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8 MARIA ELENA DIAZ HERNANDEZ, and all others similarly situated
9 (Additional attorneys for parties on following page)

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF SACRAMENTO**

12 **(UNLIMITED JURISDICTION)**

13 MARIA ELENA DIAZ HERNANDEZ, on
14 behalf of herself and all others similarly situated,
15 and as “aggrieved employees” on behalf of other
16 “aggrieved employees” under the Labor Code
Private Attorneys General Act of 2004,

17 *Plaintiff(s),*

18 vs.

19 GUITRON ALCAZAR ALCAZAR INC. DBA
20 EL TAPATIO MEXICAN CUISINE, a
21 California corporation; GUITRON ALCAZAR
22 III INC., a California corporation; GUITRON
23 ALCAZAR IV, LLC, a California limited
liability company; and DOES 1–50, inclusive,

24 *Defendant(s).*

Case No. 34-2021-00306648

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND
CLASS NOTICE**

Action filed: August 23, 2021
Dept: 28, The Honorable Lauri A.
Damrell

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Attorneys for Defendant(s),
GUITRON ALCAZAR ALCAZAR INC. DBA EL TAPATIO MEXICAN CUISINE, GUITRON
ALCAZAR III INC., AND GUITRON ALCAZAR IV, LLC

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between plaintiff Maria Elena Diaz Hernandez (“Plaintiff”) and defendants Guitron Alcazar
3 Alcazar Inc. dba El Tapatio Mexican Cuisine, Guitron Alcazar III Inc., and Guitron Alcazar IV,
4 LLC (collectively “Defendants”). The Agreement refers to Plaintiff and Defendants collectively
5 as “Parties,” or individually as “Party.”

6 **1. DEFINITIONS.**

7 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against
8 Guitron Alcazar Alcazar Inc. dba El Tapatio Mexican Cuisine, Guitron Alcazar III Inc., and
9 Guitron Alcazar IV, LLC captioned “Maria Elena Diaz Hernandez, on behalf of herself, and all
10 others similarly situated, and as an ‘aggrieved employee’ on behalf of other ‘aggrieved
11 employees’ under the Labor Code Private Attorneys General Act of 2004, *Plaintiff(s)*, vs.
12 defendants Guitron Alcazar Alcazar Inc. dba El Tapatio Mexican Cuisine, Guitron Alcazar III
13 Inc., and Guitron Alcazar IV, LLC ; and DOES 1 through 50, inclusive, *Defendant(s)*,” Case No.
14 34-2021-00306648 initiated on August 23, 2021 and pending in Superior Court of the State of
15 California, County of Sacramento.

16 1.2. “Administrator” means CPT Group, Inc., the neutral entity the Parties have agreed
17 to appoint to administer the Settlement.

18 1.3. “Administration Expenses Payment” means the amount the Administrator will be
19 paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in
20 accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection
21 with Preliminary Approval of the Settlement.

22 1.4. “Aggrieved Employee” means a person employed by Defendants in California and
23 classified as non-exempt, hourly employee who worked for Defendants during the PAGA Period.

24 1.5. “Class” means all persons employed by Defendants in California and classified as
25 non-exempt, hourly employees who worked for Defendants during the Class Period.

26 1.6. “Class Counsel” means David G. Spivak of The Spivak Law Firm, and Walter L.
27 Haines of United Employees Law Group, PC.

28 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”
mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
expenses, respectively, incurred to prosecute the Action.

1 1.8. "Class Data" means Class Member identifying information in Defendants'
2 possession including the Class Member's name, last-known mailing address, Social Security
3 number, and number of Class Period Work Weeks and PAGA Pay Periods.

4 1.9. "Class Member" or "Settlement Class Member" means a member of the Class, as
5 either a Participating Class Member or Non-Participating Class Member (including a Non-
6 Participating Class Member who qualifies as an Aggrieved Employee).

7 1.10. "Class Member Address Search" means the Administrator's investigation and
8 search for current Class Member mailing addresses using all reasonably available sources,
9 methods and means including, but not limited to, the National Change of Address database, skip
10 traces, and direct contact by the Administrator with Class Members.

11 1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION
12 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to
13 Class Members in English with a Spanish translation in the form, without material variation,
14 attached as Exhibit A and incorporated by reference into this Agreement.

15 1.12. "Class Period" means the period from August 23, 2017 to the date of the order
16 preliminarily approving the Settlement.

17 1.13. "Class Representative" means the named Plaintiff in the operative complaint in the
18 Action seeking Court approval to serve as the Class Representative.

19 1.14. "Class Representative Service Payment" means the payments to the Class
20 Representative for initiating the Action and providing services in support of the Action.

21 1.15. "Court" means the Superior Court of California, County of Sacramento.

22 1.16. "Defendants" means named Defendants Guitron Alcazar Alcazar Inc. dba El
23 Tapatio Mexican Cuisine, Guitron Alcazar III Inc., and Guitron Alcazar IV, LLC.

24 1.17. "Defense Counsel" means Laura C. McHugh of Dugan McHugh Law Corporation.

25 1.18. "Effective Date" means the date by when both of the following have occurred: (a)
26 the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the
27 Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no
28 Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if
one or more Participating Class Members objects to the Settlement, the day after the deadline for
filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the
seventh calendar day after any appellate proceeding opposing the settlement has been finally

1 dismissed with no material changes to the terms of this settlement and there is no right to pursue
2 further remedies.

3 1.19. "Final Approval" means the Court's order granting final approval of the
4 Settlement.

5 1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final
6 Approval of the Settlement.

7 1.21. "Final Judgment" means the Judgment Entered by the Court upon Granting Final
8 Approval of the Settlement.

9 1.22. "Gross Settlement Amount" means \$685,000.00 which is the total amount
10 Defendants agree to pay under the Settlement except as provided in Paragraph 9 below. The Gross
11 Settlement Amount will be used to pay Individual Class Payments, Individual PAGA payments,
12 the LWDA PAGA payment, Class Counsel Fees, Class Counsel Expenses, Class Representative
13 Service Payment and the Administrator's Expenses. Defendants will pay the Gross Settlement
14 Amount in two (2) equal \$342,500.00 installment payments, outlined further below.

15 1.23. "Individual Class Payment" means the Participating Class Member's pro rata
16 share of the Net Settlement Amount calculated according to the number of Work Weeks worked
17 during the Class Period.

18 1.24. "Individual PAGA payment" means the Aggrieved Employee's pro rata share of
19 25% of the PAGA Penalties calculated according to the number of Pay Periods worked during the
20 PAGA Period.

21 1.25. "Judgment" means the judgment entered by the Court based upon the Final
22 Approval.

23 1.26. "LWDA" means the California Labor and Workforce Development Agency, the
24 agency entitled, under Labor Code section 2699, subd. (i).

25 1.27. "LWDA PAGA payment" means the 75% of the PAGA Penalties paid to the
26 LWDA under Labor Code section 2699, subd. (i).

27 1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following
28 payments in the amounts approved by the Court: Individual PAGA payments, the LWDA PAGA
payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be
paid to Participating Class Members as Individual Class Payments.

1 1.29. “Non-Participating Class Member” means any Class Member who opts out of the
2 Settlement by sending the Administrator a valid and timely Request for Exclusion.

3 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee
4 worked for Defendants for at least one day during the PAGA Period.

5 1.31. “PAGA Period” means the period from August 26, 2020 to the date of the order
6 preliminarily approving the Settlement.

7 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

8 1.33. “PAGA Notice” means Plaintiff’s August 26, 2021 letter to Defendants and the
9 LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

10 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from
11 the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$1,000.00) and the
12 75% to LWDA (\$3,000.00) in settlement of PAGA claims.

13 1.35. “Participating Class Member” means a Class Member who does not submit a valid
14 and timely Request for Exclusion from the Settlement.

15 1.36. “Plaintiff” means Maria Elena Diaz Hernandez, the named Plaintiff in the Action.

16 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval
17 of the Settlement.

18 1.38. “Preliminary Approval Order” means the proposed Order Granting Preliminary
19 Approval and Approval of PAGA Settlement.

20 1.39. “Released Class Claims” means the claims being released as described in
21 Paragraph 6.2 below.

22 1.40. “Released PAGA Claims” means the claims being released as described in
23 Paragraph 6.2 below.

24 1.41. “Released Parties” means: Defendants and each of their former and present
25 directors, officers, shareholders, owners, agents, employees, members, attorneys, insurers,
26 predecessors, successors, assigns subsidiaries, and affiliates.

27 1.42. “Request for Exclusion” means a Class Member’s submission of a written request
28 to be excluded from the Class Settlement signed by the Class Member.

1.43. “Response Deadline” means 60 days after the Administrator mails Notice to Class
Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a)
fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or

1 her Objection to the Settlement. Class Members to whom Notice Packets are resent after having
2 been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond
3 the Response Deadline has expired.

4 1.44. “Settlement” means the disposition of the Action effected by this Agreement and
5 the Judgment.

6 1.45. “Workweek” means any week during which a Class Member worked for
7 Defendants for at least one day, during the Class Period.

8 **2. RECITALS.**

9 2.1. On August 23, 2021, Plaintiff commenced this Action by filing a Complaint
10 alleging causes of action for failure to provide meal periods, failure to authorize and permit rest
11 periods, failure to issue proper wage statements, failure to timely pay wages, failure to maintain
12 required payroll records, and related claims. On December 10, 2021, Plaintiff filed a First
13 Amended Complaint alleging causes of action for failure to provide meal periods, failure to
14 authorize and permit rest periods, failure to issue proper wage statements, failure to timely pay
15 wages, failure to maintain required payroll records, and related allegations. The First Amended
16 Complaint is the operative complaint in the Action (the “Operative Complaint.”). On July 26,
17 2022, Plaintiff added Defendants in place of Doe Defendants 1 and 2, respectively. Defendants
18 deny the allegations in the Operative Complaint, deny any failure to comply with the laws
19 identified in the Operative Complaint and deny any and all liability for the causes of action
20 alleged.

21 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written
22 notice to Defendants and the LWDA by sending the PAGA Notice.

23 2.3. On May 25, 2022, the Parties participated in an all-day mediation presided over
24 by Mr. David L. Perrault Esq. which led to this Agreement to settle the Action (describe
25 alternative means of negotiation.

26 2.4. Prior to negotiating the Settlement, Plaintiff obtained, through informal
27 discovery, the number of comparable employees, the number of workweeks, the number of pay
28 periods, average rates of pay, sample time records, sample payroll records, written policies,
financial records, and related information. Plaintiff’s investigation was sufficient to satisfy the
criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794,

1 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130
2 (“*Dunk/Kullar*”).

3 2.5. The Court has not granted class certification.

4 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware
5 of any other pending matter or action asserting claims that will be extinguished or affected by the
6 Settlement.

7 **3. MONETARY TERMS.**

8 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below,
9 Defendants promise to pay \$685,000.00 and no more as the Gross Settlement Amount and to
10 separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual
11 Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any
12 payroll taxes) prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator
13 will disburse the entire Gross Settlement Amount without asking or requiring Participating Class
14 Members or Aggrieved Employees to submit any claim as a condition of payment. None of the
15 Gross Settlement Amount will revert to Defendant.

16 3.2. Payments from the Gross Settlement Amount. The Administrator will make and
17 deduct the following payments from the Gross Settlement Amount, in the amounts specified by
18 the Court in the Final Approval:

19 3.2.1. To Plaintiff: Class Representative Service Payment to the Class
20 Representative of not more than \$15,000.00 (in addition to any Individual Class Payment and any
21 Individual PAGA payment the Class Representative is entitled to receive as a Participating Class
22 Member). Defendants will not oppose Plaintiff’s request for a Class Representative Service
23 Payment that does not exceed these amounts. As part of the motion for Class Counsel Fees
24 Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any and
25 a Class Representative Service Payment no later than 16 court days prior to the Final Approval
26 Hearing. If the Court approves a Class Representative Service Payment less than the amount
27 requested, the Administrator will retain the remainder in the Net Settlement Amount. The
28 Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff
assumes full responsibility and liability for employee taxes owed on the Class Representative
Service Payment.

1 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than
2 33.33%, which is currently estimated to be \$228,333.30 and a Class Counsel Litigation Expenses
3 Payment of not more than \$20,000.00. Defendants will not oppose requests for these payments
4 provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for
5 Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days
6 prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or
7 a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator
8 will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability
9 to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class
10 Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator
11 will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more
12 IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the
13 Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds
14 Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any
15 division or sharing of any of these Payments.

16 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
17 \$25,000.00 except for a showing of good cause and as approved by the Court. To the extent the
18 Administration Expenses are less or the Court approves payment less than \$25,000.00, the
19 Administrator will retain the remainder in the Net Settlement Amount.

20 3.2.4. To Each Participating Class Member: An Individual Class Payment
21 calculated by (a) dividing the Net Settlement Amount by the total number of Work Weeks worked
22 by all Participating Class Members during the Class Period and (b) multiplying the result by each
23 Participating Class Member's Work Weeks.

24 3.2.4.1. Tax Allocation of Individual Class Payments. 20.00% of
25 each Participating Class Member's Individual Class Payment will be allocated to settlement of
26 wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be
27 reported on an IRS W-2 Form. The 80.00% of each Participating Class Member's Individual
28 Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage
Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on
IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any
employee taxes owed on their Individual Class Payment.

1 3.2.4.2. Effect of Non-Participating Class Members on Calculation
2 of Individual Class Payments. Non-Participating Class Members will not receive any Individual
3 Class Payments. The Administrator will retain amounts equal to their Individual Class Payments
4 in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

5 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the
6 amount of \$4,000.00 to be paid from the Gross Settlement Amount, with 75% (\$3,000.00)
7 allocated to the LWDA PAGA payment and 25% (\$1,000.00) allocated to the Individual PAGA
8 payments.

9 3.2.5.1. The Administrator will calculate each Individual PAGA payment
10 by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$1,000.00
11 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the
12 PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay
13 Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their
14 Individual PAGA payment.

15 3.2.5.2. If the Court approves PAGA Penalties of less than the amount
16 requested, the Administrator will allocate the remainder to the Net Settlement Amount. The
17 Administrator will report the Individual PAGA payments on IRS 1099 Forms.

18 **4. SETTLEMENT FUNDING AND PAYMENTS.**

19 4.1. Class Work Weeks and Aggrieved Employee Pay Periods. Based on a review of
20 its records to date, Defendants estimate there are 611 Class Members who collectively worked a
21 total of 23,061 Work Weeks, and 305 Aggrieved Employees who worked a total of 8,474 PAGA
22 Pay Periods.

23 4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval
24 of the Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in
25 the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the
26 Administrator must maintain the Class Data in confidence, use the Class Data only for purposes
27 of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator
28 employees who need access to the Class Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify Class Counsel if they discover that the Class Data omitted class member identifying information and to provide corrected or updated

1 Class Data as soon as reasonably feasible. Without any extension of the deadline by which
2 Defendants must send the Class Data to the Administrator, the Parties and their counsel will
3 expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related
4 to missing or omitted Class Data.

5 4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross
6 Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll
7 taxes by transmitting the funds to the Administrator as follows:

8 4.3.1. Within thirty (30) calendar days of the Effective Date, Defendants shall
9 pay the first of two (2) equal \$342,500.00 installment payments on the Gross Settlement Amount
10 into the Settlement Account and shall pay the remaining \$342,500.00 installment payment within
11 180 days of the first installment payment.

12 4.4. Distributions from the Installment Payments toward the Gross Settlement
13 Amount. There will be multiple distributions of the Gross Settlement Amount as follows:

14 4.4.1. **First Distribution.** Within fourteen (14) calendar days of the Effective
15 Date, or within ten (10) calendar days of the deadline for the First payment (whichever is later),
16 the Settlement Administrator shall distribute, *pro rata*, the portion of the Gross Settlement
17 Amount Defendants paid by that date, including *pro rata* portions of the Individual Class
18 Payments, Individual PAGA Payments, LWDA PAGA payment, Class Representative Service
19 Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and
20 the Administrator's expenses.

21 4.4.2. **Second Distribution.** Within ten (10) calendar days of the Second
22 Installment Payment, the Settlement Administrator shall distribute, *pro rata*, the portion of the
23 Gross Settlement Amount Defendants paid since the first distribution, including *pro rata* portions
24 of the Individual Class Payments, Individual PAGA Payments, LWDA PAGA payment, Class
25 Representative Service Payment, the Class Counsel Fees Payment, the Class Counsel Litigation
26 Expenses Payment, and the Administrator's expenses.

27 Disbursements of the *pro rata* portions of the Class Counsel Fees Payment, the
28 Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall
not precede disbursement of *pro rata* portions of the Individual Class Payments and Individual
PAGA payments.

4.4.3. The Administrator will issue checks for the Individual Class Payments

1 and/or Individual PAGA payments and send them to the Class Members via First Class U.S. Mail,
2 postage prepaid. The face of each check shall prominently state the date (not less than 180 days
3 after the date of mailing) when the check will be voided. The Administrator will cancel all checks
4 not cashed by the void date. The Administrator will send checks for Individual Settlement
5 Payments to all Participating Class Members (including those for whom Class Notice was
6 returned undelivered). The Administrator will send checks for Individual PAGA payments to all
7 Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved
8 Employees (including those for whom Class Notice was returned undelivered). The
9 Administrator may send Participating Class Members a single check combining the Individual
10 Class Payment and the Individual PAGA payment. Before mailing any checks, the Administrator
11 must update the recipients' mailing addresses using the National Change of Address Database.

11 4.4.4. The Administrator must conduct a Class Member Address Search for all
12 other Class Members whose checks are returned undelivered without USPS forwarding address.
13 Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS
14 forwarding address provided or to an address ascertained through the Class Member Address
15 Search. The Administrator need not take further steps to deliver checks to Class Members whose
16 re-mailed checks are returned as undelivered. The Administrator shall promptly send a
17 replacement check to any Class Member whose original check was lost or misplaced, requested
18 by the Class Member prior to the void date.

18 4.4.5. For any Class Member whose Individual Class Payment check or
19 Individual PAGA payment check is uncashed and cancelled after the void date, the Administrator
20 shall transmit the funds represented by such checks to the California Controller's Unclaimed
21 Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to
22 the requirements of California Code of Civil Procedure Section 384, subd. (b).

23 4.4.6. The payment of Individual Class Payments and Individual PAGA
24 payments shall not obligate Defendants to confer any additional benefits or make any additional
25 payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in
26 this Agreement.

26 **5. [OMITTED]**

27 **6. RELEASES OF CLAIMS.** Effective on the date when Defendants fully fund the entire
28 Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the

1 Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims
2 against all Released Parties as follows:

3 6.1 Plaintiff's Releases. Plaintiff and her respective former and present spouses,
4 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
5 and discharge Released Parties from all claims, transactions, or occurrences that occurred during
6 the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have
7 been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims
8 that were, or reasonably could have been, alleged based on facts contained in the Operative
9 Complaint, Plaintiff's PAGA Notice, or ascertained during the Action and released under 6.2,
10 below ("Plaintiff's Releases.") Plaintiff's Releases do not extend to any claims or actions to
11 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability
12 benefits, social security benefits, workers' compensation benefits that arose at any time, or based
13 on occurrences outside the Class Period. Plaintiff acknowledges that she may discover facts or
14 law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be
15 true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects,
16 notwithstanding such different or additional facts or her discovery of them.

17 6.1.1 Plaintiff's Waivers of Rights Under California Civil Code Section 1542.
18 For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions,
19 rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

24 6.2 Release by Participating Class Members Who Are Not Aggrieved Employees:
25 All Participating Class Members, on behalf of themselves and their respective former and present
26 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released
27 Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the
28 Class Period facts stated in the Operative Complaint and ascertained in the course of the Action
including, failure to provide meal periods, failure to authorize and permit rest periods, failure to

1 issue proper wage statements, failure to timely pay wages, failure to maintain required payroll
2 records, and related allegations. Except as set forth in Section 6.3 of this Agreement, Participating
3 Class Members do not release any other claims, including claims for vested benefits, wrongful
4 termination, violation of the Fair Employment and Housing Act, unemployment insurance,
5 disability, social security, workers' compensation, or claims based on facts occurring outside the
6 Class Period.

