

1 AARON C. GUNDZIK (State Bar No. 132137)
2 REBECCA G. GUNDZIK (State Bar No. 138446)
3 GARTENBERG GELFAND HAYTON LLP
4 15260 Ventura Blvd., Suite 1920
5 Sherman Oaks, CA 90017
6 Telephone: (213) 542-2100
7 Facsimile: (213) 542-2101

8 MARSHALL A. CASKEY (State Bar No. 65410)
9 DANIEL M. HOLZMAN (State Bar No. 176663)
10 CASKEY & HOLZMAN
11 24025 Park Sorrento, Ste. 400
12 Calabasas, CA 91302
13 Telephone: (818) 657-1070
14 Facsimile: (818) 297-1775

15 Attorneys for Plaintiff Robert Greig,
16 Individually and on behalf of all others similarly situated

17 SHAUN J. VOIGT (State Bar No. 265721)
18 SOO Y. PARK (State Bar No. 271935)
19 FISHER & PHILLIPS LLP
20 444 South Flower Street, Suite 1500
21 Los Angeles, CA 90071
22 Telephone: (213) 330-4500
23 Facsimile: (213) 330-4501

24 Attorneys for Defendants Food On Time, Inc. and L & L Catering, Inc.

25
26 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
27 **FOR THE COUNTY OF LOS ANGELES**
28

29 ROBERT GREIG, individually and on behalf
30 of all others similarly situated,

31 Plaintiff,

32 vs.

33 FOOD ON TIME, INC., a California
34 corporation; L & L CATERING, INC.; and
35 DOES 1 through 25,

36 Defendants.

Case No.: BC684566

*Assigned to Hon. Kenneth R. Freeman,
Department SSC-14*

**SECOND AMENDED STIPULATION
OF CLASS ACTION SETTLEMENT**

Complaint Filed: November 27, 2017

1 This Second Amended Stipulation of Class Action Settlement is intended by the
2 Parties and does amend and modify the First Amended Stipulation of Class Action Settlement
3 that the Parties entered into on or about February 15, 2019.

4 **I. INTRODUCTION AND SUMMARY OF SETTLEMENT TERMS**

5 This action was brought by Plaintiff Robert Greig ("Plaintiff"), individually and on
6 behalf of all current and former non-exempt employees of Defendants Food On Time, Inc.
7 and/or L & L Catering, Inc. ("Defendants") in California during the Class Period (as defined
8 in Section II herein). In his Second Amended Complaint, Plaintiff alleges causes of action
9 against Defendants for (1) failure to provide meal and rest breaks, (2) inaccurate wage
10 statements, (3) failure to pay unpaid wages at time of discharge, (4) unfair business
11 practices, (5) failure to provide employment records, (6) penalties under the Private
12 Attorneys General Act (PAGA), and (7) failure to pay overtime. Defendants deny that they
13 violated California law and deny that they owe Plaintiff and the other employees on whose
14 behalf the lawsuit was filed any additional wages, penalties, or other relief.

15 Under the terms of the Settlement and pending a finding of final approval pursuant to
16 California Rule of Court 3.769(a), Defendants will pay a gross settlement amount of three
17 hundred fifty thousand dollars and zero cents (\$350,000) ("Gross Settlement Amount"), plus
18 the employer's share of payroll taxes. The Settlement will be administered by Phoenix Class
19 Action Administration Solutions ("Settlement Administrator"). Until distribution, the Gross
20 Settlement Amount will be held in an Escrow Account established by the Settlement
21 Administrator. This is an opt-out settlement, and Class Members (as defined in Section II)
22 will receive a settlement payment unless they opt-out of the settlement. Class Members shall
23 not be required to submit a claim form.

24 The Parties agree that the following disbursements will be made from the Gross
25 Settlement Amount, subject to Court approval at the final approval hearing:

26 A. Settlement Administration Costs, estimated to be \$12,000.
27
28

1 B. Class Counsel's Attorneys' Fees, to be approved by the Court, in an amount
2 not to exceed one hundred and sixteen thousand six hundred and sixty-six dollars and sixty-
3 six cents (\$116,666.66), which is one-third of the Gross Settlement Amount;

4 C. Class Counsel's reasonable and verified litigation costs, as approved by the
5 Court, not to exceed \$12,000;

6 D. A Service and Release Award to the Representative Plaintiff in the amount of
7 \$5,000 as payment for his time and efforts in pursuing this Action and for the broader release
8 that he will be providing to Defendants;

9 E. A payment of \$6,000 to the California Labor and Workforce Development
10 Agency ("LWDA") for its seventy-five (75%) share of the \$8,000 of the Gross Settlement
11 Amount that is apportioned to claims for civil penalties brought under PAGA; and

12 F. The remainder of the Gross Settlement Amount (the "Net Settlement Amount")
13 will be distributed to Settlement Class Members based on the methodology discussed in
14 section IV.J.1, below. It is estimated that the Net Settlement Amount will be approximately
15 \$198,333.34 after deductions for Class Counsel's Attorneys' Fees, Class Counsel's Costs,
16 Settlement Administration Costs, payment to the LWDA, and the Service and Release Award.

17 Defendants represent that, as of June 1, 2018, they have employed approximately 151
18 Class Members who worked Qualifying Workweeks during the Settlement Class Period.

19 **II. DEFINITIONS**

20 As used in this Stipulation, the following terms shall have the meanings set forth
21 below:

22 A. "Action" means this putative class action titled Los Angeles Superior Court
23 *Robert Grieg v. Food on Time, et al.*, Case Number BC 684566.

24 B. "Agreement" or "Stipulation" means this Stipulation of Class Action
25 Settlement.

26 C. "Class" means all current and former non-exempt employees of Defendants in
27 California during the Class Period (as defined herein). Defendants represent that, as of June
28 1, 2018, there were approximately 151 Class Members.

1 D. "Class Counsel" means Aaron C. Gundzik and Rebecca G. Gundzik,
2 Gartenberg Gelfand Hayton LLP, 15260 Ventura Blvd, Suite 1920, Sherman Oaks, CA 91403,
3 (213) 542-2100, and Daniel M. Holzman, Caskey & Holzman, 24025 Park Sorrento, Ste. 400,
4 Calabasas, CA 91302, (818) 657-1070.

5 E. "Class Counsel's Attorneys' Fees" means the amount to be paid to Class
6 Counsel for attorneys' fees, subject to Court approval at the final approval hearing.

7 F. "Class Counsel's Costs" means the amount to be reimbursed to Class Counsel
8 for their costs and expenses incurred in the case, subject to Court approval at the final approval
9 hearing. Class Counsel's Costs will not exceed \$12,000.

10 G. "Class Data" means a listing, in an electronic format acceptable to the
11 Settlement Administrator that contains the following data for each Class Member: (i) full
12 name, (ii) last known address and telephone number, (iii) social security number, and (iv)
13 number of Qualifying Work Weeks. Defendants shall be solely liable for providing Class Data
14 to the Settlement Administrator, and Plaintiff and Plaintiff's Counsel shall have no
15 responsibility with respect to the identification of Class Members, the number of Qualifying
16 Workweeks worked by any Class Member, or the determination of the amount of the
17 settlement payments made to any Class Member.

18 H. "Class Member" is a person who is a member of the Class.

19 I. "Complaint" means the current pleading on file in the Action, which is the
20 Second Amended Complaint.

21 J. "Court" means the Superior Court of the State of California, in and for the
22 County of Los Angeles, where the Action is pending.

23 K. "Defendants' Counsel" means Shaun J. Voigt and Soo Y. Park, Fisher &
24 Phillips LLP, 444 South Flower Street, Suite 1500, Los Angeles, CA 90071, (213) 330-4500.

25 L. "Effective Date" means the date of entry of a Final Judgment which grants
26 final approval of this Settlement, if no Objection to Settlement is filed. If a timely Objection
27 to Settlement is filed, "Effective Date" shall be the later of: (a) the date on which the time for
28 all appeals relating to Objections to Settlement and the Final Approval Order has expired; or

1 (b) if an appeal, review or writ is sought, the date on which the highest reviewing court renders
2 its decision denying any petition (where the immediately lower court affirmed the Final
3 Judgment) or affirming the Final Judgment.

4 M. "Employer's Withholding Share" means the employer's share of all federal,
5 state and local taxes and required withholdings, including without limitation, FICA, Medicare
6 tax, FUTA, and state unemployment taxes. The Employer's Withholding Share will be paid
7 separately by Defendants in addition to and at the same time as Defendants deposit the
8 Remaining Gross Settlement Amount.

