6 73. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and  
7 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement  
8 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant  
9 to this Settlement Agreement to effectuate its terms and to execute any other documents required to  
10 effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each  
11 other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to  
12 reach agreement on the form or content of any document needed to implement the Settlement, or on any  
13 supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties  
14 may seek the assistance of the Court to resolve such disagreement.

15 74. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,  
16 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

17 75. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto  
18 will be governed by and interpreted according to the laws of the State of California.

19 76. Execution and Counterparts. This Settlement Agreement is subject only to the execution  
20 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All  
21 executed counterparts and each of them, including electronic (e.g., DocuSign), facsimile, and scanned  
22 copies of the signature page, will be deemed to be one and the same instrument.

23 77. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this  
24 Settlement Agreement is a fair, adequate and reasonable settlement of the Action and have arrived at this  
25 Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account  
26 all relevant factors, present and potential. The Parties further acknowledge that they are each represented  
27 by competent counsel and that they have had an opportunity to consult with their counsel regarding the  
28 fairness and reasonableness of this Settlement.

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

5           79.     Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class  
6 certification for purposes of this Settlement only; except, however, that Class Representatives or Class  
7 Counsel may appeal any reduction to the Attorneys' Fees and Costs below the amount they request from  
8 the Court, and any of the Parties may appeal any court order that materially alters the Settlement  
9 Agreement's terms.

10          80.     Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to  
11 class action certification for purposes of the Settlement only. If, for any reason, the Settlement is not  
12 approved, the stipulation to certification will be void. The Parties further agree that certification for  
13 purposes of the Settlement is not an admission that class action certification is proper under the standards  
14 applied to contested certification motions and that this Settlement Agreement will not be admissible in  
15 this or any other proceeding as evidence that either (a) a class action should be certified or (b) Defendants  
16 are liable to Plaintiffs or any Class Member, other than according to the Settlement's terms.

17          81.     Non-Admission of Liability. The Parties enter into this Settlement to resolve the dispute  
18 that has arisen between them and to avoid the burden, expense and risk of continued litigation. In  
19 entering into this Settlement, Defendants do not admit, and specifically deny, that they violated any  
20 federal, state, or local law; deny they violated any regulations or guidelines promulgated pursuant to any  
21 statute or any other applicable laws, regulations or legal requirements; deny the material allegations in  
22 the Complaint and in the Amended Class Action Complaint; deny they breached any contract; deny they  
23 violated or breached any duty; deny they are liable for damages, penalties, interest, restitution, attorneys'  
24 fees, or costs, or for any other compensation or remedy with respect to anyone on account of the claims  
25 asserted in the Action; deny that class certification or representative treatment is appropriate as to any  
26 claim in the Action; deny that the Action is manageable if it were to be litigated; deny they engaged in  
27 any misrepresentation or deception; and deny they engaged in any other unlawful conduct with respect to  
28 their respective employees. Defendants contend that their respective policies, procedures, and practices

1 comply with all applicable laws. Neither this Settlement Agreement, nor any of its terms or provisions,  
2 nor any of the negotiations connected with it, will be construed as an admission or concession by  
3 Defendants of any such violations or failures to comply with any applicable law. Except as necessary in  
4 a proceeding to enforce the terms of this Settlement, this Settlement Agreement and its terms and  
5 provisions will not be offered or received as evidence in any action or proceeding to establish any  
6 liability or admission on the part of Defendants or to establish the existence of any condition constituting  
7 a violation of, or a non-compliance with, federal, state, local or other applicable law.

8       82.     No Public Comment: The Parties and their counsel agree that they will not issue any  
9 press releases, initiate any contact with the press, respond to any press inquiry, or have any  
10 communication with the press about the fact, amount or terms of the Settlement.

