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8 Attorneys for Plaintiff, PRIMITIVO PEREZ, an individual and on behalf of all others  
similarly situated and aggrieved,

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **FOR THE COUNTY OF ORANGE – CIVIL COMPLEX CENTER**

11 PRIMITIVO PEREZ, an individual and on  
behalf of all others similarly situated and  
12 aggrieved,

13 Plaintiff,

14 v.

15 D&G RESTAURANTS, LLC, a California  
limited liability company, doing business as  
16 "Tavern House"; GREGG SOLOMON, an  
individual; and DOES 1 through 100, inclusive,  
17

18 Defendants.  
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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

**JUN 29 2023**

DAVID H. YAMASAKI, Clerk of the Court

BY: \_\_\_\_\_, DEPUTY

CASE NO.: 30-2021-01209638-CU-OE-CXC  
[Assigned to the Hon. Peter Wilson in Dept.  
CX101]

**ORDER GRANTING PRELIMINARY  
APPROVAL OF CLASS ACTION AND  
PAGA SETTLEMENT AND  
CERTIFYING CLASS FOR  
SETTLEMENT PURPOSES ONLY**

1 This Court, having considered the Motion of plaintiff Primitivo Perez (“Plaintiff”) for  
2 Preliminary Approval of the Class Action Settlement and Provisional Class Certification for  
3 Settlement Purposes Only (“Motion for Preliminary Approval”), the Declarations of Jasmin K. Gill,  
4 David D. Bibiyan, Plaintiff, and Jodey Lawrence, the Stipulation for Class Action and Representative  
5 Action Settlement (the “Settlement Agreement”) attached hereto as Exhibit “1”, the Notice of  
6 Proposed Class Action Settlement (“Class Notice”) attached hereto as Exhibit “2” in English and as  
7 Exhibit “3” in Spanish, and the other documents submitted in support of the Motion  
8 for Preliminary Approval, hereby **ORDERS, ADJUDGES AND DECREES THAT:**

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

11 2. The Court certifies the following settlement class for the purpose of settlement only:  
12 all current and former non-exempt, hourly-paid employees who worked for defendant D&G  
13 Restaurants, LLC, a California limited liability company, doing business as “Tavern House”  
14 (“Defendant” or “D&G”) at any time during the period between July 9, 2017 through the date  
15 preliminary approval is granted (“Class Period”) in California (“Class Members”).

16 3. The Court preliminarily appoints named plaintiff Primitivo Perez as Class  
17 Representative and Jasmin K. Gill of J. Gill Law Group, P.C. as well as David D. Bibiyan and  
18 Jeffrey D. Klein of Bibiyan Law Group, P.C. as Class Counsel.

19 4. The Court preliminarily approves the proposed class settlement upon the terms and  
20 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the  
21 settlement appears to be within the range of reasonableness of settlement that could ultimately be  
22 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement  
23 amount is fair, adequate and reasonable as to all potential settlement class members when balanced  
24 against the probable outcome of further litigation relating to liability and damages issues. It further  
25 appears that sufficient research has been conducted such that counsel for the parties at this time are  
26 reasonably able to evaluate their respective positions. It further appears to the Court that the  
27 settlement at this time will avoid substantial additional costs by all parties, as well as the delay  
28 and risks that would be presented by the further prosecution of the Action. It further appears

1 that the settlement has been reached as the result of intensive, non-collusive, arms-length  
2 negotiations utilizing an experienced third party neutral.

3 5. The Court, approves, as to form and content, the Class Notice that has been submitted  
4 herewith.

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

9 7. The Court hereby preliminarily approves the definition and disposition of the Gross  
10 Settlement Amount **\$250,000.00**, which is inclusive of: attorneys' fees not to exceed thirty-five  
11 percent **(35%)** of the Gross Settlement Amount, which, if not escalated pursuant to the Settlement  
12 Agreement, amounts to **\$87,500**, in addition to actual costs incurred not to exceed \$25,000.00; an  
13 incentive award not to exceed **\$7,500.00** to Plaintiff; costs of settlement administration of no  
14 more than **\$7,250.00**; and Private Attorneys' General Act of 2004 ("PAGA") penalties in the  
15 amount of **\$20,000.00**, of which \$15,000.00 (75%) will be paid to the Labor and Workforce  
16 Development Agency ("LWDA") and \$5,000.00 to "Aggrieved Employees", defined as Class  
17 Members working for Defendant during the period between **May 18, 2020** through the date  
18 preliminary approval is granted.

19 8. The Gross Settlement Amount expressly **excludes Employer Taxes**, which will be  
20 paid separately and apart by Defendant on the wages portion of the Gross Settlement Amount.

21 9. Within thirty (30) calendar days of this Order (the "**First Payment Date**"), Defendant  
22 shall deposit the first half of the Gross Settlement Amount—One Hundred and Twenty-Five  
23 Thousand Dollars and Zero Cents (**\$125,000.00**)—unless the same is escalated pursuant to the  
24 Settlement Agreement (and in such event, half of the escalated gross settlement amount), in addition  
25 to related Employer's Taxes pursuant to Internal Revenue Code section 1.468B-1 for deposit in an  
26 interest-bearing qualified settlement account ("QSA") with an FDIC insured banking institution, to  
27 the Settlement Administrator. Thereafter, Defendant shall pay the remaining half of the Gross  
28 Settlement Amount as follows: No later than one hundred eighty (180) calendar days after the First

1 Payment Date (the "Second Payment Date"), Defendant shall deposit the remaining portion of the  
2 Gross Settlement Amount of Two-Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00)<sup>1</sup>  
3 pursuant to Internal Revenue Code section 1.468B-1 for deposit in an interest-bearing QSA with an  
4 FDIC insured banking institution, for distribution in accordance with the Settlement Agreement.

5 10. Class Member's "Workweeks" shall mean the number of weeks that a Class Member  
6 was employed by and worked for the Defendant in a non-exempt, hourly-paid position during the  
7 Class Period in California, based on hire dates, re-hire dates (as applicable), and termination dates  
8 (as applicable).

9 11. The Settlement is based on Defendant's representation that there are no more than  
10 9,435 Workweeks worked by Class Members in the Class Period. In the event the number of  
11 Workweeks worked by Class Members during the Class Period increases by more than 10% greater  
12 than this figure (i.e., if there are more than 10,378 Workweeks [ $9,435 \text{ workweeks} \times 1.10 = 10,378$   
13 Workweeks] worked by Class Members using hire dates, termination dates (as applicable) and re-  
14 hire dates (as applicable), then Defendant agrees to increase the Gross Settlement Amount  
15 proportionally over the 10% increase in the number of Workweeks worked by Class Members  
16 during the Class Period. By way of example, if the number of Workweeks worked by Class  
17 Members during the Class Period increases by 11%, the Gross Settlement Amount will increase by  
18 1%. Likewise, if the number of Workweeks worked by Class Members during the Class Period  
19 increases by 12%, the Gross Settlement Amount will increase by 2%. The Workweek Value shall  
20 be calculated by dividing the originally agreed-upon Gross Settlement Amount (\$250,000.00) by  
21 9,435, which amounts to a Workweek Value of \$26.50. Thus, for example, should there be 11,039  
22 Workweeks in the Class Period, then the Gross Settlement Amount shall be increased by  
23 \$17,516.50. ( $(11,039 \text{ Workweeks} - 9,435 \text{ Workweeks}) \times \$26.50 \text{ per Workweek}$ ).

24 12. The Court deems Phoenix Settlement Administrators ("Phoenix") the Settlement  
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27 <sup>1</sup> The Gross Settlement Amount, and all Employer's Taxes for each of the payments made, must be paid in  
28 full within 210 calendar days from the date of this Order. If escalated pursuant to the Settlement Agreement,  
the escalated Gross Settlement Amount and all Employer's Taxes for each of the escalated payments made,  
must be paid in full within 210 calendar days from the date of this Order.

1 Administrator, and payment of administrative costs, not to exceed \$7,250.00, out of the Gross  
2 Settlement Amount for services to be rendered by Phoenix on behalf of the class.

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

8 14. The Court directs Defendant to, within fourteen (14) calendar days of this Order,  
9 provide the Settlement Administrator with the "Class List" for Class Members. The Class List will  
10 include for each Settlement Class Member, his or her: (1) full name; (2) last known address(es)  
11 currently in Defendant's possession, custody, or control; (3) last known Social Security Number(s)  
12 in Defendant's possession, custody, or control; and (4) the dates of employment (i.e., the hire dates,  
13 re-hire dates (if applicable) and termination dates (if applicable) for each Settlement Class Member  
14 ("Class List").

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

18 16. Upon receipt of the Class List, the Settlement Administrator shall perform an address  
19 search using the United States Postal Service National Change of Address (the "NCOA") database  
20 and update the addresses contained on the Class List with the newly found addresses, if any. To the  
21 extent that this process yields an updated address, that updated address shall replace the last known  
22 address and be treated as the new last known address for purposes of this Settlement, and for  
23 subsequent mailings.

24 17. Within seven (7) calendar days of receiving the Class List from Defendant, the  
25 Settlement Administrator shall mail the Class Notice, in English and Spanish, to the Settlement  
26 Class Members, via first-class regular U.S. Mail, using the most current mailing address information  
27 available. The Settlement Administrator shall maintain a list with names and all addresses to which  
28 notice was given, and digital copies of all the Settlement Administrator's records evidencing the

1 giving of notice to any Settlement Class Member, for at least four (4) years from the Final Approval  
2 Date. Such information shall be available to Class Counsel and Defendant's counsel upon request.

3 18. The deadline by which Class Members may dispute the number of Workweeks  
4 worked, and the deadline by which Class Members may opt out or object, shall be sixty (60) days  
5 from the date of the mailing of the Class Notice, unless the Class Member had their Class Notice re-  
6 mailed. Class Members who are re-mailed a Class Notice shall have fifteen (15) calendar days from  
7 the re-mailing, or sixty (60) days from the date of the initial mailing, whichever is later, in which to  
8 postmark a Request for Exclusion, objection, or to dispute the information provided in the  
9 Class Notice. This shall be known as the "Response Deadline."

10 19. The Class Notice shall instruct Settlement Class Members on how to exclude  
11 themselves from the Settlement Class. Any Settlement Class Member may request exclusion from  
12 (i.e., "opt out" of) the Settlement by mailing a written request to be excluded from the Settlement  
13 (the "Request for Exclusion") to the Settlement Administrator, postmarked on or before the  
14 Response Deadline. To be valid, a Request for Exclusion must include: (1) the Class Member's  
15 name; (2) the Class Member's Social Security Number; (3) the Class Member's signature; and (4)  
16 the following statement: "Please exclude me from the Settlement Class in the *Primitivo Perez v.*  
17 *D&G Restaurants, LLC, et al.* matter" or a statement of similar meaning standing for the proposition  
18 that the Class Member does not wish to participate in the Settlement. The Settlement Administrator  
19 shall immediately provide copies of all Requests for Exclusion to Class Counsel and Defendant's  
20 Counsel and shall report the Requests for Exclusions that it receives, to the Court, in its declaration  
21 to be provided in advance of the Final Approval Hearing. Any Settlement Class Member who  
22 requests exclusion using this procedure will not be entitled to receive any payment from the  
23 Settlement and will not be bound by the Settlement Agreement or have any right to object to, appeal,  
24 or comment on the Settlement. Any Settlement Class Member who does not opt out of the  
25 Settlement by submitting a timely and valid Request for Exclusion will be bound by all terms of the  
26 Settlement, including those pertaining to the Released Claims, as well as any Judgment that may be  
27 entered by the Court if Final Approval of the Settlement is granted. Class Members who are  
28 Aggrieved Employees may not opt out of the PAGA portion of the Settlement.

1       20.       Any Class Member who does not submit a timely and valid Request for Exclusion  
2 shall be deemed a "Participating Class Member" and be bound by the terms of the Settlement,  
3 including the releases provide therein.

4       21.       Class Members will have an opportunity to dispute the information provided in their  
5 Class Notice. To the extent Class Members dispute the number of Workweeks or Pay Periods to  
6 which they have been credited, Class Members may produce evidence to the Settlement  
7 Administrator showing that such information is inaccurate. Absent evidence rebutting Defendant's  
8 records, Defendant's records will be presumed initially determinative. However, the Settlement  
9 Administrator will evaluate the evidence submitted by the Class Member to make an initial decision  
10 and will provide such information to the Parties to be filed with the Court for final determination.  
11 All such disputes are to be resolved not later than ten (10) calendar days after the Response Deadline.  
12 The Court shall have the right to make the final decision as to the dispute.

13       22.       Only Settlement Class Members who do not opt out of the Settlement (*i.e.*,  
14 Participating Class Members) may object to the Settlement. In order for any Settlement Class  
15 Member to object to this Settlement in writing, or any term of it, he or she must do so by mailing a  
16 written objection to the Settlement Administrator at the address or phone number provided on the  
17 Class Notice no later than the Response Deadline. The Settlement Administrator shall email a copy  
18 of the Objection forthwith to Class Counsel and Defendant's counsel and attach copies of all  
19 Objections to the Declaration it provides Class Counsel, which Class Counsel shall file in support  
20 of Plaintiff's Motion for Final Approval. The Objection should set forth in writing: (1) the  
21 Objector's name; (2) the Objector's address; (3) the last four digits of the Objector's Social Security  
22 Number; (4) the Objector's signature; and (5) the reason(s) for the Objection, along with whatever  
23 legal authority, if any, the Objector asserts in support of the Objection. If a Settlement Class Member  
24 objects to the Settlement, the Settlement Class Member will remain a member of the Settlement  
25 Class and if the Court approves this Agreement, the Settlement Class Member will be bound by the  
26 terms of the Settlement in the same way and to the same extent as a Settlement Class Member who  
27 does not object. The date of mailing of the Class Notice to the objecting Settlement  
28 Class Member shall be conclusively determined according to the records of the Settlement

1 Administrator. Settlement Class Members need not object in writing to be heard at the Final  
2 Approval Hearing; they may object or comment in person at the hearing at their own expense. Class  
3 Counsel and Defendant's Counsel may respond to any objection lodged with the Court up to five  
4 (5) court days before the Final Approval Hearing.