9 N. "Escrow Account" means a federally insured bank account to be established
10 by the Settlement Administrator into which all payments from Defendants related to this
11 Settlement will be deposited and from which all payments authorized by the Court will be
12 made. Such Escrow Account will be established prior to Defendants' deposit of the Gross
13 Settlement Amount.

14 O. "Final Approval Order" means the Order Granting Final Approval of Class
15 Action Settlement and Judgment entered by the Court.

16 P. "Gross Settlement Amount" means three hundred fifty thousand dollars and
17 zero cents (\$350,000), which Defendants will pay under this Settlement.

18 Q. "Net Settlement Amount" means the amount remaining from the Gross
19 Settlement Amount after payments of Court-approved Class Counsel's Attorney's Fees and
20 Class Counsel's Costs, PAGA payment, Service and Release Award to the Representative
21 Plaintiff, and Settlement Administration Costs.

22 R. "Notice of Settlement" means the "Notice of Proposed Class Action Settlement
23 and Final Approval Hearing," the form of which is attached hereto as Exhibit A.

24 S. "Net Settlement Amount" means the amount remaining from the Gross
25 Settlement Amount after payments of Court-approved Class Counsel's Attorneys' Fees and
26 Class Counsel's Costs, Service and Release Award to the Representative Plaintiff, Settlement
27 Administration Costs and the PAGA Payment.

28

1 T. "Notice of Settlement" means the "Notice of Proposed Class Action
2 Settlement and Hearing Date for Court Approval," the form of which is attached hereto as
3 Exhibit A.

4 U. "Objection to Settlement" means any written objection to this Settlement sent
5 by a Settlement Class Member who does not opt out, personally or through an attorney, to
6 the Settlement Administrator as specified in the Notice of Settlement. An Objection to
7 Settlement must be sent to the Settlement Administrator within the time limitations set forth
8 in this Stipulation.

9 V. "PAGA Payment" means a payment of \$6,000 from the Gross Settlement
10 Amount, which shall be paid to the LWDA for its seventy-five (75%) share of \$8,000 of the
11 Gross Settlement Amount apportioned to claims for civil penalties brought under PAGA.

12 W. "Parties" means the Representative Plaintiff, Class Members, and Defendants
13 Food On Time, Inc. and L & L Catering, Inc. (each, a "Party").

14 X. "Preliminary Approval Date" is the date the Court grants preliminary
15 approval of this Settlement pursuant to California Rule of Court 3.769(c).

16 Y. "Qualifying Workweek" means a week during the Class Period in which a
17 Class Member was clocked in and worked on three or more days, according to Defendants'
18 employment records. Qualifying Workweeks do not include any period of time during which
19 a Class Member was on vacation or leave or sick.

20 Z. As determined by the Court, "Released Claims" means any and all claims,
21 liens, debts, penalties, liabilities, demands, obligations, guarantees, costs, expenses,
22 attorneys' fees, damages, interest, equitable relief, or causes of action, of any nature
23 whatsoever, that either were or could have been asserted or sought based on, or arising from,
24 or relating to the facts alleged in the Complaint, (including, without limitation, (1) failure to
25 provide meal and rest breaks, (2) inaccurate wage statements, (3) failure to pay unpaid
26 wages at time of discharge, (4) unfair business practices, (5) failure to provide employment
27 records, (6) penalties under the Private Attorneys General Act (PAGA), and (7) failure to
28 pay overtime) to the extent that they could have been asserted or sought based solely on the

1 facts and claims alleged in the Complaint for related claims under common law, statute, or
2 regulation and all damages, punitive damages, liquidated damages, equitable relief, interest,
3 attorney's fees, waiting time penalties, and/or penalties of any nature whatsoever arising
4 solely from the facts and claims alleged in the Complaint. Claims and damages that were
5 not alleged in the Complaint and could not have been based on the facts and claims alleged
6 in the Complaint are specifically excluded from the Released Claims.

7 AA. "Released Parties" means Defendants Food On Time, Inc. and L & L
8 Catering, Inc., and each of their owners, agents, attorneys, insurers, shareholders, partners,
9 officers, directors, managers, and employees, but only as to the Released Claims.

10 BB. "Representative Plaintiff" means Plaintiff Robert Grieg.

11 CC. "Representative Plaintiff's Released Claims" means any and all claims,
12 obligations, demands, actions, rights, causes of action, and liabilities against the Released
13 Parties, of whatever kind and nature, character, and description, whether in law or equity,
14 whether sounding in tort, contract, federal, state and/or local law, statute, ordinance,
15 regulation, common law, or other source of law or contract, whether known or unknown,
16 and whether anticipated or unanticipated, including all unknown claims covered by
17 California Civil Code Section 1542 that could be or are asserted based on his employment
18 by or termination from Defendants, arising at any time up to and including the Preliminary
19 Approval Date, for any type of relief, including, without limitation, claims for minimum or
20 overtime wages, premium pay, business expenses, other damages, penalties (including, but
21 not limited to, waiting time penalties), liquidated damages, punitive damages, interest,
22 attorneys' fees, litigation and other costs, expenses, restitution, and equitable and declaratory
23 relief. The Representative Plaintiff's Released Claims include, but are not limited to, the
24 Released Claims, as well as any other claims under any provision of the FLSA, the
25 California Labor Code, any applicable California Industrial Welfare Commission Wage
26 Order, or any city or county Living Wage Ordinances, and claims under state or federal
27 discrimination statutes, including, without limitation, the California Fair Employment and
28 Housing Act, California Government Code § 12940 *et seq.*; the Unruh Civil Rights Act,

1 California Civil Code § 51 *et seq.*; the California Constitution; the California Business and
2 Professions Code; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.*; the
3 Family and Medical Leave Act; the Americans with Disabilities Act, 42 U.S.C. § 12101 *et*
4 *seq.*; the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*; and
5 all of their implementing regulations and interpretive guidelines. By executing this
6 Agreement, the Representative Plaintiff hereby consents to be included in any claim for
7 FLSA violations and hereby agree to release his claims under FLSA.

8 DD. “Request for Exclusion” means a written request by a Class Member to be
9 excluded from the Settlement Class that is submitted in accordance with the procedure set
10 forth herein.

11 EE. “Response Deadline” means the date forty-five (45) days following the
12 mailing of a Notice of Settlement. If the forty-fifth day falls on a weekend or holiday, the
13 Response Deadline shall be the next business day.

14 FF. “Service and Release Award” means any award made to the Representative
15 Plaintiff by the Court for his service to the Class and for the broader general release that he
16 is providing to Defendants, which is in addition to whatever payment he otherwise would be
17 entitled to receive as Settlement Class Members. If the Court awards the Representative
18 Plaintiff less than the amount proposed herein as a Service and Release Payment, this shall
19 not void be a basis for voiding the Settlement, objecting to or appealing from the Final
20 Approval Order; rather, subject to Plaintiff’s appeal rights, the difference in the amount
21 awarded shall be re-allocated to the Net Settlement Fund.

22 GG. “Settlement” means the disposition of the Action and all related claims
23 effectuated by this Agreement.

24 HH. “Settlement Administration Costs” means the fees and costs incurred or
25 charged by the Settlement Administrator in connection with the execution of its duties under
26 this Agreement.

27 II. “Settlement Administrator” refers to Phoenix Class Action Administration
28 Solutions.

1 JJ. "Settlement Class" means all Class Members who have not timely submitted
2 a valid and complete Request for Exclusion.

3 KK. "Settlement Class Member" is a person who is a member of the Settlement
4 Class.

5 LL. "Settlement Class Period" means the period from November 27, 2013
6 through and including the Preliminary Approval Date.

7 **III. BACKGROUND**

8 During the Settlement Class Period, Defendants have operated a catering business as
9 Food On Time, Inc. and as L & L Catering, Inc. in Los Angeles, California. Class Members
10 are non-exempt employees of Defendants who worked for one or both of the Defendants in
11 California during the Settlement Class Period. Plaintiff contends that during the Class
12 Period, Defendants did not provide Plaintiff and the other Class Members with legally
13 compliant meal and rest breaks, did not pay him and other Class Members all amounts due
14 at separation, and did not pay him and other Class Members for all overtime hours worked at
15 overtime rates of pay. Plaintiff further contends that the wage statements issued to him and
16 other Class Members did not comply with Labor Code §226. Plaintiff further contends that
17 Defendants are liable for the recovery of civil penalties under PAGA. Defendants have
18 denied and continue to deny that they have violated the Labor Code in their treatment of and
19 compensation paid to Plaintiff and other Class Members.

