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SUPERIOR COURT OF THE STATE OF CALIFORNIA

11

FOR THE COUNTY OF LOS ANGELES

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UNLIMITED CIVIL

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14 INGRID FRAGOSO and ERICA
 LINTHICUM, on behalf of themselves and all
 15 other aggrieved employees,

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Plaintiff,

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vs.

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18 TACO BELL CORP., a California
 corporation; TACO BELL OF AMERICA,
 LLC, a Delaware corporation; J AND R
 19 HOCK ENTERPRISES, INC., a California
 corporation; and DOES 1 through 50,
 20 inclusive,

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Defendants.

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Case No. 21STCV13767

Assigned For All Purposes to the Honorable
Maurice A. Leiter, Department 54

**AMENDED AND RESTATED JOINT
STIPULATION TO SETTLE PAGA ACTION
AND RELEASE CLAIMS**

Complaint Filed: April 12, 2021
 FAC Filed: September 9, 2021
 SAC Filed: June __, 2022

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1 This Amended and Restated Joint Stipulation to Settle PAGA Action and Release Claims
2 (“Settlement Agreement” or “Agreement”) is made and entered into by and between Plaintiffs
3 ERICA LINTHICUM (“Linthicum”) and INGRID FRAGOSO (“Fragoso”) (collectively,
4 “Plaintiffs”), individually and on behalf of all potentially aggrieved employees , on the one hand,
5 and Defendants J AND R HOCK ENTERPRISES, INC. (“J and R Hock”), TACO BELL CORP.
6 (“Taco Bell”), and TACO BELL OF AMERICA, LLC (“Taco Bell America”) (collectively,
7 “Defendants”). Plaintiffs and Defendants are collectively referred to herein as the “Parties.”

8 RECITALS

9 A. On June 11, 2018, Plaintiff Johnny Valadez (“Valadez”) filed his original putative
10 wage and hour lawsuit in Riverside County Superior Court, seeking to represent a putative class of
11 current and former non-exempt employees of J and R Hock. Valadez never worked for J and R
12 Hock and did not have standing to assert claims against J and R Hock, so the complaint was
13 amended to add Plaintiff Linthicum. After the Riverside County Superior Court granted J and R
14 Hock’s Motion to Compel Arbitration, the complaint was further amended to eliminate class action
15 allegations and claims against J and R Hock and to assert claims against J and R Hock only for civil
16 penalties pursuant to the California Private Attorneys General Act, Lab. Code, §§ 2698 *et seq.*
17 (“PAGA”). Linthicum alleged one cause of action against J and R Hock for civil penalties
18 pursuant to PAGA for allege violations of the following sections of the California Labor Code: 201,
19 202, 203, 204, 223, 226(a), 226.7, 227.3, 510, 512, 1194, 1197, 1198, and 2802.

20 B. On April 12, 2021, Plaintiff Fragoso filed her lawsuit alleging a single cause of
21 action against J and R Hock, Taco Bell Corp., and Taco Bell America (collectively, the “Fragoso
22 Defendants”) for civil penalties pursuant to PAGA. The Fragoso lawsuit alleges that the Fragoso
23 Defendants violated the following sections of the California Labor Code: 201, 202, 203, 204, 210,
24 221, 223, 226, 226.7, 227.3, 256, 510, 512, 558, 558.1, 1174, 1194, 1194.2, 1197, 1197.1, 1198,
25 1199, 2802, and 2808. The Fragoso lawsuit also alleges that the Fragoso Defendants violated Code
26 of Regulations, Title 8, 11040(7)(A)(3) and applicable Wage Orders.

27 C. On June 29, 2022, Plaintiff Fragoso amended her operative complaint in the Fragoso
28 Lawsuit by adding Plaintiff Linthicum as a plaintiff with the Second Amended Complaint. In the

1 Second Amended Complaint, Linthicum asserts one cause of action against J and R Hock for civil
2 penalties pursuant to PAGA for alleged violations of the following sections of the California Labor
3 Code: 201, 202, 203, 204, 223, 226, 226.7, 227.3, 256, 510, 512, 558, 558.1, 1174, 1194, 1197,
4 1197.1, 1198, 1199, 2802, and 2808. Defendants deny all of Plaintiffs' allegations. Taco Bell and
5 Taco Bell America deny all liability to Plaintiffs and the potentially aggrieved employees because
6 neither Taco Bell nor Taco Bell America employed Plaintiffs or the potentially aggrieved
7 employees. J and R Hock denies that it violated any provisions of the Labor Code and contends that
8 it had legally compliant policies and procedures at all times. Defendants further aver that Plaintiffs'
9 PAGA claims are unmanageable because there are over 4,000 potentially aggrieved employees and
10 because common issues do not predominate; a trial of the PAGA claims would therefore take
11 several years.

12 D. The Parties engaged in an informal, voluntary exchange of information in the context
13 of privileged settlement discussions to facilitate an early mediation. J and R Hock produced
14 Plaintiffs' entire personnel files, payroll and timekeeping records, including policies and agreements
15 Plaintiffs signed and acknowledged, copies of its relevant company written policies, and time-
16 keeping records and paycheck data and records. J and R Hock also produced payroll and time
17 records for several hundred potentially aggrieved employees as part of a random sample of records.

18 E. On December 15, 2020, the Plaintiffs and J and R Hock participated in a mediation
19 before mediator Cynthia Remmers. Even though the Parties had a full day of productive
20 negotiations, they were unable to reach a settlement. After the mediation, the Parties engaged in
21 further litigation and discovery and continued settlement discussions.

22 F. On January 7, 2021, J and R Hock filed a Motion to Strike Linthicum's PAGA
23 Claims. After the matter was fully briefed, the Court issued a tentative ruling. J and R Hock
24 contested the tentative ruling and the Court held oral argument. After considering the parties'
25 arguments, the Court denied J and R Hock's motion.

