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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES**

14 MARIO ROMERO, as an individual and on
behalf of all others similarly situated, and as a
15 private attorney general,

16 Plaintiff,

17 vs.

18 SAN FRANCISCO C&C/MEL'S DRIVE IN,
form unknown; and DOES 1 through 50,
19 inclusive,

20 Defendants.

Case No. 20STCV41738

[Hon. Carolyn B. Kuhl, Department 12]

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

JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT

This Joint Stipulation of Class Action and PAGA Settlement is entered into by and between Plaintiff, Mario Romero, on the one hand, and Defendant, San Francisco C&C/Mel’s Drive In, on the other hand.

1. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

1.1. Action. “Action” means the civil lawsuit originally entitled *Mario Romero v. San Francisco C&C/Mel’s Drive In*, filed on or about October 27, 2020, in the Superior Court of the State of California for the County of Los Angeles designated as Case No. 20STCV41738.

1.2. Administrator. “Administrator” means the third-party settlement administrator approved by the Court to administer the settlement.

1.3. Agreement. “Agreement” means this Joint Stipulation of Class Action Settlement.

1.4. Class Counsel. “Class Counsel” means Larry W. Lee and Simon L. Yang of Diversity Law Group, P.C.

1.5. Class Member. “Class Member” means all current and former non-exempt employees of Defendant in the State of California during the Class Period.

1.6. Class Notice. “Class Notice” means the Notice of Class Action and PAGA Settlement, substantially in the form attached as Exhibit A.

1.7. Class Period. “Class Period” means October 20, 2016, through May 31, 2022.

1.8. Court. “Court” means the Superior Court of California for the County of Los Angeles.

1.9. Defendant. “Defendant” means San Francisco C & C dba Mel’s Drive-In.

1.10. Defendant’s Counsel. “Defendant’s Counsel” means Matthew Wertheim of Law Offices of Matthew Wertheim .

1.11. Effective Date. “Effective Date” means: (a) if no objections to the settlement are filed, the date the Final Approval Order is signed by the Court; (b) if objections to the settlement are filed, the day following the expiration of the time for the filing of an appeal of the Final Approval Order; or (c) if any appeals of the Final Approval Order are filed, the day following the expiration of time to further appeal an order affirming the Final Approval Order.

1 **1.12. Final Approval Order.** “Final Approval Order” means an order granting final approval
2 of a settlement pursuant to this Agreement.

3 **1.13. Gross Settlement Amount.** “Gross Settlement Amount” means the maximum potential
4 settlement amount—inclusive of any Attorneys’ Fees and Costs Award, Class Representative Award,
5 Administration Costs, PAGA Penalty Fund, and allocations for Individual Settlement Payments—that
6 Defendant may be required to pay in connection with a Final Approval Order.

7 **1.13.1. Administration Costs.** “Administration Costs” means a Court approved payment
8 from the Gross Settlement Amount to the Administrator for administering the settlement, which includes
9 but is not limited to printing, distributing, or tracking Class Notices, processing any required tax
10 payments or reporting, providing any required tax forms, distributing payments pursuant to a Final
11 Approval Order, and providing necessary reports or declarations, as requested by the Court or Class
12 Counsel and Defendant’s Counsel.

13 **1.13.2. Attorneys’ Fees and Costs Award.** “Attorneys’ Fees and Costs Award” means a
14 Court approved payment from the Gross Settlement Amount for Class Counsel’s attorneys’ fees and
15 costs associated with the litigation and resolution of the Action (excluding third-party Administration
16 Costs).

17 **1.13.3. Class Representative Award.** “Class Representative Award” means a Court
18 approved payment from the Gross Settlement Amount to Plaintiff in recognition of his efforts and work
19 in prosecuting the Action on behalf of Class Members and PAGA Employees and in consideration of
20 Plaintiff’s additional general release of claims inapplicable to Settlement Class Members and PAGA
21 Employees.

22 **1.14. Individual Settlement Payment.** “Individual Settlement Payment” means a Class
23 Member’s potential payment from the Gross Settlement Amount, which may include an Individual Class
24 Payment and Individual PAGA Payment.