11       83.     Waiver. No waiver of any condition or covenant contained in this Settlement Agreement  
12 or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or  
13 constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

14       84.     Enforcement Actions. In the event that one or more of the Parties institutes any legal  
15 action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement  
16 or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be  
17 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including  
18 expert witness fees incurred in connection with any enforcement actions.

19       85.     Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and  
20 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed  
21 more strictly against one party than another merely by virtue of the fact that it may have been prepared  
22 by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations  
23 between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

24       86.     Representation By Counsel. The Parties acknowledge that they have been represented  
25 by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and  
26 that this Settlement Agreement has been executed with the consent and advice of counsel. Further,  
27 Plaintiffs and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

28       87.     All Terms Subject to Final Court Approval. All amounts and procedures described in



1 this Settlement Agreement herein will be subject to final Court approval.

2 88. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good  
3 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this  
4 Settlement Agreement.

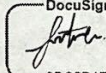
5 89. Binding Agreement. The Parties warrant that they understand and have full authority to  
6 enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully  
7 enforceable and binding, and agree that it will be admissible and subject to disclosure in any proceeding  
8 to enforce its terms.

9 **READ CAREFULLY BEFORE SIGNING**

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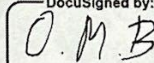
Dated: 12/6/2022

**PLAINTIFF**

DocuSigned by:  
  
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Jonathan Garcia

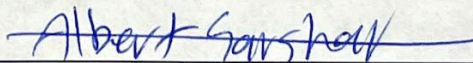
Dated: 12/5/2022

**PLAINTIFF**

DocuSigned by:  
  
BE07B026B9324A1  
Oscar Mendoza

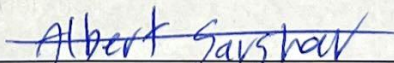
Dated: 12/8/2022

**DEFENDANT BARNEY'S COLLEGE, INC.**

  
By: owner

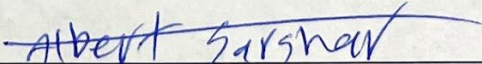
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**DEFENDANT BARNEY'S PIEDMONT, INC.**

  
By: owner

Dated: 12/8/2022

**DEFENDANT BARNEY'S SAN FRANCISCO, INC.**

  
By: owner



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**DEFENDANT BARNEY'S SAN VICENTE, INC.**

Dated: 12/8/2022

Albert Sarshov  
By: owner

**DEFENDANT BARNEY'S SOLANO, INC.**

Dated: 12/8/2022

Albert Sarshov  
By: owner

**DEFENDANT BARNEY'S BRENTWOOD, INC.**

Dated: 12/8/2022

Albert Sarshov  
By: owner

**DEFENDANT BARNEY'S SHATTUCK, INCORPORATED**

Dated: 12/8/2022

Albert Sarshov  
By: owner

**DEFENDANT BARNEY'S STEINER, LLC**

Dated: 12/8/2022

Albert Sarshov  
By: owner

**APPROVED AS TO FORM**

**CAPSTONE LAW APC**

Dated: December 7, 2022

By: Raul Perez  
Raul Perez  
Attorneys for Plaintiff Jonathan Garcia and Oscar Mendoza

**BOYAMIAN LAW, INC.**

Dated: December 5, 2022

By: Michael H. Boyamian  
Michael H. Boyamian  
Attorneys for Plaintiff Jonathan Garcia and Oscar Mendoza

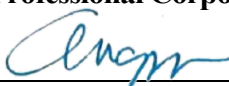


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**APPROVED AS TO FORM**

**BARTKO ZANKEL BUNZEL & MILLER,  
A Professional Corporation**

Dated: 12/08/22

By:  \_\_\_\_\_

An Nguyen Ruda  
Attorneys for Defendants Barney's College, Inc.,  
Barney's Piedmont, Inc., Barney's San Francisco,  
Inc., Barney's San Vicente, Inc., Barney's Solano,  
Inc., Barney's Brentwood, Inc., Barney's Shattuck,  
Incorporated and Barney's Steiner, LLC