20 The Parties have undertaken significant investigation and informal discovery during
21 the prosecution of this Action. Such discovery and investigation includes extensively
22 interviewing the Representative Plaintiff and other Class Members and the production by
23 Defendants of numerous pages of documents of payroll and time records and other detailed
24 information relevant to the Class Members' claims. Counsel for the Parties have investigated
25 the law as applied to the facts discovered regarding the alleged claims of the Class and
26 potential defenses thereto, and the potential damages claimed by the Class, including the
27 review of numerous pages of payroll, time records, and other records produced by
28 Defendants to Class Counsel for the purposes of mediation.

1 The Parties' attorneys have engaged in extensive discussions about the strengths and
2 weaknesses of the claims and defenses in the Action. The parties engaged in a mediation
3 session on June 26, 2018 before an experienced and well-regarded mediator, Jeffrey Krivis,
4 Esq. At the conclusion of the mediation, the parties agreed to accept a mediator's proposal
5 which was documented in a Memorandum of Understanding signed by all Parties, which
6 sets forth the principle elements of this Agreement.

7 Plaintiff and Class Counsel have concluded, after taking into account the sharply
8 disputed factual and legal issues involved in this Action, the risks attending further
9 prosecution, and the substantial benefits to be received pursuant to the compromise and
10 settlement of the Action as set forth in this Agreement, that this Settlement is in the best
11 interests of the Representative Plaintiff and the Settlement Class and is fair and reasonable.

12 Similarly, Defendants have concluded that there are benefits associated with settling
13 this Action. After taking into account the sharply disputed factual and legal issues involved
14 in the Action, the expense and burden of protracted litigation, and their desire to put the
15 controversy to rest, Defendants believe that this Settlement is in their best interests and is
16 fair and reasonable.

17 This Settlement contemplates (i) entry of an order preliminarily approving the
18 Settlement and approving certification of a provisional Class for settlement purposes only,
19 contingent upon final approval of the Settlement; (ii) and entry of a Final Approval Order.

20 **IV. SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURE**

21 **A. Preliminary Approval of Settlement**

22 As soon as practicable, Class Counsel and Defendants' Counsel will submit this
23 Stipulation to the Court for preliminary approval. Such submission will include such motions,
24 pleadings, and evidence as may be required for the Court to determine that this Agreement is
25 fair and reasonable, as required by California Code of Civil Procedure section 382 and
26 California Rule of Court 3.769, including a motion filed by Class Counsel requesting that the
27 Court enter a preliminary approval order. Such submission will also include a proposed order.
28 Defendants shall not oppose Class Counsel's motion for preliminary approval of the

1 settlement. Defendants may, however, provide a written response to any characterization of
2 the law or facts contained in the motion for preliminary approval.

3 The Parties have agreed to the certification of the Class for the sole purposes of
4 effectuating this Settlement. Should the Settlement be terminated for any reason, or should
5 the Settlement not be approved by the Court or the judgment not become final, the fact that
6 the Parties were willing to stipulate to class certification as part of the Settlement will have no
7 bearing on, and will not be admissible in connection with, the issue of whether a class should
8 be certified in a non-settlement context in this Action, and in any of those events, Defendants
9 expressly reserves the right to oppose class certification. Additionally, if the Settlement does
10 not become final, this Agreement and all negotiations, court orders, and proceedings related
11 thereto shall be without prejudice to the rights of all Parties hereto, and evidence relating to
12 the Agreement and all negotiations shall not be admissible in the Action or otherwise.

13 Should the Court decline to conditionally certify the Class or to preliminarily approve
14 all material aspects of the Settlement, the Settlement will be null and void and the Parties will
15 have no further obligations under it.

16 If the Court grants preliminary approval but does not grant final approval of the
17 Settlement, then the preliminary approval order shall be vacated in its entirety, unless the
18 Court orders otherwise.

19 **B. Cooperation**

20 The Parties agree to fully cooperate with each other to accomplish the terms of this
21 Stipulation of Settlement, including but not limited to, execution of such documents and to
22 take such other reasonably necessary action to implement the terms of this Stipulation of
23 Settlement. No party, nor any of its attorneys or agents, shall solicit or encourage any Class
24 Members to opt out of or object to the Settlement.

25 **C. Notice of Settlement**

26 As soon as practicable, but no later than ten (10) calendar days after the Preliminary
27 Approval Date, Defendants will provide the Settlement Administrator with a list in an
28 electronic form acceptable to the Settlement Administrator, based on Defendants' records,

1 containing each Class Member's full name, employee ID number while employed with
2 Defendants (if applicable), last known address, telephone number, social security number, and
3 number of Qualifying Workweeks worked by such Class Member. This information will
4 remain confidential and will not be disclosed to anyone, except as required to applicable taxing
5 authorities, pursuant to Defendants' express written authorization, by order of the Court, or as
6 otherwise provided for in this Agreement.

7 Using this information, the Settlement Administrator will: (1) finalize and print the
8 Notice of Settlement in English and in Spanish; (2) check all addresses against the National
9 Change of Address database; and (3) within ten (10) calendar days of receiving the Class
10 Members' information, send to each Class Member via First-Class United States mail a Notice
11 of Settlement to the most recent address known for each Class Member. It will be conclusively
12 presumed that if an envelope so mailed has not been returned within fifteen (15) calendar days
13 of the mailing, the Class Member received the Notice of Settlement. In addition to mailing,
14 the Settlement Administrator will provide a copy of the Notice of Settlement to Class
15 Members using any email addresses that have been provided Defendants.

16 The Settlement Administrator shall maintain the Class Data as private and
17 confidential and shall not disclose it to any persons or entities other than the Settlement
18 Administrator's employees and contractors and Defendants' Counsel, except that relevant
19 information may be provided to Class Counsel to the extent necessary to address a disputed
20 claim or to respond to a specific inquiry from a Class Member, or to applicable taxing
21 authorities, pursuant to Defendants' express written authorization, by order of the Court, or
22 as otherwise provided for in this Agreement. The Class Data is supplied solely for purposes
23 of the administration of the Settlement and hence cannot be used by the Settlement
24 Administrator or Class Counsel for any purpose other than to administer the Settlement. The
25 Parties agree that the Class Data will not be used to solicit Class Members to file any claim,
26 charge or complaint of any kind whatsoever against Defendant, or for any other purpose
27 other than to administer the settlement, and that Defendants shall be solely responsible for
28 advising the Settlement Administrator of the identities of the Class Members.

1 For each Class Member, the Notice of Settlement shall include an estimate of that
2 Class Member's settlement payment. The estimated settlement payments will be calculated
3 utilizing the formulas set forth in Section IV. J1 of this Stipulation and will assume that all
4 Class Members will participate in the Settlement. Further, the Net Settlement Amount used
5 in the estimates will assume Court approval of all deductions from the Gross Settlement
6 Amount, as proposed in this Stipulation.

7 **D. Re-Sending Class Notices**

8 For any Notice of Settlement that is returned as undeliverable, the Settlement
9 Administrator will perform a skip-trace, utilizing its standard sources. The returned Notices
10 of Settlement will be re-mailed to the new addresses obtained for such Class Members.
11 Such searching and re-mailing will be completed within twenty-one (21) calendar days of
12 the date that Notices of Settlement were originally mailed.

13 For all Class Members to whom a Notice of Settlement is re-sent pursuant to this
14 sub-section, the Response Deadline shall begin to run on the date of re-sending, not from the
15 original mailing date.

16 Notwithstanding anything to the contrary in this Stipulation, no Notice of Settlement
17 shall be re-sent to a Class Member less than sixty (60) days before the date set for hearing
18 Plaintiff's Motion for Final Approval.

19 It will be conclusively presumed that if an envelope so re-mailed has not been
20 returned within fifteen (15) calendar days of re-mailing, the Class Member received the
21 Notice of Settlement.

22 **E. Requests for Exclusion (Opt-Outs)**

23 Any Class Member who wishes to be excluded from the Settlement must notify the
24 Settlement Administrator in writing of his or her desire to be excluded by mailing his or her
25 own written statement to the Settlement Administrator that clearly expresses such desire and
26 that is signed by such Class Member. Any such statement shall include the Class Member's
27 name (and former names, if any), signature and last four digits of his or her social security
28 number. To be valid, the Request for Exclusion must be postmarked no later than the

1 Response Deadline. Any Class Member who submits a valid and timely request to be
2 excluded from the Settlement shall be barred from participating in this Settlement, shall be
3 barred from objecting to this Settlement, and shall receive no benefit from this Settlement.

4 Any Class Member who fails to submit a timely, complete and valid Request for
5 Exclusion shall be barred from opting out of the Settlement. It shall be conclusively
6 presumed that, if a Request for Exclusion is not postmarked on or before the Response
7 Deadline, the Class Member did not make the request in a timely manner. Under no
8 circumstances shall the Settlement Administrator have the authority to extend the Response
9 Deadline.