26 G. The Parties continued to negotiate and subsequently were able to reach a settlement.
27 Each party, represented by its respective counsel, recognized the risk of an adverse result in the
28 Action and agreed to settle the Action and all other matters covered by this Agreement pursuant to

1 the terms and conditions of this Agreement.

2 H. Based on their own thorough, independent investigation and evaluation of this case,
3 PAGA Counsel (as defined in paragraph 6 below) are of the opinion that the settlement with
4 Defendants for the consideration and on the terms set forth in this Agreement is fair, reasonable,
5 adequate, and in the best interest of the PAGA Members (as defined in paragraph 5 below) in light
6 of all known facts and circumstances, including the risk of significant costs and delay, the defenses
7 asserted by Defendants, the risks of adverse determinations on the merits, and numerous potential
8 appellate issues. Although Defendants contend they have no liability in this case, Defendants'
9 counsel shares PAGA Counsel's belief that the Agreement represents a fair and adequate settlement
10 given the respective risks associated with the Action and the expenses of continued litigation.

11 I. The Parties previously entered into a Joint Stipulation to Settle PAGA Action and
12 Release Claims, which was fully-signed on or about August 30, 2022 (the "Initial Joint
13 Stipulation"). After the parties signed the Initial Joint Stipulation, Plaintiffs' counsel became aware
14 that the information regarding the name of the third-party settlement administrator and the amount
15 of money to be paid to the third-party settlement administrator was incorrect, and the Parties agreed
16 to enter into this Amended and Restated Joint Stipulation to Settle PAGA Action and Release
17 Claims to reflect the correct information regarding the third-party settlement administrator. The
18 Parties therefore agree that the Initial Joint Stipulation is superseded by this Amended and Restated
19 Joint Stipulation to Settle PAGA Action and Release Claims.

20 J. This Agreement represents a compromise and settlement of highly disputed claims.
21 Nothing in this Agreement is intended to be or will be construed as an admission by Defendants that
22 Plaintiffs' claims in the Action have merit or that they have any liability to Plaintiffs, the PAGA
23 Members, or the State on those claims. Nothing in this Agreement is intended to be or will be
24 construed as an admission by Plaintiffs that Defendants' defenses raised in the Action have merit.
25 This Agreement is intended to fully, finally, and forever compromise, release, resolve, discharge,
26 and settle the released claims subject to the terms and conditions set forth in this Agreement.

27 **AGREEMENT**

28 Subject to the approval of the Court, the Parties agree as follows:

AMENDED AND RESTATED JOINT STIPULATION TO SETTLE PAGA ACTION AND RELEASE CLAIMS

1 1. **“Action”** shall mean the civil action commenced April 12, 2021 by Plaintiff Fragoso
2 against the Fragoso Defendants in the Superior Court of California, County of Los Angeles, Case
3 No. 21STCV137674, which was later amended to include the claims that Plaintiff Linthicum was
4 originally asserting against J and R Hock in the Superior Court of California, County of Riverside,
5 Case No. RIC1811646 and which is entitled *“Ingrid Fragoso et al. v. Taco Bell Corp., et al.”*

6 2. **“Court”** shall mean the Superior Court for the County of Los Angeles.

7 3. **“Settlement”** shall mean the disposition of the Action and all related claims
8 effectuated by this Agreement.

9 4. **“PAGA Period”** shall mean the period of time from March 4, 2018, through to the
10 date of Approval of the Settlement.

11 5. **“Aggrieved Employees,” or “PAGA Members”** shall mean all current and former
12 non-exempt employees of Defendant J and R Hock who were employed at any time from March 4,
13 2018 to the date of approval of this settlement.

14 6. **“PAGA Counsel”** shall mean the attorneys representing Plaintiffs in the Action:
15 Shaun Setareh and William M. Pao with the firm of Setareh Law Group.

16 7. **“Defense Counsel”** in respect to counsel for Defendants shall mean the attorneys
17 representing Defendant J and R Hock: Lyne A. Richardson and Brittney L. Turner with the firm of
18 Ogletree, Deakins, Nash, Smoak and Stewart, P.C.; and the attorneys representing Defendants Taco
19 Bell and Taco Bell America: Jennifer B. Zargarof and Daniel R. Rodriguez with the firm of
20 Morgan, Lewis & Bockius, LLP.

21 8. **“Claims Administrator”** shall mean the administrator proposed by the Parties and
22 appointed by the Court to administer the Settlement.

23 9. **“Approval Hearing”** shall mean the hearing to be conducted by the Court to
24 determine whether to approve and implement the terms of this Agreement.

25 10. **“Judgment”** shall mean the Order of Final Judgment entered by the Court that the
26 Parties anticipate will be entered following the Approval Hearing on the Settlement in this Action.

27 11. **“Effective Date”** shall mean the date by which this Agreement is approved by the
28 Court and the order approving the Settlement Agreement becomes final. For purposes of this

1 Settlement Agreement, the Court's order becomes Final upon written notice from PAGA Counsel
2 that Plaintiffs shall not appeal the Court's order. If Defendants do not receive notice from
3 Plaintiffs' counsel informing Defendants of an intent to waive appeal, then the Effective Date shall
4 be the later of: (a) the period for filing any appeal, writ, or other appellate proceeding opposing the
5 Settlement has elapsed without any appeal, writ, or other appellate proceeding having been filed; (b)
6 any appeal, writ, or other appellate proceeding opposing the Settlement has been dismissed finally
7 and conclusively with no right by any appellant or objector to pursue further remedies or relief; or
8 (c) any appeal, writ, or other appellate proceeding has upheld the order approving the Settlement
9 with no right by any appellant or objector to pursue further remedies or relief. In this regard, it is
10 the intention of the Parties that the Settlement shall not become effective until the Court's order
11 granting approval of the Settlement is completely final, and no further recourse exists by an
12 appellant or objector who seeks to contest the Settlement. The occurrence of the Effective Date is a
13 prerequisite to any obligation of J and R Hock to pay any funds into the Settlement Account.