# Exhibit A

*Garcia v. Barney's College, Inc.*, No. RG21113350  
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF ALAMEDA  
NOTICE OF CLASS ACTION SETTLEMENT

*You are not being sued. This notice affects your rights. Please read it carefully*

To: All persons who worked for Defendants Barney's College, Inc., Barney's Piedmont, Inc., Barney's San Francisco, Inc., Barney's San Vicente, Inc., Barney's Solano, Inc., Barney's Brentwood, Inc., Barney's Shattuck, Incorporated, and Barney's Steiner, LLC ("Defendants") in non-exempt positions in the State of California at any time during the period from September 21, 2017 to December 1, 2022 ("Class Members").

All persons who worked for Defendants in non-exempt positions in the State of California at any time during the period from July 9, 2020 to December 1, 2022 ("PAGA Members").

On \_\_\_\_\_, the Honorable Tara Desautels of the Alameda County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendants' records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

**Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. Even if you opt-out from being a Class Member, as member of the Labor Code Private Attorneys General Act of 2004 ("PAGA") portion of the settlement, you will be mailed a check for your share of the PAGA Fund.**

The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at \_:00 .m. on \_\_\_\_\_, 2023 in Department 16 of the Alameda County Superior Court located at 1225 Fallon Street, Oakland, California 94612. You are not required to attend the hearing, but you may at your own expense.

Please also note that the Final Fairness Hearing may be rescheduled by the Court to another date and/or time. Please visit [settlement website] for any scheduling changes.

If you move, you must send the Settlement Administrator your new address; otherwise, you may never directly receive your settlement payment and further funds based on settlement payment checks remaining un-cashed for more than one hundred and eighty (180) calendar days after issuance will be tendered to the Legal Aid Society - Employment Law Center as the cy pres recipient. It is your responsibility to keep a current address on file with the Settlement Administrator.

### **Summary of the Litigation**

Plaintiffs Jonathan Garcia and Oscar Mendoza, on their behalf and on behalf of other current and former non-exempt employees, allege that Defendants violated California state labor laws as a result of their alleged failure to, among other things: (1) pay minimum and overtime wages to employees for all hours worked; (2) provide employees with meal and rest breaks; (3) timely pay all wages owed to employees during each pay period and upon termination of their employment; (4) reimburse employees for all necessary business expenses; (5) pay reporting time wages; (6) pay split-shift premiums; and (7) provide employees with accurate, itemized wage statements.

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On May 23, 2022, the parties participated in a mediation with Marc Feder, Esq., an experienced and well-respected class action mediator. With Mr. Feder's guidance, the parties were able to negotiate a complete settlement of Plaintiffs' claims.

Counsel for Plaintiffs, and the attorneys appointed by the Court to represent the class, Capstone Law APC and Boyamian Law, Inc. (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendants have denied, and continue to deny the factual and legal allegations in the case and believe that they have valid defenses to Plaintiffs’ claims. By agreeing to settle, Defendants are not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. Defendants have agreed to settle the case as part of a compromise with Plaintiffs.

### **Summary of The Proposed Settlement Terms**

Plaintiffs and Defendants have agreed to settle the underlying class claims in exchange for a Gross Settlement Amount of \$575,000. This amount is inclusive of: (1) individual settlement payments from the Net Settlement Fund to all Class Members who do not opt out (“Participating Class Members”); (2) Class Representative Service Award of \$10,000, or such lower amount as approved by the Court, each, to Jonathan Garcia and Oscar Mendoza for their services on behalf of the class, and for a release of all claims arising out of their employment with Defendants; (3) up to \$191,667 in attorneys’ fees and up to \$15,000.00, or such lower amount as approved by the Court in litigation costs and expenses; (4) a \$20,000 settlement of claims under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), inclusive of a \$15,000 payment to the California Labor and Workforce Development Agency (“LWDA”) in connection with the PAGA, and a \$5,000 payment (“PAGA Fund”) to all PAGA Members; and (5) reasonable Settlement Administrator’s fees and expenses currently estimated at \$11,500. After deducting the above payments, a total of approximately \$316,833 will be allocated to Class Members who do not opt out of the Settlement Class (“Net Settlement Fund”). Additionally, all PAGA Members will receive a proportional share of the \$5,000 PAGA Fund, regardless whether they opt out of the Settlement Class.