25 **1.14.1. Individual Class Payment.** “Individual Class Payment” means a Settlement
26 Class Member’s potential payment from the Net Settlement Amount for the class action settlement.

27 **1.14.2. Individual PAGA Payment.** “Individual PAGA Payment” means a PAGA
28 Employee’s potential payment from the PAGA Penalty Fund for the PAGA settlement.

1 **1.15. LWDA Payment.** “LWDA Payment” means a Court approved payment to the Labor &
2 Workforce Development Agency (“LWDA”) of 75% of the PAGA Penalty Fund.

3 **1.16. Net Settlement Amount.** “Net Settlement Amount” means the remainder of the Gross
4 Settlement Amount after Court approved deductions for the Attorneys’ Fees and Costs Award, Class
5 Representative Award, Administration Costs, and PAGA Penalty Fund.

6 **1.17. PAGA Employee.** “PAGA Employee” means all current and former non-exempt
7 employees of Defendant in the State of California during the PAGA Period.

8 **1.18. PAGA Period.** “PAGA Period” means October 14, 2019, through May 31, 2022.

9 **1.19. PAGA Penalty Fund.** “PAGA Penalty Fund” means the portion of the settlement
10 allocated to PAGA penalties.

11 **1.20. Parties.** “Parties” means Plaintiff and Defendant.

12 **1.21. Plaintiff.** “Plaintiff” means Mario Romero.

13 **1.22. Preliminary Approval Order.** “Preliminary Approval Order” means an order granting
14 preliminary approval of a settlement pursuant to this Agreement.

15 **1.23. Released Party.** “Released Party” means Defendant and its present and former parent
16 companies, subsidiaries, divisions, related or affiliated companies, and its shareholders, officers,
17 directors, employees, agents, attorneys, insurers, successors and assigns, counsel in the Action, and any
18 other individual or entity that could be liable for any of the Released Claims.

19 **1.24. Settlement Class Members.** “Settlement Class Members” means Class Members and
20 PAGA Employees who do not exclude themselves from the class action settlement by complying with
21 the procedures set forth in the Class Notice to opt out of the class action settlement.

22 **2. RECITALS**

23 **2.1. Initiation of Action.** On or about August 27, 2020, Plaintiff filed the original complaint
24 initiating the Action on behalf of a putative class of current and former non-exempt employees of
25 Defendant in the State of California. The Action pursued class action and representative action claims
26 under the Labor Code Private Attorneys General Act of 2004 (“PAGA”) for Defendant’s alleged failures
27 to pay or timely pay all sick pay, wages and overtime, provide meal and rest breaks, and furnish accurate
28 itemized wage statements, as well as engage in unfair business practices.

1 **2.2. Class Counsel’s Investigation.** On November 24, 2020, and numerous dates thereafter,
2 Plaintiff and Defendant met and conferred about the alleged claims. On June 30, 2021, Plaintiff served
3 initial written discovery. On July 15, 2021, Defendant served initial written discovery. The Parties
4 supplemented formal discovery by continuing to exchange information and documentation pursuant to
5 informal methods to assist the Parties in exploring the possibility of a mediated resolution. Class
6 Counsel continued investigating the alleged claims and also analyzed any defenses raised by Defendant.

7 **2.3. Mediation and Settlement.** On March 31, 2022, the Parties attended a mediation with
8 Lynn Frank, an experienced mediator knowledgeable of both the wage and hour laws and class and
9 representative action claims at issue in the Action. With the mediator’s assistance and based upon the
10 mediator’s proposal, the Parties were able to agree to settlement terms, which were negotiated in light of
11 all known facts and circumstances—including the uncertainty associated with litigation, the risks of
12 significant delay, and numerous potential appellate issues. The settlement was achieved only after
13 extensive arm’s length negotiations both during and in the weeks leading up to the mediation. The
14 Parties agree to a settlement to resolve all disputes and litigation between the Parties. It is the desire of
15 the Parties to fully, finally, and forever settle, compromise, or discharge any and all class and PAGA
16 claims, rights, demands, charges, complaints, causes of action, obligations or liability of any and every
17 kind that were or could have been asserted in the Action or that arise out of the alleged facts,
18 circumstances, and occurrences underlying the allegations in the Action. The settlement represents the
19 Parties’ good-faith compromise of the claims raised in the Action, based upon their assessment of the
20 mutual risks and costs of further litigation.

