

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

RYMEL LEONARD AND CHAUNDA LEE, on behalf
of themselves and all others similarly situated,

Plaintiff,

- against -

PCR STORE 501, LLC,

Defendant.

Index No. 803549/2022E

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (“Agreement”) is entered into by and between, on the one hand, Plaintiffs Rymel Leonard and Chaunda Lee (“Named Plaintiffs”), individually and on behalf of a class of individuals they seek to represent (the “Settlement Class,” as hereinafter defined) and, on the other, Defendant PCR STORE 501, LLC, and any other related entities (collectively “Defendant”) (individually each is a “Party,” collectively the “Parties”).

RECITALS AND BACKGROUND

A. **WHEREAS**, Plaintiffs filed a Class Action Complaint on March 8, 2022, against Defendant in New York State Supreme Court, New York County (the “Action”). On August 16, 2024, Plaintiff filed an Amended Class Action Complaint;

B. **WHEREAS**, since the Action’s filing, the Parties, through their counsel have engaged in informal discovery exchange and participated in arms-length negotiations for more than one-year. The negotiations resulted in a settlement in principle on February 2, 2024, which is superseded by this Agreement;

C. **WHEREAS**, Defendant has denied and continues to deny all of the allegations made in the Action, or any violations of the New York Labor Law, and further has denied and continues to deny that it is liable or owes damages to anyone with respect to the allegations or causes of action asserted in the Action. Nonetheless, for the purpose of convenience and to avoid the costs and fees associated with litigation, and without admitting any wrongdoing or liability, Defendant has agreed to settle the Action in accordance with this Agreement, and solely for purposes of settlement, to the dissemination of a notice of settlement pursuant to CPLR Article 9 to the Settlement Class (defined below).

D. **WHEREAS**, the purpose of this Agreement is to settle fully and finally all claims among the Named Plaintiffs, the Class Members, and the Defendant, including all claims asserted in the Action, in order to avoid the burden, expense, and uncertainty of continuing the Action.

E. **WHEREAS**, Class Counsel (as hereinafter defined in Section 1.4) has analyzed and evaluated the merits of the claims made against Defendant and the impact of this Agreement on Named Plaintiffs and the Settlement Class. Based upon his analysis and evaluation of a number of factors, Named Plaintiffs and Class Counsel recognize the substantial risks of continued litigation, including the possibility that the Action, if not settled now, might not result in any recovery whatsoever, or might result in a recovery that is less favorable and that would not occur for several years. Named Plaintiffs and Class Counsel are satisfied that the terms and conditions of this Agreement are fair, reasonable, and adequate and that this Agreement is in the best interest of Named Plaintiffs and the Settlement Class.

F. **WHEREAS**, Named Plaintiffs and Defendant, by and through their respective counsel, have engaged in significant and lengthy settlement discussions (including the exchange of class wide data) in connection with the resolution of the Action. Named Plaintiffs, the Settlement Class, and Defendant – subject to the approval of the Court – have elected to settle the Action pursuant to the terms set forth in this Agreement, which shall be submitted to the Court for approval through the mechanisms set forth herein.

NOW THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement, as well as the good and valuable consideration provided for herein, the receipt and sufficiency of which is hereby acknowledged, the Parties, having been represented by competent and experienced employment counsel and intending to be legally bound, agree to a full and complete settlement of the Action.

(The foregoing “whereas” clauses are true and correct and incorporated by reference as part of this Agreement.)

1. **DEFINITIONS**

The defined terms set forth in this Agreement have the meanings ascribed to them below.

- 1.1 **“Acceptance Period”** means the sixty (60) day period beginning from the date of the first mailing of the Notice and Claim Form, during which a Class Member can submit a Claim Form and applicable tax forms to receive a Settlement Check.
- 1.2 **“Authorized Claimant”** means each Class Member, or the authorized legal representative of such Class Member, who timely files a valid Claim Form (and applicable tax forms) in accordance with the terms of this Agreement, and who is therefore entitled to receive a Settlement Check.
- 1.3 **“Claim Form”** means the form, a copy of which is attached to the Notice of Settlement of Class Action Lawsuit, that a Class Member must sign and return together with applicable tax forms during the Notice Response Deadline to become an Authorized Claimant.