**Payments from Net Settlement Fund.** Defendants will calculate the total number of Pay Periods worked by each Participating Class Member from September 21, 2017 to December 1, 2022 (“Class Period”) and the aggregate total number of Pay Periods worked by all Participating Class Members during the Class Period. To determine each Participating Class Member’s estimated share of the Net Settlement Fund, the Settlement Administrator will use the following formula: The Net Settlement Fund will be divided by the aggregate total number of Pay Periods, resulting in the “Pay Period Value.” Each Participating Class Member’s share of the Net Settlement Fund will be calculated by multiplying each individual Class Member’s total number of Pay Periods by the Pay Period Value. The Individual Settlement Payment will be reduced by any required deductions for each Participating Class Members as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member’s share of the Net Settlement Fund according to the number of Pay Periods worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Fund.

**Payments from PAGA Fund.** Defendants will calculate the total number of Pay Periods worked by each PAGA Member from July 9, 2020 to December 1, 2022 (“PAGA Period”) and the aggregate total number of Pay Periods worked by all PAGA Members during the PAGA Period. To determine each PAGA Member’s estimated share of the PAGA Fund, the Settlement Administrator will use the following formula: The PAGA Fund will be divided by the aggregate total number of Pay Periods, resulting in the “PAGA Pay Period Value.” Each PAGA Member’s share of the PAGA Fund will be calculated by multiplying each individual Participating PAGA Member’s total number of Pay Periods by the PAGA Pay Period Value. A Request for Exclusion does not exclude a PAGA Member from the release of claims under

**Questions? Contact the Settlement Administrator toll free at 1-\*\*\*-\*\*\*-\*\*\*\***

California Labor Code §§ 2698, *et seq.* and the PAGA Member will receive their portion of the PAGA fund even if he or she submits a valid Request for Exclusion.

**Estimated Payment.** According to Defendants' records, you worked during the Class Period in a non-exempt position for a total of \_\_\_\_ Pay Periods. Accordingly, your estimated payment from the Net Settlement Fund is approximately \$\_\_\_\_\_ and your estimated payment from the PAGA Fund is approximately \$\_\_\_\_\_.

**Your Estimated Payment:** Based on the above, your estimated payment from the settlement is approximately \$\_\_\_\_\_. If you believe the Pay Period information provided above is incorrect, please contact the Settlement Administrator to dispute the calculation. You must attach all documentation in support of your dispute (such as check stubs, W2s, or letters from HR). All disputes must be postmarked or faxed on or before [insert date of Response Deadline] and must be sent to:

Settlement Administrator

c/o \_\_\_\_\_

Fax No. \_\_\_\_\_

If you dispute the information stated above, Defendants' records will control unless you are able to provide documentation that establishes otherwise.

As noted above, if you move, you must send the Settlement Administrator your new address; otherwise, you may never directly receive your settlement payment. Furthermore, funds representing settlement payment checks remaining un-cashed for more than one hundred and eighty (180) calendar days after issuance will be tendered to the Legal Aid Society - Employment Law Center as the *cy pres* recipient. It is your responsibility to keep a current address on file with the Settlement Administrator.

**Cy Pres Distribution.** What is *Cy Pres* Distribution of the Settlement Funds? When it is difficult for all Settlement Class Members to receive individual shares of the recovery or when there are unclaimed class member settlement funds, under the legal doctrine known as *cy pres* and/or California Code of Civil Procedure section 384(b), courts may approve the distribution of the settlement funds to support public or non-profit activities instead of distributing funds directly to the allegedly affected party. In this case, the recipients of any settlement funds distributed pursuant to the Settlement's *cy pres* is the non-profit entity: the Legal Aid Society - Employment Law Center.