10 Unless a Class Member submits a timely, complete and valid Request for Exclusion,
11 she or he shall be bound by the terms and conditions of this Agreement. The releases
12 provided for in this Agreement shall, by operation of the doctrines of release, waiver,
13 collateral estoppel, and/or res judicata, conclusively preclude any Settlement Class Member
14 from asserting any of the Released Claims against any of the Released Parties in any
15 judicial, administrative or arbitral forum.

16 If ten percent (10%) or more of the Class Members opt out of the settlement by
17 submitting a timely and valid Request for Exclusion, Defendants may, in their sole
18 discretion, terminate this Agreement by communicating that decision in writing, at least
19 eighteen (18) court days prior to the Final Approval Hearing, to Class Counsel. If
20 Defendants terminate the settlement pursuant to this provision, Defendant will be
21 responsible for any costs and fees incurred by the Settlement Administrator.

22 **F. Declaration of Compliance**

23 As soon as practicable, but no later than five (5) days prior to the date that the
24 Motion for Final Approval is due, the Settlement Administrator shall provide Class Counsel
25 and Defendants' Counsel with a declaration attesting to completion of the notice process set
26 forth in this Section IV, including, among other things, an explanation of efforts to resend
27 undeliverable notices returned with forwarding addresses, copies of any Requests for
28

1 Exclusion and copies of any Objections to Settlement. The declaration shall be filed with the
2 Court by Class Counsel along with their papers requesting final approval of the Settlement.

3 **G. Sufficient Notice**

4 Compliance with the procedures described in this Section IV shall constitute due and
5 sufficient notice to Class Members of this Settlement and of the Final Fairness and Approval
6 Hearing and shall satisfy the requirements of due process. Nothing else shall be required of
7 the Representative Plaintiff, Class Counsel, Defendants, Defendants' Counsel, or the
8 Settlement Administrator to provide notice of the Settlement and the final fairness and
9 approval hearing.

10 **H. Objections to Settlement**

11 **1. Deadline for Objections**

12 Any Class Member who has not submitted a Request for Exclusion and who wishes
13 to object to the approval of this Settlement must follow the procedure set forth in the Notice
14 of Settlement and shall mail his or her Objection to Settlement to the Settlement
15 Administrator by the Response Deadline. A Class Member who does not submit a valid and
16 timely Request for Exclusion and who objects to the Settlement will still be considered a
17 Settlement Class Member.

18 **2. Responses to Objections**

19 Class Counsel and Defendants' Counsel shall file with the Court all Objections to
20 Settlement submitted to the Settlement Administrator in accordance with this Agreement,
21 and Class Counsel's and Defendants' Counsel's responses to such objections prior to the
22 Final Fairness and Approval Hearing.

23 **I. Final Fairness and Approval Hearing**

24 On the date set by the Court, a Final Fairness and Approval Hearing shall be held
25 before the Court. Plaintiff shall be responsible for drafting and filing the Motion for Final
26 Approval and shall file it by the deadline set by the Court.

27 At the Final Fairness and Approval Hearing and in their papers requesting final
28 approval, the Representative Plaintiff, Class Counsel, and Defendants' Counsel shall ask the

1 Court to give final approval to this Settlement. Upon the final approval, the Court shall enter
2 a Final Approval Order (in a form submitted by Class Counsel and approved by Defendants'
3 Counsel) which will include a final judgment implementing the release of Released Claims,
4 as set forth in this Agreement. A copy of the final judgment will be posted on the Settlement
5 Administrator's website, which will constitute service of the judgment upon Settlement
6 Class Members, as required by California Rule of Court 3.771(b).

7 **J. Settlement Payments to Settlement Class Members**

8 **1.** Payments under this Settlement Agreement shall be made by the
9 Settlement Administrator as follows, subject to Court approval at the final approval hearing:
10 Defendants will determine the amount of each participating Settlement Class Member's
11 "Qualifying Workweeks" (as that term is defined in Section II herein). Each participating
12 Settlement Class Member's Settlement Payment will be calculated using the following
13 formula:

14 **$$(\text{Settlement Class Member's Qualifying Workweeks} \div \text{All Qualifying}$$**
15 **$$\text{Workweeks}) \times \text{Net Settlement Amount}$$**

16 The Settlement Administrator, on Defendants' and Class Counsel's collective behalf,
17 shall have the authority and obligation to make payments, credits and disbursements,
18 including payments and credits in the manner set forth herein, to participating Settlement
19 Class Members calculated in accordance with the methodology set out in this Agreement
20 and orders of the Court. No person shall have any claim against Defendants, Defendants'
21 Counsel, the Representative Plaintiff, the Class Members, or Class Counsel based on any
22 errors or omissions in the distributions and payments that are required to be made in
23 accordance with the terms of this Agreements. However, Defendants shall not be immune
24 from liability for improper distributions and/or payments to the extent such improper
25 distributions and/or payments are made as a result of Defendants' failure to provide proper
26 and complete Class data and proper and complete instructions to the Settlement
27 Administrator regarding the Class data and/or their failure to correctly and clearly identify
28 the Settlement Class Members.

1 The Parties acknowledge and agree that the formula used to calculate individual
2 settlement payments does not imply that all of the elements of damages alleged in the Action
3 are not being taken into account. The above formula was devised as a practical and
4 logistical tool to simplify the settlement process.

5 **2. Inclusion of Settlement Payment Information in Notice of**
6 **Settlement.**

7 The Notice of Settlement sent to each Class Member shall the number of the Class
8 Member's Qualifying Workweeks. Each Notice of Settlement shall also include an estimate
9 of the Settlement Class Member's settlement payment as a member of the Class, as well as
10 an estimate of the amount of the first settlement payment and the second settlement payment
11 to be made to each Settlement Class Member.

12 **3. Eligibility**

13 Except for Class Members who exclude themselves (or opt-out) of the Settlement, all
14 Settlement Class Members will become eligible to receive a settlement payment from
15 Defendants, distributed through the Settlement Administrator.

16 Should any question arise regarding the determination of eligibility for, or the
17 amounts of, any settlement payments under the terms of this Agreement, Class Counsel and
18 Defendants' Counsel shall meet and confer in an attempt to reach agreement and, if they are
19 unable to do so, the issue shall be submitted to the Court for determination on an expedited
20 basis, through the submission of letter briefs of no more than three pages.

21 **4. Disputes about Qualifying Workweeks**

22 If a Class Member disagrees with the number of Qualifying Workweeks as stated in
23 his or her Notice of Settlement, he or she may dispute that figure by informing the
24 Settlement Administrator of the number of Qualifying Workweeks in dispute and submitting
25 supporting documentation (such as, without limitation, payroll or time keeping records, and
26 paycheck stubs) prior to the deadline for objecting to the Settlement. If there is a dispute,
27 the Settlement Administrator will consult with Class Counsel and Defendants' Counsel to
28

1 determine whether an adjustment is warranted. However, the Settlement Administrator shall
2 have the sole discretion to determine any such disputes.

3 //

4 **5. Allocation of Settlement Payments**

5 Payment to each Settlement Class Member shall be allocated as follows: one-third
6 shall be attributed to wages, to be reported on a W-2 form; one-third shall be attributed to
7 penalties (including but not limited to the individual's share of the amount allocated to
8 PAGA); and one-third shall be interest. The amount of interest and penalties will be
9 reported on an IRS Form 1099.

10 **6. Payment of Employer's Share of Payroll Taxes.**

11 The amount paid to each participating Settlement Class Member shall be net of the
12 participating Settlement Class Member's share of all federal, state and local taxes and
13 required withholdings, including without limitation, FICA, Medicare tax, FUTA, and state
14 unemployment taxes. The Employer's Withholding Share shall be paid by Defendants
15 separately and in addition to Defendants' payment of the Gross Settlement Amount.

16 For each participating Settlement Class Member, the Settlement Administrator shall
17 determine the amount of the employer's share of all federal, state and local taxes and
18 required withholdings, including without limitation, FICA, Medicare tax, FUTA, and state
19 unemployment taxes due on that portion designated as wages ("Employer's Withholding
20 Share"). Information related to the Employer's Withholding Share for each participating
21 Settlement Class Member shall be shared with Defendants by the Settlement Administrator.
22 If either of the Defendants disagree with the Settlement Administrator's determination of the
23 Employer's Withholding Share, they will communicate with and share information
24 reasonably necessary to reach a good faith determination of the correct Employer's
25 Withholding Share. Concurrently with the funding of the Gross Settlement Amount, each
26 Defendant shall separately transfer the funds necessary for the Employer's Withholding
27 Share to the Settlement Administrator.

