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Attorneys for Plaintiff, USA CORRALES-ROJAS, on
behalf of himself and all others similarly situated
and aggrieved

FILED
Superior Court of California
County of Los Angeles

02/08/2023

David W. Slayton, Executive Officer / Clerk of Court

By: M. Fregoso Deputy**SUPERIOR COURT OF THE STATE OF CALIFORNIA****FOR THE COUNTY OF LOS ANGELES- SPRING STREET COURTHOUSE**

USA CORRALES-ROJAS, on behalf of
himself and all others similarly situated,

Plaintiff,

vs.

Q & B FOODS, INC., a California
corporation; ESG EMPLOYER RESOURCES
INC., an Indiana corporation; and DOPES 1
through 100 inclusive,

Defendants.

CASE NO.: 20STCV40885

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

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

This Court, having considered the Motion of plaintiff Usa Corrales-Rojas ("Plaintiff") for Preliminary Approval of the Class Action Settlement and Provisional Class Certification for Settlement Purposes Only ("Motion for Preliminary Approval"), the Declarations of David D. Bibiyan, Plaintiff, and Jodey Lawrence, the Stipulation for Class Action and Representative Action Settlement (the "Settlement Agreement"), the Notice of Proposed Class Action Settlement ("Class Notice"), and the other documents submitted in support of the Motion for Preliminary Approval, hereby **ORDERS, ADJUDGES AND DECREES THAT:**

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

2. The Court certifies the following settlement class for the purpose of settlement only: all individuals who worked in a Covered Job Position, at any time during the period between October

1 26, 2015 and May 15, 2022 (“Class Period”).

2 3. “Covered Job Position” means any California non-exempt, hourly-paid position for
3 Q&B Foods, Inc. employees and all positions occupied by non-exempt, hourly-paid temporary
4 workers assigned to work at Q&B by any staffing agency at any time during the Class Period.

5 4. “Qualifying Work Week” means any week within the Class Period wherein a Class
6 Member worked any portion of that week in a Covered Job Position based on hire dates, termination
7 dates, and re-hire dates provided by Defendants to the Settlement Administrator.

8 5. The Court preliminarily appoints named plaintiff Usa Corrales-Rojas as Class
9 Representative and David D. Bibiyan of Bibiyan Law Group, P.C. as Class Counsel.

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

22 7. The Court, approves, as to form and content, the Class Notice that has been submitted
23 herewith and attached hereto as Exhibit “A”

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

28 9. The Court hereby preliminarily approves the definition and disposition of the Gross

1 Settlement Amount of \$1,150,000.00, which is inclusive of: attorneys' fees not to exceed thirty-five
2 percent (35%) of the Gross Settlement Amount, which, if not escalated pursuant to the Settlement
3 Agreement, amounts to \$402,500.00, in addition to actual costs incurred not to exceed \$30,000.00;
4 an incentive award of \$5,000.00 to Plaintiff; costs of settlement administration of no more than
5 \$12,950.00; and Private Attorneys' General Act of 2004 ("PAGA") penalties in the amount of
6 \$50,000.00, of which \$37,500.00 (75%) will be paid to the Labor and Workforce Development
7 Agency ("LWDA") and \$12,500.00 to "Alleged Aggrieved Employees", defined as Settlement
8 Class Members working in Covered Job Positions during any portion of the period from September
9 16, 2019 through the date on which the Class Period ends ("PAGA Period").

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

12 11. Defendants shall pay the Gross Settlement Amount within fourteen (14) calendar
13 days after the Effective Date, defined as the later of: (1) sixty days after the Court's entry of
14 Judgment and Final Order Approving Settlement of Class Action have expired without a notice of
15 appeal having timely been filed under California Rules of Court 8.104, 8.108, and 8.60; and (2) the
16 date on which any appeal from the Court's Judgment and Final Order Approving Settlement of Class
17 Action has been fully and finally resolved.