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

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

11 25. All papers filed in support of final approval, including supporting documents for  
12 attorneys' fees and costs, shall be filed by November 20, 2023.

13 26. A Final Approval Hearing shall be held with the Court on December 14, 2023 at 2:00  
14 p.m. in Department "CX101" of the above-entitled Court to determine: (1) whether the proposed  
15 settlement is fair, reasonable, and adequate and should be finally approved by the Court; (2) the  
16 amount of attorneys' fees and costs to award Class Counsel; (3) the amount of incentive award to  
17 the Class Representatives; (4) the amount to be paid to the Settlement Administrator; and (5) the  
18 amount to be apportioned to PAGA and/or paid to the LWDA and Aggrieved Employees.

19 27. No more than fourteen (14) calendar days after payment by Defendant of the Gross  
20 Settlement Amount, as well as payment by Defendant of the Employer Taxes, the Settlement  
21 Administrator shall distribute all payments due under the Settlement, including Individual  
22 Settlement Payments to Participating Class Members, Individual PAGA Payments to Aggrieved  
23 Employees, Court-approved payments for the Service Award to Plaintiff, attorneys' fees and  
24 litigation costs and expenses to Class Counsel, settlement administration costs to the Settlement  
25 Administrator, and the LWDA Payment to the LWDA.

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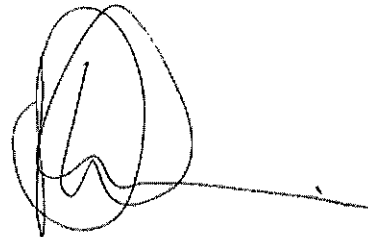


1 28. Individual Settlement Payment and Individual PAGA Payment checks shall remain valid  
2 and negotiable for one hundred and eighty (180) calendar days after the date of their issuance.  
3 Within seven (7) calendar days after expiration of the 180-day period, the Settlement Administrator  
4 will pay over the amount represented by the check to the California State Controller's Office, with  
5 the identity of the Participating Class Member and/or Aggrieved Employee to whom the funds  
6 belong. Therefore, there will be no unpaid residue or unclaimed or abandoned class member or  
7 aggrieved employee funds and California Code of Civil Procedure § 384 shall not apply.

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

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13 **IT IS SO ORDERED.**

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15 Dated: 06/29/2023



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17 Hon. Peter J. Wilson  
18 Judge of the Superior Court  
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# EXHIBIT 1

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Attorneys for Plaintiff, PRIMITIVO PEREZ, an individual and on behalf all others  
similarly situated and aggrieved,

[Additional Counsel on next page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ORANGE – CIVIL COMPLEX CENTER**

PRIMITIVO PEREZ, an individual and on  
behalf of all others similarly situated and  
aggrieved,

Plaintiff,

v.

D&G RESTAURANTS, LLC, a California  
limited liability company, doing business as  
“Tavern House”; GREGG SOLOMON, an  
individual; and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 30-2021-01209638-CU-OE-  
CXC

[Assigned to the Hon. Peter Wilson in Dept.  
CX101]

**CLASS ACTION**

**FIRST AMENDED JOINT  
STIPULATION RE: CLASS ACTION  
AND REPRESENTATIVE ACTION  
SETTLEMENT**

Action Filed: July 9, 2021  
Trial Date: None Set

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Attorneys for Defendant  
D&G RESTAURANTS, LLC

1  
2 This First Amended Joint Stipulation re: Class Action and Representative Action  
3 Settlement (“Settlement” or “Agreement” or “Settlement Agreement”) is made by and between  
4 plaintiff Primitivo Perez (“Plaintiff”), individually and on behalf of the Settlement Class, as  
5 defined below, on the one hand; and defendant D&G Restaurants, LLC, doing business as  
6 “Tavern House” (“D&G” or “Defendant”), on the other hand; in the lawsuit entitled *Perez v.*  
7 *D&G Restaurants, LLC, et al.*, filed in Orange County Superior Court, Case No. 30-2021-  
8 01209638-CU-OE-CXC (the “Action”). Plaintiff and Defendant shall be, at times, collectively  
9 referred to as the “Parties” and individually as a “Party”. This Agreement is intended by the  
10 Parties to fully, finally, and forever resolve, discharge and settle the claims as set forth herein,  
11 based upon and subject to the terms and conditions of this Agreement.

12 **1. DEFINITIONS**

13 **A. “Action”** means *Perez v. D&G Restaurants, LLC, et al.*, filed in Orange County  
14 Superior Court, Case No. 30-2021-01209638-CU-OE-CXC.

15 **B. “Aggrieved Employees”** means all other current and former workers as a non-  
16 exempt, hourly-paid employee employed by Defendant in California during the PAGA Period.

17 **C. “Class Counsel”** means: David D. Bibiyan and Jeffrey D. Klein of Bibiyan Law  
18 Group, P.C. as well as Jasmin K. Gill of J. Gill Law Group, P.C. The term “Class Counsel” shall  
19 be used synonymously with the term “Plaintiff’s Counsel.”

20 **D. “Class Period”** means the period from July 9, 2017 through the date preliminary  
21 approval is granted.

22 **E. “Court”** means the Superior Court of the State of California for the County of  
23 Orange.

24 **F. “Class Notice”** means and refers to the notice sent to Class Members after  
25 preliminary approval of the Settlement in the manner described in Paragraph 9(A) of this  
26 Agreement.

27 **G. “Defendant”** shall refer collectively to defendant D&G Restaurants, LLC, doing  
28 business as “Tavern House.”

1           **H. “Employer Taxes”** means employer-funded taxes and contributions imposed on  
2 the wage portions of the Individual Settlement Payments under the Federal Insurance  
3 Contributions Act, the Federal Unemployment Tax Act, and any similar state and federal taxes  
4 and contributions required of employers, such as for unemployment insurance.

5           **I. “Final Approval Date”** means the later of: (1) the date the Court signs an Order  
6 granting final approval of this Settlement (“Final Approval”) and Judgment; (2) if there is an  
7 objector, 60 days from the date the Final Approval and Judgment; or (3) to the extent any appeals  
8 have been filed, the date on which they have been resolved or exhausted.

9           **J. “General Release”** means the general release of claims by Plaintiff, which is in  
10 addition to his limited release of claims as a Participating Class Member and Aggrieved  
11 Employee, neither of which include and both of which expressly exclude any release for any and  
12 all claims that may be brought, have been brought, or could have been brought by Plaintiff for  
13 wrongful termination, discrimination, retaliation, harassment, failure to prevent harassment or  
14 discrimination or under the Fair Employment and Housing Act, California Family Rights Act  
15 and/or any other applicable state or federal laws or any and all claims that may be brought, have  
16 been brought, or could have been brought by Plaintiff for wrongful termination,

17           **K. “Gross Settlement Amount”** means a non-reversionary fund in the sum of Two  
18 Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00),<sup>1</sup> which shall be paid by  
19 Defendant, and from which all payments for the Individual Settlement Payments to Participating  
20 Class Members, Individual PAGA Payments to Aggrieved Employees and the Court-approved  
21 amounts for attorneys’ fees and reimbursement of litigation costs and expenses to Class Counsel,  
22 Settlement Administration Costs, a Service Award to Plaintiff, and the LWDA Payment for  
23 resolution of Plaintiff’s cause of action for civil penalties under the Labor Code Private  
24 Attorneys’ General Act, codified at Labor Code Section 2698, *et seq.* (“PAGA”), interest and  
25 certain taxes shall be paid. It expressly excludes Employer Taxes, which shall be paid by  
26 Defendant separate and apart from the Gross Settlement Amount.

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28 <sup>1</sup> As the same may be increased in accordance with Paragraph 17.

1           **L. “Individual PAGA Payment”** means a payment to an Aggrieved Employee of  
2 his or her share of the PAGA Payment.

3           **M. “Individual Settlement Payment”** means a payment to a Participating Class  
4 Member of his or her net share of the Net Settlement Amount, excluding any PAGA Payment to  
5 which he or she may be entitled if he or she is also an Aggrieved Employee.

6           **N. “Individual Settlement Share”** means the gross amount of the Net Settlement  
7 Amount that a Participating Class Member is projected to receive based on the number of  
8 Workweeks that he or she worked as a Settlement Class Member during the Class Period if he or  
9 she does not submit a timely and valid Request for Exclusion, excluding any PAGA Payment to  
10 which he or she may be entitled if he or she is also an Aggrieved Employee.

11           **O. “LWDA Payment”** means the payment to the LWDA for its seventy-five percent  
12 (75%) share of the total amount allocated toward penalties under the PAGA, which is to be paid  
13 from the Gross Settlement Amount. The Parties have agreed that Twenty Thousand Dollars and  
14 Zero Cents (\$20,000.00) shall be allocated toward PAGA penalties (“PAGA Payment”), of which  
15 Fifteen Thousand Dollars and Zero Cents (\$15,000.00) will be paid to the LWDA (*i.e.*, the  
16 LWDA Payment) and Five Thousand Dollars and Zero Cents (\$5,000.00) will remain a part of  
17 the Net Settlement Amount for payment to Aggrieved Employees on a *pro rata* basis, based on  
18 the pay periods worked for Defendant as a non-exempt, hourly-paid employee in California  
19 during the PAGA Period.

20           **P. “Net Settlement Amount”** means the portion of the Gross Settlement Amount  
21 that is available for distribution to Participating Class Members after deductions for the Court-  
22 approved allocations for Settlement Administration Costs, a Service Award to Plaintiff, an award  
23 of attorneys’ fees, reimbursement of litigation costs and expenses to Class Counsel, and the  
24 LWDA Payment. It excludes the PAGA Payment.

25           **Q. “Operative Complaint or “Complaint”** means the First Amended Complaint  
26 that was filed with the Court on August 11, 2021, in *Perez v. D&G Restaurants, LLC, et al.*, filed  
27 in the Orange County Superior Court, Case No. 30-2021-01209638-CU-OE-CXC.

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1           **R.     “PAGA Payment”** is the \$5,000.00 payment payable to Aggrieved Employees  
2 in addition to their Individual Settlement Share if they do not opt out of the Settlement.

3           **S.     “PAGA Period”** means the period from May 18, 2020 through the date  
4 preliminary approval is granted .

5           **T.     “Participating Class Members”** means all Settlement Class Members who do  
6 not submit a timely and valid Request for Exclusion.

7           **U.     “Participating Individual Settlement Share”** means the gross amount of the Net  
8 Settlement Amount that a Participating Class Member is eligible to receive based on the number  
9 of Workweeks that he or she worked as a Settlement Class Member during the Class Period once  
10 all opt-outs have been factored in, excluding any Individual PAGA Payment to which he or she  
11 may be entitled if he or she is also an Aggrieved Employee.

12           **V.     “Parties”** shall refer to Plaintiff and Defendant collectively.

13           **W.     “Plaintiff”** shall refer to Plaintiff Primitivo Perez.

14           **X.     “Preliminary Approval Date”** means the date on which the Court enters an  
15 Order granting preliminary approval of the Settlement.

16           **Y.     “Released Parties”** shall mean Defendant D&G as well as each of D&G’s present  
17 and former respective affiliates, parents, subsidiaries, predecessors, successors, divisions, joint  
18 venturers and assigns, and each of these entities’ past or present directors, officers, employees,  
19 partners, members, principals, agents, insurers, shareholders, attorneys, and personal or legal  
20 representatives.

21           **Z.     “Response Deadline”** means the deadline for Settlement Class Members to mail  
22 any Requests for Exclusion, Objections, or Workweek Disputes to the Settlement Administrator,  
23 which is sixty (60) calendar days from the date that the Class Notice is first mailed in English  
24 and Spanish by the Settlement Administrator, unless a Class Members’ notice is re-mailed. In  
25 such an instance, the Response Deadline shall be fifteen (15) calendar days from the re-mailing,  
26 or sixty (60) calendar days from the date of the initial mailing, whichever is later, in which to  
27 postmark a Request for Exclusion, Workweek Dispute or Objection. The date of the postmark  
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1 shall be the exclusive means for determining whether a Request for Exclusion, Objection, or  
2 Workweek Dispute was submitted by the Response Deadline.

3 **AA. "Request for Exclusion"** means a written request to be excluded from the  
4 Settlement Class pursuant to Section 9.C below.

5 **BB. "Service Award"** means monetary amount to be paid to Plaintiff of up to Seven  
6 Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00) which, subject to Court approval,  
7 will be paid out of the Gross Settlement Amount.

8 **CC. "Settlement Administration Costs"** means all costs incurred by the Settlement  
9 Administrator in administration of the Settlement, including, but not limited to, translating the  
10 Class Notice to Spanish, the distribution of the Class Notice to the Settlement Class in English  
11 and Spanish, calculating Individual Settlement Shares and Individual Settlement Payments and  
12 associated taxes and withholdings, providing declarations, generating Individual Settlement  
13 Payment checks and related tax reporting forms, doing administrative work related to unclaimed  
14 checks, transmitting payment to Class Counsel for the Court-approved amounts for attorneys'  
15 fees and reimbursement of litigation costs and expenses, to Plaintiff for his Service Award, and  
16 to the LWDA from the LWDA Payment, providing weekly reports of opt-outs, objections and  
17 related information, and any other actions of the Settlement Administrator as set forth in this  
18 Agreement, all pursuant to the terms of this Agreement. The Settlement Administration Costs  
19 are estimated not to exceed \$7,250. If the actual amount of the Settlement Administration Costs  
20 is less than \$7,250, the difference between \$7,250 and the actual Settlement Administration Costs  
21 shall be a part of the Net Settlement Amount. If the Settlement Administration Costs exceed  
22 \$7,250, then such excess will be paid solely from the Gross Settlement Amount and Defendant  
23 will not be responsible for paying any additional funds in order to pay these additional costs.

