

1 **MATERN LAW GROUP, PC**
MATTHEW J. MATERN (SBN 159798)
2 mmatern@maternlawgroup.com
MIKAEL H. STAHLÉ (SBN 182599)
3 mstahle@maternlawgroup.com
IRINA A. KIRNOSOVA (SBN 312565)
4 ikirnosova@maternlawgroup.com
1230 Rosecrans Avenue, Suite 200
5 Manhattan Beach, California 90266
Telephone: (310) 531-1900
6 Facsimile: (310) 531-1901

7 Attorneys for Plaintiffs
KIMBERLY DIMALANTA and ALMA CRUZ,
8 individually, and on behalf of all others similarly situated

9 **JACKSON LEWIS P.C.**
Michael D. Thomas (SBN 226129)
10 Michael.Thomas@jacksonlewis.com
Eric J. Gitig (SBN 307547)
11 Eric.gitig@jacksonlewis.com
725 South Figueroa Street, Suite 2500
12 Los Angeles, California 90017
Tel: (213) 689-0404
13 Fax: (213) 689-0430

14 Attorneys for Defendants
NORTH PLAZA RESTAURANT PARTNERS LLC d/b/a
15 DRAGO CENTRO, CELESTINO DRAGO ENTERPRISES,
INC. d/b/a DRAGO BAKERY, and CELESTINO DRAGO
16

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA

18 FOR THE COUNTY OF LOS ANGELES

19 KIMBERLY DIMALANTA, an individual, on
behalf of herself and all others similarly situated;
20 and ALMA CRUZ, an individual, on behalf of
herself and all others similarly situated,

21 Plaintiffs,

22 vs.

23 NORTH PLAZA RESTAURANT PARTNERS
24 LLC, a California limited liability company, d/b/a
DRAGO CENTRO; DRAGO AIR CATERING,
25 INC., a California corporation; ANTONINO
NATALE, INC., a California corporation, d/b/a
26 CELESTINO RISTORANTE; CELESTINO
DRAGO ENTERPRISES, INC., a California
27 corporation, d/b/a DRAGO BAKERY;
ENOTECA DRAGO, INC., a California
28 corporation; GTA RESTAURANTS LLC, a
California limited

Case No.: BC695657

*[Assigned for all purposes to the Honorable
Yvette M. Palazuelos, Dept. 9]*

**CLASS ACTION SETTLEMENT
AGREEMENT**

Complaint Filed: February 28, 2018
FAC Filed: December 28, 2020
SAC Filed: April 4, 2022
Trial Date: None Set

1 liability company, d/b/a VIA ALLORO; 4
FRATELLI, INC., a California corporation, d/b/a
2 PANZANELLA RESTAURANT; GD
ASSOCIATES LLC, a California limited liability
3 company, d/b/a PICCOLO PARADISO; FSC
CORPORATION, a California corporation, d/b/a
4 IL PASTAIO; CARNIVALE RESTAURANTS
INC., a California corporation, d/b/a IL BUCO
5 RISTORANTE; MG RESTAURANTS LLC, a
California limited liability company, d/b/a SHU
6 SUSHI HOUSE UNICO; YOGISAN LLC, a
California limited liability company, d/b/a
7 YOJISAN SUSHI; GALATI, LLC a California
limited liability company, d/b/a IL SEGRETO
8 RISTORANTE; 1043 WESTWOOD BLVD LLC,
a California limited liability company, d/b/a
9 TANINO RISTORANTE; DRAGO HOLDINGS,
INC., a California corporation; DRAGO
10 MANAGEMENT LLC, a California limited
liability company; and DOES 1 through 50,
11 inclusive,

12 Defendants.

1 **CLASS ACTION SETTLEMENT AGREEMENT**

2 This Class Action Settlement Agreement (“Agreement”) is made by and between Plaintiffs
3 KIMBERLY DIMALANTA and ALMA CRUZ (collectively, “Plaintiffs”) and Defendants NORTH
4 PLAZA RESTAURANT PARTNERS LLC d/b/a DRAGO CENTRO, CELESTINO DRAGO
5 ENTERPRISES, INC. d/b/a DRAGO BAKERY, and CELESTINO DRAGO (collectively,
6 “Defendants”). The Agreement refers to Plaintiffs and Defendants collectively as “Parties,” or
7 individually as “Party.”

8 **1. DEFINITIONS.**

9 1.1. “Action” means the Plaintiffs’ lawsuit alleging wage and hour violations against
10 Defendants captioned *Kimberly DiMalanta, et al., v. North Plaza Restaurant Partners LLC d/b/a Drago*
11 *Centro, et al.*, initiated on February 28, 2018 and pending in Los Angeles County Superior Court as
12 Case No. BC695657.

13 1.2. “Administrator” means CPT Group, Inc. the neutral entity the Parties have agreed to
14 appoint to administer the Settlement.

15 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
16 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the
17 Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of
18 the Settlement.

19 1.4. “Class” means all current and former non-exempt employees who have worked for
20 Defendants in California at any time during the Class Period.

21 1.5. “Class Counsel” means Matthew J. Matern, Esq., Mikael H. Stahle, Esq., and Irina A.
22 Kirnosova, Esq. of the Matern Law Group, PC.

23 1.6. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean
24 the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses,
25 respectively, incurred to prosecute the Action.

26 1.7. “Class Data” means Class Member identifying information in Defendants’ possession
27 including each Class Member’s name, last-known mailing address, Social Security number, and number
28 of Class Period Workweeks.

1 1.8. "Class Member" or "Settlement Class Member" means a member of the Class, as either a
2 Participating Class Member or Non-Participating Class Member.

3 1.9. "Class Member Address Search" means the Administrator's investigation and search for
4 current Class Member mailing addresses using all reasonably available sources, methods and means
5 including, but not limited to, the National Change of Address database, skip traces, and direct contact by
6 the Administrator with Class Members.