18 12. If it is determine that the number of Qualifying Work Weeks between October 26,
19 2016 and May 15, 2022 exceeds 46,653 Workweeks (42,412, plus 10% of 42,412), then, Defendant
20 Q&B shall increase the Gross Settlement Amount in proportion to the increased percentage - for
21 example, if such increase in workweeks is 15% over 42,412 workweeks, the Gross Settlement
22 Amount will increase by 5%, The additional value of each Qualifying Work Week shall be
23 calculated by dividing \$1,150,000 by 42,412, which amounts to \$27.12. Thus, for example, should
24 there be 47,000 Qualifying Work Weeks between October 26, 2016 and May 15, 2022, then
25 Defendant Q&B shall pay an additional \$9,410.64 as part of the Gross Settlement Amount. $((47,000$
26 $Qualifying\ Work\ Weeks - 46,653\ Qualifying\ Work\ Weeks) \times \$27.12 / Qualifying\ Work\ Week$.

27 13. The Court deems Phoenix Settlement Administrators ("Phoenix") the Settlement
28 Administrator, and payment of administrative costs, not to exceed \$12,950.00, out of the Gross

1 Settlement Amount for services to be rendered by Phoenix on behalf of the class.

2 14. The Settlement Administrator shall prepare and submit to Class Counsel and
3 Defendants' Counsel a declaration attesting to the completion of the notice process as set forth in
4 the Settlement Agreement, including the number of attempts to obtain valid mailing addresses for
5 and re-sending of any returned Class Notices, as well as the identities, number of, and copies of all
6 opt-outs and objections received.

7 15. No later than February 28, 2023, Defendants will provide the Settlement
8 Administrator with a list of all Settlement Class Members ("Class List"). This Class List shall state
9 the social security number and the last known home address and telephone numbers for each
10 Settlement Class Member. The Class List shall also state the dates worked by each such Settlement
11 Class Member during the Class Period in a Covered Job Position as indicated in, as applicable,
12 Defendants' records or those subpoenaed from the staffing agencies. This information shall be
13 treated as and remain confidential, shall be used solely to manage the notice and claims process
14 described herein, and shall not be disclosed to anyone other than the Settlement Administrator and
15 applicable taxing authorities, or pursuant to express written authorization of Defendants, the
16 individual in question, or by order of the Court.

17 16. Because Social Security Numbers are included in the Class List, the Settlement
18 Administrator shall maintain the Class List in confidence and shall only access and use the list to
19 administer the settlement in conformity with the Court's orders.

20 17. By March 14, 2023, the Settlement Administrator shall mail the Notice of Class
21 Settlement by first-class United States mail, postage prepaid, to the last known address of each
22 Settlement Class Member, or, in the case of Settlement Class Members known to be deceased, to
23 the legal representative of the estate. The Notice will include the estimated Individual Payment
24 Amount for the Settlement Class Member to whom it is addressed, as well as the estimated
25 Individual PAGA Payment amount if the Settlement Class Member is also an Alleged Aggrieved
26 Employee. Prior to the initial mailing of the Notice of Class Action Settlement, the Settlement
27 Administrator shall perform a NCOA ("National Change of Address") update for each Settlement
28 Class Member.

1 18. The deadline by which Class Members may dispute the number of Workweeks
2 worked, and the deadline by which Class Members may opt out or object, is May 15, 2023. Class
3 Members who are re-mailed a Class Notice shall have fifteen (15) calendar days from the re-mailing,
4 or forty-five (45) days from the date of the initial mailing, whichever is later, in which to postmark
5 a Request for Exclusion, objection, or to dispute the information provided in the Class Notice. This
6 shall be known as the “Response Deadline.”

7 19. The Class Notice shall instruct Settlement Class Members on how to exclude
8 themselves from the Settlement Class. Any Settlement Class Member who receives a Class Notice
9 may request to be excluded from the Settlement Class by submitting a written Request for Exclusion
10 (“Request for Exclusion”). The Request for Exclusion must contain the Settlement Class Member’s
11 name, address, and last four digits of the Settlement Class Member’s social security number, and it
12 must affirmatively state that the Settlement Class Member does not want to participate in the Class
13 Settlement. The Request for Exclusion must also be signed by the Settlement Class Member.

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

17 21. Any Settlement Class Member who disputes the information shown on his or her
18 Statement of Weeks Worked may indicate and explain such disagreement on the Statement of
19 Weeks Worked form, to be returned to the Settlement Administrator postmarked by the Response
20 Deadline. Any such Settlement Class Member may submit any documentation in his or her
21 possession relating to his or her dispute along with his or her completed Statement of Weeks Worked
22 form. The Settlement Administrator shall notify Defendants’ Counsel and Class Counsel of any
23 such dispute no later than five (5) calendar days after receiving notice of the dispute. The Settlement
24 Administrator shall attempt to resolve the disagreement and may request any information or
25 assistance from Defendants’ Counsel and/or Class Counsel that the Settlement Administrator, in its
26 sole discretion, believes may assist it in resolving the disagreement. The Settlement Administrator
27 shall have final and binding authority to resolve any disputes based on the records of Defendants
28 and any staffing agency records. The Parties and their counsel shall use their best efforts to ensure

1 that any and all such disputes are resolved.