24 **DD. "Settlement Administrator"** means the Third-Party Administrator chosen to be  
25 responsible for the administration of the Settlement including, without limitation, translating the  
26 Class Notice in Spanish, the distribution of the Individual Settlement Payments to be made by  
27 Defendant from the Gross Settlement Amount and related matters under this Agreement.

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1           **EE.**    “Settlement Class”, “Settlement Class Members” or “Class Members” means  
2 all current and former non-exempt, hourly-paid employees who worked in California for  
3 Defendant at any time during the Class Period.

4           **FF.**    “**Workweek**” means the number of weeks that a Settlement Class Member was  
5 employed by Defendant in a non-exempt, hourly-paid position during the Class Period in  
6 California, based on hire dates, re-hire dates (as applicable) and termination dates (as applicable),  
7 in a non-exempt, hourly position during the Class Period.

8           **2.    BACKGROUND**

9           **A.**    On May 18, 2021, Plaintiff filed with the Labor and Workforce Development  
10 Agency (“LWDA”) and served on Defendant a notice under Labor Code section 2699.3 (the  
11 “PAGA Notice”) stating Plaintiff intended to serve as a proxy of the LWDA to recover civil  
12 penalties for Aggrieved Employees. The PAGA Notice includes violations of law pled in the  
13 Class Action, in addition to a request for penalties for failure to comply with Labor Code sections  
14 204, 246, 432, 1174, 1198.5, and 2810.5.

15           **B.**    On July 9, 2021, Plaintiff filed a putative wage-and-hour Class Action Complaint  
16 in the Superior Court of California for the County of Orange, Case Number 30-2021-01206938-  
17 CU-OE-CXC (the “Action”). Plaintiff alleged that during the Class Period, with respect to  
18 Plaintiff and the Settlement Class Members’, Defendant, *inter alia*, failed to pay overtime and  
19 minimum wages; failed to provide complaint meal and rest periods or compensation in lieu  
20 thereof; waiting time penalties; wage statement violations; violated Labor Code section 2802;  
21 failed to timely pay wages; and engaged in unfair competition based on the alleged Labor Code  
22 violations, which was amended to include Plaintiff’s representative allegations and claims for  
23 civil penalties under PAGA on August 11, 2021.

24           **C.**    Shortly after the filing of this Action, the Parties agreed to exchange informal  
25 discovery and attend an early mediation. Prior to mediation, Class Counsel was provided with,  
26 among other things: (1) the number of current and former hourly-paid, non-exempt employees  
27 of Defendant D&G working in California during the Class Period; (2) hire dates, separation dates  
28 (as applicable), and final rates of pay for the one-hundred ninety-two (192) Class Members

1 working for Defendant during the Class Period along with their job titles; (3) a sampling of time  
2 and payroll records for Class Members; (4) all relevant wage and hour policies in effect during  
3 the Class Period; (5) exemplars of all purported arbitration agreements and meal waivers; (6)  
4 class contact information for approximately 60% of former employees of Defendant in the Class  
5 Period pursuant to a protective order; and (7) Plaintiff's personnel file.

6 **D.** On April 26, 2022, the Parties participated in a mediation before Mark S. Rudy,  
7 Esq., a well-regarded mediator experienced in mediating complex civil disputes. With the aid of  
8 the mediator's evaluation, the Parties reached the Settlement to resolve the Action shortly after  
9 mediation.

10 **E.** Class Counsel has conducted significant investigation of the law and facts relating  
11 to the claims asserted in the Action and the PAGA Notice, and have concluded that that the  
12 Settlement set forth herein is fair, reasonable, adequate, and in the best interests of the Settlement  
13 Class, taking into account the sharply contested issues involved, the expense and time necessary  
14 to litigate the Action through trial and any appeals, the risks and costs of further litigation of the  
15 Action, the risk of an adverse outcome, the uncertainties of complex litigation, the information  
16 learned through informal discovery regarding Plaintiff's allegations, Defendant's financial state,  
17 and the substantial benefits to be received by the Settlement Class Members.

18 **F.** Defendant has concluded that, because of the substantial expense of defending  
19 against the Action, the length of time necessary to resolve the issues presented herein, and the  
20 inconvenience involved, and the concomitant disruption to its business operations, it is in  
21 Defendant's best interest to accept the terms of this Agreement. Defendant denies each of the  
22 allegations and claims asserted against it in the Action. However, Defendant nevertheless desires  
23 to settle the Action for the purpose of avoiding the burden, expense and uncertainty of continuing  
24 litigation and for the purpose of putting to rest the controversies engendered by the Action.

25 **G.** This Agreement is intended to and does effectuate the full, final, and complete  
26 resolution of all Class Released Claims of Plaintiff and Participating Class Members, and all  
27 PAGA Released Claims of Plaintiff and, to the extent permitted by law, of the State of California  
28 and Aggrieved Employees.

1     **3.     JURISDICTION**

2             The Court has jurisdiction over the Parties and the subject matter of the Action. The  
3 Action includes claims that, if proven, would authorize the Court to grant relief pursuant to the  
4 applicable statutes. After the Court has granted Final Approval of the Settlement and entered  
5 judgment, the Court shall retain jurisdiction over the Parties to enforce the terms of the judgment  
6 pursuant to California Rule of Court, rule 3.769, subdivision (h).

7     **4.     STIPULATION OF CLASS CERTIFICATION**

8             The Parties stipulate to the certification of the Settlement Class under this Agreement for  
9 purposes of settlement only.

10    **5.     MOTIONS FOR APPROVAL OF SETTLEMENT**

11            After full execution of this Agreement, Plaintiff will move for an order granting preliminary  
12 approval of the Settlement, approving and directing the mailing of the proposed Notice of Class  
13 Action Settlement (“Class Notice”) attached hereto as **Exhibit “A”**, conditionally certifying the  
14 Settlement Class for settlement purposes only, and approving the deadlines proposed by the  
15 Parties for the submission of Requests for Exclusion, Workweek Disputes, and Objections. If  
16 and when the Court preliminarily approves the Settlement, and after administration of the Class  
17 Notice in a manner consistent with the Court’s Preliminary Approval Order, Plaintiff will move  
18 for an order finally approving the Settlement and seek entry of a Judgment in line with this  
19 Settlement.

20    **6.     STATEMENT OF NO ADMISSION**

21            Defendant denies any wrongdoing of any sort and further denies any liability to Plaintiff,  
22 the Settlement Class and Aggrieved Employees with respect to any claims or allegations asserted  
23 in the Action. This Agreement shall not be deemed an admission by Defendant of any claims or  
24 allegations asserted in the Action. Except as set forth elsewhere herein, in the event that this  
25 Agreement is not approved by the Court, or any appellate court, is terminated, or otherwise fails  
26 to be enforceable, Plaintiff will not be deemed to have waived, limited or affected in any way  
27 any claims, rights or remedies, or defenses in the Action, and Defendant will not be deemed to  
28 have waived, limited, or affected in any way any of its objections or defenses in the Action. The

1 Parties shall be restored to their respective positions in the Action prior to the entry of this  
2 Settlement. The Court shall retain jurisdiction over the Parties to enforce the settlement until  
3 performance in full of the terms of the Settlement Agreement, in accordance with Code of Civil  
4 Procedure section 664.6.

5 **7. RELEASE OF CLAIMS**

6 **A. Release by All Participating Class Members.**

7 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry  
8 of Judgment, and payment by Defendant to the Settlement Administrator of the full Gross  
9 Settlement Amount and Employer's Taxes necessary to effectuate the Settlement, Plaintiff and  
10 all Participating Class Members release the Released Parties of all claims against the Released  
11 Parties asserted in the Operative Complaint, or any and all claims that may be asserted against  
12 the Released Parties based on the factual allegations in the Operative Complaint, as follows: For  
13 Participating Class Members, the release includes, for the duration of the Class Period: (a) all  
14 claims for failure to pay earned wages; (b) all claims for failure to pay minimum wages; (c) all  
15 claims for failure to pay overtime wages; (d) all claims for failure to provide compliant meal and  
16 rest periods or compensation in lieu thereof; (e) failure to timely pay all wages due upon  
17 termination or resignation; (f) all claims for non-compliant wage statements; (g) failure to  
18 reimburse business expenses; and (h) all claims asserted through California Business &  
19 Professions Code § 17200 *et seq.* arising out of the Labor Code violations referenced in the  
20 Operative Complaint; and (i) all claims for injunctive relief, liquidated damages, penalties of an  
21 nature, interest, fees, including fees under California Code of Civil Procedure section 1021.5,  
22 and costs (the "Class Released Claims").

23 **B. Release by All Aggrieved Employees**

24 For Aggrieved Employees, the release includes, for the duration of the PAGA Period, all  
25 claims asserted in the PAGA Notice submitted to the LWDA and alleged in the Operative  
26 Complaint, including all claims for civil penalties under PAGA arising out of Labor Code  
27 Sections 226.3, 558, 1174.5, 1197.1, and 2699 based on the factual allegations and Labor Code  
28 sections alleged to have been violated in the PAGA Notice and Operative Complaint, which

1 includes, without limitation, Labor Code sections 226, 432, 1174, and 1198.5, unlawful restraint  
2 on trade, unlawful restraint of legal activities under Labor Code section 98.6(k), failure to pay  
3 wages pursuant to Labor Code section 204, and retaliation in violation of Labor Code section  
4 1102.5, failure to provide notice under Labor Code section 2810.5, failure to provide sick leave  
5 and an accounting of accrued sick leave, penalties of any nature, including civil penalties under  
6 PAGA, fees, and costs (the "PAGA Released Claims"). The Class Released Claims and PAGA  
7 Released Claims shall be referred to herein as the "Released Claims".

8 **C. Claims Not Released**

9 The releases above as well as the General Release below expressly exclude all other  
10 claims, including claims for vested benefits, wrongful termination, unemployment insurance,  
11 disability, social security, workers' compensation, and any other claims outside of the Class  
12 Released Claims of Participating Class Members, including Plaintiff, arising during the Class  
13 Period and the PAGA Released Claims of Aggrieved Employees including Plaintiff (and, to the  
14 extent permitted by law, the State of California) arising outside of the PAGA Period.

15 **D. General Release.**

16 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry  
17 of Judgment, and payment by Defendant to the Settlement Administrator of the full Gross  
18 Settlement Amount and Employers' Taxes necessary to effectuate the Settlement, in addition to  
19 the Released Claims, Plaintiff makes the additional following General Release: Plaintiff releases  
20 the Released Parties from all claims, demands, rights, liabilities and causes of action of every  
21 nature and description whatsoever, known or unknown, asserted or that might have been asserted,  
22 whether in tort, contract, or for violation of any state or federal statute, rule, law or regulation  
23 arising out of, relating to, or in connection with any act or omission of the Released Parties  
24 through the date of full execution of this Agreement in connection with his employment or the  
25 termination thereof. With respect to the General Release, Plaintiff stipulates and agrees that,  
26 through the Final Approval Date, Plaintiff shall be deemed to have, and by operation of the Final  
27 Judgment and payment to the Settlement Administrator shall have, expressly waived and  
28 relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section

1 1542 of the California Civil Code, or any other similar provision under federal or state law, which  
2 provides:

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

8 Plaintiff's Limited Release of Claims as a Participating Class Member and Aggrieved  
9 Employee as well as Plaintiff's General Release and Civil Code section 1542 waiver do not  
10 include and expressly exclude any release or waiver for any and all claims that may be brought,  
11 have been brought, or could have been brought by Plaintiff for wrongful termination,  
12 discrimination, retaliation, harassment, failure to prevent harassment or discrimination or  
13 under the Fair Employment and Housing Act, California Family Rights Act and/or any  
14 other applicable state or federal laws.

15 **8. SETTLEMENT ADMINISTRATOR**

16 Plaintiff and Defendant, through their respective counsel, have selected Phoenix  
17 Settlement Administrators to administer the Settlement, which includes but is not limited to  
18 translating the Class Notice to Spanish, distributing and responding to inquiries about the Class  
19 Notice and calculating all amounts to be paid from the Gross Settlement Amount. Charges and  
20 expenses of the Settlement Administrator, currently estimated to be \$7,250 will be paid from the  
21 Gross Settlement Amount. If the actual amount of the Settlement Administration Costs is less  
22 than \$7,250, the difference between \$7,250 and the actual Settlement Administration Costs shall  
23 be a part of the Net Settlement Amount. If the Settlement Administration Costs exceed \$7,250,  
24 then such excess will be paid solely from the Gross Settlement Amount and Defendant will not  
25 be responsible for paying any additional funds in order to pay these additional costs.

26 **9. NOTICE, WEEKLY PAY PERIOD DISPUTE, OBJECTION, AND EXCLUSION**  
27 **PROCESS**

28 **A. Notice to the Settlement Class Members.**

(1) Within fourteen (14) calendar days after the Preliminary Approval Date,

1 Defendant's Counsel shall provide the Settlement Administrator with information with respect  
2 to each Settlement Class Member, including his or her: (1) full name and last known address  
3 currently in Defendant's possession, custody, or control; (2) Social Security Number in  
4 Defendant's possession, custody, or control; and (3) the hire dates, re-hire dates (if applicable)  
5 and termination dates (if applicable) for each Settlement Class Member ("Class List"). The  
6 Settlement Administrator shall perform an address search using the United States Postal Service  
7 National Change of Address ("NCOA") database and update the addresses contained on the Class  
8 List with the newly found addresses, if any. Within seven (7) calendar days of receiving the Class  
9 List from Defendant, the Settlement Administrator shall mail the Class Notice in English and  
10 Spanish to the Settlement Class Members via first-class regular U.S. Mail using the most current  
11 mailing address information available. The Settlement Administrator shall maintain a list with  
12 names and all addresses to which notice was given, and digital copies of all the Settlement  
13 Administrator's records evidencing the giving of notice to any Settlement Class Member, for at  
14 least four (4) years from the Final Approval Date. Such information shall be available to Class  
15 Counsel and Defendant's Counsel upon request.