21 **2.4. No Admission of Liability.** Defendant denied and continues to deny all of the allegations
22 made by Plaintiff in the Action. Defendant denies all of the allegations in the Action, including
23 specifically that it has violated any federal, state, or local law. Defendant maintains that it has complied
24 in good faith with California wage and hour law and dealt fairly and legally with Plaintiff, the Class
25 Members, and PAGA Employees. Nonetheless, Defendant has concluded that further proceedings in the
26 Action would be protracted and expensive, and that the Action be fully and finally settled in the manner
27 and upon the terms and conditions set forth in this Agreement in order to dispose of burdensome and
28 protracted litigation. Although Defendant denied and continues to deny all of the allegations made by

1 Plaintiff in the Action, Defendant—without admitting or conceding any liability or wrongdoing
2 whatsoever—has agreed to settle the Action on the terms and conditions set forth in this Agreement for
3 the sole purpose of avoiding the burden and distraction to its business, monetary expense, and
4 uncertainty of continuing the Action. Except as necessary in any proceeding to enforce the terms of this
5 Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in
6 any action or proceeding to establish any liability or admission on the part of Defendant or to establish
7 the existence of any condition constituting a violation of or non-compliance with federal, state, local or
8 other applicable law. The Parties understand and agree that this Agreement and all exhibits thereto are
9 settlement documents and shall be inadmissible for any purpose in any proceeding, except in an action
10 or proceeding to approve, interpret, or enforce the terms of this Agreement. The Parties agree that, to the
11 extent permitted by law, this Agreement may be pleaded as a full and complete defense to and may be
12 used as the basis for an injunction against or dismissal of any action, suit, or other proceeding that may
13 be instituted, prosecuted, or attempted in breach of this Agreement.

14 **2.5. Class Counsel’s Evaluation.** Based on Class Counsel’s ongoing investigation and
15 evaluation, Class Counsel is of the opinion that the terms set forth in this Agreement are fair, reasonable,
16 adequate, and in the best interests of Class Members.

17 **2.6. Certification of Settlement Class.** This Agreement is contingent upon the approval and
18 certification by the Court of a class for purposes of settlement. The Parties agree to cooperate and take
19 all steps necessary and appropriate to effectuate all aspects of this Agreement and to obtain a
20 Preliminary Approval Order and then a Final Approval Order.

21 **3. NOTICE TO CLASS MEMBERS**

22 **3.1. Administrator.** Plaintiff and Class Counsel shall request that the Court appoint Phoenix
23 Settlement Administrators as the Administrator for purposes of sending notice of the settlement to Class
24 Members.

25 **3.2. Class Data for Administrator.** Within 14 calendar days of the Preliminary Approval
26 Order, Defendant shall provide to the Administrator each Class Member’s last known mailing address,
27 as well as data sufficient for the Administrator to perform all necessary responsibilities pursuant to this
28 Agreement.

1 **3.3. Mailing of Notice.** Within 14 calendar days of receipt of the Class Data, the
2 Administrator shall send Class Notice to each Class Member via First Class U.S. Mail, using the last
3 known mailing address for each Class Member, based on class data provided by Defendant. Any Class
4 Notice returned to the Administrator as undeliverable shall be sent promptly via First Class U.S. Mail to
5 the forwarding address affixed thereto. If no forwarding address is provided, the Administrator shall
6 promptly attempt to determine the correct address using a single skip-trace search and shall then
7 promptly send a single re-mailing. This shall be the sole means of notice to Class Members.

8 **3.4. Proof of Mailing.** The Administrator shall provide Class Counsel and Defendant’s
9 Counsel a declaration of due diligence and proof of mailing with regard to mailing of Class Notice.

10 **4. CLASS MEMBERS’ RESPONSE OPTIONS**

11 **4.1. Consideration Period.** Class Members shall be provided 45 calendar days after the
12 postmark date of the initial mailing of Class Notice to exercise any rights to opt out of the settlement.
13 Except as provided herein, no Class Member responses that are postmarked more than 45 calendar days
14 after the initial mailing of Class Notice shall be considered. The Parties shall do nothing to encourage or
15 solicit Class Members or PAGA Employees to accept, opt out of, or object to the settlement.