7 1.10. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION
8 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class
9 Members in English in the form, without material variation, attached as Exhibit A and incorporated by
10 reference into this Agreement.

11 1.11. "Class Period" means the period from February 28, 2014 to the date of the order granting
12 Preliminary Approval of the Settlement.

13 1.12. "Class Representatives" means Kimberly DiMalanta and Alma Cruz, the named Plaintiffs
14 in the operative complaint in the Action seeking Court approval to serve as Class Representatives.

15 1.13. "Class Representative Service Payment" means the payment to the Class Representatives
16 for initiating the Action and providing services in support of the Action.

17 1.14. "Court" means the Superior Court of California, County of Los Angeles.

18 1.15. North Plaza Restaurant Partners LLC d/b/a Drago Centro ("Centro"), Celestino Drago
19 Enterprises, Inc. d/b/a Drago Bakery ("Bakery"), and Celestino Drago mean the named Defendants.

20 1.16. "Defense Counsel" means Eric J. Gitig, Esq. and Michael D. Thomas, Esq. of Jackson
21 Lewis P.C.

22 1.17. "Effective Date" means the date by when both of the following have occurred: (a) the
23 Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is
24 final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class
25 Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating
26 Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the
27 Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the
28 Judgment and issues a remittitur.

1 1.18. "Final Approval" means the Court's order granting final approval of the Settlement.

2 1.19. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of
3 the Settlement.

4 1.20. "Final Judgment" means the Judgment Entered by the Court upon Granting Final
5 Approval of the Settlement.

6 1.21. "Gross Settlement Amount" means Six Hundred Forty-Five Thousand Dollars and Zero
7 Cents (\$645,000.00), which is the total amount Defendants agree to pay under the Settlement except as
8 provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class
9 Payments, all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Class
10 Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service
11 Payments, and the Administrator's Expenses. As described in Paragraph 4.3 below, Defendants shall
12 pay the Gross Settlement Amount in thirty-six (36) separate installments.

13 1.22. "Individual Class Payment" means the Participating Class Member's pro rata share of the
14 Net Settlement Amount calculated according to the number of Workweeks worked during the Class
15 Period.

16 1.23. "Judgment" means the judgment entered by the Court based upon the Final Approval.

17 1.24. "Net Settlement Amount" means the Gross Settlement Amount, less the following
18 payments in the amounts approved by the Court: Class Representative Service Payments, Class Counsel
19 Fees Payment, Class Counsel Litigation Expenses Payment, the Administration Expenses Payment, and
20 all employer payroll taxes owed on the Wage Portion of the Individual Class Payments. The remainder
21 is to be paid to Participating Class Members as Individual Class Payments.

22 1.25. "Non-Participating Class Member" means any Class Member who opts out of the
23 Settlement by sending the Administrator a valid and timely Request for Exclusion.

24 1.26. "Participating Class Member" means a Class Member who does not submit a valid and
25 timely Request for Exclusion from the Settlement.

26 1.27. "Plaintiffs" means Kimberly DiMalanta and Alma Cruz, the named plaintiffs in the
27 Action.

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1 1.28. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the
2 Settlement.

3 1.29. "Preliminary Approval Order" means the proposed Order Granting Preliminary
4 Approval.

5 1.30. "Released Class Claims" means the claims being released as described in Paragraph 5.2
6 below.

7 1.31. "Released Parties" means Defendants and each of their former and present directors,
8 officers, employees, agents, shareholders, owners, members, attorneys, insurers, predecessors,
9 successors, assigns, parent companies, subsidiaries, affiliates, and any individual or entity that was
10 previously named as a defendant in this Action.

11 1.32. "Request for Exclusion" means a Class Member's submission of a written request to be
12 excluded from the Class Settlement signed by the Class Member.

13 1.33. "Response Deadline" means sixty (60) days after the Administrator mails Notice to Class
14 Members unless the date falls on a Sunday, state or federal holiday, in which case the Response
15 Deadline will be extended to the next day on which the U.S. Postal Service is open, and shall be the last
16 date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement,
17 or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice
18 Packets are resent after having been returned undeliverable to the Administrator shall have an additional
19 fourteen (14) calendar days beyond the Response Deadline has expired. The Response Deadline may
20 also be extended by express written agreement between Plaintiffs and Defendants. Under no
21 circumstances, however, will the Administrator have the authority to extend the deadline for Class
22 Members to submit a Request for Exclusion or objection to the Settlement.

23 1.34. "Settlement" means the disposition of the Action effected by this Agreement and the
24 Judgment.

25 1.35. "Workweek" means any week during which a Class Member worked for Defendants as a
26 non-exempt employee for at least one day during the Class Period, based on Defendants' records.

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1 **2. RECITALS.**

2 2.1. On February 28, 2018, Plaintiff DiMalanta and Shavai Owens filed a putative class
3 action Complaint against 16 defendant entities, including Centro and Bakery on behalf of themselves
4 and all others similarly situated in the Superior Court of the State of California entitled KIMBERLY
5 *DIMALANTA, et. al., v. North Plaza Restaurant Partners LLC d/b/a Drago Centro, et. al.*, Los Angeles
6 County Superior Court Case No. BC695657. The Complaint set forth the following causes of action: (1)
7 failure to provide meal periods; (2) failure to provide rest periods; (3) failure to pay overtime wages; (4)
8 failure to pay minimum wages; (5) failure to pay all wages due to discharged and quitting employees;
9 (6) failure to maintain required records; (7) failure to furnish accurate itemized wage statements; (8)
10 failure to indemnify employees for necessary expenditures incurred in discharge of duties; and (9) unfair
11 and unlawful business practices.

12 2.2. On August 6, 2020, the Court granted Plaintiffs' requests to dismiss 13 of the named
13 defendant entities, leaving Centro, Bakery, and 4 Fratelli, Inc. dba Panzanella Restaurant as the only
14 defendants remaining in the case.

15 2.3. On August 28, 2020, Plaintiff DiMalanta and Shavai Owens filed a Motion for leave to
16 file a First Amended Complaint ("FAC") adding Rafael Rebolledo and Plaintiff Cruz as named
17 plaintiffs. The FAC was subsequently deemed filed on December 28, 2020.

18 2.4. On February 23, 2021, Plaintiffs filed eight Amendment to Complaint forms to substitute
19 in individuals – including defendant Celestino Drago – who were designated as DOE defendants in the
20 FAC.

21 2.5. On September 27, 2021, the Court removed Rafael Rebolledo as a named plaintiff and
22 class representative after Rafael Rebolledo's claims were compelled to arbitration on March 29, 2021
23 and he failed to find new representation following the Court's granting of Class Counsel's motion to be
24 relieved as his counsel on September 7, 2021.

25 2.6. On October 27, 2021, the Court dismissed Shavai Owens' claims in their entirety given
26 her inclusion in the class action settlement of the consolidated *Jose De La Cruz v. Drago Air Catering,*
27 *Inc.* (LASC Case No. BC593218) and *Cecilia Camargo v. Drago Air Catering, Inc.* (LASC Case No.
28 BC593218) actions, which was granted final approval on January 23, 2020.

1 2.7. On December 7, 2021, the Court granted Plaintiffs’ request to dismiss defendant 4
2 Fratelli, Inc. dba Panzanella Restaurant.

3 2.8. On April 4, 2022, Plaintiffs filed the operative Second Amended Complaint (the
4 “Operative Complaint”), which Defendants Centro, Bakery, and Celestino Drago separately answered
5 on May 12, 2022. Defendants deny the allegations in the Operative Complaint, deny any failure to
6 comply with the laws identified in the Operative Complaint, and deny any and all liability for the causes
7 of action alleged in the Operative Complaint.

8 2.9. On August 24, 2022, the Court granted Plaintiffs’ requests for dismissal of all individual
9 defendants aside from Celestino Drago, leaving Centro, Bakery, and Celestino Drago as the only three
10 remaining defendants in the Action.

11 2.10. On December 16, 2021, the Parties participated in a full-day mediation before Lisa
12 Klerman, Esq., a well-respected wage and hour class action mediator. While a resolution was not
13 reached at the mediation, the Parties – with the assistance of the mediator – continued to engage in
14 arms’-length negotiations and ultimately reached an agreement in principle on November 4, 2022 to
15 resolve all claims asserted or that could have been asserted by Plaintiffs in the Action based on the facts
16 alleged in the Action.

17 2.11. Prior to mediation, Plaintiffs obtained, through informal discovery, Plaintiffs’ complete
18 personnel file, time, and payroll records, a ten percent (10%) sampling of time and payroll data for Class
19 Members who worked for each of the named defendant entities (Centro and Bakery), copies of
20 Defendants Centro’s and Bakery’s wage and hour policies in effect during the Class Period, and a
21 declaration from a forensic accountant attesting to Defendants Centro’s and Bakery’s limited ability to
22 fund a settlement or judgment. Following mediation, Plaintiffs obtained, through formal discovery
23 (including Defendants’ written responses to Plaintiffs’ form and special interrogatories, requests for
24 admission, and requests for production of documents, and associated production of documents)
25 additional information and documents related to Defendants’ applicable wage and hour policies and
26 practices during the Class Period. Plaintiffs also obtained, through informal discovery, additional
27 records relating to Defendants Centro’s and Bakery’s financial condition. The Parties agree that
28 Plaintiffs’ investigation during the Action was sufficient to satisfy the criteria for court approval set

1 forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1974, 1801 and *Kullar v. Foot Locker*
2 *Retail, Inc.* (2008) 168 Cal. App. 4th 116, 129-130 (“*Dunk/Kullar*”).

3 2.12. The Court has not granted class certification; Plaintiffs have not filed a motion for class
4 certification.

5 2.13. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any
6 other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

7 **3. MONETARY TERMS.**

8 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below,
9 Defendants promise to pay Six Hundred Forty Five Thousand Dollars and Zero Cents (\$645,000.00) and
10 no more as the Gross Settlement Amount. Defendants have no obligation to pay the Gross Settlement
11 Amount prior to the deadlines stated in Paragraph 4.3 of this Agreement. The Administrator will
12 disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members to
13 submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to
14 Defendants.

15 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct
16 the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the
17 Final Approval:

18 3.2.1. To Plaintiffs: Class Representative Service Payments to the Class Representatives
19 of not more than Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) each, *i.e.*, Fifteen
20 Thousand Dollars and Zero Cents (\$15,000.00) total, in addition to any Individual Class Payment the
21 Class Representatives are entitled to receive as Participating Class Members. Defendants will not oppose
22 Plaintiffs’ requests for Class Representative Service Payments that do not exceed this amount. As part of
23 the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek
24 Court approval for any Class Representative Service Payments no later than sixteen (16) court days prior
25 to the Final Approval Hearing. If the Court approves Class Representative Service Payments less than the
26 amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. The
27 Administrator will pay the Class Representative Service Payments using IRS Form 1099. Plaintiffs assume
28 full responsibility and liability for employee taxes owed on the Class Representative Service Payments.

1 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third
2 (1/3) of the Gross Settlement Amount, which is currently estimated to be Two Hundred Fifteen
3 Thousand Dollars and Zero Cents (\$215,000.00) and a Class Counsel Litigation Expenses Payment of
4 not more than Seventy Thousand Dollars and Zero Cents (\$70,000.00). Defendants will not oppose
5 requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class
6 Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no
7 later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class
8 Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts
9 requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties
10 shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any
11 portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The
12 Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one
13 or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the
14 Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants
15 harmless, and indemnifies Defendants from any dispute or controversy regarding any division or sharing
16 of any of these Payments.

17 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed Eleven
18 Thousand Five Hundred Dollars and Zero Cents (\$11,500.00) except for a showing of good cause and as
19 approved by the Court. To the extent the Administration Expenses are less or the Court approves
20 payment less than Eleven Thousand Five Hundred Dollars and Zero Cents (\$11,500.00), the
21 Administrator will allocate the remainder to the Net Settlement Amount.

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

26 3.2.4.1. Tax Allocation of Individual Class Payments. Twenty percent
27 (20%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of
28 wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be

1 reported on an IRS W-2 Form. Eighty percent (80%) of each Participating Class Member's Individual
2 Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage
3 Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS
4 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes
5 owed on their Individual Class Payment.

6 3.2.4.2. Effect of Non-Participating Class Members on Calculation of
7 Individual Class Payments. Non-Participating Class Members will not receive any Individual Class
8 Payments. The Administrator will allocate amounts equal to their Individual Class Payments to the Net
9 Settlement Amount for distribution to Participating Class Members on a pro rata basis.

10 **4. SETTLEMENT FUNDING AND PAYMENTS.**

11 4.1. Class Workweeks. Based on a review of their records to date, Defendants estimate there
12 are approximately 750 Class Members who collectively worked a total of approximately 55,000
13 Workweeks.

14 4.2. Class Data. Not later than thirty (30) days after the Court grants Preliminary Approval of
15 the Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the form
16 of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must
17 maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no
18 other purpose, and restrict access to the Class Data to Administrator employees who need access to the
19 Class Data to effect and perform under this Agreement. Defendants have a continuing duty to
20 immediately notify Class Counsel if they discover that the Class Data omitted class member identifying
21 information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any
22 extension of the deadline by which Defendants must send the Class Data to the Administrator, the
23 Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise
24 resolve any issues related to missing or omitted Class Data.

25 4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement
26 Amount by transmitting the funds to the Administrator in thirty-six (36) separate installments, as
27 follows:

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1 4.3.1. Initial Installment Payment: The initial installment payment, which will equal
2 Three Hundred Fifty Six Thousand Two Hundred Fifty Dollars and Zero Cents (\$356,250.00), shall be
3 delivered to the Administrator within ten (10) calendar days of the Effective Date.

4 4.3.2. Remaining Installment Payments: The remaining installment payments, which
5 shall collectively equal Two Hundred Eighty Eight Thousand Seven Hundred and Fifty Dollars and Zero
6 Cents (\$288,750.00), shall be delivered in thirty five (35) equal monthly installment payments of Eight
7 Thousand Two Hundred Fifty Dollars and Zero Cents (\$8,250.00) each. The first of the thirty-five (35)
8 equal monthly installment payments shall be delivered no later than one (1) month after the initial
9 monthly installment payment (as described above in the preceding subsection), with each subsequent
10 monthly installment payment being delivered no later than one (1) month after the preceding monthly
11 installment payment, until the combined amount owed by Defendants for the Gross Settlement Amount
12 has been fully funded by Defendants.

13 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after
14 Defendants fully funds the entire Gross Settlement Amount, the Administrator will mail checks for all
15 Individual Class Payments, the Administration Expenses Payment, the Class Counsel Fees Payment, the
16 Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments.
17 Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and
18 the Class Representative Service Payments shall not precede disbursement of Individual Class
19 Payments.

20 4.4.1. The Administrator will issue checks for the Individual Class Payments and send
21 them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall
22 prominently state the date (not less than 180 days after the date of mailing) when the check will be
23 voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will
24 send checks for Individual Settlement Payments to all Participating Class Members (including those for
25 whom Class Notice was returned undelivered). Before mailing any checks, the Settlement Administrator
26 must update the recipients' mailing addresses using the National Change of Address Database.

27 4.4.2. The Administrator must conduct a Class Member Address Search for all other
28 Class Members whose checks are returned undelivered without USPS forwarding address. Within seven

1 (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding
2 address provided or to an address ascertained through the Class Member Address Search. The
3 Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks
4 are returned as undelivered. The Administrator shall promptly send a replacement check to any Class
5 Member whose original check was lost or misplaced, requested by the Class Member prior to the void
6 date.

7 4.4.3. For any Class Member whose Individual Class Payment check is uncashed and
8 cancelled after the void date, the Administrator shall transmit the funds represented by such checks to
9 the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving
10 no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384,
11 subd. (b).

12 4.4.4. The payment of Individual Class Payments shall not obligate Defendants to
13 confer any additional benefits or make any additional payments to Class Members (such as 401(k)
14 contributions or bonuses) beyond those specified in this Agreement.

15 **5. RELEASES OF CLAIMS.** Effective on the date when Defendants fully funds the entire Gross
16 Settlement Amount, Plaintiffs, Class Members, and Class Counsel will release claims against all
17 Released Parties as follows:

18 5.1. Plaintiffs' Release. Plaintiffs and their respective former and present spouses,
19 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and
20 discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class
21 Period, including, but not limited to: all claims that were, or reasonably could have been, alleged, based
22 on the facts contained in the Operative Complaint or ascertained during the Action [*i.e.*, the Released
23 Class Claims described in subsection 5.2, below]; any other claims arising under the California Labor
24 Code; any claim arising out of the California common law of contract; the Fair Labor Standards Act, 29
25 U.S.C. § 201 *et seq.*, and federal common law; all claims for lost wages and benefits, emotional distress,
26 retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or local laws for
27 discrimination, harassment, and wrongful termination, including but not limited to, 42 U.S.C. section
28 1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age

1 Discrimination in Employment Act, the California Fair Employment and Housing Act, and the law of
2 contract and tort (“Plaintiffs’ Release”). Plaintiffs’ Release does not extend to any claims or actions to
3 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits,
4 social security benefits, workers’ compensation benefits that arose at any time, or based on occurrences
5 outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from,
6 or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless,
7 that Plaintiffs’ Release shall be and remain effective in all respects, notwithstanding such different or
8 additional facts or Plaintiffs’ discovery of them.

9 5.1.1. Plaintiffs’ Waiver of Rights Under California Civil Code Section 1542. For
10 purposes of Plaintiffs’ Release, Plaintiffs expressly waive and relinquish the provisions, rights, and
11 benefits, if any, of section 1542 of the California Civil Code, which reads:

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

16 5.2. Release by Participating Class Members. All Participating Class Members, on behalf of
17 themselves and their respective former and present representatives, agents, attorneys, heirs,
18 administrators, successors, and assigns, release Released Parties from all claims that were alleged, or
19 reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint
20 and ascertained in the course of the Action including, but not limited to any claims for: (i) failure to
21 provide meal periods; (ii) failure to provide rest periods; (iii) failure to pay overtime wages; (iv) failure
22 to pay minimum wages; (v) failure to pay all wages due to discharged and quitting employees; (vi)
23 failure to maintain required records; (vii) failure to furnish accurate itemized wage statements; (viii)
24 failure to indemnify employees for necessary expenditures incurred in discharge of duties; (ix) unfair
25 and unlawful business practices and all other alleged violations of the California Business and
26 Professions Code section 17200, *et seq.*; (x) injunctive relief; (xi) liquidated damages; (xii) statutory
27 penalties; (xiii) interest; (xiv) fees, including fees under California Code of Civil Procedure section
28 1021.5; and (xv) costs. Participating Class Members do not release any other claims, including claims

1 for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,
2 unemployment insurance, disability, social security, workers' compensation, or claims based on facts
3 occurring outside the Class Period.

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

7 6.1. Defendants' Declaration in Support of Preliminary Approval. Within seven (7) days of
8 the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel signed
9 Declarations from Defendants and Defense Counsel disclosing all facts relevant to any actual or
10 potential conflicts of interest with the Administrator and providing information regarding the
11 circumstances necessitating the installment plan described in section 4.3 and the payment of the
12 employer payroll taxes from the Gross Settlement Amount. In their Declarations, Defense Counsel and
13 Defendants shall aver that they are not aware of any other pending matter or action asserting claims that
14 will be extinguished or adversely affected by the Settlement.

15 6.2. Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all
16 documents necessary for obtaining Preliminary Approval prior to filing the documents with the court,
17 including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval
18 that includes an analysis of the Settlement under *Dunk/Kullar*; (ii) a draft proposed Order Granting
19 Preliminary Approval, which shall be mutually agreed upon by the Parties prior to being filed with the
20 Court; (iii) a signed declaration from the Administrator attaching its "not to exceed" bid for
21 administering the Settlement and attesting to its willingness to serve; competency; operative procedures
22 for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation
23 of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class
24 Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or
25 Defense Counsel; (iv) signed declarations from Plaintiffs confirming willingness and competency to
26 serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members,
27 and/or the Administrator; (v) a signed declaration from Class Counsel attesting to its competency to
28 represent the Class Members; and all facts relevant to any actual or potential conflict of interest with

1 Class Members and/or the Administrator; (vi) a redlined version of the parties' Agreement showing all
2 modifications made to the Model Agreement ready for filing with the Court. In their Declarations,
3 Plaintiffs and Class Counsel Declaration shall aver that they are not aware of any other pending matter
4 or action asserting claims that will be extinguished or adversely affected by the Settlement.

5 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
6 for expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) days
7 after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for
8 Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary
9 Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the
10 Administrator.

11 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
12 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense
13 Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone,
14 and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or
15 conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense
16 Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone,
17 and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

18 **7. SETTLEMENT ADMINISTRATION.**

19 7.1. Selection of Administrator. The Parties have jointly selected CPT Group, Inc. to serve as
20 the Administrator and verified that, as a condition of appointment, CPT Group, Inc. agrees to be bound
21 by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for
22 payment of Administration Expenses. The Parties and their Counsel represent that they have no interest
23 or relationship, financial or otherwise, with the Administrator other than a professional relationship
24 arising out of prior experiences administering settlements.

25 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
26 Identification Number for purposes of calculating payroll tax withholdings and providing reports to state
27 and federal tax authorities.

28 ///

1 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
2 the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-
3 1.

4 7.4. Notice to Class Members.

5 7.4.1. No later than three (3) business days after receipt of the Class Data, the
6 Administrator shall notify Class Counsel that the list has been received and state the number of Class
7 Members and Workweeks in the Class Data.

8 7.4.2. Using best efforts to perform as soon as possible, and in no event later than
9 fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members
10 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice
11 substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice
12 shall prominently estimate the dollar amounts of any Individual Class Payment payable to the Class
13 Member, and the number of Workweeks used to calculate these amounts. Before mailing Class Notices,
14 the Administrator shall update Class Member addresses using the National Change of Address database.

15 7.4.3. Not later than three (3) business days after the Administrator’s receipt of any
16 Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
17 using any forwarding address provided by the USPS. If the USPS does not provide a forwarding
18 address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice
19 to the most current address obtained. The Administrator has no obligation to make further attempts to
20 locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second
21 time.

22 7.4.4. The deadlines for Class Members’ written objections, Challenges to Workweeks
23 and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days
24 beyond the sixty (60) days otherwise provided in the Class Notice for all Class Members whose notice is
25 re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed
26 Class Notice.

27 7.4.5. If the Administrator, Defendants or Class Counsel is contacted by or otherwise
28 discovers any persons who believe they should have been included in the Class Data and should have

1 received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in
2 good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such
3 persons will be Class Members entitled to the same rights as other Class Members, and the
4 Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise
5 options under this Agreement not later than fourteen (14) days after receipt of Class Notice, or the
6 deadline dates in the Class Notice, which ever are later.

7 7.5. Requests for Exclusion (Opt-Outs).

8 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
9 must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later
10 than sixty (60) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days
11 for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class
12 Member or his/her representative that reasonably communicates the Class Member's election to be
13 excluded from the Settlement and includes the Class Member's name, address and email address or
14 telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked
15 by the Response Deadline.

16 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
17 fails to contain all the information specified in the Class Notice. The Administrator shall accept any
18 Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as
19 a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall
20 be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to
21 question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of
22 the Class Member's identity. The Administrator's determination of authenticity shall be final and not
23 appealable or otherwise susceptible to challenge.

24 7.5.3. Every Class Member who does not submit a timely and valid Request for
25 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits
26 and bound by all terms and conditions of the Settlement, including the Participating Class Members'
27 Releases under Paragraph 5.2 of this Agreement, regardless whether the Participating Class Member
28 actually receives the Class Notice or objects to the Settlement.

1 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
2 Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to
3 object to the class action components of the Settlement.

4 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have sixty (60) days
5 after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members
6 whose Class Notice is re-mailed) to challenge the number of Class Workweeks allocated to the Class
7 Member in the Class Notice. The Class Member may challenge the allocation by communicating with
8 the Administrator via fax, email or mail. The Administrator must encourage the challenging Class
9 Member to submit supporting documentation. In the absence of any contrary documentation, the
10 Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so
11 long as they are consistent with the Class Data. The Administrator's determination of each Class
12 Member's allocation of Workweeks shall be final and not appealable or otherwise susceptible to
13 challenge. The Administrator shall promptly provide copies of all challenges to calculation of
14 Workweeks to Defense Counsel and Class Counsel and the Administrator's determination the
15 challenges.

16 7.7. Objections to Settlement.

17 7.7.1. Only Participating Class Members may object to the class action components of
18 the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or
19 amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment
20 and/or Class Representative Service Payments.

21 7.7.2. Participating Class Members may send written objections to the Administrator, by
22 fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an
23 attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating
24 Class Member who elects to send a written objection to the Administrator must do so not later than sixty
25 (60) days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for
26 Class Members whose Class Notice was re-mailed).

27 7.7.3. Non-Participating Class Members have no right to object to any of the class
28 action components of the Settlement.

1 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
2 performed or observed by the Administrator contained in this Agreement or otherwise.

3 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will establish
4 and maintain and use an internet website to post information of interest to Class Members including the
5 date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion
6 for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval,
7 the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class
8 Representative Service Payments, the Final Approval and the Judgment. The Administrator will also
9 maintain and monitor an email address and a toll-free telephone number to receive Class Member calls,
10 faxes and emails.

11 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
12 promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5)
13 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall
14 email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying
15 information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”);
16 (b) the names and other identifying information of Class Members who have submitted invalid Requests for
17 Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

18 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
19 reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class
20 Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid
21 or invalid) received, objections received, challenges to Workweeks received and/or resolved, and checks
22 mailed for Individual Class Payments (“Weekly Report”). The Weekly Reports must include or provide
23 the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all
24 Requests for Exclusion and objections received.

25 7.8.4. Workweek Challenges. The Administrator has the authority to address and make
26 final decisions consistent with the terms of this Agreement on all Class Member challenges over the
27 calculation of Workweeks. The Administrator’s decision shall be final and not appealable or otherwise
28 susceptible to challenge.

1 7.8.5. Administrator's Declaration. Not later than fourteen (14) days before the date by
2 which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator
3 will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court
4 attesting to its due diligence and compliance with all of its obligations under this Agreement, including,
5 but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing
6 of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from
7 Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion
8 List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the
9 Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

10 7.8.6. Final Report by Settlement Administrator. Within ten (10) days after the
11 Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class
12 Counsel and Defense Counsel with a final report detailing its disbursements by employee identification
13 number only of all payments made under this Agreement. At least fifteen (15) days before any deadline
14 set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a
15 signed declaration suitable for filing in Court attesting to its disbursement of all payments required
16 under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

17 **8. CLASS SIZE ESTIMATES.** Based on its records, Defendants estimate that, as of the date of
18 this Settlement Agreement, there are approximately 750 Class Members and approximately 55,000 Total
19 Workweeks during the Class Period.

20 **9. DEFENDANTS' RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion
21 identified in the Exclusion List exceeds ten percent (10%) of the total of all Class Members and/or if the
22 combined Workweeks worked by Class Members identified in the Exclusion List exceeds ten percent
23 (10%) or more of the total Workweeks worked by all Class Members, Defendants may, but are not
24 obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the
25 Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have
26 any further obligation to perform under this Agreement; provided, however, Defendants will remain
27 responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must
28

1 notify Class Counsel and the Court of its election to withdraw not later than seven (7) days after the
2 Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

3 **10. MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the
4 calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the
5 Settlement that includes a Proposed Final Approval Order and a proposed Judgment (collectively
6 “Motion for Final Approval”) to be mutually agreed upon by the Parties prior to being filing with the
7 Court. Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven (7)
8 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will
9 expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements
10 concerning the Motion for Final Approval.

11 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by
12 a Participating Class Member, including the right to file responsive documents in Court no later than
13 five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the
14 Court.

15 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
16 Approval on any material change to the Settlement (including, but not limited to, the scope of release to
17 be granted by Class Members), the Parties will expeditiously work together in good faith to address the
18 Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision
19 to award less than the amounts requested for the Class Representative Service Payments, Class Counsel
20 Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment
21 shall not constitute a material modification to the Agreement within the meaning of this paragraph.

22 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
23 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i)
24 enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii)
25 addressing such post-Judgment matters as are permitted by law.

26 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
27 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel
28 Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel,

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

8 10.5. Waiver of Attorney's Fees and Costs. In exchange for the promises, covenants,
9 agreements, representations, and warranties contained herein, the Released Parties waive and relinquish
10 any and all claims for attorney's fees and/or costs incurred in connection with the Action, including any
11 and all rights to appellate or writ review related to such claims.

12 10.6. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
13 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
14 modification of this Agreement (including, but not limited to, the scope of release to be granted by Class
15 Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work
16 together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of
17 Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after
18 remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class
19 Representative Service Payments or any payments to Class Counsel shall not constitute a material
20 modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement
21 Amount remains unchanged.

22 **11. AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure
23 section 384, the Parties will work together in good faith to jointly submit a proposed amended judgment.

24 **12. ADDITIONAL PROVISIONS.**

25 12.1. No Admission of Liability, Class Certification or Representative Manageability for
26 Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims.
27 Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of
28 the allegations in the Operative Complaint have merit or that Defendants have any liability for any

1 claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendants'
2 defenses in the Action have merit. The Parties agree that class certification and representative treatment
3 is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval,
4 Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for
5 any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiffs
6 reserves the right to move for class certification on any grounds available and to contest Defendants'
7 defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no
8 bearing on, and will not be admissible in connection with, any litigation (except for proceedings to
9 enforce or effectuate the Settlement and this Agreement).

10 12.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendants and
11 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed,
12 they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person
13 to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly,
14 specifically or generally, to any person, corporation, association, government agency, or other entity
15 except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this
16 Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to
17 appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an
18 inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately
19 notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information.
20 Plaintiffs, Class Counsel, Defendants and Defense Counsel separately agree not to, directly or indirectly,
21 initiate any conversation or other communication, before the filing of the Motion for Preliminary
22 Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement
23 except to respond only that "the matter was resolved," or words to that effect. This paragraph does not
24 restrict Class Counsel's communications with Class Members in accordance with Class Counsel's
25 ethical obligations owed to Class Members.

26 12.3. Tolling of Statute. The Parties stipulate and agree, pursuant to California Code of Civil
27 Procedure section 583.330(a), that the time within which the Action must be brought to trial pursuant to
28 Code of Civil Procedure sections 583.310 through 583.360 shall be extended by the period of time from

1 November 4, 2022 through the later of November 4, 2023 or the date of entry of the order on the motion
2 for final approval and that said period of time shall not be included in the computation of the five-year
3 period specified in the Code of Civil Procedure section 583.310.

4 12.4. No Solicitation. The Parties separately agree that they and their respective counsel and
5 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the
6 Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to
7 communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class
8 Members.

9 12.5. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
10 together with its attached exhibits shall constitute the entire agreement between the Parties relating to
11 the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made
12 to or by any Party.

13 12.6. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
14 represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate
15 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its
16 terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement
17 including any amendments to this Agreement.

18 12.7. Cooperation. The Parties and their counsel will cooperate with each other and use their
19 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
20 Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as
21 requested by the Court. In the event the Parties are unable to agree upon the form or content of any
22 document necessary to implement the Settlement, or on any modification of the Agreement that may
23 become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or
24 the Court for resolution.

25 12.8. No Prior Assignments. The Parties separately represent and warrant that they have not
26 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
27 any person or entity and portion of any liability, claim, demand, action, cause of action, or right released
28 and discharged by the Party in this Settlement.

1 12.9. No Tax Advice. Neither Plaintiffs, Class Counsel, Defendants nor Defense Counsel are
2 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as
3 such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as
4 amended) or otherwise.

5 12.10. Modification of Agreement. This Agreement, and all parts of it, may be amended,
6 modified, changed, or waived only by an express written instrument signed by all Parties or their
7 representatives, and approved by the Court.

8 12.11. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
9 the benefit of, the successors of each of the Parties.

10 12.12. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
11 governed by and interpreted according to the internal laws of the state of California, without regard to
12 conflict of law principles.

13 12.13. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
14 this Agreement. This Agreement will not be construed against any Party on the basis that the Party was
15 the drafter or participated in the drafting.

16 12.14. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
17 during Action and in this Agreement relating to the confidentiality of information shall survive the
18 execution of this Agreement.

19 12.15. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal.
20 Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by
21 Defendants in connection with the mediation, other settlement negotiations, or in connection with the
22 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used
23 in any way that violates any existing contractual agreement, statute, or rule of court. Not later than
24 ninety (90) days after the date when the Court discharges the Administrator's obligation to provide a
25 Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy all paper and
26 electronic versions of Class Data received from Defendants unless, prior to the Court's discharge of the
27 Administrator's obligation, Defendants make a written request to Class Counsel for the return, rather
28 than the destructions, of Class Data.

1 12.16. Headings. The descriptive heading of any section or paragraph of this Agreement is
2 inserted for convenience of reference only and does not constitute a part of this Agreement.

3 12.17. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be
4 to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or
5 federal legal holiday, such date or deadline shall be on the first business day thereafter.

6 12.18. Notice. All notices, demands or other communications between the Parties in connection
7 with this Agreement will be in writing and deemed to have been duly given as of the third business day
8 after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

9 To Plaintiffs: MATERN LAW GROUP, PC
10 Matthew J. Matern
11 Mikael H. Stahle
12 Irina A. Kirnosova
13 1230 Rosecrans Avenue, Suite 200
14 Manhattan Beach, California 90266
Telephone: (310) 531-1900
Facsimile: (310) 531-1901
Emails: mmatern@maternlawgroup.com
mstahle@maternlawgroup.com
ikirnosova@maternlawgroup.com

15 To Defendants: JACKSON LEWIS P.C.
16 Eric J. Gitig
17 Michael D. Thomas
18 725 South Figueroa Street, Suite 2500
19 Los Angeles, California 90017
20 Tel: (213) 689-0404
Fax: (213) 689-0430
Telephone: (310) 531-1900
Facsimile: (310) 531-1901
Emails: Eric.Gitig@jacksonlewis.com
Michael.Thomas@jacksonlewis.com

21 12.19. Execution in Counterparts. This Agreement may be executed in one or more counterparts
22 by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be
23 accepted as an original. All executed counterparts and each of them will be deemed to be one and the
24 same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any
25 executed counterpart will be admissible in evidence to prove the existence and contents of this
26 Agreement.

27 12.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
28 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that

1 upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a
2 case to trial under CCP section 583.310 for the entire period of this settlement process.

3 12.21. Plaintiffs' Waiver of Right to Be Excluded. Plaintiffs agree that by signing this
4 Agreement, they will be bound by the terms herein, including the Plaintiffs Release described in
5 Paragraph 5.1 above. Plaintiffs further agree that, upon signing this Settlement Agreement, they will not
6 request to be excluded from this Settlement and that any such request for exclusion by Plaintiffs will be
7 void and of no force or effect.

8
9 Dated: Mar 21, 2023

Kimberly Dimalanta
Kimberly Dimalanta (Mar 21, 2023 10:15 PDT)
Plaintiff KIMBERLY DIMALANTA

10
11
12 Dated: _____

Plaintiff ALMA CRUZ

Defendant NORTH PLAZA RESTAURANT
PARTNERS LLC d/b/a DRAGO CENTRO

13
14
15
16
17 Dated: _____

By: _____
Title: _____

Defendant CELESTINO DRAGO ENTERPRISES,
INC. d/b/a DRAGO BAKERY

18
19
20
21
22 Dated: _____

By: _____
Title: _____

23
24
25 Dated: _____

Defendant CELESTINO DRAGO

26
27 ///

28 ///

1 upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a
2 case to trial under CCP section 583.310 for the entire period of this settlement process.

3 12.21. Plaintiffs' Waiver of Right to Be Excluded. Plaintiffs agree that by signing this
4 Agreement, they will be bound by the terms herein, including the Plaintiffs Release described in
5 Paragraph 5.1 above. Plaintiffs further agree that, upon signing this Settlement Agreement, they will not
6 request to be excluded from this Settlement and that any such request for exclusion by Plaintiffs will be
7 void and of no force or effect.

8
9 Dated: _____ Plaintiff KIMBERLY DIMALANTA
10

11
12 Dated: Mar 20, 2023 
13 Alma Cruz (Mar 20, 2023 14:45 PDT)
14 Plaintiff ALMA CRUZ

15 Defendant NORTH PLAZA RESTAURANT
16 PARTNERS LLC d/b/a DRAGO CENTRO

17 Dated: _____
18 By: _____
19 Title: _____

20 Defendant CELESTINO DRAGO ENTERPRISES,
21 INC. d/b/a DRAGO BAKERY

22 Dated: _____
23 By: _____
24 Title: _____

25 Dated: _____
26 Defendant CELESTINO DRAGO

27 ///

28 ///

1 upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a
2 case to trial under CCP section 583.310 for the entire period of this settlement process.

3 12.21. Plaintiffs' Waiver of Right to Be Excluded. Plaintiffs agree that by signing this
4 Agreement, they will be bound by the terms herein, including the Plaintiffs Release described in
5 Paragraph 5.1 above. Plaintiffs further agree that, upon signing this Settlement Agreement, they will not
6 request to be excluded from this Settlement and that any such request for exclusion by Plaintiffs will be
7 void and of no force or effect.

8
9 Dated: _____ Plaintiff KIMBERLY DIMALANTA
10

11
12 Dated: _____ Plaintiff ALMA CRUZ
13

14 Defendant NORTH PLAZA RESTAURANT
15 PARTNERS LLC d/b/a DRAGO CENTRO

16
17 Dated: 3/20/2023 
18 By: Celestino Drago
19 Title: Partner

20 Defendant CELESTINO DRAGO ENTERPRISES,
21 INC. d/b/a DRAGO BAKERY

22 Dated: 3/20/2023 
23 By: Celestino Drago
24 Title: Owner

25 Dated: 3/20/2023 
26 Defendant CELESTINO DRAGO

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MATERN LAW GROUP, PC



Dated: 3/20/2023

MATTHEW J. MATERN
MIKAEL H. STAHLE
IRINA A. KIRNOSOVA
Attorneys for Plaintiffs
KIMBERLY DIMALANTA and ALMA CRUZ

JACKSON LEWIS P.C.

Dated: _____

ERIC J. GITIG
MICHAEL D. THOMAS
Attorneys for Defendants
NORTH PLAZA RESTAURANT PARTNERS LLC
d/b/a DRAGO CENTRO; CELESTINO DRAGO
ENTERPRISES, INC. d/b/a DRAGO BAKERY; and
CELESTINO DRAGO

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MATERN LAW GROUP, PC

Dated: _____

MATTHEW J. MATERN
MIKAEL H. STAHL
IRINA A. KIRNOSOVA
Attorneys for Plaintiffs
KIMBERLY DIMALANTA and ALMA CRUZ

JACKSON LEWIS P.C.

Dated: 3/20/2023



ERIC J. GITIG
MICHAEL D. THOMAS
Attorneys for Defendants
NORTH PLAZA RESTAURANT PARTNERS LLC
d/b/a DRAGO CENTRO; CELESTINO DRAGO
ENTERPRISES, INC. d/b/a DRAGO BAKERY; and
CELESTINO DRAGO