16 (2) The Class Notice will set forth:

- 17 (a) the Settlement Class Member's estimated Individual Settlement  
18 Payment and Individual PAGA Payment, and the basis for each;  
19 (b) the information required by California Rule of Court, rule 3.766,  
20 subdivision (d);  
21 (c) the material terms of the Settlement, including the Service Award  
22 to Plaintiff, the Attorneys' Fees and Cost Award to be paid to Class  
23 Counsel, and the LWDA Payment, as specified in this Agreement;  
24 (d) the proposed Settlement Administration Costs;  
25 (e) the definitions of the Settlement Class and Aggrieved Employees;  
26 (f) a statement that the Court has preliminarily approved the  
27 Settlement;  
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- (g) how the Settlement Class Member or Aggrieved Employee may obtain additional information, including contact information for Class Counsel;
- (h) information regarding opt-out and objection procedures to the class settlement;
- (i) the date and location of the Final Approval Hearing; and
- (j) that the Settlement Class Member must notify the Settlement Administrator no later than the Response Deadline if the Settlement Class Member disputes the accuracy of the number of Workweeks or pay periods as set forth on his or her Class Notice (“Workweek Dispute”). If a Settlement Class Member fails to timely dispute the number of Workweeks or pay periods attributed to him or her in conformity with the instructions in the Class Notice, then he or she shall be deemed to have waived any objection to its accuracy and any claim to any additional settlement payment based on different data.

(3) If a Class Notice from the initial notice mailing is returned as undeliverable, the Settlement Administrator will attempt to obtain a current address for the Settlement Class Member to whom the returned Class Notice had been mailed, within five (5) calendar days of receipt of the returned Class Notice, by undertaking skip tracing. If the Settlement Administrator is successful in obtaining a new address, it will promptly re-mail the Class Notice to the Settlement Class Member. Further, any Class Notices that are returned to the Settlement Administrator with a forwarding address before the Response Deadline shall be promptly re-mailed to the forwarding address affixed thereto.

(4) No later than seven (7) calendar days from the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a declaration attesting to the completion of the notice process, including the number of attempts to obtain valid mailing addresses for and re-sending of any returned Class Notices, as well as the number of, and copies

1 of all Requests for Exclusion and objections/comments received by the Settlement Administrator.

2 **B. Objections.**

3 Only Participating Class Members may object or comment regarding the Settlement. In  
4 order for any Settlement Class Member to object to this Settlement in writing, or any term of it,  
5 he or she must do so by mailing a written objection to the Settlement Administrator at the address  
6 or phone number provided on the Class Notice no later than the Response Deadline. The  
7 Settlement Administrator shall email a copy of the objection forthwith to Class Counsel and  
8 Defendant's counsel. The objection should set forth in writing: (1) the Objector's name; (2) the  
9 Objector's address; (3) the last four digits of the Objector's Social Security Number; (4) the  
10 Objector's signature; and (5) the reason(s) for the Objection, along with whatever legal authority,  
11 if any, the Objector asserts in support of the Objection. If a Settlement Class Member objects to  
12 the Settlement, the Settlement Class Member will remain a member of the Settlement Class and  
13 if the Court approves this Agreement, the Settlement Class Member will be bound by the terms  
14 of the Settlement in the same way and to the same extent as a Settlement Class Member who  
15 does not object. The date of mailing of the Class Notice to the objecting Settlement Class  
16 Member shall be conclusively determined according to the records of the Settlement  
17 Administrator. Settlement Class Members need not object in writing to be heard at the Final  
18 Approval Hearing; they may object or comment in person at the hearing at their own expense.  
19 Class Counsel and Defendant's Counsel may respond to any objection lodged with the Court up  
20 to five (5) court days before the Final Approval Hearing. Participating Class Members who  
21 appear in person or through counsel at the Final Approval hearing, will be allowed to object,  
22 whether or not they have submitted a written objection.

23 **C. Requesting Exclusion.**

24 Any Settlement Class Member may request exclusion from (*i.e.*, "opt out" of) the  
25 Settlement by mailing a written request to be excluded from the Settlement ("Request for  
26 Exclusion") to the Settlement Administrator, postmarked on or before the Response Deadline.  
27 To be valid, a Request for Exclusion must include: (1) the Class Member's name; (2) the Class  
28 Member's Social Security Number; (3) the Class Member's signature; and (4) the following

1 statement or something to its effect: "Please exclude me from the Settlement Class in the  
2 *Primitivo Perez v. D&G Restaurants, LLC, et al.* matter" or any statement of similar meaning  
3 standing for the proposition that the Class Member does not wish to participate in the Settlement.  
4 The Settlement Administrator shall immediately provide copies of all Requests for Exclusion to  
5 Class Counsel and Defendant's Counsel and shall report the number of Requests for Exclusions  
6 that it receives, to the Court, in its declaration to be provided in advance of the Final Approval  
7 Hearing. Any Settlement Class Member who requests exclusion using this procedure will not be  
8 entitled to receive any payment from the Settlement and will not be bound by the Settlement  
9 Agreement or have any right to object to, appeal, or comment on the Settlement. Any Settlement  
10 Class Member who does not opt out of the Settlement by submitting a timely and valid Request  
11 for Exclusion will be bound by all terms of the Settlement, including those pertaining to the  
12 Released Claims, as well as any Judgment that may be entered by the Court if Final Approval of  
13 the Settlement is granted. A Settlement Class Member cannot submit both a Request for  
14 Exclusion and an objection. If a Settlement Class Member submits an objection and a Request  
15 for Exclusion, the Request for Exclusion will control and the Objection will be void. Settlement  
16 Class Members who worked during the PAGA Period that submit a valid Request for Exclusion  
17 will still be deemed Aggrieved Employees, will still receive their Individual PAGA Payment,  
18 and will be bound by the release encompassed in the PAGA Released Claims.

19 **D. Disputes Regarding Settlement Class Members' Workweeks and Pay Periods**  
20 **Data.**

21 Class Members will have an opportunity to dispute the information provided in their Class  
22 Notice. To the extent Class Members dispute the number of Workweeks or Pay Periods to which  
23 they have been credited, Class Members may produce evidence to the Settlement Administrator  
24 showing that such information is inaccurate. Absent evidence rebutting Defendant's records,  
25 Defendant's records will be presumed initially determinative. However, the Settlement  
26 Administrator will evaluate the evidence submitted by the Class Member to make an initial  
27 decision and will provide such information to the Parties to be filed with the Court for final  
28 determination. All such disputes are to be resolved not later than ten (10) calendar days after the

1 Response Deadline. The Court shall have the right to make the final decision as to the dispute.

2 **10. INDIVIDUAL SETTLEMENT PAYMENTS AND INDIVIDUAL PAGA**  
3 **PAYMENTS TO PARTICIPATING CLASS MEMBERS**

4 Individual Settlement Payments will be calculated and distributed to Participating Class  
5 Members from the Net Settlement Amount on a *pro rata* basis, based on the Participating Class  
6 Members' respective number of Workweeks during the Class Period. Individual PAGA  
7 Payments to Aggrieved Employees will be calculated and distributed to Aggrieved Employees  
8 from the PAGA Payment on a *pro rata* basis based on Aggrieved Employees' respective  
9 number of pay periods during the PAGA Period. Specific calculations of the Individual  
10 Settlement Shares and Individual PAGA Payments will be made as follows:

11 A. The Settlement Administrator will determine the total number of Workweeks  
12 worked by each Settlement Class Member during the Class Period ("Class Member's  
13 Workweeks"), as well as the aggregate number of Workweeks worked by all Settlement Class  
14 Members during the Class Period ("Class Workweeks"). Additionally, the Settlement  
15 Administrator will determine the total number of pay periods worked by each Aggrieved  
16 Employee during the PAGA Period ("Aggrieved Employee's Pay Periods"), as well as the  
17 aggregate number of pay periods worked by all Aggrieved Employees during the PAGA Period  
18 ("PAGA Pay Periods").

19 B. To determine each Settlement Class Member's Individual Settlement Share, the  
20 Settlement Administrator will use the following formula: Individual Settlement Share =  
21 (Settlement Class Member's Workweeks ÷ Class Workweeks) × Net Settlement Amount.

22 C. To determine each Participating Class Member's Participating Individual  
23 Settlement Share, the Settlement Administrator will determine the aggregate number of  
24 Workweeks worked by all Participating Class Members during the Class Period ("Participating  
25 Class Workweeks") and use the following formula: Individual Settlement Share =  
26 (Participating Class Member's Workweeks ÷ Participating Class Workweeks) × Net Settlement  
27 Amount.

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1           **D.**     The net amount of the Participating Individual Settlement Share is to be paid out  
2 to Participating Class Members by way of check and is referred to as “Individual Settlement  
3 Payment(s)”.

4           **E.**     To determine each Aggrieved Employee’s Individual PAGA Payment, the  
5 Settlement Administrator will use the following formula: Aggrieved Employee’s Individual  
6 PAGA Payment = ([Aggrieved Employee’s Pay Periods ÷ PAGA Pay Periods] x \$5,000.00)  
7 (the “PAGA Payment”).

8           **F.**     Individual Settlement Payments and Individual PAGA Payments shall be paid  
9 to Participating Class Members and/or Aggrieved Employees by way of check. When a  
10 Participating Class Member is also an Aggrieved Employee, one check may be issued that  
11 aggregates both the Individual Settlement Payment and the Individual PAGA Payment.

12 **11.     DISTRIBUTION OF PAYMENTS**

13           **A.     Distribution of Individual Settlement Payments.**

14           Participating Class Members will receive an Individual Settlement Payment. All  
15 Aggrieved Employees, regardless of whether they submit a valid Request for Exclusion or not,  
16 will receive their Individual PAGA Payment. Individual Settlement Payment checks and  
17 Individual PAGA Payment checks shall remain valid and negotiable for one hundred and eighty  
18 (180) calendar days after the date of their issuance. For any check not cashed after 180 calendar  
19 days, the Settlement Administrator will pay over the amount represented by the check to the  
20 California State Controller’s Office, with the identity of the Participating Class Member and/or  
21 Aggrieved Employee to whom the funds belong, to be held for the Participating Class Member  
22 and/or Aggrieved Employee per California Unclaimed Property Law, in the interest of justice.  
23 The money paid to the California State Controller’s Office will remain the Participating Class  
24 Member’s and Aggrieved Employee’s property. This will allow Participating Class Members  
25 and Aggrieved Employees who did not cash their checks to collect their Individual Settlement  
26 Payments and Individual PAGA Payments at any time in the future. Therefore, there will be  
27 no unpaid residue or unclaimed or abandoned class member or aggrieved employee funds and  
28 California Code of Civil Procedure § 384 shall not apply.

1           **B.       Funding of Settlement.**

2           No later than thirty (30) calendar days after the Preliminary Approval Date (the “First  
3 Payment Date”), Defendant shall deposit half of the Gross Settlement Amount—One Hundred  
4 and Twenty-Five Thousand Dollars and Zero Cents (\$125,000.00)—unless the same is escalated  
5 pursuant to Paragraph 17 below (and in such event, half of the escalated gross settlement  
6 amount), in addition to related Employer’s Taxes pursuant to Internal Revenue Code section  
7 1.468B-1 for deposit in an interest-bearing qualified settlement account (“QSA”) with an FDIC  
8 insured banking institution, to the Settlement Administrator. Thereafter, Defendant shall pay the  
9 remaining half of the Gross Settlement Amount as follows: No later than one hundred eighty  
10 (180) calendar days after the First Payment Date (the “Second Payment Date”), Defendant shall  
11 deposit the remaining portion of the Gross Settlement Amount of Two-Hundred Fifty Thousand  
12 Dollars and Zero Cents (\$250,000.00)<sup>2</sup> pursuant to Internal Revenue Code section 1.468B-1 for  
13 deposit in an interest-bearing QSA with an FDIC insured banking institution, for distribution in  
14 accordance with this Agreement and the Court’s orders and subject to the conditions described  
15 herein.

16           Individual Settlement Payments and Individual PAGA Payments shall be paid  
17 exclusively from the QSA, pursuant to the settlement formula set forth herein. Payments from  
18 the QSA shall be made for (1) the Service Award to Plaintiff as specified in this Agreement and  
19 approved by the Court; (2) the Attorneys’ Fees and Cost Award to be paid to Class Counsel, as  
20 specified in this Agreement and approved by the Court; (3) the Settlement Administrator Costs,  
21 as specified in this Agreement and approved by the Court; and (4) the LWDA Payment, as  
22 specified in this Agreement. \$5,000 shall be allocated to payment to Aggrieved Employees of  
23 Individual PAGA Payments as set forth herein. The balance and any accrued interest thereon  
24 remaining shall constitute the Net Settlement Amount from which Individual Settlement  
25 Payments shall be made to Participating Class Members, less applicable taxes and withholdings.

26 \_\_\_\_\_  
27 <sup>2</sup> The Gross Settlement Amount, and all Employer’s Taxes for each of the payments made, must be paid  
28 in full within 210-day period commencing upon Preliminary Approval. If escalated pursuant to Paragraph  
17 of this Agreement, the escalated amount and all Employer’s Taxes for each of the payments made,  
must be paid in full within a 210-day period commencing upon Preliminary Approval.