16 **4.2. Objection Right and Effect.** Settlement Class Members shall be given the opportunity to
17 object to the terms of the class action settlement. Settlement Class Members may object to the class
18 action settlement by mailing to the Administrator an objection within 45 calendar days after the
19 postmark date of the initial mailing of Class Notice, which describes the objection and states any
20 intention to appear at the final approval hearing. Alternatively, Settlement Class Members may appear at
21 the final approval hearing to object to the settlement. Any Settlement Class Member who does not
22 comply with the objection procedures in the Class Notice shall be deemed to have waived any objections
23 and shall be foreclosed from making any objection, whether by appeal or otherwise, to the settlement.
24 Settlement Class Members who object to the settlement pursuant to the terms of the Class Notice shall
25 remain subject to being bound by the release provisions in this Agreement pursuant to a Final Approval
26 Order and shall remain eligible to receive an Individual Class Payment. Class Members do not have the
27 right to object to the terms of the PAGA settlement.
28

1 **4.3. Opt-Out Right and Effect.** Class Members shall be given the opportunity to opt out of
2 the settlement. Class Members may opt out of the settlement by mailing to the Administrator a Request
3 for Exclusion, which expresses their desire to be excluded from the Settlement Class. Any Request for
4 Exclusion that does not comply with the procedures in the Class Notice shall be deemed void and
5 ineffective. Class Members who opt out of the settlement pursuant to the terms of the Class Notice shall
6 not receive any Individual Class Payments, shall not be bound by the class action release provisions in
7 this Agreement pursuant to a Final Approval Order, and shall not be permitted to object to the settlement
8 or appeal. If a Class Member submits both a Request for Exclusion and an objection, the Administrator
9 shall attempt to determine whether the Class Member would like to withdraw either the Request for
10 Exclusion or the objection. If the Class Member does not withdraw a Request for Exclusion, or if the
11 Administrator cannot contact the Class Member who submits both a Request for Exclusion and an
12 objection, the Request for Exclusion shall be deemed valid and shall be deemed to invalidate the
13 objection. Class Members do not have the right to opt out of the PAGA settlement.

14 **4.4. Objection Response.** The Administrator must provide a copy of any objection received
15 to Class Counsel and Defendant’s Counsel upon receipt. Either of the Parties may file a response to any
16 written objection no later than five court days before the Final Approval Hearing.

17 **4.5. Proof of Class Members’ Responses.** As soon as practicable after the end of the
18 consideration period, the Administrator shall provide a declaration attesting to (by number of relevant
19 individuals), its mailing of Class Notice, its inability to deliver Class Notice due to invalid addresses,
20 and its receipt of valid Requests for Exclusion or objections. The Administrator shall prepare any
21 supplemental declarations regarding the administration of the settlement, as necessary or as jointly
22 requested by the Parties or the Court.

23 **5. SETTLEMENT PROCEEDS**

24 **5.1. Gross Settlement Amount.** Defendant agrees to pay a non-reversionary Gross
25 Settlement Amount of \$750,000.00. The Gross Settlement Amount was negotiated based on Defendant’s
26 representation that there are approximately 1,580 Class Members during the Class Period. To the extent
27 that the actual number of Class Members exceeds 1,580 by more than 10.0% (i.e., 1,738), the Gross
28 Settlement Amount shall increase on a pro rata basis equal to the percentage increase exceeding 10.0%

1 (e.g., if the actual number were 11.0% greater than 1,580, then the Gross Settlement Amount would be
2 increased by 1.0%). Under no other circumstances will Defendant's payment exceed the Gross
3 Settlement Amount, except that Defendant will make additional payments to the Administrator
4 representing its share of any employer payroll taxes to be paid in connection with the Settlement (e.g.,
5 FICA, FUTA, payroll taxes, or any similar tax or charge).

6 **5.1.1. Attorneys' Fees and Costs.** Class Counsel intends to request—and Defendant
7 agrees not to oppose—that the Court approve an Attorneys' Fees and Costs Award in the amount of (a)
8 33 $\frac{1}{3}$ % of the Gross Settlement Amount, or \$250,000.00, and (b) litigation costs not to exceed \$20,000.