6 6.3 Release by Non-Participating Class Members Who Are Aggrieved Employees:

7 All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on
8 behalf of themselves and their respective former and present representatives, agents, attorneys,
9 heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA
10 penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period
11 facts stated in the Operative Complaint and the PAGA Notice and ascertained in the course of the
12 Action including, failure to provide meal periods, failure to authorize and permit rest periods,
13 failure to issue proper wage statements, failure to timely pay wages, failure to maintain required
14 payroll records, and related claims.

15 **7. MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and
16 file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with
17 the Court's current checklist for Preliminary Approvals.

18 7.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel
19 all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice,
20 and memorandum in support, of the Motion for Preliminary Approval that includes an analysis
21 of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under
22 Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval
23 and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration
24 from the Administrator attaching its "not to exceed" bid for administering the Settlement and
25 attesting to its willingness to serve; competency; operative procedures for protecting the security
26 of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other
27 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
28 and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense
Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve

1 and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members,
2 and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its
3 competency to represent the Class Members; its timely transmission to the LWDA of all necessary
4 PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative
5 Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699,
6 subd. (1)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to
7 the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or
8 potential conflict of interest with Class Members, and/or the Administrator. In their Declarations,
9 Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending
10 matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

11 7.2 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly
12 responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later
13 than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the
14 Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion
15 for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary
16 Approval to the Administrator.

17 7.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion
18 for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
19 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person
20 or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant
21 Preliminary Approval or conditions Preliminary Approval on any material change to this
22 Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of
23 the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and
24 otherwise satisfy the Court's concerns.

25 **8. SETTLEMENT ADMINISTRATION.**

26 8.1 Selection of Administrator. The Parties have jointly selected CPT Group, Inc. to
27 serve as the Administrator and verified that, as a condition of appointment, CPT Group, Inc.
28 agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel
represent that they have no interest or relationship, financial or otherwise, with the Administrator

1 other than a professional relationship arising out of prior experiences administering settlements.

2 8.2 Employer Identification Number. The Administrator shall have and use its own
3 Employer Identification Number for purposes of calculating payroll tax withholdings and
4 providing reports state and federal tax authorities.

5 8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund
6 that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury
7 Regulation section 468B-1.

8 8.4 Notice to Class Members.

9 8.4.1 No later than three (3) business days after receipt of the Class Data, the
10 Administrator shall notify Class Counsel that the list has been received and state the number of
11 Class Members, PAGA Members, Work Weeks, and Pay Periods in the Class Data.

12 8.4.2 Using best efforts to perform as soon as possible, and in no event later than
13 14 days after receiving the Class Data, the Administrator will send to all Class Members identified
14 in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice
15 with Spanish translation substantially in the form attached to this Agreement as **Exhibit A**. The
16 first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class
17 Payment and/or Individual PAGA payment payable to the Class Member, and the number of Work
18 Weeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class
19 Notices, the Administrator shall update Class Member addresses using the National Change of
20 Address database.

21 8.4.3 Not later than 3 business days after the Administrator’s receipt of any Class
22 Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
23 using any forwarding address provided by the USPS. If the USPS does not provide a forwarding
24 address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class
25 Notice to the most current address obtained. The Administrator has no obligation to make further
26 attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the
27 USPS a second time.

28 8.4.4 The deadlines for Class Members’ written objections, Challenges to Work
Weeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days
beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is
re-mailed. The Administrator will inform the Class Member of the extended deadline with the

1 re-mailed Class Notice.

2 8.4.5 If the Administrator, any of the Defendants or Class Counsel is contacted
3 by or otherwise discovers any persons who believe they should have been included in the Class
4 Data and should have received Class Notice, the Parties will expeditiously meet and confer in
5 person or by telephone, and in good faith, in an effort to agree on whether to include them as Class
6 Members. If the Parties agree, such persons will be Class Members entitled to the same rights as
7 other Class Members, and the Administrator will send, via email or overnight delivery, a Class
8 Notice requiring them to exercise options under this Agreement not later than 14 days after receipt
9 of Class Notice, or the deadline dates in the Class Notice, which ever are later.

9 8.5 Requests for Exclusion (Opt-Outs).

10 8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class
11 Settlement must send the Administrator, by fax, email, or mail, a signed written Request for
12 Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional
13 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter
14 from a Class Member or her representative that reasonably communicates the Class Member's
15 election to be excluded from the Settlement and includes the Class Member's name, address and
16 email address or telephone number. To be valid, a Request for Exclusion must be timely faxed,
17 emailed, or postmarked by the Response Deadline.

18 8.5.2 The Administrator may not reject a Request for Exclusion as invalid
19 because it fails to contain all the information specified in the Class Notice. The Administrator
20 shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the
21 identity of the person as a Class Member and the Class Member's desire to be excluded. The
22 Administrator's determination shall be final and not appealable or otherwise susceptible to
23 challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion,
24 the Administrator may demand additional proof of the Class Member's identity. The
25 Administrator's determination of authenticity shall be final and not appealable or otherwise
26 susceptible to challenge.

27 8.5.3 Every Class Member who does not submit a timely and valid Request for
28 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all
benefits and bound by all terms and conditions of the Settlement, including the Participating Class
Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless of whether the

1 Participating Class Member actually receives the Class Notice or objects to the Settlement.

2 8.5.4 Every Class Member who submits a valid and timely Request for
3 Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment
4 or have the right to object to the class action components of the Settlement. Because future PAGA
5 claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class
6 Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph
6.4 of this Agreement and are eligible for an Individual PAGA payment.

7 8.6 Challenges to Calculation of Work Weeks. Each Class Member shall have 60
8 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members
9 whose Class Notice is re-mailed) to challenge the number of Class Work Weeks and PAGA Pay
10 Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may
11 challenge the allocation by communicating with the Administrator via fax, email or mail. The
12 Administrator must encourage the challenging Class Member to submit supporting
13 documentation. In the absence of any contrary documentation, the Administrator is entitled to
14 presume that the Work Weeks contained in the Class Notice are correct so long as they are
15 consistent with the Class Data. The Administrator's determination of each Class Member's
16 allocation of Work Weeks and/or Pay Periods shall be final and not appealable or otherwise
17 susceptible to challenge. The Administrator shall promptly provide copies of all challenges to
18 calculation of Work Weeks and/or Pay Periods to Defense Counsel and Class Counsel and the
Administrator's determination the challenges.

19 8.7 Objections to Settlement.

20 8.7.1 Only Participating Class Members may object to the class action
21 components of the Settlement and/or this Agreement, including contesting the fairness of the
22 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel
23 Litigation Expenses Payment and/or Class Representative Service Payment.

24 8.7.2 Participating Class Members may send written objections to the
25 Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear
26 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
27 Hearing. A Participating Class Member who elects to send a written objection to the
28 Administrator must do so not later than 60 days after the Administrator's mailing of the Class
Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

1 8.7.3 Non-Participating Class Members have no right to object to any of the class
2 action components of the Settlement.

3 8.8 Administrator Duties. The Administrator has a duty to perform or observe all
4 tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

5 8.8.1 Website, Email Address and Toll-Free Number. The Administrator will
6 establish and maintain and use an internet website to post information of interest to Class
7 Members including the date, time and location for the Final Approval Hearing and copies of the
8 Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
9 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class
10 Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final
11 Approval and the Judgment. The Administrator will also maintain and monitor an email address
12 and a toll-free telephone number to receive Class Member calls, faxes and emails.

13 8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator
14 will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not
15 later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the
16 Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names
17 and other identifying information of Class Members who have timely submitted valid Requests
18 for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class
19 Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for
20 Exclusion from Settlement submitted (whether valid or invalid).

21 8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide
22 written reports to Class Counsel and Defense Counsel that, among other things, tally the number
23 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
24 Exclusion (whether valid or invalid) received, objections received, challenges to Work Weeks
25 and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments
26 and Individual PAGA payments (“Weekly Report”). The Weekly Reports must include provide
27 the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all
28 Requests for Exclusion and objections received.

8.8.4 Workweek and/or Pay Period Challenges. The Administrator has the
authority to address and make final decisions consistent with the terms of this Agreement on all
Class Member challenges over the calculation of Work Weeks and/or Pay Periods. The

1 Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

2 8.8.5 Administrator's Declaration. Not later than 14 days before the date by
3 which Plaintiff is required to file the Motion for Final Approval of the Settlement, the
4 Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable
5 for filing in Court attesting to its due diligence and compliance with all of its obligations under
6 this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices
7 returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the
8 total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
9 number of written objections and attach the Exclusion List. The Administrator will supplement
10 its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible
11 for filing the Administrator's declaration(s) in Court.

12 8.8.6 Final Report by Administrator. Within 10 days after the Administrator
13 disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel
14 and Defense Counsel with a final report detailing its disbursements by employee identification
15 number only of all payments made under this Agreement. At least 15 days before any deadline
16 set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense
17 Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all
18 payments required under this Agreement. Class Counsel is responsible for filing the
19 Administrator's declaration in Court.

20 **9. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE**. Based on its records,
21 Defendants estimate that, as of the date of this Settlement Agreement, (1) there are 611 Class
22 Members and 23,061 Total Work Weeks during the Class period and (2) there were 305
23 Aggrieved Employees who worked 8,474 Pay Periods during the PAGA Period. If the Work
24 Weeks and/or Class Members as of the date the Court approves the settlement exceeds the
25 referenced 23,061 Work Weeks and/or 611 Class Members by more than 10.00%, the Gross
26 Settlement Amount, including the Class Counsel Fees Payment, the Class Representative Service
27 Payment, and the LWDA payment, will increase proportionally according to the number of
28 additional Work Weeks or Class Members, whichever results in a higher increase in the Gross
Settlement Amount. In the alternative, in the event that this escalator provision is triggered, then
Defendants have the option to elect to end the Class Period so as to have an earlier end date at the

1 Defendants' discretion in order to limit the covered workweeks to 25,368 in lieu of paying an
2 increase to the Settlement Amount. The Settlement Administrator will calculate the workweeks
3 worked by the Class Members during the Class Period, the amount to be paid pro rata, and the
4 individual settlement payments to eligible Class Members. Defendants' data will be presumed to
5 be correct, unless a particular Class Member proves otherwise to the Settlement Administrator by
6 credible evidence. All disputes as to workweeks worked will be resolved and decided by the
7 Settlement Administrator and the Settlement Administrator's decision on all disputes as to
8 workweeks worked will be final and non-appealable.

9 **10. DEFENDANTS' RIGHT TO WITHDRAW.** If the number of valid Requests for
10 Exclusion identified in the Exclusion List exceeds 10.00% of the total of all Class Members,
11 Defendants may, but are not obligated to, elect to withdraw from the Settlement. The Parties
12 agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect
13 whatsoever, and that neither Party will have any further obligation to perform under this
14 Agreement; provided, however, Defendants will remain responsible for paying all Settlement
15 Administration Expenses incurred to that point. Defendants must notify Class Counsel and the
16 Court of its election to withdraw not later than 7 business days after the Administrator sends the
17 final Exclusion List to Defense Counsel; late elections will have no effect.

18 **11. NO PUBLICATION CLAUSE.** Plaintiff agrees to refrain from any publication or any
19 type of communication, oral or written, of a disparaging nature pertaining to Defendants or their
20 owners, officers, agents, directors, supervisors, employees, or representatives including without
21 limitation Amparo Estela Alcazar, Amador (Hector) Alcazar, and Ivan Alcazar. Plaintiff further
22 agrees and covenants that the same restrictions shall apply with respect to representatives of the
23 media and any of the Parties' social media accounts, including without limitation, Facebook,
24 Twitter, Instagram, Snapchat, LinkedIn, Glassdoor, or any other social media platform. However,
25 nothing in this Agreement shall prevent Plaintiff from discussing or disclosing information about
26 unlawful acts in the workplace, such as the Labor Code violations at issue in this lawsuit,
27 harassment or discrimination or any other conduct that she has reason to believe is unlawful.
28 Moreover, nothing in this agreement prohibits Plaintiff and/or Defendants from providing truthful
information as required by law in a legal proceeding or government investigation. Any such

1 required testimony or comments in such legal proceedings or government investigations shall not
2 be deemed a breach of confidentiality in violation of this paragraph.

3 **12. MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared
4 Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement
5 that includes a request for approval of the PAGA settlement under Labor Code section 2699,
6 subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for
7 Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not later
8 than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel
9 will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any
10 disagreements concerning the Motion for Final Approval.

11 12.1 Response to Objections. Each Party retains the right to respond to any objection
12 raised by a Participating Class Member, including the right to file responsive documents in Court
13 no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
14 by the Court.

15 12.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
16 Approval on any material change to the Settlement (including, but not limited to, the scope of
17 release to be granted by Class Members), the Parties will expeditiously work together in good
18 faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final
19 Approval. The Court’s decision to award less than the amounts requested for the Class
20 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
21 Expenses Payment and/or Administrator Expenses Payment shall not constitute a material
22 modification to the Agreement within the meaning of this paragraph.

23 12.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of
24 Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for
25 purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
26 administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

27 12.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms
28 and conditions of this Agreement, specifically including the Class Counsel Fees Payment and
Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
respective counsel, and all Participating Class Members who did not object to the Settlement as

1 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
2 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions
3 for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver
4 of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
5 Parties' obligations to perform under this Agreement will be suspended until such time as the
6 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect
7 the amount of the Net Settlement Amount.

8 12.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If
9 the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a
10 material modification of this Agreement (including, but not limited to, the scope of release to be
11 granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
12 expeditiously work together in good faith to address the appellate court's concerns and to obtain
13 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
14 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
15 the Court's award of the Class Representative Service Payment or any payments to Class Counsel
16 shall not constitute a material modification of the Judgment within the meaning of this paragraph,
17 as long as the Gross Settlement Amount remains unchanged.

18 **13. AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil
19 Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed
20 amended judgment.

21 **14. ADDITIONAL PROVISIONS.**

22 14.1 No Admission of Liability, Class Certification or Representative Manageability
23 for Other Purposes. This Agreement represents a compromise and settlement of highly disputed
24 claims. Nothing in this Agreement is intended or should be construed as an admission by
25 Defendants that any of the allegations in the Operative Complaint have merit or that Defendants
26 have any liability for any claims asserted; nor should it be intended or construed as an admission
27 by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class
28 certification and representative treatment is for purposes of this Settlement only. If, for any reason
the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants

1 reserve the right to contest certification of any class for any reasons, and Defendants reserve all
2 available defenses to the claims in the Action, and Plaintiff reserves the right to move for class
3 certification on any grounds available and to contest Defendants' defenses. The Settlement, this
4 Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be
5 admissible in connection with, any litigation (except for proceedings to enforce or effectuate the
6 Settlement and this Agreement).

6 14.2 Certification for Settlement Purposes: Plaintiff and Defendants agree that, for
7 purposes of settlement only, certification of the class as defined herein is appropriate and meets
8 the standards set forth in Federal Rule of Civil Procedure 23 and/or California Code of Civil
9 Procedure section 382.

10 14.3 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel,
11 Defendants and Defense Counsel separately agree that, until the Motion for Preliminary Approval
12 of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or
13 cause or permit another person to disclose, disseminate or publicize, any of the terms of the
14 Agreement directly or indirectly, specifically or generally, to any person, corporation, association,
15 government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses,
16 all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter;
17 (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a
18 court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
19 government agency.

20 Each Party agrees to immediately notify each other Party of any judicial or agency
21 order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants and
22 Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other
23 communication, before the filing of the Motion for Preliminary Approval, any with third party
24 regarding this Agreement or the matters giving rise to this Agreement except to respond only that
25 "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's
26 communications with Class Members in accordance with Class Counsel's ethical obligations
27 owed to Class Members.

26 14.4 No Solicitation. The Parties separately agree that they and their respective
27 counsel and employees will not solicit any Class Member to opt out of or object to the Settlement,
28 or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class

1 Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical
2 obligations owed to Class Members.

3 14.5 Integrated Agreement. Upon execution by all Parties and their counsel, this
4 Agreement together with its attached exhibits shall constitute the entire agreement between the
5 Parties relating to the Settlement, superseding any and all oral representations, warranties,
6 covenants, or inducements made to or by any Party.

7 14.6 Attorney Authorization. Class Counsel and Defense Counsel separately warrant
8 and represent that they are authorized by Plaintiff and Defendants, respectively, to take all
9 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
10 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
11 terms of this Agreement including any amendments to this Agreement.

12 14.7 Cooperation. The Parties and their counsel will cooperate with each other and
13 use their best efforts, in good faith, to implement the Settlement by, among other things,
14 modifying the Settlement Agreement, submitting supplemental evidence and supplementing
15 points and authorities as requested by the Court. In the event the Parties are unable to agree upon
16 the form or content of any document necessary to implement the Settlement, or on any
17 modification of the Agreement that may become necessary to implement the Settlement, the
18 Parties will seek the assistance of a mediator and/or the Court for resolution.

19 14.8 Enforcement. The parties agree that the Sacramento County Superior Court shall
20 have jurisdiction to enforce the terms of this Agreement pursuant to California Civil Procedure
21 Code section 661.6. In the event that a motion to enforce this Agreement is required to be filed
22 due to a party's failure to comply with the terms herein, the prevailing party shall be awarded
23 reasonable attorney's fees and costs, which shall be in addition to any amounts to be paid under
24 this settlement.

25 14.9 No Prior Assignments. The Parties separately represent and warrant that they
26 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,
27 or encumber to any person or entity and portion of any liability, claim, demand, action, cause of
28 action, or right released and discharged by the Party in this Settlement.

14.10 No Tax Advice. Neither any Plaintiff, Class Counsel, Defendants nor Defense
Counsel are providing any advice regarding taxes or taxability, nor shall anything in this
Settlement be relied upon as such within the meaning of United States Treasury Department

1 Circular 230 (31 CFR Part 10, as amended) or otherwise.

2 14.11 Modification of Agreement. This Agreement, and all parts of it, may be
3 amended, modified, changed, or waived only by an express written instrument signed by all
4 Parties or their representatives, and approved by the Court.

5 14.12 Agreement Binding on Successors. This Agreement will be binding upon, and
6 inure to the benefit of, the successors of each of the Parties.

7 14.13 Applicable Law. All terms and conditions of this Agreement and its exhibits will
8 be governed by and interpreted according to the internal laws of the state of California, without
9 regard to conflict of law principles.

10 14.14 Cooperation in Drafting. The Parties have cooperated in the drafting and
11 preparation of this Agreement. This Agreement will not be construed against any Party on the
12 basis that the Party was the drafter or participated in the drafting.

13 14.15 Confidentiality. To the extent permitted by law, all agreements made, and orders
14 entered during Action and in this Agreement relating to the confidentiality of information shall
15 survive the execution of this Agreement.

16 14.16 Use and Return of Class Data. Information provided to Class Counsel pursuant
17 to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class
18 Counsel by Defendants in connection with the mediation, other settlement negotiations, or in
19 connection with the Settlement, may be used only with respect to this Settlement, and no other
20 purpose, and may not be used in any way that violates any existing contractual agreement, statute,
21 or rule of court. Not later than 90 days after the date when the Court discharges the
22 Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement
23 funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from
24 Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants
25 make a written request to Class Counsel for the return, rather than the destructions, of Class Data.

26 14.17 Headings. The descriptive heading of any section or paragraph of this Agreement
27 is inserted for convenience of reference only and does not constitute a part of this Agreement.

28 14.18 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement
shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
weekend or federal legal holiday, such date or deadline shall be on the first business day
thereafter.

