

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement Agreement”) is made by and between Plaintiff Jesus Ayala and Defendants Wide Open, Inc., Queen Anne Diner LLC, and David Meinert.

DEFINITIONS USED IN SETTLEMENT AGREEMENT

- A. “Action” means the lawsuit entitled *Jesus Ayala v. Wide Open, Inc., et al.*, Case No. 22-2-04873-5 SEA (King County Superior Court).
- B. “Complaint” means the Class Action Complaint filed by Plaintiff on April 5, 2022, on behalf of himself and all others similarly situated, asserting claims for: (i) failure to pay overtime wages and minimum wages, pursuant to RCW 49.46 et seq.; (ii) willful withholding of wages, pursuant to RCW 49.52.050; (iii) failure to provide proper rest and meal periods, pursuant RCW 49.12.020, WAC 296-126-092, and SMC Sec. 14.20.020; (iv) attorneys’ fees and costs, pursuant to RCW 49.46.090, 49.48.030, 49.52.070; and (v) prejudgment interest.
- C. “Court” means the King County Superior Court.
- D. “Defendants” means Wide Open, Inc., Queen Anne Diner LLC, and David Meinert, the Defendants in the Action.
- E. “Defendants’ Counsel” means the law firm Littler Mendelson, P.C.
- F. “Final Approval Date” means the date on which the Final Approval Order is entered in this matter.
- G. “Final Approval Hearing Date” means the date set by the Court for the hearing on final approval of the settlement embodied in this Settlement Agreement.
- H. “Final Approval Order” means the Court order granting final approval of the Settlement Agreement.
- I. “Final Judgment” means an order rendered by the Court that enters judgment disposing of all issues raised in this Action consistent with the Final Approval Order.
- J. “Maximum Settlement Payment” means \$325,000. This payment is all inclusive of Defendants’ financial obligations under this Settlement Agreement. Any reduction of attorneys’ fees, costs, or payments to Jesus Ayala by the Court will reduce the Maximum Settlement Payment. The full amount of the Maximum Settlement Payment will only be paid if sufficient Settlement Class Members submit written claims to exhaust the amount allocated to Settlement Class Payments, and the Court does not reduce attorneys’ fees, costs, or payments to Jesus Ayala.

- K. “Named Plaintiff” or “Plaintiff” means Jesus Ayala, the Plaintiff in the Action.
- L. “Net Settlement Class Fund” means the portion of the Maximum Settlement Payment that is allocated to satisfy the claims of Participating Settlement Class Members (i.e., \$200,000). The full amount of the Net Settlement Class Fund will only be paid if sufficient Settlement Class Members submit written claims to exhaust the amount allocated to Settlement Class Payments.
- M. “Participating Settlement Class Members” means any Settlement Class Member who is bound by the Final Judgment. All Settlement Class Members are automatically deemed Participating Settlement Class Members unless the Settlement Class Member submits a timely request for exclusion as detailed in the Settlement Class Notice.
- N. “Parties” means the Plaintiff and the Defendants in the Action.
- O. “Preliminary Approval Date” means the date on which the Court enters its Preliminary Approval Order.
- P. “Preliminary Approval Order” means an order rendered by the Court preliminarily approving this Settlement Agreement.
- Q. “Released Claims” means those claims included in the release of claims set forth in Section 2 of this Settlement Agreement.
- R. “Released Parties” means (i) Defendants Wide Open, Inc. and Queen Anne Diner LLC, their affiliated entities, and benefit plans, (ii) each of the past and present officers (including, without limitation, David Meinert), elected officials, directors, agents, equity holders, members, employees, consultants, representatives, administrators, fiduciaries, and attorneys of the entities and plans described in this sentence, and (iii) the predecessors, successors, transferees, and assigns of each of the persons and entities described in this sentence.
- S. “Settlement Administrator” means any settlement administrator mutually agreed upon by the Parties.
- T. “Settlement Class” and “Settlement Class Member” means “all individuals currently or formerly employed by David Meinert, Wide Open, Inc., or Queen Anne Diner LLC in the State of Washington and paid on an hourly basis during the Settlement Class Period.”
- U. “Settlement Class Counsel” means the law firms Entente Law PLLC and Skidmore | Fomina, PLLC.

- V. “Settlement Class Notice and Claim Form” means the document, substantially in the form attached to this Settlement Agreement as **Exhibit A**, which will be sent to Settlement Class Members following preliminary approval of the Settlement Agreement.
- W. “Settlement Class Payments” means payments to Participating Settlement Class Members who submit valid, timely written claims as specified in Section 3.G.
- X. “Settlement Class Period” means the period of time from April 5, 2019, to entry of judgment.
- Y. “Settlement Class Representative Award” means the proposed payment specified below in Section 8.B.
- Z. “Settlement Effective Date” means the date by which the Settlement Agreement is finally approved as provided in Section 3.H below and the Court’s Final Judgment becomes final. For purposes of this subsection, the Court’s Final Judgment “becomes final” after the later of (i) 30 days after entry of the Final Approval Order, if no appeal of that Order is filed, or (ii) the date the Court’s Final Approval Order becomes final and binding after final resolution of any appeals.

RECITALS

WHEREAS, Plaintiff filed the Complaint in this Action, seeking the relief set forth in the Definitions section above; and

WHEREAS, Settlement Class Counsel has conducted a thorough investigation into the facts of the Complaint and the Settlement Class Members’ claims against Defendants; and

WHEREAS, the Parties have engaged in extensive settlement discussions, including a full day mediation on December 14, 2022, to discuss a possible resolution of this matter; and

WHEREAS, it is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims for wages that have been alleged in the Action or that arise out of the circumstances alleged in the Complaint, including federal and state claims, and all related retaliation claims, during the Settlement Class Period;

NOW, THEREFORE, in consideration of the mutual covenants, promises, and warranties set forth herein, the Parties agree, subject to the Court’s approval, as follows:

TERMS OF SETTLEMENT AGREEMENT

1. **Non-Admission of Liability.** The Parties enter into this Settlement Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation. Based on their own independent investigation and evaluation, Settlement Class Counsel are of the opinion that this settlement with Defendants for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable,

adequate, and in the best interest of Plaintiff and the Settlement Class Members in light of all facts and circumstances, including the risk of significant delay of recover due to the litigation process and defenses asserted by Defendants. In entering into this Settlement Agreement, Defendants and Released parties do not admit, and specifically deny, that they have: violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any contract; or engaged in any other unlawful conduct with respect to any person or entity. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendants or the Released Parties of any such violation(s) or failure(s) to comply with any applicable law, who expressly deny any liability, wrongdoing, impropriety, responsibility, or fault whatsoever. In addition, and also without limiting the generality of the foregoing, nothing about this Settlement Agreement shall be offered or construed as an admission or evidence of the propriety or feasibility of certifying a class in the Action or any other action for adversarial, rather than settlement purposes.

2. **Consideration and Release of Claims.**

A. ***Limited Release.*** In consideration for Defendants' payments as set forth in this Settlement Agreement, upon the Final Approval Date (and except as to such rights or claims as may be created by this Settlement Agreement) the Named Plaintiff and all Participating Settlement Class Members, shall fully, finally, and forever release, settle, compromise, relinquish, and discharge any and all of the Released Parties from any and all claims, debts, penalties, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, losses, fines, liens, interest, restitution, actions, or causes of action for wages, of whatever kind or nature, whether known or unknown, that were alleged in the Action or could have been alleged in the Action arising out of the facts or circumstances alleged in the Action during the Settlement Class Period, and including federal and state claims, and all related retaliation claims. The claims released by the Participating Settlement Class Members include but are not limited to all claims for the following: any claims for failure to pay minimum wages or overtime wages, or otherwise for failing to pay for all time worked, under the federal Fair Labor Standards Act and Washington state's wage and hour laws, including common law, statutes (including without limitation Chapters 49.12, 49.46, 49.48 and 49.52 RCW), regulations (including without limitation Chapters 296-126 and 296-128 WAC), and ordinances and local laws (including without limitation the Seattle Municipal Code); any related retaliation claims; any claims for failure to make full and timely payment of wages under such laws; any claims related to any of the foregoing for liquidated, exemplary, or punitive damages or penalties; any claims related to any of the foregoing for equitable relief (including injunctive or declaratory relief); and any claims related to any of the foregoing for prejudgment interest and attorneys' fees and costs. The Participating Settlement Class Members likewise covenant not to sue the Released Parties with respect to any of the claims the Participating Settlement Class Members have released.

- B. **General Release.** Further and in addition, in consideration for separate and additional payments made to Plaintiff as set forth in Section 8.D, upon the Final Approval Date (and except as to such rights or claims as may be created by this Settlement Agreement), Plaintiff, individually and on behalf of his respective marital communities, hereby releases all Released Parties, from any and all claims, debts, penalties, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, losses, fines, liens, interest, restitution, actions, or causes of action of whatever kind or nature, whether known or unknown, except for any pending claims with the Washington Department of Labor and Industries. Plaintiff likewise covenants not to sue the Released Parties with respect to any of the claims Plaintiff has released.
3. **Court Approval, Notice, and Claims Submission.** This Settlement Agreement is contingent on approval by the Court. The Parties shall jointly recommend to the Court that it approve the terms of this Settlement Agreement. The Parties shall undertake their best efforts, including all steps and efforts contemplated by this Settlement Agreement, and any other steps or efforts which may become necessary by order of the Court (unless such order modifies the terms of this Settlement Agreement) or otherwise, to carry out this Settlement Agreement, including the following:
- A. **Preliminary Approval.** Plaintiff shall file a motion for preliminary approval after this Settlement Agreement is fully executed. Defendants will not oppose the motion as long as they have been given the opportunity to review the draft as provided herein and the motion is consistent with this Settlement Agreement. Plaintiff will provide a draft of the motion to Defendants at least 7 days in advance of filing for review, comment, and approval. The motion shall seek a Preliminary Approval Order that: (i) preliminarily approves the settlement; (ii) certifies the Settlement Class and appoints Plaintiff as Settlement Class Representative and Jim Pizl of Entente Law PLLC and Damien Villarreal and Gregory Skidmore of Skidmore | Fomina PLLC as Settlement Class Counsel for purposes of the settlement only; (iii) schedules a fairness hearing at least 90 days after the Preliminary Approval Order on the question of whether the proposed Settlement Agreement should be finally approved as fair, reasonable, and adequate as to the Settlement Class Members, and whether the application for Settlement Class Counsel's attorneys' fees and cost and the Settlement Class Representative Award should be approved; (iv) approves as to form and content the proposed Settlement Class Notice and Claim Form; and (v) directs the mailing of the Settlement Class Notice and Claim Form by first-class mail to the Settlement Class Members.
- B. **Settlement Class Data.** Within 14 days of the Preliminary Approval Order, Defendants shall provide to the Settlement Administrator, in a format acceptable to the Settlement Administrator, to the extent the data is available to Defendants, each Settlement Class Member's name, last known address, telephone number, and email address. The Settlement Administrator shall update Settlement Class Data addresses using the National Change of Address database and other available resources deemed suitable by the Settlement Administrator, and, to the extent this

process yields an updated address, that updated address shall replace the last known address and be treated as the new last known address for purposes of this Settlement Agreement and for any subsequent mailings required to effectuate the terms of this Settlement Agreement. The Settlement Administrator shall: (i) provide reasonable and appropriate administrative, physical, and technical safeguards for any personally identifiable information (“PII”) that it receives from Defendants; (ii) not disclose the PII to Settlement Class Counsel, Named Plaintiff, any party or third parties, including agents or subcontractors, without Defendants’ consent and keep PII confidential; (iii) not disclose or otherwise use the PII other than to carry out its duties as set forth herein; and (iv) promptly provide Defendants with notice if PII is subject to unauthorized access, use, disclosure, modification, or destruction.

- C. **Settlement Class Notice.** Within 30 days of entry of the Preliminary Approval Order, Settlement Administrator shall send the Settlement Class Notice and Claim Form to each Settlement Class Member by first-class mail or such other forms of notice specified in the Preliminary Approval Order.
- D. **Verification.** The Settlement Administrator will provide lists of the mailing addresses used, returned notices, revised addresses, and submitted Claim Forms to Settlement Class Counsel for verification purposes.
- E. **Settlement Class Members’ Right to Exclude Themselves from the Settlement Class or Object to the Settlement.** As described in the Settlement Class Notice, Settlement Class Members may exclude themselves from the Settlement Class or object to the Settlement Agreement, by submitting their written request for exclusion (opt out) or objection no later than 30 days from the date of mailing of the Settlement Class Notice and Claim Form.
 - i. **Exclusion.** Any Settlement Class Member other than Plaintiff may elect to be excluded. To be effective, any such election must be made in writing; must contain the information specified in the Notice; and must be mailed to counsel for the Parties and postmarked on or before the deadline set forth in the Settlement Class Notice. The date of the postmark on the mailing envelope shall be the exclusive means to determine whether a request for exclusion is timely. Any Settlement Class Member who is eligible to opt out and who timely requests exclusion in compliance with these requirements shall thereafter not be considered to be a Participating Settlement Class Member, shall not have any rights under this Settlement Agreement, shall not be entitled to receive any settlement payment, and shall not be bound by this Settlement Agreement or the Final Judgment.
 - ii. **Objection.** Any Participating Settlement Class Member other than Plaintiff may object to this Settlement Agreement, provided that such objections are made in writing filed with the Court and served on counsel for the Parties no later than the deadline set forth in the Settlement Class Notice. Such objection shall include the information specified in the Settlement Class

Notice. No Settlement Class Member may be heard at the Final Approval Hearing who has not complied with this requirement, and any Settlement Class Member who fails to comply with this requirement will be deemed to have waived any right to object and any objection to the Settlement Agreement. Any Settlement Class Member who intends to appear at the Final Approval Hearing shall so announce in the Settlement Class Member's written objection.

- iii. ***Effect of Taking No Action.*** Except for those Settlement Class Members who exclude themselves in compliance with the foregoing, all Settlement Class Members will be deemed to be members of the class in the Action for all purposes under this Settlement Agreement, the Final Approval Order, the Final Judgment, and the releases set forth in this Settlement Agreement and, unless they have timely asserted an objection to this Settlement Agreement, shall be deemed to have waived all objections and opposition to its fairness, reasonableness, and adequacy. Except to the extent a Settlement Class Member presents a timely objection to this settlement pursuant to the procedures set out above, the Settlement Class Members and Plaintiff waive their right to seek any form of appellate review over any order or judgment that is consistent with the terms of this Settlement Agreement.
 - iv. ***Obligations of Parties and Counsel.*** Neither Plaintiff, Settlement Class Counsel, Defendants' Counsel, nor any person on their behalf, shall seek to solicit or otherwise encourage anyone to exclude themselves as a Settlement Class Member, object to the Settlement Agreement, refrain from submitting a claim, or appeal from any order of the Court that is consistent with the terms of this Settlement Agreement, or discourage participation in the settlement. Upon receipt, counsel for the Parties shall promptly exchange with one another copies of all objections, exclusions, and/or challenges to the settlement or any part thereof.
 - v. ***Obligations of Settlement Administrator.*** The Settlement Administrator will provide a declaration of due diligence, proof of mailing and publication of the Settlement Class Notice, and records of any exclusions or objections to Settlement Class Counsel and Defendants' Counsel within 14 days after the deadline for exclusion/objection.
- F. ***Claims Submission.*** Participating Settlement Class Members will have 30 days from the date of mailing of the Settlement Class Notice and Claim Form to submit a completed Claim Form, which must be postmarked, emailed, or otherwise received on or before the deadline. If the Settlement Administrator has to run a skip trace and send the Settlement Class Notice and Claim Form to a second address or different email address, the 30 days to submit a claim will run from the date of mailing of the Settlement Class Notice and Claim Form to the second address or sending to the different email address. To submit a valid, timely claim, a

Participating Settlement Class Member must (i) provide complete and accurate information on the Claim Form in writing, via email, or online (if an online process is implemented); (ii) verify his or her identity by providing a copy of a current government-issued photo identification, such as a driver's license or passport; (iii) provide a current IRS Form W-9; and (iv) provide the required information by the deadline.

- G. ***Final Approval.*** On the date established in the Preliminary Approval Order, Settlement Class Counsel shall file a motion for final approval of the Settlement Agreement, an order awarding a Settlement Class Representative Award to Plaintiff, and an order awarding fees and costs to Settlement Class Counsel. Defendants shall not oppose these motions, *provided that* it has been given the opportunity to review the draft as provided herein and it is consistent with this Settlement Agreement; Plaintiff seeks no more than \$7,500 as a Settlement Class Representative Award to Plaintiff; no more than \$12,500 to Plaintiff for his General Release; and no more than \$120,000 as payment to Settlement Class Counsel for attorneys' fees and actual litigation expenses not to exceed \$5,000, to be paid from the Maximum Settlement Payment. Plaintiff will provide a draft of the motion to Defendants at least 7 days in advance of filing for review, comment, and approval. The motion shall seek a Final Approval Order that: (i) finally approves the Settlement Agreement as fair, adequate, and reasonable, and directs consummation of its terms and provisions; (ii) approves Settlement Class Counsel's application for an award of attorneys' fees and costs; and (iii) dismisses this Action on the merits and with prejudice and permanently bars all Participating Settlement Class Members from prosecuting against the Released Parties any individual or class claims that are released by this Settlement Agreement.

4. **Termination of Settlement Agreement.**

- A. ***Non-Approval by Court.*** Failure of the Court to grant preliminary or final approval of the Settlement Agreement (after reasonable opportunity for the Parties to cure such problems as may initially prevent the Court from granting such approval) will be grounds for the Parties to terminate this Settlement Agreement. A failure of the Court to approve any material term or aspect of this Settlement Agreement shall render the entire settlement voidable and unenforceable as to all Parties herein at the option of the party adversely affected thereby. Each party may exercise its option to void this settlement as provided in this paragraph by giving notice, in writing, to the other and to the Court at any time prior to final approval of the Settlement Agreement by the Court.
- B. ***Defendants' Option.*** Defendants have the option to void the settlement if the number of Settlement Class Members choosing to opt out of the Settlement Agreement exceeds 10% of the total number of Settlement Class Members or 10% of the total value of claims. If Defendants choose to exercise this option, they must give notice, in writing, to Settlement Class Counsel within 14 days of the opt-out deadline.

- C. ***Attorneys' Fees and Payments to Plaintiff.*** The Court's determination regarding whether and in what amounts to award attorneys' fees and costs to Settlement Class Counsel and Settlement Class Representative Award payment to Jesus Ayala shall not be grounds for terminating the Settlement Agreement or otherwise affect the enforceability of the Settlement Agreement.
- D. ***Effect of Termination.*** In the event that this Settlement Agreement is not approved by the Court, fails to become effective for any reason, or is reversed, withdrawn, or modified by the Court or any other court with jurisdiction over the Action, the Settlement Agreement shall become null and void *ab initio* and shall have no force or effect; all negotiations, statements, and proceedings related thereto shall be without prejudice to the rights of any party, all of whom shall be restored to their respective positions in the Action prior to the settlement; and neither this Settlement Agreement nor any ancillary documents, actions, or filings shall be admissible or offered into evidence in the Action or any other action for any purpose.
5. **Mutual Full Cooperation.** The Parties agree to cooperate fully with each other to accomplish the terms of this Settlement Agreement, including but not limited to, executing such documents and taking such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties further agree to cooperate fully and use their best efforts to obtain the Court's preliminary and final approval of this Settlement Agreement and all the terms herein.
6. **Representation by Settlement Class Counsel.** Settlement Class Counsel represent that through the date they execute this Settlement Agreement, they did not represent and have not represented any current or former employee of Defendants who would not be covered by this Settlement Agreement.
7. **Confidentiality and Publicity.** Settlement Class Counsel and Plaintiff agree to keep the amount of the settlement confidential. Plaintiff and his counsel will not initiate public relations nor respond to press or the media regarding the settlement. This includes that Plaintiff's counsel will not announce or discuss the settlement on their websites or on any social media or email list-serve. Plaintiff and his counsel may describe the proposed settlement in response to requests for information from putative or settlement class members.
8. **Settlement Payments.** Within 14 days after the Settlement Effective Date, Defendants shall deposit the Gross Settlement Amount into a Qualified Settlement Fund established by the Settlement Administrator. The Settlement Administrator shall distribute these funds only as directed by Settlement Class Counsel and Defendants' Counsel and as allowed under the Court's Final Approval Order and Final Judgment. Subject to Court approval, the Gross Settlement Amount shall be allocated as follows:
- A. ***Attorney's Fees and Litigation Costs.*** The Settlement Administrator shall distribute to Settlement Class Counsel, within 30 days after the Settlement Effective

Date, the amount awarded by the Court as compensation for attorneys' fees and costs in accordance with the Court's Final Approval Order and Final Judgment. Defendants shall issue an appropriate IRS Form 1099 for this payment.

- B. ***Settlement Class Representative Awards.*** The Settlement Administrator shall distribute to Plaintiff, within 30 days after the Settlement Effective Date, the amount awarded by the Court to Plaintiff as Settlement Class Representative Award. Defendants shall issue an appropriate IRS Form 1099 for these payments.
- C. ***Settlement Administration Expenses.*** At the direction of Settlement Class Counsel and Defendants' Counsel, the Settlement Administrator shall distribute to itself, within 30 days after the Settlement Effective Date, the amount approved by the Court as the reasonable expenses of settlement administration.
- D. ***Named Plaintiff Payment for General Release.*** The Settlement Administrator shall distribute to Plaintiff, within 30 days after the Settlement Effective Date, in exchange for his General Release (set forth in Section 2.B above), \$12,500 to Jesus Ayala. Defendants shall issue an appropriate IRS Form 1099 for these payments.
- E. ***Payments to Participating Settlement Class Members.***
 - a. ***Claims-Made Settlement.*** The settlement is a claims-made settlement, meaning that Settlement Class Payments will be paid only upon submission of timely, valid written claims by Participating Settlement Class Members as described in Section 3.G. Any portion of the Net Settlement Fund that is either not claimed or is attributable to a settlement check that was issued but not cashed within 180 days, shall remain the property of Defendants. As this is a claims-made settlement, there will be no reversion.
 - b. ***Settlement Class Payments.*** The Settlement Administrator shall, within 30 days after the Settlement Effective Date, distribute to each Participating Settlement Class Member who submits a written claim according to that individual's calculated share of the Net Settlement Class Fund. The Settlement Class Payment payable to any Participating Settlement Class Member will be 50% of that individual's pro rata share of Settlement Class Counsel's damages calculation; provided that if the claims made exceed the available Net Settlement Class Fund on that basis, each Settlement Class Payment will be reduced on a pro rata basis so as not to exceed the Net Settlement Class Fund. The calculation for Settlement Class Payments will be prepared by Settlement Class Counsel using the agreed-upon formula, subject to review and approval by Defendants' Counsel. By way of example only, if Settlement Class Counsel determines – and the Court approves – that \$200,000 of the Maximum Settlement Payment is to be allocated for distribution to the approximately 156 Settlement Class Members, Settlement Class Counsel's would apply the agreed-upon formula to determine the portion of the \$200,000 that would be paid to each Settlement

Class Member assuming that every Settlement Class Member chose to submit a written claim, subject to the 50% target set forth above. If 78 Settlement Class Members make a claim and the formulated payments to those settlement class members is \$120,000, Defendants would pay the \$120,000 in Class Settlement Payments directly to those Settlement Class Members who made written claims. Defendants would not pay anything to the 78 Settlement Class Members who did not make a written claim.

c. ***Tax Treatment and Reporting.*** For tax and withholding purposes, Settlement Class Payments shall be treated as follows: 50% shall be deemed to be wage payments to be reported on an IRS Form W-2 and 50% shall be deemed to be non-wage payments and Defendants shall issue appropriate IRS Forms 1099 (reported as “Other Income”). Defendants shall have no responsibility or liability for any federal or state taxes owed in connection with the payments made in connection with this Settlement. Any employer payroll taxes owed will be paid out of the Maximum Settlement Payment.

F. ***No Effect on Other Benefits.*** Defendants will not use any payments from the Maximum Settlement Payment to calculate any benefits, including, for example (but without limitation), vacation, holiday pay, pension, or 401(k) plan contributions. Any payments from the Maximum Settlement Payment do not represent any modification of previously credited hours of service or other eligibility criteria under any pension or welfare benefit plan sponsored by Defendants. Nor is any payment from the Maximum Settlement Payment compensation for purposes of determining eligibility for, or benefit accrual within, a pension plan, welfare benefit plan, or other plan sponsored by Defendants or any of the Released Parties.

G. ***Conditions Precedent.*** The timelines in this Section 8 presume that the deadline for Settlement Class Members to submit written claims will occur prior to the Court’s Final Approval Order. If the deadline for Settlement Class Members to submit written claims is after the Court’s Final Approval Order, the Parties will agree upon an alternative timeline that will provide Defendants a reasonable and adequate opportunity to process Settlement Class Payments.

9. **Enforcement Actions.** The Court shall have continuing jurisdiction over the terms and conditions of this Settlement Agreement until all payments and obligations contemplated by the Settlement Agreement have been fully carried out. In the event that one or more of the Parties to this Settlement Agreement institutes any legal actions or proceedings to enforce or implement the provisions of this Settlement Agreement, the successful party or parties shall be entitled to recover from the unsuccessful party or parties’ reasonable attorneys’ fees and costs, including expert witness fees incurred in connection therewith.

10. **Captions and Interpretations.** Section 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 Settlement Agreement or any provision hereof. Each term of this

Settlement Agreement is contractual and not merely a recital. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms-length negotiations between the Parties facilitated by an experienced employment law mediator and that this Settlement Agreement shall not be construed in favor of or against any party by reason of the extent to which any party or his, her or its counsel participated in the drafting of this Settlement Agreement.

11. **Modification.** This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and, if changed after the Preliminary Approval Order, approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.
12. **Entire Agreement.** This Agreement constitutes the entire and integrated agreement between the Parties with respect to the settlement of the Action, and all other prior and contemporaneous agreements, representations, warranties, or understandings of the Parties are superseded and merged into this Settlement Agreement.
13. **No Reliance.** The Parties acknowledge that they have not relied on any promise, representation or warranty, express or implied, not contained in this agreement.
14. **Assignments.** This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, and successors. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or rights herein released and discharged except as set forth herein.
15. **Class Counsel Signatories.** It is agreed that because the Settlement Class Members are so numerous, it is impossible or impractical to have each Settlement Class Member execute this Settlement Agreement. The Settlement Class Notice will advise all Settlement Class Members of the binding nature of the release and such shall have the same force and effect as if this Settlement Agreement were executed by each Settlement Class Member.
16. **Execution in Counterparts.** This Settlement Agreement may be signed in one or more counterparts, including by copies transmitted via facsimile or electronic delivery. Upon a party's execution of a counterpart, that counterpart shall be deemed an original, and all signed counterparts shall together constitute one Settlement Agreement. A facsimile signature shall have the same force and effect as the original signature, if and only if it is transmitted from counsel for one party to the other. Such transmissions shall be interpreted as verification by the transmitting counsel that the signature is genuine and that the party signing has authorized and reviewed the agreement. All executed copies of this Settlement Agreement and copies thereof shall have the same force and effect and shall be as legally binding and enforceable as the original.

17. **Dispute Resolution.** In the event of a dispute between the Parties concerning the drafting or substantive terms of the Settlement Agreement, the Final Judgment, or other settlement documentation, the Parties agree that such a dispute shall be submitted for arbitration to Cliff Freed whose decision shall be final, binding, and not subject to further review or appeal of any kind. The Parties shall equally share the costs of any such arbitration proceeding. The Parties shall bear their own attorneys' fees and costs incurred in such an arbitration proceeding, subject to the arbitrator's authority to award a reasonable amount of attorneys' fees and costs if the arbitrator determines that a party's position is frivolous.

IN WITNESS WHEREOF, the undersigned have duly executed this Settlement Agreement as of the date indicated below:

Individually And On Behalf Of His Marital Community,

Dated: 5/31/2023

By: Jesus Ayala
Jesus Ayala, Plaintiff


Individually And On Behalf of Wide Open, Inc. and Queen Anne Diner LLC,

Dated: _____

By: _____
David Meinert, Defendant

Settlement Class Counsel,

Dated: 6/6/2023

By: 
Gregory Skidmore
Skidmore | Fomina PLLC

Defendants' Counsel,

Dated: _____

By: _____
Ryan Hammond
Littler Mendelson, P.C.