2 22. Any Settlement Class Member wishing to object to the approval of this Settlement
3 (“Objecting Settlement Class Member”) shall inform the Settlement Administrator in writing of any
4 intent to object by following the procedure set forth in the Notice of Class Settlement, with a written
5 Objection postmarked no later than the Response Deadline. Any such written objections must
6 contain the Settlement Class Member’s name, address, and last four digits of the Settlement Class
7 Member’s social security number and must state the legal and factual bases for objection. The
8 objection must also be signed by the Settlement Class Member. Nevertheless, even if a Settlement
9 Class Member does not submit an Objection as set forth in the manner herein, the Settlement Class
10 Member may still appear at the Final Approval Hearing to orally present any objections to the Court
11 or otherwise comment on the Settlement.

12 23. Participating Class Members may (though are not required to) appear at the Final
13 Approval hearing, either in person or through the objector’s own counsel. The failure to file and
14 serve a written objection does not waive a Participating Class Member’s right to appear at and make
15 an oral objection at the Final Approval hearing.

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

18 25. All papers filed in support of final approval, including supporting documents for
19 attorneys’ fees and costs, shall be filed by April 14, 2023.

20 26. The deadline for Class Counsel and Defendants’ Counsel to file responses to
21 objections, as well as the deadline to file the Settlement Administrator’s final report is June 5, 2023.

22 27. A Final Approval Hearing shall be held with the Court on June 15, 2023 at 10:00
23 a.m. in Department “6” of the above-entitled Court to determine: (1) whether the proposed
24 settlement is fair, reasonable, and adequate and should be finally approved by the Court; (2) the
25 amount of attorneys’ fees and costs to award Class Counsel; (3) the amount of incentive award to
26 the Class Representatives; (4) the amount to be paid to the Settlement Administrator; and (5) the
27 amount to be apportioned to PAGA and/or paid to the LWDA and Aggrieved Employees.

28 28. No more than seven (7) calendar days after payment by Defendants of the Gross

1 Settlement Amount, as well as payment by Defendants of the Employer Taxes, the Settlement
2 Administrator shall distribute all payments due under the Settlement, including Individual Payment
3 Amount to Participating Class Members, Individual Payment Amount to Alleged Aggrieved
4 Employees, Court-approved payments for the Service Award to Plaintiff, attorneys' fees and
5 litigation costs and expenses to Class Counsel, approved settlement administration costs to the
6 Settlement Administrator, and the payment to the LWDA.

7 29. To the extent there are any payments made to Settlement Class Members or Alleged
8 Aggrieved Employees that remain uncashed one hundred and eighty (180) days after mailing, all
9 such uncashed payments and interest from the date of entry of judgment shall be paid to Legal
10 Aid at Work, 180 Montgomery St., Suite 600, San Francisco, California 94104 for use in Los
11 Angeles County. Pursuant to Code of Civil Procedure section 384, the Settlement Administrator
12 is ordered to submit a report to the court stating the total amount that was actually paid to Class
13 Members thirty (30) calendar days after the 180th day following the mailing.

14 30. In the event the settlement does not become effective in accordance with the terms
15 of the Settlement, or the settlement is not finally approved, or is terminated, cancelled or fails to
16 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
17 and the parties shall revert to their respective positions as of the entry of the Settlement Agreement.

18
19 **IT IS SO ORDERED.**

20
21 Dated: Feb 13, 2023



Elihu M. Berle

Judge of the Superior Court

Elihu M. Berle / Judge

EXHIBIT A

**PLEASE READ THIS NOTICE CAREFULLY. YOU MAY BE ENTITLED
TO MONEY FROM A CLASS ACTION SETTLEMENT.**

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

If you worked in California for Q&B Foods in a non-exempt, hourly-paid position at any time between October 26, 2016 and May 15, 2022, a class action settlement may affect your rights.