1 14.19 Notice. All notices, demands or other communications between the Parties in
2 connection with this Agreement will be in writing and deemed to have been duly given as of the
3 third business day after mailing by United States mail, or the day sent by email or messenger,
4 addressed as follows:

5 To Plaintiff:
6 DAVID G. SPIVAK
7 david@spivaklaw.com
8 THE SPIVAK LAW FIRM
9 8605 Santa Monica Bl
10 PMB 42554
11 West Hollywood, CA 90069
12 Telephone: (213) 725-9094
13 Facsimile: (213) 634-2485

14 WALTER L. HAINES
15 walter@uelglaw.com
16 UNITED EMPLOYEES LAW GROUP, PC
17 8605 Santa Monica Blvd., PMB 63354
18 West Hollywood, CA 90069
19 Telephone: (562) 256-1047
20 Facsimile: (562) 256-1006

21 To Defendants:
22 Laura C. McHugh, Esq.
23 Dugan McHugh Law Corporation
24 641 Fulton Ave
25 Ste 100
26 Sacramento, CA 95825
27 laura@duganmchugh.com

28 14.20 Execution in Counterparts. This Agreement may be executed in one or more
counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this
Agreement shall be accepted as an original. All executed counterparts and each of them will be
deemed to be one and the same instrument if counsel for the Parties will exchange between
themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove
the existence and contents of this Agreement.

14.21 Stay of Litigation. The Parties agree that upon the execution of this Agreement
the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the

1 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
2 process.

3
4 Dated: 08 / 29 / 2023

By: 

MARIA ELENA DIAZ HERNANDEZ

6
7 Dated: _____

By: _____

Amador Alcazar
President
Guitron Alcazar Alcazar Inc. dba El
Tapatio Mexican Cuisine, Guitron
Alcazar III Inc., and Guitron Alcazar
IV, LLC

12
13 THE SPIVAK LAW FIRM

14 Dated: 08 / 29 / 2023

By: 

DAVID G. SPIVAK, Attorneys for
Plaintiff, MARIA ELENA DIAZ
HERNANDEZ, and all others similarly
situated

18
19 UNITED EMPLOYEES LAW GROUP

20 Dated: August 29, 2023

By: 

WALTER L. HAINES, Attorneys for
Plaintiff, MARIA ELENA DIAZ
HERNANDEZ, and all others similarly
situated

24
25 DUGAN MCHUGH LAW CORPORATION

26
27 Dated: _____

By: _____

LAURA C. MCHUGH, Attorneys for
Defendants, Guitron Alcazar Alcazar

1 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
2 process.

3
4 Dated: _____

By: _____
5 MARIA ELENA DIAZ HERNANDEZ

6
7 Dated: 08 / 08 / 2023

By: Amador Alcazar
8 Amador Alcazar
9 President
10 Guitron Alcazar Alcazar Inc. dba El
11 Tapatio Mexican Cuisine, Guitron
12 Alcazar III Inc., and Guitron Alcazar
13 IV, LLC

14 THE SPIVAK LAW FIRM

15 Dated: _____

By: _____
16 DAVID G. SPIVAK, Attorneys for
17 Plaintiff, MARIA ELENA DIAZ
18 HERNANDEZ, and all others similarly
19 situated

20 UNITED EMPLOYEES LAW GROUP

21 Dated: _____

By: _____
22 WALTER L. HAINES, Attorneys for
23 Plaintiff, MARIA ELENA DIAZ
24 HERNANDEZ, and all others similarly
25 situated

26 DUGAN MCHUGH LAW CORPORATION

27 Dated: 08/07/2023

By: Laura
28 LAURA C. MCHUGH, Attorneys for
Defendants, Guitron Alcazar Alcazar

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Inc. dba El Tapatio Mexican Cuisine,
Guitron Alcazar III Inc., and Guitron
Alcazar IV, LLC

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EXHIBIT A

1 **COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING**
2 **DATE FOR FINAL COURT APPROVAL**

3 (case name: Maria Elena Diaz Hernandez, et al. v. Guitron Alcazar Alcazar Inc. dba El Tapatio
4 Mexican Cuisine, et al. and number 34-2021-00306648)

5 ***The Superior Court for the State of California authorized this Notice. Read it carefully!***
6 ***It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

7 **You may be eligible to receive money** from an employee class action lawsuit (“Action”) against Guitron Alcazar Alcazar Inc. dba El Tapatio Mexican Cuisine, Guitron Alcazar III Inc., and Guitron Alcazar IV, LLC (collectively “Defendants”) for alleged wage and hour violations. The Action was filed by one of Defendants’ employees, Maria Elena Diaz Hernandez (“Plaintiff”) and seek payment of (1) wages and other relief for a class of non-exempt, hourly employees (“Class Members”) who worked for Defendants during the Class Period (August 23, 2017 to the date of the order preliminarily approving the Settlement); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all non-exempt, hourly employees who worked for Defendants during the PAGA Period (August 26, 2020 to the date of the order preliminarily approving the Settlement) (“Aggrieved Employees”).

12 The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

15 Based on Defendants’ records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA payment is estimated to be \$ [REDACTED]**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA payment, then according to Defendants’ records you are not eligible for an Individual PAGA payment under the Settlement because you didn’t work during the PAGA Period.)

19 The above estimates are based on Defendants’ records showing that **you worked [REDACTED] Work Weeks** during the Class Period and **you worked [REDACTED] Pay Periods** during the PAGA Period. If you believe that you worked more Work Weeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

22 The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and her attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendants to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.



1 If you worked for Defendants during the Class Period and/or the PAGA Period, you have
2 two basic options under the Settlement:

3 (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement
4 and be eligible for an Individual Class Payment and/or an Individual PAGA payment. As a
5 Participating Class Member, though, you will give up your right to assert Class Period wage
6 claims and PAGA Period penalty claims against Defendants.

7 (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class
8 Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the
9 Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual
10 Class Payment. You will, however, preserve your right to personally pursue Class Period wage
11 claims against Defendants, and, if you are an Aggrieved Employee, remain eligible for an
12 Individual PAGA payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

**Defendants will not retaliate against you for any actions you take with respect to the
proposed Settlement.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA payment (if any). In exchange, you will give up your right to assert the wage claims against Defendants that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is 	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay Individual PAGA payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by 	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.

<p>1 You Can Participate in 2 the [redacted] Final Approval 3 Hearing</p>	<p>The Court’s Final Approval Hearing is scheduled to take place on [redacted]. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.</p>
<p>5 You Can Challenge the 6 Calculation of Your 7 Work Week / Pay 8 Periods</p> <p>8 Written Challenges 9 Must be Submitted by 10 [redacted]</p>	<p>The amount of your Individual Class Payment and LWDA PAGA payment (if any) depend on how many Work Weeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Work Weeks and number of PAGA Period Pay Periods you worked according to Defendants’ records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [redacted]. See Section 4 of this Notice.</p>

11 **1. WHAT IS THE ACTION ABOUT?**

12 Plaintiff is a former employee of Defendants. The Action accuses Defendants of violating California labor laws by failure to provide meal periods, failure to authorize and permit rest periods, failure to issue proper wage statements, failure to timely pay wages, failure to maintain required payroll records, and related violations of the Labor Code. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action: David G. Spivak of The Spivak Law Firm, and Walter L. Haines of United Employees Law Group, PC (“Class Counsel.”)

17 Defendants strongly deny violating any laws or failing to pay any wages and contend they complied with all applicable laws.

19 **2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?**

20 So far, the Court has made no determination whether Defendants or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

26 Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and

1 (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court
2 preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this
Notice, and scheduled a hearing to determine Final Approval.

3 **3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?**

4 1. Defendants Will Pay \$685,000.00 as the Gross Settlement Amount (Gross
5 Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled
6 by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay
7 the Individual Class Payments, Individual PAGA payments, Class Representative Service
8 Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and
9 penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”).
10 Assuming the Court grants Final Approval, Defendants will begin to fund the Gross Settlement as
11 follows: Within thirty (30) calendar days of the Effective Date, Defendants shall pay the first of
two (2) equal \$342,500.00 installment payments on the Gross Settlement Amount into the
Settlement Account and shall pay the remaining \$342,500.00 installment payment within 180
days of the first installment payment. The Administrator will make a distribution after each
installment payment as follows:

12 **First Distribution.** Within fourteen (14) calendar days of the Effective Date, or within
13 ten (10) calendar days of the deadline for the First payment (whichever is later), the Settlement
14 Administrator shall distribute, *pro rata*, the portion of the Gross Settlement Amount Defendants
15 paid by that date, including *pro rata* portions of the Individual Class Payments, Individual PAGA
16 Payments, LWDA PAGA payment, Class Representative Service Payment, the Class Counsel
17 Fees Payment, the Class Counsel Litigation Expenses Payment, and the Administrator’s
18 expenses.

19 **Second Distribution.** Within ten (10) calendar days of the Second Installment Payment,
20 the Settlement Administrator shall distribute, *pro rata*, the portion of the Gross Settlement
21 Amount Defendants paid since the first distribution, including *pro rata* portions of the Individual
22 Class Payments, Individual PAGA Payments, LWDA PAGA payment, Class Representative
23 Service Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
24 Payment, and the Administrator’s expenses.

25 2. Disbursements of the pro rata portions of the Class Counsel Fees Payment, the
26 Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall
27 not precede disbursement of pro rata portions of the Individual Class Payments and Individual
28 PAGA payments.

3. The Judgment will be final on the date the Court enters Judgment, or a later date
if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

4. Court Approved Deductions from Gross Settlement. At the Final Approval
Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions
from the Gross Settlement, the amounts of which will be decided by the Court at the Final
Approval Hearing:

A. Up to \$228,333.30 (33.33% of the Gross Settlement to Class Counsel for

1 attorneys' fees and up to \$20,000.00 for their litigation expenses. To date, Class Counsel have
2 worked and incurred expenses on the Action without payment.

3 B. Up to \$15,000.00 as a Class Representative Award to Plaintiff for filing
4 the Action, working with Class Counsel and representing the Class. A Class Representative
5 Award will be the only monies Plaintiff will receive other than her Individual Class Payment and
6 any Individual PAGA payment.

7 C. Up to \$25,000.00 to the Administrator for services administering the
8 Settlement.

9 D. Up to \$4,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA
10 payment and 25% in Individual PAGA payments to the Aggrieved Employees based on their
11 PAGA Period Pay Periods.

12 Participating Class Members have the right to object to any of these deductions. The Court
13 will consider all objections.

14 If the Work Weeks and/or Class Members as of the date the Court approves the settlement
15 exceeds the referenced 23,061 Work Weeks and/or 611 Class Members by more than 10.00%,
16 the Gross Settlement Amount, including the Class Counsel Fees Payment, the Class
17 Representative Service Payment, and the LWDA payment, will increase proportionally according
18 to the number of additional Work Weeks or Class Members, whichever results in a higher increase
19 in the Gross Settlement Amount.

20 5. Net Settlement Distributed to Class Members. After making the above deductions
21 in amounts approved by the Court, the Administrator will distribute the rest of the Gross
22 Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class
23 Members based on their Class Period Work Weeks.

24 6. Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking
25 the Court to approve an allocation of 20.00% of each Individual Class Payment to taxable wages
26 ("Wage Portion") and 80.00% to interest and penalties ("Non-Wage Portion."). The Wage Portion
27 is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately
28 pay employer payroll taxes they owes on the Wage Portion. The Individual PAGA payments are
counted as penalties rather than wages for tax purposes. The Administrator will report the
Individual PAGA payments and the Non-Wage Portions of the Individual Class Payments on IRS
1099 Forms.

Although Plaintiff and Defendants have agreed to these allocations, neither side is giving
you any advice on whether your Payments are taxable or how much you might owe in taxes. You
are responsible for paying all taxes (including penalties and interest on back taxes) on any
Payments received from the proposed Settlement. You should consult a tax advisor if you have
any questions about the tax consequences of the proposed Settlement.

7. Need to Promptly Cash Payment Checks. The front of every check issued for

1 Individual Class Payments and Individual PAGA payments will show the date when the check
2 expires (the void date). If you don't cash it by the void date, your check will be automatically
cancelled, and the monies

3 will be deposited with the California Controller's Unclaimed Property Fund in your
4 name.

5 will irrevocably lost to you because they will be paid to a non-profit organization or
6 foundation ("Cy Pres").

7 If the monies represented by your check is sent to the Controller's Unclaimed Property,
8 you should consult the rules of the Fund for instructions on how to retrieve your money.

9 8. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated
10 as a Participating Class Member, participating fully in the Class Settlement, unless you notify the
11 Administrator in writing, not later than [REDACTED], that you wish to opt-out. The easiest way to notify
12 the Administrator is to send a written and signed Request for Exclusion by the [REDACTED] Response
13 Deadline. The Request for Exclusion should be a letter from a Class Member or her representative
14 setting forth a Class Member's name, present address, telephone number, and a simple statement
15 electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating
16 Class Members) will not receive Individual Class Payments, but will preserve their rights to
17 personally pursue wage and hour claims against Defendants.

18 You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude
19 themselves from the Class Settlement (Non-Participating Class Members) remain eligible for
20 Individual PAGA payments and are required to give up their right to assert PAGA claims against
21 Defendants based on the PAGA Period facts alleged in the Action.

22 9. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is
23 possible the Court will decline to grant Final Approval of the Settlement or decline enter a
24 Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff
25 and Defendants have agreed that, in either case, the Settlement will be void: Defendants will not
26 pay any money and Class Members will not release any claims against Defendants.

27 10. Administrator. The Court has appointed a neutral company, [REDACTED] CPT Group, Inc. (the
28 "Administrator") to send this Notice, calculate and make payments, and process Class Members'
Requests for Exclusion. The Administrator will also decide Class Member Challenges over Work
Weeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to
administer the Settlement. The Administrator's contact information is contained in Section 9 of
this Notice.

11. Participating Class Members' Release. After the Judgment is final and Defendants
have fully funded the Gross Settlement (and separately paid all employer payroll taxes),
Participating Class Members will be legally barred from asserting any of the claims released under
the Settlement. This means that unless you opted out by validly excluding yourself from the Class
Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or
related entities for wages based on the Class Period facts and PAGA penalties based on PAGA

1 Period facts, as alleged in the Action and resolved by this Settlement.

2 The Participating Class Members will be bound by the following release:

3 All Participating Class Members, on behalf of themselves and their respective former and
4 present representatives, agents, attorneys, heirs, administrators, successors, and assigns,
5 release Released Parties from (i) all claims that were alleged, or reasonably could have
6 been alleged, based on the Class Period facts stated in the Operative Complaint and
7 ascertained in the course of the Action including failure to provide meal periods, failure
8 to authorize and permit rest periods, failure to issue proper wage statements, failure to
9 timely pay wages, failure to maintain required payroll records, and related allegations.
10 Except as set forth in Section 6.3 of the Settlement Agreement, Participating Class
11 Members do not release any other claims, including claims for vested benefits, wrongful
12 termination, violation of the Fair Employment and Housing Act, unemployment
13 insurance, disability, social security, workers' compensation, or claims based on facts
14 occurring outside the Class Period.

15
16 12. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and
17 Defendants have paid the Gross Settlement (and separately paid the employer-side payroll taxes),
18 all Aggrieved Employees will be barred from asserting PAGA claims against Defendants, whether
19 or not they exclude themselves from the Settlement. This means that all Aggrieved Employees,
20 including those who are Participating Class Members and those who opt-out of the Class
21 Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against
22 Defendants or their related entities based on the PAGA Period facts alleged in the Action and
23 resolved by this Settlement.

24 The Aggrieved Employees' Releases for Participating and Non-Participating Class
25 Members are as follows:

26 All Participating and Non-Participating Class Members who are Aggrieved Employees
27 are deemed to release, on behalf of themselves and their respective former and present
28 representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released
Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been
alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice
and ascertained in the course of the Action including failure to provide meal periods, failure to
authorize and permit rest periods, failure to issue proper wage statements, failure to timely pay
wages, failure to maintain required payroll records, and related allegations.

29 **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

30 1. Individual Class Payments. The Administrator will calculate Individual Class
31 Payments by (a) dividing the Net Settlement Amount by the total number of Work Weeks worked
32 by all Participating Class Members, and (b) multiplying the result by the number of Work Weeks
33 worked by each individual Participating Class Member.

34 2. Individual PAGA payments. The Administrator will calculate Individual PAGA

1 payments by (a) dividing \$1,000.00 by the total number of PAGA Pay Periods worked by all
2 Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods
worked by each individual Aggrieved Employee.

3 3. Workweek/Pay Period Challenges. The number of Class Work Weeks you worked
4 during the Class Period and the number of PAGA Pay Periods you worked during the PAGA
5 Period, as recorded in Defendants' records, are stated in the first page of this Notice. You have
6 until [REDACTED] to challenge the number of Work Weeks and/or Pay Periods credited to you. You can
submit your challenge by signing and sending a letter to the Administrator via mail, email or fax.
Section 9 of this Notice has the Administrator's contact information.

7 You need to support your challenge by sending copies of pay stubs or other records. The
8 Administrator will accept Defendants' calculation of Work Weeks and/or Pay Periods based on
9 Defendants' records as accurate unless you send copies of records containing contrary
10 information. You should send copies rather than originals because the documents will not be
11 returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based
on your submission and on input from Class Counsel (who will advocate on behalf of
Participating Class Members) and Defendants' Counsel. The Administrator's decision is final.
You can't appeal or otherwise challenge its final decision.

12 5. HOW WILL I GET PAID?

13 Within thirty (30) calendar days of the Effective Date, Defendants shall pay the first of
14 two (2) equal \$342,500.00 installment payments on the Gross Settlement Amount into the
15 Settlement Account and shall pay the remaining \$342,500.00 installment payment within 180
16 days of the first installment payment.

17 1. Participating Class Members. After each instalment payment by Defendants
toward the Gross Settlement Amount, the Administrator will send, by U.S. mail, a single pro rata
18 check to every Participating Class Member (i.e., every Class Member who doesn't opt-out)
including those who also qualify as Aggrieved Employees. The single check will combine the
19 Individual Class Payment and the Individual PAGA payment.

20 2. Non-Participating Class Members. After each instalment payment by Defendants
toward the Gross Settlement Amount, the Administrator will send, by U.S. mail, a single pro rata
21 Individual PAGA payment check to every Aggrieved Employee who opts out of the Class
22 Settlement (i.e., every Non-Participating Class Member).

23 **Your checks will be sent to the same address as this Notice. If you change your
24 address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has
the Administrator's contact information.**

25 6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

26 Submit a written and signed letter with your name, present address, telephone number,
27 and a simple statement that you do not want to participate in the Settlement. The Administrator

1 will exclude you based on any writing communicating your request be excluded. Be sure to
2 personally sign your request, identify the Action as *Maria Elena Diaz Hernandez vs. Guitron*
3 *Alcazar Alcazar Inc. dba El Tapatio Mexican Cuisine*, Case No. 34-2021-00306648, and include
4 your identifying information (full name, address, telephone number, approximate dates of
5 employment, and social security number for verification purposes). You must make the request
6 yourself. If someone else makes the request for you, it will not be valid. **The Administrator**
7 **must be sent your request to be excluded by [redacted], or it will be invalid.** Section 9 of the Notice
8 has the Administrator’s contact information.

6 **7. HOW DO I OBJECT TO THE SETTLEMENT?**

7 Only Participating Class Members have the right to object to the Settlement. Before deciding
8 whether to object, you may wish to see what Plaintiff and Defendants are asking the Court to
9 approve. At least [redacted] days before the [redacted] Final Approval Hearing, Class Counsel and/or Plaintiff
10 will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons
11 why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service
12 Award stating (i) the amount Class Counsel is requesting for attorneys’ fees and litigation
13 expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award.
14 Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice)
15 will send you copies of these documents at no cost to you. You can also view them on the
16 Administrator’s Website ([url](#)) or the Court’s website ([url](#)).

14 A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for
15 Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to
16 object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class
17 Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the**
18 **Administrator is [redacted].** Be sure to tell the Administrator what you object to, why you object, and
19 any facts that support your objection. Make sure you identify the Action, *Maria Elena Diaz*
20 *Hernandez, et al. vs. Guitron Alcazar Alcazar Inc. dba El Tapatio Mexican Cuisine*, case no. 34-
21 2021-00306648, and include your name, current address, telephone number, and approximate
22 dates of employment for Defendants and sign the objection. Section 9 of this Notice has the
23 Administrator’s contact information.

20 Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at
21 your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready
22 to tell the Court what you object to, why you object, and any facts that support your objection.
23 See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval
24 Hearing.

23 **8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

24 You can, but don’t have to, attend the Final Approval Hearing on [redacted] at (time) in Department 28
25 of the Sacramento Superior Court, located at 720 Ninth Street, Sacramento, CA 95814. At the
26 Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much
27 of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court
28 will invite comment from objectors, Class Counsel and Defense Counsel before making a

1 decision. You can attend (or hire a lawyer to attend) either personally or virtually via [redacted]
2 ([https://www.\[redacted\]](https://www.[redacted])). Check the Court's website for the most current information.

3 It's possible the Court will reschedule the Final Approval Hearing. You should check the
4 Administrator's website [redacted] beforehand or contact Class Counsel to verify the date and time of
the Final Approval Hearing.

5 **9. HOW CAN I GET MORE INFORMATION?**

6 The Agreement sets forth everything Defendants and Plaintiff has promised to do under the
7 proposed Settlement. The easiest way to read the Agreement, the Judgment or any other
8 Settlement documents is to go to (specify entity)'s website at (url). You can also telephone or send
9 an email to Class Counsel or the Administrator using the contact information listed below, or
10 consult the Superior Court website by going to ([http://www.\[redacted\].aspx](http://www.[redacted].aspx)) and entering the Case
Number for the Action, Case No. 34-2021-00306648. You can also make an appointment to
11 personally review court documents in the Clerk's Office at the 720 Ninth Street by calling [redacted].

11 **DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION
12 ABOUT THE SETTLEMENT.**

12 Class Counsel:

13 DAVID G. SPIVAK
14 david@spivaklaw.com
15 THE SPIVAK LAW FIRM
16 8605 Santa Monica Bl
17 PMB 42554
18 West Hollywood, CA 90069
Telephone: (213) 725-9094
Facsimile: (213) 634-2485

19 WALTER L. HAINES
20 walter@uelglaw.com
21 UNITED EMPLOYEES LAW GROUP, PC
22 8605 Santa Monica Blvd., PMB 63354
23 West Hollywood, CA 90069
Telephone: (562) 256-1047
Facsimile: (562) 256-1006

23 Administrator:

24 Name of Company: CPT Group, Inc.
25 Email Address: _____
26 Mailing Address: _____
27 Telephone: _____
28 Fax Number: _____

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10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

1 DAVID G. SPIVAK (SBN 179684)

david@spivaklaw.com

2 MAYA CHEITANI (SBN 335777)

maya@spivaklaw.com

3 THE SPIVAK LAW FIRM

4 8605 Santa Monica Bl

PMB 42554

5 West Hollywood, CA 90069

Teléfono: (213) 725-9094

6 Facsímil: (213) 634-2485

7 Abogados de los Demandantes,

8 MARIA ELENA DIAZ HERNANDEZ, y todos los demás en situación similar

9 (Abogados adicionales para las partes en la página siguiente)

10 **TRIBUNAL SUPERIOR DEL ESTADO DE CALIFORNIA**

11 **POR EL CONDADO DE SACRAMENTO**

12 **(JURISDICCIÓN ILIMITADA)**

13 MARIA ELENA DIAZ HERNANDEZ, en
14 nombre de ella misma y de todos los demás en
15 situación similar, y como “empleados
16 agraviados” en nombre de otros “empleados
17 agraviados” en virtud de la Ley de Abogados
Generales Privados del Código Laboral de 2004,

18 *Demandantes,*

19 vs.

20 GUITRON ALCAZAR ALCAZAR INC. DBA
21 EL TAPATIO MEXICAN CUISINE, una
corporación de California; GUITRON
22 ALCAZAR III INC., una corporación de
California; GUITRON ALCAZAR IV, LLC, una
23 compañía de responsabilidad limitada de
California; y DOES 1–50, inclusive,
24

25 *Demandados.*

Caso Número: 34-2021-00306648

12 **ACCIÓN DE GRUPO, ACUERDO PAGA
Y AVISO DEL GRUPO**

Acción 23 de agosto de 2021
interpuesta:

Departamento: 28, El Honorable Lauri A.
Damrell

1 **ABOGADOS ADICIONALES DE LOS DEMANDANTES**

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9 Abogados de los Demandantes,
10 MARIA ELENA DIAZ HERNANDEZ, y todos los demás en situación similar

11 **ABOGADOS DE LOS DEMANDANTES**

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20 Abogados de los Demandados,
21 GUITRON ALCAZAR ALCAZAR INC. DBA EL TAPATIO MEXICAN CUISINE, GUITRON
22 ALCAZAR III INC., Y GUITRON ALCAZAR IV, LLC
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1 Esta Acción de Grupo y Acuerdo de Liquidación de PAGA (“Acuerdo”) se realiza entre
2 la demandante Maria Elena Diaz Hernandez (“Demandante”) y los demandados Guitron Alcazar
3 Alcazar Inc. dba El Tapatio Mexican Cuisine, Guitron Alcazar III Inc. y Guitron Alcazar IV ,
4 LLC (colectivamente los “Demandados”). El Acuerdo se refiere a la Demandante y a los
5 Demandados colectivamente como “Partes” o individualmente como “Parte”.

6 **1. DEFINICIONES.**

7 1.1. “Acción” significa la demanda de la Demandante que alega violaciones de
8 salarios y horas contra Guitron Alcazar Alcazar Inc. dba El Tapatio Mexican Cuisine, Guitron
9 Alcazar III Inc. y Guitron Alcazar IV, LLC titulada “Maria Elena Diaz Hernandez, en nombre
10 de ella misma, y de todos los demás en situación similar, y como una ‘empleada agraviada’ en
11 nombre de otros ‘empleados agraviados’ bajo la Ley de Abogados Generales Privados del Código
12 Laboral de 2004, *Demandantes*, contra los Demandados Guitron Alcazar Alcazar Inc. dba El
13 Tapatio Mexican Cuisine, Guitron Alcazar III Inc. y Guitron Alcazar IV, LLC; y DOES 1 a 50,
14 inclusive, *Demandados*”, Caso No. 34-2021-00306648 iniciado el 23 de agosto de 2021 y
15 pendiente en el Tribunal Superior del Estado de California, Condado de Sacramento.

16 1.2. “Administrador” significa CPT Group, Inc., la entidad neutral que las Partes han
17 acordado designar para administrar el Acuerdo.

18 1.3. “Pago de Gastos Administrativos” significa el monto que se le pagará al
19 Administrador del Monto Bruto del Acuerdo para reembolsar sus honorarios y gastos razonables
20 de conformidad con la oferta “sin exceder” del Administrador presentada al Tribunal en relación
21 con la Aprobación Preliminar del Acuerdo.

22 1.4. “Empleado Agraviado” significa una persona empleada por los Demandados en
23 California y clasificada como empleado por hora no exento que trabajó para los Demandados
24 durante el Período PAGA.

25 1.5. “Grupo” se refiere a todas las personas empleadas por los Demandados en
26 California y clasificadas como empleados por hora no exentos que trabajaron para los
27 Demandados durante el Período del Grupo.

28 1.6. “Abogado del Grupo” significa David G. Spivak de The Spivak Law Firm, y
Walter L. Haines de United Employees Law Group, PC.

1.7. “Pago de Honorarios de Abogados del Grupo” y “Pago de Gastos de Litigio de

1 los Abogados del Grupo” se refieren a los montos asignados a los Abogados del Grupo para el
2 reembolso de los honorarios y gastos razonables de los abogados, respectivamente, incurridos
3 para procesar la Acción.

4 1.8. “Datos del Grupo” se refiere a la información de identificación del Miembro del
5 Grupo en posesión de los Demandados, incluido el nombre del Miembro del Grupo, la última
6 dirección postal conocida, el número de Seguro Social y el número de Semanas Laborales del
7 Período del Grupo y Períodos de Pago de PAGA.

8 1.9. “Miembro del Grupo” o “Miembro del Grupo del Acuerdo” significa un
9 miembro del Grupo, ya sea como Miembro del Grupo Participante o Miembro del Grupo No
10 Participante (incluyendo un Miembro del Grupo No Participante que califica como un Empleado
11 Agraviado).

12 1.10. “Búsqueda de las Direcciones de los Miembros del Grupo” se refiere a la
13 investigación del Administrador y la búsqueda de las direcciones postales actuales de los
14 Miembros del Grupo utilizando todas las fuentes, métodos y medios razonablemente disponibles,
15 incluyendo, entre otros, la base de datos Nacional de Cambios de Dirección, omisión de
16 seguimientos y contacto directo por parte del Administrador con los Miembros del Grupo.

17 1.11. “Aviso del Grupo” se refiere el AVISO DEL GRUPO DEL ACUERDO DE LA
18 ACCIÓN DE GRUPO APROBADO POR EL TRIBUNAL Y FECHA DE AUDIENCIA PARA
19 LA APROBACIÓN DEFINITIVA DEL TRIBUNAL, que se enviará por correo a los Miembros
20 del Grupo en inglés con una traducción al español en el formulario, sin variación material, adjunta
21 como Anexo A e incorporada por referencia en este Acuerdo.

22 1.12. “Período del Grupo” significa el período desde el 23 de agosto de 2017 hasta la
23 fecha de la orden que aprueba preliminarmente el Acuerdo.

24 1.13. “Representante del Grupo” significa la Demandante nombrada en la demanda
25 operativa en la Acción que solicita la aprobación del Tribunal para actuar como Representante
26 del Grupo.

27 1.14. “Pago de Servicios del Representante del Grupo” se refiere a los pagos al
28 Representante del Grupo por iniciar la Acción y proporcionar servicios en apoyo de la Acción.

1.15. “Tribunal” significa el Tribunal Superior de California, Condado de Sacramento.

1.16. “Demandados” significa los Demandados nombrados Guitron Alcazar Alcazar
Inc. dba El Tapatio Mexican Cuisine, Guitron Alcazar III Inc. y Guitron Alcazar IV, LLC.

1 1.17. "Abogado de la Defensa" significa Laura C. McHugh de Dugan McHugh Law
2 Corporation.

3 1.18. "Fecha de Entrada en Vigor" significa la fecha en la que han ocurrido las dos
4 cosas siguientes: (a) el Tribunal dicta Sentencia en su Orden que otorga la Aprobación Definitiva
5 del Acuerdo; y (b) la Sentencia es definitiva. La Sentencia será definitiva en el último de los
6 siguientes casos: (a) si ningún Miembro del Grupo Participante se opone al Acuerdo, el día en
7 que el Tribunal dicte la Sentencia; (b) si uno o más Miembros del Grupo Participantes se oponen
8 al Acuerdo, el día siguiente a la fecha límite para presentar una notificación de apelación de la
9 Sentencia; o si se presenta una apelación oportuna de la Sentencia, el séptimo día calendario
10 después de que se haya desestimado definitivamente cualquier procedimiento de apelación que
11 se opusiera al acuerdo sin cambios sustanciales en los términos de este acuerdo y no haya derecho
12 a presentar recursos adicionales.

13 1.19. "Aprobación Definitiva" significa la orden del Tribunal que otorga la aprobación
14 definitiva del Acuerdo.

15 1.20. "Audiencia de Aprobación Definitiva" significa la audiencia del Tribunal sobre
16 la Moción de Aprobación Definitiva del Acuerdo.

17 1.21. "Sentencia Definitiva" significa la Sentencia dictada por el Tribunal al Otorgar la
18 Aprobación Definitiva del Acuerdo.

19 1.22. "Monto Bruto del Acuerdo" significa \$685,000.00, que es el monto total que los
20 Demandados aceptan pagar en virtud del Acuerdo, excepto lo dispuesto en el Párrafo 9 a
21 continuación. El Monto Bruto del Acuerdo se utilizará para pagar los Pagos Individuales del
22 Grupo, los Pagos Individuales de PAGA, el Pago de PAGA a la LWDA, los Honorarios de los
23 Abogados del Grupo, los Gastos de los Abogados del Grupo, el Pago de Servicios del
24 Representante del Grupo y los Gastos del Administrador. Los Demandados pagarán el Monto
25 Bruto del Acuerdo en dos (2) pagos parciales iguales de \$342,500.00, que se describen más
26 adelante.

27 1.23. "Pago Individual del Grupo" significa la participación prorrateada del Miembro
28 del Grupo Participante del Monto Neto del Acuerdo calculado según el número de Semanas
Laborales trabajadas durante el Período del Grupo.

1.24. "Pago Individual de PAGA" significa la parte prorrateada del Empleado
Agraviado del 25 % de las Sanciones de PAGA calculadas según el número de Periodos de Pago

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1 trabajados durante el Período de PAGA.

2 1.25. "Sentencia" significa la sentencia dictada por el Tribunal con base en la
3 Aprobación Definitiva.

4 1.26. "LWDA" se refiere a la Agencia de Desarrollo Laboral y de la Fuerza Laboral de
5 California, la agencia autorizada, de conformidad con la Sección 2699, subd. (i) del Código
6 Laboral.

7 1.27. "Pago de PAGA a la LWDA" significa el 75% de las sanciones PAGA pagadas a
8 la LWDA de conformidad con la Sección 2699, subd. (i) del Código Laboral.

9 1.28. "Monto Neto del Acuerdo" significa el Monto Bruto del Acuerdo, menos los
10 siguientes pagos en los montos aprobados por el Tribunal: Pagos Individuales de PAGA, el Pago
11 de PAGA a la LWDA, el Pago de Servicios del Representante del Grupo, el Pago de Honorarios
12 de los Abogados del Grupo, el Pago de Gastos de Litigio de los Abogados del Grupo y el Pago
13 de Gastos Administrativos. El resto se pagará a los Miembros del Grupo Participantes como Pagos
14 de Individuales del Grupo.

15 1.29. "Miembro del Grupo No Participante" significa cualquier Miembro del Grupo
16 que opte por excluirse del Acuerdo enviando al Administrador una Solicitud de Exclusión válida
17 y oportuna.

18 1.30. "Período de Pago PAGA" significa cualquier Período de Pago durante el cual un
19 Empleado Agraviado trabajó para los Demandados por lo menos un día durante el Período PAGA.

20 1.31. "Período PAGA" significa el período comprendido entre el 26 de agosto de 2020
21 y la fecha de la orden de la Aprobación Preliminar del Acuerdo.

22 1.32. "PAGA" significa la Ley General de Abogados Privados (Código Laboral §§
23 2698. et seq.).

24 1.33. "Aviso de PAGA" significa la carta del Demandante del 26 de agosto de 2021 a
25 los Demandados y a la LWDA que proporciona un aviso de conformidad con la Sección 2699.3,
26 subd. (a) del Código Laboral.

27 1.34. "Sanciones de PAGA" se refiere al monto total de las sanciones civiles de PAGA
28 que se pagarán del Monto Bruto del Acuerdo, asignado el 25% a los Empleados Agraviados
(\$1,000.00) y el 75% a LWDA (\$3,000.00) como liquidación de las reclamaciones de PAGA.

1.35. "Miembro del Grupo Participante" significa un Miembro del Grupo que no
presenta una Solicitud de Exclusión del Acuerdo válida y oportuna.

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1 1.36. "Demandante" significa María Elena Díaz Hernández, la Demandante nombrada
2 en la Acción.

3 1.37. "Aprobación Preliminar" significa la Orden del Tribunal que Otorga la
4 Aprobación Preliminar del Acuerdo.

5 1.38. "Orden de Aprobación Preliminar" significa la Orden propuesta que Otorga la
6 Aprobación Preliminar y la Aprobación del Acuerdo PAGA.

7 1.39. "Reclamaciones Exoneradas del Grupo" significa las reclamaciones que se
8 exoneran como se describe en el Párrafo 6.2 a continuación.

9 1.40. "Reclamaciones Exoneradas de PAGA" significa las reclamaciones que se
10 liberan según lo descrito en el Párrafo 6.2 a continuación.

11 1.41. "Partes Exoneradas" significa: Los Demandados y cada uno de sus directores,
12 funcionarios, accionistas, propietarios, agentes, empleados, miembros, abogados, aseguradores,
13 predecesores, sucesores, cesionarios, subsidiarias y afiliados anteriores y actuales.

14 1.42. "Solicitud de Exclusión" significa la presentación por escrito de un Miembro del
15 Grupo para ser excluido del Acuerdo del Grupo firmada por el Miembro del Grupo.

16 1.43. "Plazo de Respuesta" significa 60 días después de que el Administrador envíe
17 por correo el Aviso a los Miembros del Grupo y a los Empleados Agraviados, y será la última
18 fecha en la que los Miembros del Grupo podrán: (a) enviar por fax, correo electrónico o correo
19 postal Solicitudes de Exclusión del Acuerdo, o podrán (b) enviar por fax, correo electrónico o
20 correo postal su Objeción al Acuerdo. Los Miembros del Grupo a los que se les reenvían los
21 Paquetes de Aviso después de haber sido devueltos sin poder ser entregados al Administrador
22 tendrán 14 días calendarios adicionales después de que venza el Plazo de Respuesta.

23 1.44. "Acuerdo" significa la resolución de la Acción efectuada por el presente Acuerdo
24 y la Sentencia.

25 1.45. "Semana Laboral" significa cualquier semana durante la cual un Miembro del
26 Grupo trabajó para los Demandados por lo menos un día, durante el Periodo del Grupo.

27 **2. CONSIDERACIONES.**

28 2.1. El 23 de agosto de 2021, la Demandante inició esta Acción al presentar una
Demanda alegando causas de acción para no proporcionar períodos para comer, no autorizar ni
permitir períodos de descanso, no emitir declaraciones de salarios adecuadas, no pagar los salarios

1 a tiempo, no mantener los registros de nómina requeridos y otras alegaciones relacionadas. En 10
2 de diciembre de 2021, la Demandante presentó una Primera Demanda Enmendada alegando
3 causas de acción por no proporcionar períodos para comer, no autorizar ni permitir períodos de
4 descanso, no emitir declaraciones de salarios adecuadas, no pagar los salarios a tiempo, no
5 mantener los registros de nómina requeridos y otras alegaciones relacionadas. La Primera
6 Demanda Enmendada es la demanda operativa en la Acción (la “Denuncia Operativa”). El 26 de
7 julio de 2022, la Demandante agregó Demandados en lugar de los Demandados Doe 1 y 2,
8 respectivamente. Los Demandados niegan las alegaciones en la Demanda Operativa, niegan
9 cualquier incumplimiento de las leyes identificadas en la Demanda Operativa y niegan toda
responsabilidad por las causas de acción alegadas.

10 2.2. De conformidad con la Sección 2699.3, subd. (a) del Código Laboral, la
11 Demandante notificó oportunamente por escrito a los Demandados y a la LWDA mediante el
12 envío del Aviso de PAGA.

13 2.3. El 25 de mayo de 2022, las Partes participaron en una mediación de todo el día
14 presidida por el Sr. David L. Perrault Esq. que condujo a este Acuerdo para resolver la Acción
(describe los medios alternativos de negociación).

15 2.4. Antes de negociar el Acuerdo, la Demandante obtuvo, a través de una
16 presentación de prueba informal, el número de empleados comparables, el número de Semanas
17 Laborales, el número de períodos de pago, las tasas promedio de pago, los registros de tiempo de
18 muestra, registros de nómina de muestra, políticas escritas, registros financieros e información
19 relacionada. La investigación de la demandante fue suficiente para satisfacer los criterios de la
20 aprobación del tribunal establecidos en *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th
21 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130
22 (“*Dunk/Kullar*”)

23 2.5. El Tribunal no ha concedido la certificación de grupo.

24 2.6. Las Partes, los Abogados del Grupo y los Abogados de la Defensa declaran que
25 no tienen conocimiento de ningún otro asunto o acción pendiente que haga valer reclamaciones
26 que se extinguirán o se verán afectadas por el Acuerdo.

27 **3. TÉRMINOS MONETARIOS.**

28 3.1. Monto Bruto del Acuerdo. Salvo que se disponga lo contrario en el Párrafo 9 a

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1 continuación, los Demandados prometen pagar \$685,000.00 y no más como el Monto Bruto del
2 Acuerdo y pagar por separado todos y cada uno de los impuestos sobre la nómina del empleador
3 adeudados a las Porciones de Salario de los Pagos Individuales del Grupo. Los Demandados no
4 tienen la obligación de pagar el Monto Bruto del Acuerdo (ni ningún impuesto sobre la nómina)
5 antes de la fecha límite establecida en el Párrafo 6.1 de este Acuerdo. El Administrador
6 desembolsará la totalidad del Monto Bruto del Acuerdo sin pedir ni exigir a los Miembros del
7 Grupo Participantes ni a los Empleados Agraviados que presenten una reclamación como
8 condición para el pago. Nada del Monto Bruto del Acuerdo se revertirá al Demandado.

9 3.2. Pagos del Monto Bruto del Acuerdo. El Administrador realizará y deducirá los
10 siguientes pagos del Monto Bruto del Acuerdo, en las cantidades especificadas por el Tribunal en
11 la Aprobación Definitiva:

12 3.2.1. A la Demandante: El Pago de Servicio de Representante del Grupo no
13 más de \$ 15,000.00 (además de cualquier Pago Individual del Grupo y cualquier Pago Individual
14 de PAGA que la Representante del Grupo tiene derecho a recibir como Miembro del Grupo
15 Participante). Los Demandados no se opondrán a la solicitud de la Demandante de un Pago de
16 Servicios del Representante del Grupo que no supere estos montos. Como parte de la moción para
17 el Pago de los Honorarios de los Abogados del Grupo y el Pago de los Gastos de Litigio del
18 Grupo, la Demandante solicitará la aprobación del Tribunal para cualquier Pago de Servicios del
19 Representante del Grupo a más tardar 16 días hábiles antes de la Audiencia de Aprobación
20 Definitiva. Si el Tribunal aprueba un Pago de Servicios del Representante del Grupo menor que
21 el monto solicitado, el Administrador retendrá el resto en el Monto Neto del Acuerdo. El
22 Administrador pagará el Pago de Servicios del Representante del Grupo utilizando el Formulario
23 1099 del IRS. La Demandante asume toda la responsabilidad por los impuestos adeudados a los
24 empleados en el Pago de Servicios del Representante del Grupo.

25 3.2.2. A los Abogados del Grupo: Un Pago de Honorarios de Abogados del
26 Grupo de no más del 33.33%, que actualmente se estima en \$228,333.30 y un Pago de Gastos de
27 Litigio de los Abogados del Grupo de no más de \$20,000.00. Los Demandados no se opondrán a
28 las solicitudes de estos pagos siempre que no excedan estas cantidades. La Demandante y/o los
Abogados del Grupo presentarán una moción para el Pago de los Honorarios de los Abogados del
Grupo y el Pago de los Gastos de Litigio del Grupo a más tardar 16 días hábiles antes de la
Audiencia de Aprobación Definitiva. Si el Tribunal aprueba un Pago de Honorarios de los

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1 Abogados del Grupo y/o un Pago de Gastos de Litigio de los Abogados del Grupo menores a los
2 montos solicitados, el Administrador asignará el resto al Monto Neto del Acuerdo. Las Partes
3 Exoneradas no tendrán ninguna responsabilidad ante los Abogados del Grupo o ante cualquier
4 otro Abogado de la Demandante que surja de cualquier reclamación de cualquier parte del Pago
5 de los Honorarios de los Abogados del Grupo y/o Pago de Gastos de Litigio de los Abogados del
6 Grupo. El Administrador pagará el Pago de los Honorarios de los Abogados del Grupo y el Pago
7 de los Gastos de los Abogados del Grupo utilizando uno o más Formularios 1099 del IRS. Los
8 Abogados del Grupo asumen toda la responsabilidad por los impuestos adeudados sobre el Pago
9 de los Honorarios de los Abogados del Grupo y el Pago de los Gastos de Litigio de los Abogados
10 del Grupo y exime a los Demandados de toda responsabilidad e indemniza a los Demandados por
11 cualquier disputa o controversia relativa a cualquier división o reparto de cualquiera de estos
12 Pagos.

12 3.2.3. Al Administrador: Un Pago de Gastos del Administrador que no exceda
13 los \$25,000.00 excepto que se demuestre una causa justificada y el Tribunal lo apruebe. En la
14 medida en que los Gastos de Administración sean menores o el Tribunal apruebe un pago inferior
15 a \$25,000.00, el Administrador retendrá el resto en el Monto Neto del Acuerdo.

16 3.2.4. A cada Miembro del Grupo Participante: Un Pago Individual del Grupo
17 calculado (a) dividiendo el Monto Neto del Acuerdo por el número total de Semanas Laborales
18 trabajadas por todos los Miembros del Grupo Participantes durante el Período del Grupo y (b)
19 multiplicando el resultado por las Semanas Laborales de cada Miembro del Grupo Participante.

20 3.2.4.1. Asignación de Impuestos de Pagos Individuales del
21 Grupo. El 20.00% del Pago Individual del Grupo de cada Miembro del Grupo Participante se
22 asignará a la liquidación de reclamaciones de salarios (la "Porción de Salarios"). Las Porciones
23 de Salarios están sujetas a retención de impuestos y se declararán en un formulario W-2 del IRS.
24 El 80.00% del Pago Individual del Grupo de cada Miembro del Grupo Participante se asignará a
25 la liquidación de reclamaciones por intereses y sanciones (la "Porción No Salarial"). Las
26 Porciones no salariales no están sujetas a retenciones salariales y se declararán en los formularios
27 1099 del IRS. Los Miembros del Grupo Participantes asumen toda la responsabilidad y obligación
28 de pagar los impuestos adeudados en su Pago Individual del Grupo.

3.2.4.2. Efecto de los Miembros del Grupo No Participantes en el
Cálculo de los Pagos Individuales del Grupo. Los Miembros del Grupo No Participantes no

1 recibirán ningún Pago Individual del Grupo. El Administrador retendrá cantidades iguales a sus
2 Pagos Individuales del Grupo en el Monto Neto del Acuerdo para su distribución a los Miembros
3 del Grupo Participantes en forma prorrateada.

4 3.2.5. A la LWDA y a los Empleados Agraviados: Las Sanciones de
5 PAGA por un monto de \$4,000.00 a pagar del Monto Bruto del Acuerdo, con el 75% (\$3,000.00)
6 asignado al pago de PAGA a la LWDA y el 25% (\$1,000.00) asignado a los Pagos Individuales
7 de PAGA.

8 3.2.5.1. El Administrador calculará cada Pago Individual de PAGA (a)
9 dividiendo el monto de la participación del 25% de las sanciones de PAGA de \$1,000.00 de los
10 Empleados Agraviados entre el número total de Períodos de Pago del Período de PAGA
11 trabajados por todos los Empleados Agraviados durante el Período de PAGA y (b) multiplicando
12 el resultado por los Períodos de Pago del Período PAGA de cada Empleado Agraviado. Los
13 Empleados Agraviados asumen toda la responsabilidad y obligación de pagar los impuestos
14 adeudados en su Pago Individual de PAGA.

15 3.2.5.2. Si el Tribunal aprueba Sanciones PAGA menores al monto
16 solicitado, el Administrador asignará el resto al Monto Neto del Acuerdo. El Administrador
17 informará de los Pagos Individuales de PAGA en los Formularios 1099 del IRS.

18 4. FINANCIAMIENTO Y PAGOS DEL ACUERDO.

19 4.1. Semanas Laborales del Grupo y Períodos de Pago de los Empleados Agraviados.
20 Con base en una revisión de sus registros hasta la fecha, los Demandados estiman que hay 611
21 Miembros del Grupo que trabajaron colectivamente un total de 23,061 Semanas Laborales y 305
22 Empleados Agraviados que trabajaron un total de 8,474 Períodos de Pago PAGA.

23 4.2. Datos del Grupo. A más tardar 15 días después de que el Tribunal otorgue la
24 Aprobación Preliminar del Acuerdo, los Demandados entregarán simultáneamente los Datos del
25 Grupo al Administrador, en forma de una hoja de cálculo de Microsoft Excel. Para proteger los
26 derechos de privacidad de los Miembros del Grupo, el Administrador debe mantener la
27 confidencialidad de los Datos del Grupo, usar los Datos del Grupo únicamente para los fines de
28 este Acuerdo y para ningún otro propósito, y restringir el acceso a los Datos del Grupo a los
empleados del Administrador que necesiten acceder a los Datos del Grupo para llevar a cabo y
cumplir con este Acuerdo. Los Demandados tienen la obligación permanente de notificar

1 inmediatamente a los Abogados del Grupo si descubren que los Datos del Grupo omitieron
2 información de identificación de los Miembros del Grupo y de proporcionar Datos del Grupo
3 corregidos o actualizados tan pronto como sea razonablemente posible. Sin ninguna extensión de
4 la fecha límite en la que los Demandados deben enviar los Datos del Grupo al Administrador, las
5 Partes y sus abogados harán todo lo posible, de buena fe, para reconstruir o resolver cualquier
6 problema relacionado con los Datos del Grupo faltantes u omitidos.

6 **4.3. Financiamiento del Monto Bruto del Acuerdo.** Los Demandados financiarán en
7 su totalidad el Monto Bruto del Acuerdo y también financiarán los montos necesarios para pagar
8 en su totalidad la parte de los impuestos sobre la nómina de los Demandados mediante la
9 transmisión de los fondos al Administrador de la siguiente manera:

10 **4.3.1.** En el plazo de treinta (30) días calendario a partir de la Fecha de Entrada
11 en Vigor, los Demandados deberán pagar el primero de dos (2) pagos a plazos iguales de
12 \$342,500.00 del Monto Bruto del Acuerdo en la Cuenta del Acuerdo y deberán pagar el pago
13 restante de \$342,500.00 en un plazo de 180 días posteriores al primer pago a plazos.

14 **4.4. Distribuciones de los Pagos a Plazos hacia el Monto Bruto del Acuerdo.** Se
15 realizarán múltiples distribuciones del Monto Bruto del Acuerdo de la siguiente manera:

16 **4.4.1. Primera Distribución.** Dentro de los catorce (14) días calendario a partir
17 de la Fecha de Entrada en Vigor, o dentro de los diez (10) días calendario a partir de la fecha
18 límite para el Primer Pago (lo que ocurra posteriormente), el Administrador del Acuerdo
19 distribuirá, *a prorrata*, la porción del Monto Bruto del Acuerdo que los Demandados pagaron
20 hasta esa fecha, incluyendo las porciones *a prorrata* de los Pagos Individuales del Grupo, los
21 Pagos Individuales de PAGA, el Pago de PAGA a la LWDA, el Pago de Servicios del
22 Representante del Grupo, el Pago de Honorarios de los Abogados del Grupo, el Pago de Gastos
23 de Litigio de los Abogados del Grupo y los gastos del Administrador.

24 **4.4.2. Segunda Distribución.** En un plazo de diez (10) días calendario a partir
25 del Segundo Pago a Plazos, el Administrador del Acuerdo distribuirá, *a prorrata*, la porción del
26 Monto Bruto del Acuerdo que los Demandados pagaron desde la primera distribución, incluyendo
27 las porciones *a prorrata* de los Pagos Individuales del Grupo, los Pagos Individuales de PAGA,
28 el Pago de PAGA a la LWDA, el Pago de Servicios del Representante del Grupo, el Pago de los
Honorarios de los Abogados del Grupo, el Pago de los Gastos de Litigio de los Abogados del
Grupo y los gastos del Administrador.

1 Los desembolsos de las porciones prorrateadas del Pago de los Honorarios de los
2 Abogados del Grupo, el Pago de los Gastos de Litigio de los Abogados del Grupo y el Pago de
3 Servicios del Representante del Grupo no precederán al desembolso de las porciones prorrateadas
4 de los Pagos Individuales del Grupo y los Pagos Individuales de PAGA.

5 4.4.3. El Administrador emitirá cheques para los Pagos Individuales del Grupo
6 y/o los Pagos Individuales de PAGA y los enviará a los Miembros del Grupo por correo de
7 primera clase del Servicio Postal de los Estados Unidos, con franqueo prepago. En el anverso de
8 cada cheque se indicará de forma destacada la fecha (no menos de 180 días después de la fecha
9 de envío) en la que se anulará el cheque. El Administrador cancelará todos los cheques no
10 cobrados en la fecha de anulación. El Administrador enviará los cheques para los Pagos
11 Individuales del Acuerdo a todos los Miembros del Grupo Participantes (incluyendo aquellos
12 cuyo Aviso del Grupo se devolvió sin entregar). El Administrador enviará los cheques
13 correspondientes a los Pagos Individuales de PAGA a todos los Empleados Agraviados,
14 incluyendo a los Miembros del Grupo No Participantes que califiquen como Empleados
15 Agraviados (incluyendo aquellos cuyo Aviso del Grupo se devolvió sin entregar). El
16 Administrador podrá enviar a los Miembros del Grupo Participantes un único cheque que
17 combine el Pago Individual del Grupo y el Pago Individual de PAGA. Antes de enviar cualquier
18 cheque, el Administrador debe actualizar las direcciones postales de los destinatarios utilizando
19 la Base Nacional de Cambios de Dirección.

20 4.4.4. El Administrador debe realizar una búsqueda de direcciones de los
21 Miembros del Grupo para todos los demás Miembros del Grupo cuyos cheques se devuelvan sin
22 entregar y sin la dirección de reenvío de USPS. En un plazo de 7 días posteriores a la recepción
23 de un cheque devuelto, el Administrador deberá volver a enviar los cheques a la dirección de
24 reenvío de USPS proporcionada o a una dirección determinada a través de la Búsqueda de
25 Direcciones de los Miembros del Grupo. El Administrador no necesitará tomar más medidas para
26 entregar los cheques a los Miembros del Grupo cuyos cheques reenviados por correo se devuelven
27 como no entregados. El Administrador enviará sin demora un cheque de sustitución a cualquier
28 Miembro del Grupo cuyo cheque original se haya perdido o extraviado, previa solicitud del
Miembro del Grupo antes de la fecha de anulación.

4.4.5. Para cualquier Miembro del Grupo cuyo cheque de Pago Individual del
Grupo o cheque de Pago Individual de PAGA no se haya cobrado y se haya cancelado después

1 de la fecha de anulación, el Administrador transmitirá los fondos representados por dichos
2 cheques al Fondo de Propiedad No Reclamada del Contralor de California a nombre del Miembro
3 del Grupo, con lo cual no quedará ningún “residuo no pagado” sujeto a los requisitos de la Sección
4 384, subd. (b) del Código de Procedimiento Civil de California.

5 4.4.6. El pago de los Pagos Individuales del Grupo y los Pagos Individuales de
6 PAGA no obligará a los Demandados a conferir ningún beneficio adicional ni a realizar ningún
7 pago adicional a los Miembros del Grupo (como contribuciones o bonificaciones 401(k)) más allá
8 de los especificados en este Acuerdo.

9 **5. [OMITIDO]**

10 **6. EXONERACIÓN DE RECLAMACIONES.** A partir de la fecha en que los
11 Demandados financien en su totalidad el Monto Bruto del Acuerdo y financien todos los
12 impuestos sobre la nómina del empleador adeudados en la Porción Salarial de los Pagos
13 Individuales del Grupo, la Demandante, los Miembros del Grupo y los Abogados del Grupo
14 exonerarán las reclamaciones contra todas las Partes Exoneradas de la siguiente manera:

15 6.1 Exoneración de la Demandante. La Demandante y su respectivo cónyuge,
16 representantes, agentes, abogados, herederos, administradores, sucesores y cesionarios anteriores
17 y actuales, en general, exoneran y eximen a las Partes Exoneradas de todas las reclamaciones,
18 transacciones o sucesos que ocurrieron durante el Período del Grupo, incluyendo, entre otros: (a)
19 todas las reclamaciones que fueron, o razonablemente podrían haber sido, alegadas, con base en
20 los hechos contenidos en la Demanda Operativa y (b) todas las reclamaciones de PAGA que
21 fueron, o razonablemente podrían haber sido, alegadas con base en los hechos contenidos en la
22 Demanda Operativa, el Aviso de PAGA de la Demandante, o determinadas durante la Acción y
23 exoneradas de conformidad con el Párrafo 6.2, a continuación (“Exoneración de la Demandante”).
24 Las Exoneraciones de la Demandante no se extienden a ninguna reclamación o acción para hacer
25 cumplir este Acuerdo, ni a ninguna reclamación por los beneficios adquiridos, beneficios de
26 desempleo, beneficios por discapacidad, beneficios del seguro social, beneficios de compensación
27 para trabajadores que surgieron en cualquier momento o en base a sucesos fuera del Período del
28 Grupo. La Demandante reconoce que puede presentar pruebas en forma extrajudicial de hechos
o leyes diferentes de, o además de, los hechos o leyes que la Demandante ahora conoce o cree
que son ciertos, pero acepta, no obstante, que la Exoneración de la Demandante será y seguirá
siendo efectiva en todos los aspectos, a pesar de tales diferencias o hechos adicionales o

1 PAGA expuestos en la Demanda Operativa y en el Aviso PAGA y constatados en el transcurso
2 de la Acción incluyendo, no proporcionar periodos para comer, no autorizar ni permitir periodos
3 de descanso, no emitir declaraciones de salarios adecuadas, no pagar los salarios a tiempo, no
4 mantener los registros de nómina requeridos y otras alegaciones relacionados.

5 **7. MOCIÓN PARA LA APROBACIÓN PRELIMINAR.** Las Partes acuerdan preparar y
6 presentar conjuntamente una Moción para la Aprobación Preliminar (“Moción para la Aprobación
7 Preliminar”) que cumpla con la lista de verificación actual del Tribunal para las Aprobaciones
8 Preliminares.

9 7.1 **Responsabilidades de la Demandante.** La Demandante preparará y entregará a los
10 Abogado de la Defensa todos los documentos necesarios para obtener la Aprobación Preliminar,
11 incluyendo: (i) un borrador del aviso y el memorando en apoyo de la Moción para la Aprobación
12 Preliminar que incluya un análisis del Acuerdo conforme a *Dunk/Kullar* y una solicitud de
13 aprobación del Acuerdo PAGA de conformidad con la Sección 2699, subd. (f)(2) del Código
14 Laboral; (ii) un borrador de propuesta de Orden que otorga la Aprobación Preliminar y la
15 Aprobación del Acuerdo PAGA; (iii) un borrador de propuesta de Aviso del Grupo; (iv) una
16 declaración firmada del Administrador que adjunte su oferta “sin exceder” para administrar el
17 Acuerdo y dando fe de su voluntad de prestar sus servicios; competencia; procedimientos
18 operativos para proteger la seguridad de los Datos del Grupo; montos de cobertura de seguro para
19 cualquier violación de datos, desfalco de fondos u otra mala conducta; todos los hechos relevantes
20 para cualquier violación de interés real o potencial con los Miembros del Grupo; y la naturaleza
21 y el alcance de cualquier relación financiera con la Demandante, los Abogados del Grupo o los
22 Abogados de la Defensa; (v) una declaración firmada de la Demandante que confirme la voluntad
23 y competencia para actuar y revelar todos los hechos relevantes a cualquier conflicto de interés
24 real o potencial con los Miembros del Grupo y/o el Administrador; (v) una declaración firmada
25 de cada bufete de Abogados del Grupo que certifique su competencia para representar a los
26 Miembros del Grupo; su transmisión oportuna a la LWDA de todos los documentos PAGA
27 necesarios (aviso inicial de violaciones (de conformidad con la Sección 2699.3, subd. (a)) del
28 Código Laboral, Denuncia Operativa (de conformidad con la Sección 2699, subd. (l)(1)) del
Código Laboral, este Acuerdo (de conformidad con la Sección 2699, subd. (l)(2)) del Código
Laboral; (vi) una versión redactada del Acuerdo de las partes que muestre todas las

1 modificaciones hechas al Acuerdo Modelo listas para ser presentada ante el Tribunal; y (vii) todos
2 los hechos relevantes a cualquier conflicto de interés real o potencial con los Miembros del Grupo
3 y/o el Administrador. En sus Declaraciones, la Demandante y los Abogados del Grupo deberán
4 declarar que no tienen conocimiento de ningún otro asunto o acción pendiente en el que se hagan
5 valer las reclamaciones que se extinguirán o se verán afectados negativamente por el Acuerdo.

6 **7.2 Responsabilidades de los Abogados.** Los Abogados del Grupo y los Abogados
7 de la Defensa son conjuntamente responsables de finalizar y presentar de manera expedita la
8 Moción para la Aprobación Preliminar a más tardar 30 días después de la plena ejecución de este
9 Acuerdo; obtener una fecha de audiencia inmediata para la Moción para la Aprobación
10 Preliminar; y comparecer ante el Tribunal para abogar a favor de la Moción para la Aprobación
11 Preliminar. Los Abogados del Grupo son responsables de entregar la Aprobación Preliminar del
12 Tribunal al Administrador.

13 **7.3 Deber de Cooperación.** Si las Partes no están de acuerdo con cualquier aspecto
14 de la propuesta de la Moción para la Aprobación Preliminar y/o las declaraciones y documentos
15 de apoyo, los Abogados del Grupo y los Abogados de la Defensa trabajarán juntos de manera
16 expeditiva en nombre de las Partes reuniéndose en persona o por teléfono, y de buena fe, para
17 resolver el desacuerdo. Si el Tribunal no otorga la Aprobación Preliminar o condiciona la
18 Aprobación Preliminar a cualquier cambio sustancial de este Acuerdo, los Abogados del Grupo
19 y los Abogados de la Defensa trabajarán juntos de manera expedita en nombre de las Partes
20 reuniéndose en persona o por teléfono, y de buena fe, para modificar el Acuerdo y satisfacer las
21 preocupaciones del Tribunal.

22 **8. ADMINISTRACIÓN DEL ACUERDO.**

23 **8.1 Selección del Administrador.** Las Partes han seleccionado conjuntamente a CPT
24 Group, Inc. para actuar como Administrador y han verificado que, como condición para su
25 nombramiento, CPT Group, Inc. acepta quedar vinculado por el presente Acuerdo y desempeñar,
26 en calidad de fiduciario, todas las funciones especificadas en el presente Acuerdo a cambio del
27 Pago de Gastos de Administración. Las Partes y sus Abogados declaran que no tienen ningún
28 interés o relación, financiera o de otro tipo, con el Administrador que no sea una relación
profesional que surja de experiencias previas en la administración de acuerdos.

8.2 Número de Identificación Patronal. El Administrador deberá tener y utilizar su

1 propio Número de Identificación Patronal para efectos de calcular las retenciones de los
2 impuestos sobre nómina y proporcionar informes a las autoridades fiscales estatales y federales.

3 8.3 Fondo de Liquidación Calificado. El Administrador establecerá un fondo de
4 liquidación que cumpla con los requisitos de un Fondo de Liquidación Calificado ("QSF", por
5 sus siglas en inglés) de conformidad con la Sección 468B-1 del Reglamento del Tesoro de los
6 Estados Unidos.

7 8.4 Aviso a los Miembros del Grupo.

8 8.4.1 A más tardar tres (3) días hábiles después de recibir los Datos del Grupo,
9 el Administrador notificará a los Abogados del Grupo que se ha recibido la lista e indicará el
10 número de Miembros del Grupo, Miembros de PAGA, Semanas Laborales y Períodos de Pago
11 en los Datos del Grupo.

12 8.4.2 Haciendo todo lo posible para actuar lo antes posible, y en ningún caso
13 más de 14 días después de recibir los Datos del Grupo, el Administrador enviará a todos los
14 Miembros del Grupo identificados en los Datos del Grupo, por correo de primera clase del
15 Servicio Postal de los Estados Unidos ("USPS"), el Aviso del Grupo con traducción al español
16 sustancialmente en el formulario adjunto a este Acuerdo como Anexo A. La primera página del
17 Aviso del Grupo deberá estimar de manera prominente los montos en dólares de cualquier Pago
18 Individual del Grupo y/o Pago Individual de PAGA pagadero al Miembro del Grupo, y el número
19 de Semanas Laborales y Períodos de Pago de PAGA (si corresponde) utilizados para calcular
20 estos montos. Antes de enviar por correo el Aviso del Grupo, el Administrador actualizará las
21 direcciones de los Miembros del Grupo usando la base de datos Nacional de Cambios de
22 Dirección.

23 8.4.3 A más tardar 3 días hábiles después de que el Administrador reciba
24 cualquier Aviso del Grupo devuelto por USPS como no entregado, el Administrador volverá a
25 enviar por correo el Aviso del Grupo utilizando cualquier dirección de reenvío proporcionada por
26 USPS. Si el USPS no proporciona una dirección de reenvío, el Administrador realizará una
27 Búsqueda de Direcciones de los Miembros del Grupo y volverá a enviar por correo el Aviso del
28 Grupo a la dirección más reciente obtenida. El Administrador no tiene la obligación alguna de
hacer más intentos para localizar o enviar el Aviso del Grupo a los Miembros del Grupo cuyo
Aviso del Grupo sea devuelto por USPS por segunda vez.

8.4.4 Los plazos para las objeciones por escrito de los Miembros del Grupo, las

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1 Impugnaciones de las Semanas Laborales y/o los Períodos de Pago y las Solicitudes de Exclusión
2 se extenderán 14 días adicionales más allá de los 60 días previstos en el Aviso del Grupo para
3 todos los Miembros del Grupo cuyo Aviso se vuelva a enviar por correo. El Administrador
4 informará a los Miembros del Grupo de la fecha límite extendida con el Aviso del Grupo
5 reenviado.

6 8.4.5 Si el Administrador, alguno de los Demandados o los Abogados del
7 Grupo son contactados o descubren de otra manera que alguna persona que crea que debería haber
8 sido incluida en los Datos del Grupo y debería haber recibido el Aviso del Grupo, las Partes se
9 reunirán y consultarán de inmediato en persona o por teléfono, y de buena fe, en un esfuerzo por
10 acordar si se le incluye como Miembros del Grupo. Si las Partes están de acuerdo, estas personas
11 serán Miembros del Grupo con los mismos derechos que los otros Miembros del Grupo, y el
12 Administrador enviará, por correo electrónico o entrega al día siguiente, un Aviso del Grupo
13 requiriendo que ejerzan opciones de conformidad con el presente Acuerdo a más tardar 14 días
14 después de recibir el Aviso del Grupo, o de las fechas límite indicadas en el Aviso del Grupo, lo
15 que sea posterior.

16 8.5 Solicitudes de Exclusión (Opt-Outs).

17 8.5.1 Los Miembros del Grupo que deseen excluirse (optar por no participar)
18 del Acuerdo del Grupo deben enviar al Administrador, por fax, correo electrónico o correo postal,
19 una Solicitud de Exclusión por escrito firmada a más tardar 60 días después de que el
20 Administrador envíe por correo el Aviso del Grupo (más 14 días adicionales para los Miembros
21 del Grupo cuyo Aviso del Grupo se vuelve a enviar por correo postal). Una Solicitud de Exclusión
22 es una carta de un Miembro del Grupo o su representante que comunica razonablemente la
23 elección del Miembro del Grupo de ser excluido del Acuerdo e incluye el nombre, la dirección y
24 la dirección de correo electrónico o el número de teléfono del Miembro del Grupo. Para que sea
25 válida, la Solicitud de Exclusión debe enviarse oportunamente por fax, correo electrónico o con
26 la fecha de franqueo marcado antes de la Fecha Límite de Respuesta.

27 8.5.2 El Administrador no puede rechazar una Solicitud de Exclusión como no
28 válida porque no contiene toda la información especificada en el Aviso del Grupo. El
Administrador aceptará todas las Solicitudes de Exclusión como válidas si el Administrador
puede determinar razonablemente la identidad de la persona como Miembro del Grupo y el deseo
del Miembro del Grupo de ser excluido. La determinación del Administrador será definitiva e y

1 no apelable ni susceptible de impugnación. Si el Administrador tiene motivos para cuestionar la
2 autenticidad de una Solicitud de Exclusión, el Administrador podrá exigir pruebas adicionales de
3 la identidad del Miembro del Grupo. La determinación de autenticidad del Administrador será
4 definitiva y no apelable ni susceptible de impugnación.

5 8.5.3 Todo Miembro del Grupo que no presente una Solicitud de Exclusión
6 válida y oportuna se considerará Miembro del Grupo Participante de conformidad con este
7 Acuerdo, con derecho a todos los beneficios y obligado a todos los términos y condiciones del
8 Acuerdo, incluyendo las Exenciones de los Miembros del Grupo Participantes de conformidad
9 con los Párrafos 6.2 y 6.3 del presente Acuerdo, independientemente de si el Miembro del Grupo
Participante recibe realmente el Aviso del Grupo o se opone al Acuerdo.

10 8.5.4 Todo Miembro del Grupo que presente una Solicitud de Exclusión válida
11 y oportuna es un Miembro del Grupo No Participante y no recibirá un Pago Individual del Grupo
12 ni tendrá derecho a objetar los componentes de la Acción de Grupo del Acuerdo. Debido a que
13 las reclamaciones futuras de PAGA están sujetas a la Exclusión de las reclamaciones al momento
14 de la entrada en vigor de la Sentencia, se considera que los Miembros del Grupo No Participantes
15 que son Empleados Agraviados exoneran las reclamaciones identificadas en el Párrafo 6.4 de este
Acuerdo y son elegibles para un Pago Individual de PAGA.

16 8.6 Impugnación del Cálculo de las Semanas Laborales. Cada Miembro del Grupo
17 tendrá 60 días después de que el Administrador envíe por correo el Aviso del Grupo (más 14 días
18 adicionales para los Miembros del Grupo cuyo Aviso del Grupo se vuelva a enviar por correo)
19 para impugnar el número de Semanas Laborales del Grupo y Períodos de Pago PAGA (si
20 corresponde) asignados a los Miembros del Grupo en el Aviso del Grupo. El Miembro del Grupo
21 puede impugnar la asignación comunicándose con el Administrador por fax, correo electrónico o
22 correo postal. El Administrador debe alentar al Miembro del Grupo que impugna a que presente
23 la documentación de apoyo. En ausencia de documentación contraria, el Administrador tiene
24 derecho a suponer que las Semanas Laborales contenidas en el Aviso del Grupo son correctas
25 siempre que sean consistentes con los Datos del Grupo. La determinación del Administrador de
26 la asignación de las Semanas Laborales y/o Períodos de Pago de cada Miembro del Grupo será
27 definitiva e inapelable o susceptible de impugnación. El Administrador proporcionará de
28 inmediato copias de todas las impugnaciones al cálculo de las Semanas Laborales y/o Períodos
de Pago a los Abogados de la Defensa y a los Abogados del Grupo, así como la determinación

1 del Administrador sobre las impugnaciones.

2 8.7 Objeciones al Acuerdo.

3 8.7.1 Sólo los Miembros del Grupo Participantes pueden objetar los
4 componentes de la Acción de Grupo del Acuerdo y/o este Acuerdo, incluyendo la impugnación
5 de la imparcialidad del Acuerdo y/o los montos solicitados para el Pago de los Honorarios de los
6 Abogados del Grupo, el Pago de los Gastos de Litigio de los Abogados del Grupo y/o el Pago de
7 Servicios del Representante del Grupo.

8 8.7.2 Los Miembros del Grupo Participantes pueden enviar objeciones por
9 escrito al Administrador, por fax, correo electrónico o correo postal. Como alternativa, los
10 Miembros del Grupo Participantes pueden comparecer ante el Tribunal (o contratar a un abogado
11 para que comparezca ante el Tribunal) para presentar objeciones verbales en la Audiencia de la
12 Apelación Definitiva. Los Miembros del Grupo Participantes que opten por enviar una objeción
13 por escrito al Administrador deberán hacerlo a más tardar 60 días después de que el Administrador
14 envíe por correo el Aviso del Grupo (más 14 días adicionales para los Miembros del Grupo cuyo
15 Aviso del Grupo se haya vuelto a enviar por correo).

16 8.7.3 Los Miembros del Grupo No Participantes no tienen derecho a objetar a
17 ninguno de los componentes de la Acción de Grupo del Acuerdo.

18 8.8 Deberes del Administrador. El Administrador tiene el deber de realizar u
19 observar todas las tareas que deben ser realizadas u observadas por el Administrador contenidas
20 en este Acuerdo o de alguna otra manera.

21 8.8.1 Sitio web, dirección de correo electrónico y número de teléfono de
22 llamadas gratuitas. El Administrador establecerá, mantendrá y usará un sitio web de Internet para
23 publicar información de interés para los Miembros del Grupo, incluyendo la fecha, la hora y el
24 lugar de la Audiencia de Aprobación Definitiva y copias del Acuerdo, la Moción para la
25 Aprobación Preliminar, el Aviso del Grupo, la Moción para la Aprobación Definitiva, la Moción
26 para el Pago de Honorarios de Abogados del Grupo, Pago de los Gastos de Litigio de los
27 Abogados del Grupo y Pago de Servicios del Representante del Grupo, la Aprobación Definitiva
28 y la Sentencia. El Administrador también mantendrá y supervisará la dirección de correo
electrónico y el número de teléfono gratuito para recibir llamadas, faxes y correos electrónicos de
los Miembros del Grupo.

8.8.2 Solicitudes de Exclusión (Opt-outs) y Lista de Exclusión. El

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1 Administrador revisará de inmediato y de forma continua las Solicitudes de Exclusión para
2 determinar su validez. A más tardar 5 días después de la expiración del plazo para presentar las
3 Solicitudes de Exclusión, el Administrador enviará por correo electrónico a los Abogados del
4 Grupo y a los Abogados de la Defensa una lista que contenga (a) los nombres y otra información
5 de identificación de los Miembros del Grupo que hayan presentado oportunamente Solicitudes de
6 Exclusión válidas. ("Lista de Exclusión"); (b) los nombres y otra información de identificación
7 de los Miembros del Grupo que hayan presentado Solicitudes de Exclusión no válidas; (c) copias
8 de todas las Solicitudes de Exclusión del Acuerdo presentadas (ya sean válidas o no válidas).

8 **8.8.3 Informes Semanales.** El Administrador debe, semanalmente,
9 proporcionar informes escritos a los Abogados del Grupo y los Abogados de la Defensa que, entre
10 otras cosas, cuenten el número de: Avisos del Grupo enviados o reenviados por correo, Avisos
11 del Grupo devueltos sin entregar, Solicitudes de Exclusión (ya sean válidas o no válidas)
12 recibidas, objeciones recibidas, impugnaciones a las Semanas Laborales y/o Períodos de Pago
13 recibidas y/o resueltas, y cheques enviados por correo para Pagos Individuales del Grupo y Pagos
14 Individuales de PAGA ("Informe Semanal"). Los Informes Semanales deben incluir la evaluación
15 del Administrador sobre la validez de las Solicitudes de Exclusión y adjuntar copias de todas las
16 Solicitudes de Exclusión y objeciones recibidas.

16 **8.8.4 Impugnaciones de Semanas Laborales y/o Período de Pago.** El
17 Administrador está facultado para abordar y tomar decisiones definitivas, de conformidad con los
18 términos de este Acuerdo sobre todas las impugnaciones de los Miembros del Grupo relativas al
19 cálculo de las Semanas Laborales y/o los Períodos de Pago. La decisión del Administrador será
20 definitiva y no apelable ni susceptible de impugnación.

21 **8.8.5 Declaración del Administrador.** A más tardar 14 días antes de la fecha en
22 que la Demandante debe presentar la Moción para la Aprobación Definitiva del Acuerdo, el
23 Administrador proporcionará a los Abogados del Grupo y a los Abogados de la Defensa una
24 declaración firmada apta para presentar ante el Tribunal que certifique su debida diligencia y
25 cumplimiento de todas sus obligaciones de conformidad con el presente Acuerdo, incluyendo,
26 entre otros, el envío por correo del Aviso del Grupo, los Avisos del Grupo devueltos como no
27 entregados, el reenvío de los Avisos del Grupo, los intentos de localizar a los Miembros del
28 Grupo, el número total de Solicitudes de Exclusión del Acuerdo que recibió (tanto válidas como
no válidas), el número de objeciones por escrito y adjuntar la Lista de Exclusión. El

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1 Administrador complementará su declaración según sea necesario o solicitado por las Partes y/o
2 el Tribunal. Los Abogados del Grupo son responsables de presentar la(s) declaración(es) del
3 Administrador ante el Tribunal.

4 8.8.6 Informe Final del Administrador. Dentro de los 10 días posteriores a que
5 el Administrador desembolse todos los fondos en el Monto Bruto del Acuerdo, el Administrador
6 proporcionará a los Abogados del Grupo y a los Abogados de la Defensa un informe final que
7 detalle sus desembolsos por número de identificación de empleado únicamente de todos los pagos
8 realizados de conformidad con el presente Acuerdo. Al menos 15 días antes de cualquier fecha
9 límite establecida por el Tribunal, el Administrador preparará y enviará a los Abogados del Grupo
10 y a los Abogados de la Defensa, una declaración firmada apta para presentar ante el Tribunal que
11 dé fe del desembolso de todos los pagos requeridos de conformidad con el presente Acuerdo. Los
12 Abogados del Grupo son responsables de presentar la declaración del Administrador en el
13 Tribunal.

14 **9. ESTIMACIONES DEL TAMAÑO DEL GRUPO y CLÁUSULA ESCALADORA.**

15 Con base en sus registros, los Demandados estiman que, a la fecha del presente Acuerdo, (1) hay
16 611 Miembros del Grupo y 23,061 Semanas Laborales Totales durante el Período del Grupo y (2)
17 hubo 305 Empleados Agraviados que trabajaron 8,474 Períodos de Pago durante el Período
18 PAGA. Si las Semanas Laborales y/o los Miembros del Grupo a la fecha en que el Tribunal
19 apruebe el Acuerdo exceden las 23.061 Semanas Laborales y/o los 611 Miembros del Grupo
20 mencionados en más del 10.00%, el Monto Bruto del Acuerdo, incluyendo el Pago de los
21 Honorarios de los Abogados del Grupo, el Pago de Servicios del Representante del Grupo y el
22 Pago de LWDA, aumentará proporcionalmente según el número de Semanas Laborales
23 adicionales o Miembros del Grupo, lo que resulte en un aumento mayor en el Monto Bruto del
24 Acuerdo. Como alternativa, en el caso de que se active esta disposición de escalador, los
25 Demandados tienen la opción de elegir finalizar el Período del Grupo para que tenga una fecha
26 de finalización anterior a discreción de los Demandados para limitar las Semanas Laborales
27 cubiertas a 25,368 en lugar de de pagar un aumento al Monto del Acuerdo. El Administrador del
28 Acuerdo calculará las Semanas Laborales trabajadas por los Miembros del Grupo durante el
Período del Grupo, el monto a pagar prorrateado y los pagos individuales del acuerdo a los
Miembros del Grupo elegibles. Se presumirá que los datos de los Demandados son correctos, a

1 menos que un Miembro del Grupo en particular demuestre lo contrario al Administrador del
2 Acuerdo mediante pruebas fehacientes. Todas las disputas sobre las Semanas Laborales
3 trabajadas serán resueltas y decididas por el Administrador del Acuerdo, y la decisión del
4 Administrador del Acuerdo sobre todas las disputas sobre las Semanas Laborales trabajadas será
5 definitiva y no apelable.

6 **10. DERECHO DE LOS DEMANDADOS A RETIRARSE.** Si el número de Solicitudes
7 de Exclusión válidas identificadas en la Lista de Exclusión supera el 10,00% del total de todos
8 los Miembros del Grupo, los Demandados pueden, pero no están obligados a hacerlo, optar por
9 retirarse del Acuerdo. Las Partes acuerdan que, si los Demandados se retiran, el Acuerdo será
10 nulo ab initio, no tendrá fuerza ni efecto alguno, y que ninguna de las Partes tendrá ninguna otra
11 obligación de cumplir de conformidad con este Acuerdo; siempre que, no obstante, los
12 Demandados sigan siendo responsables de pagar todos los Gastos de Administración del Acuerdo
13 incurridos hasta ese momento. Los Demandados deben notificar a los Abogados del Grupo y al
14 Tribunal de su elección de retirarse a más tardar 7 días hábiles después de que el Administrador
15 envíe la Lista de Exclusión Definitiva a los Abogados de la Defensa; las elecciones tardías no
16 tendrán efecto alguno.

17 **11. CLÁUSULA DE NO PUBLICIDAD.** La Demandante acuerda abstenerse de cualquier
18 publicidad o cualquier tipo de comunicación, oral o escrita, de naturaleza despectiva relativa a los
19 Demandados o sus propietarios, funcionarios, agentes, directores, supervisores, empleados o
20 representantes, incluyendo, entre otros, a Amparo Estela Alcazar, Amador (Hector) Alcazar, e
21 Ivan Alcazar. La Demandante también acuerda y pacta que las mismas restricciones se aplicarán
22 con respecto a los representantes de los medios de comunicación y a cualquiera de las cuentas de
23 redes sociales de las Partes, incluyendo, entre otros, Facebook, Twitter, Instagram, Snapchat,
24 LinkedIn, Glassdoor, o cualquier otra plataforma de redes sociales. Sin embargo, nada en este
25 Acuerdo impedirá a la Demandante discutir o divulgar información sobre actos ilícitos en el lugar
26 de trabajo, como las violaciones del Código Laboral en cuestión en esta demanda, acoso o
27 discriminación o cualquier otra conducta que tenga razones para creer que es ilegal. Además, nada
28 en este acuerdo prohíbe a la Demandante y/o a los Demandados proporcionar información veraz
según lo exige la ley en un procedimiento legal o una investigación gubernamental. Cualquier

1 testimonio o comentario requerido en dichos procedimientos legales o investigaciones
2 gubernamentales no se considerará un incumplimiento de la confidencialidad en violación de este
3 párrafo.

4 **12. MOCIÓN PARA LA APROBACIÓN DEFINITIVA.** A más tardar 16 días hábiles
5 antes de la Audiencia de la Aprobación Definitiva programada, la Demandante presentará ante el
6 Tribunal una Moción para la Aprobación Definitiva del Acuerdo que incluye una solicitud de
7 aprobación del acuerdo PAGA de conformidad con la Sección 2699, subd. (l) del Código Laboral,
8 una Propuesta de Orden de Aprobación Definitiva y una Propuesta de Sentencia (colectivamente,
9 “Moción para la Aprobación Definitiva”). La Demandante deberá proporcionar borradores de
10 estos documentos a los Abogado de la Defensa a más tardar 7 días antes de presentar la Moción
11 para la Aprobación Definitiva. Los Abogados del Grupo y los Abogados de la Defensa se reunirán
12 y consultarán rápidamente en persona o por teléfono, y de buena fe, para resolver cualquier
13 desacuerdo relacionado con la Moción para la Aprobación Definitiva.

14 12.1 **Respuesta a las Objeciones.** Cada Parte se reserva el derecho de responder a
15 cualquier objeción planteada por un Miembro del Grupo Participante, incluido el derecho a
16 presentar documentos de respuesta ante el Tribunal a más tardar 5 días hábiles antes de la
17 Audiencia de Aprobación Definitiva, o según lo ordene o acepte el Tribunal.

18 12.2 **Deber de Cooperación.** Si el Tribunal no otorga la Aprobación Definitiva o
19 condiciona la Aprobación Definitiva a cualquier cambio sustancial del Acuerdo (incluido, entre
20 otros, el alcance de la exoneración que otorgarán los Miembros del Grupo), las Partes colaborarán
21 rápidamente y de buena fe para abordar las preocupaciones del Tribunal revisando el Acuerdo
22 según sea necesario para obtener la Aprobación Definitiva. La decisión del Tribunal de otorgar
23 montos menores a las solicitadas para el Pago de Servicios del Representante del Grupo, el Pago
24 de los Honorarios de los Abogados del Grupo, Pago de los Gastos de Litigio de los Abogados del
25 Grupo y/o Pago de los Gastos del Administrador no constituirá una modificación sustancial del
26 Acuerdo en el sentido de este párrafo.

27 12.3 **Continuación de la Jurisdicción del Tribunal.** Las Partes acuerdan que, después
28 de dictarse la Sentencia, el Tribunal conservará la jurisdicción sobre las Partes, la Acción y el
Acuerdo únicamente con el fin de (i) hacer cumplir este Acuerdo y/o Sentencia, (ii) abordar los
asuntos de administración del acuerdo, y (iii)) abordar los asuntos posteriores a la Sentencia

1 según lo permita la ley.

2 12.4 Renuncia al Derecho de Apelación. Siempre que la Sentencia sea consistente
3 con los términos y condiciones del presente Acuerdo, incluyendo específicamente el Pago de los
4 Honorarios de los Abogados del Grupo y el Pago de los Gastos de Litigio de los Abogados del
5 Grupo reflejados en el presente Acuerdo, las Partes, sus respectivos abogados y todos los
6 Miembros del Grupo Participantes que no se opusieron al Acuerdo según lo dispuesto en este
7 Acuerdo, renuncia a todos los derechos de apelar la Sentencia, incluyendo todos los derechos a
8 los procedimientos posteriores a la Sentencia y de apelación, el derecho a presentar mociones
9 para anular la Sentencia, mociones para un nuevo juicio, mandatos judiciales extraordinarios y
10 apelaciones. La renuncia a la apelación no incluye la renuncia al derecho de oponerse a estas
11 mociones, escritos o apelaciones. Si un objetor apela la Sentencia, las obligaciones de las Partes
12 de cumplir de conformidad con el presente Acuerdo quedarán suspendidas hasta el momento en
13 que la apelación se resuelva definitivamente y la Sentencia sea definitiva, excepto en los asuntos
14 que no afecten la cantidad del Monto Neto del Acuerdo.

15 12.5 Órdenes del Tribunal de las Apelaciones para Anular, Revocar o Modificar
16 Sustancialmente la Sentencia. Si el Tribunal de Apelación anula, revoca o modifica la Sentencia
17 de manera que requiera una modificación sustancial del presente Acuerdo (incluido, entre otros,
18 el alcance de la exoneración que otorgarán los Miembros del Grupo), este Acuerdo será nulo y
19 sin efecto alguno. No obstante, las Partes colaborarán juntas de buena fe y de manera expedita
20 para resolver las preocupaciones planteadas por el Tribunal de Apelaciones y obtener la
21 Aprobación Definitiva y el dictado de la Sentencia, compartiendo, en una base de 50-50, los
22 Gastos Administrativos adicionales en los que razonablemente se incurra después de la remisión.
23 Una decisión de apelación que anule, revoque o modifique la adjudicación del Tribunal del Pago
24 de Servicios del Representante del Grupo o cualquier Pago de los Abogados del Grupo no
25 constituirá una modificación sustancial de la Sentencia en el sentido de este párrafo, siempre que
26 el Monto Bruto del Acuerdo permanezca sin cambios.

27 13. SENTENCIA MODIFICADA. Si se requiere una sentencia enmendada de conformidad
28 con la Sección 384 del Código de Procedimiento Civil, las Partes colaborarán juntas de buena fe
para presentar conjuntamente una propuesta de sentencia enmendada.

1 **14. DISPOSICIONES ADICIONALES.**

2 14.1 No Admisión de Responsabilidad, Certificación del Grupo o Manejabilidad del
3 Representante para Otros Fines. Este Acuerdo representa un compromiso y una solución de las
4 reclamaciones muy controvertidas. Nada de lo contenido en el presente Acuerdo pretende ni debe
5 interpretarse como una admisión por parte de los Demandados de que alguna de las alegaciones
6 en la Demanda Operativa tiene fundamento o de que los Demandados son responsables de alguna
7 de las reclamaciones planteadas; tampoco tiene la intención ni debe interpretarse como una
8 admisión por parte de la Demandante de que las defensas de los Demandados en la Acción tienen
9 fundamento. Las Partes acuerdan que la certificación del grupo y el tratamiento representativo
10 son únicamente para los fines del presente Acuerdo. Si, por algún motivo, el Tribunal otorga la
11 Aprobación Preliminar, la Aprobación Definitiva o dicta Sentencia, los Demandados se reservan
12 el derecho de impugnar la certificación de alguna Acción de Grupo por cualquier motivo, y los
13 Demandados se reservan todas las defensas disponibles para las reclamaciones de la Acción, y la
14 Demandante se reserva el derecho a solicitar la certificación de la Acción de Grupo por cualquier
15 motivo disponible y a impugnar las defensas de los Demandados. La Liquidación, el presente
16 Acuerdo y la voluntad de las Partes de resolver la Acción no influirán en ningún litigio ni serán
admisibles en relación con el mismo (excepto en los procedimientos para hacer cumplir o efectuar
la Liquidación y el presente Acuerdo).

17 14.2 Certificación para Fines de Liquidación: La Demandante y los Demandados
18 acuerdan que, únicamente para fines de liquidación, la certificación del Grupo tal como se define
19 en el presente es apropiada y cumple con las normas establecidos en la Regla Federal de
20 Procedimiento Civil 23 y/o de conformidad con la Sección 382 del Código de Procedimiento
21 Civil de California.

22 14.3 Confidencialidad antes de la Aprobación Preliminar. La Demandante, los
23 Abogados del Grupo, los Demandados y los Abogados de la Defensa acuerdan por separado que,
24 hasta que se presente la Moción para la Aprobación Preliminar del Acuerdo, ellos y cada uno de
25 ellos no divulgarán, difundirán y/o darán publicidad, ni causarán ni permitirán que otra persona
26 divulgue, disemine o dé publicidad, a ninguno de los términos del Acuerdo directa o
27 indirectamente, de manera específica o general, a ninguna persona, corporación, asociación,
28 agencia gubernamental u otra entidad, excepto: (1) a los Abogados, contadores o cónyuges de las
Partes, a quienes se les indique mantener la confidencialidad del presente Acuerdo; (2) a los

1 Abogados en un asunto relacionado; (3) en la medida necesaria para informar los ingresos a las
2 autoridades fiscales correspondientes; (4) en respuesta a una orden o citación judicial; o (5) en
3 respuesta a una investigación o citación emitida por una agencia gubernamental estatal o federal.

4 Cada Parte acuerda notificar inmediatamente a la otra Parte de cualquier orden,
5 investigación o citación judicial o de una agencia que solicite esta información. La Demandante,
6 los Abogados del Grupo, los Demandados y los Abogados de la Defensa acuerdan por separado
7 no iniciar, directa o indirectamente, ninguna conversación u otra comunicación, antes de la
8 presentación de la Moción para la Aprobación Preliminar, con ningún tercero en relación con este
9 Acuerdo o los asuntos que dieron lugar a este Acuerdo, excepto para responder únicamente que
10 “el asunto se resolvió”, o palabras en ese sentido. Este párrafo no restringe las comunicaciones
11 de los Abogados del Grupo con los Miembros del Grupo de conformidad con las obligaciones
12 éticas de los Abogados del Grupo con los Miembros del Grupo.

13 14.4 Sin Solicitud. Las Partes acuerdan por separado que ellos y sus respectivos
14 abogados y empleados no solicitarán a ningún Miembro del Grupo que opte por no participar en
15 el presente Acuerdo o que se oponga al mismo, ni apelar la Sentencia. Nada de lo dispuesto en
16 este párrafo se interpretará en el sentido de restringir la capacidad de los Abogados del Grupo
17 para comunicarse con los Miembros del Grupo de conformidad con las obligaciones éticas de los
18 Abogados del Grupo con los Miembros del Grupo.

19 14.5 Acuerdo Integrado. Una vez ejecutado por todas las Partes y sus abogados, el
20 presente Acuerdo, junto con sus anexos, constituirá el Acuerdo Completo entre las Partes en
21 relación con el Acuerdo, sustituyendo todas y cada una de las declaraciones, garantías, pactos o
22 incentivos verbales hechos a o por cualquiera de las Partes.

23 14.6 Autorización de los Abogados. Los Abogados del Grupo y los Abogados de la
24 Defensa garantizan y declaran por separado que están autorizados por la Demandante y los
25 Demandados, respectivamente, para tomar todas las medidas apropiadas requeridas o permitidas
26 para ser tomadas por dichas Partes de conformidad con el presente Acuerdo para hacer efectivos
27 sus términos, y para ejecutar cualquier otro documento razonablemente necesario para hacer
28 efectivos los términos del presente Acuerdo, incluyendo las enmiendas a este Acuerdo.

14.7 Cooperación. Las Partes y sus abogados cooperarán entre sí y harán todo lo
posible, de buena fe, para implementar el Acuerdo mediante, entre otras cosas, la modificación
del Acuerdo, la presentación de pruebas suplementarias y complementarias de puntos y

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1 autoridades según lo solicite el Tribunal. En caso de que las Partes no puedan ponerse de acuerdo
2 sobre la forma o el contenido de cualquier documento necesario para implementar el Acuerdo, o
3 sobre alguna modificación del Acuerdo que pueda ser necesaria para implementar el Acuerdo, las
4 Partes solicitarán la asistencia de un mediador y/o del Tribunal para su resolución.

5 14.8 Cumplimiento. Las partes acuerdan que el Tribunal Superior del Condado de
6 Sacramento tendrá jurisdicción para hacer cumplir los términos del presente Acuerdo de
7 conformidad con la Sección 661.6 del Código de Procedimiento Civil de California. En caso de
8 que se requiera presentación de una moción para hacer cumplir este Acuerdo debido al
9 incumplimiento de una de las Partes de los términos del mismo, se otorgará a la parte vencedora
10 los honorarios y costos razonables de los abogados, que se sumarán a los montos que deben
11 pagarse de conformidad con Acuerdo.

12 14.9 Sin Asignaciones Previas. Las Partes declaran y garantizan por separado que no
13 han cedido, transferido, gravado o pretendido ceder, transferir o gravar directa o indirectamente
14 a ninguna persona o entidad y parte de ninguna responsabilidad, reclamación, demanda, acción,
15 causa de acción o derecho liberado y descargado por la Parte en este Acuerdo.

16 14.10 Sin Asesoramiento Fiscal. Ni la Demandante, ni los Abogados del Grupo, ni los
17 Demandados, ni los Abogados de la Defensa están proporcionando ningún tipo de asesoramiento
18 en relación con los impuestos o la tributación, ni nada de lo contenido en este Acuerdo se
19 considerará como tal en el sentido de la Circular 230 del Departamento del Tesoro de los Estados
20 Unidos (31 CFR Parte 10, en su versión enmendada) o de otro modo.

21 14.11 Modificación del Acuerdo. Este Acuerdo, y todas sus partes, podrán ser
22 enmendados, modificados, cambiados o renunciados únicamente mediante un instrumento
23 expreso por escrito firmado por todas las Partes o sus representantes, y aprobado por el Tribunal.

24 14.12 Acuerdo Vinculante para los Sucesores. El presente Acuerdo será vinculante y
25 redundará en beneficio de los sucesores de cada una de las Partes.

26 14.13 Ley Aplicable. Todos los términos y condiciones de este Acuerdo y sus anexos
27 se regirán e interpretarán de conformidad con las leyes internas del estado de California, sin tener
28 en cuenta los principios de conflicto de leyes.

14.14 Cooperación en la Redacción. Las Partes han cooperado en la redacción y
preparación del presente Acuerdo. El presente Acuerdo no se interpretará en contra de ninguna
de las Parte sobre la base de que las Partes fueron las que redactaron o participaron en la redacción.

1 14.15 Confidencialidad. En la medida en que lo permita la ley, todos los acuerdos
2 firmados y las órdenes dictadas durante la Acción y en el presente Acuerdo en relación con la
3 confidencialidad de la información mantendrán su vigencia después de haber firmado el presente
4 Acuerdo.

5 14.16 Uso y Devolución de los Datos del Grupo. Información proporcionada a los
6 Abogados del Grupo de conformidad con el Código de Pruebas de California §1152, y todas las
7 copias y resúmenes de los Datos del Grupo proporcionados a los Abogados del Grupo por los
8 Demandados en relación con la mediación, otras negociaciones del Acuerdo o en relación con el
9 Acuerdo, únicamente podrán con respecto al presente Acuerdo, y con ningún otro propósito, y no
10 podrán usarse de ninguna manera que viole ningún acuerdo contractual, estatuto o norma judicial
11 existente. A más tardar 90 días después de la fecha en que el Tribunal cumpla con la obligación
12 del Administrador de proporcionar una Declaración que confirme el pago final de todos los fondos
13 del Acuerdo, la Demandante destruirá todas las versiones impresas y electrónicas de los Datos
14 del Grupo recibidos de los Demandados, a menos que, antes de que el Tribunal cumpla la
15 obligación del Administrador, los Demandados soliciten por escrito a los Abogados del Grupo la
16 devolución, en lugar de la destrucción, de los Datos del Grupo.

17 14.17 Encabezados. El encabezado descriptivo de cualquier sección o párrafo de este
18 Acuerdo se inserta únicamente para facilitar la referencia y no constituye parte de este Acuerdo.

19 14.18 Días Calendario. A menos que se indique lo contrario, toda referencia a “días”
20 en el presente Acuerdo se entenderá a días calendario. En caso de que cualquier fecha o fecha
21 límite establecida en el presente Acuerdo caiga en fin de semana o en día festivo legal federal,
22 dicha fecha o fecha límite será el primer día hábil siguiente.

23 14.19 Aviso. Todos los avisos, demandas u otras comunicaciones entre las Partes en
24 relación con el presente Acuerdo se harán por escrito y se considerarán debidamente entregados
25 a partir del tercer día hábil posterior al envío por correo postal de los Estados Unidos, o el día del
26 envío por correo electrónico o mensajero, dirigido como sigue:

27 Al demandante:
28 DAVID G. SPIVAK
david@spivaklaw.com
THE SPIVAK LAW FIRM
8605 Santa Monica Bl
PMB 42554

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1 West Hollywood, CA 90069
2 Teléfono: (213) 725-9094
3 Facsimil: (213) 634-2485

4 WALTER L. HAINES
5 walter@uelglaw.com
6 UNITED EMPLOYEES LAW GROUP, PC
7 8605 Santa Monica Blvd., PMB 63354
8 West Hollywood, CA 90069
9 Teléfono: (562) 256-1047
10 Facsimil: (562) 256-1006

11 A los Demandados:
12 Laura C. McHugh, Esq.
13 Dugan McHugh Law Corporation
14 641 Fulton Ave
15 Ste 100
16 Sacramento, CA 95825
17 laura@dugganmchugh.com

18 14.20 Formalización en varios ejemplares. Este Acuerdo podrá firmarse en uno o más
19 ejemplares por fax, electrónicamente (es decir, DocuSign) o correo electrónico que, a los efectos
20 del presente Acuerdo, se aceptarán como originales. Todos los ejemplares firmados y cada uno
21 de los ejemplares se considerarán como un único y mismo instrumento si los abogados de las
22 Partes intercambian entre sí ejemplares firmados. Todo ejemplar firmado será admisible como
23 prueba para demostrar la existencia y el contenido del presente Acuerdo.

24 14.21 Suspensión del Litigio. Las Partes acuerdan que después de firmar el presente
25 Acuerdo se suspenderá el litigio, excepto para hacer efectivos los términos de este Acuerdo.
26 Asimismo, las Partes acuerdan que, después de firmar este Acuerdo, de conformidad con la
27 Sección 583.330 del CCP, se extenderá la fecha para llevar un caso a juicio de conformidad con
28 la Sección 583.310 del CCP durante todo el período de este proceso del Acuerdo.