1 **7. Payments to Participating Settlement Class Members**

2 Within ten (10) days of receiving the Initial Gross Settlement Amount from
3 Defendants, the Settlement Administrator will make the first settlement payment to
4 Settlement Class Members based on the payment formula set forth herein.

5 Within ten (10) days of receiving the Remaining Gross Settlement Amount from
6 Defendants, the Settlement Administrator will make the second settlement payment to
7 Settlement Class Members based on the payment formula set forth herein.

8 **K. Payments to the California Labor and Workforce Development Agency**

9 Within ten (10) days of the Settlement Administrator's receipt of the Initial Gross
10 Settlement Amount, the Settlement Administrator will make a PAGA Payment to the
11 LWDA ultimately approved by the Court in the amount of \$4,000.

12 Within ten (10) days of the Settlement Administrator's receipt of the Remaining
13 Gross Settlement Amount, the Settlement Administrator will make a PAGA Payment to the
14 LWDA ultimately approved by the Court in the amount of \$2,000.

15 **L. The Settlement Administrator**

16 The Settlement Administrator will perform the duties specified in this Stipulation
17 and any other duties incidental to such obligations. The Settlement Administrator's duties
18 shall include, without limitation, preparing and distributing the Notice of Settlement,
19 calculating and directing the disbursement of payments to Settlement Class Members,
20 handling inquiries about the calculation of individual settlement payments, mailing notice
21 of the final judgment to Class Members, posting the final judgment on the Settlement
22 Administrator's website, preparing and filing any tax returns and information returns and
23 any other filings required by any governmental taxing authority or other governmental
24 agency, and advising and promptly forwarding to Class Counsel and Defendants' counsel
25 any objections and requests for exclusion to the Settlement. The Settlement Administrator
26 will provide counsel for the Parties with complete copies of all Requests for Exclusion and
27 Objections to Settlement as they are received by the Settlement Administrator, including the
28 postmark dates for each, and in any event no later than five (5) business days after the

1 Settlement Administrator receives them and no later than ten (10) calendar days before the
2 Final Fairness and Approval Hearing. The Settlement Administrator shall establish a
3 settlement payment center address, telephone number, facsimile number and email address
4 to receive Class Members' inquiries.

5 **M. Time for Payment by Defendant**

6 Within fifteen (15) calendar days after the Effective Date, Defendants shall wire the
7 sum of \$200,000 to the Settlement Administrator (the "Initial Gross Settlement Amount").
8 Within 180 calendar days of the Effective Date, Defendants shall wire the remaining
9 \$150,000 of the Gross Settlement Amount (the "Remaining Gross Settlement Amount") plus
10 the Employer's Withholding Share to the Settlement Administrator. Defendants shall be
11 jointly and severally liable for the payment of the Gross Settlement Amount and the
12 Employer's Withholding Share. If, after the dates set forth above, Defendants fail to timely
13 pay the amounts required to satisfy their joint payment obligation under this Stipulation,
14 Plaintiff may declare the settlement terminated, in which case, Plaintiff, at his option, may
15 either (1) declare the settlement terminated, in which case, Plaintiff may continue to
16 prosecute his claims against Defendants; or (2) request that the Court enter judgment against
17 Defendants for breach of this Stipulation and in favor of all Class Members who have not
18 excluded themselves from the Settlement, pursuant to California Code of Civil Procedure
19 Section 664.6.

20 **N. Payments to Class Counsel and the Representative Plaintiff**

21 Within ten (10) days of its receipt of the Initial Gross Settlement Amount, the
22 Settlement Administrator shall make payment from the Escrow Account to (1) Class
23 Counsel, for 2/3 of both the Class Counsel's Attorneys' Fees and Class Counsel's Costs
24 awarded to Class Counsel by the Court; and (2) Plaintiff Robert Greig, for 2/3 of any
25 Service and Release Award approved by the Court. The Service and Release Award are not
26 wages. The entire amount will be reported on an IRS Form 1099. The Service and Release
27 Award will not count or be counted for determination of eligibility for, or calculation of, any
28 employee benefits (for example, vacations, holiday pay, retirement plans, non-qualified

1 deferred compensation plans, etc.), or otherwise modify any eligibility criteria under any
2 employee pension benefit plan or employee welfare plan sponsored by the Released Parties,
3 unless otherwise required by law.

4 Within ten (10) days of its receipt of the Remaining Gross Settlement Amount, the
5 Settlement Administrator shall make payment from the Escrow Account to (1) Class
6 Counsel, for 1/3 of both the Class Counsel's Attorneys' Fees and Class Counsel's Costs
7 awarded to Class Counsel by the Court; and (2) Plaintiff Robert Greig, for 1/3 of any
8 Service and Release Award approved by the Court. The Service and Release Award are not
9 wages. The entire amount will be reported on an IRS Form 1099. The Service and Release
10 Award will not count or be counted for determination of eligibility for, or calculation of, any
11 employee benefits (for example, vacations, holiday pay, retirement plans, non-qualified
12 deferred compensation plans, etc.), or otherwise modify any eligibility criteria under any
13 employee pension benefit plan or employee welfare plan sponsored by the Released Parties,
14 unless otherwise required by law.

15 **O. Un-negotiated Settlement Payment Checks**

16 If any Settlement Class Member's settlement payment check has not been negotiated
17 sixty (60) days after disbursement of the Remaining Gross Settlement Amount, the
18 Settlement Administrator shall attempt to contact each individual to advise them to cash
19 their checks, and to offer to replace any checks reported as either lost or stolen. In
20 attempting to contact such persons, the Settlement Administrator will only send notices by
21 mail to the individuals' last known addresses (as provided by Defendants) after first
22 checking those addresses against the NCOA database and utility database.

23 If a Settlement Class Member's check is not cashed within 180 days after
24 disbursement of the Remaining Gross Settlement Amount, the check will be void and a stop
25 payment order may be placed on the check. Within the time period required by law, the
26 amount of any unclaimed and/or unpaid residuals will be transmitted to the state of
27 California's Unclaimed Property Fund, as provided for in Title 10 of Part 3 of the California
28 Code of Civil Procedure, beginning with Code of Civil Procedure section 1300, so that

1 Settlement Class Members may later claim such funds. Alternatively, if the court does not
2 approve of such method of disposal, the funds represented by all uncashed checks will be
3 disbursed to the following *cy pres*: Legal Aid Foundation of Los Angeles.

4 **P. Class Counsel Attorneys' Fees and Costs**

5 Defendants agrees to and will not oppose Class Counsel's application for an award
6 of Class Counsel's Attorneys' Fees of up to \$116,666.66, which is one-third of the Gross
7 Settlement Amount.

8 Defendants agree to and will not oppose Class Counsel's application for an award of
9 Class Counsel's actual and reasonable litigation costs and expenses.

10 Class Counsel believes, and Defendants do not dispute, that such awards are fair and
11 reasonable and that they should be based in part on the catalyst theory. Class Counsel's
12 Attorneys' Fees and Class Counsel's Costs, as awarded by the Court, shall be paid from the
13 Gross Settlement Amount.

14 Upon the payment of the total amount of the Court-approved amount of Class
15 Counsel's Attorneys' Fees and Class Counsels' Costs, and except as otherwise provided by
16 this Stipulation, Class Counsel waives any claim to costs and attorneys' fees and expenses
17 against Defendants arising from or related to the Action, including but not limited to claims
18 based on the California Labor Code, the California Code of Civil Procedure, or any other
19 statute or law. Provided, however, nothing in this Agreement shall prevent Class Counsel
20 from seeking fees on appeal for enforcing the terms of this Stipulation if such an appeal is
21 based on a claim that Defendants breached this Stipulation, to recover payments due under
22 this Agreement upon the declaration of bankruptcy by Defendants, for debtor exams
23 performed upon the declaration of bankruptcy by Defendants, for asset discovery or levying
24 related to the failure to fund the Settlement in accordance with the timing set forth in
25 paragraph IV.M, for garnishment work related to the failure to fund the settlement in
26 accordance with the timing set forth in paragraph IV.M, or for collection work related to the
27 failure to fund the settlement in accordance with the timing set forth in paragraph IV.M.