A court ordered this notice. This is not a solicitation from a lawyer.

Plaintiff Usa Corrales-Rojas, a former non-exempt employee of Q&B Foods, Inc. (“Q&B”) and ESG Employer Resources, Inc. (“ESG”) (collectively “Defendants”) sued Defendants alleging that Defendants violated various provisions of the California Labor Code and the California Business and Professions Code. The Honorable Elihu M. Berle, Judge of the Los Angeles County Superior Court, presides over this case. The lawsuit is known as *Usa Corrales-Rojas v. Q & B Foods, Inc. and ESG Employer Resources, Inc.*, Los Angeles Superior Court, Case No. 20STCV40885.

The purpose of this Notice is to inform you of a proposed settlement (the “Settlement”) of the case. The Settlement is on behalf of any California non-exempt, hourly-paid position for Q&B employees and all positions occupied by non-exempt, hourly-paid temporary workers assigned to work at Q&B by any staffing agency at any time during the Class Period. The Class Period is the period between October 26, 2016 and May 15, 2022.

Because the Defendants’ records show that you qualify as a Class Member, you will receive money from the Settlement if the Court grants final approval of the Settlement, unless you decide to “opt out” of the Settlement.

Your legal rights may be affected whether you act or do not act. Read this Notice carefully. If you have questions, you can contact the lawyers for the Plaintiffs (listed at the end of this Notice). Notwithstanding the terms of this settlement, Q&B and ESG both continue to deny any wrongdoing.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
DO NOTHING	You WILL be mailed a Settlement payment in the approximate amount stated on <u>Attachment A</u> to this Notice unless the Court decides not to grant “final approval” of the Settlement. By receiving a payment, you will be bound by the terms of the Settlement.
OBJECT	If you want to object to the Settlement for any reason, you must send the Settlement Administrator your objection in writing. Your objection must be post marked by May 15, 2023. If you wish to present your objection at the Final Fairness and Approval Hearing, you may also appear in person at your own expense or through the Court’s LA Court Connect website listed below. If you submit an objection, you will still be deemed

	a Class Member, covered by the Settlement’s terms, and you will receive money from the Settlement.
ASK TO BE EXCLUDED	<p>If you do not wish to participate in the Settlement, you must send a letter requesting exclusion. You will get no payment in the Settlement. You will keep the right to sue the Defendants on your own about the claims resolved by this Settlement. Your request for exclusion must be post marked by May 15, 2023</p> <p>However, because this settlement resolves claims and actions brought pursuant to the Labor Code Private Attorneys General Act of 2004 (“PAGA”), no Class Member who worked at any time during the period from between September 16, 2019, and May 15, 2023 (“Alleged Aggrieved Employees”) has the right to exclude himself or herself from the PAGA portion of the settlement. Alleged Aggrieved Employees will be bound by the terms of the Settlement and the release of the PAGA claims summarized herein, upon its approval by the Court, regardless of whether he or she cashes any payment received as a result of this Settlement.</p>

This Notice explains your rights and options in detail. **To ask to be excluded (opt out) or to object to the settlement, you must follow the steps described in this Notice no later than May 15, 2023.**

YOUR ESTIMATED SETTLEMENT AMOUNT: Enclosed with this Notice is an individualized Statement of Weeks Worked Form (“Attachment A”), which will state your estimated settlement amount. The amount is calculated based on the number of weeks you worked in California at Q&B as a non-exempt, hourly employee at any time between October 26, 2016 and May 22, 2022. **If there are errors on the form, you can follow the steps on the form to submit corrections. Any corrections must be submitted no later than May 15, 2023.**

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MORE DETAILED INFORMATION

I. WHAT IS THIS CASE ABOUT?

The purpose of this Notice is to inform you that your rights may be affected by the proceedings in a class and collective action lawsuit pending before Judge Elihu M. Berle of the Superior Court of California for the County of Los Angeles (the “Court”) entitled *Usa Corrales-Rojas, on behalf of himself and all others similarly situated, v. Q & B Foods, Inc., a California corporation, and ESG Employer Resources, Inc., an Indiana corporation; and DOES 1 through 100 inclusive*, Los Angeles Superior Court, Case No 20STCV40885 (“Litigation”). This Notice is given by Order of the Court.