9 **5.1.2. Class Representative Award.** Class Counsel intends to request—and Defendant
10 agrees not to oppose—that the Court approve a Class Representative Award of \$10,000.00. Any Class
11 Representative Award is supplemental to Plaintiff's Individual Settlement Payment.

12 **5.1.3. Administration Costs.** Class Counsel intends to request—and Defendant agrees
13 not to oppose—that the Court approve Administration Costs of up to \$15,000.00. The Parties agree to
14 cooperate in the settlement administration process and to make all reasonable efforts to control and
15 minimize Administration Costs.

16 **5.1.4. PAGA Penalty Fund and LWDA Payment.** The Parties allocate \$50,000.00 to
17 the PAGA Penalty Fund, which shall be distributed pursuant to statute with 75% of the PAGA Penalty
18 Fund payable from the Gross Settlement Amount as an LWDA Payment. The remaining 25% of the
19 PAGA Penalty Fund is to be payable from the Gross Settlement Amount as Individual PAGA Payments
20 to PAGA Employees.

21 **5.1.5. Differences in Requested and Approved Payments.** If the Court does not
22 approve the requested amounts for the Attorneys' Fees and Costs Award, Class Representative Award,
23 or Administration Costs, any requested but unapproved amounts shall be allocated to the Net Settlement
24 Amount. If the Court does not approve the requested amount for the PAGA Penalty Fund, any difference
25 in the requested and approved amount of the resulting LWDA Payment shall either be allocated to the
26 Net Settlement Amount or from the Gross Settlement Amount.

27 **5.2. Net Settlement Amount.** After deducting the approved Attorneys' Fees and Costs
28 Award, Class Representative Award, Administration Costs, and PAGA Penalty Fund from the Gross

1 Settlement Amount, the Net Settlement Amount shall be allocated entirely to Settlement Class
2 Members.

3 **5.3. Individual Settlement Payments.** Individual Settlement Payments shall be distributed to
4 PAGA Employees and Settlement Class Members, without the need to submit a claim form. The
5 Administrator shall calculate the amounts of payments described below. Defendant's employee data will
6 be presumed to be correct. If a Class Member disputes any employee data, disputes will be resolved and
7 decided by the Administrator, and the Administrator's decision on all disputes will be final and non-
8 appealable.

9 **5.3.1. Individual PAGA Payments.** The 25% portion of the PAGA Penalty Fund shall
10 be distributed to PAGA Employees as Individual PAGA Payments and proportionally allocated among
11 PAGA Employees on a pro rata basis. Individual PAGA Payments shall be subject to IRS Form 1099
12 reporting.

13 **5.3.2. Individual Class Payments.** The Net Settlement Amount shall be distributed to
14 Settlement Class Members and PAGA Employees as Individual Class Payments and proportionally
15 allocated among Settlement Class Members and PAGA Employees based on the total number of
16 workweeks reported by Defendant for each Settlement Class Member and PAGA Employee during the
17 Class Period. 15% of Individual Class Payments shall be allocated to wages and subject to IRS Form W-
18 2 reporting; the remainder of Individual Class Payments shall be allocated to interest and penalties and
19 subject to IRS Form 1099 reporting.

20 **5.4. No Tax Advice or Liability.** The Administrator shall issue an IRS Form 1099 to Plaintiff
21 for any Class Representative Award, to Class Counsel for any Attorneys' Fees and Costs Award, to the
22 LWDA for any LWDA Payment, and to the Administrator for any Administration Costs. The Parties
23 have had an opportunity to consult with independent tax counsel. The Parties are not giving any tax
24 advice in connection with the settlement or any payments to be made pursuant to the Agreement. The
25 Parties do not intend anything contained in this Agreement to constitute legal advice regarding the
26 taxability of any amount paid hereunder, nor shall anything in this Agreement be relied upon as such. By
27 participating in the settlement, each Class Member shall agree to be solely and legally responsible for
28 paying any applicable taxes on their respective Individual Settlement Payments and shall indemnify and

1 hold harmless the Parties from any claim or liability for taxes, penalties, or interest arising as a result of
2 the payments.