28

1 **Q. Taxes**

2 **1. Withholding and Reporting Requirements**

3 The Settlement Administrator shall be responsible for ensuring that all taxes
4 associated with the Settlement are timely paid to the appropriate tax authorities. The
5 Settlement Administrator's responsibilities include the following: (a) filing all Federal, state
6 and local employment tax returns, tax withholding returns, and any other tax returns
7 associated with the taxes, (b) timely and proper mailing and filing of all required Federal,
8 state and local information returns (e.g., 1099s, W-2s, etc.) with the appropriate taxing
9 authorities, and (c) completion of any other steps necessary for compliance with any tax
10 obligations of the settlement fund under Federal, state and/or local law. To verify the
11 Settlement Administrator's compliance with the foregoing withholding and reporting
12 requirements, as soon as administratively practicable, the Settlement Administrator shall,
13 upon request by Defendants' counsel or Class Counsel furnish copies of all filed tax returns
14 and information returns (including 1099 and W-2 forms), and a final accounting adequate to
15 demonstrate full compliance with all tax withholding, payment and reporting obligations,
16 although Class Counsel will not be furnished with information identifying or specific to
17 individual Class Members, unless that particular Class Member requested such information
18 through Class Counsel. Such documents may be supplied solely for purposes of verifying
19 proper payment of taxes as to the settlement payments and hence cannot be used by Class
20 Counsel for any other purpose. The Parties agree that the documents will not be used to
21 solicit Class Members to file any claim, charge or complaint of any kind whatsoever against
22 Defendants, or for any other purpose other than to verify proper payment of taxes as
23 provided herein. Any Class Member may request and receive from the Settlement
24 Administrator all information concerning the withholding and payment of taxes and other
25 payroll-related fees in relation to such Class Member's settlement payment.

26 **2. Circular 230 Disclaimer**

27 Each of the Parties (for purposes of this section, the "Acknowledging Party"; and
28 each party to this Agreement other than the Acknowledging Party, and "Other Party")

1 acknowledges and agrees that (1) no provision of this Agreement, and no written
2 communication or disclosure between or among the Parties or their attorneys and other
3 advisers, is or was intended to be, nor shall any such communication or disclosure constitute
4 or be construed or be relied upon as, tax advice within the meaning of United States
5 Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the Acknowledging
6 Party (a) has relied exclusively upon his, her or its own, independent legal and tax advisers
7 for advice (including tax advice) in connection with this Agreement, (b) has not entered into
8 this Agreement based upon the recommendation of any Other Party or any attorney or
9 advisor to any Other Party, and (c) is not entitled to rely upon any communication or
10 disclosure by any attorney or adviser to any Other Party to avoid any tax penalty that may be
11 imposed on the Acknowledging Party; and (3) no attorney or adviser to any Other Party has
12 imposed any limitation that protects the confidentiality of any such attorney's or adviser's
13 tax strategies (regardless of whether such limitation is legally binding) upon disclosure by
14 the Acknowledging Party of the tax treatment or tax structure of any transaction, including
15 any transaction contemplated by this Agreement.

16 **V. LIMITATIONS ON USE OF THIS SETTLEMENT**

17 **A. No Admission of Liability**

18 Neither the acceptance nor the performance by Defendants of the terms of this
19 Stipulation nor any of the related negotiations or proceedings is or shall be claimed to be,
20 construed as, or deemed a precedent or an admission by Defendants of the truth or merit of
21 any allegations in the Complaint, or that it has any liability to the Representative Plaintiff or
22 the Class Members on their claims. Defendants deny that they have engaged in any unlawful
23 activity, have failed to comply with the law in any respect, or have any liability to anyone
24 under the claims asserted in the Action. This Agreement is entered into solely for the purpose
25 of compromising highly disputed claims.

1 **B. Nullification**

2 If the Court for any reason does not approve this Settlement, this Stipulation shall be
3 null and void and all Parties to this Settlement shall stand in the same position, without
4 prejudice, as if the Settlement had been neither entered into nor filed with the Court.

5 Invalidation of any material portion of this Stipulation shall invalidate this Settlement
6 in its entirety unless the Parties shall agree in writing that the remaining provisions shall
7 remain in full force and effect.

8 **C. Publicity**

9 Neither the parties nor their counsel will issue a press release, refer to the case on a
10 law firm website in any manner, or otherwise seek to publicize the case or the terms of the
11 Agreement beyond what is required to effectuate the settlement, e.g., filing a motion for
12 preliminary and final approval with the Court and giving notice to the Class Members.
13 Nothing herein shall prevent Class Counsel from discharging their duties to Class Members,
14 discussing the settlement with Plaintiff, the Class Members, and the Court, responding to
15 government inquiries, or undertaking disclosures required by the PAGA statute.

16 **VI. RELEASE**

17 It is the desire of the Representative Plaintiff, Class Members (except those who
18 exclude themselves from the Settlement), and Defendants to fully, finally, and forever settle,
19 compromise, and discharge the Released Claims. Upon the final approval by the Court of this
20 Settlement Agreement and upon Defendant's full payment of all amounts due hereunder,
21 except as to such rights or claims as may be created by this Settlement Agreement, the Class
22 Members shall fully release and discharge the Released Parties from any and all Released
23 Claims that accrued during the Settlement Class Period. This release shall be binding on all
24 Class Members who have not timely submitted a valid and complete Request for Exclusion,
25 including each of their respective attorneys, agents, spouses, executors, representatives,
26 guardians ad litem, heirs, successors, and assigns, and shall inure to the benefit of Defendant.

1 **VII. RELEASE BY THE REPRESENTATIVE PLAINTIFF**

2 Upon full payment of all amounts due hereunder, the Representative Plaintiff fully
3 releases and forever discharges Defendants, the Released Parties, and Defendants' respective
4 present and former officers, directors, employees, shareholders, members, agents, trustees,
5 representatives, attorneys, insurers, parent companies, subsidiaries, divisions, affiliates,
6 predecessors, successors, assigns, and any individual or entity that could be jointly liable with
7 Defendants, from any and all claims, causes of action, damages, wages, benefits, expenses,
8 penalties, debts, liabilities, demands, obligations, attorney's fees, costs, and any other form of
9 relief or remedy in law, equity, or whatever kind or nature, whether known or unknown,
10 suspected or unsuspected, exclusive of any workers compensation claims, including but not
11 limited to (1) the Action and any claims arising out of or related to the Action, (2) any claims
12 for wrongful termination, discrimination, harassment, and/or retaliation, (3) any act, omission,
13 or occurrence in the Action and any claims arising out of or related to the Action taking place
14 on or before the Effective Date of the Settlement, and (4) and any other form of relief or
15 remedy of any kind, nature, or description whatsoever, whether premised on statute, contract,
16 tort, or other theory of liability under state, federal, or local law.

17 The Representative Plaintiff hereby agrees that, notwithstanding § 1542 of the
18 California Civil Code, all claims that the Representative Plaintiff may have, known or
19 unknown, suspected or unsuspected, are hereby released. Section 1542 provides:

20 **A general release does not extend to claims which the creditor does not**
21 **know or suspect to exist in his or her favor at the time of executing the**
22 **release, which if known by him or her must have materially affected his**
or her settlement with the debtor.

23 The Representative Plaintiff expressly waives the provisions of Section 1542 with full
24 knowledge and with the specific intent to release all known or unknown, suspected or
25 unsuspected, claims arising on or before the Effective Date of the Settlement, and therefore
26 specifically waives the provisions of any statute, rule, decision, or other source of law of the
27 United States or of any state of the United States or any subdivision of a state which prevents
28 release of unknown claims.

1 **VIII. MISCELLANEOUS PROVISIONS**

2 **A. Amendments**

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

5 **B. Integrated Agreement**

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

12 **C. No Inducements**

13 Plaintiff and Defendants acknowledge that they are entering into this Agreement as a
14 free and voluntary act without duress or undue pressure or influence of any kind or nature
15 whatsoever and that neither Plaintiff nor Defendants have relied on any promises,
16 representations, or warranties regarding the subject matter hereof other than as set forth in this
17 Stipulation.

18 **D. No Prior Assignment**

19 The Parties hereto represent, covenant, and warrant that they have not directly or
20 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
21 any person or entity any portion of any liability, claim, demand, action, cause of action, or
22 rights herein released and discharged except as set forth herein.

23 **E. No Retaliation or Advice**

24 Defendants agree not to retaliate against any Class Member, and Defendants will not
25 induce or offer any advice to any current or former employee to opt out of, or object to, the
26 Settlement.

27

28

1 **F. Attorney's Fees**

2 To the extent that any Party institutes any legal action, arbitration, or other proceeding
3 to enforce the terms of the Settlement, the prevailing Party will be entitled to recover their
4 reasonable attorneys' fees and costs from the other Party or Parties.

5 **G. Applicable Law**

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

9 **H. Entry of Judgment Pursuant to Terms of Settlement**

10 The Parties agree that upon the Settlement of this case, the Court may enter judgment
11 pursuant to the terms of this Settlement and the Court will retain jurisdiction over the Parties
12 to enforce the Settlement until performance in full of the terms of the Settlement.