1 All interest accrued shall be for the benefit of Participating Class Members and distributed on a  
2 *pro rata* basis.

3 **C. Time for Distribution.**

4 No more than fourteen (14) calendar days after payment of the full Gross Settlement  
5 Amount (as the same may be increased to in accordance with Paragraph 17) by Defendant, as  
6 well as Employer Taxes, or after the Final Order and Judgment following a Final Fairness and  
7 Approval hearing, whichever is later, the Settlement Administrator shall distribute all payments  
8 due under the Settlement, including the Individual Settlement Payments to Participating Class  
9 Members and Individual PAGA Payments to Aggrieved Employees, as well as the Court-  
10 approved payments for the Service Award to Plaintiff, attorneys' fees and litigation costs and  
11 expenses to Class Counsel, administration costs to the Settlement Administrator, and the LWDA  
12 Payment to the LWDA.

13 **12. ATTORNEYS' FEES AND LITIGATION COSTS**

14 Class Counsel shall apply for, and Defendant shall not oppose, an award of attorneys'  
15 fees of up to thirty-five percent (35%) of the Gross Settlement Amount, which, unless increased  
16 pursuant to Paragraph 17, shall amount to Eighty-Seven Thousand Five Hundred Dollars and  
17 Zero Cents (\$87,500.00). Class Counsel shall further apply for, and Defendant shall not oppose,  
18 an application or motion by Class Counsel for reimbursement of actual costs associated with  
19 Class Counsel's prosecution of this matter as set forth by declaration testimony in an amount up  
20 to Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). Awards of attorneys' fees and  
21 costs shall be paid out of the Gross Settlement Amount, for all past and future attorneys' fees and  
22 costs necessary to prosecute, settle, and obtain Final Approval of the settlement in the Action.  
23 The "future" aspect of the amounts stated herein includes, without limitation, all time and  
24 expenses expended by Class Counsel (including any appeals therein), except for any matters that  
25 arise from Defendant's failure to materially comply with the terms of this Agreement. There will  
26 be no additional charge of any kind to either the Settlement Class Members or request for  
27 additional consideration from Defendant for such work unless, in the event of a material breach  
28 of this Agreement by Defendant, Plaintiff is required to move the Court for enforcement of this

1 Agreement. Should the Court approve attorneys' fees and/or litigation costs and expenses in  
2 amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall  
3 be a part of the Net Settlement Amount.

4 **13. SERVICE AWARD TO PLAINTIFF**

5 Plaintiff shall seek, and Defendant shall not oppose, a Service Award in an amount not to  
6 exceed Seven Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00) for participation in  
7 and assistance with the Action. Any Service Award awarded to Plaintiff shall be paid from the  
8 Gross Settlement Amount and shall be reported on an IRS Form 1099. If the Court approves a  
9 Service Award to Plaintiff in less than the amounts sought herein, then the unapproved portion(s)  
10 shall be a part of the Net Settlement Amount.

11 **14. TAXATION AND ALLOCATION**

12 **A.** Each Individual Settlement Share shall be allocated as follows: 20% as wages  
13 (to be reported on an IRS Form W2); and 80% as interest and penalties (to be reported on an  
14 IRS Form 1099). The Individual PAGA Payments to the Aggrieved Employees shall be  
15 allocated entirely as penalties (to be reported on an IRS Form 1099). The Parties agree that the  
16 employee's share of taxes and withholdings with respect to the wage-portion of the Individual  
17 Settlement Share will be withheld from the Individual Settlement Share in order to yield the  
18 Individual Settlement Payment. The amount of federal income tax withholding will be based  
19 upon a flat withholding rate for supplemental wage payments in accordance with Treas. Reg.  
20 § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be made  
21 pursuant to applicable state and/or local withholding codes or regulations.

22 **B.** Forms W-2 and/or Forms 1099 will be distributed by the Settlement  
23 Administrator at times and in the manner required by the Internal Revenue Code of 1986 (the  
24 "Code") and consistent with this Agreement. If the Code, the regulations promulgated  
25 thereunder, or other applicable tax law, is changed after the date of this Agreement, the  
26 processes set forth in this Section may be modified in a manner to bring Defendant into  
27 compliance with any such changes.

28 **C.** All Employer Taxes shall be paid by Defendant separate, apart and above



1 from the Gross Settlement Amount. Defendant shall remain liable to pay the employer's share  
2 of payroll taxes as described above.

3 **D.** Neither Counsel for Plaintiff nor Defendant intend anything contained in this  
4 Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Agreement  
5 be relied upon as such within the meaning of United States Treasury Department Circular 230  
6 (31 C.F.R. Part 10, as amended) or otherwise.

7 **15. PRIVATE ATTORNEYS' GENERAL ACT ALLOCATION**

8 The Parties agree to allocate Twenty Thousand Dollars and Zero Cents (\$20,000.00) of  
9 the Gross Settlement Amount toward PAGA penalties. Pursuant to the PAGA, seventy-five  
10 percent (75%) of the amount allocated toward PAGA (\$15,000.00) will be paid to the LWDA  
11 (*i.e.*, the LWDA Payment), and twenty-five percent (25%) of the amount allocated toward PAGA  
12 (\$5,000.00) shall be deemed the "PAGA Payment" and distributed to Aggrieved Employees on  
13 a *pro rata* basis based upon their respective pay periods worked during the PAGA Period (*i.e.*,  
14 the Individual PAGA Payments).

15 **16. COURT APPROVAL**

16 This Agreement is contingent upon an order by the Court granting Final Approval of the  
17 Settlement, and that the LWDA does not intervene and/or object to the Settlement. In the event  
18 it becomes impossible to secure approval of the Settlement by the Court and the LWDA, the  
19 Parties shall be restored to their respective positions in the Action prior to entry of this Settlement.  
20 If this Settlement Agreement is voided, not approved by the Court or approval is reversed on  
21 appeal, it shall have no force or effect and no Party shall be bound by its terms except to the  
22 extent: (a) the Court reserves any authority to issue any appropriate orders when denying  
23 approval; and/or (b) there are any terms and conditions in this Settlement Agreement specifically  
24 stated to survive the Settlement Agreement being voided or not approved, and which control in  
25 such an event.

26 **17. INCREASE IN WORKWEEKS**

27 Defendant represents and warrants that there are no more than one hundred and ninety-  
28 two (192) Settlement Class Members and that there are no more than nine thousand four

1 hundred thirty-five (9,435) Workweeks worked by one hundred ninety-two (192) Settlement  
2 Class Members during the Class Period. In the event the number of Workweeks worked is  
3 more than 10% greater than this figure (i.e., if there are more than 10,378 Workweeks [9,435  
4 Workweeks x 1.10 = 10,378 Workweeks] worked by Class Members using hire dates,  
5 termination dates (as applicable) and re-hire dates (as applicable)), then Defendant agrees to  
6 increase the Gross Settlement Amount proportionally over the 10% increase in the number of  
7 Workweeks worked during the Class Period. By way of example, if the number of Workweeks  
8 worked by Class Members during the Class Period increases by 11%, the Gross Settlement  
9 Amount will increase by 1%. Likewise, if the number of Workweeks worked by Class  
10 Members during the Class Period increases by 12%, the Gross Settlement Amount will increase  
11 by 2%. The Workweek Value shall be calculated by dividing the Gross Settlement Amount  
12 (\$250,000.00) by 9,435. The Parties agree that the Workweek Value amounts to \$26.50  
13 (\$250,000.00 / 9,435 workweeks). Thus, for example, should there be 11,039 workweeks in  
14 the Class Period, then the Gross Settlement Amount shall be increased by \$17,516.50. (11,039  
15 workweeks – 10,378 workweeks x \$26.50.)

16 **18. VOIDING OF SETTLEMENT AND RETURN OF GROSS SETTLEMENT**  
17 **AMOUNT AND EMPLOYERS' TAXES**

18 Defendant have the option of voiding this Agreement within ten (10) calendar days after  
19 expiration of the opt-out period if ten percent (10%) of the Settlement Class members opt out of  
20 the Settlement and/or if the combined workweeks worked by Class Members who timely exclude  
21 themselves amounts to more than ten percent (10%) of the total workweeks worked by all Class  
22 members, which option shall be exercised by providing written notice to Class Counsel and the  
23 Settlement Administrator. If the foregoing occurs, this Agreement shall be null and void *ab*  
24 *initio*, no Party shall be bound by the terms thereof, and this Agreement shall not be admissible  
25 or offered into evidence in the litigation or any other action for any purpose whatsoever, and any  
26 order or judgment entered by the Court in furtherance of this Agreement shall be treated as  
27 withdrawn or vacated by stipulation of the Parties. In such case, the Parties shall be returned to  
28 their respective positions as of the date immediately prior to the execution of this Agreement, the

1 Parties shall proceed in all respects as if this Agreement had not been executed, Defendant shall  
2 have no obligation to make any payments to Plaintiff, Counsel for Plaintiff, the LWDA, or any  
3 Class Member, and the Settlement Administrator shall return the entirety of the Gross Settlement  
4 Amount and Employers' Taxes to Defendant within seven (7) calendar days of receipt of  
5 Defendant's written notice exercising the option to void this Agreement. In the event that  
6 Defendant voids the Settlement pursuant to the terms of this Agreement, any amounts owed to  
7 the Settlement Administrator shall be paid by Defendant solely.

8 **19. NOTICE OF JUDGMENT**

9 In addition to any duties set out herein, the Settlement Administrator shall provide  
10 notice of the Final Judgment entered in the Action by posting the same on its website for at  
11 least four (4) years after the Judgment becomes final.

12 **20. MISCELLANEOUS PROVISIONS**

13 **A. Interpretation of the Agreement.**

14 This Agreement constitutes the entire agreement between Plaintiff and Defendant with  
15 respect to its subject matter. Except as expressly provided herein, this Agreement has not been  
16 executed in reliance upon any other written or oral representations or terms, and no such extrinsic  
17 oral or written representations or terms shall modify, vary or contradict its terms. In entering  
18 into this Agreement, the Parties agree that this Agreement is to be construed according to its  
19 terms and may not be varied or contradicted by extrinsic evidence. The Agreement will be  
20 interpreted and enforced under the laws of the State of California, both in its procedural and  
21 substantive aspects, without regard to its conflict of law provisions. Any claim arising out of or  
22 relating to the Agreement, or the subject matter hereof, will be resolved solely and exclusively  
23 in the Superior Court of the State of California for the County of Orange, and Plaintiff and  
24 Defendant hereby consent to the personal jurisdiction of the Court in the Action over it solely in  
25 connection therewith. Plaintiff, on Plaintiff's own behalf and on behalf of the Settlement Class,  
26 and Defendant participated in the negotiation and drafting of this Agreement and had available  
27 to them the advice and assistance of independent counsel. As such, neither Plaintiff nor  
28 Defendant may claim that any ambiguity in this Agreement should be construed against the other.

1 The Agreement may be modified only by a writing signed by counsel for the Parties and approved  
2 by the Court.

3 **B. Further Cooperation.**

4 Plaintiff, Defendant, and their respective attorneys shall proceed diligently to prepare and  
5 execute all documents, to seek the necessary approvals from the Court, and to do all things  
6 reasonably necessary to consummate the Settlement as expeditiously as possible. The Parties  
7 agree that they will not take any action inconsistent with this Agreement, including, without  
8 limitation, encouraging Class Members to opt out of the Settlement. In the event the Court finds  
9 that any Party has taken actions inconsistent with the Settlement, including, without limitation,  
10 encouraging Class Members to opt out of the Settlement, the Court may take any corrective  
11 actions, including enjoining any Party from communicating regarding the Settlement on an *ex*  
12 *parte* basis, issuing (a) corrective notice(s), awarding monetary, issue, evidentiary and/or  
13 terminating sanctions against that Party, and/or enforcing this Agreement despite the presence of  
14 opt-outs and/or objections.

15 **C. Counterparts.**

16 The Agreement may be executed in one or more actual or non-original counterparts, all  
17 of which will be considered one and the same instrument and all of which will be considered  
18 duplicate originals.

19 **D. Authority.**

20 Each individual signing below warrants that he or she has the authority to execute this  
21 Agreement on behalf of the party for whom or which that individual signs.

22 **E. No Third-Party Beneficiaries.**

23 Plaintiff, Participating Class Members, Aggrieved Employees, Class Counsel, and  
24 Defendant are direct beneficiaries of this Agreement, but there are no third-party beneficiaries.

25 **F. Deadlines Falling on Weekends or Holidays.**

26 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday,  
27 or legal holiday, that deadline shall be continued until the following business day.