3 **5.5. Funding and Distribution.** Within 21 calendar days after the Effective Date, Defendant
4 shall deposit the Gross Settlement Amount with the Administrator. By seven calendar days after the
5 Effective Date, the Administrator shall distribute all amounts to be paid pursuant to the Final Approval
6 Order. Upon completion of administration of the settlement, the Administrator shall provide written
7 certification of such completion to Class Counsel and Defendant's Counsel.

8 **5.6. Effect of Payments.** All Individual Settlement Payments to Class Members and PAGA
9 Employees shall be deemed to be paid in the year in which such payments actually are mailed to the
10 Class Member or PAGA Employee. It is expressly understood and agreed that the receipt of such
11 Individual Settlement Payments shall not entitle any Class Member or PAGA Employee to additional
12 compensation or benefits under any company bonus, contest, or other compensation or benefit plan or
13 agreement in place during the period covered by the Agreement, nor will it entitle any individual to any
14 increased retirement, 401K benefits or matching benefits, or deferred compensation benefits. It is the
15 intent of this Settlement that the individual settlement awards provided for in this Settlement are the sole
16 payments to be made by Defendant to the Class Members and PAGA Employees, and that the Class
17 Members and PAGA Employees are not entitled to any new or additional compensation or benefits as a
18 result of having received the individual settlement awards (notwithstanding any contrary language or
19 agreement in any benefit or compensation plan document that might have been in effect during the
20 period covered by this Agreement).

21 **5.7. Undeliverable or Uncashed Checks.** All uncashed or undeliverable settlement checks
22 will expire 180 days after the postmarked date of their initial mailing. After 180 days, the sum value of
23 all expired checks will be tallied by the Administrator. The Administrator shall direct the principal for
24 any expired checks in accordance with the Final Approval Order. The Parties shall request that the Court
25 order that the principal for any expired checks escheat to the State of California's Unclaimed Property
26 Fund in the name of the Settlement Class Member.

1 **6. RELEASES**

2 **6.1. Releases by Settlement Class Members.** By operation of the entry of the Final Approval
3 Order, and except as to such rights or claims as may be created by this Agreement, all Settlement Class
4 Members fully release Defendant and each Released Party from any and all claims during the Class
5 Period that were pleaded in the Action or that could have been pleaded based on the facts alleged in the
6 Action, including claims for (1) failure to pay or timely pay sick pay wages, (2) failure to pay or timely
7 pay overtime wages, (3) failure to provide rest breaks, (4) failure to provide meal periods, (5) failure to
8 furnish accurate itemized wage statements, (6) failure to timely pay wages during employment or upon
9 termination, and (7) unfair business practices based on these violations. Plaintiff agrees that, upon entry
10 of the Final Approval Order, Plaintiff and all Settlement Class Members will be forever barred from
11 pursuing any and all of the claims covered by this Release that arose during the Class Period against the
12 Defendant and all Released Parties.

13 **6.2. Releases by PAGA Employees.** By operation of the entry of the Final Approval Order,
14 and except as to such rights or claims as may be created by this Agreement, Plaintiff as a proxy for the
15 State and the LWDA, as well as PAGA Employees who are Settlement Class Members, fully releases
16 Defendant and each Released Party from any and all claims during the PAGA Period for civil penalties
17 pleaded in the Action or that could have been pleaded based on the facts alleged in the Action. Plaintiff
18 agrees that upon entry of the Final Approval Order, all Settlement Class Members will release any/all
19 claims covered by this Release against the Defendant and all Released Parties that arose during the
20 PAGA Period and Plaintiff and all Settlement Class Members will be forever barred from pursuing any
21 and all claims covered by this Release which arose during the PAGA Period against the Defendant and
22 all Released Parties.