13 **I. Notices**

14 All notices, requests, demands and other communications required or permitted to be
15 given pursuant to this Agreement shall be in writing, and shall be delivered personally or by
16 first class mail to the undersigned persons at their respective addresses as set forth below:

17 CLASS COUNSEL

18 Aaron C. Gundzik
19 Rebecca G. Gundzik
20 Gartenberg Gelfand Hayton LLP
21 15260 Ventura Blvd, Suite 1920
22 Sherman Oaks, CA 91403
23 Telephone: (213) 542-2100
24 Facsimile: (213) 542-2101

25 Daniel M. Holzman
26 Caskey & Holzman
27 24025 Park Sorrento, Ste. 400
28 Calabasas, CA 91302
29 Telephone: (818) 657-1070
30 Facsimile: (818) 297-1775

31 COUNSEL FOR DEFENDANTS FOOD ON TIME, INC.
32 AND L & L CATERING, INC.

33 Shaun J. Voigt
34 Soo Y. Park
35 Fisher & Phillips LLP
36 444 South Flower Street, Suite 1500
37 Los Angeles, CA 90071
38 Telephone: (213) 330-4500
39 Facsimile: (213) 330-4501

1 **J. Binding on Successors**

2 This Agreement shall be binding and shall inure to the benefit of the Parties to the
3 Action and their respective successors, assigns, executors, administrators, heirs, and legal
4 representatives.

5 **K. Counterparts**

6 This Stipulation, and any amendments hereto, may be executed in any number of
7 counterparts, each of which when executed and delivered shall be deemed to be an original
8 and all of which taken together shall constitute the same instrument.

9 **L. Warranties and Representations**

10 With respect to themselves, each of the Parties to this Action and or their agent or
11 counsel represents, covenants, and warrants that they have full power and authority to enter
12 into and consummate all transactions contemplated by this Stipulation and have duly
13 authorized the execution, delivery, and performance of this Stipulation.

14 **M. Representation by Counsel**

15 The Parties to this Action acknowledge that they have been represented by counsel
16 throughout all negotiations that preceded the execution of this Stipulation, and that this
17 Stipulation has been executed with the consent and advice of counsel.

18 **N. Signatories**

19 It is agreed that because the Class Members are so numerous, it is impossible or
20 impractical to have each Class Member execute this Stipulation. The Notice of Settlement
21 will advise all Class Members of the binding nature of the release, and the release shall have
22 the same force and effect as if this Stipulation was executed by each member of the Settlement
23 Class.

1 Pursuant to section VIII(A), above, this amendment to the Settlement Agreement is
2 entered into between the Parties, by the signature of their respective attorneys of record.

3
4 Dated: March 12, 2019

FISHER & PHILLIPS LLP

5
6 By: 

Shaun J. Voigt

7 Attorneys for Defendants Food On Time, Inc. and L &
8 L Catering, Inc.

9 Dated: 3/13/19, 2019

GARTENBERG GELFAND HAYTON LLP

10 

11 Aaron C. Gundzik

12 Attorneys for Plaintiff Robert Greig, individually and
13 on behalf of all others similarly situated

14 Dated: 3/13, 2019

CASKEY & HOLZMAN

15 
16 Daniel M. Holzman

17 Attorneys for Plaintiff Robert Greig, individually and
18 on behalf of all others similarly situated
19
20
21
22
23
24
25
26
27
28

Exhibit A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING DATE FOR COURT APPROVAL
Robert Greig v. Food On Time, Inc. and L & L Catering, Inc.
Los Angeles County Superior Court Case No. BC684566

If you are a current or former employee of Food On Time, Inc. or L & L Catering, Inc., you may be entitled to receive money from a class action settlement.

*The California Superior Court, County of Los Angeles authorized this notice.
This is not a solicitation from a lawyer.*

**THIS NOTICE MAY AFFECT YOUR RIGHTS.
PLEASE READ IT CAREFULLY.**

You are receiving this Notice because the Court has granted preliminary approval of a proposed settlement in a class action filed on behalf of current and former employees of Food On Time, Inc. and/or L & L Catering, Inc. ("Defendants"). The proposed settlement will resolve all Released Claims (defined below) against Defendants. A hearing addressing the fairness, adequacy, and reasonableness of the settlement will be held on [] to determine whether the settlement should receive the Court's final approval.

If you are a member of the settlement class, you may receive a settlement payment and may be bound by the terms of the release described below. This Notice explains how much you may receive as a settlement payment. If you do not want to be part of the settlement class, then you must submit a Request for Exclusion (described below) no later than [45 days from mailing] otherwise you will be bound by the terms of the settlement.

1. PURPOSE OF THIS NOTICE

The Court has ordered that this Notice be sent to you because you have been identified as a potential member of the settlement class by Defendants' records. The purpose of this notice is to provide you with information about the lawsuit and the proposed settlement and to advise you of your options.

2. PERSON ELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT

The people eligible to receive a settlement payment (the "Settlement Class") includes all non-exempt current and former employees of Defendants from November 27, 2013 through [Preliminary Approval Date].

3. DESCRIPTION OF THE ACTION

A former employee of Defendants, Robert Greig, filed a class action complaint against Defendants in the Los Angeles County Superior Court on November 27, 2017. His complaint was based on allegations that he and other employees were not properly compensated for all hours worked, were not provided with compliant meal and rest breaks, were not paid all amounts due at separation and did not receive accurate wage statements. Based on these facts and others, Plaintiff's complaint alleges causes of action for: (1) failure to provide meal and rest breaks, (2) inaccurate wage statements, (3) failure to pay unpaid wages at time of discharge, (4) unfair business practices, (5) failure to provide employment records, (6) penalties under the Private Attorneys General Act (PAGA), and (7) failure to pay overtime.

Defendants deny all of Plaintiff's allegations. Defendants contends that all employees have been properly compensated, that all employees were provided with the opportunity to take meal and rest breaks, that employees were paid all amounts due at separation and that Defendants have complied with all wage statement reporting requirements under California law.

The Court has made no ruling on the merits of the alleged claims or the defenses asserted by Defendants. The Court has preliminarily approved the proposed settlement. The Court will decide whether to give final approval to the settlement at a hearing scheduled for _____ (the "Final Approval Hearing").

4. WHO ARE THE ATTORNEYS REPRESENTING THE PARTIES?

Attorneys representing the class ("Class Counsel") are:

FOR MORE INFORMATION CALL 1-800-523-5773.

Aaron C. Gundzik Rebecca G. Gundzik Gartenberg Gelfand Hayton LLP 15260 Ventura Blvd., Suite 1920 Sherman Oaks, CA 91403 Telephone: (213) 542-2100 Facsimile: (213) 542-2101	Daniel M. Holzman Caskey & Holzman 24025 Park Sorrento, Ste. 400 Calabasas, CA 91302 Telephone: (818) 657-1070 Facsimile: (818) 297-1775
--	---

Attorneys representing Defendants are:

Shaun J. Voight Soo Y. Park Fisher & Phillips LLP 444 South Flower Street, Suite 1500 Los Angeles, CA 90071 Telephone: (213) 330-4500	
--	--

5. THE TERMS OF THE PROPOSED SETTLEMENT

The following is a summary of the settlement provisions. The specific and complete terms of the proposed Settlement are stated in the Stipulation of Class Action Settlement ("Settlement Agreement"), a copy of which is filed with the Clerk of the Court. You can also obtain a copy of the Settlement Agreement from Class Counsel (see contact information in Section 4 above).

Defendants have agreed to pay \$350,000.00 to settle any and all obligations for the claims alleged in the lawsuit. This amount is called the Gross Settlement Amount. The Gross Settlement Amount will be used to cover all payments to the settlement class, settlement administration costs, attorneys' fees and costs, and a service and release payment to the Plaintiff. All settlement administration costs, attorneys' fees and costs, and the service and release payment, will be deducted from the Gross Settlement Amount. The remaining amount will be distributed to class members who do not timely submit Requests for Exclusion, as discussed below.

(a) Attorneys' Fees and Costs: Under the settlement, Class Counsel may request up to \$116,666.66, to compensate them for their work on the case, plus their reasonable costs and expenses of the litigation, not to exceed \$12,000, for their reimbursement of the actual costs and expenses incurred. The attorneys' fees and costs will be deducted from the Gross Settlement Amount.

(b) Service and Release Payment: The Plaintiff is requesting a service and release payment not to exceed \$5,000.00, in addition to the amount he will receive as a member of the class, to compensate him for undergoing the burden and expense of bringing and prosecuting the action, and for the broader release of claims he is required to execute. The service and release payment will be deducted from the Gross Settlement Amount.

(c) Settlement Administration Costs: The Settlement Administrator, Phoenix Class Action Administration Solutions, has advised the parties that the settlement administration costs not to exceed \$12,000. The settlement administration costs will be deducted from the Gross Settlement Amount.