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**G. Severability.**

In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant’s Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

**IT IS SO AGREED:**

Dated: May 26, 2023, 2023

  
Primitivo Perez (May 26, 2023 16:40 PDT)  
PRIMITIVO PEREZ  
Plaintiff and Class Representative

Dated: \_\_\_\_\_, 2023

D&G RESTAURANTS, LLC, dba “Tavern House”  
Defendant  
Gregg Solomon  
Partner

Dated: \_\_\_\_\_, 2023

D&G RESTAURANTS, LLC, dba “Tavern House”  
Defendant  
David Wilhelm  
Partner

Dated: \_\_\_\_\_, 2023

JASMIN K. GILL  
J. Gill Law Group, P.C.  
Counsel for Plaintiff Primitivo Perez

Dated: \_\_\_\_\_, 2023

PETER J. WOO  
VINCENT L. CHEN  
Jackson Lewis, P.C.  
Counsel for Defendant D&G Restaurants, LLC, doing business as “Tavern House”

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**G. Severability.**

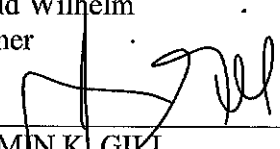
In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

**IT IS SO AGREED:**

Dated: \_\_\_\_\_, 2023  
PRIMITIVO PEREZ  
Plaintiff and Class Representative

Dated: \_\_\_\_\_, 2023  
D&G RESTAURANTS, LLC, dba "Tavern House"  
Defendant  
Gregg Solomon  
Partner

Dated: \_\_\_\_\_, 2023  
D&G RESTAURANTS, LLC, dba "Tavern House"  
Defendant  
David Wilhelm  
Partner

Dated: May 26, 2023  
  
JASMIN K. GILL  
J. Gill Law Group, P.C.  
**Counsel for Plaintiff Primitivo Perez**

Dated: \_\_\_\_\_, 2023  
PETER J. WOO  
VINCENT L. CHEN  
Jackson Lewis, P.C.  
**Counsel for Defendant D&G Restaurants, LLC, doing business as "Tavern House"**

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**G. Severability.**


In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

**IT IS SO AGREED:**

Dated: \_\_\_\_\_, 2023

PRIMITIVO PEREZ  
Plaintiff and Class Representative

Dated: APRIL 27, 2023

  
D&G RESTAURANTS, LLC, dba "Tavern House"  
Defendant  
Gregg Solomon  
Partner


Dated: \_\_\_\_\_, 2023

D&G RESTAURANTS, LLC, dba "Tavern House"  
Defendant  
David Wilhelm  
Partner

Dated: \_\_\_\_\_, 2023

JASMIN K. GILL  
J. Gill Law Group, P.C.  
Counsel for Plaintiff Primitivo Perez

Dated: May 30, 2023

  
PETER J. WOO  
VINCENT L. CHEN  
Jackson Lewis, P.C.  
Counsel for Defendant D&G Restaurants, LLC, doing business as "Tavern House"

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**G. Severability.**

In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

**IT IS SO AGREED:**

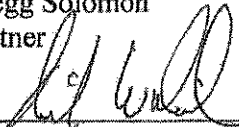
Dated: \_\_\_\_\_, 2023

PRIMITIVO PEREZ  
Plaintiff and Class Representative

Dated: \_\_\_\_\_, 2023

D&G RESTAURANTS, LLC, dba "Tavern House"  
Defendant  
Gregg Solomon  
Partner

Dated: 5-27, 2023

  
D&G RESTAURANTS, LLC, dba "Tavern House"  
Defendant  
David Wilhelm  
Partner

Dated: \_\_\_\_\_, 2023

JASMIN K. GILL  
J. Gill Law Group, P.C.  
Counsel for Plaintiff Primitivo Perez

Dated: \_\_\_\_\_, 2023

PETER J. WOO  
VINCENT L. CHEN  
Jackson Lewis, P.C.  
Counsel for Defendant D&G Restaurants, LLC, doing business as "Tavern House"



# EXHIBIT 2

**NOTICE OF PROPOSED CLASS ACTION AND PAGA ACTION SETTLEMENT AND HEARING DATE FOR FINAL APPROVAL**

*Primitivo Perez v. D&G Restaurants, LLC, et al.*  
(County of Orange, California Superior Court Case No. 30-202101209638-CU-OE-CXC)

**As a current or former non-exempt, hourly-paid California employee for D&G Restaurants, LLC you are entitled to receive money from a class action settlement.**

**Please read this Notice carefully. This Notice relates to a proposed settlement of class action litigation. If you are a Class Member, it contains important information about your right to receive a payment from the Settlement fund.**

You have received this Notice of Class Action Settlement because the records of D&G Restaurants, LLC (“Defendant” or “D&G”) show you are a “Class Member,” and therefore entitled to a payment from this class action Settlement. Class Members are all persons currently or formerly employed by D&G Restaurants, LLC as non-exempt, hourly-paid employees in the State of California any time from July 9, 2017 through [Preliminary Approval Date].

- The settlement resolves a class action lawsuit, *Primitivo v. D&G Restaurants, LLC, et al.* (the “Lawsuit”), which alleges Defendant: (1) failed to pay Class Members overtime wages, (2) failed to pay Class Members minimum wages, (3) failed to provide Class Members legally-compliant meal and rest breaks under California law, (4) failed to provide Class Members with legally compliant wage statements, (5) failed to timely pay all wages due upon termination or resignation, (6) failed to reimburse employees for business expenses, and (7) , engaged in unfair business practices. Based on these and other alleged Labor Code violations, Plaintiff also seek penalties under the California Labor Code Private Attorney Generals Act (“PAGA”) pursuant to Labor Code sections 226.3, 558, 1174.5, 1197.1, and 2699.
- On [REDACTED], the Orange County Superior Court granted preliminary approval of this class action Settlement and ordered that all Class Members be notified of the Settlement. The Court has not made any determination of the validity of the claims in the Lawsuit. Defendant vigorously denies the claims in the Lawsuit and contend that they fully complied with all applicable laws.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment, and give up your legal rights to pursue claims released by the settlement of the Lawsuit.
OPT OUT OF THE SETTLEMENT	Exclude yourself from the Settlement, get no payment for settlement of the class claims, and retain your legal rights to individually pursue the class claims that would otherwise be released by the settlement of the Lawsuit. If you worked from May 18, 2020 through and including the end of the Class Period (“PAGA Period”) as a non-exempt, hourly-paid employee of Defendant, as well, then you will be deemed an “Aggrieved Employee” and you will still receive your share of the proceeds available from the settlement of the PAGA Released Claims, defined below, (your “Individual PAGA Payment”) regardless of whether you opt out of the class settlement.
OBJECT TO THE SETTLEMENT	If you do not opt out, you may write to the Settlement Administrator, Phoenix Settlement Administrators, about

**Questions? Contact the Settlement Claims Administrator toll free at [PHONE NUMBER]**

why you object to the settlement and they will forward your concerns to counsel which will then be provided to the Court. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement. Regardless of whether you submit a written objection, you or your attorney may also address the Court during the Final Approval hearing scheduled for [DATE AND TIME] in the Civil Complex Center of Orange County Superior Court, located at 751 West Santa Ana Blvd., Santa Ana, California 92701.

The Final Fairness and Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at [REDACTED] m. on [REDACTED], in the Civil Complex Center of the Orange County Superior Court, located at 751 West Santa Ana Blvd., Department CX-101, Santa Ana, California 92701. You are not required to attend the Hearing, but you are welcome to do so.

### **Why Am I Receiving This Notice?**

Defendant's records show that you currently work, or previously worked, for Defendant as a non-exempt, hourly-paid employee in the State of California any time from July 9, 2017 through [Preliminary Approval Date]. You were sent this Class Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options before the Court decides whether to finally approve the settlement. If the Court approves the settlement and then any objections and appeals are resolved, a "Settlement Administrator" appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

### **What Is This Case About?**

Primitivo Perez was a non-exempt, hourly-paid employee for Defendant in California. He is the "Plaintiff" in this case and is suing on behalf of himself and Class Members for Defendant's alleged failure to pay overtime wages, failure to pay minimum wages, failure to provide legally-compliant meal and rest breaks under California law, failure to provide compliant wage statements, failure to timely pay all wages due upon termination or resignation, failure to reimburse employees for business expenses, and engagement in unfair business practices. Based on these and other alleged Labor Code violations, Plaintiff also seeks to recover penalties under the California Labor Code Private Attorney Generals Act pursuant to Labor Code sections 226.3, 558, 1174.5, 1197.1, and 2699.

Defendant denies all of the allegations made by Plaintiff and denies that it violated any law. The Court has made no ruling on the merits of Plaintiff's claims. The Court has only preliminarily approved this Class Action Settlement. The Court will decide whether to give final approval to the Settlement at the Final Fairness and Approval Hearing.

### **Summary of the Settlement Terms**

Plaintiff and Defendant have agreed to settle this case on behalf of themselves and the Class Members for the Gross Settlement Amount of \$250,000.00, unless the Gross Settlement Amount is escalated pursuant to the Agreement. The Gross Settlement includes: (1) Administration Costs of up to \$[REDACTED].00; (2) a service payment of up to \$7,500.00 to Plaintiff for his time and effort in pursuing this case and in exchange for a broader release of claims against Defendant; (3) up to 35% in attorneys' fees which, unless the Gross Settlement Amount is escalated pursuant to the Agreement, amounts to \$87,500.00 in attorneys' fees (pursuant to the Settlement Agreement, if the Gross Settlement may increase due to an increase in the number of Workweeks worked by the aggregate settlement class, in which case the attorneys' fees requested will increased because it is a percentage of the Gross Settlement Amount); (4) actual

**Questions? Contact the Settlement Claims Administrator toll free at [PHONE NUMBER]**

litigation costs up to \$25,000.00 to Class Counsel; and (5) payment allocated to PAGA penalties in the amount of \$20,000.00, \$15,000.00 of which will be payable to the Labor and Workforce Development Agency (“LWDA”) and \$5,000.00 of which will be payable to Aggrieved Employees. After deducting these sums, a total of approximately \$ [REDACTED] .00 will be available for distribution to Class Members (“Net Settlement Amount”), and an additional \$5,000.00 to Aggrieved Employees. In addition to the Gross Settlement, Defendant will separately pay all employer-side payroll tax payments due and payable to federal and state tax authorities as a result of this Settlement.

### **Distribution to Class Members and Aggrieved Employees**

Class Members who do not opt out will receive a *pro rata* payment based on the number of verified actual weeks worked by Class Members for Defendants during the Class Period (“Eligible Workweeks”). Specifically, Class Members’ payments will be calculated by dividing the number of Eligible Workweeks attributed to the Class Member by all Eligible Workweeks attributed to members of the Settlement Class, multiplied by the Net Settlement Amount. Otherwise stated, the formula for a Class Member is: (individual’s Eligible Workweeks ÷ total Settlement Class Eligible Workweeks) x Net Settlement Amount. In addition, Class Members who worked during the PAGA Period will receive a pro rata share of the \$5,000 allocated as PAGA penalties, whether or not they opt out, based on the number of workweeks worked by the Class Member during the PAGA Period.

Defendant’s records indicate that you worked [Eligible Workweeks] as a non-exempt, hourly-paid employee in California during the Class Period and [Eligible Pay Periods] during the PAGA Period. Based on these records, your estimated payment as a Class Member would be [\$Estimated Award] and your estimated payment for PAGA civil penalties would be [\$Estimated Award]. If you believe this information is incorrect and wish to dispute it, you must mail a dispute to the Settlement Administrator no later than [RESPONSE DEADLINE]. Please include any documentation you have that you contend supports your dispute. Absent evidence rebutting Defendant’s records, Defendant’s records will be presumed initially determinative. All disputes will be resolved within 10 days of submission of your dispute to the Settlement Administrator.

### **Tax Reporting**

100% of the payments for PAGA penalties to Aggrieved Employees will be allocated as penalties reported on an IRS Form 1099; 20% of each Settlement Payment will be allocated as wages and reported on an IRS Form W-2; and 80% will be allocated as penalties and interest reported on an IRS Form 1099. This notice is not intended to provide legal or tax advice on your Settlement Share.

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

#### **Option 1 – Do Nothing and Receive Your Payment**

If you do not opt out, you are automatically entitled to your Settlement Check because you are a Class Member. If you do not dispute your settlement share calculation and do not opt out of the settlement, you will be bound by the settlement and receive a settlement payment. **In other words, if you are a Class Member, you do not need to take any action to receive the settlement payment set forth above.**

Settlement payment checks must be cashed soon after receipt. The Settlement checks will be able to be cashed for 180 days after they are issued. Within 7 days after expiration of the 180-day period, the Settlement checks will no longer be able to be cashed. Any funds represented by Settlement checks remaining uncashed for more than 180 days after issuance shall be paid over to the California State Controller’s Office, with the identity of Class Member to whom the funds belong, to be held for the Class Member per California’s Unclaimed Property Law.

**Questions? Contact the Settlement Claims Administrator toll free at [PHONE NUMBER]**

Class Members who do not submit a valid and timely opt out (pursuant to Section 2 below), will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Claims he or she may have or had upon final approval of this Settlement, entry of judgment, and payment by Defendant to the Settlement Administrator of the full Gross Settlement Amount and Employer's Taxes pursuant to the Agreement.

"Released Claims" means all claims against the Released Parties asserted in the Operative Complaint, or any and all claims that may be asserted against the Released Parties based on the factual allegations in the Operative Complaint, as follows: For Participating Class Members, the release includes, for the duration of the Class Period: (a) all claims for failure to pay earned wages; (b) all claims for failure to pay minimum wages; (c) all claims for failure to pay overtime wages; (d) all claims for failure to provide compliant meal and rest periods or compensation in lieu thereof; (e) failure to timely pay all wages due upon termination or resignation; (f) all claims for non-compliant wage statements; (g) failure to reimburse business expenses; and (h) all claims asserted through California Business & Professions Code § 17200 *et seq.* arising out of the Labor Code violations referenced in the Operative Complaint; and (i) all claims for injunctive relief, liquidated damages, penalties of an nature, interest, fees, including fees under California Code of Civil Procedure section 1021.5, and costs (the "Class Released Claims").

For Aggrieved Employees, the release includes, for the duration of the PAGA Period, all claims asserted in the PAGA Notice and alleged in the Operative Complaint, including all claims for civil penalties under PAGA arising out of Labor Code sections 226.3, 558, 1174.5, 1197.1 and 2699 based on the factual allegations and Labor Code sections alleged to have been violated in the PAGA Notice and Operative Complaint, which includes, without limitation, Labor Code sections 226, 432, 1174, and 1198.5, unlawful restraint on trade, unlawful restraint of legal activities under Labor Code section 98.6(k), failure to pay wages pursuant to Labor Code section 204, and retaliation in violation of Labor Code section 1102.5, failure to provide notice under Labor Code section 2810.5, failure to provide sick leave and an accounting of accrued sick leave, penalties of any nature, including civil penalties under PAGA, fees, and costs (the "PAGA Released Claims").