23 **6.3. Additional Release by Plaintiff.** In addition to the above releases applicable to Plaintiff
24 as a Settlement Class Member and PAGA Employee, Plaintiff also generally releases all claims, known
25 or unknown, in favor of each Released Party, including a waiver of Civil Code section 1542. Plaintiff
26 expressly waives all rights provided by Civil Code section 1542 that Plaintiff may have against each
27 Released Party. Civil Code section 1542 states:
28

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

Plaintiff acknowledges that he has read the entirety of the Agreement, including the above language from the Civil Code, and that she fully understands both the Agreement and Civil Code section 1542. By executing this Agreement, Plaintiff expressly waives any benefits and rights granted pursuant to Civil Code section 1542.

7. COURT APPROVAL

7.1. Preliminary Approval. Plaintiff shall submit a motion seeking a Preliminary Approval Order, which would, among other things: (i) preliminarily approve the proposed settlement according to the terms of this Agreement; (ii) set a date for a final approval hearing; and (iii) provide for Class Notice to be sent to Class Members as specified herein.

7.2. Final Approval. Not later than 16 court days before the date set by the Court for a final approval hearing, or such other time as the Court requires, Plaintiff shall submit a motion seeking a Final Approval Order, which would, among other things: (i) approve the settlement, (ii) deem the terms to be fair, reasonable, and adequate, (iii) approve the releases, (iv) direct that the settlement’s terms and provisions be carried out; (v) enter final judgment; and (vi) retain jurisdiction to oversee administration and enforcement of the terms of this Agreement and the Court’s orders.

7.3. Effect of Failure to Obtain Final Approval. In the event the Court effects a material change or fails to enter a Final Approval Order in accordance with this Agreement, or such Final Approval Order is vacated, then this entire Agreement shall be void and unenforceable, subject to the Parties’ agreement to the contrary, and the costs of administration shall be split equally between the Parties. The Action shall proceed as if no settlement has been attempted, subject to the Parties’ agreement to the contrary, and this Agreement and any documents in furtherance of this Agreement shall be admissible in any future proceedings in this Action or any other action.

8. MISCELLANEOUS

8.1. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with regard to the subject matter contained herein, and all prior and contemporaneous negotiations and

1 understandings between the Parties shall be deemed merged into this Agreement. The signatories
2 represent that they are fully authorized to enter into this Agreement and are fully authorized to bind the
3 Parties to all terms stated herein.

4 **8.1.1. Counterparts and Signatures.** This Agreement may be executed in counterparts,
5 and when all signatories have signed and delivered at least one such counterpart, each counterpart shall
6 be deemed an original, and when taken together with other signed counterparts, shall constitute one
7 signed Agreement, which shall be binding upon and effective as to all Parties. Any party may sign and
8 deliver this Agreement by signing on the designated signature block and transmitting that signature page
9 via e-mail to counsel for the other party. Any signature transmitted via e-mail shall be deemed an
10 original signature and shall be binding upon the party who transmits the signature page.

11 **8.1.2. Waivers, Modifications, Etc. to Be in Writing.** No waiver, modification, or
12 amendment of the terms of this Agreement, whether purportedly made before or after the Court's
13 approval of this Agreement, shall be valid or binding unless in writing, signed by or on behalf of all
14 Parties and then only to the extent set forth in such written waiver, modification, or amendment, subject
15 to any required Court approval. Any failure by any Party to insist upon the strict performance by the
16 other Party of any of the provisions of this Agreement shall not be deemed a waiver of future
17 performance of the same provisions or of any of the other provisions of this Agreement, and such Party,
18 notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of
19 any and all of the provisions of this Agreement.

20 **8.1.3. Construction.** The determination of the terms and conditions of this Agreement
21 has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this
22 Agreement, and the terms and conditions of this Agreement are not intended to be, and shall not be,
23 construed against any party by virtue of draftsmanship. The captions of paragraphs of this Agreement
24 have been inserted for convenience of reference only and shall have no effect upon the construction or
25 interpretation of any part of this Agreement.

26 **8.1.4. Invalidity of Any Provision.** Before declaring any provision of this Agreement
27 invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible so as to
28 render all provisions of this Agreement valid and enforceable.