29 Con fecha de: 08 / 29 / 2023

Por:



MARIA ELENA DIAZ HERNANDEZ


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Con fecha de: _____

Por: _____

Amador Alcazar
Presidente
Guitron Alcazar Alcazar Inc. dba El Tapatio Mexican Cuisine, Guitron Alcazar III Inc., and Guitron Alcazar IV, LLC

Con fecha de: 08 / 29 / 2023

Por: 

THE SPIVAK LAW FIRM

DAVID G. SPIVAK, Abogados de la Demandante, MARIA ELENA DIAZ HERNANDEZ, y todos los demás en situación similar

UNITED EMPLOYEES LAW GROUP

Con fecha de: _____

Por: _____

WALTER L. HAINES, Abogados de la Demandante, MARIA ELENA DIAZ HERNANDEZ, y todos los demás en situación similar

DUGAN MCHUGH LAW CORPORATION

Con fecha de: _____

Por: _____

LAURA C. MCHUGH, Abogados de los Demandados, Guitron Alcazar Alcazar Inc. dba El Tapatio Mexican Cuisine, Guitron Alcazar III Inc., and Guitron Alcazar IV, LLC

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EXHIBIT A

1 **COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING**
2 **DATE FOR FINAL COURT APPROVAL**

3 (case name: *Maria Elena Diaz Hernandez, et al. v. Guitron Alcazar Alcazar Inc. dba El Tapatio*
4 *Mexican Cuisine, et al.* and number 34-2021-00306648)

5 ***The Superior Court for the State of California authorized this Notice. Read it carefully!***
6 ***It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

7 **You may be eligible to receive money** from an employee class action lawsuit (“Action”) against Guitron Alcazar Alcazar Inc. dba El Tapatio Mexican Cuisine, Guitron Alcazar III Inc., and Guitron Alcazar IV, LLC (collectively “Defendants”) for alleged wage and hour violations. The Action was filed by one of Defendants’ employees, Maria Elena Diaz Hernandez (“Plaintiff”) and seek payment of (1) wages and other relief for a class of non-exempt, hourly employees (“Class Members”) who worked for Defendants during the Class Period (August 23, 2017 to the date of the order preliminarily approving the Settlement); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all non-exempt, hourly employees who worked for Defendants during the PAGA Period (August 26, 2020 to the date of the order preliminarily approving the Settlement) (“Aggrieved Employees”).

12 The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

15 Based on Defendants’ records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ [redacted] (less withholding) and your Individual PAGA payment is estimated to be \$ [redacted]**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA payment, then according to Defendants’ records you are not eligible for an Individual PAGA payment under the Settlement because you didn’t work during the PAGA Period.)

19 The above estimates are based on Defendants’ records showing that **you worked [redacted] Work Weeks** during the Class Period and **you worked [redacted] Pay Periods** during the PAGA Period. If you believe that you worked more Work Weeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

22 The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and her attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendants to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

1 If you worked for Defendants during the Class Period and/or the PAGA Period, you have
2 two basic options under the Settlement:

3 (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement
4 and be eligible for an Individual Class Payment and/or an Individual PAGA payment. As a
5 Participating Class Member, though, you will give up your right to assert Class Period wage
6 claims and PAGA Period penalty claims against Defendants.

7 (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class
8 Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the
9 Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual
10 Class Payment. You will, however, preserve your right to personally pursue Class Period wage
11 claims against Defendants, and, if you are an Aggrieved Employee, remain eligible for an
12 Individual PAGA payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

13 **Defendants will not retaliate against you for any actions you take with respect to the
14 proposed Settlement.**

15 SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

16 You Don't Have to Do 17 Anything to Participate 18 in the Settlement	19 If you do nothing, you will be a Participating Class Member, eligible 20 for an Individual Class Payment and an Individual PAGA payment 21 (if any). In exchange, you will give up your right to assert the wage 22 claims against Defendants that are covered by this Settlement 23 (Released Claims).
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24 You Can Opt-out of the 25 Class Settlement but not 26 the PAGA Settlement	27 If you don't want to fully participate in the proposed Settlement, you 28 can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non- Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.
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29 The Opt-out Deadline is 30 [Redacted]	31 You cannot opt-out of the PAGA portion of the proposed 32 Settlement. Defendants must pay Individual PAGA payments to all 33 Aggrieved Employees and the Aggrieved Employees must give up 34 their rights to pursue Released Claims (defined below).
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35 Participating Class 36 Members Can Object to 37 the Class Settlement but 38 not the PAGA 39 Settlement	40 All Class Members who do not opt-out ("Participating Class 41 Members") can object to any aspect of the proposed Settlement. The 42 Court's decision whether to finally approve the Settlement will 43 include a determination of how much will be paid to Class Counsel 44 and Plaintiff who pursued the Action on behalf of the Class. You are 45 not personally responsible for any payments to Class Counsel or 46 Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces 47 the overall amount paid to Participating Class Members. You can 48 object to the amounts requested by Class Counsel or Plaintiff if you 49 think they are unreasonable. See Section 7 of this Notice.
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50 Written Objections 51 Must be Submitted by 52 [Redacted]

<p>1 You Can Participate in 2 the [redacted] Final Approval 3 Hearing</p>	<p>The Court's Final Approval Hearing is scheduled to take place on [redacted]. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.</p>
<p>5 You Can Challenge the 6 Calculation of Your 7 Work Week / Pay 8 Periods 9 Written Challenges 10 Must be Submitted by 11 [redacted]</p>	<p>The amount of your Individual Class Payment and LWDA PAGA payment (if any) depend on how many Work Weeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Work Weeks and number of PAGA Period Pay Periods you worked according to Defendants' records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [redacted]. See Section 4 of this Notice.</p>

11 **1. WHAT IS THE ACTION ABOUT?**

12 Plaintiff is a former employee of Defendants. The Action accuses Defendants of violating California labor laws by failure to provide meal periods, failure to authorize and permit rest periods, failure to issue proper wage statements, failure to timely pay wages, failure to maintain required payroll records, and related violations of the Labor Code. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action: David G. Spivak of The Spivak Law Firm, and Walter L. Haines of United Employees Law Group, PC ("Class Counsel.")

17 Defendants strongly deny violating any laws or failing to pay any wages and contend they complied with all applicable laws.

19 **2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?**

20 So far, the Court has made no determination whether Defendants or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendants have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

26 Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and

1 (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court
2 preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this
3 Notice, and scheduled a hearing to determine Final Approval.

3 **3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?**

4 1. Defendants Will Pay \$685,000.00 as the Gross Settlement Amount (Gross
5 Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled
6 by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay
7 the Individual Class Payments, Individual PAGA payments, Class Representative Service
8 Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and
9 penalties to be paid to the California Labor and Workforce Development Agency ("LWDA").
10 Assuming the Court grants Final Approval, Defendants will begin to fund the Gross Settlement as
11 follows: Within thirty (30) calendar days of the Effective Date, Defendants shall pay the first of
12 two (2) equal \$342,500.00 installment payments on the Gross Settlement Amount into the
13 Settlement Account and shall pay the remaining \$342,500.00 installment payment within 180
14 days of the first installment payment. The Administrator will make a distribution after each
15 installment payment as follows:

16 **First Distribution.** Within fourteen (14) calendar days of the Effective Date, or within
17 ten (10) calendar days of the deadline for the First payment (whichever is later), the Settlement
18 Administrator shall distribute, *pro rata*, the portion of the Gross Settlement Amount Defendants
19 paid by that date, including *pro rata* portions of the Individual Class Payments, Individual PAGA
20 Payments, LWDA PAGA payment, Class Representative Service Payment, the Class Counsel
21 Fees Payment, the Class Counsel Litigation Expenses Payment, and the Administrator's
22 expenses.

23 **Second Distribution.** Within ten (10) calendar days of the Second Installment Payment,
24 the Settlement Administrator shall distribute, *pro rata*, the portion of the Gross Settlement
25 Amount Defendants paid since the first distribution, including *pro rata* portions of the Individual
26 Class Payments, Individual PAGA Payments, LWDA PAGA payment, Class Representative
27 Service Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
28 Payment, and the Administrator's expenses.

29 2. Disbursements of the pro rata portions of the Class Counsel Fees Payment, the
30 Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall
31 not precede disbursement of pro rata portions of the Individual Class Payments and Individual
32 PAGA payments.

33 3. The Judgment will be final on the date the Court enters Judgment, or a later date
34 if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

35 4. Court Approved Deductions from Gross Settlement. At the Final Approval
36 Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions
37 from the Gross Settlement, the amounts of which will be decided by the Court at the Final
38 Approval Hearing:

39 A. Up to \$228,333.30 (33.33% of the Gross Settlement to Class Counsel for

1 attorneys' fees and up to \$20,000.00 for their litigation expenses. To date, Class Counsel have
2 worked and incurred expenses on the Action without payment.

3 B. Up to \$15,000.00 as a Class Representative Award to Plaintiff for filing
4 the Action, working with Class Counsel and representing the Class. A Class Representative
5 Award will be the only monies Plaintiff will receive other than her Individual Class Payment and
6 any Individual PAGA payment.

7 C. Up to \$25,000.00 to the Administrator for services administering the
8 Settlement.

9 D. Up to \$4,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA
10 payment and 25% in Individual PAGA payments to the Aggrieved Employees based on their
11 PAGA Period Pay Periods.

12 Participating Class Members have the right to object to any of these deductions. The Court
13 will consider all objections.

14 If the Work Weeks and/or Class Members as of the date the Court approves the settlement
15 exceeds the referenced 23,061 Work Weeks and/or 611 Class Members by more than 10.00%,
16 the Gross Settlement Amount, including the Class Counsel Fees Payment, the Class
17 Representative Service Payment, and the LWDA payment, will increase proportionally according
18 to the number of additional Work Weeks or Class Members, whichever results in a higher increase
19 in the Gross Settlement Amount.

20 5. Net Settlement Distributed to Class Members. After making the above deductions
21 in amounts approved by the Court, the Administrator will distribute the rest of the Gross
22 Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class
23 Members based on their Class Period Work Weeks.

24 6. Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking
25 the Court to approve an allocation of 20.00% of each Individual Class Payment to taxable wages
26 ("Wage Portion") and 80.00% to interest and penalties ("Non-Wage Portion."). The Wage Portion
27 is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately
28 pay employer payroll taxes they owes on the Wage Portion. The Individual PAGA payments are
counted as penalties rather than wages for tax purposes. The Administrator will report the
Individual PAGA payments and the Non-Wage Portions of the Individual Class Payments on IRS
1099 Forms.

Although Plaintiff and Defendants have agreed to these allocations, neither side is giving
you any advice on whether your Payments are taxable or how much you might owe in taxes. You
are responsible for paying all taxes (including penalties and interest on back taxes) on any
Payments received from the proposed Settlement. You should consult a tax advisor if you have
any questions about the tax consequences of the proposed Settlement.

7. Need to Promptly Cash Payment Checks. The front of every check issued for

1 Individual Class Payments and Individual PAGA payments will show the date when the check
2 expires (the void date). If you don't cash it by the void date, your check will be automatically
cancelled, and the monies

3 will be deposited with the California Controller's Unclaimed Property Fund in your
4 name.

5 will irrevocably lost to you because they will be paid to a non-profit organization or
6 foundation ("Cy Pres").

7 If the monies represented by your check is sent to the Controller's Unclaimed Property,
8 you should consult the rules of the Fund for instructions on how to retrieve your money.

9 8. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated
10 as a Participating Class Member, participating fully in the Class Settlement, unless you notify the
11 Administrator in writing, not later than [REDACTED], that you wish to opt-out. The easiest way to notify
12 the Administrator is to send a written and signed Request for Exclusion by the [REDACTED] Response
13 Deadline. The Request for Exclusion should be a letter from a Class Member or her representative
14 setting forth a Class Member's name, present address, telephone number, and a simple statement
15 electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating
16 Class Members) will not receive Individual Class Payments, but will preserve their rights to
17 personally pursue wage and hour claims against Defendants.

18 You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude
19 themselves from the Class Settlement (Non-Participating Class Members) remain eligible for
20 Individual PAGA payments and are required to give up their right to assert PAGA claims against
21 Defendants based on the PAGA Period facts alleged in the Action.

22 9. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is
23 possible the Court will decline to grant Final Approval of the Settlement or decline enter a
24 Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff
25 and Defendants have agreed that, in either case, the Settlement will be void: Defendants will not
26 pay any money and Class Members will not release any claims against Defendants.

27 10. Administrator. The Court has appointed a neutral company, CPT Group, Inc. (the
28 "Administrator") to send this Notice, calculate and make payments, and process Class Members'
Requests for Exclusion. The Administrator will also decide Class Member Challenges over Work
Weeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to
administer the Settlement. The Administrator's contact information is contained in Section 9 of
this Notice.

11. Participating Class Members' Release. After the Judgment is final and Defendants
have fully funded the Gross Settlement (and separately paid all employer payroll taxes),
Participating Class Members will be legally barred from asserting any of the claims released under
the Settlement. This means that unless you opted out by validly excluding yourself from the Class
Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or
related entities for wages based on the Class Period facts and PAGA penalties based on PAGA

1 Period facts, as alleged in the Action and resolved by this Settlement.

2 The Participating Class Members will be bound by the following release:

3 All Participating Class Members, on behalf of themselves and their respective former and
4 present representatives, agents, attorneys, heirs, administrators, successors, and assigns,
5 release Released Parties from (i) all claims that were alleged, or reasonably could have
6 been alleged, based on the Class Period facts stated in the Operative Complaint and
7 ascertained in the course of the Action including failure to provide meal periods, failure
8 to authorize and permit rest periods, failure to issue proper wage statements, failure to
9 timely pay wages, failure to maintain required payroll records, and related allegations.
10 Except as set forth in Section 6.3 of the Settlement Agreement, Participating Class
11 Members do not release any other claims, including claims for vested benefits, wrongful
12 termination, violation of the Fair Employment and Housing Act, unemployment
13 insurance, disability, social security, workers' compensation, or claims based on facts
14 occurring outside the Class Period.

15 12. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and
16 Defendants have paid the Gross Settlement (and separately paid the employer-side payroll taxes),
17 all Aggrieved Employees will be barred from asserting PAGA claims against Defendants, whether
18 or not they exclude themselves from the Settlement. This means that all Aggrieved Employees,
19 including those who are Participating Class Members and those who opt-out of the Class
20 Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against
21 Defendants or their related entities based on the PAGA Period facts alleged in the Action and
22 resolved by this Settlement.

23 The Aggrieved Employees' Releases for Participating and Non-Participating Class
24 Members are as follows:

25 All Participating and Non-Participating Class Members who are Aggrieved Employees
26 are deemed to release, on behalf of themselves and their respective former and present
27 representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released
28 Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been
alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice
and ascertained in the course of the Action including failure to provide meal periods, failure to
authorize and permit rest periods, failure to issue proper wage statements, failure to timely pay
wages, failure to maintain required payroll records, and related allegations.

29 4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

30 1. Individual Class Payments. The Administrator will calculate Individual Class
31 Payments by (a) dividing the Net Settlement Amount by the total number of Work Weeks worked
32 by all Participating Class Members, and (b) multiplying the result by the number of Work Weeks
33 worked by each individual Participating Class Member.

34 2. Individual PAGA payments. The Administrator will calculate Individual PAGA

1 payments by (a) dividing \$1,000.00 by the total number of PAGA Pay Periods worked by all
2 Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods
3 worked by each individual Aggrieved Employee.

3 3. Workweek/Pay Period Challenges. The number of Class Work Weeks you worked
4 during the Class Period and the number of PAGA Pay Periods you worked during the PAGA
5 Period, as recorded in Defendants' records, are stated in the first page of this Notice. You have
6 until [redacted] to challenge the number of Work Weeks and/or Pay Periods credited to you. You can
7 submit your challenge by signing and sending a letter to the Administrator via mail, email or fax.
8 Section 9 of this Notice has the Administrator's contact information.

9 You need to support your challenge by sending copies of pay stubs or other records. The
10 Administrator will accept Defendants' calculation of Work Weeks and/or Pay Periods based on
11 Defendants' records as accurate unless you send copies of records containing contrary
12 information. You should send copies rather than originals because the documents will not be
13 returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based
14 on your submission and on input from Class Counsel (who will advocate on behalf of
15 Participating Class Members) and Defendants' Counsel. The Administrator's decision is final.
16 You can't appeal or otherwise challenge its final decision.

12 5. HOW WILL I GET PAID?

13 Within thirty (30) calendar days of the Effective Date, Defendants shall pay the first of
14 two (2) equal \$342,500.00 installment payments on the Gross Settlement Amount into the
15 Settlement Account and shall pay the remaining \$342,500.00 installment payment within 180
16 days of the first installment payment.

17 1. Participating Class Members. After each instalment payment by Defendants
18 toward the Gross Settlement Amount, the Administrator will send, by U.S. mail, a single pro rata
19 check to every Participating Class Member (i.e., every Class Member who doesn't opt-out)
20 including those who also qualify as Aggrieved Employees. The single check will combine the
21 Individual Class Payment and the Individual PAGA payment.

22 2. Non-Participating Class Members. After each instalment payment by Defendants
23 toward the Gross Settlement Amount, the Administrator will send, by U.S. mail, a single pro rata
24 Individual PAGA payment check to every Aggrieved Employee who opts out of the Class
25 Settlement (i.e., every Non-Participating Class Member).

26 **Your checks will be sent to the same address as this Notice. If you change your
27 address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has
28 the Administrator's contact information.**

25 6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

26 Submit a written and signed letter with your name, present address, telephone number,
27 and a simple statement that you do not want to participate in the Settlement. The Administrator

1 will exclude you based on any writing communicating your request be excluded. Be sure to
2 personally sign your request, identify the Action as *Maria Elena Diaz Hernandez vs. Guitron*
3 *Alcazar Alcazar Inc. dba El Tapatio Mexican Cuisine*, Case No. 34-2021-00306648, and include
4 your identifying information (full name, address, telephone number, approximate dates of
5 employment, and social security number for verification purposes). You must make the request
6 yourself. If someone else makes the request for you, it will not be valid. **The Administrator**
7 **must be sent your request to be excluded by [redacted], or it will be invalid.** Section 9 of the Notice
8 has the Administrator's contact information.

6 7. HOW DO I OBJECT TO THE SETTLEMENT?

7 Only Participating Class Members have the right to object to the Settlement. Before deciding
8 whether to object, you may wish to see what Plaintiff and Defendants are asking the Court to
9 approve. At least [redacted] days before the [redacted] Final Approval Hearing, Class Counsel and/or Plaintiff
10 will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons
11 why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service
12 Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation
13 expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award.
14 Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice)
15 will send you copies of these documents at no cost to you. You can also view them on the
16 Administrator's Website ([url](#)) or the Court's website ([url](#)).

14 A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for
15 Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to
16 object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class
17 Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the**
18 **Administrator is [redacted].** Be sure to tell the Administrator what you object to, why you object, and
19 any facts that support your objection. Make sure you identify the Action, *Maria Elena Diaz*
20 *Hernandez, et al. vs. Guitron Alcazar Alcazar Inc. dba El Tapatio Mexican Cuisine*, case no. 34-
21 2021-00306648, and include your name, current address, telephone number, and approximate
22 dates of employment for Defendants and sign the objection. Section 9 of this Notice has the
23 Administrator's contact information.

20 Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at
21 your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready
22 to tell the Court what you object to, why you object, and any facts that support your objection.
23 See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval
24 Hearing.

23 8. CAN I ATTEND THE FINAL APPROVAL HEARING?

24 You can, but don't have to, attend the Final Approval Hearing on [redacted] at (time) in Department 28
25 of the Sacramento Superior Court, located at 720 Ninth Street, Sacramento, CA 95814. At the
26 Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much
27 of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court
28 will invite comment from objectors, Class Counsel and Defense Counsel before making a

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10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.