"Class Period" means the period from July 9, 2017 through [Preliminary Approval Date]

"PAGA Period" means the period from May 18, 2020 through the end of the Class Period.

"Released Parties" shall mean Defendant D&G Restaurants, LLC as well as each of D&G's present and former respective affiliates, parents, subsidiaries, predecessors, successors, divisions, joint venturers and assigns, and each of these entities' past or present directors, officers, employees, partners, members, principals, agents, insurers, shareholders, attorneys, and personal or legal representatives.

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

If you do not wish to participate in the Settlement, you may exclude yourself by submitting a written request to be excluded from the Class. Your written request must expressly and clearly indicate that you do not want to participate in the Settlement, and you desire to be excluded from the Settlement. The written request for exclusion must include your name, your Social Security Number, your signature, and the following statement or something to its effect: "Please exclude me from the Settlement Class in the *Primitivo Perez v. D&G Restaurants, LLC, et al.* matter". Sign, date, and mail your written request for exclusion by U.S. First-Class Mail to the address below.

The proposed settlement includes the settlement of the PAGA Released Claims. An employee may not request exclusion from the settlement of the PAGA Released Claims. Thus, if the court approves the settlement, then even if you request exclusion from the settlement, you will still receive an individual settlement share for the PAGA Released Claims and will be deemed to have released the PAGA Released Claims. A request for exclusion will preserve your right to individually pursue only the remaining Class Released Claims.

**Questions? Contact the Settlement Claims Administrator toll free at [PHONE NUMBER]**

**[Settlement Administrator]**  
**[Mailing Address]**

The written request to be excluded from the Settlement must be postmarked or received by the Administrator not later than **[RESPONSE DEADLINE]**. If you exclude yourself from the Settlement then you will get no payment, and retain your legal rights to pursue claims that would otherwise be released by the settlement of the Lawsuit.

**Option 3 – Submit an Objection to the Settlement**

If you wish to object to the Settlement, you may submit an objection in writing stating why you object to the Settlement. Your objection must provide your full name, your address, the last 4 digits of your social security number, your signature, and your reasons for why you think the Court should not approve the Settlement, along with any legal authority, if any, you assert supports your objection. The Court will consider oral objections at the Final Approval hearing even if no written objections have been submitted. You may orally object in person or through counsel at the Final Approval hearing, even if you did not submit written objection. Your objection must be mailed to the Administrator no later than **[RESPONSE DEADLINE]**. Please note that you cannot both object to the Settlement and exclude yourself. If the Court overrules your objection, you will be bound by the Settlement and will receive your Settlement Share.

**Final Fairness Hearing**

You may, if you wish, also appear at the Final Fairness and Approval Hearing set for **[DATE]** at **[TIME]** a.m. in the Civil Complex Center of the Orange County Superior Court, located at 751 West Santa Ana Blvd., Department CX-101, Santa Ana, California 92701, and discuss your objections with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the Hearing at your own expense.

**Additional Information**

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may visit **www.[WEBSITE].com**, call the Settlement Administrator at **[PHONE NUMBER]** or Class Counsel, who may be reached as follows:

**BIBIYAN LAW GROUP, P.C.**

David D. Bibiyan  
*david@tomorrowlaw.com*  
Diego Aviles (habla Español)  
*diego@tomorrowlaw.com*  
Jeffrey D. Klein  
*jeff@tomorrowlaw.com*  
8484 Wilshire Boulevard, Suite 500  
Beverly Hills, California 90211  
Telephone: (310) 438-5555  
Facsimile: (310) 300-1705

**J. GILL LAW GROUP, P.C.**

Jasmin K. Gill  
*jasmin@jkgilllaw.com*  
515 South Flower Street, Suite 1800  
Telephone: (213) 429-6023 (habla Español)  
Facsimile: (310) 728-2137

You may also visit the Settlement Administrator's website at **[WEBSITE]** to gain access to key documents in this case, including the Operative Complaint, the Settlement Agreement, Class Notice the Order Granting Preliminary Approval of this Settlement, the Order Granting Final Approval of this Settlement, and the Final Judgment.

**Questions? Contact the Settlement Claims Administrator toll free at **[PHONE NUMBER]****

You may also refer to the pleadings, the Settlement Agreement, and other papers filed in this case, which may be inspected at the Office of the Clerk of the Orange County Superior Court, located at [ADDRESS], during regular business hours of each court day. You may also obtain these documents through the Court's website at <https://www.occourts.org/online-services/case-access/> by clicking on Access Now next to "Civil Case & Document Access," accepting the terms, typing in the case number, and clicking on "Search."

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE,  
DEFENDANTS, OR DEFENDANTS' ATTORNEYS WITH INQUIRIES.**

**Questions? Contact the Settlement Claims Administrator toll free at [PHONE NUMBER]**

# EXHIBIT 3



# NOTIFICACIÓN DE LA PROPUESTA DE ACUERDO SOBRE LA DEMANDA COLECTIVA Y LA ACCIÓN PAGA Y FECHA DE LA AUDIENCIA PARA SU APROBACIÓN DEFINITIVA

*Primitivo Pérez contra D&G Restaurants, LLC, et al.*

(Caso n.º 30-202101209638-CU-OE-CXC del Tribunal Superior del Condado de Orange, California)

**Como empleado actual o anterior de D&G Restaurants, LLC en California, no exento y pagado por horas, tiene derecho a recibir dinero de un acuerdo de demanda colectiva.**

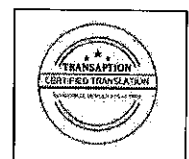
**Lea atentamente este Aviso, que se refiere a una propuesta de acuerdo en un litigio de acción colectiva. Si usted es un miembro del grupo de Demandantes, este Aviso contiene información importante sobre su derecho a recibir un pago del fondo de liquidación.**

Ha recibido esta Notificación del Acuerdo de Demanda Colectiva porque los registros de D&G Restaurants, LLC (“Demandado” o “D&G”) muestran que usted es un “Miembro de la Demanda Colectiva” o “Miembro del Grupo de Demandantes” y, por lo tanto, tiene derecho a un pago de este Acuerdo de demanda colectiva. Los Miembros de la Demanda Colectiva o del Grupo son todas las personas empleadas actual o anteriormente por D&G Restaurants, LLC como empleados no exentos y pagados por hora en el Estado de California en cualquier momento desde el 9 de julio de 2017 hasta [Preliminary Approval Date].

- El acuerdo resuelve una demanda colectiva, *Primitivo contra D&G Restaurants, LLC, et al.* (la “Demanda”), en la que se alega que el Demandado: (1) no pagó a los miembros de la demanda colectiva los salarios por horas extras, (2) no pagó a los miembros de la demanda colectiva los salarios mínimos, (3) no proporcionó a los miembros de la demanda colectiva las pausas para comer y descansar legalmente establecidas por la ley de California, (4) no proporcionó a los miembros de la demanda colectiva las declaraciones salariales legalmente establecidas, (5) no pagó puntualmente todos los salarios debidos en caso de despido o renuncia, (6) no reembolsó a los empleados los gastos empresariales y (7) incurrió en prácticas comerciales desleales. Basándose en estas y otras supuestas violaciones del Código Laboral, el Demandante también solicita sanciones en virtud de la Ley de Abogados Generales Privados (PAGA, por sus siglas en inglés) del Código Laboral de California, de conformidad con las secciones 226.3, 558, 1174.5, 1197.1 y 2699 del Código Laboral.
- En \_\_\_\_\_, el Tribunal Superior del Condado de Orange concedió la aprobación preliminar de este Acuerdo de demanda colectiva y ordenó que se notificara el Acuerdo a todos los Miembros del Grupo. El Tribunal no ha tomado ninguna determinación sobre la validez de las reclamaciones de la Demanda. El Demandado niega enérgicamente las reclamaciones de la Demanda y sostiene que cumplió plenamente con todas las leyes aplicables.

SUS DERECHOS Y OPCIONES LEGALES EN ESTE ACUERDO	
NO HACER NADA Y RECIBIR EL PAGO	Recibirá un pago y renunciará a sus derechos legales de perseguir las reclamaciones liberadas por la resolución de la Demanda.
OPTAR POR NO PARTICIPAR EN EL ACUERDO	Se excluirá del Acuerdo, no recibirá ningún pago por la conciliación de las demandas colectivas y conservará sus derechos legales para perseguir individualmente las demandas colectivas que, de otro modo, quedarían liberadas por la conciliación de la Demanda. Si usted también trabajó desde el 18 de mayo de 2020 hasta el final del Período de la demanda colectiva (“Período PAGA”) inclusive, como

**¿Tiene alguna pregunta? Comuníquese con el Administrador de Reclamaciones del Acuerdo llamando gratuitamente al [PHONE NUMBER].**



	<p>empleado no exento y pagado por hora del Demandado, entonces se le considerará un “Empleado Agraviado” y seguirá recibiendo su parte de los ingresos disponibles de la liquidación de las Reclamaciones colectivas liberadas PAGA, definidas a continuación, (su “Pago PAGA individual”) independientemente de si opta por excluirse de la liquidación de la demanda colectiva.</p>
<p>OPONERSE AL ACUERDO</p>	<p>Si no opta por excluirse, puede escribir al Administrador del Acuerdo, Phoenix Settlement Administrators, sobre los motivos por los que se opone al acuerdo, y ellos transmitirán sus inquietudes a los abogados, quienes, a su vez, se las comunicarán al Tribunal. Si el Tribunal aprueba el Acuerdo a pesar de su objeción, usted seguirá estando obligado por el Acuerdo. Independientemente de si presenta una objeción por escrito, usted o su abogado también podrán dirigirse al Tribunal durante la audiencia de aprobación definitiva programada para el [DATE AND TIME] en el Centro del Complejo Civil del Tribunal Superior del Condado de Orange, situado en 751 West Santa Ana Blvd., Santa Ana, California 92701.</p>

La Audiencia de Aprobación e Imparcialidad Definitiva sobre la adecuación, razonabilidad y equidad del Acuerdo se celebrará a las [TIME] m. el [DATE], en el Centro del Complejo Civil del Tribunal Superior del Condado de Orange, ubicado en 751 West Santa Ana Blvd., Departamento CX-101, Santa Ana, California 92701. No está obligado a asistir a la Audiencia, pero le invitamos a hacerlo.

**¿Por qué recibo este aviso?**

Los registros del Demandado muestran que usted trabaja o trabajó para el Demandado como empleado no exento y pagado por hora en el Estado de California en cualquier momento desde el 9 de julio de 2017 hasta [Preliminary Approval Date]. Se le envió este Aviso de demanda colectiva porque tiene derecho a conocer el acuerdo propuesto en una demanda colectiva y todas sus opciones antes de que el Tribunal decida si aprueba finalmente el acuerdo. Si el Tribunal aprueba el acuerdo y luego se resuelven las objeciones y apelaciones, un “Administrador del Acuerdo” designado por el Tribunal efectuará los pagos descritos en este Aviso, en el que se explican la Demanda, el acuerdo, sus derechos legales, qué prestaciones están disponibles, quién tiene derecho a ellas y cómo obtenerlas.

**¿De qué trata este caso?**

Primitivo Pérez era un empleado no exento, pagado por hora, que trabajaba para el Demandado en California. Él es el “Demandante” en este caso y está demandando en su nombre y en el de los Miembros del Grupo al Demandado por la supuesta falta de pago de salarios por horas extras; falta de pago de salarios mínimos; falta de provisión de pausas para comer y descansar conforme a la ley de California; falta de provisión de declaraciones salariales conforme a la ley; falta de pago oportuno de todos los salarios adeudados tras el despido o la renuncia; falta de reembolso a los empleados por gastos empresariales; y participación en prácticas comerciales desleales. Basándose en estas y otras supuestas violaciones del Código Laboral, el Demandante también pretende recuperar las sanciones en virtud de la Ley de Abogados Generales Privados del Código Laboral de California, de conformidad con las secciones 226.3, 558, 1174.5, 1197.1 y 2699 del Código Laboral.

**¿Tiene alguna pregunta? Comuníquese con el Administrador de Reclamaciones del Acuerdo llamando gratuitamente al [PHONE NUMBER].**



El Demandado niega todas las alegaciones formuladas por el Demandante y niega haber infringido ley alguna. El Tribunal no se ha pronunciado sobre el fondo de las reclamaciones del Demandante. El Tribunal sólo ha aprobado preliminarmente este Acuerdo de Demanda Colectiva. El Tribunal decidirá si otorga la aprobación definitiva al Acuerdo en la Audiencia de Aprobación e Imparcialidad Definitiva.