Usa Corrales-Rojas (“Class Representative” and “Plaintiff”) brings this Litigation on behalf of all California Settlement Class Members (all individuals employed: (1) in California, (2) provided

services to Q&B, (3) in a non-exempt-hourly job position; and (4) at any time between October 26, 2016 and May 15, 2023 (“Class Period”).

The Litigation also alleges violations of California laws with respect to the Class Members only, which are that Defendants (1) failed to pay overtime wages; (2) failed to pay minimum wages; (3) failed to provide meal periods; (4) failed to provide rest periods; (5) owe waiting time penalties; (6) provided non-complaint wage statement; (7) failed to indemnify class members for certain business expenses (8) violated the unfair competition laws (Business & Professions Code §§17200, et seq.); (9) owe civil penalties under Labor Code section 210 for failure to timely pay wages; (10) owed civil penalties under Labor Code section 226.3 for failure to provide compliant pay stubs; (11) owed civil penalties under Labor Code section 558 for failure to provide meal breaks or pay overtime; (12) owed a penalty under Labor Code section 1174.5 for failure to maintain accurate and complete records; (13) owed a penalty under Labor Code section 1197.1 for failure to pay minimum wages; and (14) violated the Private Attorneys Act (“PAGA”) and owe civil penalties under Labor Code section 2699.

Defendants do not admit engaging in any unlawful conduct as alleged in this Litigation and continue to deny the claims and charges of wrongdoing and liability.

II. WHAT ARE THE TERMS OF THE SETTLEMENT?

Defendants deny that they owe money related to any of the allegations listed above. Defendants are settling the matter as a compromise and to avoid incurring unnecessary legal expense defending the matter. Defendants reserve the right to object to any claim if for any reason the Settlement fails.

The Settlement applies to all Class Members who do not timely submit a correctly completed Opt Out Letter. The determination of how much each Class Member will receive as part of this Settlement depends on the number of weeks worked within the Class Period during which he or she worked in a Covered Job Position (“Qualifying Work Weeks”).

The parties reached a Settlement in which Defendants’ total maximum liability, will not exceed One Million, One Hundred and Fifty Thousand Dollars and Zero Cents (\$1,150,000.00), or as may be escalated if the Qualifying Work Weeks exceed 46,653 and Defendant Q&B decides not to shorten the class period so as not to exceed 46,653 Qualifying Work Weeks (“Gross Settlement Amount”), plus the employer’s share of tax liabilities. All amounts to be paid by Defendants from the Gross Settlement Amount shall be paid to a qualified settlement fund (“Qualified Settlement Fund”), which shall be administered by Phoenix Settlement Administrators, the Settlement Administrator.

Class Members will participate in the Settlement if they do not Opt Out. Class Members will not pay any out-of-pocket costs.

There was a hearing on January 31, 2023 in the Superior Court of California for the County of Los Angeles. The Court conditionally granted preliminary approval of the class action settlement against Defendants and directed that you receive this Notice.

A. Additional Payments from the Maximum Settlement Amount

All payments to the Class Members shall be made from the Qualified Settlement Fund, minus the payments below, which are subject to final approval from the Court.

1. Fee and Cost Award for Class Counsel

Class Counsel filed the Litigation on behalf of Plaintiff and all other similarly situated individuals. Class Counsel conducted informal discovery and negotiated the settlement of this matter. Class Counsel will request attorneys' fees in an amount of up to \$402,500.00 which represents 35% of the Gross Settlement Amount. Class Counsel will also request reimbursement of litigation costs and expenses in the amount of up to \$12,950.00. If approved by the Court, this amount will be paid from the Qualified Settlement Fund. These attorneys' fees and costs shall compensate Class Counsel for the work they have performed and will perform, and the expenses they have incurred and will incur, through any approved distribution of the Qualified Settlement Fund. Class Members will be personally responsible for any of Class Counsel's attorneys' fees and costs.

2. Service Award to the Class Representative

Class Counsel will also seek an enhanced recovery of no more than \$5,000.00 for Usa Corrales-Rojas ("Service Award") for serving as representative Plaintiff on behalf of the Settlement Class. This will be in addition to whatever payment they are otherwise entitled to as a Class Member. If approved by the Court, this amount will be paid from the Settlement Fund.