(d) Payment to State of California: The parties propose to allocate \$8,000 of the Gross Settlement Amount to settle allegations that Defendant owes penalties to the state of California for alleged violations of the California Labor Code. Seventy-five percent (75%) of that allocation, which is \$6,000, will be paid to the California Labor & Workforce Development Agency. This \$6,000 payment will also be deducted from the Gross Settlement Amount. The other 25% of this allocation, which is \$2,000, will be divided among all class members as part of the Net Settlement Amount.

(d) Payments to Settlement Class Members: The remainder of the Gross Settlement Amount (called the Net Settlement Amount) will be distributed to Settlement Class Members who do not exclude themselves from the settlement and will be made in two payments to each Settlement Class Member. The amount of each Settlement Class Member's share of the Net Settlement Amount will be calculated based upon the number of weeks the class member worked during the Class Period, according to Defendants' records.

6. WHAT YOU WILL RECEIVE UNDER THE SETTLEMENT

According to Defendants' records, you worked a total of ___ weeks during the Class Period. Under the settlement, you will receive approximately \$_____, which will be paid in two payments of \$_____ and \$_____. This amount may increase or

FOR MORE INFORMATION CALL 1-800-523-5773.

decrease based on various factors, including the amounts approved by the Court for attorneys' fees and costs, settlement administration costs, service and release payment to Plaintiff, and disputes by other class members regarding their work days during the Class Period. **To receive this estimated amount, you do not need to do anything. You will receive a settlement payment unless you exclude yourself from the settlement.**

7. PAYMENT SCHEDULE

The Settlement Administrator will send out two settlement checks to each class member, one within approximately 25 days after the settlement is finally approved, and the second approximately 180 days later. You will have 180 days after the Settlement Administrator mails your second settlement check to cash it; otherwise the checks will be voided and the amount of your settlement payments will be delivered to [the State of California Controller's Unclaimed Property Fund and held by the state in your name] **[or]** [Legal Aid Foundation of Los Angeles]. For tax purposes, one-third of your settlement payment shall be attributed to wages, to be reported on a W-2 form; one-third shall be attributed to penalties; and one-third shall be interest. The amount of interest and penalties will be reported on an IRS Form 1099.

Nothing in this Notice should be construed as providing you with tax advice. You should consult with your tax advisor concerning the tax consequences of the payment you receive.

8. RELEASE OF CLAIMS

Unless you submit a valid Request for Exclusion (described below), you will release Defendants Food On Time, Inc. and L & L, Inc. and each of their agents, attorneys, insurers, owners, shareholders, partners, officers, directors, managers, and employees, from any and all claims, liens, debts, penalties, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, interest, equitable relief, or causes of action, of any nature whatsoever, that either were or could have been asserted or sought based on, or arising from, or relating to the facts alleged in the Complaint, (including, without limitation, (1) failure to provide meal and rest breaks, (2) inaccurate wage statements, (3) failure to pay unpaid wages at time of discharge, (4) unfair business practices, (5) failure to provide employment records, (6) penalties under the Private Attorneys General Act (PAGA), and (7) failure to pay overtime) to the extent that they could have been asserted or sought based solely on the facts and claims alleged in the Complaint for related claims under common law, statute, or regulation and all damages, punitive damages, liquidated damages, equitable relief, interest, attorney's fees, waiting time penalties, and/or penalties of any nature whatsoever arising solely from the facts and claims alleged in the Complaint.

This release is for conduct occurring from November 27, 2013 through **[Preliminary Approval Date]**. The claims covered by this release are referred as the "Released Claims."

Claims and damages that were not alleged in the Complaint and could not have been based on the facts and claims alleged in the Complaint are specifically excluded from the Released Claims.

9. YOUR OPTIONS

As a member of the settlement class you have several options. Each option will affect your rights, which you should understand before making your decision. Your rights regarding each option, and the procedure you must follow to select each option, are explained below:

(a) You Can Do Nothing.

If you do nothing, you will remain a member of the settlement class and will receive two settlement payments. You will also be bound by the release of claims set forth in Section 8 above. The payments will remain valid and negotiable for one hundred and eighty (180) days from the date of the issuance of the second settlement payment. This deadline to cash the payment shall not be extended for you absent Court Order.

(b) You Can Contest the Calculation of Your Settlement Payment as Stated in this Notice.

You can contest the number work weeks identified in Section 6 above. To do so, you must provide the settlement administrator with documentation supporting your position. The statement must also include your full name, current address and telephone number, and must identify this case (*Robert Greig v. Food On Time, Inc. and L & L Catering, Inc.*, Case No. BC684566). **You must provide written documentation supporting the number of pay periods or employment dates you contend to have worked; otherwise, Defendants' records will be presumed correct.** You must postmark your written statement no later than **[45 days from mailing]**.

The Settlement Administrator will consider the documentation you submit and will communicate with you and the parties as necessary regarding the dispute to determine whether an adjustment is warranted before making a final determination

FOR MORE INFORMATION CALL 1-800-523-5773.

regarding your settlement payment. The settlement administrator will mail you its final determination. You will have until **[45 days from mailing]** to decide whether you want to exclude yourself from the settlement, as described below.

(c) You Can Exclude Yourself from the Settlement Class.

If you do not want to remain a member of the settlement class, you can request exclusion (i.e., opt out) by sending the Settlement Administrator a written Request for Exclusion. The deadline to postmark a Request for Exclusion is **[45 days from mailing]**. A Request for Exclusion is a written statement unambiguously requesting to be excluded from the settlement class. The Request for Exclusion must include the case name (*Robert Greig v. Food On Time, Inc. and L & L Catering, Inc.*, Case No. BC684566), your name, current address and telephone number, and the last four digits of your social security number (for verification purposes). You must also sign the Request for Exclusion. You should keep a copy of your Request for Exclusion for your records. Moreover, to ensure receipt by the Settlement Administrator, you may elect to send your Request for Exclusion via certified mail. Requests for Exclusion that do not include all required information, or that are not postmarked on or before the deadline, will not be valid.

If you submit a valid and timely Request for Exclusion, you will not be bound by the settlement or the release of claims in Section 8 above; however, you will not receive any money under the settlement. You will also be barred from objecting to this settlement. By opting out of the settlement class, you will retain whatever rights or claims you may have against Defendants.

If you do not submit a timely and valid Request for Exclusion from the settlement class by the deadline specified above, then you will be bound by all terms and conditions of the settlement if it is approved by the Court and by the Judgment, and you will receive a settlement payment.

(d) You Can Object to the Settlement.

If you are a member of the settlement class who does not opt out of the class, you may object to the settlement, personally or through an attorney (retained at your own expense), by sending your written objections to the Settlement Administrator at the address specified in Section 11 below. The deadline to file and postmark objections is **[45 days from mailing]**. Only class members who have not requested exclusion may object to the settlement.

Your objection must state the basis of your objection and include any papers and briefs in support of your position. Your objection must be signed and must contain your current address and telephone number (or that of your attorney) and refer to this case (*Robert Greig v. Food On Time, Inc. and L & L Catering, Inc.*, Case No. BC684566).

If you fail to mail timely written objections, you will be deemed to have waived any objections you may have to the settlement and will be foreclosed from making any objection (whether by appeal or otherwise) to the settlement, unless the Court orders otherwise.

If you object to the settlement and if the Court approves the settlement notwithstanding your objections, you will be bound by the terms of the settlement, and you will not be permitted to file a Request for Exclusion.

10. FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT

The Final Approval Hearing on the fairness and adequacy of the proposed settlement, the plan of distribution, the service and release payment to the Plaintiff, and Class Counsels' request for attorneys' fees and costs, will be held on _____, in Department 14 of the Los Angeles Superior Court, Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012. You may appear at the Final Approval Hearing and be heard regardless of whether you submit an objection to the settlement. The Final Approval Hearing may be continued to another date without further notice. If you plan to attend the Final Approval Hearing, it is recommended that you contact the Settlement Administrator to confirm the date and time.

11. ADDITIONAL INFORMATION.

This Notice only summarizes the lawsuit and settlement. For more information, you may inspect the Court file at the Los Angeles Superior Court, Central Civil West Courthouse, located at 600 S. Commonwealth Ave., Los Angeles, CA 90005. You may also contact the settlement administrator as follows:

Phoenix Class Action Administration Solutions

Email: info@phoenixclassaction.com

Telephone: (800) 523-5773

Website: <http://phoenixclassaction.com>

FOR MORE INFORMATION CALL 1-800-523-5773.

You may also contact Class Counsel at the address and telephone number provided in Section 4 above. If your address changes or is different from the address on the envelope enclosing this Notice, please promptly notify the settlement administrator.

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE