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14 Attorneys for Defendants
LASCARI'S AND SONS, INC. and
15 LASCARI'S GROUP, INC.
16 *(additional counsel listed on next page)*

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 FOR THE COUNTY OF LOS ANGELES

19
20 CATRINA MARTINEZ, an individual, on
behalf of herself, and all others similarly
21 situated,

22 Plaintiff,

23 v.

24 LASCARI'S AND SONS INC. a California
Corporation, LASCARI'S GROUP, INC., a
25 California Corporation, and DOES 1 through 25,
inclusive,

26 Defendants.
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FILED
Superior Court of California
County of Los Angeles

10/13/2021

Sherri R. Carter, Executive Officer / Clerk of Court

By: M. Cervantes Deputy

Case No. BC716005

[Assigned for all purposes to Hon. David S. Cunningham, Dept. 11]

STIPULATION TO AMEND THE CLASS ACTION SETTLEMENT AGREEMENT AND ~~PROPOSED~~ ORDER

Complaint Filed: August 1, 2018
FAC Filed: March 28, 2019
Trial Date: None

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7 LASCARI'S GROUP, INC.
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1 Plaintiff CATRINA MARTINEZ (“Plaintiff”) and Defendants LASCARI’S AND SONS,
2 INC. and LASCARI’S GROUP, INC. (collectively, “the Parties”) through their respective counsel
3 of record, hereby enter into the following stipulation based on the following facts:

4 WHEREAS, on August 30, 2021 the Court issued its Order Re Motion for Preliminary
5 Approval of Class Action Settlement (“Order”) granting preliminary approval contingent upon the
6 Parties submitting supplemental pleadings on or before October 1, 2021 that addressed the
7 following issues: (1) Scope of Release; (2) Release Effective Date; and (3) Notice and Notice
8 Administration to provide an extended deadline for Class Members who receive re-mailed notices;

9 WHEREAS, the Court’s Order scheduled the Preliminary Approval Hearing for October
10 26, 2021;

11 WHEREAS, as reflected in the Amended Class Action Settlement Agreement (“Amended
12 Settlement Agreement”) the Parties have made the following changes to the proposed settlement
13 to comport with the Court’s Order:

14 Paragraphs 37 and 58(a) of the Amended Settlement Agreement, shall be modified to
15 provide further clarification regarding the Response Deadline and to provide an extended deadline
16 up to ten (10) additional calendar days for Class Members who have their Notice of Class Action
17 and PAGA Settlement (“Notice”) re-mailed to them.

18 Paragraphs 93 and 94 of the Amended Settlement Agreement have been modified such that
19 the release of Released Class Claims and Released PAGA Claims is not effective until Defendants
20 deposit with the settlement administrator the Gross Settlement Amount. Moreover, the scope of
21 the release of Released Class Claims and Released PAGA Claims has been modified to specify the
22 scope of the release is limited to claims alleged in, or arising out of facts asserted in the operative
23 First Amended Complaint.

24 WHEREAS, the Parties agree that the corresponding language set forth in Section 5 of the
25 Notice of Class Action and PAGA Settlement (“Notice”) shall also be modified to comport with
26 the afore-referenced changes;

27 WHEREAS, a fully-executed copy of the Amended Settlement Agreement is attached
28 hereto as Exhibit “A” and a redline of the Amended Settlement Agreement, including the

1 Notice, is attached hereto as Exhibit "B". This redlined version reflects all changes made by the
2 Parties in response to the Court's Order.

3 WHEREAS, Plaintiff asserts that she is an adequate class representative and is able to
4 make an affirmative showing to satisfy the adequacy requirements of the community of interest
5 analysis, as set forth in the Declaration attached hereto as Exhibit "C".
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8 IT IS THEREFORE STIPULATED AND AGREED by Plaintiff and Defendants, through
9 their attorneys of record, that:

- 10 1. The Parties agree that, subject to Court approval, the Amended Class Action
11 Settlement Agreement signed by the Parties and presented to the Court for
12 preliminary approval shall be the operative agreement representing the terms of this
13 settlement.
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18 IT IS SO STIPULATED.
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20 DATED: September 30, 2021

GUNN COBLE LLP

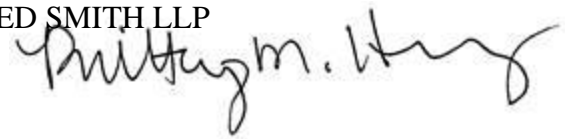
21
22
23 By: 

24 Beth A. Gunn
25 Catherine J. Coble
26 Attorneys for Plaintiff
27 CATRINA MARTINEZ, an individual, on
28 behalf of herself, and all others similarly
situated

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DATED: October 1, 2021

REED SMITH LLP



By: _____
Michael R. Kleinmann
Brittany M. Hernandez
Attorneys for Defendants
LASCARI'S AND SONS, INC. and
LASCARI'S GROUP, INC.

DATED: September ____, 2021

THE LEW FIRM, APC

By: _____
Charles Lew
Isaiah Artest
Attorneys for Defendants
LASCARI'S AND SONS, INC. and
LASCARI'S GROUP, INC.

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DATED: September ____, 2021

REED SMITH LLP

By: _____
Michael R. Kleinmann
Brittany M. Hernandez
Attorneys for Defendants
LASCARI'S AND SONS, INC. and
LASCARI'S GROUP, INC.

DATED: September 30, 2021

THE LEW FIRM, APC

By: Charles Lew
Charles Lew
Isaiah Artest
Attorneys for Defendants
LASCARI'S AND SONS, INC. and
LASCARI'S GROUP, INC.

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PROPOSED ORDER

Pursuant to the above Stipulation, and good cause appearing, IT IS HEREBY ORDERED that the Amended Class Action Settlement Agreement, attached as Exhibit "A" hereto, is the operative agreement reflecting the terms and conditions of the proposed class settlement that shall be considered in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement;

IT IS FURTHER ORDERED THAT:

1. Paragraphs 37, 58, 93 and 94 of the Class Action Settlement Agreement shall be amended and modified as reflected in the Amended Class Action Settlement Agreement.
2. The corresponding language set forth in the Notice of Class Action and PAGA Settlement ("Notice") Section 5 shall be modified to comport with the modifications delineated in the Amended Class Action Settlement Agreement.

IT IS SO ORDERED.

Dated: _____, 2021



Honorable David S. Cunningham
Judge of the Superior Court

EXHIBIT “A”

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2 Gunn Coble LLP
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7 Attorneys for Plaintiff
CATRINA MARTINEZ

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Email: mkleinmann@reedsmith.com
13 bmhernandez@reedsmith.com

14 Attorneys for Defendants
15 LASCARI'S AND SONS, INC. and
LASCARI'S GROUP, INC.
16 *(additional parties listed on next page)*

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 FOR THE COUNTY OF LOS ANGELES
19

20 CATRINA MARTINEZ, an individual, on
behalf of herself, and all others similarly
21 situated,

22 Plaintiff,

23 v.

24 LASCARI'S AND SONS INC. a California
Corporation, LASCARI'S GROUP, INC., a
25 California Corporation, and DOES 1 through 25,
inclusive,

26 Defendants.
27
28

Case No. BC716005

[Assigned for all purposes to Hon. David S.
Cunningham, Dept. 11]

**AMENDED CLASS ACTION
SETTLEMENT AGREEMENT**

Complaint Filed: August 1, 2018
FAC Filed: March 28, 2019
Trial Date: None

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7 LASCARI'S GROUP, INC.
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1 This Amended Class Action Settlement Agreement (“Agreement”) is made by and
2 between Plaintiff Catrina Martinez (“Plaintiff”) and Defendants Lascari’s and Sons, Inc. and
3 Lascari’s Group, Inc. (“Defendants”) (collectively “the Parties”) with regard to the lawsuit titled
4 *Martinez v. Lascari’s and Sons, Inc., et al.*, Case No. BC716005 pending in the Superior Court of
5 the State of California, County of Los Angeles (the “Civil Action”).

6 **THE SETTLEMENT**

7 1. Subject to the Court’s approval pursuant to Section 382 of the California Code of
8 Civil Procedure and Rule 3.769 of the California Rules of Court, Plaintiffs and Defendants have
9 agreed to settle the Civil Action upon the terms and conditions and for the consideration set forth
10 in this Agreement.

11 2. A summary of the terms of the Agreement is as follows:

- 12 • Defendants shall pay a settlement amount of Five Hundred and Fifty
13 Thousand Dollars and No Cents (\$550,000.00), referred to herein as the
14 Gross Settlement Amount, which shall be inclusive of all Individual
15 Settlement Payments to Settlement Class Members, PAGA Payment Share
16 to PAGA Employees, attorneys’ fees and expenses (not to exceed 30% of
17 the Gross Settlement Amount in attorneys’ fees and reasonable costs) to be
18 paid to Class Counsel, the employee portion of all required payroll
19 withholdings/taxes, any Class Representative Enhancement Award,
20 settlement administration costs and expenses, payment to the California
21 Labor Workforce Development Agency (“LWDA”) pursuant to the
22 California Labor Code Private Attorneys General Act of 2004 (“PAGA”),
23 and any and all penalty amounts to be paid regardless of the recipient. In no
24 event shall Lascari’s be required to pay more than the Gross Settlement
25 Amount under this Agreement, except that Lascari’s portion of payroll
26 taxes, including, but not limited FICA and FUTA, on the portion of the
27 Individual Settlement Payments that constitutes wages, shall be submitted
28 to the Settlement Administrator in addition to the Gross Settlement Amount.

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In no event shall any portion of the Gross Settlement Amount revert to Defendants.

- The Class consists of all individuals who are or were non-exempt employees of Defendants at Lascari’s branded restaurants in the State of California at any time during the Class Period. All Settlement Class Members shall receive an Individual Settlement Payment in accordance with paragraph 73 of the Agreement.
- The Settlement Administrator shall be CPT Group, Inc.. From the Gross Settlement Amount, settlement administration fees in a reasonable amount shall be paid to the Settlement Administrator. Settlement administration fees are estimated to be approximately Sixteen Thousand Dollars and No Cents (\$16,000.00). If the actual cost of settlement administration is less or more than the amount approved by the Court, those funds shall be added to or subtracted from the Net Settlement Amount.
- From the Gross Settlement Amount, the Class Representative may seek from the Court an Enhancement Award up to Ten Thousand Dollars and No Cents (\$10,000), which Defendants shall not oppose.
- From the Gross Settlement Amount, Twenty Thousand Dollars and No Cents (\$20,000) shall be allocated to penalties under the California Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698, *et seq.* (“PAGA”), 75% of which (*i.e.*, Fifteen Thousand Dollars and No Cents (\$15,000)) shall be paid by the Settlement Administrator directly to the California Labor and Workforce Development Agency (“LWDA”). The remaining Five Thousand Dollars and No Cents (\$5,000.00) shall be distributed to the PAGA Employees. If it should later be determined by the Court that an additional amount is needed to effectuate a full and complete release of all PAGA claims, the amount shall be deducted from the Gross Settlement Amount.

- 1 • Class Counsel may seek attorneys' fees of up to One Hundred and Sixty-
2 Five Thousand Dollars and No Cents (\$165,000), which is thirty percent
3 (30%) of the Gross Settlement Amount and reasonable costs of up to
4 Fifteen Thousand Dollars and No Cents (\$15,000), which Defendants shall
5 not oppose.

6 **DEFINITIONS**

7 Unless otherwise defined herein, capitalized terms used in this Agreement shall have the
8 meanings set forth below:

9 3. "Civil Action" means the lawsuit filed by Plaintiff in the Superior Court of the
10 State of California for the County of Los Angeles titled, *Martinez v. Lascari's and Sons, Inc., et*
11 *al.*, Case No. BC716005.

12 4. "Class", "Classes", "Class Member" or "Class Members" means all individuals
13 who are or were non-exempt employees of Defendants at Lascari's branded restaurants in
14 California at any time during the Class Period.

15 5. "Class Counsel" means Beth A. Gunn and Catherine J. Coble at Gunn Coble LLP.

16 6. "Class Period" means between August 1, 2014 through the date the Court grants
17 preliminary approval of the settlement.

18 7. "Class Representative" or "Plaintiff" means plaintiff Catrina Martinez.

19 8. "Complaint" means the Complaint and operative First Amended Complaint filed in
20 the Los Angeles County Superior Court, styled *Martinez v. Lascari's and Sons, Inc., et al.*, Case
21 No.: BC716005.

22 9. "Court" means the Superior Court of California for the County of Los Angeles.

23 10. "Defendants" means Defendants Lascari's and Sons, Inc. and Lascari's Group, Inc.

24 11. "Defense Counsel" means Michael R. Kleinmann and Brittany M. Hernandez of
25 Reed Smith LLP, as well as, Charles Lew and Isaiah Artest of The Lew Firm, APC, on behalf of
26 Defendants Lascari's and Sons, Inc. and Lascari's Group, Inc.

27 12. "Effective Date" means the first date upon which all of the following events have
28 occurred:

- 1 (i) this Agreement has been executed by all Parties and by Class Counsel and
2 Defense Counsel;
- 3 (ii) the Court has preliminarily approved the Settlement;
- 4 (iii) notice has been properly given to Class Members;
- 5 (iv) the Court has held a Final Fairness and Approval Hearing and entered the
6 Final Order and Judgment approving the Settlement; and
- 7 (v) in the event no appeal is filed, then sixty (60) days after the entry of the
8 Final Order and Judgment, or, if an appeal is filed, upon the final dismissal
9 of the appeal, writ or other appellate proceeding opposing this Agreement.
10 In this regard, it is the intention of the Parties that the Settlement shall not
11 become effective until the Court’s order approving the Settlement has
12 become completely final, and there is no timely recourse by an appellant or
13 objector who seeks to contest the Settlement.

14 13. “Employer’s Share of Payroll Taxes” means Defendants’ portion of payroll taxes,
15 including, but not limited to FICA and FUTA, on the portion of the Individual Settlement
16 Payments that constitutes wages. This additional amount shall be paid by Defendants along with
17 the Gross Settlement Amount to the Settlement Administrator. The Settlement Administrator shall
18 handle the calculation of the taxes owed, payment of such amounts to the appropriate agencies,
19 and reporting.

20 14. “Enhancement Award” means any payment to the Class Representative for her
21 service to the Class and her individual release as set forth in paragraph 85, which is in addition to
22 whatever payments she may otherwise be entitled to as a Settlement Class Member.

23 15. “Final Fairness and Approval Hearing” means the hearing to be requested by
24 Plaintiff and conducted by the Court after the filing by Plaintiff of an appropriate motion and
25 following appropriate notice to Class Members giving Class Members an opportunity to opt out
26 from the Class and Settlement or to object to the Settlement, at which time Plaintiff shall request
27 that the Court finally approve the fairness, reasonableness and adequacy of the terms and
28 conditions of the Settlement, enter the Final Order and Judgment, and take other appropriate

1 action.

2 16. “Final Order and Judgment” means the order and judgment to be entered by the
3 Court upon granting final approval of the Settlement and this Agreement as binding upon the
4 Parties and the Settlement Class Members who do not properly and timely submit a written Opt
5 Out.

6 17. “Gross Settlement Amount” or “GSA” means the maximum amount (not including
7 the Employer’s Share of Payroll Taxes) that Defendants shall be required to pay under this
8 Agreement, which shall be inclusive of all Individual Settlement Payments to Settlement Class
9 Members, PAGA Payment Share to PAGA Employees, attorneys’ fees and costs, Settlement
10 Administration Costs, Enhancement Awards to the Class Representatives, and payment to the
11 California Labor Workforce Development Agency (“LWDA”) pursuant to the California Labor
12 Code Private Attorneys General Act of 2004 (“PAGA”), and employees’ share of payroll taxes on
13 any portion of the Individual Settlement Payments to the Settlement Class Members that
14 constitutes wages. The Gross Settlement Amount is Five Hundred and Fifty Thousand Dollars and
15 No Cents (\$550,000).

16 18. “Individual Settlement Payment” means the gross amount that shall be paid to
17 each Settlement Class Member for their Qualifying Workweeks. The Individual Settlement
18 Payment shall be determined as described in paragraph 73 below. If a Class Member is also a
19 PAGA Employee, the individual shall also receive a PAGA Payment Share.

20 19. “Net Settlement Amount” means the amount of money remaining after Class
21 Counsel’s attorneys’ fees, costs and expenses, any Enhancement Award to the Class
22 Representative, settlement administration costs and expenses, and all employee payroll
23 withholdings/taxes applicable to the Individual Settlement Payment made to Settlement Class
24 Members are deducted from the Gross Settlement Amount.

25 20. “Notice of Class Action and PAGA Settlement” or “Notice” means the form
26 attached hereto as **Exhibit 1** or whichever form is approved by the Court that shall be provided to
27 the Class Members to inform them of the terms of this Agreement and their rights and options
28 related thereto in the various methods described in paragraphs 56 and 58-60 below. Upon approval

1 by the Court, the Notice of Class Action and PAGA Settlement shall be translated into Spanish,
2 and both the English and Spanish versions shall be provided to the Class Members.

3 21. "Objection" means a Class Member's written objection to the Settlement. Any
4 Objection shall be in the form described in paragraphs 65-66 below.

5 22. "Opt Out" means a written request that a Class Member may submit to be excluded
6 from the Class and the Settlement. Any Opt Out shall be in the form described in paragraph 61
7 below.

8 23. "PAGA Employees" means all individuals who are or were non-exempt employees
9 of Defendants at Lascari's branded restaurants in California at any time during the PAGA Period.

10 24. "PAGA Letters" means the notices of alleged Labor Code violations that Catrina
11 Martinez caused to be sent to the LWDA pursuant to Labor Code Section 2699.3(l), including
12 LWDA-CM-485391-18 (submitted on or about March 27, 2018; amended notice submitted on or
13 about August 6, 2018).

14 25. "PAGA Payment" means the amount that the Parties have agreed to pay to the
15 California Labor and Workforce Development Agency ("LWDA") and the PAGA Employees in
16 connection with the California Labor Code Private Attorneys General Act of 2004, California
17 Labor Code Sections 2698, *et seq.* ("PAGA"). The Parties have agreed that Twenty Thousand
18 Dollars and No Cents (\$20,000.00) of the Gross Settlement Amount will be allocated to the
19 resolution of all claims arising under PAGA. Pursuant to Labor Code Section 2699(i), it shall be
20 distributed as follows: 25%, or \$5,000, to the PAGA Employees and 75%, or \$15,000, to the
21 LWDA. If it should later be determined by the Court that an additional amount is needed to
22 effectuate a full and complete release of all PAGA claims, the amount shall be deducted from the
23 Gross Settlement Amount.

24 26. "PAGA Payment Share" means the gross amount that shall be paid to each PAGA
25 Employee for their total PAGA Workweeks. The PAGA Payment Share for PAGA Employees
26 shall be calculated as described in paragraph 74 below.

27 27. "PAGA Period" means the period between March 27, 2017 through the date that
28 the Court grants preliminary approval of the Settlement.

1 28. “PAGA Workweeks” means the total number of workweeks worked by each
2 PAGA Employee during the PAGA Period based on Defendants’ records.

3 29. “PAGA Workweek Payment Rate” means the gross amount that shall be paid for
4 each PAGA Workweek for PAGA Employees as described below in paragraph 74.

5 30. “Party” or “Parties” means Plaintiff and Defendants.

6 31. “Preliminary Approval Order” means the order to be issued by the Court approving
7 and authorizing the mailing of the Notice of Class Action and PAGA Settlement by the Settlement
8 Administrator, setting the date of the Final Fairness and Approval Hearing and granting
9 preliminary approval of the Settlement set forth in this Stipulation, among other things,
10 substantially in the form attached as **Exhibit 2**, or as subsequently modified with the approval of
11 counsel for all Parties.

12 32. “Proof of Work” means document(s) that a Class Member and/or PAGA Employee
13 may submit to the Settlement Administrator to show that they are entitled to payment based upon
14 a different number of Qualifying Workweeks and/or PAGA Workweeks than the number(s)
15 calculated by the Settlement Administrator based upon Defendants’ data. Adequacy of the Proof
16 of Work submitted will be evaluated by Class Counsel, Defense Counsel, and the Settlement
17 Administrator. In the event of a disagreement, the Settlement Administrator will make the final
18 decision.

19 33. “Qualifying Workweeks” means the total number of workweeks worked by each
20 Class Member during the Class Period based on Defendants’ records.

21 34. “Released Class Claims” are defined in paragraph 93 below.

22 35. “Released PAGA Claims” with respect to the PAGA Employees are defined in
23 paragraph 94 below.

24 36. “Released Parties” Defendants Lascari’s and Sons, Inc. and Lascari’s Group, Inc.
25 and each of their respective present and former parents, affiliates, divisions and subsidiaries,
26 acquired companies, and each of its respective present and former directors, officers, shareholders,
27 agents, representatives, employees, partners, attorneys, insurers, predecessors, successors, assigns,
28 affiliated companies and entities and any individual or entity that could be jointly liable with any

1 of the foregoing.

2 37. “Response Deadline” means the sixty (60) day period following the date the
3 Settlement Administrator mails the Notice of Class Action and PAGA Settlement to Class
4 Members within which any Class Member may: (a) submit a written Opt Out to be excluded from
5 the Class and this Settlement; (b) submit an Objection; and/or (c) submit a dispute regarding their
6 Qualifying Workweeks and/or PAGA Workweeks and any Proof of Work. For purposes of this
7 definition, the term “submit” refers to the date by which the correspondence is postmarked, faxed,
8 or emailed and is thereafter received by the Settlement Administrator. All Opt Outs and
9 Objections must be submitted on or before the end of the Response Deadline or within the
10 extended deadline for certain Class Members only as expressly described in paragraph 58(a).

11 38. “Settlement” means the final and complete disposition of the Civil Action as
12 provided for in this Agreement and all Exhibits hereto.

13 39. “Settlement Administrator” means CPT Group, Inc.

14 40. “Settlement Administration Costs” means the reasonable costs and fees of
15 administration of this Settlement to be paid to the Settlement Administrator from the Gross
16 Settlement Amount, including, but not limited to: (i) translating into Spanish, printing and emailing
17 and mailing and re-mailing (if necessary) of Notices of Class Action and PAGA Settlement to
18 Class Members and PAGA Employees; (ii) preparing and maintaining a web site for settlement
19 administration; (iii) preparing and submitting to Settlement Class Members, PAGA Employees,
20 and government entities all appropriate tax filings and forms; (iv) computing the amount of and
21 distributing Individual Settlement Payments, PAGA Payment Shares, Class Representative
22 Service Award, and Class Counsel Attorneys’ Fees, Costs and Expenses; (v) processing and
23 validating Opt Outs; and (vi) calculating and remitting to the appropriate government agencies all
24 employer and employee payroll tax obligations arising from the Settlement and preparing and
25 submitting filings required by law in connection with the payments required by the Settlement.

26 41. “Settlement Class Members” means Plaintiff and all other Class Members who do
27 not submit a timely and valid Opt Out under the process described in paragraph 61.

28 42. “Workweek Payment Rate” means the gross amount that shall be paid for each

1 Qualifying Workweek as described below in paragraph 73.

2 **BACKGROUND**

3 43. On August 9, 2018, Plaintiff Catrina Martinez (“Plaintiff”) filed a putative class
4 action complaint in Los Angeles County Superior Court against Lascari’s and Sons, Inc.
5 (“Lascari’s & Sons”), case number BC716005. Through the Complaint, Plaintiff, a non-exempt
6 employee who sought damages, restitution, penalties, unpaid wages, injunctive relief, declaratory
7 relief, pre- and post-judgment interest, costs, attorneys’ fees, and any other relief deemed
8 appropriate by the Court on the basis of the allegations, inter alia, against Defendant Lascari’s &
9 Son’s, Inc.: (1) failure to provide required meal periods; (2) failure to authorize and permit
10 required rest periods; (3) failure to pay overtime; (4) failure to pay minimum wages; (5) failure to
11 pay timely wages due at termination/waiting time penalties; (6) failure to timely pay all wages,
12 including reporting time; (7) failure to reimburse for employment related expenses; (8) failure to
13 maintain required records; (9) failure to furnish accurate itemized wage statements; (10) failure to
14 provide written notice of paid sick leave; (11) failure to provide all paid sick leave; (12) failure to
15 pay all gratuities earned; (13) failure to provide one day’s rest in seven; (14) unfair and unlawful
16 business practices; and (15) penalties under the Private Attorneys General Act (“PAGA”).

17 44. On March 28, 2019, Plaintiff filed a First Amended Complaint in order to add
18 Defendant Lascari’s Group, Inc.

19 45. Defendant Lascari’s and Sons, Inc. answered the First Amended Complaint on June
20 19, 2019. Defendant Lascari’s Group, Inc. answered the First Amended Complaint on October 3,
21 2019.

22 46. Defendants deny each of the allegations of the Complaint and the PAGA Letters,
23 deny Defendants have any liability for the claims of Plaintiff, the putative class she purports to
24 represent or any allegedly aggrieved employee, and denies that Plaintiff, the putative class she
25 purports to represent or any allegedly aggrieved employee is entitled to any relief.

26 47. Class Counsel and Defense Counsel have extensive experience in litigating wage
27 and hour class actions in California. Class Counsel and Defense Counsel have vigorously litigated
28 the Civil Action since its inception.

1 48. On May 21, 2019, the Parties engaged in mediation before Honorable Michael
2 Marcus (Ret.), an experienced mediator in this area of law. The mediation was not successful and
3 the Parties continued to litigate this case.

4 49. On January 27, 2021, the Parties again engaged in mediation before Honorable
5 Michelle R. Rosenblatt (Ret.), an experienced mediator in this area of law. After the mediation,
6 Plaintiff and Defendants agreed on the principal terms of a settlement and accepted a mediator’s
7 proposal made by Hon. Michelle R. Rosenblatt and, thereafter, executed a Memorandum of
8 Understanding (“MOU”) to memorialize their agreement on or about March 16, 2021. The MOU
9 is superseded in all respects by this Agreement.

10 50. This Agreement is made in compromise of and embraces all claims against any of
11 the Released Parties as enumerated in paragraphs 93-94 below.

12 51. Because the settled matters are putative class and representative action, this
13 Agreement must receive preliminary and final approval by the Court. Accordingly, Plaintiff and
14 Defendants enter into this Agreement on a conditional basis. Should the Court, or any other court
15 taking jurisdiction of this matter, decline to approve all material aspects of the Settlement or make
16 any ruling substantially altering the material terms of the Settlement, the Settlement shall be
17 voidable and unenforceable as to Plaintiff and Defendants, at the option of any party. Subject to
18 the requirements of the immediately preceding sentence, any party may exercise its option to void
19 this Settlement by giving notice, in writing, to the other Parties and to the Court at any time before
20 final approval by the Court of this Settlement. In the event that the Effective Date, as defined
21 herein does not occur, this Agreement shall be deemed null and void *ab initio* and shall be of no
22 force or effect whatsoever, and shall not be referred to or utilized for any purpose. Defendants
23 deny all of Plaintiff’s claims and all class and representative claims as to liability and damages.
24 Defendants expressly reserves all rights to challenge any and all such claims and allegations upon
25 all procedural and factual grounds, including the assertion of all defenses, if the Effective Date of
26 the Settlement does not occur. Likewise, Plaintiff expressly reserves all rights to pursue, amend,
27 dismiss or otherwise dispose of the claims covered under this Settlement, including but not limited
28 to seeking damages, restitution, fees, expenses, interest and/or any other monetary amount in

1 excess of the GSA set forth above for the claims included in the Civil Actions or for any other
2 claims Plaintiff may have against Defendants, in the event the Effective Date of the Settlement
3 does not occur.

4 52. Plaintiff and Class Counsel have concluded, after taking into account the sharply
5 disputed factual and legal issues involved in the Civil Action, the risks attending further
6 prosecution, and the substantial benefits to be received pursuant to settlement as set forth in this
7 Agreement, that settlement on the terms set forth herein is in the best interest of Plaintiff and the
8 Class and the PAGA Employees, and is fair and reasonable.

9 53. Similarly, Defendants have concluded, after taking into account the sharply
10 disputed factual and legal issues involved in the Civil Action, the risks and expense attending
11 further litigation, and its desire to put the controversy to rest, that settlement on the terms set forth
12 herein is in their best interest and is fair and reasonable.

13 54. This Settlement contemplates (i) entry of an order preliminarily approving the
14 Settlement, (ii) distribution of the Notice of Class Action and PAGA Settlement to Class Members
15 and PAGA Employees, and (iii) entry of a Final Order and Judgment of the Settlement. The Court
16 shall retain jurisdiction over the Civil Action and Parties for purposes of enforcing the Settlement
17 and resolving any disputes relating to the Settlement.

18 **SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURE**

19 **Preliminary Approval of Settlement**

20 55. As soon as practicable, Class Counsel shall submit this Agreement to the Court for
21 its preliminary approval. Plaintiff shall also move the Court to enter a Preliminary Approval
22 Order and to conditionally certify the Class for purposes of this Settlement only. Class Counsel
23 shall provide the motion for preliminary approval to Defense Counsel for review of the substance
24 contained in the motion for preliminary approval at least 2 days prior to filing. The submission
25 shall also include admissible evidence as may be required for the Court to determine that this
26 Settlement is fair, adequate and reasonable, as required by Code of Civil Procedure section 382.
27 The submission shall also include the Notice of Class Action and PAGA Settlement in the form
28 attached hereto as **Exhibit 1**, a proposed order granting preliminary approval of Settlement in the

1 form attached hereto as **Exhibit 2**, which shall, among other things, set a Final Fairness and
2 Approval Hearing date, and a proposed order granting final approval of Settlement in the form
3 attached hereto as **Exhibit 3**. Plaintiff and Defendants agree that the conditional certification of
4 the Class for settlement purposes only is in no way an admission by any of the Released Parties
5 that class certification would otherwise be proper.

6 **Notice to Class Members and PAGA Employees**

7 56. Following the Court’s order granting preliminary approval of this Settlement, the
8 Settlement Administrator shall disseminate the Notice of Class Action and PAGA Settlement in
9 the form attached hereto as **Exhibit 1** to the Class Members and PAGA Employees.

10 **Cooperation**

11 57. The Parties agree to cooperate with each other to accomplish the terms of this
12 Settlement, including, but not limited to, the timely execution of such documents and such other
13 acts as may be reasonably necessary to implement the terms of this Settlement. Neither the Parties
14 nor any of their attorneys or agents shall solicit or encourage any Class Members to exclude
15 themselves from the Settlement or to object to the Settlement. The Parties to the Settlement shall
16 use their best efforts, including all efforts contemplated by this Agreement and any other efforts
17 that may become necessary by Court order, or otherwise, to effectuate this Settlement and the
18 terms set forth herein.

19 **Notice of Class Action and PAGA Settlement by Mail**

20 58. The Settlement Administrator shall, within thirty (30) days of the date of
21 preliminary approval of this Settlement, mail by First-Class United States mail the Notice of Class
22 Action and PAGA Settlement to each Class Member and PAGA Employee, translated by the
23 Settlement Administrator into English and Spanish (hereinafter “Notice”), using the most recent
24 address available to the Settlement Administrator for mail delivery, after updating provided
25 addresses using the National Change of Address Database. The Settlement Administrator shall
26 also, within 10 days of mailing the Notice, send an electronic copy of the Notice via email to the
27 last known email addresses (to the extent available) of each Class Member and PAGA employee.

- 1 a. Any Notice returned to the Settlement Administrator as non-
2 delivered on or before the Response Deadline with a forwarding
3 address from the U.S. postal service shall be promptly re-mailed to
4 the forwarding address affixed thereto. If no forwarding address is
5 provided, the Settlement Administrator shall promptly attempt to
6 determine a correct address by the use of skip-tracing, or other
7 automated search, and shall then promptly perform a re-mailing to
8 the Class Member whose Notice was returned as non-delivered,
9 assuming another mailing address is identified by the Settlement
10 Administrator. A letter prepared by the Settlement Administrator
11 will be included in the re-mailed Notice in that instance, stating that
12 the recipient of the Notice has until the original deadline set forth on
13 the Notice, or ten (10) calendar days after the date of re-mailing of
14 the Notice (whichever is later) to object or submit an Opt Out or
15 submit Proof of Work. In no event shall this be more than ten (10)
16 calendar days after the Response Deadline.
- 17 b. If these procedures are followed, notice to Class Members shall be
18 deemed to have been fully satisfied, and if the intended recipient
19 does not receive the Notice of Class Action and PAGA Settlement,
20 the intended recipient shall nevertheless remain a Class Member and
21 shall be bound by all terms of the Settlement and the Final Order
22 and Judgment.

23 59. The Notice of Class Action and PAGA Settlement to be provided to each Class
24 Member shall set forth the number of Qualifying Workweeks applicable to the Class Member, the
25 number of PAGA Workweeks applicable to the PAGA Employee, the estimated Workweek
26 Payment Rate applicable to the Class Member, the estimated PAGA Workweek Payment Rate
27 applicable to the PAGA Employee, and the estimated Individual Settlement Payment that the
28 Class Member shall receive under this Settlement if the Court grants final approval of the

1 Settlement, and the estimated PAGA Payment Share that PAGA Employee shall receive under this
2 Settlement if the Court grants final approval of the Settlement. The Notice of Class Action and
3 PAGA Settlement shall notify the Class Members that governmentally-mandated tax withholdings
4 shall be deducted from a portion of his or her Individual Settlement Payment, as described in
5 paragraph 78 below.

6 60. If the Class Member or PAGA Employee wishes to contest the number of
7 Qualifying Workweeks and/or the number of PAGA Workweeks assigned to him or her by the
8 Settlement Administrator, the Class Member or PAGA Employee or his or her authorized
9 representative in the case of the individual's death or incapacity must timely provide his or her
10 dispute with Proof of Work to the Settlement Administrator. To be timely, the completed Proof of
11 Work must be mailed to the Settlement Administrator and postmarked no later than sixty (60) days
12 after the date of mailing of the Notice of Class Action and PAGA Settlement. As this is not a
13 claims-made Settlement and Class Members need not return the optional Proof of Work, Class
14 Members shall be bound by this Agreement unless they submit a completed, signed and timely
15 Opt Out. However, the Released PAGA claims shall be binding on all PAGA Employees
16 regardless of whether they submit a valid Opt Out from the Class.

17 **Opt Out**

18 61. Any Class Member seeking to be excluded from the Class and this Settlement shall
19 submit a written Opt Out to the Settlement Administrator. The written Opt Out must: (1) contain
20 the name, address, and the last four digits of the Social Security Number of the person requesting
21 exclusion; (2) state the Class Member's request to exclude himself or herself from the Settlement
22 and to opt out of the Settlement; (3) be signed by the Class Member or his or her lawful
23 representative; and (4) be postmarked by the Response Deadline and returned to the Settlement
24 Administrator at the specified address. Opt Outs may also be returned to the Settlement
25 Administrator's email address, as specified in the Notice, by 11:59 p.m. on the Response
26 Deadline. Any Class Member, who submits a completed, signed and timely written Opt Out shall
27 no longer be a member of the Class, shall be barred from participating in this Settlement, shall be
28 barred from objecting to this Settlement, and shall receive no benefit from this Settlement. Any

1 untimely or incomplete Opt Out shall be considered null and void. If a Class Member submits
2 both a completed, signed and timely Proof of Work and a completed, signed and timely Opt Out,
3 the Opt Out shall be deemed invalid, and the Class Member shall be a Settlement Class Member
4 and participate in this Settlement, if the date the Opt Out was submitted falls after the date the
5 Proof of Work was submitted. A valid Opt Out from the Class does not affect the Released PAGA
6 Claims, which shall be binding on all PAGA Employees regardless of the requested exclusion.
7 The Settlement Administrator shall notify Class Counsel and Defense Counsel of the number of
8 timely opt-outs within seven (7) days after the Response Deadline.

9 62. If more than ten percent (10%) of the Class Members opt out of the Settlement by
10 submitting completed, signed and timely written Opt Outs, Defendants shall have the right at their
11 sole discretion to rescind and void this Settlement by giving written notice to Class Counsel within
12 fourteen (14) business days after the Settlement Administrator informs the Parties that the opt out
13 rate exceeded ten percent (10%). If Defendants exercise their right to rescind and void this
14 Settlement under this paragraph, Defendants shall pay any and all reasonable costs and expenses
15 incurred by the Settlement Administrator.

16 **Declaration of Compliance**

17 63. As soon as practicable, but no later than ten (10) days following the close of the
18 Response Deadline, the Settlement Administrator shall provide Class Counsel and Defense
19 Counsel with a declaration attesting to completion of the notice process set forth in this
20 Agreement, the number and names of opt outs, and a summary of any disputes raised by any Class
21 Members. This declaration shall be filed with the Court by Class Counsel along with a motion
22 requesting final approval of the Settlement. The Settlement Administrator shall also provide
23 weekly updates to Class Counsel and Defense Counsel regarding the opt outs, disputes, and
24 objections.

25 **Sufficient Notice**

26 64. The Parties agree that compliance with the procedures described in this Agreement
27 constitutes due and sufficient notice to Class Members and PAGA Employees of this Settlement
28 and the Final Fairness and Approval Hearing, and satisfies the requirements of due process, and

1 that nothing else shall be required of Plaintiff, Class Counsel, Defendants, Defense Counsel, or the
2 Settlement Administrator to provide notice to Class Members of the Settlement and the Final
3 Fairness and Approval Hearing.

4 **Objections to Settlement**

5 65. Any Class Member or PAGA Employee wishing to object to this Settlement shall
6 inform the Court, Class Counsel, and Defense Counsel in writing of their intent to object by
7 following the procedure set forth in the Notice of Class Action and PAGA Settlement no later than
8 the Response Deadline. Any Objection must: (1) state the Class Member's or PAGA Employee's
9 full name, address, and the last four digits of his or her Social Security Number (for identification
10 purposes only); (2) state the grounds for the objection; (3) be signed by the Class Member or
11 PAGA Employee or their lawful representative; and (4) be postmarked on or before the Response
12 Deadline and returned to the Settlement Administrator and/or be emailed to the Settlement
13 Administrator by 11:59 pm on the date of the Response Deadline.

14 66. Any Class Member or PAGA Employee who fails to file a timely written Objection
15 shall be foreclosed from objecting to this Settlement, unless otherwise ordered by the Court.

16 67. Class Counsel and Defense Counsel shall file any responses to any written
17 Objections submitted to the Court in accordance with this Agreement at least seven (7) days
18 before the Final Fairness and Approval Hearing, or on another date set by the Court.

19 68. Class Counsel shall file a motion for final approval within the timeframe provided
20 in the Code of Civil Procedures. Class Counsel shall provide the motion for final approval to
21 Defense Counsel for review of the substance contained in the motion for final approval at least 2
22 days prior to filing.

23 **Final Fairness and Approval Hearing**

24 69. On the date set forth by the Court for the Final Fairness and Approval Hearing in
25 the order granting preliminary approval of the Settlement, a Final Fairness and Approval Hearing
26 shall be held before the Court in order to consider and determine: (i) whether the Court should
27 give this Settlement final approval; (ii) whether the Court should approve Class Counsel's
28 application for attorneys' fees, costs and expenses and any Enhancement Award to the Class

1 Representative; and (iii) to hear any timely objections to the Settlement. At the Final Fairness and
2 Approval Hearing, Plaintiff, Class Counsel, Defendants, and Defense Counsel shall ask the Court
3 to give final approval to this Settlement. If the Court grants final approval of the Settlement, the
4 Settlement Administrator shall post notice of final judgment on its website within seven (7)
5 calendar days of entry of the Final Order and Judgment. Class Counsel shall submit a copy of the
6 Final Order and Judgment to the LWDA within ten (10) days after entry of the Final Order and
7 Judgment in accordance with California Labor Code section 2699(1)(3).

8 **Settlement Payment Procedures**

9 Payments under this Agreement shall be made by the Settlement Administrator as follows:

10 70. Settlement Class Members shall be paid exclusively from the Net Settlement
11 Amount.

12 71. The Parties have agreed to pay the LWDA and PAGA Employees Twenty
13 Thousand Dollars (\$20,000). PAGA Employees shall be paid exclusively from the allocated
14 amount from the Gross Settlement Amount as described above.

15 72. Plaintiff and Defendants recognize and agree that the asserted claims in the Civil
16 Action are extremely difficult to quantify with any certainty for any given year, or at all, and are
17 subject to a myriad of differing calculations and formulas. Plaintiff and Defendants agree that the
18 formulas for allocating Individual Settlement Payment to Settlement Class Members and PAGA
19 Payment Shares to PAGA Employees provided herein are reasonable and that the Individual
20 Settlement Payments and PAGA Payment Shares are designed to provide a fair settlement, despite
21 the uncertainties of the amounts alleged to be owed to Settlement Class Members and PAGA
22 Employees and the calculation of them. Distribution amongst Settlement Class Members are
23 based on Qualifying Workweeks that the Class Member was employed during the Class Period.
24 Further, distribution amongst PAGA Employees are based on PAGA Workweeks that the PAGA
25 Employee worked during the PAGA Period. Plaintiffs and Defendants have agreed that the
26 distribution to each Settlement Class Member and PAGA Employee shall be determined as set
27 forth in paragraphs 73 and 74 below.

28 73. The Individual Settlement Payment to each Settlement Class Member shall be

1 determined based on the number of Qualifying Workweeks worked by the Settlement Class
2 Member during the Class Period. The Net Settlement Amount shall be divided by the total
3 number of Qualifying Workweeks for all Settlement Class Members during the Class Period. The
4 result of this division shall yield a Workweek Payment Rate for the Class. The gross amount of
5 each Settlement Class Member's Individual Settlement Payment shall be calculated by multiplying
6 the number of Qualifying Workweeks applicable to that Class Member by the Workweek Payment
7 Rate. Governmentally-required employee tax withholdings shall be deducted from that portion of
8 each Individual Settlement Payment allocated as wages.

9 74. From the PAGA Payment (which shall be deducted from the Gross Settlement
10 Amount), PAGA Payment Shares shall be allocated to the PAGA Employees. The PAGA
11 Payment Share to each PAGA Employee shall be determined based on the number of PAGA
12 Workweeks worked by the PAGA Employee during the PAGA Period. The \$5,000 allocated to
13 the PAGA Employees shall be divided by the total number of PAGA Workweeks for all PAGA
14 Employees during the PAGA Period. The result of this division shall yield a PAGA Workweek
15 Payment Rate. The gross amount of each PAGA Employee's PAGA Payment Share shall be
16 calculated by multiplying the number of PAGA Workweeks applicable to that PAGA Employee
17 by the PAGA Workweek Payment Rate.

18 75. Within fifteen (15) business days after the Effective Date, Defendants shall transmit
19 the Gross Settlement Amount to the Settlement Administrator.

20 76. Within twenty-one (21) business days after the Effective Date, the Settlement
21 Administrator shall transmit to Class Counsel the attorneys' fees, costs and expenses approved by
22 the Court, shall transmit to the Class Representatives their Enhancement Awards approved by the
23 Court, shall transmit to the LWDA the payment pursuant to PAGA, shall mail Individual
24 Settlement Payments to each Settlement Class Member, and PAGA Payment Shares to each
25 PAGA Employee.

26 77. Individual Settlement Payments and PAGA Payment Shares shall be made by
27 check and shall be made payable to each Settlement Class Member and PAGA Employee as set
28 forth in this Agreement. Under no circumstances shall the Settlement Administrator distribute

1 checks to Settlement Class Members and/or PAGA Employees until all timely workweek disputes
2 with Proof of Work have been considered, calculated, and accounted for, and the Class Counsel
3 fees and expenses, costs of the Settlement Administrator, and an Enhancement Award have been
4 calculated and accounted for.

5 78. The Individual Settlement Payments are payments for all Released Class Claims for
6 the Settlement Class Members. The PAGA Payment Shares are payments for the Released PAGA
7 Claims for the PAGA Employees. The Settlement Administrator shall be authorized to establish a
8 Qualified Settlement Fund (“QSF”) pursuant to Internal Revenue Service (“IRS”) rules and
9 regulations in which the Gross Settlement Amount shall be placed and from which payments
10 required by the Settlement shall be made. Twenty-five percent (25%) of the amount of each
11 Individual Settlement Payment to each Settlement Class Member shall be allocated to their
12 respective alleged unpaid wage claims and shall be paid net of all applicable employment taxes,
13 including any federal, state, and/or local in issue tax withholding requirements and the employee
14 share of FICA taxes. Seventy-five percent (75%) of the amount of each Individual Settlement
15 Payment to each Individual Settlement Class Member shall be allocated to alleged premium pay,
16 penalties and interest, and shall not be subject to withholding. PAGA Payment Shares will be
17 allocated entirely as penalties and will be included on an IRS Form 1099 to each PAGA
18 Employee. Each Settlement Class Member, PAGA Employee, Class Counsel, and Class
19 Representative shall be responsible for remitting to state and/or federal taxing authorities any
20 applicable taxes which may be owed on the portion of any payment received pursuant to this
21 Agreement, except as provided by this Agreement. The employer’s share of payroll taxes shall
22 not be paid from the Gross Settlement Amount and shall remain the sole responsibility of
23 Defendants. Defendants shall remit the additional amount of the Employer’s Share of Payroll
24 Taxes to the Settlement Administrator along with the Gross Settlement Amount.

25 79. It is expressly understood and agreed that the receipt of an Individual Settlement
26 Payment and/or PAGA Payment Share shall not entitle any Class Member and/or PAGA
27 Employee to compensation or benefits under any company bonus, contest or other compensation
28 or benefit plan or agreement in place during the applicable Class Period nor applicable PAGA

1 Period, nor shall it entitle any Class Member and/or PAGA Employee to any increased retirement,
2 401(k) or matching benefits, or deferred compensation benefits. The Parties agree that any
3 Individual Settlement Payments made to Settlement Class Members and any PAGA Payment
4 Share made to PAGA Employees under the terms of this Agreement shall not represent any
5 modification of previously credited length of service or other eligibility criteria under any bonus
6 plan, employee pension benefit plan or employee welfare plan sponsored by any of the Released
7 Parties, or to which any of the Released Parties are required to make contributions. Further, any
8 Individual Settlement Payments and PAGA Payment Shares made under this Agreement shall not
9 be considered compensation in any year for purposes of determining eligibility for, or benefit
10 accrual within, any employee pension benefit plan or employee welfare benefit plan sponsored by
11 any of the Released Parties or to which any of the Released Parties are required to make
12 contributions. It is the Parties' intent that the Individual Settlement Payments and PAGA Payment
13 Shares provided for in the Agreement are the sole payments to be made by Defendants to the Class
14 Members and PAGA Employees, and that the Class Members and PAGA Employees are not
15 entitled to any new or additional compensation or benefits as a result of having received the
16 Individual Settlement Payments and PAGA Payment Shares, notwithstanding any contrary terms
17 in any agreement, contract, benefit or compensation plan document that might have been in effect
18 during the applicable Class Period and PAGA Period.

19 80. Individual Settlement Payment checks and PAGA Payment Share checks shall
20 remain negotiable for 180 days from the date of mailing. Any Individual Settlement Payment
21 checks or PAGA Payment Share checks that remain uncashed after One Hundred Eighty (180)
22 days from issuance shall be void and the Settlement Administrator shall pay the funds represented
23 by such un-redeemed checks to the California State Controller's Office as unclaimed property
24 pursuant to the California Unclaimed Property Law. In such event, the Settlement Class Member
25 and/or PAGA Employee shall nevertheless remain bound by the Settlement's Released Class
26 Claims and/or Released PAGA Claims, as applicable. Notwithstanding the foregoing, the
27 Settlement's Released Class Claims does not include any individual claims under Section 16(b) of
28 the FLSA, 29 U.S.C. 216(b), as to a Settlement Class Member who does not opt in to the

1 Settlement by cashing, depositing or endorsing his or her Individual Settlement Payment check, to
2 the extent that opting in is required to release such FLSA claims.

3 **The Settlement Administrator**

4 81. The Settlement Administrator shall administer the Settlement, including, but not
5 limited to: (i) printing, mailing and re-mailing (if necessary), and emailing, the Notice and
6 receiving Opt Outs and Objections from Class Members and Objections from PAGA Employees;
7 (ii) preparing and maintaining a web site for the settlement administration of this matter which
8 includes of the substance in the Notice; (iii) preparing and submitting to Settlement Class
9 Members and PAGA Employees and government entities all appropriate tax filings and forms; (iv)
10 computing the amount of and distributing Individual Settlement Payments, PAGA Payment
11 Shares, Enhancement Awards, and Class Counsel attorneys' fees and costs; (v) processing and
12 validating Qualifying Workweek disputes/Proof of Work, Opt Outs and Objections; (vi)
13 establishing a QSF, as defined by the Internal Revenue Code; and (vii) calculating and remitting to
14 the appropriate government agencies all employer and employee payroll tax obligations arising
15 from the Settlement and preparing and submitting filings required by law in connection with the
16 payments required by the Settlement.

17 82. Settlement administration fees in a reasonable amount shall be paid to the
18 Settlement Administrator from the Gross Settlement Amount. Settlement administration fees are
19 estimated to be approximately Sixteen Thousand Dollars and No Cents (\$16,000). If the actual
20 cost of settlement administration is less or more than the amount approved by the Court, those
21 funds shall be added to or subtracted from the Net Settlement Amount for allocation to Settlement
22 Class Members. All costs associated with settlement administration shall come out of the Gross
23 Settlement Amount.

24 83. Delivery of Class Data. "Class Data" means a complete list of all Class Members
25 and PAGA Employees that Defendants will diligently and in good faith compile from their
26 records. The Class Data shall include the following information from Defendants' records all to
27 the extent available: each Class Member and PAGA Employee's full name, most recent mailing
28 address and telephone number, social security number, most recent e-mail address, and dates of

1 hire and termination. Defendants shall provide the Settlement Administrator with the Class Data
2 no later than fifteen (15) calendar days after the Court grants preliminary approval of the
3 Settlement. The Class Data shall only be used by the Settlement Administrator for the purpose of
4 calculating Qualifying Workweeks and PAGA Workweeks, Individual Settlement Payments and
5 PAGA Payment Shares and notifying Class Members and PAGA Employees of the Settlement.
6 The Class Data applicable to an individual Class Member (*i.e.*, CPT unique ID, full name, most
7 recent mailing address, e-mail address, telephone number, and Qualifying Workweeks and PAGA
8 Workweeks) shall be disclosed to Class Counsel if that individual Class Member contacts Class
9 Counsel regarding their Qualifying Workweeks and/or PAGA Workweeks, estimated Individual
10 Settlement Payments and/or PAGA Payment Shares, or related issues with the settlement, but only
11 as necessary to allow them to fulfill their fiduciary duties to the Class and investigate issues that
12 may arise with respect to payments to be made to Class Members and/or PAGA Group Members,
13 so long as notice is provided to Defendants by the Settlement Administrator and Class Counsel.,
14 Notwithstanding, the Class Data in its entirety shall not be disclosed to the Class Representative,
15 or any other Class Members or PAGA Group, without written consent of Defendants or by order
16 of the Court. However, concurrent with the mailing of the Notice of Class Action and PAGA
17 Settlement, the Settlement Administrator shall provide Class Counsel and Defense Counsel with a
18 redacted list of all Class Members that shall be limited to the following information: (1) CPT
19 Unique ID (as reflected on the respective Class Member's Notice); (2) Total Qualifying
20 Workweeks and estimated Individual Settlement Payment; and (3) PAGA Workweeks and
21 estimated PAGA Payment Share (if applicable). The Settlement Administrator shall execute an
22 acknowledgement of the protective order entered in this matter and be responsible for following
23 all privacy laws and taking appropriate steps to ensure that Class Members' and PAGA
24 Employees' personal information is safeguarded and protected from improper disclosure or use.
25 The Settlement Administrator shall run the Class Data list through the National Change of
26 Address database, and shall use the most recent address for each Class Member – either from
27 Defendants' records or the National Change of Address database – before mailing the Notice of
28 Class Action and PAGA Settlement. The Settlement Administrator shall also take reasonable

1 steps to locate any Class Member or PAGA Employee whose Notice of Class Action and PAGA
2 Settlement is thereafter returned as undeliverable. Class Data shall be provided in a secure format
3 to be determined by the Settlement Administrator and Defendants.

4 **Resolution of Disputes Over Qualifying Workweeks and/or PAGA Workweeks**

5 84. In calculating the Individual Settlement Payment for each Class Member and
6 PAGA Payment Share for each PAGA Employee, Defendants' records regarding the dates of
7 employment used to generate Qualifying Workweeks and PAGA Workweeks shall be presumed to
8 be correct. Any Class Member and/or PAGA Employee who disagrees with Defendants'
9 determination of his or her or its Qualifying Workweeks and/or PAGA Workweeks as indicated
10 on his or her or its Notice of Class Action and PAGA Settlement may dispute that calculation to
11 the Settlement Administrator as explained on the Notice of Class Action and PAGA Settlement.
12 Defendants' determination shall be presumed accurate unless the Class Member and/or PAGA
13 Employee submits documents to the Settlement Administrator to show that he or she is entitled to
14 payment based upon a different number of Qualifying Workweeks and/or different number of
15 PAGA Workweeks than the number(s) calculated by the Settlement Administrator based upon
16 Defendants' data. Adequacy of Proof of Work submitted will be evaluated by Class Counsel,
17 Defense Counsel, and Settlement Administrator. In the event of a disagreement, the Settlement
18 Administrator shall make the final decision. All such challenges by Class Members and/or PAGA
19 Employees must be received no later than the Response Deadline.

20 85. In no case shall a dispute result in a payment by Defendants in excess of the Gross
21 Settlement Amount.

22 **Enhancement Award**

23 86. From the Gross Settlement Amount, the Class Representative may seek approval
24 from the Court of an Enhancement Award up to Ten Thousand Dollars (\$10,000) for serving as a
25 Class Representative, which Defendants shall not oppose.

26 **Payment of Class Counsel Attorneys' Fees, Costs and Expenses**

27 87. Class Counsel shall apply to the Court at the Final Fairness and Approval Hearing
28 for an award of attorneys' fees not to exceed the amount of One Hundred and Sixty-Five

1 Thousand Dollars and No Cents (\$165,000), which is Thirty Percent (30%) of the Gross
2 Settlement Amount and an award of reasonable costs (exclusive of the Settlement Administration
3 costs) not to exceed the amount of Fifteen Thousand Dollars and No Cents (\$15,000), both of
4 which shall be paid out of the Gross Settlement Amount.

5 88. Class Counsel and Defendants agree that such awards of attorneys' fees and costs
6 are reasonable under the circumstances. Nothing in this Agreement shall restrict Plaintiff's or
7 Class Counsel's ability to appeal any decision by the Court to award less than the requested
8 attorneys' fees and costs or Class Representative Enhancement Award. A decision by the Court to
9 award less than the requested attorneys' fees and costs or Class Representative Enhancement
10 Award, however, is not a material change to the settlement agreement. Any order relating to the
11 award of attorney's fees, costs or Class Representative Enhancement Award, or any appeal from
12 any order relating thereto or reversal or modification thereof, will not operate to terminate or
13 cancel this Agreement, however, the Effective Date shall not occur until any such appeal is
14 resolved. If the amount of, Enhancement Award, attorneys' fees and/or costs awarded by the
15 Court is less than the requested amounts, the difference shall serve to increase the Net Settlement
16 Amount to be distributed to Settlement Class Members as part of their Individual Settlement
17 Payments. Nothing in this Agreement will require Defendant to pay more than the Gross
18 Settlement Amount under any circumstances.

19 **Taxes and Withholding and Indemnification**

20 89. The Settlement Administrator shall be responsible for ensuring that all tax
21 obligations associated with the Settlement are timely paid to the appropriate governmental taxing
22 authorities. The Settlement Administrator's responsibilities include the following:

- 23 (i) filing all federal, state and local employment tax returns, income tax
24 returns, and any other tax returns associated with the taxes,
- 25 (ii) timely and proper filing of all required federal, state and local information
26 returns (*e.g.*, 1099s, W-2s, etc.), and
27
28

- 1 (iii) completion of any other steps necessary for compliance with any tax
2 obligations applicable to Settlement Payments under federal, state and/or
3 local law.

4 90. The Settlement Administrator shall determine the amount of any tax withholding to
5 be deducted from each Settlement Class Member's Individual Settlement Payment. All such tax
6 withholdings shall be remitted by the Settlement Administrator to the proper governmental taxing
7 authorities.

8 91. Each party to this Agreement acknowledges and agrees that:

- 9 (i) No provision of this Agreement and no written communication or
10 disclosure between or among the Parties or their attorneys and other
11 advisers is or was intended to be, nor shall any such communication or
12 disclosure constitute or be construed or be relied upon as, tax advice within
13 the meaning of United State Treasury Department Circular 230 (31 CFR
14 Part 10, as amended);
- 15 (ii) He, she or it (a) has relied exclusively upon his, her or its own, independent
16 legal and tax advisers for advice (including tax advice) in connection with
17 this Agreement, (b) has not entered into this Agreement based upon the
18 recommendation of any other party or any attorney or advisor to any other
19 party, and (c) is not entitled to rely upon any communication or disclosure
20 by any attorney or adviser to any other party to avoid any tax penalty that
21 may be imposed on him or her or it; and
- 22 (iii) No attorney or adviser to any other party has imposed any limitation that
23 protects the confidentiality of any such attorney's or adviser's tax strategies
24 (regardless of whether such limitation is legally binding) upon disclosure by
25 him or her of the tax treatment or tax structure of any transaction, including
26 any transaction contemplated by this Agreement.

27 92. The Individual Settlement Payment received by Settlement Class Members and
28 PAGA Payment Share received by PAGA Employees shall be reported by the Settlement

1 Administrator, as required, to the state and federal taxing authorities on IRS forms 1099 and W-2
2 or similar forms. Each Settlement Class Member and PAGA Employee shall be responsible for
3 paying all applicable state, local, and federal income taxes on all amounts the Settlement Class
4 Member and PAGA Employee receives pursuant to this Agreement.

5 **RELEASED CLAIMS**

6 93. **Released Class Claims:** Providing there is final approval of this Settlement, then
7 as of the date on which Defendants fully fund the Settlement per paragraph 75 above (“Release
8 Effective Date”), each Settlement Class Member, individually and on behalf of their respective
9 successors, assigns, agents, attorneys, executors, heirs and personal representatives, shall fully and
10 finally release and discharge the Released Parties, and each of them from the Released Class
11 Claims. The Released Class Claims with respect to the Settlement Class Members include all
12 claims, rights, demands, liabilities, statutory causes of action, and theories of liability of every
13 nature and description, that were alleged in the operative First Amended Complaint or PAGA
14 Letters, or arising out of the facts and claims alleged in the operative First Amended Complaint
15 and/or PAGA Letters against Defendants or any of the Released Parties, including, but not limited
16 to, failure to pay wages including, but not limited to, overtime wages and minimum wages, failure
17 to provide meal and rest periods, unpaid compensation or premium pay arising out of missed, late,
18 on-duty and/or short meal and/or rest periods, failure to pay wages semi-monthly at designated
19 times, failure to reimburse for business expenses, failure to pay wages upon termination, failure to
20 provide accurate itemized wage statements, failure to reimburse for business expenses, failure to
21 provide all paid sick leave and failure to provide written notice of paid sick leave, failure to pay all
22 gratuities earned, failure to provide one day’s rest in seven, and failure to maintain required
23 records, penalties, damages, interest, costs or attorneys’ fees, and violations of any other state or
24 federal law, whether for economic damages, non-economic damages, liquidated or punitive
25 damages, restitution, tort, contract, the Fair Labor Standards Act (“FLSA”), equitable relief,
26 injunctive or declaratory relief, to the extent necessary to effect a full and complete release of the
27 Released Class Claims, including, but not limited to, all claims under any common laws, contract,
28 Cal. Code of Regulations, Title 8, Sections 11000, *et seq.*, Wage Order 5-2001, Wage Order 9 or

1 any other applicable Wage Order, California Labor Code Sections 96-98.2, *et seq.*, 200-204, 210,
2 216, 218.5, 218.6, 221, 222, 223, 225.5, 226, 226.3, 226.7, 229, 246, 246.5, 350-353, 510, 512,
3 551, 552, 558, 1174, 1174.5, 1175, 1182.11, 1182.12, 1194-1197.1, 1198, 1198.5, 1199, 2699,
4 2802, California Civil Code Sections 3294 and 3336 and any related provisions, the California
5 Code of Civ. Proc. Section 1021.5, and/or the California Business & Professions Code Sections
6 17200, *et seq.* This release shall extend to all such claims accrued during the Class Period. This
7 release is intended to cover Fair Labor Standards Act (“FLSA”) claims that were not specified in
8 the operative complaints or PAGA Letters filed in the Action to the extent that they are duplicative
9 of the causes of action alleged under the California Labor Code. This specifically includes FLSA
10 claims for failure to pay overtime, minimum wages, or off-the-clock hours that are based on the
11 same facts alleged in the complaints and PAGA Letters. Notwithstanding the foregoing, the
12 Settlement’s Released Class Claims does not include any individual claims under Section 16(b) of
13 the FLSA, 29 U.S.C. 216(b), as to a Settlement Class Member who does not opt in to the
14 Settlement by cashing, depositing or endorsing his or her Individual Settlement Payment check, to
15 the extent that opting in is required to release such FLSA claims.

16 94. **Released PAGA Claims:** Providing there is final approval of this Settlement, then
17 as of the Release Effective Date, each PAGA Employee (including Plaintiff on behalf of herself,
18 the State of California and all PAGA Employees), individually and on behalf of their respective
19 successors, assigns, agents, attorneys, executors, heirs and personal representatives, shall fully and
20 finally release and discharge the Released Parties, and each of them from the Released PAGA
21 Claims. The Released PAGA Claims with respect to PAGA Employees means all claims, rights,
22 demands, liabilities, statutory causes of action, and theories of liability of every nature and
23 description under the California Labor Code Private Attorneys General Act of 2004, Labor Code
24 Sections 2698, *et seq.*, that were alleged in the operative First Amended Complaint or PAGA
25 Letters, or arising out of the facts and claims alleged in the operative First Amended Complaint
26 and/or PAGA Letters against Defendants or any of the Released Parties, including, but not limited
27 to, failure to pay wages including, but not limited to, overtime wages and minimum wages, failure
28 to provide meal and rest periods, unpaid compensation or premium pay arising out of missed, late,

1 on-duty and/or short meal and/or rest periods, failure to pay wages semi-monthly at designated
2 times, failure to reimburse for business expenses, failure to pay wages upon termination, failure to
3 provide accurate itemized wage statements, failure to reimburse for business expenses, failure to
4 provide all paid sick leave and failure to provide written notice of paid sick leave, failure to pay all
5 gratuities earned, and failure to maintain required records, and penalties, interest, costs or
6 attorneys' fees, to the extent necessary to effect a full and complete release of the Released PAGA
7 Claims. This release shall extend to all such claims accrued during the PAGA Period. This
8 release shall be binding on all PAGA Employees regardless of whether they submit a valid Opt
9 Out from the Class.

10 95. Release by Plaintiff. Upon final approval of the Settlement, Plaintiff for herself,
11 her successors, assigns, agents, executors, heirs and personal representatives, spouse and
12 attorneys, and any and all of them, voluntarily and with the advice of counsel, waives and releases
13 any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against
14 any of the Released Parties of whatever kind and nature, character, and description, whether in law
15 or equity, whether sounding in tort, contract, federal, state and/or local law, statute, ordinance,
16 regulation, constitution, common law, or other source of law or contract, whether known or
17 unknown, and whether anticipated or unanticipated, including all claims arising from or relating to
18 any and all acts, events and omissions occurring prior to the date of final approval of this
19 Agreement including, but not limited to, all claims which relate in any way to her employment
20 with or the termination of her employment with the Released Parties and/or her provision of
21 services to the Released Parties at any of Defendants' locations during the Class Period. Plaintiff
22 further releases all unknown claims against any of the Released Parties, covered by California
23 Civil Code Section 1542, which states: "**A general release does not extend to claims that the
24 creditor or releasing party does not know or suspect to exist in his or her favor at the time of
25 executing the release and that, if known by him or her, would have materially affected his or
26 her settlement with the debtor or released party.**" Notwithstanding the provisions of section
27 1542, and for the purpose of implementing a full and complete release and discharge of all of his
28 Released Claims, Plaintiff expressly acknowledges that this Settlement is intended to include in its

1 effect, without limitation, all Released Claims which Plaintiff does not know or suspect to exist in
2 his favor at the time of execution hereof, and that the Settlement contemplates the extinguishment
3 of all such Released Claims.

4 **LIMITATIONS ON USE OF THIS SETTLEMENT**

5 **Notice to LWDA**

6 96. Notification to LWDA of PAGA Claims and Settlement. Class Counsel shall be
7 responsible for notifying the LWDA, via its online Proposed Settlement of PAGA case interactive
8 form, of: (i) the pending settlement, (ii) the release of PAGA claims herein, (iii) the amount of the
9 PAGA Allocation, (iv) the preliminary and final approval hearings, (v) a copy of the proposed
10 settlement provided to the Court; and (vi) any other information required by the LWDA's online
11 proposed settlement reporting platform accessible at [https://www.dir.ca.gov/Private-Attorneys-](https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html)
12 [General-Act/Private-Attorneys-General-Act.html](https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html). Notice of the proposed settlement shall be
13 provided to the LWDA at the same time that this Stipulation is submitted to the Court.

14 **No Admission**

15 97. Neither the acceptance nor the performance by Defendants of the terms of this
16 Agreement nor any of the related negotiations or proceedings are or shall be claimed to be,
17 construed as, or deemed a precedent or an admission by Defendants of the truth of any allegations
18 in the Complaint or the PAGA Letters.

19 **Non-Evidentiary Use**

20 98. Defendants deny that they have failed to comply with the law in any respect, or
21 have any liability to anyone based on the claims asserted in the Civil Action. Plaintiff expressly
22 acknowledges that this Agreement is entered into for the purpose of compromising highly disputed
23 claims and that nothing herein is an admission of liability, wrongdoing, or the propriety of class or
24 representative treatment by Defendants. Neither the Agreement nor any document prepared in
25 connection with the Settlement may be admitted in any proceeding as an admission by
26 Defendants. Notwithstanding this paragraph, any and all provisions of this Agreement may be
27 admitted in evidence and used in any proceeding to enforce the terms of this Agreement, or in
28 defense of any claims released or barred by this Agreement.

1 **California Law**

2 105. All terms of this Agreement and its exhibits shall be governed and interpreted by
3 and according to the laws of the State of California, without giving effect to any conflict of law
4 principles or choice of law principles.

5 **Captions and Interpretations**

6 106. Paragraph titles or captions contained herein are inserted as a matter of convenience
7 and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or
8 any provision hereof.

9 **Incorporation of Exhibits**

10 107. All exhibits to this Agreement are incorporated by reference and are a material part
11 of this Agreement. Any notice, order, judgment, or other exhibit that requires approval of the
12 Court must be approved without material alteration from its current form in order for this
13 Agreement to be enforceable.

14 **Modification**

15 108. This Agreement may not be changed, altered, or modified, except in a writing
16 signed by the Parties, and approved by the Court. This Agreement may not be discharged except
17 by performance in accordance with its terms or by a writing signed by the Parties.

18 **Reasonableness of Settlement**

19 109. Plaintiff represents that this is a fair, reasonable, and adequate settlement and have
20 arrived at this settlement through arms-length negotiations, taking into account all relevant factors,
21 present and potential.

22 **Integration Clause**

23 110. This Agreement contains the entire agreement between the Parties relating to the
24 Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements,
25 understandings, representations, and statements, whether oral or written and whether by a party or
26 such party's legal counsel, are merged herein. No rights hereunder may be waived except in
27 writing.

1 **Binding On Assigns**

2 111. This Agreement shall be binding upon and inure to the benefit of the Parties and
3 their respective heirs, trustees, executors, administrators, successors and assigns.

4 **No Prevailing Party**

5 112. No Party shall be considered a prevailing party for any purpose. Except as
6 otherwise provided for in this Agreement, each Party shall bear its or his own attorney fees and
7 costs.

8 **Class Counsel Signatories**

9 113. It is agreed that because the members of the Class are numerous, it is impossible or
10 impractical to have each member of the Class execute this Agreement. The Notice of Class
11 Action and PAGA Settlement shall advise all Class Members of the binding nature of the
12 Agreement, and the Agreement shall have the same force and effect as if this Agreement were
13 executed by each member of the Class.

14 **Counterparts**

15 114. This Agreement, and any amendments hereto, may be executed in any number of
16 counterparts, each of which when executed and delivered shall be deemed to be an original and all
17 of which taken together shall constitute but one and the same instrument. Fax and pdf signatures
18 shall be as valid as original signatures.

19 **Waiver of Right to Object**

20 115. By signing this Agreement, Plaintiff, on behalf of the Class and allegedly aggrieved
21 employees, agree to be bound by its terms. Plaintiff further agrees not to request to be excluded
22 from the Class or Settlement and agrees not to object to any of the terms of the Agreement. Any
23 request for exclusion from the Settlement by Plaintiff or any Objection by Plaintiff shall be void
24 and of no force and effect. Likewise, Defendants agree to be bound by the terms of this
25 Settlement and agrees not to object to any of the terms of the Agreement.

26 **Administration Costs if Settlement Fails**

27 116. If the Settlement is not finally approved by the Court, voided or rescinded, any
28 costs incurred by the Settlement Administrator shall be paid equally by the Parties (half by

1 Plaintiff and/or Class Counsel and half by Defendants).

2 **Final Order and Judgment**

3 117. Upon final approval of the Settlement, a Final Order and Judgment shall be entered
4 by the Court which shall, among other things:

- 5 (i) Grant final approval to the Settlement as fair, reasonable, adequate, in good
6 faith and in the best interests of the Class as a whole, and order the Parties
7 to carry out the provisions of this Agreement.
- 8 (ii) Adjudge that the Settlement Class Members of the Settlement are
9 conclusively deemed to have released the Released Parties from the
10 applicable Released Class Claims, as more specifically set forth above.
- 11 (iii) Adjudge that the PAGA Employees of the Settlement are conclusively
12 deemed to have released the Released Parties from the Released PAGA
13 Claims, as more specifically set forth above.
- 14 (iv) Prohibit and permanently enjoin each Settlement Class Member of the
15 Settlement from pursuing in any fashion against any of the Released Parties
16 any and all of the applicable Released Class Claims.
- 17 (v) Prohibit and permanently enjoin each PAGA Employee of the Settlement
18 from pursuing in any fashion against any of the Released Parties any and all
19 of the Released PAGA Claims.
- 20 (vi) Reserve continuing jurisdiction as provided herein.

21 **Limitations on Disclosure**

22 118. Plaintiff and her counsel agree to keep the fact and terms of this settlement
23 confidential until preliminary approval of the settlement is sought from the Court, and, thereafter
24 to the fullest extent possible. They also agree not to make or offer to make any disclosures other
25 than what is necessary and consistent with the need for judicial approval of the settlement and
26 notice to the class. Plaintiff and her counsel agree that any public references to the defendants in
27 this action shall be limited to the named defendants only, Lascari's and Sons, Inc. and Lascari's
28 Group, Inc.

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IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

DATED: 9/30/2021 _____

DocuSigned by:
CATRINA MARTINEZ
3BDD074F53F8485...

CATRINA MARTINEZ

DATED: _____

LASCARI'S AND SONS, INC.
By: _____

DATED: _____

LASCARI'S GROUP, INC.
By: _____

APPROVED AS TO FORM AND CONTENT:

DATED: 9/30/2021 _____

GUNN COBLE LLP
DocuSigned by:
Beth Gunn
By: _____
Beth A. Gunn
Attorneys for Plaintiff CATRINA MARTINEZ

DATED: _____

REED SMITH LLP
By _____
Brittany M. Hernandez
Attorneys for Defendant LASCARI'S AND SON'S,
INC. and LASCARI'S GROUP, INC.

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IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

DATED: _____
CATRINA MARTINEZ

DATED: _____
LASCARI'S AND SONS, INC.
By: _____

DATED: 09 / 30 / 2021
John Lascari
LASCARI'S GROUP, INC.
By: John Lascari

APPROVED AS TO FORM AND CONTENT:

DATED: _____ GUNN COBLE LLP
By _____
Beth A. Gunn
Attorneys for Plaintiff CATRINA MARTINEZ

DATED: _____ REED SMITH LLP
By _____
Brittany M. Hernandez
Attorneys for Defendant LASCARI'S AND SON'S, INC. and LASCARI'S GROUP, INC.

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DATED: 09/30/2021

THE LEW FIRM, APC

By *Charles Lew*

Charles Lew
Attorneys for Defendants LASCARI'S AND SON'S,
INC. and LASCARI'S GROUP, INC

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IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

DATED: _____
CATRINA MARTINEZ

DATED: _____
LASCARI'S AND SONS, INC.
By: _____

DATED: _____
LASCARI'S GROUP, INC.
By: _____

APPROVED AS TO FORM AND CONTENT:

DATED: _____ GUNN COBLE LLP
By _____
Beth A. Gunn
Attorneys for Plaintiff CATRINA MARTINEZ

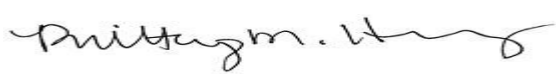
DATED: ___ 10/1/21 _____ REED SMITH LLP

Brittany M. Hernandez
Attorneys for Defendant LASCARI'S AND SON'S, INC. and LASCARI'S GROUP, INC.

EXHIBIT “B”

1 Beth A. Gunn (SBN 218889)
Catherine J. Coble (SBN 223461)
2 Gunn Coble LLP
3 3555 Casitas Avenue
Los Angeles, CA 90039
4 Telephone: +1 818 900-0695
Facsimile: + 1 818 900-0723
5 Email: beth@gunncoble.com
cathy@gunncoble.com
6

7 Attorneys for Plaintiff
CATRINA MARTINEZ

8 Michael R. Kleinmann (SBN293741)
9 Brittany M. Hernandez (SBN 299044)
REED SMITH LLP
10 355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071-1514
11 Telephone: +1 213 457 8000
12 Facsimile: +1 213 457 8080
Email: mkleinmann@reedsmith.com
13 bmhernandez@reedsmith.com

14 Attorneys for Defendants
15 LASCARI'S AND SONS, INC. and
LASCARI'S GROUP, INC.
16 *(additional parties listed on next page)*

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA

18 FOR THE COUNTY OF LOS ANGELES

19
20 CATRINA MARTINEZ, an individual, on
behalf of herself, and all others similarly
21 situated,

22 Plaintiff,

23 v.

24 LASCARI'S AND SONS INC. a California
Corporation, LASCARI'S GROUP, INC., a
25 California Corporation, and DOES 1 through 25,
inclusive,

26 Defendants.
27
28

~~Case No. BC716005~~

~~[Assigned for all purposes to Hon. Ann I. Jones,
Dept. 11]~~

~~Case No. BC716005~~

~~[Assigned for all purposes to Hon. David S.
Cunningham, Dept. 11]~~

**AMENDED CLASS ACTION
SETTLEMENT AGREEMENT**

Complaint Filed: August 1, 2018
FAC Filed: March 28, 2019
Trial Date: None

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Charles Lew
Isaiah Artest
The Lew Firm, APC
433 Camden Drive, Suite 600
Beverly Hills, California 90210
Telephone: +1 310 279-5145
Email: charles@thelewfir.com
 isaiah@thelewfir.com

Attorneys for Defendants
LASCARI'S AND SONS, INC. and
LASCARI'S GROUP, INC.

1
2 This Amended Class Action Settlement Agreement (“Agreement”) is made by and
3 between Plaintiff Catrina Martinez (“Plaintiff”) and Defendants Lascari’s and Sons, Inc. and
4 Lascari’s Group, Inc. (“Defendants”) (collectively “the Parties”) with regard to the lawsuit titled
5 *Martinez v. Lascari’s and Sons, Inc., et al.*, Case No. BC716005 pending in the Superior Court of
6 the State of California, County of Los Angeles (the “Civil Action”).

7 **THE SETTLEMENT**

8 1. Subject to the Court’s approval pursuant to Section 382 of the California Code of
9 Civil Procedure and Rule 3.769 of the California Rules of Court, Plaintiffs and Defendants have
10 agreed to settle the Civil Action upon the terms and conditions and for the consideration set forth
11 in this Agreement.

12 2. A summary of the terms of the Agreement is as follows:

- 13 • Defendants shall pay a settlement amount of Five Hundred and Fifty
14 Thousand Dollars and No Cents (\$550,000.00), referred to herein as the
15 Gross Settlement Amount, which shall be inclusive of all Individual
16 Settlement Payments to Settlement Class Members, PAGA Payment Share
17 to PAGA Employees, attorneys’ fees and expenses (not to exceed 30% of
18 the Gross Settlement Amount in attorneys’ fees and reasonable costs) to be
19 paid to Class Counsel, the employee portion of all required payroll
20 withholdings/taxes, any Class Representative Enhancement Award,
21 settlement administration costs and expenses, payment to the California
22 Labor Workforce Development Agency (“LWDA”) pursuant to the
23 California Labor Code Private Attorneys General Act of 2004 (“PAGA”),
24 and any and all penalty amounts to be paid regardless of the recipient. In no
25 event shall Lascari’s be required to pay more than the Gross Settlement
26 Amount under this Agreement, except that Lascari’s portion of payroll
27 taxes, including, but not limited FICA and FUTA, on the portion of the
28 Individual Settlement Payments that constitutes wages, shall be submitted

1 to the Settlement Administrator in addition to the Gross Settlement Amount.
2 In no event shall any portion of the Gross Settlement Amount revert to
3 Defendants.

- 4 • The Class consists of all individuals who are or were non-exempt
5 employees of Defendants at Lascari’s branded restaurants in the State of
6 California at any time during the Class Period. All Settlement Class
7 Members shall receive an Individual Settlement Payment in accordance
8 with paragraph 73 of the Agreement.
- 9 • The Settlement Administrator shall be CPT Group, Inc.. From the Gross
10 Settlement Amount, settlement administration fees in a reasonable amount
11 shall be paid to the Settlement Administrator. Settlement administration
12 fees are estimated to be approximately Sixteen Thousand Dollars and No
13 Cents (\$16,000.00). If the actual cost of settlement administration is less or
14 more than the amount approved by the Court, those funds shall be added to
15 or subtracted from the Net Settlement Amount.
- 16 • From the Gross Settlement Amount, the Class Representative may seek
17 from the Court an Enhancement Award up to Ten Thousand Dollars and No
18 Cents (\$10,000), which Defendants shall not oppose.
- 19 • From the Gross Settlement Amount, Twenty Thousand Dollars and No
20 Cents (\$20,000) shall be allocated to penalties under the California Labor
21 Code Private Attorneys General Act of 2004, California Labor Code
22 Sections 2698, *et seq.* (“PAGA”), 75% of which (*i.e.*, Fifteen Thousand
23 Dollars and No Cents (\$15,000)) shall be paid by the Settlement
24 Administrator directly to the California Labor and Workforce Development
25 Agency (“LWDA”). The remaining Five Thousand Dollars and No Cents
26 (\$5,000.00) shall be distributed to the PAGA Employees. If it should later
27 be determined by the Court that an additional amount is needed to
28 effectuate a full and complete release of all PAGA claims, the amount shall

1 be deducted from the Gross Settlement Amount.

- 2 • Class Counsel may seek attorneys' fees of up to One Hundred and Sixty-
3 Five Thousand Dollars and No Cents (\$165,000), which is thirty percent
4 (30%) of the Gross Settlement Amount and reasonable costs of up to
5 Fifteen Thousand Dollars and No Cents (\$15,000), which Defendants shall
6 not oppose.

7 **DEFINITIONS**

8 Unless otherwise defined herein, capitalized terms used in this Agreement shall have the
9 meanings set forth below:

10 3. "Civil Action" means the lawsuit filed by Plaintiff in the Superior Court of the
11 State of California for the County of Los Angeles titled, *Martinez v. Lascari's and Sons, Inc., et*
12 *al.*, Case No. BC716005.

13 4. "Class", "Classes", "Class Member" or "Class Members" means all individuals
14 who are or were non-exempt employees of Defendants at Lascari's branded restaurants in
15 California at any time during the Class Period.

16 5. "Class Counsel" means Beth A. Gunn and Catherine J. Coble at Gunn Coble LLP.

17 6. "Class Period" means between August 1, 2014 through the date the Court grants
18 preliminary approval of the settlement.

19 7. "Class Representative" or "Plaintiff" means plaintiff Catrina Martinez.

20 8. "Complaint" means the Complaint and operative First Amended Complaint filed in
21 the Los Angeles County Superior Court, styled *Martinez v. Lascari's and Sons, Inc., et al.*, Case
22 No.: BC716005.

23 9. "Court" means the Superior Court of California for the County of Los Angeles.

24 10. "Defendants" means Defendants Lascari's and Sons, Inc. and Lascari's Group, Inc.

25 11. "Defense Counsel" means Michael R. Kleinmann and Brittany M. Hernandez of
26 Reed Smith LLP, as well as, Charles Lew and Isaiah Artest of The Lew Firm, APC, on behalf of
27 Defendants Lascari's and Sons, Inc. and Lascari's Group, Inc.

28 12. "Effective Date" means the first date upon which all of the following events have

1 occurred:

- 2 (i) this Agreement has been executed by all Parties and by Class Counsel and
- 3 Defense Counsel;
- 4 (ii) the Court has preliminarily approved the Settlement;
- 5 (iii) notice has been properly given to Class Members;
- 6 (iv) the Court has held a Final Fairness and Approval Hearing and entered the
- 7 Final Order and Judgment approving the Settlement; and
- 8 (v) in the event no appeal is filed, then sixty (60) days after the entry of the
- 9 Final Order and Judgment, or, if an appeal is filed, upon the final dismissal
- 10 of the appeal, writ or other appellate proceeding opposing this Agreement.
- 11 In this regard, it is the intention of the Parties that the Settlement shall not
- 12 become effective until the Court's order approving the Settlement has
- 13 become completely final, and there is no timely recourse by an appellant or
- 14 objector who seeks to contest the Settlement.

15 13. "Employer's Share of Payroll Taxes" means Defendants' portion of payroll taxes,
16 including, but not limited to FICA and FUTA, on the portion of the Individual Settlement
17 Payments that constitutes wages. This additional amount shall be paid by Defendants along with
18 the Gross Settlement Amount to the Settlement Administrator. The Settlement Administrator shall
19 handle the calculation of the taxes owed, payment of such amounts to the appropriate agencies,
20 and reporting.

21 14. "Enhancement Award" means any payment to the Class Representative for her
22 service to the Class and her individual release as set forth in paragraph 85, which is in addition to
23 whatever payments she may otherwise be entitled to as a Settlement Class Member.

24 15. "Final Fairness and Approval Hearing" means the hearing to be requested by
25 Plaintiff and conducted by the Court after the filing by Plaintiff of an appropriate motion and
26 following appropriate notice to Class Members giving Class Members an opportunity to opt out
27 from the Class and Settlement or to object to the Settlement, at which time Plaintiff shall request
28 that the Court finally approve the fairness, reasonableness and adequacy of the terms and

1 conditions of the Settlement, enter the Final Order and Judgment, and take other appropriate
2 action.

3 16. “Final Order and Judgment” means the order and judgment to be entered by the
4 Court upon granting final approval of the Settlement and this Agreement as binding upon the
5 Parties and the Settlement Class Members who do not properly and timely submit a written Opt
6 Out.

7 17. “Gross Settlement Amount” or “GSA” means the maximum amount (not including
8 the Employer’s Share of Payroll Taxes) that Defendants shall be required to pay under this
9 Agreement, which shall be inclusive of all Individual Settlement Payments to Settlement Class
10 Members, PAGA Payment Share to PAGA Employees, attorneys’ fees and costs, Settlement
11 Administration Costs, Enhancement Awards to the Class Representatives, and payment to the
12 California Labor Workforce Development Agency (“LWDA”) pursuant to the California Labor
13 Code Private Attorneys General Act of 2004 (“PAGA”), and employees’ share of payroll taxes on
14 any portion of the Individual Settlement Payments to the Settlement Class Members that
15 constitutes wages. The Gross Settlement Amount is Five Hundred and Fifty Thousand Dollars and
16 No Cents (\$550,000).

17 18. “Individual Settlement Payment” means the gross amount that shall be paid to
18 each Settlement Class Member for their Qualifying Workweeks. The Individual Settlement
19 Payment shall be determined as described in paragraph 73 below. If a Class Member is also a
20 PAGA Employee, the individual shall also receive a PAGA Payment Share.

21 19. “Net Settlement Amount” means the amount of money remaining after Class
22 Counsel’s attorneys’ fees, costs and expenses, any Enhancement Award to the Class
23 Representative, settlement administration costs and expenses, and all employee payroll
24 withholdings/taxes applicable to the Individual Settlement Payment made to Settlement Class
25 Members are deducted from the Gross Settlement Amount.

26 20. “Notice of Class Action and PAGA Settlement” or “Notice” means the form
27 attached hereto as **Exhibit 1** or whichever form is approved by the Court that shall be provided to
28 the Class Members to inform them of the terms of this Agreement and their rights and options

1 related thereto in the various methods described in paragraphs 56 and 58-60 below. Upon approval
2 by the Court, the Notice of Class Action and PAGA Settlement shall be translated into Spanish,
3 and both the English and Spanish versions shall be provided to the Class Members.

4 21. “Objection” means a Class Member’s written objection to the Settlement. Any
5 Objection shall be in the form described in paragraphs 65-66 below.

6 22. “Opt Out” means a written request that a Class Member may submit to be excluded
7 from the Class and the Settlement. Any Opt Out shall be in the form described in paragraph 61
8 below.

9 23. “PAGA Employees” means all individuals who are or were non-exempt employees
10 of Defendants at Lascari’s branded restaurants in California at any time during the PAGA Period.

11 24. “PAGA Letters” means the notices of alleged Labor Code violations that Catrina
12 Martinez caused to be sent to the LWDA pursuant to Labor Code Section 2699.3(l), including
13 LWDA-CM-485391-18 (submitted on or about March 27, 2018; amended notice submitted on or
14 about August 6, 2018).

15 25. “PAGA Payment” means the amount that the Parties have agreed to pay to the
16 California Labor and Workforce Development Agency (“LWDA”) and the PAGA Employees in
17 connection with the California Labor Code Private Attorneys General Act of 2004, California
18 Labor Code Sections 2698, *et seq.* (“PAGA”). The Parties have agreed that Twenty Thousand
19 Dollars and No Cents (\$20,000.00) of the Gross Settlement Amount will be allocated to the
20 resolution of all claims arising under PAGA. Pursuant to Labor Code Section 2699(i), it shall be
21 distributed as follows: 25%, or \$5,000, to the PAGA Employees and 75%, or \$15,000, to the
22 LWDA. If it should later be determined by the Court that an additional amount is needed to
23 effectuate a full and complete release of all PAGA claims, the amount shall be deducted from the
24 Gross Settlement Amount.

25 26. “PAGA Payment Share” means the gross amount that shall be paid to each PAGA
26 Employee for their total PAGA Workweeks. The PAGA Payment Share for PAGA Employees
27 shall be calculated as described in paragraph 74 below.

28 27. “PAGA Period” means the period between March 27, 2017 through the date that

1 the Court grants preliminary approval of the Settlement.

2 28. "PAGA Workweeks" means the total number of workweeks worked by each
3 PAGA Employee during the PAGA Period based on Defendants' records.

4 29. "PAGA Workweek Payment Rate" means the gross amount that shall be paid for
5 each PAGA Workweek for PAGA Employees as described below in paragraph 74.

6 30. "Party" or "Parties" means Plaintiff and Defendants.

7 31. "Preliminary Approval Order" means the order to be issued by the Court approving
8 and authorizing the mailing of the Notice of Class Action and PAGA Settlement by the Settlement
9 Administrator, setting the date of the Final Fairness and Approval Hearing and granting
10 preliminary approval of the Settlement set forth in this Stipulation, among other things,
11 substantially in the form attached as **Exhibit 2**, or as subsequently modified with the approval of
12 counsel for all Parties.

13 32. "Proof of Work" means document(s) that a Class Member and/or PAGA Employee
14 may submit to the Settlement Administrator to show that they are entitled to payment based upon
15 a different number of Qualifying Workweeks and/or PAGA Workweeks than the number(s)
16 calculated by the Settlement Administrator based upon Defendants' data. Adequacy of the Proof
17 of Work submitted will be evaluated by Class Counsel, Defense Counsel, and the Settlement
18 Administrator. In the event of a disagreement, the Settlement Administrator will make the final
19 decision.

20 33. "Qualifying Workweeks" means the total number of workweeks worked by each
21 Class Member during the Class Period based on Defendants' records.

22 34. "Released Class Claims" are defined in paragraph 93 below.

23 35. "Released PAGA Claims" with respect to the PAGA Employees are defined in
24 paragraph 94 below.

25 36. "Released Parties" Defendants Lascari's and Sons, Inc. and Lascari's Group, Inc.
26 and each of their respective present and former parents, affiliates, divisions and subsidiaries,
27 acquired companies, and each of its respective present and former directors, officers, shareholders,
28 agents, representatives, employees, partners, attorneys, insurers, predecessors, successors, assigns,

1 affiliated companies and entities and any individual or entity that could be jointly liable with any
2 of the foregoing.

3 37. "Response Deadline" means the sixty (60) day period following the date the
4 Settlement Administrator mails the Notice of Class Action and PAGA Settlement to Class
5 Members within which any Class Member may: (a) submit a written Opt Out to be excluded from
6 the Class and this Settlement; (b) submit an Objection; and/or (c) submit a dispute regarding their
7 Qualifying Workweeks and/or PAGA Workweeks and any Proof of Work. For purposes of this
8 definition, the term "submit" refers to the date by which the correspondence is postmarked, faxed,
9 or emailed and is thereafter received by the Settlement Administrator. All Opt Outs and
10 Objections must be submitted on or before the end of the Response Deadline or within the
11 extended deadline for certain Class Members only as expressly described in paragraph 58(a).

12 38. "Settlement" means the final and complete disposition of the Civil Action as
13 provided for in this Agreement and all Exhibits hereto.

14 39. "Settlement Administrator" means CPT Group, Inc.

15 40. "Settlement Administration Costs" means the reasonable costs and fees of
16 administration of this Settlement to be paid to the Settlement Administrator from the Gross
17 Settlement Amount, including, but not limited to: (i) translating into Spanish, printing and emailing
18 and mailing and re-mailing (if necessary) of Notices of Class Action and PAGA Settlement to
19 Class Members and PAGA Employees; (ii) preparing and maintaining a web site for settlement
20 administration; (iii) preparing and submitting to Settlement Class Members, PAGA Employees,
21 and government entities all appropriate tax filings and forms; (iv) computing the amount of and
22 distributing Individual Settlement Payments, PAGA Payment Shares, Class Representative
23 Service Award, and Class Counsel Attorneys' Fees, Costs and Expenses; (v) processing and
24 validating Opt Outs; and (vi) calculating and remitting to the appropriate government agencies all
25 employer and employee payroll tax obligations arising from the Settlement and preparing and
26 submitting filings required by law in connection with the payments required by the Settlement.

27 41. "Settlement Class Members" means Plaintiff and all other Class Members who do
28 not submit a timely and valid Opt Out under the process described in paragraph 61.

1 42. “Workweek Payment Rate” means the gross amount that shall be paid for each
2 Qualifying Workweek as described below in paragraph 73.

3 **BACKGROUND**

4 43. On August 9, 2018, Plaintiff Catrina Martinez (“Plaintiff”) filed a putative class
5 action complaint in Los Angeles County Superior Court against Lascari’s and Sons, Inc.
6 (“Lascari’s & Sons”), case number BC716005. Through the Complaint, Plaintiff, a non-exempt
7 employee who sought damages, restitution, penalties, unpaid wages, injunctive relief, declaratory
8 relief, pre- and post-judgment interest, costs, attorneys’ fees, and any other relief deemed
9 appropriate by the Court on the basis of the allegations, inter alia, against Defendant Lascari’s &
10 Son’s, Inc.: (1) failure to provide required meal periods; (2) failure to authorize and permit
11 required rest periods; (3) failure to pay overtime; (4) failure to pay minimum wages; (5) failure to
12 pay timely wages due at termination/waiting time penalties; (6) failure to timely pay all wages,
13 including reporting time; (7) failure to reimburse for employment related expenses; (8) failure to
14 maintain required records; (9) failure to furnish accurate itemized wage statements; (10) failure to
15 provide written notice of paid sick leave; (11) failure to provide all paid sick leave; (12) failure to
16 pay all gratuities earned; (13) failure to provide one day’s rest in seven; (14) unfair and unlawful
17 business practices; and (15) penalties under the Private Attorneys General Act (“PAGA”).

18 44. On March 28, 2019, Plaintiff filed a First Amended Complaint in order to add
19 Defendant Lascari’s Group, Inc.

20 45. Defendant Lascari’s and Sons, Inc. answered the First Amended Complaint on June
21 19, 2019. Defendant Lascari’s Group, Inc. answered the First Amended Complaint on October 3,
22 2019.

23 46. Defendants deny each of the allegations of the Complaint and the PAGA Letters,
24 deny Defendants have any liability for the claims of Plaintiff, the putative class she purports to
25 represent or any allegedly aggrieved employee, and denies that Plaintiff, the putative class she
26 purports to represent or any allegedly aggrieved employee is entitled to any relief.

27 47. Class Counsel and Defense Counsel have extensive experience in litigating wage
28 and hour class actions in California. Class Counsel and Defense Counsel have vigorously litigated

1 the Civil Action since its inception.

2 48. On May 21, 2019, the Parties engaged in mediation before Honorable Michael
3 Marcus (Ret.), an experienced mediator in this area of law. The mediation was not successful and
4 the Parties continued to litigate this case.

5 49. On January 27, 2021, the Parties again engaged in mediation before Honorable
6 Michelle R. Rosenblatt (Ret.), an experienced mediator in this area of law. After the mediation,
7 Plaintiff and Defendants agreed on the principal terms of a settlement and accepted a mediator's
8 proposal made by Hon. Michelle R. Rosenblatt and, thereafter, executed a Memorandum of
9 Understanding ("MOU") to memorialize their agreement on or about March 16, 2021. The MOU
10 is superseded in all respects by this Agreement.

11 50. This Agreement is made in compromise of and embraces all claims against any of
12 the Released Parties as enumerated in paragraphs 93-94 below.

13 51. Because the settled matters are putative class and representative action, this
14 Agreement must receive preliminary and final approval by the Court. Accordingly, Plaintiff and
15 Defendants enter into this Agreement on a conditional basis. Should the Court, or any other court
16 taking jurisdiction of this matter, decline to approve all material aspects of the Settlement or make
17 any ruling substantially altering the material terms of the Settlement, the Settlement shall be
18 voidable and unenforceable as to Plaintiff and Defendants, at the option of any party. Subject to
19 the requirements of the immediately preceding sentence, any party may exercise its option to void
20 this Settlement by giving notice, in writing, to the other Parties and to the Court at any time before
21 final approval by the Court of this Settlement. In the event that the Effective Date, as defined
22 herein does not occur, this Agreement shall be deemed null and void *ab initio* and shall be of no
23 force or effect whatsoever, and shall not be referred to or utilized for any purpose. Defendants
24 deny all of Plaintiff's claims and all class and representative claims as to liability and damages.
25 Defendants expressly reserves all rights to challenge any and all such claims and allegations upon
26 all procedural and factual grounds, including the assertion of all defenses, if the Effective Date of
27 the Settlement does not occur. Likewise, Plaintiff expressly reserves all rights to pursue, amend,
28 dismiss or otherwise dispose of the claims covered under this Settlement, including but not limited

1 to seeking damages, restitution, fees, expenses, interest and/or any other monetary amount in
2 excess of the GSA set forth above for the claims included in the Civil Actions or for any other
3 claims Plaintiff may have against Defendants, in the event the Effective Date of the Settlement
4 does not occur.

5 52. Plaintiff and Class Counsel have concluded, after taking into account the sharply
6 disputed factual and legal issues involved in the Civil Action, the risks attending further
7 prosecution, and the substantial benefits to be received pursuant to settlement as set forth in this
8 Agreement, that settlement on the terms set forth herein is in the best interest of Plaintiff and the
9 Class and the PAGA Employees, and is fair and reasonable.

10 53. Similarly, Defendants have concluded, after taking into account the sharply
11 disputed factual and legal issues involved in the Civil Action, the risks and expense attending
12 further litigation, and its desire to put the controversy to rest, that settlement on the terms set forth
13 herein is in their best interest and is fair and reasonable.

14 54. This Settlement contemplates (i) entry of an order preliminarily approving the
15 Settlement, (ii) distribution of the Notice of Class Action and PAGA Settlement to Class Members
16 and PAGA Employees, and (iii) entry of a Final Order and Judgment of the Settlement. The Court
17 shall retain jurisdiction over the Civil Action and Parties for purposes of enforcing the Settlement
18 and resolving any disputes relating to the Settlement.

19 **SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURE**

20 **Preliminary Approval of Settlement**

21 55. As soon as practicable, Class Counsel shall submit this Agreement to the Court for
22 its preliminary approval. Plaintiff shall also move the Court to enter a Preliminary Approval
23 Order and to conditionally certify the Class for purposes of this Settlement only. Class Counsel
24 shall provide the motion for preliminary approval to Defense Counsel for review of the substance
25 contained in the motion for preliminary approval at least 2 days prior to filing. The submission
26 shall also include admissible evidence as may be required for the Court to determine that this
27 Settlement is fair, adequate and reasonable, as required by Code of Civil Procedure section 382.
28 The submission shall also include the Notice of Class Action and PAGA Settlement in the form

1 attached hereto as **Exhibit 1**, a proposed order granting preliminary approval of Settlement in the
2 form attached hereto as **Exhibit 2**, which shall, among other things, set a Final Fairness and
3 Approval Hearing date, and a proposed order granting final approval of Settlement in the form
4 attached hereto as **Exhibit 3**. Plaintiff and Defendants agree that the conditional certification of
5 the Class for settlement purposes only is in no way an admission by any of the Released Parties
6 that class certification would otherwise be proper.

7 **Notice to Class Members and PAGA Employees**

8 56. Following the Court’s order granting preliminary approval of this Settlement, the
9 Settlement Administrator shall disseminate the Notice of Class Action and PAGA Settlement in
10 the form attached hereto as **Exhibit 1** to the Class Members and PAGA Employees.

11 **Cooperation**

12 57. The Parties agree to cooperate with each other to accomplish the terms of this
13 Settlement, including, but not limited to, the timely execution of such documents and such other
14 acts as may be reasonably necessary to implement the terms of this Settlement. Neither the Parties
15 nor any of their attorneys or agents shall solicit or encourage any Class Members to exclude
16 themselves from the Settlement or to object to the Settlement. The Parties to the Settlement shall
17 use their best efforts, including all efforts contemplated by this Agreement and any other efforts
18 that may become necessary by Court order, or otherwise, to effectuate this Settlement and the
19 terms set forth herein.

20 **Notice of Class Action and PAGA Settlement by Mail**

21 58. The Settlement Administrator shall, within thirty (30) days of the date of
22 preliminary approval of this Settlement, mail by First-Class United States mail the Notice of Class
23 Action and PAGA Settlement to each Class Member and PAGA Employee, translated by the
24 Settlement Administrator into English and Spanish (hereinafter “Notice”), using the most recent
25 address available to the Settlement Administrator for mail delivery, after updating provided
26 addresses using the National Change of Address Database. ~~Any returned mail with a forwarding
27 address from the U.S. postal service shall be promptly re-mailed to the new addresses. The
28 Settlement Administrator shall perform a reasonable search for a new address for any returned~~

1 ~~mails without a forwarding address.~~ The Settlement Administrator shall also, within 10 days of
2 mailing the Notice, send an electronic copy of the Notice via email to the last known email
3 addresses (to the extent available) of each Class Member and PAGA employee.

4
5 a. Any Notice returned to the Settlement Administrator as non-
6 delivered on or before the Response Deadline with a forwarding
7 address from the U.S. postal service shall be promptly re-mailed to
8 the forwarding address affixed thereto. If no forwarding address is
9 provided, the Settlement Administrator shall promptly attempt to
10 determine a correct address by the use of skip-tracing, or other
11 automated search, and shall then promptly perform a re-mailing to
12 the Class Member whose Notice was returned as non-delivered,
13 assuming another mailing address is identified by the Settlement
14 Administrator. A letter prepared by the Settlement Administrator
15 will be included in the re-mailed Notice in that instance, stating that
16 the recipient of the Notice has until the original deadline set forth on
17 the Notice, or ten (10) calendar days after the date of re-mailing of
18 the Notice (whichever is later) to object or submit an Opt Out or
19 submit Proof of Work. In no event shall this be more than ten (10)
20 calendar days after the Response Deadline.

21 -b. If these procedures are followed, notice to Class Members shall be
22 deemed to have been fully satisfied, and if the intended recipient
23 does not receive the Notice of Class Action and PAGA Settlement,
24 the intended recipient shall nevertheless remain a Class Member and
25 shall be bound by all terms of the Settlement and the Final Order
26 and Judgment.

27 59. The Notice of Class Action and PAGA Settlement to be provided to each Class
28 Member shall set forth the number of Qualifying Workweeks applicable to the Class Member, the

1 number of PAGA Workweeks applicable to the PAGA Employee, the estimated Workweek
2 Payment Rate applicable to the Class Member, the estimated PAGA Workweek Payment Rate
3 applicable to the PAGA Employee, and the estimated Individual Settlement Payment that the
4 Class Member shall receive under this Settlement if the Court grants final approval of the
5 Settlement, and the estimated PAGA Payment Share that PAGA Employee shall receive under this
6 Settlement if the Court grants final approval of the Settlement. The Notice of Class Action and
7 PAGA Settlement shall notify the Class Members that governmentally-mandated tax withholdings
8 shall be deducted from a portion of his or her Individual Settlement Payment, as described in
9 paragraph 78 below.

10 60. If the Class Member or PAGA Employee wishes to contest the number of
11 Qualifying Workweeks and/or the number of PAGA Workweeks assigned to him or her by the
12 Settlement Administrator, the Class Member or PAGA Employee or his or her authorized
13 representative in the case of the individual’s death or incapacity must timely provide his or her
14 dispute with Proof of Work to the Settlement Administrator. To be timely, the completed Proof of
15 Work must be mailed to the Settlement Administrator and postmarked no later than sixty (60) days
16 after the date of mailing of the Notice of Class Action and PAGA Settlement. As this is not a
17 claims-made Settlement and Class Members need not return the optional Proof of Work, Class
18 Members shall be bound by this Agreement unless they submit a completed, signed and timely
19 Opt Out. However, the Released PAGA claims shall be binding on all PAGA Employees
20 regardless of whether they submit a valid Opt Out from the Class.

21 **Opt Out**

22 61. Any Class Member seeking to be excluded from the Class and this Settlement shall
23 submit a written Opt Out to the Settlement Administrator. The written Opt Out must: (1) contain
24 the name, address, and the last four digits of the Social Security Number of the person requesting
25 exclusion; (2) state the Class Member’s request to exclude himself or herself from the Settlement
26 and to opt out of the Settlement; (3) be signed by the Class Member or his or her lawful
27 representative; and (4) be postmarked by the Response Deadline and returned to the Settlement
28 Administrator at the specified address. Opt Outs may also be returned to the Settlement

1 Administrator's email address, as specified in the Notice, by 11:59 p.m. on the Response
2 Deadline. Any Class Member, who submits a completed, signed and timely written Opt Out shall
3 no longer be a member of the Class, shall be barred from participating in this Settlement, shall be
4 barred from objecting to this Settlement, and shall receive no benefit from this Settlement. Any
5 untimely or incomplete Opt Out shall be considered null and void. If a Class Member submits
6 both a completed, signed and timely Proof of Work and a completed, signed and timely Opt Out,
7 the Opt Out shall be deemed invalid, and the Class Member shall be a Settlement Class Member
8 and participate in this Settlement, if the date the Opt Out was submitted falls after the date the
9 Proof of Work was submitted. A valid Opt Out from the Class does not affect the Released PAGA
10 Claims, which shall be binding on all PAGA Employees regardless of the requested exclusion.
11 The Settlement Administrator shall notify Class Counsel and Defense Counsel of the number of
12 timely opt-outs within seven (7) days after the Response Deadline.

13 62. If more than ten percent (10%) of the Class Members opt out of the Settlement by
14 submitting completed, signed and timely written Opt Outs, Defendants shall have the right at their
15 sole discretion to rescind and void this Settlement by giving written notice to Class Counsel within
16 fourteen (14) business days after the Settlement Administrator informs the Parties that the opt out
17 rate exceeded ten percent (10%). If Defendants exercise their right to rescind and void this
18 Settlement under this paragraph, Defendants shall pay any and all reasonable costs and expenses
19 incurred by the Settlement Administrator.

Declaration of Compliance

20
21 63. As soon as practicable, but no later than ten (10) days following the close of the
22 Response Deadline, the Settlement Administrator shall provide Class Counsel and Defense
23 Counsel with a declaration attesting to completion of the notice process set forth in this
24 Agreement, the number and names of opt outs, and a summary of any disputes raised by any Class
25 Members. This declaration shall be filed with the Court by Class Counsel along with a motion
26 requesting final approval of the Settlement. The Settlement Administrator shall also provide
27 weekly updates to Class Counsel and Defense Counsel regarding the opt outs, disputes, and
28 objections.

1 **Sufficient Notice**

2 64. The Parties agree that compliance with the procedures described in this Agreement
3 constitutes due and sufficient notice to Class Members and PAGA Employees of this Settlement
4 and the Final Fairness and Approval Hearing, and satisfies the requirements of due process, and
5 that nothing else shall be required of Plaintiff, Class Counsel, Defendants, Defense Counsel, or the
6 Settlement Administrator to provide notice to Class Members of the Settlement and the Final
7 Fairness and Approval Hearing.

8 **Objections to Settlement**

9 65. Any Class Member or PAGA Employee wishing to object to this Settlement shall
10 inform the Court, Class Counsel, and Defense Counsel in writing of their intent to object by
11 following the procedure set forth in the Notice of Class Action and PAGA Settlement no later than
12 the Response Deadline. Any Objection must: (1) state the Class Member’s or PAGA Employee’s
13 full name, address, and the last four digits of his or her Social Security Number (for identification
14 purposes only); (2) state the grounds for the objection; (3) be signed by the Class Member or
15 PAGA Employee or their lawful representative; and (4) be postmarked on or before the Response
16 Deadline and returned to the Settlement Administrator and/or be emailed to the Settlement
17 Administrator by 11:59 pm on the date of the Response Deadline.

18 66. Any Class Member or PAGA Employee who fails to file a timely written Objection
19 shall be foreclosed from objecting to this Settlement, unless otherwise ordered by the Court.

20 67. Class Counsel and Defense Counsel shall file any responses to any written
21 Objections submitted to the Court in accordance with this Agreement at least seven (7) days
22 before the Final Fairness and Approval Hearing, or on another date set by the Court.

23 68. Class Counsel shall file a motion for final approval within the timeframe provided
24 in the Code of Civil Procedures. Class Counsel shall provide the motion for final approval to
25 Defense Counsel for review of the substance contained in the motion for final approval at least 2
26 days prior to filing.

27 **Final Fairness and Approval Hearing**

28 69. On the date set forth by the Court for the Final Fairness and Approval Hearing in

1 the order granting preliminary approval of the Settlement, a Final Fairness and Approval Hearing
2 shall be held before the Court in order to consider and determine: (i) whether the Court should
3 give this Settlement final approval; (ii) whether the Court should approve Class Counsel's
4 application for attorneys' fees, costs and expenses and any Enhancement Award to the Class
5 Representative; and (iii) to hear any timely objections to the Settlement. At the Final Fairness and
6 Approval Hearing, Plaintiff, Class Counsel, Defendants, and Defense Counsel shall ask the Court
7 to give final approval to this Settlement. If the Court grants final approval of the Settlement, the
8 Settlement Administrator shall post notice of final judgment on its website within seven (7)
9 calendar days of entry of the Final Order and Judgment. Class Counsel shall submit a copy of the
10 Final Order and Judgment to the LWDA within ten (10) days after entry of the Final Order and
11 Judgment in accordance with California Labor Code section 2699(1)(3).

12 **Settlement Payment Procedures**

13 Payments under this Agreement shall be made by the Settlement Administrator as follows:

14 70. Settlement Class Members shall be paid exclusively from the Net Settlement
15 Amount.

16 71. The Parties have agreed to pay the LWDA and PAGA Employees Twenty
17 Thousand Dollars (\$20,000). PAGA Employees shall be paid exclusively from the allocated
18 amount from the Gross Settlement Amount as described above.

19 72. Plaintiff and Defendants recognize and agree that the asserted claims in the Civil
20 Action are extremely difficult to quantify with any certainty for any given year, or at all, and are
21 subject to a myriad of differing calculations and formulas. Plaintiff and Defendants agree that the
22 formulas for allocating Individual Settlement Payment to Settlement Class Members and PAGA
23 Payment Shares to PAGA Employees provided herein are reasonable and that the Individual
24 Settlement Payments and PAGA Payment Shares are designed to provide a fair settlement, despite
25 the uncertainties of the amounts alleged to be owed to Settlement Class Members and PAGA
26 Employees and the calculation of them. Distribution amongst Settlement Class Members are
27 based on Qualifying Workweeks that the Class Member was employed during the Class Period.
28 Further, distribution amongst PAGA Employees are based on PAGA Workweeks that the PAGA

1 Employee worked during the PAGA Period. Plaintiffs and Defendants have agreed that the
2 distribution to each Settlement Class Member and PAGA Employee shall be determined as set
3 forth in paragraphs 73 and 74 below.

4 73. The Individual Settlement Payment to each Settlement Class Member shall be
5 determined based on the number of Qualifying Workweeks worked by the Settlement Class
6 Member during the Class Period. The Net Settlement Amount shall be divided by the total
7 number of Qualifying Workweeks for all Settlement Class Members during the Class Period. The
8 result of this division shall yield a Workweek Payment Rate for the Class. The gross amount of
9 each Settlement Class Member's Individual Settlement Payment shall be calculated by multiplying
10 the number of Qualifying Workweeks applicable to that Class Member by the Workweek Payment
11 Rate. Governmentally-required employee tax withholdings shall be deducted from that portion of
12 each Individual Settlement Payment allocated as wages.

13 74. From the PAGA Payment (which shall be deducted from the Gross Settlement
14 Amount), PAGA Payment Shares shall be allocated to the PAGA Employees. The PAGA
15 Payment Share to each PAGA Employee shall be determined based on the number of PAGA
16 Workweeks worked by the PAGA Employee during the PAGA Period. The \$5,000 allocated to
17 the PAGA Employees shall be divided by the total number of PAGA Workweeks for all PAGA
18 Employees during the PAGA Period. The result of this division shall yield a PAGA Workweek
19 Payment Rate. The gross amount of each PAGA Employee's PAGA Payment Share shall be
20 calculated by multiplying the number of PAGA Workweeks applicable to that PAGA Employee
21 by the PAGA Workweek Payment Rate.

22 75. Within fifteen (15) business days after the Effective Date, Defendants shall transmit
23 the Gross Settlement Amount to the Settlement Administrator.

24 76. Within twenty-one (21) business days after the Effective Date, the Settlement
25 Administrator shall transmit to Class Counsel the attorneys' fees, costs and expenses approved by
26 the Court, shall transmit to the Class Representatives their Enhancement Awards approved by the
27 Court, shall transmit to the LWDA the payment pursuant to PAGA, shall mail Individual
28 Settlement Payments to each Settlement Class Member, and PAGA Payment Shares to each

1 PAGA Employee.

2 77. Individual Settlement Payments and PAGA Payment Shares shall be made by
3 check and shall be made payable to each Settlement Class Member and PAGA Employee as set
4 forth in this Agreement. Under no circumstances shall the Settlement Administrator distribute
5 checks to Settlement Class Members and/or PAGA Employees until all timely workweek disputes
6 with Proof of Work have been considered, calculated, and accounted for, and the Class Counsel
7 fees and expenses, costs of the Settlement Administrator, and an Enhancement Award have been
8 calculated and accounted for.

9 78. The Individual Settlement Payments are payments for all Released Class Claims for
10 the Settlement Class Members. The PAGA Payment Shares are payments for the Released PAGA
11 Claims for the PAGA Employees. The Settlement Administrator shall be authorized to establish a
12 Qualified Settlement Fund (“QSF”) pursuant to Internal Revenue Service (“IRS”) rules and
13 regulations in which the Gross Settlement Amount shall be placed and from which payments
14 required by the Settlement shall be made. Twenty-five percent (25%) of the amount of each
15 Individual Settlement Payment to each Settlement Class Member shall be allocated to their
16 respective alleged unpaid wage claims and shall be paid net of all applicable employment taxes,
17 including any federal, state, and/or local in issue tax withholding requirements and the employee
18 share of FICA taxes. Seventy-five percent (75%) of the amount of each Individual Settlement
19 Payment to each Individual Settlement Class Member shall be allocated to alleged premium pay,
20 penalties and interest, and shall not be subject to withholding. PAGA Payment Shares will be
21 allocated entirely as penalties and will be included on an IRS Form 1099 to each PAGA
22 Employee. Each Settlement Class Member, PAGA Employee, Class Counsel, and Class
23 Representative shall be responsible for remitting to state and/or federal taxing authorities any
24 applicable taxes which may be owed on the portion of any payment received pursuant to this
25 Agreement, except as provided by this Agreement. The employer’s share of payroll taxes shall
26 not be paid from the Gross Settlement Amount and shall remain the sole responsibility of
27 Defendants. Defendants shall remit the additional amount of the Employer’s Share of Payroll
28 Taxes to the Settlement Administrator along with the Gross Settlement Amount.

1 79. It is expressly understood and agreed that the receipt of an Individual Settlement
2 Payment and/or PAGA Payment Share shall not entitle any Class Member and/or PAGA
3 Employee to compensation or benefits under any company bonus, contest or other compensation
4 or benefit plan or agreement in place during the applicable Class Period nor applicable PAGA
5 Period, nor shall it entitle any Class Member and/or PAGA Employee to any increased retirement,
6 401(k) or matching benefits, or deferred compensation benefits. The Parties agree that any
7 Individual Settlement Payments made to Settlement Class Members and any PAGA Payment
8 Share made to PAGA Employees under the terms of this Agreement shall not represent any
9 modification of previously credited length of service or other eligibility criteria under any bonus
10 plan, employee pension benefit plan or employee welfare plan sponsored by any of the Released
11 Parties, or to which any of the Released Parties are required to make contributions. Further, any
12 Individual Settlement Payments and PAGA Payment Shares made under this Agreement shall not
13 be considered compensation in any year for purposes of determining eligibility for, or benefit
14 accrual within, any employee pension benefit plan or employee welfare benefit plan sponsored by
15 any of the Released Parties or to which any of the Released Parties are required to make
16 contributions. It is the Parties' intent that the Individual Settlement Payments and PAGA Payment
17 Shares provided for in the Agreement are the sole payments to be made by Defendants to the Class
18 Members and PAGA Employees, and that the Class Members and PAGA Employees are not
19 entitled to any new or additional compensation or benefits as a result of having received the
20 Individual Settlement Payments and PAGA Payment Shares, notwithstanding any contrary terms
21 in any agreement, contract, benefit or compensation plan document that might have been in effect
22 during the applicable Class Period and PAGA Period.

23 80. Individual Settlement Payment checks and PAGA Payment Share checks shall
24 remain negotiable for 180 days from the date of mailing. Any Individual Settlement Payment
25 checks or PAGA Payment Share checks that remain uncashed after One Hundred Eighty (180)
26 days from issuance shall be void and the Settlement Administrator shall pay the funds represented
27 by such un-redeemed checks to the California State Controller's Office as unclaimed property
28 pursuant to the California Unclaimed Property Law. In such event, the Settlement Class Member

1 and/or PAGA Employee shall nevertheless remain bound by the Settlement's Released Class
2 Claims and/or Released PAGA Claims, as applicable. Notwithstanding the foregoing, the
3 Settlement's Released Class Claims does not include any individual claims under Section 16(b) of
4 the FLSA, 29 U.S.C. 216(b), as to a Settlement Class Member who does not opt in to the
5 Settlement by cashing, depositing or endorsing his or her Individual Settlement Payment check, to
6 the extent that opting in is required to release such FLSA claims.

7 **The Settlement Administrator**

8 81. The Settlement Administrator shall administer the Settlement, including, but not
9 limited to: (i) printing, mailing and re-mailing (if necessary), and emailing, the Notice and
10 receiving Opt Outs and Objections from Class Members and Objections from PAGA Employees;
11 (ii) preparing and maintaining a web site for the settlement administration of this matter which
12 includes of the substance in the Notice; (iii) preparing and submitting to Settlement Class
13 Members and PAGA Employees and government entities all appropriate tax filings and forms; (iv)
14 computing the amount of and distributing Individual Settlement Payments, PAGA Payment
15 Shares, Enhancement Awards, and Class Counsel attorneys' fees and costs; (v) processing and
16 validating Qualifying Workweek disputes/Proof of Work, Opt Outs and Objections; (vi)
17 establishing a QSF, as defined by the Internal Revenue Code; and (vii) calculating and remitting to
18 the appropriate government agencies all employer and employee payroll tax obligations arising
19 from the Settlement and preparing and submitting filings required by law in connection with the
20 payments required by the Settlement.

21 82. Settlement administration fees in a reasonable amount shall be paid to the
22 Settlement Administrator from the Gross Settlement Amount. Settlement administration fees are
23 estimated to be approximately Sixteen Thousand Dollars and No Cents (\$16,000). If the actual
24 cost of settlement administration is less or more than the amount approved by the Court, those
25 funds shall be added to or subtracted from the Net Settlement Amount for allocation to Settlement
26 Class Members. All costs associated with settlement administration shall come out of the Gross
27 Settlement Amount.

28

1 83. Delivery of Class Data. “Class Data” means a complete list of all Class Members
2 and PAGA Employees that Defendants will diligently and in good faith compile from their
3 records. The Class Data shall include the following information from Defendants’ records all to
4 the extent available: each Class Member and PAGA Employee’s full name, most recent mailing
5 address and telephone number, social security number, most recent e-mail address, and dates of
6 hire and termination. Defendants shall provide the Settlement Administrator with the Class Data
7 no later than fifteen (15) calendar days after the Court grants preliminary approval of the
8 Settlement. The Class Data shall only be used by the Settlement Administrator for the purpose of
9 calculating Qualifying Workweeks and PAGA Workweeks, Individual Settlement Payments and
10 PAGA Payment Shares and notifying Class Members and PAGA Employees of the Settlement.
11 The Class Data applicable to an individual Class Member (*i.e.*, CPT unique ID, full name, most
12 recent mailing address, e-mail address, telephone number, and Qualifying Workweeks and PAGA
13 Workweeks) shall be disclosed to Class Counsel if that individual Class Member contacts Class
14 Counsel regarding their Qualifying Workweeks and/or PAGA Workweeks, estimated Individual
15 Settlement Payments and/or PAGA Payment Shares, or related issues with the settlement, but only
16 as necessary to allow them to fulfill their fiduciary duties to the Class and investigate issues that
17 may arise with respect to payments to be made to Class Members and/or PAGA Group Members,
18 so long as notice is provided to Defendants by the Settlement Administrator and Class Counsel.,
19 Notwithstanding, the Class Data in its entirety shall not be disclosed to the Class Representative,
20 or any other Class Members or PAGA Group, without written consent of Defendants or by order
21 of the Court. However, concurrent with the mailing of the Notice of Class Action and PAGA
22 Settlement, the Settlement Administrator shall provide Class Counsel and Defense Counsel with a
23 redacted list of all Class Members that shall be limited to the following information: (1) CPT
24 Unique ID (as reflected on the respective Class Member’s Notice); (2) Total Qualifying
25 Workweeks and estimated Individual Settlement Payment; and (3) PAGA Workweeks and
26 estimated PAGA Payment Share (if applicable). The Settlement Administrator shall execute an
27 acknowledgement of the protective order entered in this matter and be responsible for following
28 all privacy laws and taking appropriate steps to ensure that Class Members’ and PAGA

1 Employees' personal information is safeguarded and protected from improper disclosure or use.
2 The Settlement Administrator shall run the Class Data list through the National Change of
3 Address database, and shall use the most recent address for each Class Member – either from
4 Defendants' records or the National Change of Address database – before mailing the Notice of
5 Class Action and PAGA Settlement. The Settlement Administrator shall also take reasonable
6 steps to locate any Class Member or PAGA Employee whose Notice of Class Action and PAGA
7 Settlement is thereafter returned as undeliverable. Class Data shall be provided in a secure format
8 to be determined by the Settlement Administrator and Defendants.

9 **Resolution of Disputes Over Qualifying Workweeks and/or PAGA Workweeks**

10 84. In calculating the Individual Settlement Payment for each Class Member and
11 PAGA Payment Share for each PAGA Employee, Defendants' records regarding the dates of
12 employment used to generate Qualifying Workweeks and PAGA Workweeks shall be presumed to
13 be correct. Any Class Member and/or PAGA Employee who disagrees with Defendants'
14 determination of his or her or its Qualifying Workweeks and/or PAGA Workweeks as indicated
15 on his or her or its Notice of Class Action and PAGA Settlement may dispute that calculation to
16 the Settlement Administrator as explained on the Notice of Class Action and PAGA Settlement.
17 Defendants' determination shall be presumed accurate unless the Class Member and/or PAGA
18 Employee submits documents to the Settlement Administrator to show that he or she is entitled to
19 payment based upon a different number of Qualifying Workweeks and/or different number of
20 PAGA Workweeks than the number(s) calculated by the Settlement Administrator based upon
21 Defendants' data. Adequacy of Proof of Work submitted will be evaluated by Class Counsel,
22 Defense Counsel, and Settlement Administrator. In the event of a disagreement, the Settlement
23 Administrator shall make the final decision. All such challenges by Class Members and/or PAGA
24 Employees must be received no later than the Response Deadline.

25 85. In no case shall a dispute result in a payment by Defendants in excess of the Gross
26 Settlement Amount.

27 **Enhancement Award**

28 86. From the Gross Settlement Amount, the Class Representative may seek approval

1 from the Court of an Enhancement Award up to Ten Thousand Dollars (\$10,000) for serving as a
2 Class Representative, which Defendants shall not oppose.

3 **Payment of Class Counsel Attorneys' Fees, Costs and Expenses**

4 87. Class Counsel shall apply to the Court at the Final Fairness and Approval Hearing
5 for an award of attorneys' fees not to exceed the amount of One Hundred and Sixty-Five
6 Thousand Dollars and No Cents (\$165,000), which is Thirty Percent (30%) of the Gross
7 Settlement Amount and an award of reasonable costs (exclusive of the Settlement Administration
8 costs) not to exceed the amount of Fifteen Thousand Dollars and No Cents (\$15,000), both of
9 which shall be paid out of the Gross Settlement Amount.

10 88. Class Counsel and Defendants agree that such awards of attorneys' fees and costs
11 are reasonable under the circumstances. Nothing in this Agreement shall restrict Plaintiff's or
12 Class Counsel's ability to appeal any decision by the Court to award less than the requested
13 attorneys' fees and costs or Class Representative Enhancement Award. A decision by the Court to
14 award less than the requested attorneys' fees and costs or Class Representative Enhancement
15 Award, however, is not a material change to the settlement agreement. Any order relating to the
16 award of attorney's fees, costs or Class Representative Enhancement Award, or any appeal from
17 any order relating thereto or reversal or modification thereof, will not operate to terminate or
18 cancel this Agreement, however, the Effective Date shall not occur until any such appeal is
19 resolved. If the amount of, Enhancement Award, attorneys' fees and/or costs awarded by the
20 Court is less than the requested amounts, the difference shall serve to increase the Net Settlement
21 Amount to be distributed to Settlement Class Members as part of their Individual Settlement
22 Payments. Nothing in this Agreement will require Defendant to pay more than the Gross
23 Settlement Amount under any circumstances.

24 **Taxes and Withholding and Indemnification**

25 89. The Settlement Administrator shall be responsible for ensuring that all tax
26 obligations associated with the Settlement are timely paid to the appropriate governmental taxing
27 authorities. The Settlement Administrator's responsibilities include the following:
28

- 1 (i) filing all federal, state and local employment tax returns, income tax
2 returns, and any other tax returns associated with the taxes,
3 (ii) timely and proper filing of all required federal, state and local information
4 returns (*e.g.*, 1099s, W-2s, etc.), and
5 (iii) completion of any other steps necessary for compliance with any tax
6 obligations applicable to Settlement Payments under federal, state and/or
7 local law.

8 90. The Settlement Administrator shall determine the amount of any tax withholding to
9 be deducted from each Settlement Class Member's Individual Settlement Payment. All such tax
10 withholdings shall be remitted by the Settlement Administrator to the proper governmental taxing
11 authorities.

12 91. Each party to this Agreement acknowledges and agrees that:

- 13 (i) No provision of this Agreement and no written communication or
14 disclosure between or among the Parties or their attorneys and other
15 advisers is or was intended to be, nor shall any such communication or
16 disclosure constitute or be construed or be relied upon as, tax advice within
17 the meaning of United State Treasury Department Circular 230 (31 CFR
18 Part 10, as amended);
19 (ii) He, she or it (a) has relied exclusively upon his, her or its own, independent
20 legal and tax advisers for advice (including tax advice) in connection with
21 this Agreement, (b) has not entered into this Agreement based upon the
22 recommendation of any other party or any attorney or advisor to any other
23 party, and (c) is not entitled to rely upon any communication or disclosure
24 by any attorney or adviser to any other party to avoid any tax penalty that
25 may be imposed on him or her or it; and
26 (iii) No attorney or adviser to any other party has imposed any limitation that
27 protects the confidentiality of any such attorney's or adviser's tax strategies
28 (regardless of whether such limitation is legally binding) upon disclosure by

1 him or her of the tax treatment or tax structure of any transaction, including
2 any transaction contemplated by this Agreement.

3 92. The Individual Settlement Payment received by Settlement Class Members and
4 PAGA Payment Share received by PAGA Employees shall be reported by the Settlement
5 Administrator, as required, to the state and federal taxing authorities on IRS forms 1099 and W-2
6 or similar forms. Each Settlement Class Member and PAGA Employee shall be responsible for
7 paying all applicable state, local, and federal income taxes on all amounts the Settlement Class
8 Member and PAGA Employee receives pursuant to this Agreement.

9 **RELEASED CLAIMS**

10 93. **Released Class Claims:** Providing there is final approval of this Settlement, then
11 as of the ~~Effective Date, date on which Defendants fully fund the Settlement per paragraph 75~~
12 ~~above~~ (“~~Release Effective Date~~”), each Settlement Class Member, individually and on behalf of
13 their respective successors, assigns, agents, attorneys, executors, heirs and personal
14 representatives, shall fully and finally release and discharge the Released Parties, and each of them
15 from the Released Class Claims. The Released Class Claims with respect to the Settlement Class
16 Members include all claims, rights, demands, liabilities, statutory causes of action, and theories of
17 liability of every nature and description, that were alleged in the ~~operative First Amended~~
18 ~~Complaint, Civil Action,~~ or PAGA Letters, ~~or are reasonably related to arising out of~~ the facts and
19 claims alleged in the ~~operative First Amended~~ Complaint, ~~Civil Action~~ and/or PAGA Letters
20 against Defendants or any of the Released Parties, including, but not limited to, failure to pay
21 wages including, but not limited to, overtime wages and minimum wages, failure to provide meal
22 and rest periods, unpaid compensation or premium pay arising out of missed, late, on-duty and/or
23 short meal and/or rest periods, failure to pay wages semi-monthly at designated times, failure to
24 reimburse for business expenses, failure to pay wages upon termination, failure to provide
25 accurate itemized wage statements, failure to reimburse for business expenses, failure to provide
26 all paid sick leave and failure to provide written notice of paid sick leave, failure to pay all
27 gratuities earned, failure to provide one day’s rest in seven, and failure to maintain required
28 records, penalties, damages, interest, costs or attorneys’ fees, and violations of any other state or

1 federal law, whether for economic damages, non-economic damages, liquidated or punitive
2 damages, restitution, tort, contract, the Fair Labor Standards Act (“FLSA”), equitable relief,
3 injunctive or declaratory relief, to the extent necessary to effect a full and complete release of the
4 Released Class Claims, including, but not limited to, all claims under any common laws, contract,
5 Cal. Code of Regulations, Title 8, Sections 11000, *et seq.*, Wage Order 5-2001, Wage Order 9 or
6 any other applicable Wage Order, California Labor Code Sections 96-98.2, *et seq.*, 200-204, 210,
7 216, 218.5, 218.6, 221, 222, 223, 225.5, 226, 226.3, 226.7, 229, 246, 246.5, 350-353, 510, 512,
8 551, 552, 558, 1174, 1174.5, 1175, 1182.11, 1182.12, 1194-1197.1, 1198, 1198.5, 1199, 2699,
9 2802, California Civil Code Sections 3294 and 3336 and any related provisions, the California
10 Code of Civ. Proc. Section 1021.5, and/or the California Business & Professions Code Sections
11 17200, *et seq.* This release shall extend to all such claims accrued during the Class Period. This
12 release is intended to cover Fair Labor Standards Act (“FLSA”) claims that were not specified in
13 the operative complaints or PAGA Letters filed in the Action to the extent that they are duplicative
14 of the causes of action alleged under the California Labor Code. This specifically includes FLSA
15 claims for failure to pay overtime, minimum wages, or off-the-clock hours that are based on the
16 same facts alleged in the complaints and PAGA Letters. Notwithstanding the foregoing, the
17 Settlement’s Released Class Claims does not include any individual claims under Section 16(b) of
18 the FLSA, 29 U.S.C. 216(b), as to a Settlement Class Member who does not opt in to the
19 Settlement by cashing, depositing or endorsing his or her Individual Settlement Payment check, to
20 the extent that opting in is required to release such FLSA claims.

21 94. **Released PAGA Claims:** Providing there is final approval of this Settlement, then
22 as of the Release Effective Date, each PAGA Employee (including Plaintiff on behalf of herself,
23 the State of California and all PAGA Employees), individually and on behalf of their respective
24 successors, assigns, agents, attorneys, executors, heirs and personal representatives, shall fully and
25 finally release and discharge the Released Parties, and each of them from the Released PAGA
26 Claims. The Released PAGA Claims with respect to PAGA Employees means all claims, rights,
27 demands, liabilities, statutory causes of action, and theories of liability of every nature and
28 description under the California Labor Code Private Attorneys General Act of 2004, Labor Code

1 Sections 2698, *et seq.*, that were alleged in the operative First Amended Complaint, ~~Civil Action,~~
2 or PAGA Letters, ~~or are reasonably related to~~ arising out of the facts and claims ~~pled~~ alleged in the
3 operative First Amended Complaint, ~~Civil Action,~~ and/or PAGA Letters against Defendants or
4 any of the Released Parties, including, but not limited to, failure to pay wages including, but not
5 limited to, overtime wages and minimum wages, failure to provide meal and rest periods, unpaid
6 compensation or premium pay arising out of missed, late, on-duty and/or short meal and/or rest
7 periods, failure to pay wages semi-monthly at designated times, failure to reimburse for business
8 expenses, failure to pay wages upon termination, failure to provide accurate itemized wage
9 statements, failure to reimburse for business expenses, failure to provide all paid sick leave and
10 failure to provide written notice of paid sick leave, failure to pay all gratuities earned, and failure
11 to maintain required records, and penalties, interest, costs or attorneys' fees, to the extent
12 necessary to effect a full and complete release of the Released PAGA Claims. This release shall
13 extend to all such claims accrued during the PAGA Period. This release shall be binding on all
14 PAGA Employees regardless of whether they submit a valid Opt Out from the Class.

15 95. Release by Plaintiff. Upon final approval of the Settlement, Plaintiff for herself,
16 her successors, assigns, agents, executors, heirs and personal representatives, spouse and
17 attorneys, and any and all of them, voluntarily and with the advice of counsel, waives and releases
18 any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against
19 any of the Released Parties of whatever kind and nature, character, and description, whether in law
20 or equity, whether sounding in tort, contract, federal, state and/or local law, statute, ordinance,
21 regulation, constitution, common law, or other source of law or contract, whether known or
22 unknown, and whether anticipated or unanticipated, including all claims arising from or relating to
23 any and all acts, events and omissions occurring prior to the date of final approval of this
24 Agreement including, but not limited to, all claims which relate in any way to her employment
25 with or the termination of her employment with the Released Parties and/or her provision of
26 services to the Released Parties at any of Defendants' locations during the Class Period. Plaintiff
27 further releases all unknown claims against any of the Released Parties, covered by California
28 Civil Code Section 1542, which states: "A general release does not extend to claims that the

1 creditor or releasing party does not know or suspect to exist in his or her favor at the time of
2 executing the release and that, if known by him or her, would have materially affected his or
3 her settlement with the debtor or released party.” Notwithstanding the provisions of section
4 1542, and for the purpose of implementing a full and complete release and discharge of all of his
5 Released Claims, Plaintiff expressly acknowledges that this Settlement is intended to include in its
6 effect, without limitation, all Released Claims which Plaintiff does not know or suspect to exist in
7 his favor at the time of execution hereof, and that the Settlement contemplates the extinguishment
8 of all such Released Claims.

9 **LIMITATIONS ON USE OF THIS SETTLEMENT**

10 **Notice to LWDA**

11 96. Notification to LWDA of PAGA Claims and Settlement. Class Counsel shall be
12 responsible for notifying the LWDA, via its online Proposed Settlement of PAGA case interactive
13 form, of: (i) the pending settlement, (ii) the release of PAGA claims herein, (iii) the amount of the
14 PAGA Allocation, (iv) the preliminary and final approval hearings, (v) a copy of the proposed
15 settlement provided to the Court; and (vi) any other information required by the LWDA’s online
16 proposed settlement reporting platform accessible at [https://www.dir.ca.gov/Private-Attorneys-
17 General-Act/Private-Attorneys-General-Act.html](https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html). Notice of the proposed settlement shall be
18 provided to the LWDA at the same time that this Stipulation is submitted to the Court.

19 **No Admission**

20 97. Neither the acceptance nor the performance by Defendants of the terms of this
21 Agreement nor any of the related negotiations or proceedings are or shall be claimed to be,
22 construed as, or deemed a precedent or an admission by Defendants of the truth of any allegations
23 in the Complaint or the PAGA Letters.

24 **Non-Evidentiary Use**

25 98. Defendants deny that they have failed to comply with the law in any respect, or
26 have any liability to anyone based on the claims asserted in the Civil Action. Plaintiff expressly
27 acknowledges that this Agreement is entered into for the purpose of compromising highly disputed
28 claims and that nothing herein is an admission of liability, wrongdoing, or the propriety of class or

1 representative treatment by Defendants. Neither the Agreement nor any document prepared in
2 connection with the Settlement may be admitted in any proceeding as an admission by
3 Defendants. Notwithstanding this paragraph, any and all provisions of this Agreement may be
4 admitted in evidence and used in any proceeding to enforce the terms of this Agreement, or in
5 defense of any claims released or barred by this Agreement.

6 99. This Agreement, the Settlement, and any proceedings or actions or negotiations in
7 connection therewith shall be deemed settlement communications covered by California Evidence
8 Code Sections 1152 and 1154, Federal Rule of Evidence 408, and any other similar provisions or
9 law, and shall not be construed as an admission of truth of any allegation or the validity of any
10 cause of action or claim asserted or of any liability therein.

11 **Nullification**

12 100. If the Court for any reason does not approve this Settlement, this Agreement shall
13 be considered null and void and the Parties to this Agreement shall stand in the same position,
14 without prejudice, as if the Agreement had been neither entered into nor filed with the Court.

15 101. Invalidation of any material portion of this Agreement shall invalidate this
16 Agreement in its entirety unless the Parties agree in writing that the remaining provisions shall
17 remain in full force and effect.

18 **MISCELLANEOUS PROVISIONS**

19 **No Inducements**

20 102. Plaintiff and Defendants acknowledge that they are entering into this Settlement as
21 a free and voluntary act without duress or undue pressure or influence of any kind or nature
22 whatsoever, and that neither Plaintiff nor Defendants have relied on any promises, representations
23 or warranties regarding the subject matter hereof other than as set forth in this Agreement.

24 **No Prior Assignment**

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

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Construction

104. The Parties agree that the terms and conditions of this Agreement are the result of lengthy, intensive arm’s-length negotiations between the Parties and their counsel, and this Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his or its counsel participated in the drafting of this Agreement.

California Law

105. All terms of this Agreement and its exhibits shall be governed and interpreted by and according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.

Captions and Interpretations

106. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provision hereof.

Incorporation of Exhibits

107. All exhibits to this Agreement are incorporated by reference and are a material part of this Agreement. Any notice, order, judgment, or other exhibit that requires approval of the Court must be approved without material alteration from its current form in order for this Agreement to be enforceable.

Modification

108. This Agreement may not be changed, altered, or modified, except in a writing signed by the Parties, and approved by the Court. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

Reasonableness of Settlement

109. Plaintiff represents that this is a fair, reasonable, and adequate settlement and have arrived at this settlement through arms-length negotiations, taking into account all relevant factors, present and potential.

Integration Clause

110. This Agreement contains the entire agreement between the Parties relating to the

1 Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements,
2 understandings, representations, and statements, whether oral or written and whether by a party or
3 such party's legal counsel, are merged herein. No rights hereunder may be waived except in
4 writing.

5 **Binding On Assigns**

6 111. This Agreement shall be binding upon and inure to the benefit of the Parties and
7 their respective heirs, trustees, executors, administrators, successors and assigns.

8 **No Prevailing Party**

9 112. No Party shall be considered a prevailing party for any purpose. Except as
10 otherwise provided for in this Agreement, each Party shall bear its or his own attorney fees and
11 costs.

12 **Class Counsel Signatories**

13 113. It is agreed that because the members of the Class are numerous, it is impossible or
14 impractical to have each member of the Class execute this Agreement. The Notice of Class
15 Action and PAGA Settlement shall advise all Class Members of the binding nature of the
16 Agreement, and the Agreement shall have the same force and effect as if this Agreement were
17 executed by each member of the Class.

18 **Counterparts**

19 114. This Agreement, and any amendments hereto, may be executed in any number of
20 counterparts, each of which when executed and delivered shall be deemed to be an original and all
21 of which taken together shall constitute but one and the same instrument. Fax and pdf signatures
22 shall be as valid as original signatures.

23 **Waiver of Right to Object**

24 115. By signing this Agreement, Plaintiff, on behalf of the Class and allegedly aggrieved
25 employees, agree to be bound by its terms. Plaintiff further agrees not to request to be excluded
26 from the Class or Settlement and agrees not to object to any of the terms of the Agreement. Any
27 request for exclusion from the Settlement by Plaintiff or any Objection by Plaintiff shall be void
28 and of no force and effect. Likewise, Defendants agree to be bound by the terms of this

1 Settlement and agrees not to object to any of the terms of the Agreement.

2 **Administration Costs if Settlement Fails**

3 116. If the Settlement is not finally approved by the Court, voided or rescinded, any
4 costs incurred by the Settlement Administrator shall be paid equally by the Parties (half by
5 Plaintiff and/or Class Counsel and half by Defendants).

6 **Final Order and Judgment**

7 117. Upon final approval of the Settlement, a Final Order and Judgment shall be entered
8 by the Court which shall, among other things:

- 9 (i) Grant final approval to the Settlement as fair, reasonable, adequate, in good
10 faith and in the best interests of the Class as a whole, and order the Parties
11 to carry out the provisions of this Agreement.
- 12 (ii) Adjudge that the Settlement Class Members of the Settlement are
13 conclusively deemed to have released the Released Parties from the
14 applicable Released Class Claims, as more specifically set forth above.
- 15 (iii) Adjudge that the PAGA Employees of the Settlement are conclusively
16 deemed to have released the Released Parties from the Released PAGA
17 Claims, as more specifically set forth above.
- 18 (iv) Prohibit and permanently enjoin each Settlement Class Member of the
19 Settlement from pursuing in any fashion against any of the Released Parties
20 any and all of the applicable Released Class Claims.
- 21 (v) Prohibit and permanently enjoin each PAGA Employee of the Settlement
22 from pursuing in any fashion against any of the Released Parties any and all
23 of the Released PAGA Claims.
- 24 (vi) Reserve continuing jurisdiction as provided herein.

25 **Limitations on Disclosure**

26 118. Plaintiff and her counsel agree to keep the fact and terms of this settlement
27 confidential until preliminary approval of the settlement is sought from the Court, and, thereafter
28 to the fullest extent possible. They also agree not to make or offer to make any disclosures other

1 than what is necessary and consistent with the need for judicial approval of the settlement and
2 notice to the class. Plaintiff and her counsel agree that any public references to the defendants in
3 this action shall be limited to the named defendants only, Lascari's and Sons, Inc. and Lascari's
4 Group, Inc.

5
6
7 IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized
8 attorneys, as of the day and year herein set forth.

9
10 DATED: _____ CATRINA MARTINEZ

11
12 DATED: _____ LASCARI'S AND SONS, INC.
13 By: _____

14 DATED: _____ LASCARI'S GROUP, INC.
15 By: _____

16
17 **APPROVED AS TO FORM AND CONTENT:**

18
19 DATED: _____ GUNN COBLE LLP
20
21 By _____
22 Beth A. Gunn
23 Attorneys for Plaintiff CATRINA MARTINEZ

24 DATED: _____ REED SMITH LLP
25
26 By _____
27 Brittany M. Hernandez
28 Attorneys for Defendant LASCARI'S AND SON'S,
INC. and LASCARI'S GROUP, INC.

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DATED: _____

THE LEW FIRM, APC

By _____

Charles Lew
Attorneys for Defendants LASCARI'S AND SON'S,
INC. and LASCARI'S GROUP, INC

EXHIBIT 1

NOTICE OF CLASS ACTION AND PAGA SETTLEMENT

Martinez v. Lascari's and Sons, Inc., et al.

Superior Court of the State of California, County of Los Angeles Case No. BC716005

IF YOU ARE OR WERE A NON-EXEMPT EMPLOYEE OF DEFENDANTS LASCARI'S AND SONS, INC. AND LASCARI'S GROUP INC. AT LASCARI'S BRANDED RESTAURANTS IN CALIFORNIA AT ANY TIME FROM AUGUST 1, 2014 THROUGH PRELIMINARY APPROVAL, THIS CLASS ACTION AND PRIVATE ATTORNEYS GENERAL ACT ("PAGA") SETTLEMENT MAY AFFECT YOUR RIGHTS.

A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
DO NOTHING AND RECEIVE A PAYMENT	<p>To receive a payment from the Settlement, you do not have to do anything.</p> <p>If you do nothing, you will be considered a Settlement Class Member and will be part of the Settlement as explained more fully below. After final approval by the Court, the payment will be mailed to you at the same address as this Notice. In exchange for the Individual Settlement Payment, you will be considered a Settlement Class Member and will release the Released Class Claims against Defendants Lascari's and Sons, Inc., Lascari's Group, Inc., and the Released Parties as detailed in Section 4 below. You will also give up the right to pursue a separate legal action against Defendants and the Released Parties, as explained more fully below.</p>
EXCLUDE YOURSELF	<p>You have the option to pursue separate legal action against Defendants about the claims in this lawsuit, other than the Released PAGA Claims. If you choose to do so, you must send a written request to opt out ("Opt Out") from the Class and Settlement's release of Released Class Claims to the Settlement Administrator as provided below. As a result, you will not receive an Individual Settlement Payment under the Settlement. If you submit a valid Opt Out and are a PAGA Employee, you will still be bound by the release of the Released PAGA Claims, and you will receive your PAGA Payment Share.</p>
OBJECT	<p>Write to the Settlement Administrator about why you do not agree with the Settlement. Ultimately, the Court may or may not agree with your objection. Objecting to the Settlement will not exclude you from the Settlement. You may object by submitting your objection to the Settlement Administrator. If you fail to submit a timely objection, you will be foreclosed from objecting to this Settlement, unless otherwise ordered by the Court.</p>
APPEAR AT THE FINAL APPROVAL HEARING	<p>Appear at the Final Approval Hearing to speak to the Court about the fairness of the Settlement. You are not required to do this.</p>

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) has been reached in the above-captioned action (the “Civil Action”) pending in the Superior Court of the State of California, in and for the County of Los Angeles (the “Court”) between Plaintiff Catrina Martinez (“Plaintiff”) and Defendants Lascari’s and Sons, Inc. and Lascari’s Group, Inc. (“Defendants”).

The Court has certified, for settlement purposes only, the following class (the “Class”): **All individuals who are or were non-exempt employees of Defendants at Lascari’s branded restaurants in California at any time from August 1, 2014 through [date of preliminary approval]**. The Court has also preliminarily approved a group of PAGA aggrieved employees (“PAGA Employees”), defined as: **All individuals who are or were non-exempt employees of Defendants at Lascari’s branded restaurants in California at any time from March 27, 2017 through [date of preliminary approval]**

The purpose of this Notice of Class Action and PAGA Settlement (“Notice”) is to briefly describe the Civil Action, and to inform you of your rights and options in connection with them and the proposed Settlement. The proposed Settlement will resolve all claims in the Civil Action. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

AS A CLASS MEMBER, YOU ARE ELIGIBLE TO RECEIVE AN INDIVIDUAL SETTLEMENT PAYMENT UNDER THE SETTLEMENT AND WILL BE BOUND BY THE RELEASED CLASS CLAIMS DESCRIBED IN THIS NOTICE AND THE SETTLEMENT AGREEMENT FILED WITH THE COURT, AS APPLICABLE, UNLESS YOU TIMELY REQUEST TO OPT OUT FROM THE CLASS AND THE SETTLEMENT.

IN ADDITION, IF YOU ARE A PAGA EMPLOYEE, YOU ARE ELIGIBLE TO RECEIVE A PAGA PAYMENT SHARE UNDER THE SETTLEMENT AND WILL BE BOUND BY THE RELEASED PAGA CLAIMS DESCRIBED IN THIS NOTICE AND THE SETTLEMENT AGREEMENT FILED WITH THE COURT, AS APPLICABLE. YOU CANNOT REQUEST TO OPT OUT FROM THE RELEASE OF RELEASED PAGA CLAIMS.

2. What is this class action lawsuit about?

On August 9, 2018, Plaintiff Catrina Martinez (“Plaintiff”) filed a putative class action complaint in the Los Angeles County Superior Court (the “Class Action”), alleging the following claims against Lascari’s and Sons, Inc. (“Lascari’s and Sons”): (1) failure to provide required meal periods; (2) failure to authorize and permit required rest periods; (3) failure to pay overtime; (4) failure to pay minimum wages; (5) failure to pay timely wages due at termination/waiting time penalties; (6) failure to timely pay all wages, including reporting time off; (7) failure to reimburse for employment related expenses; (8) failure to maintain required records; (9) failure to furnish accurate itemized wage statements; (10) failure to provide written notice of paid sick leave; (11) failure to provide all paid sick leave; (12) failure to pay all gratuities earned; (13) failure to provide one day’s rest in seven; (14) unfair and unlawful business practices; and (15) penalties under the Private Attorneys General Act (“PAGA”).

On March 28, 2019, Plaintiff filed a First Amended Complaint to add Defendant Lascari’s Group, Inc. The complaint and amended complaint filed in the Civil Action are collectively referred to herein as the “Complaint.” Defendant Lascari’s and Son’s Inc. and Defendant Lascari’s Group, Inc. are collectively referred to herein as “Defendants.” In the Complaint, Plaintiff sought damages, restitution, penalties, unpaid wages, injunctive relief, declaratory relief, pre- and post-judgment interest, costs, attorneys’ fees, and any other relief deemed appropriate by the Court on the basis of the allegations.

Defendants and the Released Parties expressly deny any wrongdoing or liability to Plaintiff or any current or former non-exempt employee of Defendants at Lascari’s branded restaurants in California. Defendants are confident that they have strong legal and factual defenses to the above claims, but they recognize the risks, distractions, and costs associated with litigation. Defendants contend that their

conduct has been lawful at all times relevant, that Plaintiffs' claims do not have merit and do not meet the requirements for class certification.

This Settlement is a compromise reached after good faith, arm's length negotiations between Plaintiff and Defendants (the "Parties"), through their attorneys, and is not an admission of liability on the part of Defendants. Both sides agree that in light of the risks and expenses associated with continued litigation, this Settlement is fair, adequate and reasonable. Plaintiff also believes this Settlement is in the best interests of all Class Members.

The Court has not ruled on the merits of Plaintiff's claims or Defendants' defenses.

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved Plaintiff to serve as Class Representative, and the law firm of Gunn Coble LLP as Class Counsel.

3. Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Civil Action are:

Class Counsel

Beth A. Gunn
Catherine J. Coble
Gunn Coble LLP
3555 Casitas Avenue
Los Angeles, CA 90039
Telephone: 800.900.0695
Email: contact@gunncoble.com

*Attorneys for Plaintiff
CATRINA MARTINEZ and the Class*

Defense Counsel

Michael R. Kleinmann
Brittany M. Hernandez
REED SMITH LLP
355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071

*Attorneys for Defendants LASCARI'S AND
SONS, INC. and LASCARI'S GROUP, INC.*

Charles Lew
Isaiah Artest
The Lew Firm, APC
433 Camden Drive, Suite 600
Beverly Hills, California 90210

*Attorneys for Defendants LASCARI'S AND
SONS, INC. and LASCARI'S GROUP, INC.*

4. What are the terms of the Settlement?

Gross Settlement Amount.

Subject to final Court approval, Defendants will pay Five Hundred and Fifty Thousand Dollars and No Cents (\$550,000) (the "Gross Settlement Amount") in connection with this Settlement. The Gross Settlement Amount includes: (a) Individual Settlement Payments to Settlement Class Members; (b) the Court-approved Class Representative Enhancement Award to Plaintiff, requested to be Ten Thousand Dollars and No Cents (\$10,000); (c) the Court-approved attorneys' fees and costs to Class Counsel, requested to be One Hundred and Sixty-Five Thousand Dollars and No Cents (\$165,000) and up to Fifteen Thousand Dollars and No Cents (\$15,000), respectively; (d) the Settlement Administration Costs, estimated to be \$16,000; and (e) the PAGA Payment to the California Labor and Workforce Development Agency ("LWDA") and PAGA Employees for PAGA penalties, described below.

The Parties have agreed that Twenty Thousand Dollars and No Cents (\$20,000) of the Gross Settlement Amount will be allocated to penalties under PAGA and settlement of PAGA Employees' claims arising under PAGA. Pursuant to Labor Code Section 2699(i), 75% of the PAGA Payment (\$15,000) will be

paid to the LWDA for PAGA penalties and 25% of the PAGA Payment (\$5,000) shall be distributed to all PAGA Employees. PAGA Employees means all individuals who are or were non-exempt employees of Defendants at Lascari's branded restaurants in California at any time from March 27, 2017 through preliminary approval ("PAGA Employees").

Net Settlement Amount.

After deducting the above-referenced items, the remaining amount called the "Net Settlement Amount", shall be distributed to all Class Members who do not request to be excluded from the Settlement ("Settlement Class Member").

The Individual Settlement Payment to each Settlement Class Member shall be determined based on the number of Qualifying Workweeks worked by the Settlement Class Member during the Class Period. The Net Settlement Amount shall be divided by the total number of Qualifying Workweeks for all Settlement Class Members during the Class Period. The result of this division shall yield a Workweek Payment Rate for the Class. The gross amount of each Settlement Class Member's Individual Settlement Payment shall be calculated by multiplying the number of Qualifying Workweeks applicable to that Class Member by the Workweek Payment Rate. Governmentally-required employee tax withholdings shall be deducted from that portion of each Individual Settlement Payment allocated as wages.

PAGA Payment Share.

The Five Thousand Dollars and No Cents (\$5,000) PAGA Payment to the PAGA Employees (which represents 25% of the \$20,000 allocated to settlement of PAGA claims), shall be divided by the total number of PAGA Workweeks for all PAGA Employees during the PAGA Period. The result of this division shall yield a PAGA Workweek Payment Rate for PAGA Employees. The gross amount of each PAGA Employee's PAGA Payment Share shall be calculated by multiplying the number of PAGA Workweeks applicable to that PAGA Employee by the PAGA Workweek Payment Rate.

You do not have to do anything to receive a payment. If the Settlement is approved by the Court, Settlement Class Members will be mailed checks for their Individual Settlement Payments and PAGA Payment Shares, if applicable, which shall remain negotiable for 180-days from the date of mailing.

Any Individual Settlement Payment checks and/or PAGA Payment Share checks that remain uncashed after One Hundred Eighty (180) days from issuance shall be void and the Settlement Administrator shall pay the funds represented by such un-redeemed checks as follows: to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*. In such event, the Settlement Class Member and/or PAGA Employee shall nevertheless remain bound by the Settlement's Released Class Claims and/or Released PAGA Claims, as applicable. Notwithstanding the foregoing, the Settlement's Released Class Claims does not include any individual claims under Section 16(b) of the FLSA, 29 U.S.C. 216(b), as to a Settlement Class Member who does not opt-in to the Settlement by cashing, depositing or endorsing his or her Individual Settlement Payment check, to the extent that opting in is required to release such FLSA claims, as set forth below.

Tax Reporting.

For tax reporting purposes, twenty-five percent (25%) of the amount of each Individual Settlement Payment to each Settlement Class Member shall be allocated to their respective alleged unpaid wage claims and shall be paid net of all applicable employment taxes, including any federal, state, and/or local in issue tax withholding requirements and the employee share of FICA taxes. Seventy-five percent (75%) of the amount of each Individual Settlement Payment to each individual Settlement Class

Member shall be allocated to alleged penalties and interest and shall not be subject to withholding. PAGA Payment Shares will be allocated entirely as penalties and will be included on an IRS Form 1099 to each PAGA Employee. Each Settlement Class Member, PAGA Employee, Class Counsel, and Class Representatives shall be responsible for remitting to state and/or federal taxing authorities any applicable taxes which may be owed on the portion of any payment received. Neither Class Counsel nor Defendants' Counsel intend anything contained in this Notice to constitute advice regarding taxes or taxability. The tax issues for each Settlement Class Member are unique to him/her, and each Settlement Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement.

This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering the Judgment.

5. What Do I Release Under the Settlement?

Released Class Claims.

Providing there is final approval of this Settlement, then as of the date on which Defendants fully fund the Settlement ("Release Effective Date")~~Effective Date~~, each Settlement Class Member, individually and on behalf of their respective successors, assigns, agents, attorneys, executors, heirs and personal representatives, shall fully and finally release and discharge the Released Parties, and each of them from the Released Class Claims. The Released Class Claims with respect to the Settlement Class Members include all claims, rights, demands, liabilities, statutory causes of action, and theories of liability of every nature and description, that were alleged in the operative First Amended Complaint, ~~Civil Action~~, or PAGA Letters, or arising out of~~are reasonably related to~~ the facts and claims alleged in the operative First Amended Complaint, ~~Civil Action~~ and/or PAGA Letters against Defendants or any of the Released Parties, including, but not limited to, failure to pay wages including, but not limited to, overtime wages and minimum wages, failure to provide meal and rest periods, unpaid compensation or premium pay arising out of missed, late, on-duty and/or short meal and/or rest periods, failure to pay wages semi-monthly at designated times, failure to reimburse for business expenses, failure to pay wages upon termination, failure to provide accurate itemized wage statements, failure to reimburse for business expenses, failure to provide all paid sick leave and failure to provide written notice of paid sick leave, failure to pay all gratuities earned, failure to provide one day's rest in seven, and failure to maintain required records, penalties, damages, interest, costs or attorneys' fees, and violations of any other state or federal law, whether for economic damages, non-economic damages, liquidated or punitive damages, restitution, tort, contract, the Fair Labor Standards Act ("FLSA"), equitable relief, injunctive or declaratory relief, to the extent necessary to effect a full and complete release of the Released Class Claims, including, but not limited to, all claims under any common laws, contract, Cal. Code of Regulations, Title 8, Sections 11000, *et seq.*, Wage Order 5-2001, Wage Order 9 or any other applicable Wage Order, California Labor Code Sections 96-98.2, *et seq.*, 200-204, 210, 216, 218.5, 218.6, 221, 222, 223, 225.5, 226, 226.3, 226.7, 229, 246, 246.5, 350-353, 510, 512, 551, 552, 558, 1174, 1174.5, 1175, 1182.11, 1182.12, 1194-1197.1, 1198, 1198.5, 1199, 2699, 2802, California Civil Code Sections 3294 and 3336 and any related provisions, the California Code of Civ. Proc. Section 1021.5, and/or the California Business & Professions Code Sections 17200, *et seq.* This release shall extend to all such claims accrued during the Class Period. This release is intended to cover Fair Labor Standards Act ("FLSA") claims that were not specified in the operative complaints or PAGA Letters filed in the Action to the extent that they are duplicative of the causes of action alleged under the California Labor Code. This specifically includes FLSA claims for failure to pay overtime, minimum wages, or off-the-

clock hours that are based on the same facts alleged in the complaints and PAGA Letters. Notwithstanding the foregoing, the Settlement's Released Class Claims does not include any individual claims under Section 16(b) of the FLSA, 29 U.S.C. 216(b), as to a Settlement Class Member who does not opt in to the Settlement by cashing, depositing or endorsing his or her Individual Settlement Payment check, to the extent that opting in is required to release such FLSA claims.

This means that, if you do not timely exclude yourself from the Settlement, you cannot pursue a separate legal action, continue a separate legal action, or be part of any other lawsuit against Defendants and any other Released Party for the Released Class Claims resolved by this Settlement. It also means that all of the Court's orders in the Civil Action will apply to you and legally bind you.

Released PAGA Claims.

Providing there is final approval of this Settlement, then as of the **Release** Effective Date, each PAGA Employee (including Plaintiff on behalf of herself, the State of California and all PAGA Employees), individually and on behalf of their respective successors, assigns, agents, attorneys, executors, heirs and personal representatives, shall fully and finally release and discharge the Released Parties, and each of them from the Released PAGA Claims. The Released PAGA Claims with respect to PAGA Employees means all claims, rights, demands, liabilities, statutory causes of action, and theories of liability of every nature and description under the California Labor Code Private Attorneys General Act of 2004, Labor Code Sections 2698, *et seq.*, that were alleged in the **operative First Amended Complaint, ~~Civil Action,~~** or PAGA Letters, or **are reasonably related to arising out of** the facts and claims **alleged** in the **operative First Amended Complaint, ~~Civil Action,~~ and/or** PAGA Letters against Defendants or any of the Released Parties, including, but not limited to, failure to pay wages including, but not limited to, overtime wages and minimum wages, failure to provide meal and rest periods, unpaid compensation or premium pay arising out of missed, late, on-duty and/or short meal and/or rest periods, failure to pay wages semi-monthly at designated times, failure to reimburse for business expenses, failure to pay wages upon termination, failure to provide accurate itemized wage statements, failure to reimburse for business expenses, failure to provide all paid sick leave and failure to provide written notice of paid sick leave, failure to pay all gratuities earned, and failure to maintain required records, and penalties, interest, costs or attorneys' fees, to the extent necessary to effect a full and complete release of the Released PAGA Claims. This release shall extend to all such claims accrued during the PAGA Period. This release shall be binding on all PAGA Employees regardless of whether they submit a valid Opt Out from the Class.

Released Parties.

The Released Parties herein means Defendants Lascari's and Sons, Inc. and Lascari's Group, Inc. and each of their respective present and former parents, affiliates, divisions and subsidiaries, acquired companies, and each of its respective present and former directors, officers, shareholders, agents, representatives, employees, partners, attorneys, insurers, predecessors, successors, assigns, affiliated companies and entities and any individual or entity that could be jointly liable with any of the foregoing.

6. How much will my payment be?

Defendants' records reflect that you are a: Class Member [and a PAGA Employee]

Defendants' records reflect that you have << >> Qualifying Workweeks as a Class Member during the Class Period (August 1, 2014 through preliminary approval). The estimated Workweek Payment Rate for Class Members is << >>.

Based on this information, your estimated Individual Settlement Payment is << >>. Please note that because additional persons may file claims, Opt-Out or challenge their Qualifying Workweeks, your actual gross share may be more or less, in addition, because tax withholdings and payments must be made with respect to a portion of this gross amount, your net payment will be less than your gross share.

Defendants' records reflect that you have << >> PAGA Workweeks during the PAGA Period (March 27, 2017 through preliminary approval). The estimated PAGA Workweek Payment Rate is << >>.

Based on this information, your estimated PAGA Payment Share is << >>. Please note that because additional persons may file claims or challenge their workweeks, your actual gross share may be more or less.

If you believe that your Qualifying Workweeks and/or PAGA Workweeks are not correct and believe you are entitled to payment based upon a different number of workweeks, then you must inform the Settlement Administrator in writing of the basis for contesting any of the assigned workweeks and timely submit any Proof of Work that you may have to the Settlement Administrator. "Proof of Work" means document(s) that a Class Member may submit to the Settlement Administrator to show that he or she is entitled to payment based upon a different number of Qualifying Workweeks and/or different number of PAGA Workweeks than the numbers calculated by the Settlement Administrator based on Defendants' data.

To be accepted, your Proof of Work contesting the data must: (1) state your full name, address, and the last four digits of your Social Security Number (for identification purposes only); (2) state, in writing, the reasons why you believe an additional amount is owed; (3) be signed by you or your legal representative; and (4) must be postmarked on or before the Response Deadline, which is _____ [sixty (60) days after the mailing of the Notice] and/or be emailed to the Settlement Administrator by 11:59 p.m. on the date of the Response Deadline. Please be advised that the number of Qualifying Workweeks and/or PAGA Workweeks listed above will be deemed correct unless you challenge the workweeks as stated above.

As this is not a claims-made Settlement, Class Members need not submit anything, Class Members shall still be bound by this Agreement and shall release all Released Class Claims unless they submit a completed, signed and timely Opt Out. If you submit a valid Opt Out, you will still be bound by the release of the Released PAGA Claims and you will receive your PAGA Payment Share if you are a PAGA Employee.

7. What are my options in this matter?

You have two options under the Settlement, each of which is further discussed below. You may: (A) remain in the Class and receive an Individual Settlement Payment; or (B) exclude yourself from the Class and Settlement. If you choose option (A), you may also object to the Settlement, as explained below.

If you remain in the Class, you will be represented at no cost by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the Settlement. If you do not Opt Out from the Class and the release of the Released Class Claims, you will be subject to any judgment that is entered in the Civil Action, including the release of the Released Class Claims, as applicable, as described above.

OPTION A. Remain in the Class. If you wish to remain in the Class and be eligible to receive an Individual Settlement Payment and a PAGA Payment Share (if applicable) under the Settlement, you do not need to take any action. By remaining in the Class and receiving settlement monies, you consent to the release of the Released Class Claims and Released PAGA Claims, as applicable, as described above. With respect to your Fair Labor Standards Act (“FLSA”) claim only, you will release those claims only if you affirmatively consent to opt-in and join this litigation pursuant to Section 216(b) of the FLSA, 29 U.S.C. § 216(b), by cashing, depositing or endorsing your Individual Settlement Payment check, to the extent that opting-in is requested to release such FLSA claims, as described above.

Any amount paid to Settlement Class Members and/or PAGA Employees will not count or be counted for determination of eligibility for, or calculation of, any employee benefits (for example, vacations, holiday pay, retirement plans, non-qualified deferred compensation plans, etc.), or otherwise modify any eligibility criteria under any collective bargaining agreement, employee pension benefit plan or employee welfare plan sponsored by Defendants and/or the Released Parties, unless otherwise required by law.

Objecting to the Settlement: If you believe the proposed Settlement is not fair, reasonable or adequate in any way, you may object to the Settlement. If you wish to object, you must submit a written Objection (“Objection”) to the Settlement Administrator, postmarked or emailed no later than the [Response Deadline].

If you submit a written objection, the Objection must: (1) state your full name, address, and the last four digits of your Social Security Number (for identification purposes only); (2) state the grounds for the objection; (3) be signed by you or your lawful representative; and (4) be postmarked or emailed on or before [Response Deadline] and returned to the Settlement Administrator at the email address or mailing address listed below. You can also hire an attorney at your own expense to represent you in your objection.

Martinez v. Lascari’s and Sons, Inc., et al. Civil Action Settlement
c/o CPT Group, Inc.
[Address]
[City, State Zip]

Email Address for CPT Group, Inc.: _____

Any Class Member or PAGA Employee may object to the Settlement either by mailing or emailing a written objection using the process described above. Any Class Member or PAGA Employee who fails to submit a timely written Objection shall be foreclosed from objecting to this Settlement, unless otherwise ordered by the Court. The Court, in its sole discretion, may permit any member of the Class to address the Court at the Settlement Approval Hearing and may consider any statements made by a Class Member.

If the Court rejects your objection, however, you will be bound by the terms of the Settlement. Persons who exclude themselves from the Settlement may not submit objections to the Settlement or appear at the Final Approval Hearing.

Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Class Claims and Released PAGA Claims, as applicable, as set forth above, unless the Settlement is not finally approved by the Court.

OPTION B. If You Do Not Want To Be Part Of The Class And Be Bound By The Settlement and Released Class Claims. If you do not want to be part of the Class and Settlement’s release of Released Claims, you must submit a written request to Opt Out (“Opt Out”) to the Settlement Administrator, postmarked or emailed no later than the [Response Deadline]:

In order to be valid, your Opt Out must (1) state your full name, address, and the last four digits of your Social Security Number (for identification purposes only); (2) contain a clear statement that you are requesting to exclude yourself from the Settlement and to opt out of the Settlement; (3) be signed by you, or your lawful representative; and (4) be postmarked or emailed by the Response Deadline and returned to the Settlement Administrator at the email address or mailing address specified below.

Martinez v. Lascari's and Sons, Inc., et al. Civil Action Settlement
c/o CPT Group, Inc.

[Address]

[City, State Zip]

Email Address for CPT Group, Inc.: _____

If you do not submit a timely and valid Opt Out, you will be deemed a Settlement Class Member and you will be bound by the release of Released Class Claims, as described above and all other terms of the Settlement. **If you timely submit a valid, signed Opt Out, you will still be bound by the release of the Released PAGA Claims, and you will receive your PAGA Payment Share if you are a PAGA Employee but you will not be entitled to any Individual Settlement Payment as a result of the Civil Action and Settlement and you will not be bound to the Settlement's release of Released Class Claims. You cannot object to the Settlement if you submit an Opt Out. If you submit both a completed, signed and timely Proof of Work and a completed, signed and timely Opt Out, the Opt Out shall be deemed invalid, and you will be a Settlement Class Member and participate in the Settlement.**

8. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel's request for attorneys' fees and costs, the Class Representative Enhancement Awards to Plaintiffs, the settlement administration costs, and the payment to the LWDA and PAGA Employees for PAGA penalties on _____, 2021 at _____m. in **Department 11** of the Los Angeles County Superior Court, 312 North Spring Street, Los Angeles, CA 90012. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive an Individual Settlement Payment, although any Class Member is welcome to attend.

Due to the COVID-19 pandemic, hearings are currently being conducted remotely via telephone. Class Members who wish to appear at the Final Approval Hearing may contact Class Counsel to arrange a telephonic appearance via the email address listed in Section 3 above, at least three days before the hearing, so that Class Counsel may arrange for the Class Member's telephonic appearance and provide the Class Member with the call-in information. Fees incurred for Class Members' telephonic appearances will be considered a litigation cost to be deducted from the Gross Settlement Amount.

Any Class Member who does not object in the manner provided above shall be deemed to have approved the Settlement and to have waived any objections and shall be forever foreclosed from objecting to the fairness or adequacy of the proposed Settlement, including the plan of distribution, the payment of attorneys' fees and costs, the Enhancement Award to the Class Representative, the PAGA Payment, or any other aspect of the Settlement. If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment will be posted on a website created by the Settlement Administrator for this case for a period of at least 90 days following the entry of that Order in the Court record. That website is: <<website>>.

9. How do I get more information about the Settlement?

You may call the Settlement Administrator at _____ or email the Settlement Administrator at _____, or write to *Martinez v. Lascari's and Sons, Inc., et al.* Civil Action Settlement, c/o

_____ ; or contact Class Counsel at ***_***_**** or
contact@gunncoble.com.

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by contacting Class Counsel.

You must inform the Settlement Administrator or Class Counsel of any change of address to ensure receipt of your Individual Settlement Payment and PAGA Payment Share if applicable.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

EXHIBIT “C”

1 BETH A. GUNN, CA Bar No. 218889
 beth@gunncoble.com
 2 CATHERINE J. COBLE, CA Bar No. 223461
 cathy@gunncoble.com
 3 GUNN COBLE LLP
 3555 Casitas Avenue
 4 Los Angeles, CA 90039
 Telephone: 818.900.0695
 5 Facsimile: 818.900.0723

6 Attorneys for Plaintiff CATRINA MARTINEZ
 on behalf of herself and all others similarly situated
 7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 9 **FOR THE COUNTY OF LOS ANGELES**

10 CATRINA MARTINEZ, an individual, on
 11 behalf of herself, and all others similarly
 12 situated,

13 Plaintiff,

14 v.

15 LASCARI'S AND SONS INC. a California
 Corporation, LASCARI'S GROUP, INC., a
 16 California Corporation, and DOES 1 through 25,
 inclusive,

17 Defendants.
 18
 19

Case No. BC716005

[Assigned for all purposes to Hon. David S.
 Cunningham, Dept. 11]

**DECLARATION OF CATRINA
 MARTINEZ IN SUPPORT OF MOTION
 FOR PRELIMINARY APPROVAL OF
 CLASS ACTION AND PAGA
 SETTLEMENT**

Dept.: 11 (Via LACourt Connect)
 Date: October 26, 2021
 Time: 10:00 a.m.

Action Filed: August 1, 2018
 Trial Date: None Set

DECLARATION OF CATRINA MARTINEZ

I, Catrina Martinez, declare as follows:

1. I am individual over the age of 18 and the named plaintiff in this matter. I have personal knowledge of the facts set forth in this declaration and if called to testify under oath, could and would testify competently thereto.

2. I worked at Lascari’s restaurants for 23 years until my separation of employment in August 2017. I understood Lascari’s and Sons Inc. to operate jointly with Lascari’s Group, Inc. (collectively, “Defendants”). In my time working for Defendants, I held the non-exempt positions of hostess, server, caterer, and delivery driver and was subject to Defendants’ wage and hour policies and practices. I am the Plaintiff Class Representative and PAGA Representative in the above-captioned wage and hour action brought against Defendants. I submit this declaration in support of Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement.

3. I am informed and believe, and on that basis state, that throughout my employment with Defendants, I was not paid for all my time worked. Specifically, due to work demands imposed by Defendants, my meal periods were often late, short, missed or otherwise unlawful. It is my understanding that Defendants’ meal period policy was unlawful because it did not provide a meal period before the end of an employee’s fifth hour or work and did not specify that meal periods should be off duty. It is also my understanding that I was not authorized and permitted to take legally required rest breaks because of Defendants’ rest break practices. Specifically, due to the work demands I was often prevented from taking my rest breaks and Defendants had no rest break policy during my employment. Throughout my employment at Defendants, I observed that my co-workers also were not able to take compliant meal periods and rest breaks. Throughout my employment with Defendants, I did not receive meal or rest period premiums. I am not aware of any co-workers receiving meal or rest period premiums for missed meal periods and rest breaks.

4. Throughout my employment with Defendants, I was often scheduled to work a shift, but was only allowed to work half of the shift without receiving reporting time or split shift pay. In addition, I would be required to work off-the-clock, but Defendants did not compensate me for such time. I observed this happening to my co-workers as well.

1 5. Throughout my employment with Defendants, I also did not receive: a)
2 reimbursement for all business expenses I incurred; b) tips I earned; c) notice of sick pay; and 4) pay
3 for sick time. I observed my co-workers not receiving these items as well.

4 6. As a result of these violations, I also do not believe I received accurate and complete
5 wage statements. I also do not believe I received all of my wages owed at the time of my separation
6 of employment with Defendants.

7 7. As the time of filing this lawsuit, I understood that this lawsuit had the chance to
8 benefit my former co-workers and current employees of Defendants by helping them recover their
9 unpaid wages and meal and rest period premium payments and penalties. I knew there was a risk I
10 could be liable for Defendants' costs if we lost the case. I accepted the risk because I wanted
11 Defendants to compensate their current and former employees for unpaid wages and meal and rest
12 period premium wages. Even though I understood that bringing a lawsuit is a public record, I
13 accepted that burden for the benefit of the other employees of Defendants.

14 8. I understand my obligations as an adequate class representative to diligently bring this
15 lawsuit on behalf of other Lascari's employees not before the Court and to consider the interests of
16 the other class members as I would my own interests. In fulfillment of my responsibilities as a class
17 representative plaintiff, I participated actively in the litigation and settlement of this matter, and
18 closely supervised the work of my attorneys/proposed Class Counsel, Gunn Coble LLP, to ensure
19 that the best interests of the Class of my fellow co-workers were at all times vigorously and
20 effectively represented.

21 9. Additionally, as an aggrieved employee, I became the PAGA Private Attorney
22 General Representative (authorized under the California Labor Code Private Attorneys General Act
23 of 2004, Cal. Labor Code §§2698, *et seq.* ("PAGA")), for the PAGA claims I brought against
24 Defendants. In doing so, I stepped into the shoes of the state of California by bringing penalty claims
25 against Defendants, for which the state of California under the proposed settlement is to receive
26 \$4,500 (75% of the PAGA penalty amount), as authorized under PAGA.

27 10. As both the Private Attorney General Representative, and the Class Representative, I
28 have undertaken work in this action that brought ultimate resolution for the benefit of Defendants'

1 employees and the state of California. The work I performed included: gathering various
2 employment related documents for use in the lawsuit, identifying and interviewing potential class
3 counsel to represent me and putative class members, providing my attorneys with factual information
4 and insight regarding Defendants' operations and practices; helping prepare the Complaint,
5 reviewing documents and information produced by Defendants and identifying missing and
6 incomplete information; reaching out to other putative class members and obtaining information
7 from them; assisting with bringing the claims to a successful resolution through attending a full day
8 in person mediation session in May 2019 and assisting with a follow-up remote mediation in January
9 2021; and participating in the settlement process. I believe that the settlement represents an
10 outstanding result for the Class Members pleased with the amount of money that we were able to
11 obtain for Class Members to reimburse them for unpaid wages and penalties.

12 11. Since November 2017, I estimate that I spent approximately 100 hours assisting with
13 and participating in this case and that my efforts directly contributed to achieving the outstanding
14 results. I have spent many hours since November 2017 reviewing documentation, discussing the
15 details of my work at Defendants with my attorneys and providing my attorneys with substantial
16 information and documentation to assist in their case evaluation. I also worked with my attorneys to
17 identify potential claims through extended discussions and factual review. I regularly communicated
18 with my attorneys relating to the progress, status, and direction of the case, and ultimately its
19 settlement. I reviewed court documents and other information provided to me in conjunction with
20 the case. I attended meetings with witnesses and my attorneys. I provided my attorneys with
21 descriptions of the job duties and requirements for other employees employed by Defendants and job
22 positions for Defendants to help Class Counsel evaluate the case. I provided my attorneys with social
23 media posts and other real-time information regarding Defendants' operations from my contacts who
24 were not willing to come publicly forward or participate directly in the lawsuit. I also directly
25 assisted in evaluating the information obtained from Defendants, including class data, policy and
26 practice information, timekeeping and payroll processes, and restaurant operations that affected the
27 claims in this lawsuit. I also provided information regarding the relationship between the owners
28 and operation of Lascari's and Sons Inc. and Lascari's Group, Inc. to support the joint employment

1 claims made in this lawsuit.

2 12. I sacrificed and set aside my own personal interests for the benefit of current and
3 former employees of Defendants by standing-up and objecting to Defendants' employment practices,
4 which I believed to be unlawful. I know I had options about what to do regarding what I believed to
5 be unlawful practices. I could have done nothing and kept quiet. I could have brought claims against
6 Defendants just on behalf of myself, or I could have brought claims against Defendants on behalf of
7 others. I chose to bring the action on behalf of other employees of Defendants and as a Private
8 Attorney General on behalf of California because I wanted to stand up for the rights of others,
9 especially knowing that many of Defendants' employees, including those working as dishwashers
10 and busboys, would have a hard time standing up for themselves. In speaking with my former co-
11 workers, while they also experienced unpaid wages and the inability to take compliant meal periods
12 and rest breaks, they were too nervous to publicly join the lawsuit. By acting as the named plaintiff
13 in this case, I accepted the responsibility of being not only a court-appointed Class Representative in
14 this case but also the Private Attorney general stepping in the shoes of California for the PAGA
15 claims. I put my name in the public record in order to hold Defendants accountable. In choosing to
16 publicly sue and act as a representative and PAGA Private Attorney General, I knew that I was
17 risking potential future employment opportunities for myself. I also knew that I was taking personal
18 financial risk including potentially being responsible for owing money to Defendants if they ended
19 up prevailing in this lawsuit. I am unaware of any conflict with the former and current employees
20 of Defendants who make up the Class and have at all times acted to assist them by bringing this
21 lawsuit on their behalf.

22 13. I participated in two mediation hearings in this case and reviewed the proposed
23 settlement agreement, which I ultimately signed after ensuring I felt it was fair and reasonable, not
24 only for me, but for the Class and State of California. In order to reach the proposed settlement, I
25 agreed to a full general release of claims related to my 23-year employment with Defendants that
26 extends beyond the more limited release of claims applicable to members of the Settlement Class. I
27 was willing to do this so that other current and former employees could enjoy the monetary benefits
28 of the settlement and the state of California could receive the \$15,000 penalty payment as authorized

1 under PAGA.

2 14. I understand that my attorneys will request that the Court award me an Enhancement
3 Payment of \$10,000 for my service and efforts on the case. This proposed \$10,000 Enhancement
4 Payment is not contingent upon me supporting the Proposed Settlement. I understand that the
5 proposed Enhancement Payment and the attorneys' fees and costs of my counsel are subject to
6 approval of the Court. I fully support those requests, subject to court approval.

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

9 Executed on September 29, 2021, in Whittier, California.

10 DocuSigned by:
11 *CATRINA MARTINEZ*
12 3BDD074F53F8485...
13 _____
14 Catrina Martinez

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PROOF OF SERVICE

STATE OF CALIFORNIA

I am an employee in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the action in which this service is made. My business address is 3555 Casitas Ave., Los Angeles, CA 90039.

On September 30, 2021, I served the following documents, described as:

DECLARATION OF PLAINTIFF CATRINA MARTINEZ IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

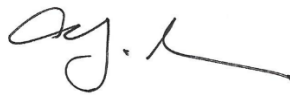
To the following parties:

Brittany M. Hernandez
bmhernandez@reedsmith.com
Michael R. Kleinmann
mkleinmann@reedsmith.com
Reed Smith LLP
355 South Grand Avenue, Suite 2900
Los Angeles, California 90071-1514
(Counsel for Defendant Lascari's and Sons Inc.)

Charles Lew
charles@thelewfir.com
Isaiah Artst
isaiah@thelewfir.com
The Lew Firm, APC
433 North Camden Drive, Suite 600
Beverly Hills, CA 90210
(Counsel for Defendant Lascari's Group, Inc.)

(By Electronic Mail) Pursuant to the Court's order or an agreement of the parties to accept service my email or electronic transmission, a true and correct copy was electronically served to the email addresses listed in the service caption above via the Court-ordered electronic filing system. A true and correct copy of transmittal will be produced if requested by any party or the Court.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and was executed on September 30, 2021 at Los Angeles, California.


By: _____
Catherine Coble

PROOF OF SERVICE

MARTINEZ v. LASCARI'S AND SONS, INC.

Case No.: BC 716005

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is REED SMITH LLP, 355 S. Grand Avenue, Suite 2900, Los Angeles, CA 90071.

On **October 1, 2021**, I served the following document(s) **STIPULATION TO AMEND THE CLASS ACTION SETTLEMENT AGREEMENT AND [PROPOSED] ORDER** by the method indicated below:

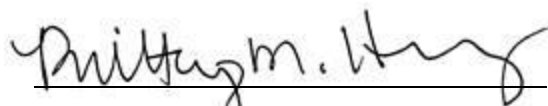
- (By Electronic Mail) Pursuant to the Court's order or an agreement of the parties to accept service by email or electronic transmission, a true and correct copy was electronically served to the email addressed listed in the service caption below via the Court-ordered electronic filing system. A true and correct copy of transmittal will be produced if requested by any party or the Court.

BETH A. GUNN, ESQ.
 CATHERINE J. COBLE, ESQ.
 DAVID Z. FEINGOLD, ESQ.
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 PHONE: (310) 279-5145
 ATTORNEYS FOR DEFENDANT
 LASCARI'S GROUP, INC.

ATTORNEYS FOR PLAINTIFF
 CATRINA MARTINEZ

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **October 1, 2021**, at Los Angeles, California.



 Brittany M. Hernandez

REED SMITH LLP
A limited liability partnership formed in the State of Delaware

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