14 12. **"Plaintiffs' Released Claims"** means any and all claims, demands, liens,
15 agreements, contracts, covenants, actions, suits, causes of action, grievances, obligations, debts,
16 expenses, damages, judgments, orders and liabilities of whatever kind or nature in state, federal, or
17 local law, or based on any constitutional provision, statute or regulation, or in tort, or in contract,
18 equity or otherwise, whether known or unknown, which arose at any time up to and including the
19 Effective Date, including but not limited to any and all tort claims, contract claims, wrongful
20 termination claims, disability claims, benefit claims, public policy claims, retaliation claims,
21 statutory claims, personal injury claims, emotional distress claims, invasion of privacy claims,
22 defamation claims, fraud claims, quantum meruit claims, and any and all claims arising under any
23 federal, state or other governmental statute, law, regulation or ordinance, including, but not limited
24 to, claims for violation of the Fair Labor Standards Act ("FLSA"), the California Labor Code, the
25 Wage Orders of California's Industrial Welfare Commission, other state wage and hour laws, the
26 Americans with Disabilities Act, the Age Discrimination in Employment Act (ADEA), the
27 Employee Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the California
28 Fair Employment and Housing Act, the California Family Rights Act, the Family Medical Leave

1 Act, California's Whistleblower Protection Act, California Business & Professions Code §§17200
2 et seq., and any and all claims arising under any federal, state, local or other governmental statute,
3 law, regulation or ordinance, as well as the Release of Claims by Plaintiffs and Aggrieved
4 Employees described in paragraph 16 and any related non-PAGA claims, and any other wage and
5 hour related claims, whether known or unknown, and whether anticipated or unanticipated,
6 including but not limited to claims for alleged wages due, waiting time penalties; claims for failure
7 to pay premium pay for non-compliant meal and/or rest periods; unauthorized or unlawful
8 deductions from wages; statutory penalties for failure to keep and furnish accurate itemized wage
9 statements; unreimbursed business expenses; or any other claims for wages, premium pay, civil or
10 statutory penalties, and/or liquidated damages; related tort, contract, and punitive damages claims;
11 claims for interest; attorneys' fees; litigation and other costs; expenses; restitution and equitable or
12 declaratory relief; and violations of the California Business & Professions Code, section 17200 et
13 seq.

14 13. **"Maximum Settlement Number"** In consideration for the Settlement and the
15 release of claims set forth below, J and R Hock agrees to pay a maximum of One Million Four
16 Hundred Eighty-Eight Thousand Sixty Dollars and No Cents (\$1,488,060.00) ("the Maximum
17 Settlement Number" or "MSN"). The MSN is the maximum total amount that J and R Hock may
18 be required to pay for all claims of Aggrieved Employees that are alleged, or that could have been
19 brought, in the Action arising from the allegations made therein, and also including reimbursement
20 and enhancement included in the PAGA Representative Payments, all amounts payable to the
21 Labor Workforce Development Agency ("LWDA"), all Court-approved attorneys' fees of PAGA
22 Counsel, all costs and expenses incurred or advanced by PAGA Counsel related to the Action, and
23 the fees and costs of the Claims Administrator. In no event will J and R Hock be required to pay
24 more than the MSN, except that if the number of PAGA pay periods exceeds 82,670 by more than
25 5%, the Maximum Settlement Number will increase pro rata per additional PAGA pay period at a
26 rate of \$18.00 per additional PAGA pay period.

27 14. **"Net Settlement Number"** The Net Settlement Number ("NSN") shall mean the
28 MSN payable by J and R Hock pursuant to this Settlement, less the following sums set forth in

1 subsections (a) through (e) of this section 13:

2 a. **PAGA Counsel Fees Payment.** PAGA Counsel will apply to the Court for
3 an award of not more than Four Hundred Ninety-Six Thousand Twenty Dollars and No Cents
4 (\$496,020.00) (which is one-third of the MSN) as their PAGA Counsel Fees Payment. The Claims
5 Administrator will pay the amount approved by the Court from the MSN (but not more than
6 \$496,020.00 in PAGA Counsel Fees Payment.) Withholding and deductions will not be taken from
7 the PAGA Counsel Fees Payment and one or more Forms 1099 will be issued to PAGA Counsel
8 with respect to that payment. Any fees not awarded shall remain part of the MSN for inclusion in
9 the NSN.

10 b. **PAGA Counsel Litigation Expenses Payment.** PAGA Counsel will apply
11 to the Court for an award of not more than Twenty-Five Thousand Dollars and No Cents
12 (\$25,000.00) to compensate them for out-of-pocket costs and expenses actually incurred in
13 connection with the Action. The Claims Administrator will pay the amount approved by the Court
14 from the MSN (but not more than \$25,000.00 in PAGA Counsel Litigation Expenses). Withholding
15 and deductions will not be taken from the PAGA Counsel Litigation Expenses Payment and one or
16 more Forms 1099 will be issued to PAGA Counsel with respect to that payment. Any portion of the
17 allocation for costs and expenses not awarded shall remain part of the MSN for inclusion in the
18 NSN.