- 1.4 **“Class Counsel”** means James Bouklas, Esq. and Mark Gaylord, Esq. of Bouklas Gaylord LLP, 357 Veterans Memorial Highway, Commack, New York 11725.
- 1.5 **“Class List”** means a list in electronic format, preferably Excel, that includes (to the extent known to Defendant) the names, last known addresses, phone number, last four digits of Social Security Number, and number of weeks worked during the Settlement Period for each respective Class Member.
- 1.6 **“Costs and Fees”** means, collectively, Class Counsel’s attorney’s fees, costs, and expenses; Settlement Claims Administrator costs and fees; and the Service Award.
- 1.7 **“Court”** means the Supreme Court of the State of New York, Bronx County.
- 1.8 **“Days”** means business days if the specified number is fewer than ten (10), and calendar days if the specified number is ten (10) or greater.
- 1.9 **“Defendant”** means PCR Store 501, LLC, and any related entities.
- 1.10 **“Defendant’s Counsel”** means Lauren Marcus, Esq., Littler Mendelson, P.C., 108 Raymond Blvd, One Newark Center, 8th Floor, Newark, New Jersey 07102.
- 1.11 **“Fairness Hearing”** means the hearing scheduled at the Court’s discretion relating to the Motion for Final Approval, unless otherwise scheduled by the Court without the filing of a motion.
- 1.12 **“Final Approval Order”** means the Order entered by the Court after the Fairness Hearing approving the terms and conditions of this Agreement.
- 1.13 **“Final Effective Date”** means the first date after all of the following have occurred: (1) the Court has entered the Final Approval Order, and (2) the judgment and the rulings on the Motion for Final Approval Order have become final, meaning the time periods for seeking rehearing, reconsideration, appellate review and/or an extension of time for seeking appellate review have expired and there have been no such actions sought, or if rehearing, reconsideration, appellate review, and/or an extension of time for seeking appellate review is sought, thirty (30) days after any and all avenues of such review have been exhausted and there has been no modification of the judgment.
- 1.14 **“Final Settlement Amount”** means the sum of the Settlement Checks to be issued to the Authorized Claimants plus all Court-approved Costs and Fees.
- 1.15 **“Gross Settlement Fund”** means Ninety Thousand Dollars and Zero Cents (\$90,000.00), an amount to be used for allocation and calculation purposes that represents the maximum amount that Defendant could pay for complete and final resolution of the Action inclusive of any and all amounts to be paid to the Class, the Reserve Fund, and Costs and Fees.

- 1.16 “Individual Settlement Allocation”** means the amount allocated to each Authorized Claimant pursuant to Section 3.5(C).
- 1.17 “Motion for Preliminary Approval”** means Named Plaintiffs’ anticipated motion, with supporting documents and materials, for the Court’s preliminary approval of the settlement.
- 1.18 “Motion for Final Approval”** means Named Plaintiffs’ anticipated motion, with supporting documents and materials, for the Court’s final approval of the settlement.
- 1.19 “Net Settlement Fund”** means the Gross Settlement Fund minus Costs and Fees that are preliminarily approved by the Court.
- 1.20 “Notice”** means the Court-approved Notice of Settlement of Class Action Lawsuit as authorized in the Preliminary Approval Order.
- 1.21 “Notice Response Deadline”** means the last day of the Acceptance Period in which Class Members can timely complete and submit their Claim Form (and corresponding tax form), object to, or opt-out of the settlement.
- 1.22 “Objector”** means an individual Class Member who timely and properly files an objection to this Agreement.
- 1.23 “Opt-out Statement”** means the written, signed statement that an individual Class Member submits indicating he or she has elected to exclude him or herself (“opt-out”) from the settlement.
- 1.24 “Order Granting Preliminary Approval” (“Preliminary Approval Order”)** means the Order entered by the Court preliminarily: (i) certifying the Settlement Class; (ii) approving the terms and conditions of this Agreement; (iii) appointing Bouklas Gaylord LLP as Class Counsel; (iv) directing the manner and timing of providing Notice to the Settlement Class; and (v) setting the dates and deadlines for effectuating the settlement, including date of the mailing of Notice, the Notice Response Deadline, and the date of the Fairness Hearing, among other things.
- 1.25 “Qualified Settlement Fund” (“QSF”)** means the account established and controlled by the Settlement Claims Administrator for the purposes of retaining and distributing the Final Settlement Amount in accordance with this Agreement. The QSF will be controlled by the Settlement Claims Administrator subject to the terms of this Agreement.
- 1.26 “Release”** shall mean the release of claims, as specified herein, to which all Class Members who do not opt-out from the settlement bind themselves.
- 1.27 “Released Class Claims”** means any and all New York State and local law claims, obligations, demands, actions, rights, causes of action and liabilities against Releasees, actually asserted or alleged in the Action and that occur, occurred,

accrue or accrued on any date through the date of the Preliminary Approval Order, namely: (i) claims under the New York Labor Law and its regulations and rules, including the Hospitality Industry Wage Order (Part 146 of Title 12 of the Official Compilation Codes, Rules, and Regulations of the state of New York), and/or any other applicable New York State Wage Order, or under any other legal theory for failure to pay uniform maintenance or failure to reimburse for uniform costs or any allegedly improper unpaid breaks; (ii) and any claims derivative of or based upon the claims in (i) above, namely for unpaid costs, penalties (including late payment penalties), liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief thereto; (iii) claims under N.Y.C. Admin. Code § 20-1221(a), or under any other legal theory for alleged violation of the New York City Fair Workweek Law; (iv) and any claims derivative of or based upon the claims in (iii) above, namely for unpaid costs, penalties (including late payment penalties), liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief thereto,

- 1.28 **“Reserve Fund”** means the fund whereby an amount is set aside within the QSF in case of error or omission to be paid and corrected via the mechanisms outlined in Section 3.1(B).
- 1.29 **“Service Award”** means the portion of the Final Settlement Amount, if any, requested by Named Plaintiffs and approved by the Court as a reasonable incentive award to Named Plaintiffs for representing the interests of the Settlement Class.
- 1.30 **“Settlement Checks”** means checks issued to Authorized Claimants for their Individual Settlement Allocation.
- 1.31 **“Settlement Class” (individually, Class Member)** means Named Plaintiffs and all individuals who were hourly, non-exempt Crew Members, Assistant Managers, Shift Leaders employed by Defendant at Store 501 during the Settlement Period, who do not opt-out.
- 1.32 **“Settlement Period”** means December 1, 2020, through February 2, 2024.
- 1.33 **“Void Date”** means 180 days after the mailing of Settlement Checks.

2. SETTLEMENT APPROVAL AND PROCEDURE

- 2.1 **Settlement Class.** Strictly for purposes of settling the Action, and without admitting any wrongdoing or liability, Defendant will not oppose certification of a class pursuant to CPLR §§ 901 and 902 to include all Class Members as defined in Section 1.31.
- 2.2 **Settlement Claims Administrator.**
 - (A) **Retention.** Within fifteen (15) days after the filing of the Motion for Preliminary Approval as set forth in Section 2.3, the Parties shall engage

CPT (“Settlement Claims Administrator”) to serve as the Parties’ qualified Settlement Claims Administrator.

- (B) **Funding Settlement Claims Administrator.** The Settlement Claims Administrator shall be paid out of the QSF. Defendant shall fund the QSF in accordance with Section 3.1(A), and the Settlement Claims Administrator shall be permitted to draw upon the same immediately upon such deposit. Thereafter, the Settlement Claims Administrator shall be paid its remaining fees for administration of the settlement from the Final Settlement Amount.
- (C) **Responsibilities of Settlement Claims Administrator.** The Settlement Claims Administrator shall be responsible for: (i) printing and disseminating to the Settlement Class the Notice and Claim Forms; (ii) performing a skip trace and resending, within one (1) day of receipt, any Notice and Claim Form returned without a forwarding address, or resending to those with a new forwarding address; (iii) responding to inquiries from the Parties; (iv) monitoring and maintaining a telephone number with telephone answerers until the Notice Response Deadline or the termination of this Agreement, whichever comes first; (v) receiving, retaining, and reviewing each Claim Form submitted by any Class Member; (vi) keeping track of requests for exclusion or objection, including maintaining the original envelope in which the request or objection was mailed; (vii) promptly furnishing to counsel for the Parties copies of any requests for exclusion, objections, or other written or electronic communications from each Class Member that the Settlement Claims Administrator receives; (viii) referring to Class Counsel all inquiries by Class Members or Authorized Claimants regarding matters not within the Settlement Claim Administrator’s duties specified herein; (ix) mailing the Service Award in accordance with this Agreement and the Final Approval Order; (x) preparing, sending and/or wire-transferring Class Counsel’s attorney’s fees, expenses, and costs approved by the Court in the Final Approval Order; (xi) issuing the appropriate tax forms for all amounts paid from the Final Settlement Amount; (xii) responding to inquiries of counsel for the Parties relating to the Settlement Claims Administrator’s duties specified herein; (xiii) promptly apprising counsel for the Parties of the activities of the Settlement Claims Administrator; (xiv) maintaining adequate records of its activities, including the dates of the mailing of Notices and mailing and receipt of Claim Forms, returned mail, and any and all other actual or attempted written or electronic communications with the Settlement Class; (xv) confirming in writing to counsel for the Parties and the Court its completion of the administration of the settlement; (xvi) timely responding to communications from the Parties and their counsel; (xvii) providing all information, documents, and calculations necessary to confirm the Final Settlement Amount; and (xviii) such other tasks as the Parties mutually agree.

- (D) **Access to the Settlement Claims Administrator.** The Parties will have equal access to the Settlement Claims Administrator. Class Counsel and Defendant's Counsel agree to use their best efforts to cooperate with the Settlement Claims Administrator and provide reasonable assistance in administering the settlement.