3. Settlement Administration Costs

Settlement Administration Costs, estimated at \$12,950.00, will be paid to the Settlement Administrator, Phoenix Settlement Administrators, for its services, including but not limited to distributing Class Notices to Class Members, processing Opt-Out Letters, calculating Settlement payments, and distributing Settlement payments to the Participating Claimants.

4. Payroll Taxes - Employer and Employee Tax Obligations

Once the amount of payment for each Participating Class Member is determined, the Settlement Administrator will calculate the total amount of employee withholding taxes for the portion of the Settlement payment designated as wages as required by law. This total amount will be deducted from the Qualified Settlement Fund. Defendants will separately pay the employer withholding taxes on the Settlement payment designated as wages.

5. PAGA Penalties

Defendants shall pay \$50,000.00 for settlement of claims brought under the Private Attorneys' General Act ("PAGA") from the Qualified Settlement Fund. The PAGA payment shall be allocated as follows: \$37,500.00 (75%) to the California Labor & Workforce Development Agency ("LWDA"), and \$12,500.00 (25%) to PAGA Members (regardless whether they opt out of the class settlement).

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B. Release of Claims

The proposed settlement is intended to settle all claims and causes of action of any nature and description whatsoever, whether known or unknown, that are or which could have been asserted at any time in the Litigation based on the facts alleged in the First Amended Complaint.

The Released Claims for Class Members (*i.e.* Released Class Claims) who do not timely request exclusion and opt out of this Settlement includes all claims, actions, or causes of action during the Class Period, alleged in the First Amended Complaint, or that could have been alleged or raised in the First Amended Complaint based upon or arising out of the facts alleged therein, as well as any claims for interest or attorney's fees and costs thereon, including, without limitation: failure to pay wages, including overtime wages and minimum wages, including any claim for unpaid wages, unpaid penalties, failure to pay overtime or other hours worked, "off-the-clock" claims, "rounding" claims, and failure to pay overtime wages due based on the correct regular rate of pay, failure to provide compliant meal or rest periods, along with failure to make penalty payments or premium pay in lieu of providing meal or rest periods; failure to reimburse reasonable business expenses, failure to pay wages timely during employment, failure to pay due wages upon termination of employment, failure to provide accurate wage statements, failure to maintain adequate payroll records; and any other corresponding claims under the Fair Labor Standards Act ("FLSA"); and Labor Code sections 200, 201, 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, 1194.2, 1197, and 2802; applicable portions of the Code of Regulations, Title 8, section 11040, applicable portions of the applicable California Wage Order, or federal law; and any claim under Business and Professions Code section 17200 *et seq.* predicated on the above claims which were alleged or could have been alleged based upon the facts pled in the First Amended Complaint at any time during the Class Period.

By signing the settlement check that will be mailed to you by the Settlement Administrator, Class Members shall be deemed to have opted-in for purposes of the Fair Labor Standards Act claims referred to in the Released Class Claims and release all Fair Labor Standards Act claims.

All Alleged Aggrieved Employees, regardless of whether they submit Opt Out Letters, and the State of California (to the extent permitted by law) shall have fully, finally, and forever released, relinquished, and discharged each and all of the Released Parties of and from any and all claims, actions or causes of action under PAGA arising at any time during the PAGA Period that were alleged in the Lawsuit and the PAGA Notice, or that could have been alleged or raised in the Lawsuit based upon or arising out of the facts alleged therein and in the PAGA Notice, as well as any claims for attorney's fees and costs thereon. The claims released include any claim for civil penalties under PAGA for alleged unpaid wages, failure to pay overtime or other hours worked, "off-the-clock" claims, "rounding" claims, failure to pay overtime wages due based on the correct regular rate of pay, failure to provide compliant meal or rest periods, failure to make penalty payments or premium pay in lieu of providing meal or rest periods, failure to provide pay minimum wages, failure to reimburse reasonable business expenses, failure to pay wages timely during employment and upon termination of employment, failure to provide accurate wage statements, failure to maintain adequate payroll records, and for civil penalties under Labor Code sections 210, 226.3, 558, 1174.5, 1197.1 and 2699, any alleged violation of California Labor Code sections alleged to have been violated in the First Amended Complaint, which includes, without limitation, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7, 227.3, 246, 404, 432, 510, 512, 1174,

1194, 1194.2, 1197, 1197.5, 1198, 1198.5, 2800, and 2802, 2810.3 and/or 2810.5 (“Released PAGA Claims”)