19 c. **PAGA Representative Payment.** Plaintiff Linthicum and Plaintiff Fragoso
20 will each apply to the Court for an award of not more than Ten Thousand Dollars and No Cents
21 (\$10,000.00) and Five Thousand Dollars and No Cents (\$5,000.00), respectively, as their PAGA
22 Representative Payment, made in their capacity as PAGA Representatives to compensate them for
23 initiating the Action, performing work in support of the Action, and undertaking the risk of liability
24 for attorneys' fees and expenses in the event they were unsuccessful in the prosecution of the
25 Action and also made in exchange for their release of claims below. Defendants will not oppose a
26 PAGA Representative Payment of not more than \$10,000.00 to Linthicum and \$5,000.00 to
27 Fragoso. The Claims Administrator will pay the PAGA Representative Payment approved by the
28 Court from the MSN. Payroll taxes, withholdings, and deductions will not be taken from the PAGA

1 Representative Payment, and instead a Form 1099 will be issued to Plaintiffs with respect to that
2 payment. Plaintiffs agree to assume all responsibility and liability for the payment of taxes due on
3 the PAGA Representative Payment. Any portion of the PAGA Representative Payment not
4 awarded shall remain part of the MSN for inclusion in the NSN.

5 d. **Payment to Claims Administrator.** The Claims Administrator will be paid
6 from the MSN its reasonable fees and expenses as approved by the Court in an amount currently
7 estimated to not exceed Twenty Thousand Dollars and No Cents (\$20,000.00).

8 e. **Payment to the LWDA.** Seventy-five percent (75%) of the NSN shall be
9 paid to the LWDA. The remainder twenty-five percent (25%) shall be paid to the Aggrieved
10 Employees allocated *pro rata* based on the number of pay periods worked by each Aggrieved
11 Employee for J and R Hock during the PAGA Period. All such payments shall be issued in net
12 amounts, no withholding, and treated as penalties for tax purposes.

13 14. **Allocation of NSN and Calculation of Settlement Shares.** Subject to the terms
14 and conditions of this Agreement, the Claims Administrator will calculate a settlement share from
15 the NSN for each Aggrieved Employee. The Settlement Share for each Aggrieved Employee will
16 be calculated as follows, understanding that the formula below does not constitute an admission by
17 Defendants, and is intended only to provide a practical means to simplify and administer the claims
18 process:

19 a. **Allocation.** Each settlement share is allocated one hundred percent (100%)
20 to penalties for which 1099s will be issued.

21 b. **Settlement Ratio Calculation.** The Claims Administrator shall assign to
22 each Aggrieved Employee a "Settlement Ratio," which shall be a fractional number comprised of (i)
23 that Aggrieved Employee's Individual Pay Periods as the numerator, and (ii) the aggregate total of
24 all Aggrieved Employees' Individual Pay Periods as the denominator. The Claims Administrator
25 shall assign to each Aggrieved Employee the "Settlement Share" which shall be calculated by
26 multiplying that Aggrieved Employee's Settlement Ratio by the amount allocated to Aggrieved
27 Employees from the NSN.

28 15. **Settlement Share Worksheet.** Upon calculation of the Aggrieved Employees'

1 Settlement Share, the Claims Administrator shall furnish to PAGA Counsel and Defense Counsel a
2 worksheet containing a list of the names of the Aggrieved Employees with their corresponding
3 Individual Pay Periods and Settlement Shares.

4 16. **Release of Claims by Plaintiffs and Aggrieved Employees.** This settlement
5 contemplates that as of the Effective Date, all Aggrieved Employees, including Plaintiffs, release all
6 claims for civil penalties pursuant to California Labor Code, §§ 2698 *et seq.*, known as the Labor
7 Code Private Attorneys General Act of 2004 (“PAGA”) against J and R Hock, Taco Bell Corp. and
8 Taco Bell of America, LLC, and their present and former parents, subsidiaries, co-employers, and
9 each of their respective present and former owners, boards, directors, officers, trustees,
10 shareholders, members, partners, employees, agents, attorneys, representatives, successors and
11 assigns, and present and former parents, subsidiaries, affiliated and related parties, and each of them
12 (“Released Parties”), including any and all claims, debts, liabilities, demands, actions, or causes of
13 actions of every nature and description that were alleged or that reasonably could have been alleged
14 based on the factual allegations contained in the Second Amended Complaint (the “Complaint”)
15 that Plaintiffs filed with the Los Angeles County Superior Court, for civil penalties pursuant to the
16 PAGA for underlying violations of the following: California Labor Code sections, 201, 202, 203,
17 204, 210, 221, 223, 226, 226.7, 227.3, 256, 510, 512, 558, 558.1, 1174, 1194, 1194.2 , 1197,
18 1197.1, 1198, 1199, 2802, 2808, applicable Wage Orders, and Code of Regulations, Title 8,
19 11040(7)(A)(3) by allegedly failing to provide meal and rest periods, failing to pay meal and rest
20 period premiums, failing to properly record meal and rest periods, failing to pay for all hours
21 worked, failing to timely pay wages, failing to pay minimum wages, failing to pay overtime wages,
22 failing to provide accurate written wage statements, failing to provide suitable seating, failing to
23 timely pay final wages, or failing to reimburse for business expenses. So that there is no doubt, this
24 release only releases claims for civil penalties under PAGA.

25 17. **Motion for Approval of Settlement by the Court.** Subject to Defendants’ review
26 and approval prior to filing, PAGA Counsel will move the Court for an order granting Approval of
27 the Settlement (the “Motion for Approval”) and approving the PAGA Settlement Notice attached
28 hereto as **Exhibit “1”**. At the hearing on the Motion for Approval, PAGA Counsel will submit an

1 Order Granting Approval of Settlement, and Approval of Notice to Aggrieved Employees. Should
2 the Court decline to approve the Settlement in its entirety, the Settlement will be null and void and
3 the Parties will have no further obligations under this Settlement Agreement.

4 18. **Claims Administrator.** The Parties have agreed to the appointment of the Phoenix
5 Settlement Administrators (the “Claims Administrator”) or such other independent administrator as
6 the Court might appoint to mail the PAGA Settlement Notice, and to compute and pay the
7 appropriate sums from the MSN. The Claims Administrator’s estimate of its costs/fees for the
8 administration of the settlement is \$17,250.00. The actual fees and costs of the Claims
9 Administrator which will be paid out of the MSN, will not be known until all claims are
10 administered, and could vary materially from the estimate.