**Taxes on Settlement Payments.** IRS Forms W-2 and 1099 will be distributed to participating Class Members, PAGA Members, and the appropriate taxing authorities reflecting the payments they receive under the settlement by the Settlement Administrator. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 20% of each settlement payment will be allocated as wages for which IRS Forms W-2 will be issued, and 80% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

### **Your Options Under the Settlement**

#### ***Option 1 – Do Nothing; Automatically Receive a Payment from the Settlement***

If want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

**Questions? Contact the Settlement Administrator toll free at 1-\*\*\*-\*\*\*-\*\*\*\***

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the Released Class Claims and Released PAGA Claims:

**Released Class Claims:** All claims, rights, demands, liabilities, and causes of action arising from, or related to, the same set of operative facts as those set forth in the operative complaint during the Class Period, including: (a) all claims for unpaid overtime; (b) all claims for meal and rest break violations; (c) all claims for unpaid minimum wages; (d) all claims for the failure to reimburse for necessary business expenses; (e) all claims for reporting time violations; (f) all claims for split-shift violations; (g) all claims for the failure to timely pay wages upon termination based on the preceding claims; (h) all claims for the failure to timely pay wages during employment based on the preceding claims; (i) all claims for wage statement violations based on the preceding claims; (j) all known and unknown claims arising under California Labor Code sections 200, 201, 202, 203, 204, 206.5, 226, 226.7, 450, 510, 512, 516, 558, 1174, 1182.12, 1194, 1197, 1197.1, 1198, 2698-2699.5, 2802; (k) the corresponding sections of the IWC Wage Order 4 and 5; (l) the California Unfair Competition Law, Business and Professions Code section 17200 *et seq.* based on the preceding claims; and (m) the Released PAGA Claims.

**Released PAGA Claims:** All claims for civil penalties under California Labor Code §§ 2698, *et seq.*, that were brought or could reasonably have been brought based on the facts alleged in Plaintiffs' LWDA letter during the PAGA Period.

### **Option 2 – Opt Out of the Settlement**

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Settlement Administrator

c/o \_\_\_\_\_

\_\_\_\_\_  
Fax No. \_\_\_\_\_

The Request for Exclusion must be postmarked or faxed not later than \_\_\_\_\_, 2023. If you submit a Request for Exclusion which is not postmarked or faxed by \_\_\_\_\_, 2023, your Request for Exclusion will be rejected, and you will be included in the settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will:

- Not Receive a Payment from the Net Settlement Fund.
- Not release the Released Class Claims.
- **NOTE:** PAGA Members will still release the Released PAGA Claims, and will receive payments from the PAGA Fund.

**Questions? Contact the Settlement Administrator toll free at 1-\*\*\*-\*\*\*-\*\*\*\***

### **Option 3 – Object to the Settlement**

If you decide to object to the settlement because you find it unfair or unreasonable, you may submit a written objection stating why you object to the settlement, or you may instead appear at the Final Fairness Hearing to object to the Settlement. Written objections must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed to the administrator at [administrator’s address].

All written objections must be received by the administrator by not later than \_\_\_\_\_ 2023. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above in Option 2. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in the Superior Court of the State of California, for the County of Alameda, located at \_\_\_\_\_ and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Class Claims and Released PAGA Claims.

### **Additional Information**

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel.

Michael H. Boyamian  
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Glendale, CA 91203  
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Raul Perez  
**Capstone Law APC**  
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Los Angeles, CA 90067  
Phone: Number

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANTS’ ATTORNEYS WITH INQUIRIES.

**Questions? Contact the Settlement Administrator toll free at 1-\*\*\*-\*\*\*-\*\*\*\***