“Released Parties” means Defendants Q & B Foods, Inc., ESG Employer Resources, Inc. and their respective present and former parents, owners, subsidiaries, and any affiliated or related persons or entities and each of their respective officers, directors, employees, partners, shareholders, attorneys and agents and any other successors, assigns or legal representatives. Released Parties shall also include any and all other temporary agencies (namely, Aerotek, Inc., SkillSet Group, LLC, Randstad, and Express Services, Inc.) solely in relation to their placement of temporary workers at Q&B during the respective Class or PAGA Period and their respective present and former parents, owners, subsidiaries, and any affiliated or related persons or entities and each of their respective officers, directors, employees, partners, shareholders, attorneys and agents and any other successors, assigns or legal representatives regarding such Q&B placements.

III. IF I CHOOSE TO PARTICIPATE, HOW IS MY SHARE OF THE SETTLEMENT CALCULATED?

The Class Members who do not submit a correctly completed Opt Out Letter shall receive an amount based on the number of Qualifying Work Weeks, which is the number of weeks worked in California for Q&B, as either a Q&B employee or through a third party agency in a non-exempt position during the Class Period.

To determine the value for each Qualifying Work Week, the Settlement Administrator will divide the Qualified Settlement Fund (after all applicable deductions for fees, costs and awards) by the total number of Qualifying Work Weeks worked by all Participating Class Members. That dollar amount equals the weekly recovery value (“Weekly Recovery”) for each Qualifying Work Week. Next, for each Class Member, the Settlement Administrator shall compute the Class Member’s Individual Payment Amount by multiplying the Class Member’s total Qualifying Work Weeks by the Weekly Recovery.

Your estimated Individual Class Member payment is included on Attachment A.

IV. TAXABLE PORTION OF SETTLEMENT PAYMENTS

For purposes of tax payment obligations, 25% of each Individual Payment Amount to each Participating Class Member shall be treated as wages (subject to all required withholdings), and 75% shall be treated as interest, penalties, liquidated damages, and other non-wage recovery. The allocations for interest, penalties, liquidated damages, and other non-wage recovery shall not be subject to withholdings or deductions and shall be reported as non-wage income.

An IRS Tax Form W-2 will be issued to each Participating Class Member with regard to the portion of the Settlement payments attributable to wages and any required IRS Tax Form 1099 will be issued with regard to the remaining portion of the Settlement payments. California Settlement Class Members should consult with their tax advisors concerning the tax consequences of the payments that they receive under the Settlement.

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V. EFFECT OF ENDORSING AND CASHING THE SETTLEMENT CHECK

By signing the settlement check that will be mailed to you by the Settlement Administrator, as a Participating Class Member, you shall be deemed to have opted-in to the Settlement Class for purposes of the Fair Labor Standards Act claims referred to in the Released Claims.

VI. WHAT ARE MY RIGHTS AND OPTIONS AS A SETTLEMENT CLASS MEMBER?

You have three options under this Settlement, discussed below: (A) opt out from the Settlement, (B) object to the Settlement, or (C) do nothing.

A. If You Want To Request Exclusion From The Settlement

If you do not wish to participate in the Settlement, you must send an Opt Out Letter bearing a postmark no later than May 15, 2023. The Opt Out Letter must be sent to [Settlement Administrator's Address]. The Opt Out Letter must: (1) state your name, (2) state that you do not wish to participate in the Settlement, and (3) that you request exclusion from the Settlement. Opt Out Letters must be made individually and cannot be made on behalf of a group of employees or on behalf of other Class Members. If you choose to opt out of the Settlement, you will not receive any money from the Settlement. Any such person, at his/her own expense, may pursue any claims he/she may have against Defendants. However, there are deadlines to pursuing such claims known as statutes of limitation. Please consult an attorney of your choice to ensure you are not forever barred from pursuing any individual claims you might have if you decide to opt out of the Settlement.

The judgment will bind all Class Members who do not properly submit and complete an Opt Out Letter.

B. If You Want To Object To The Settlement

You may object, personally or through an attorney at your own expense, to the proposed Settlement by submitting in writing your objection to the Settlement Administrator no later than May 15, 2023. You may appear, but are not required to appear, at Final Fairness and Approval Hearing where your objection will be heard and considered by the Court.

If you do not comply with this procedure, you may not be entitled to be heard at the Final Fairness and Approval Hearing or to otherwise contest the approval of the Settlement, or to appeal from any related orders or judgments of the Court. If you submit a valid and timely Opt Out Letter, you cannot object to the Settlement.

Class Members are hereby notified that even if they object, they will still be deemed as California Settlement Class Members and will receive money from the Settlement if approved by the Court. You will be covered by the Settlement unless you opt out.

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C. If You Choose To Do Nothing

If you do nothing, and the Court approves the Settlement, you will be bound by the terms of the Settlement and the release and you will receive money under the Settlement in the form of a check mailed by the Settlement Administrator.

D. What If The Statement Of Weeks Worked Is Incorrect?

If the weeks worked information or contact information on the Statement of Weeks Worked Form is incorrect, you should correct this information by completing and signing the enclosed Statement of Weeks Worked Form under penalty of perjury and mail it to the Settlement Administrator, with any supporting documents, no later than May 15, 2023. If the information is correct, you do not need to do anything with the form. If you lose, misplace, or need another Statement of Weeks Worked Form, you should contact the Settlement Administrator.

VII. WHEN AND WHERE IS THE FINAL APPROVAL HEARING?

The Court will conduct a Final Fairness and Approval Hearing on June 15, 2023 at 10:00 a.m., in Department 6 of the Superior Court of California, County of Los Angeles located at 312 N. Spring Street, Los Angeles, California 90012. At that hearing, the Court will determine whether the Settlement should be finally approved. The Court also will be asked to approve Class Counsel's request for attorneys' fees and costs, and the Service Award to be paid to the Class Representatives, and other payments discussed above. The Final Fairness and Approval Hearing may be continued without further notice.

You are not required to attend the hearing, but if you wish to attend, you may attend the hearing by audio or video (remotely), which can be set up through LA Court Connect (www.lacourt.org/lacc/). A prescheduled appointment is currently necessary to review any documents in the clerk's office.

VIII. WHAT IF I NEED MORE INFORMATION?

The foregoing is only a summary of the Litigation and the proposed Settlement and does not purport to be comprehensive. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined online on the Los Angeles County Superior Court's website at <https://www.lacourt.org/documentimages/civilImages/SearchByCaseNumber.aspx>. After arriving at the website, enter 20STCV40885 as the case number and click "SEARCH." Images of every document filed in the case may be viewed for a minimal charge.

In addition, you can find a copy of this Notice, the Complaint, the Settlement Agreement, the Motion for Preliminary Approval, the Order Granting Preliminary Approval, and when available, the Motion for Final Approval, the Motion for Service Awards and Attorneys' Fees and Costs, and, the Order Granting Final Approval at the following website [[URL for website maintained by Administrator](#)].

If you have any questions, you can call the Settlement Administrator at [1-800-XXX-XXXX](tel:1-800-XXX-XXXX), toll free. You may also contact Class Counsel to ask about the Class Action Settlement. Class Counsel's contact information is as follows:

BIBIYAN LAW GROUP, P.C.
David D. Bibiyan (2878711)
david@tomorrowlaw.com
8484 Wilshire Boulevard, Suite 500
Beverly Hills, CA 90211
Telephone: (310) 438-5555
Facsimile: (310) 300-1705

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE WITH
INQUIRIES ABOUT THE SETTLEMENT.**

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

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

5 On February 7, 2023, I caused a true and correct copy of the foregoing document(s)
6 described **FIRST AMENDED [PROPOSED] ORDER GRANTING PRELIMINARY**
APPROVAL OF SETTLEMENT AND CERTIFYING CLASS FOR SETTLEMENT
7 **PURPOSES ONLY** to be served by electronic transmission via Case Anywhere to the parties
and/or counsel who are registered to use Case Anywhere and set forth in the below service list:

8 Kimberly Y. Higgins
9 Thomas T. Liu
Stacie Yee
Pillsbury Winthrop Shaw Pittman LLP
10 725 South Figueroa Street, Suite 2800
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13 **Counsel for Defendant Q & B Foods, Inc.**

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15 Boris Sorsher
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16 Irvine, California 92614
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17 *bsorsher@fisherphillips.com*

18 **Counsel for Defendant ESG Employer Resources, Inc.**

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

21 Executed on February 7, 2023 at Beverly Hills, California.

22
23 /s/ Jennifer Echeverria
Jennifer Echeverria