11 (a) **Establishment of Settlement Account.** The Claims Administrator will establish a
12 Settlement Account for the purpose of administering the funds described in this Settlement
13 Agreement. Within thirty (30) calendar days of the later of (a) the Court’s approval of settlement,
14 (b) the time for appeal has expired if an objection has been filed, or (c) the final resolution of any
15 appeal that has been filed, including any subsequent proceedings on remand and appeals and
16 remands thereof, if any, J and R Hock shall pay into the Settlement Account (via wire transfer) an
17 amount equal to the MSN.

18 (b) **Payment of Settlement Shares.** The Claims Administrator shall pay Settlement
19 Shares, from the Settlement Account, to all Aggrieved Employees. The Claims Administrator shall
20 pay each Settlement Share by sending a check in the appropriate amount to the Aggrieved
21 Employee at the address indicated in the list of Aggrieved Employee names and addresses provided
22 by J and R Hock, or as subsequently determined by the Claims Administrator to be the correct
23 address. Such payment shall be sent by the Claims Administrator via U.S. Mail within ten (10)
24 days of its receipt from J and R Hock of the sums described above.

25 (c) **Payment of PAGA Counsel Fees Payment and PAGA Counsel Litigation**
26 **Expenses.** Within ten (10) calendar days of its receipt from J and R Hock of the sums described
27 above, the Claims Administrator shall pay all PAGA Counsel Fees and PAGA Counsel Litigation
28 Expenses as approved by the Court from the MSN.

1 (d) **Payment of PAGA Representative Payments.** Within ten (10) calendar days of its
2 receipt from J and R Hock of the sums described above, the Claims Administrator shall pay the
3 PAGA Representative Payments to Plaintiffs as approved by the Court from the MSN.

4 (e) **Payment to the LWDA.** Within ten (10) calendar days of its receipt from J and R
5 Hock of the sums described above, the Claims Administrator shall pay the LWDA the amount
6 allocated to the LWDA as approved by the Court from the MSN.

7 19. **List of Aggrieved Employees.** Within thirty (30) calendar days after the Court
8 grants Approval of the Settlement, J and R Hock shall provide to the Claims Administrator:

9 a. An electronic database of the first and last names of all Aggrieved
10 Employees, last known mailing address, Social Security number, and employee identification
11 number associated with an Aggrieved Employee’s employment with J and R Hock (“Aggrieved
12 Employees Data”).

13 b. Corresponding to each Aggrieved Employees name, J and R Hock shall
14 provide a figure indicating the total number of Pay Periods during the PAGA Period in which that
15 Aggrieved Employee performed any work for J and R Hock as an hourly or non-exempt employee
16 in California. That number of Pay Periods shall be referred to as that Aggrieved Employee’s
17 “Individual Pay Periods.” If any of the Aggrieved Employees Data are unavailable to J and R Hock,
18 J and R Hock will so inform PAGA Counsel and the Parties will make their best efforts to
19 reconstruct or otherwise agree upon the Aggrieved Employees Data prior to when it must be
20 submitted to the Claims Administrator. Aggrieved Employees Data will otherwise remain
21 confidential and will not be disclosed to anyone, except as necessary to applicable taxing authorities,
22 or pursuant to Defendants’ express written authorization or by order of the Court.

23 20. **Duty of Claims Administrator to send Notice to PAGA Members.** Upon receipt
24 of the names and addresses, the Claims Administrator will run the same through the NCOA
25 database to obtain current address information. Within fifteen (15) calendar days of its receipt of the
26 Aggrieved Employees Data, the Claims Administrator will mail to each Aggrieved Employee by
27 first-class mail a PAGA Settlement Notice in the form attached hereto as **Exhibit “1”** and approved
28 by the Court. Included in the PAGA Settlement Notice will be the Aggrieved Employee’s first and

1 last name, last known address, employee identification number associated with his or her
2 employment with J and R Hock, Aggrieved Employee's Individual Pay Periods during the PAGA
3 Period, and the estimated amount of the Aggrieved Employee's Settlement share.

4 a. Mailing of PAGA Settlement Notice. Within fourteen (14) calendar days
5 after receiving the Aggrieved Employees' Data, or as soon thereafter as it can do so, the Claims
6 Administrator will mail the PAGA Settlement Notice to all identified Aggrieved Employees via
7 first-class U.S. mail using the mailing address information provided by J and R Hock, unless
8 modified by any updated address information that the Claims Administrator obtains in the course of
9 administration of the Settlement.

10 b. Returned PAGA Settlement Notice. If a PAGA Settlement Notice is returned
11 because of an incorrect address, the Claims Administrator will promptly, and not later than ten (10)
12 calendar days from receipt of the returned notice, search for a more current address for the
13 Aggrieved Employee and re-mail the PAGA Settlement Notice to the Aggrieved Employee. The
14 Claims Administrator will use the Aggrieved Employees' Data and otherwise work with
15 Defendants' counsel and PAGA Counsel to find a more current address. The Claims Administrator
16 will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, court
17 orders, and fee, to trace the mailing address of any Aggrieved Employee for whom a PAGA
18 Settlement Notice is returned by the U.S. Postal Service as undeliverable. These reasonable steps
19 shall include the tracking of all undelivered mail; performing address searches for all mail returned
20 without a forwarding address; and promptly re-mailing to Aggrieved Employees for whom new
21 addresses are found. If the PAGA Settlement Notice is re-mailed, the Claims Administrator will
22 note for its own records and notify PAGA Counsel and Defendants' counsel of the date and address
23 of each such re-mailing as part of a weekly status report provided to the Parties.

24 21. **No Right of Aggrieved Employees to Object or Opt-Out.** The Parties agree there
25 is no statutory right for any Aggrieved Employee to object, opt out or otherwise exclude himself or
26 herself from the Settlement. Except as otherwise stated, Plaintiffs will vigorously defend against
27 any attempt by any Aggrieved Employee or by any entity or agency (other than the LWDA,
28 consistent with the LWDA's statutory duties and obligations) to intervene in this matter or object

1 to/opt-out of this settlement. The Parties further agree there is no right or opportunity for any
2 Aggrieved Employee to appeal the approval of the Settlement by the Court. The Parties will
3 cooperate in opposing objections made to the Settlement or any appeal filed with respect to the
4 Court's approval order and judgment.

5 22. **Plaintiffs Linthicum and Fragoso's Released Claims.**

6 a. Plaintiffs represent and warrant that they have not assigned or transferred or
7 purported to assign or transfer to any person or entity, any claim or portion thereof, or interest
8 therein, which is or may be subject to this Settlement Agreement.

9 b. Plaintiff Linthicum hereby acknowledges that upon receiving the sums provided to
10 her as Plaintiff's Linthicum's PAGA Representative Payment, she shall be deemed to have fully,
11 finally and forever released the Released Parties from all of Plaintiffs' Released Claims through the
12 Effective Date, and she will have received all potential wages, damages, and penalties owed to her
13 by J and R Hock, and further, that she is not owed any additional wages, penalties, or damages from
14 Defendants. Plaintiff Linthicum's release of claims also expressly includes a waiver of California
15 Civil Code section 1542, which provides as follows:

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

20 Thus, notwithstanding the provisions of California Civil Code section 1542, Plaintiff Linthicum
21 expressly acknowledges and agrees that her release is also intended to include in its effect, without
22 limitation, all such claims which she does not know or suspect to exist at the time of the execution
23 of this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment
24 of those claims.

25 c. Plaintiff Fragoso hereby acknowledges that upon receiving the sums provided
26 to her as Plaintiff's Fragoso's PAGA Representative Payment, she shall be deemed to have fully,
27 finally and forever released the Released Parties from all of Plaintiffs' Released Claims through the
28 Effective Date, and she will have received all potential wages, damages, and penalties owed to her

1 by J and R Hock, and further, that she is not owed any additional wages, penalties, or damages from
2 Defendants. Plaintiff Fragoso’s release of claims also expressly includes a waiver of California
3 Civil Code section 1542, which provides as follows:

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

11 Thus, notwithstanding the provisions of California Civil Code section 1542, Plaintiff Fragoso
12 expressly acknowledges and agrees that her release is also intended to include in its effect, without
13 limitation, all such claims which she does not know or suspect to exist at the time of the execution
14 of this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment
15 of those claims.

16 d. Plaintiffs acknowledge that they have read this Settlement Agreement, that
17 they fully understand their rights, privileges, and duties under the Settlement Agreement, and enter
18 into this Settlement Agreement freely and voluntarily. Plaintiffs further acknowledge that they have
19 had the opportunity to consult with their attorneys to explain the terms of this Settlement Agreement
20 and the consequences of signing this Settlement Agreement.

21 23. **Declaration of Claims Administrator.** Not later than fourteen calendar days (14)
22 days after the period of time for which settlement checks shall be negotiable (180 days), the Claims
23 Administrator will provide the Parties for filing with the Court a declaration of due diligence setting
24 forth its compliance with its obligations under this Agreement. The Claims Administrator will
25 supplement its declaration of due diligence if any material changes occur from the date of the filing
26 of its prior declaration.

27 24. **Right to Void Settlement Agreement.** If the Court ultimately does not grant
28 approval of the Settlement or grants approval conditioned on any material change to the Settlement,
then any Party will have the unilateral right to void the Settlement Agreement in its entirety; if that
occurs, the Parties will have no further obligations under the Settlement Agreement, including any
obligation by J and R Hock to pay the MSN, NSN or any amounts that otherwise would have been

1 payable under this Agreement. However, an award by the Court of a lesser amount than that sought
2 by Plaintiff and PAGA Counsel for the PAGA Representative Payment, the PAGA Counsel Fees
3 Payment, or the PAGA Counsel Litigation Expenses Payment, will not constitute a material
4 modification to the Settlement within the meaning of this paragraph and shall not render the
5 Settlement voidable. Plaintiffs and PAGA Counsel shall retain the right to appeal awards of
6 attorneys' fees and costs less than requested.

7 **25. Final Judgment.** Upon approval of the Settlement by the Court at or after the
8 Approval Hearing, the Parties will present for the Court's approval and entry a Proposed Final Order
9 and Judgment. The Final Order and Judgment shall permanently bar all Aggrieved Employees from
10 prosecuting against Defendants any claims within the scope of the Releases contained in this
11 Agreement.

12 **26. Continuing Jurisdiction.** After entry of the Judgment, the Court will have
13 continuing jurisdiction over the Actions and the Settlement solely for purposes of (a) enforcing this
14 Agreement, (b) addressing claims administration matters, and (c) addressing such post-Judgment
15 matters as may be appropriate under court rules or applicable law.

16 **27. Uncashed Settlement Share Checks.** Any checks issued by the Claims
17 Administrator to Aggrieved Employees shall be negotiable for one hundred and eighty (180)
18 calendar days. Those funds represented by checks returned as undeliverable and those checks
19 remaining un-cashed for more than 180 days after issuance (collectively, "Voided Settlement
20 Checks") will be sent to the Controller of the State of California, in the name of that Aggrieved
21 Employee, to be held pursuant to the Unclaimed Property Law for the benefit of the Aggrieved
22 Employee until such time as they claim their property, as allowed by law. California Civil Code
23 section 1500 *et seq.* The Parties agree this disposition results in no "unpaid residue" under
24 California Civil Procedure Code section 384 (b), as the entire Net Settlement Amount will be paid
25 to Aggrieved Employees, whether or not all checks are cashed. Because no unpaid residue will
26 exist, Defendants will not be required to pay any interest on the uncashed checks.

27 **28. Final Report by Claims Administrator to Court.** Within ten (10) days after final
28 disbursement of all funds from the Settlement Account, the Claims Administrator will serve on the

1 Parties for filing with the Court a declaration providing a final summary report on the disbursements
2 of all funds from the Settlement Account.

3 **29. Non-Publicity Provision.** The Parties and their counsel agree that they will not
4 issue any press releases, initiate any contact with the press, respond to any press inquiry or have any
5 communication with the press about the fact, amount or terms of the Settlement. In addition, the
6 Parties and their counsel agree that they will not engage in any advertising or distribute any
7 marketing materials relating to the Settlement of this case in any manner that identifies the
8 Defendants, including but not limited to any postings on any websites maintained by PAGA
9 Counsel. Neither Plaintiffs nor PAGA Counsel will discuss the terms or the fact of the Settlement
10 with third parties other than (1) their immediate family members, (2) their respective accountants or
11 lawyers as necessary for tax purposes; or (3) other Aggrieved Employees. Plaintiffs and PAGA
12 Counsel agree not to publish any of the terms or conditions of this Settlement in any manner that
13 identifies Defendants. However, PAGA Counsel may identify this Settlement in other matters to
14 demonstrate their adequacy as counsel in such other matters.

15 **30. No Effect on Other Benefits.** Neither the Settlement Agreement or any amounts
16 paid to Plaintiffs or Aggrieved Employees under the Settlement Agreement will result in any
17 additional employee benefit payments (such as pension, ERISA, 401(k), vacation, or bonus) and
18 shall not have any effect on the eligibility for, or calculation of, any employee benefit. J and R
19 Hock retains the right, if necessary, to modify the language of its benefit plans, policies, and bonus
20 programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement
21 Agreement are not for “hours worked,” “hours paid,” “hours of service,” or any similar measuring
22 term as defined by applicable plans, policies, and/or bonus programs for purposes of eligibility,
23 vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not
24 required by this Settlement Agreement. Plaintiffs and Aggrieved Employees are deemed to have
25 waived all such claims, whether known or unknown by them, as part of their release of claims under
26 this Agreement.

27 **31. No Admission of Liability.** Defendants deny that they engaged in any unlawful
28 activity, failed to comply with the law in any respect, or have any liability to anyone under the

1 claims asserted in the Action. This Agreement is entered into solely for the purpose of
2 compromising highly disputed claims. Nothing in this Agreement is intended or will be construed
3 as an admission of liability or wrongdoing by Defendants, or an admission by Plaintiffs that any of
4 their claims were non-meritorious or any defense asserted by Defendants was meritorious. This
5 Settlement and the fact that Plaintiffs and Defendants were willing to settle the Action will have no
6 bearing on, and will not be admissible in connection with, any litigation (other than solely in
7 connection with the Settlement).

8 **32. Integrated Agreement.** After this Agreement is signed and delivered by all Parties
9 and their counsel, this Agreement and its exhibits will constitute the entire agreement between the
10 Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties,
11 covenants, or inducements have been made to any Party concerning this Agreement or its exhibits
12 other than the representations, warranties, covenants, and inducements expressly stated in this
13 Agreement and its exhibits.

14 **33. Modification.** This Stipulation of Settlement may not be changed, altered, or
15 modified, except in a writing signed by the Parties hereto and approved by the Court. This
16 Stipulation of Settlement may not be discharged except by performance in accordance with its terms
17 or by a writing signed by all of the Parties hereto.

18 **34. Attorney Authorization.** PAGA Counsel and Defense Counsel warrant and
19 represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate
20 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its
21 terms, and to execute any other documents required to effectuate the terms of this Agreement. The
22 Parties and their counsel will cooperate with each other and use their best efforts to effect the
23 implementation of the Settlement. In the event the Parties are unable to reach agreement on the
24 form or content of any document needed to implement the Agreement, or on any supplemental
25 provisions that may become necessary to effectuate the terms of this Agreement, the Parties will
26 seek the assistance of the Court, and in all cases, all such documents, supplemental provisions and
27 assistance of the court will be consistent with this Agreement.

28 **35. Modification of Agreement.** This Agreement, and all parts of it, may be amended,

1 modified, changed, or waived only by an express written instrument signed by all Parties or their
2 successors-in-interest.

3 **36. Agreement Binding on Successors.** This Agreement will be binding upon, and
4 inure to the benefit of, the Parties hereto and their respective heirs, trustees, executors,
5 administrators, successors, and assigns.

6 **37. Applicable Law.** All terms and conditions of this Agreement and its exhibits will be
7 governed by and interpreted according to the laws of the State of California, without giving effect to
8 any conflict of law principles or choice of law principles.

9 **38. Cooperation in Drafting.** The Parties have cooperated in the drafting and
10 preparation of this Agreement. This Agreement will not be construed against any Party on the basis
11 that the Party was the drafter or participated in the drafting.

12 **39. Costs and Fees.** The Parties shall all bear their own costs, attorneys' fees, mediator
13 fees, and other fees incurred in connection with this Settlement Agreement and in connection with
14 the Actions and Plaintiff's claims, except as otherwise set forth specifically herein.

15 **40. Fair Settlement.** The Parties and their respective counsel believe and warrant that
16 this Agreement reflects a fair, reasonable, and adequate settlement of the Actions and have arrived
17 at this Agreement through arms-length negotiations, considering all relevant factors, current and
18 potential.

19 **41. Invalidity of any Provision.** Before declaring any provision of this Settlement
20 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
21 possible consistent with applicable precedents so as to define all provisions of this Settlement
22 Agreement valid and enforceable.

23 **42. Severability.** If any term or provision of this Settlement Agreement is held to be
24 invalid or unenforceable, the remaining provisions of this Settlement Agreement will continue to be
25 valid and will be performed, construed, and enforced to the fullest extent permitted by law, and the
26 invalid or unenforceable term will be deemed amended and limited in accordance with the intent of
27 the parties, as determined by the face of the Settlement Agreement, to the extent necessary to permit
28 the maximum enforceability or validation of the term or provision.

1 43. **Headings.** The descriptive heading of any section or paragraph of this Agreement is
2 inserted for convenience of reference only and does not constitute a part of this Agreement.

3 44. **Notice.** All notices, demands or other communications given under this Agreement
4 will be in writing and deemed to have been duly given as of the third business day after mailing by
5 United States mail, addressed as follows:

6 To Class Counsel:

7 Shaun Setareh, Esq.
8 William M. Pao, Esq.
9 SETAREH LAW GROUP
 9665 Wilshire Boulevard, Suite 430
 Beverly Hills, CA 90212-4309

 To Defense Counsel:

 Lyne A. Richardson, Esq.
 Brittney L. Turner, Esq.
 OGLETREE, DEAKINS, NASH, SMOAK
 & STEWART, P.C.
 19191 S. Vermont Ave., Suite 950
 Torrance, CA 90502

 Jennifer B. Zargarof, Esq.
 Daniel Rodriguez, Esq.
 MORGAN, LEWIS & BOCKIUS LLP
 300 S. Grand Ave., 22nd Floor
 Los Angeles, CA 90071

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14 45. **Execution in Counterparts.** This Agreement may be executed in one or more
15 counterparts. All executed counterparts and each of them will be deemed to be one and the same
16 instrument provided that counsel for the Parties will exchange between themselves original signed
17 counterparts. Facsimile signatures will be presumptive evidence of execution of the original, which
18 shall be produced on reasonable request. Any executed counterpart will be admissible to prove the
19 existence and contents of this Agreement.

20 46. **No Assignments.** The Parties hereto represent, covenant, and warrant that they have
21 not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
22 encumber to any person or entity any portion of any liability, claim, demand, action, cause of
23 action, or rights herein released and discharged.

24 47. **Stay of Litigation.** The Parties agree that upon the execution of this Agreement, the
25 litigation shall be stayed, including Defendants' obligation to respond to the Second Amended
26 Complaint, except to effectuate the terms of this Agreement.
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1 DATED: October __, 2022

J AND R HOCK ENTERPRISES, INC.

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By: _____

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5 DATED: October 6, 2022

TACO BELL CORPORATION

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DocuSigned by:

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By: kimberly Bernstein

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9 DATED: October 6, 2022

TACO BELL OF AMERICA, LLC

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DocuSigned by:

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By: kimberly Bernstein

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13 DATED: October __, 2022

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By: [Signature]
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INGRID FRAGOSO

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17 DATED: October __, 2022

By: [Signature]
ID vuvYAgJ6MJJASLwE7UhhVdJ

ERICA LINTHICUM

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20 APPROVED AS TO FORM AND CONTENT:

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22 DATED: October __, 2022

SETAREH LAW GROUP

23

By: [Signature]

SHAUN SETAREH
WILLIAM M. PAO
Attorneys for Plaintiff ERICA LINTHICUM and
INGRID FRAGOSO

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1 DATED: October __, 2022

OGLETREE, DEAKINS, NASH, SMOAK & STEWART,
P.C.

2

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By: _____

LYNE RICHARDSON
BRITTNEY L. TURNER
Attorneys for Plaintiff J AND R HOCK
ENTERPRISES, INC.

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DATED: October 6, 2022

MORGAN LEWIS & BOCKIUS LLP

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DocuSigned by:

Daniel Rodriguez

By: _____

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JENNIFER B. ZARGAROF
DANIEL RODRIGUEZ
Attorneys for Defendants TACO BELL OF
AMERICA, LLC and TACO BELL CORP.

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13 IT IS SO ORDERED.

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15 DATED: October __, 2022

The Honorable Maurice A. Leiter
JUDGE OF THE SUPERIOR COURT

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1 DATED: October ^{10/5/2022} __, 2022

J AND R HOCK ENTERPRISES, INC.

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5 DATED: October __, 2022

TACO BELL CORPORATION

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By: _____

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9 DATED: October __, 2022

TACO BELL OF AMERICA, LLC

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By: _____

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13 DATED: October __, 2022

By: 
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INGRID FRAGOSO

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17 DATED: October __, 2022

By: 
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ERICA LINTHICUM

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20 APPROVED AS TO FORM AND CONTENT:

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22 DATED: October __, 2022

SETAREH LAW GROUP

23

By: 
SHAUN SETAREH
WILLIAM M. PAO
Attorneys for Plaintiff ERICA LINTHICUM and
INGRID FRAGOSO

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1 DATED: October 6, 2022

OGLETREE, DEAKINS, NASH, SMOAK & STEWART,
P.C.



By: _____

LYNE RICHARDSON
BRITTNEY L. TURNER
Attorneys for Plaintiff J AND R HOCK
ENTERPRISES, INC.

7 DATED: October , 2022

MORGAN LEWIS & BOCKIUS LLP

By: _____

JENNIFER B. ZARGAROF
DANIEL RODRIGUEZ
Attorneys for Defendants TACO BELL OF
AMERICA, LLC and TACO BELL CORP.

13 IT IS SO ORDERED.

15 DATED: October __, 2022

The Honorable Maurice A. Leiter
JUDGE OF THE SUPERIOR COURT

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