### **Resumen de los términos del acuerdo**

El Demandante y el Demandado han acordado llegar a un acuerdo en este caso en nombre de ellos mismos y de los Miembros del Grupo por el Monto Bruto del Acuerdo de \$250,000.00, a menos que el Monto Bruto del Acuerdo se incremente de conformidad con el Acuerdo. El Acuerdo Bruto incluye: (1) Gastos de administración de hasta \$[REDACTED].00; (2) un pago por servicios de hasta \$7,500.00 al Demandante por su tiempo y esfuerzo en la prosecución de este caso y a cambio de una liberación más amplia de las reclamaciones contra el Demandado; (3) hasta un 35% en honorarios de abogados que, a menos que el Importe Bruto del Acuerdo se incremente de conformidad con el Acuerdo, asciende a \$87,500.00 en honorarios de abogados (de conformidad con el Acuerdo de Liquidación, la Liquidación Bruta podría aumentar debido a un incremento en el número de Semanas Laborales trabajadas por la clase de liquidación agregada, en cuyo caso los honorarios de los abogados solicitados aumentarán, debido a que se trata de un porcentaje del Importe de la Liquidación Bruta); (4) costas procesales reales de hasta \$25,000.00 a los Abogados de la Demanda Colectiva; y (5) el pago asignado a las sanciones PAGA por un importe de \$20,000.00, \$15,000.00 de los cuales serán pagaderos a la Agencia de Trabajo y Desarrollo de la Fuerza Laboral (LWDA, por sus siglas en inglés) y \$5,000.00 de los cuales serán pagaderos a los Empleados Agraviados. Después de deducir estas sumas, quedará disponible un total de aproximadamente \$[REDACTED].00 para distribuir entre los Miembros del Grupo ("Monto Neto de la Transacción Extrajudicial"), y \$5,000.00 adicionales para los Empleados Agraviados. Además del Monto Bruto del Acuerdo, el Demandado pagará por separado todos los pagos de impuestos sobre la nómina del empleador adeudados y pagaderos a las autoridades fiscales federales y estatales como resultado de este Acuerdo.

### **Distribución a los miembros del grupo y a los empleados perjudicados**

Los Miembros del Grupo que no opten por excluirse recibirán un pago *prorrateado* basado en el número de semanas reales verificadas que hayan trabajado los Miembros del Grupo para los Demandados durante el Período de la Demanda Colectiva ("Semanas Laborales Elegibles"). Específicamente, los pagos de los Miembros del Grupo se calcularán dividiendo el número de Semanas Laborales Elegibles atribuidas al Miembro del Grupo por todas las Semanas Laborales Elegibles atribuidas a los miembros del Grupo del Acuerdo, multiplicado por el Importe Neto del Acuerdo. De lo contrario, la fórmula para un Miembro del Grupo es la siguiente: (Semanas Laborales Elegibles del individuo ÷ total de Semanas Laborales Elegibles del Grupo del Acuerdo) x Importe Neto del Acuerdo. Además, los Miembros del Grupo que trabajaron durante el Período PAGA recibirán una parte prorrataada de los \$5,000 asignados como penalizaciones PAGA, tanto si optan por no participar como si no, en función del número de semanas laborales trabajadas por el Miembro del Grupo durante el Período PAGA.

Los registros del Demandado indican que usted trabajó [Eligible Workweeks] como empleado no exento y pagado por hora en California durante el Período de la Demanda Colectiva y [Eligible Pay Periods] durante el Período PAGA. En base a estos registros, su pago estimado como Miembro del Grupo sería de [\$Estimated Award] y su pago estimado por sanciones civiles PAGA sería de [\$Estimated Award]. Si cree que esta información es incorrecta y desea disputarla, debe enviar por correo una disputa al Administrador del Acuerdo a más tardar el [RESPONSE DEADLINE]. Incluya cualquier documentación que tenga y que sostenga que apoya su disputa.

### **Informes Fiscales**

**¿Tiene alguna pregunta? Comuníquese con el Administrador de Reclamaciones del Acuerdo llamando gratuitamente al [PHONE NUMBER].**



El 100% de los pagos por sanciones PAGA a los Empleados Agraviados se asignarán como sanciones declaradas en un Formulario 1099 del Servicio de Impuestos Internos (IRS, por sus siglas en inglés); el 20% de cada Pago del Acuerdo se asignará como salarios y se declarará en un Formulario W-2 del IRS; y el 80% se asignará como sanciones e intereses declarados en un Formulario 1099 del IRS. Este aviso no pretende proporcionar asesoramiento legal ni fiscal sobre su Parte del Acuerdo.

### Sus opciones en virtud del acuerdo

#### **Opción 1: No hacer nada y recibir su pago**

Si no opta por excluirse, automáticamente tendrá derecho a recibir su cheque del acuerdo porque es un Miembro del Grupo de Demandantes. Si no impugna el cálculo de su participación en el acuerdo y no se excluye del mismo, quedará vinculado por el acuerdo y recibirá dicho pago. **En otras palabras, si usted es un Miembro del Grupo, no necesita tomar ninguna medida para recibir el pago del acuerdo establecido anteriormente.**

Los cheques del pago del Acuerdo deben cobrarse poco después de su recepción y podrán cobrarse durante los 180 días siguientes a su emisión. Dentro de los 7 días siguientes a la expiración del período de 180 días, los cheques del Acuerdo ya no podrán cobrarse. Todos los fondos representados por los cheques del Acuerdo que permanezcan sin cobrar durante más de 180 días tras su emisión se abonarán a la Oficina de Intervención del Estado de California, con la identidad del Miembro del Grupo al que pertenezcan los fondos, para que sean retenidos para el Miembro del Grupo conforme a la Ley de Propiedad No Reclamada de California.

Se considerará que los Miembros del Grupo que no presenten una opción de exclusión válida y oportuna (de conformidad con la Sección 2 a continuación), han liberado, transigido, comprometido, renunciado y exonerado de forma plena, definitiva y para siempre a las Partes Exoneradas de todas las Reclamaciones Exoneradas que puedan tener o haber tenido tras la aprobación definitiva de este Acuerdo, la entrada en vigor de la sentencia y el pago por parte del Demandado al Administrador del Acuerdo de la totalidad del Importe Bruto del Acuerdo y los Impuestos del Empleador de conformidad con el Acuerdo.

Las "Reclamaciones Exoneradas" abarcan todas las reclamaciones contra las Partes Exoneradas afirmadas en la Demanda Operativa, o cualquiera y todas las reclamaciones que puedan ser afirmadas contra las Partes Exoneradas basadas en las alegaciones de hecho de la Demanda Operativa, conforme a lo siguiente: para los Miembros del Grupo Participantes, la exoneración incluye, mientras dure el Período de la Demanda Colectiva (a) todas las reclamaciones por incumplimiento en el pago de salarios devengados; (b) todas las reclamaciones por incumplimiento en el pago de salarios mínimos; (c) todas las reclamaciones por incumplimiento en el pago de salarios por horas extras; (d) todas las reclamaciones por incumplimiento en la provisión de períodos de comida y descanso conformes o compensación en lugar de los mismos; (e) incumplimiento en el pago oportuno de todos los salarios adeudados en caso de despido o renuncia; (f) todas las reclamaciones por declaraciones salariales no conformes; (g) incumplimiento en el reembolso de gastos empresariales; y (h) todas las reclamaciones que se han hecho valer mediante el Código de Negocios y Profesionales de California § 17200 y siguientes derivadas de las infracciones del Código Laboral a las que se hace referencia en la Demanda Operativa; y (i) todas las reclamaciones por medidas cautelares, daños y perjuicios liquidados, sanciones de cualquier naturaleza, intereses, honorarios, incluidos los honorarios en virtud de la sección 1021.5 del Código de Procedimiento Civil de California y costas (las "Demandas Colectivas Liberadas").

Para los Empleados Agraviados, la exoneración incluye, por la duración del Período PAGA, todas las reclamaciones afirmadas en la Notificación PAGA y alegadas en la Denuncia Operativa, incluyendo todas las reclamaciones por sanciones civiles bajo PAGA que surjan de las secciones 226.3, 558, 1174.5, 1197.1 y 2699 del Código Laboral basadas en las alegaciones de hecho y las secciones del Código Laboral supuestamente violadas en la Notificación PAGA y la Demanda Operativa, que incluyen, sin limitación, las secciones 226, 432, 1174 y 1198.5 del Código

**¿Tiene alguna pregunta? Comuníquese con el Administrador de Reclamaciones del Acuerdo llamando gratuitamente al [PHONE NUMBER].**



Laboral, restricción ilícita del comercio, restricción ilícita de actividades legales conforme a la sección 98.6(k) del Código Laboral, falta de pago de salarios conforme a la sección 204 del Código Laboral y represalias en violación de la sección 1102.5 del Código Laboral, falta de notificación conforme a la sección 2810.5 del Código Laboral, falta de licencia por enfermedad y de una contabilidad de la licencia por enfermedad acumulada, sanciones de cualquier naturaleza, incluidas sanciones civiles conforme a PAGA, honorarios y costas (las “Reclamaciones Liberadas de PAGA”).

El “Período de la Demanda Colectiva” abarca el período comprendido entre el 9 de julio de 2017 y el [Preliminary Approval Date].

El “Período PAGA” abarca el período comprendido entre el 18 de mayo de 2020 y el final del Período de la Demanda Colectiva.

Las “Partes Exoneradas” abarcarán al Demandado D&G Restaurants, LLC, así como a cada una de las filiales, matrices, subsidiarias, predecesores, sucesores, divisiones, empresas conjuntas y cesionarios actuales y anteriores de D&G, y a cada uno de los directores, funcionarios, empleados, socios, miembros, mandantes, agentes, aseguradores, accionistas, abogados y representantes personales o legales pasados o presentes de estas entidades.

### **Opción 2: *Optar por no participar en el Acuerdo***

Si no desea participar en el Acuerdo, puede excluirse presentando una solicitud por escrito para ser excluido del Grupo. Su solicitud por escrito debe indicar expresa y claramente que no desea participar en el Acuerdo y que desea ser excluido del mismo. La solicitud de exclusión por escrito debe incluir su nombre, su número del Seguro Social, su firma y la siguiente declaración o algo a su efecto: “Deseo ser excluido del Grupo del Acuerdo en la Demanda *Primitivo Pérez contra D&G Restaurants, LLC, et al*”. Firme, feche y envíe su solicitud de exclusión por escrito por correo de primera clase de los Estados Unidos a la dirección que figura más abajo.

El acuerdo propuesto incluye la liquidación de las Reclamaciones Exoneradas de la PAGA. Un empleado no puede solicitar la exclusión de la liquidación de las Reclamaciones Exoneradas de la PAGA. Por lo tanto, si el tribunal aprueba el acuerdo, aunque usted solicite ser excluido del acuerdo, seguirá recibiendo una parte individual del acuerdo por las Reclamaciones Exoneradas de la PAGA y se considerará que ha depuesto las Reclamaciones Exoneradas de la PAGA. Una solicitud de exclusión preservará su derecho a perseguir individualmente sólo las Reclamaciones Liberadas del Grupo restantes.

[Settlement Administrator]  
[Mailing Address]

La solicitud por escrito para excluirse del Acuerdo debe estar matasellada o ser recibida por el Administrador a más tardar el [RESPONSE DEADLINE]. Si se excluye del Acuerdo, no recibirá ningún pago y conservará sus derechos legales a presentar reclamaciones que, de otro modo, quedarían liberadas por la resolución del Juicio.

### **Opción 3: *Enviar una objeción al Acuerdo***

Si desea oponerse al Acuerdo, puede enviar una objeción por escrito indicando por qué se opone al Acuerdo. Su objeción debe incluir su nombre completo, su dirección, los 4 últimos dígitos de su número de la seguridad social, su firma y las razones por las que cree que el Tribunal no debería aprobar el Acuerdo, junto con cualquier autoridad legal, si la hubiera, que usted afirme que respalda su objeción. El Tribunal considerará las objeciones orales en la audiencia

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de Aprobación Definitiva aunque no se hayan presentado objeciones por escrito. Puede objetar oralmente en persona o a través de un abogado en la audiencia de Aprobación Definitiva, incluso si no presentó una objeción por escrito. Su objeción debe enviarse por correo al Administrador a más tardar el [RESPONSE DEADLINE]. Tenga en cuenta que no puede objetar al Acuerdo y a la vez excluirse. Si el Tribunal desestima su objeción, usted quedará vinculado por el Acuerdo y recibirá su parte del Acuerdo.

### **Audiencia de Imparcialidad Definitiva**

Si lo desea, también puede comparecer en la Audiencia de Aprobación e Imparcialidad Definitiva fijada para el [DATE] a las [TIME] m. en el Centro del Complejo Civil del Tribunal Superior del Condado de Orange, ubicado en 751 West Santa Ana Blvd., Departamento CX-101, Santa Ana, California 92701, y discutir sus objeciones con el Tribunal y las Partes, lo cual correrá por su propia cuenta. También puede contratar a un abogado para que le represente en la Audiencia, corriendo usted con los gastos.

### **Información adicional**

Este Aviso de Acuerdo de Demanda Colectiva es sólo un resumen de este caso y del Acuerdo. Para obtener una declaración más detallada de los asuntos implicados en este caso y en el Acuerdo, puede visitar [www.occourts.org](http://www.occourts.org), o bien llamar al Administrador del Acuerdo al [RESPONSE DEADLINE] o al Abogado del Grupo, con quien puede comunicarse de la siguiente manera:

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También puede visitar el sitio web del Administrador del Acuerdo en [WEBSITE] para acceder a los documentos clave de este caso, incluida la Demanda Operativa, el Acuerdo del Acuerdo, la Notificación a la Demanda, la Orden por la que se concede la Aprobación Preliminar de este Acuerdo, la Orden por la que se concede la Aprobación Definitiva de este Acuerdo y la Sentencia Definitiva.

También puede consultar los alegatos, el Acuerdo de Liquidación y otros documentos presentados en este caso, que pueden inspeccionarse en la Oficina del Secretario del Tribunal Superior del Condado de Orange, ubicada en [ADDRESS], durante el horario laboral habitual de cada día de audiencia. También puede obtener estos documentos a través del sitio web del Tribunal en <https://www.occourts.org/online-services/case-access/>.

Todas las consultas de los Miembros del Grupo relativas a este Aviso de Acuerdo de Demanda Colectiva y/o al Acuerdo deberán dirigirse al Administrador del Acuerdo.

**NO SE COMUNIQUE CON EL SECRETARIO DEL TRIBUNAL, EL JUEZ, LOS DEMANDADOS NI CON LOS ABOGADOS DE LOS DEMANDADOS PARA HACERLES PREGUNTAS.**

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