1 **8.2. Further Acts and Cooperation Between the Parties.** The Parties shall cooperate and
2 use their best efforts to obtain the Court’s approval of this Agreement and its terms. Each of the Parties,
3 upon the request of another, agrees to perform such further acts and to execute and deliver such other
4 documents as are reasonably necessary to carry out the provisions of this Agreement. Plaintiff’s Counsel
5 shall comply with all requirements and reportings to the LWDA for a PAGA settlement. Plaintiff’s
6 Counsel shall submit this any necessary documentation, including this Agreement and any Final
7 Approval Order, to the LWDA, in compliance with Labor Code § 2699(1)(2)

8 **8.3. Continuing Jurisdiction.** The Court shall retain jurisdiction over the implementation of
9 this Agreement as well as any and all matters arising out of, or related to, the implementation of this
10 Agreement and of the settlement contemplated thereby.

11 **8.4. Disputes.** If the Parties have a dispute with regard to the language of this Agreement,
12 they agree to engage mediator Lynn Frank to mediate any such dispute. The Parties will split the costs of
13 the mediator, and the Parties will bear their own fees and costs.

14 **8.5. Governing Law and Enforcement Actions.** All terms of this Agreement shall be
15 governed by and interpreted according to the laws of the State of California.

16 **8.6. Confidentiality, Non-Disparagement, and No Cooperation.** Except as provided below,
17 to the extent necessary to effectuate this Agreement or as required by court or legal process, Plaintiff
18 will keep the terms of this Agreement confidential. Neither Plaintiff nor Plaintiff’s Counsel shall issue a
19 press release, hold a press conference, publish information about the terms of the Agreement, including
20 the Gross Settlement Amount, on any website or through any social media, engage in any
21 communications, take any other action that would otherwise directly or indirectly solicit additional
22 clients, publicize, or promote the filing of this Action, the Agreement or terms of settlement or
23 communicate its terms in public or in private, unless ordered by the Court. Plaintiff agrees that he will
24 not make any statements, written or oral, including but not limited to, posting comments, videos, or
25 audio recordings on social media websites or applications (including, but not limited to, Facebook,
26 Twitter, Instagram, Glassdoor, Snapchat, LinkedIn, WhatsApp, Photobucket, Yelp, YouTube, and
27 Reddit) or cause or encourage others, including current and/or former employees of Released Parties, to
28 make any such statements that defame, disparage, or in any way criticize the personal and/or business


1 reputations, practices, or conduct of any of the Released Parties. Plaintiff agrees that he will not act in
2 any manner that may damage the business or reputation of any of the Released Parties. Plaintiff also
3 agrees that he will not use name, image, or likeness of any of the Released Parties in any statements,
4 written or oral, including but not limited to, posting comments, videos, or audio recordings on social
5 media websites. Plaintiff agrees that he will not counsel or assist any attorneys or their clients in the
6 presentation or prosecution of any disputes, differences, grievances, claims, charges or complaints by
7 any third party against any of the Released Parties, unless under a subpoena or other court order to do
8 so. However, for the limited purpose of establishing adequacy of counsel in future actions, Plaintiff's
9 Counsel may reference the Action by name and case number in a declaration establishing adequacy as
10 class or representative counsel. Notwithstanding the foregoing, Defendant each shall have the right to
11 disclose the settlement and Settlement Agreement terms as may be required under federal and/or state or
12 local laws, under generally accepted accounting principles, or in Defendant's sole judgment, may be
13 required to respond in general terms to inquiries from the media, investment-related entities, and as may
14 be required under the ordinary course of business.

15
16 **[SIGNATURES ON FOLLOWING PAGE]**
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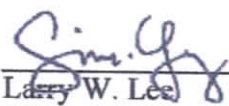
Dated: November 18, 2022

PLAINTIFF

DocuSigned by:

Mario Romero

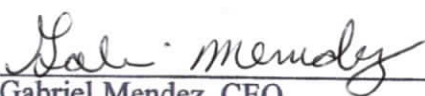
COUNSEL FOR PLAINTIFF AND CLASS

Dated: November 17, 2022


Larry W. Lee
Simon L. Yang
DIVERSITY LAW GROUP, P.C.


DEFENDANT

Dated: November 20, 2022


Gabriel Mendez, CEO
San Francisco C& C dba Mel's Drive-In

COUNSEL FOR DEFENDANT

Dated: November 19, 2022


Matthew Wertheim
LAW OFFICES OF MATTHEW WERTHEIM