2.3 Preliminary Approval Motion.

- (A) No sooner than thirty (30) days of complete execution of this Agreement, Class Counsel shall file a Motion for Preliminary Approval with the Court. In connection with the Motion for Preliminary Approval, Class Counsel will submit to the Court: (1) the proposed Notice, (2) the proposed Claim Form (including accompanying tax forms), (3) the proposed Preliminary Approval Order, (4) a fully executed version of this Agreement, and (5) the necessary documents, memorandum, affidavits, and exhibits for the purposes of certifying a Class for settlement purposes under CPLR §§ 901 and 902, and preliminarily approving a settlement. The Motion for Preliminary Approval also will seek the setting of a deadline for individuals to submit Claim Forms, Opt-out Statements and/or object to this Agreement. Counsel for Defendant shall have an opportunity to review and approve drafts of all documents submitted in connection with the Motion for Preliminary Approval for at least ten (10) business days prior to their submission.
- (B) Class Counsel will file the Motion for Preliminary Approval as "unopposed" for settlement purpose only.

2.4 Notice and Claim Forms to Class Members.

- (A) **Class List.** Within thirty (30) days of the issuance of the Preliminary Approval Order, and to the extent not already produced, Defendant's Counsel shall provide the Settlement Claims Administrator and Class Counsel with the Class List, as defined in Section 1.5.
- (B) **Notice.** The Notice will inform the Settlement Class about this settlement and will also advise each Class Member of his or her rights, including their ability to object to, opt-out of, or participate in the settlement. Within fourteen (14) days of the Settlement Claims Administrator's receipt of the Class List as defined in Section 1.5 or as otherwise ordered by the Court, the Settlement Claims Administrator shall mail to each Class Member via First Class Mail the Court-approved Notice and Claim Form.
- (C) **Skip Trace and Remailing.** If a Claim Form is returned as undeliverable, the Settlement Claims Administrator shall take all reasonable steps to obtain a current address, including one skip trace, and shall re-mail the Claim Form to such address. To the extent that Class Counsel is able to obtain better addresses for any Class Member, it shall provide such updated or most

recent addresses to the Settlement Claims Administrator for mailing purposes. The Settlement Claims Administrator shall also mail a Notice and Claim Form to any Class Member who requests them after the initial mailing of Notice and before the Notice Response Deadline. The Settlement Claims Administrator will notify Class Counsel and Defendant's Counsel of any Notices and Claim Forms returned as undeliverable after the first mailing, including those returned as undeliverable after any subsequent mailing. All costs of locating Class Members will be paid from the QSF.

- (D) **Notice Response Deadline.** To be deemed an Authorized Claimant, a Class Member must postmark, email, or fax a signed Claim Form to the Settlement Claims Administrator by the Notice Response Deadline, which shall be (i) sixty (60) days from the date of the initial mailing or as otherwise set by the Court, and (ii) an additional fifteen (15) days later for any Class Member who did not receive the Notice, or was unable to file a timely Claim Form, due to factors such as change of address, military service, hospitalization, or other extraordinary circumstances. However, under no circumstance shall any Claim Form be deemed timely if returned more than seventy-five (75) days after the initial mailing, unless the Parties mutually agree otherwise. If an envelope does not contain a postmark, it shall be deemed received on the date that the Settlement Claims Administrator stamps the envelope or Claim Form as "received."
- (E) **Class Counsels' Communication with Class.** Class Counsel shall not be barred by this Agreement from communicating with Named Plaintiff or from responding to inquiries they receive from members of the Class. To the extent Class Counsel utilizes, directly or indirectly, the Class List to solicit any Class Member to submit a Claim Form or participate in this action in any way, it shall be a material breach of this Agreement. In such a circumstance, Defendant reserves the right to void the Agreement or mandate that Class Counsel be solely responsible for funding the Individual Settlement Allocation for any Class Member solicited, directly or indirectly, by Class Counsel and/or their agents, representatives, or those purporting to act on their behalf. Nothing in this Agreement shall be construed to prevent Defendant from communicating with its employees or responding to inquiries from its employees regarding any matter.

2.5 Opt-outs: Class Members who Opt-out of the Settlement.

- (A) Class Members who elect to opt-out of the settlement as set forth in this Agreement must mail, via First Class United States Mail, postage prepaid, a written, signed statement to the Settlement Claims Administrator that states he or she is opting out of the settlement ("Opt-out Statement"). In order to be valid, the Opt-out Statement must include the name, address, and telephone number of the Class Member, and a statement indicating his or her intention to opt-out. To be effective, an Opt-out Statement must be

postmarked by the United States Postal Service on or before the Notice Response Deadline.

- (B) A Class Member's time to opt-out of the settlement ("Opt-out Period") shall expire following the Notice Response Deadline.
- (C) The Settlement Claims Administrator shall stamp the received date on the original of each Opt-out Statement and send copies of each Opt-out Statement to Class Counsel and Defendant's Counsel not later than three (3) days after receipt. Upon receipt of an Opt-out statement, Class Counsel shall file with the Clerk of the Court stamped copies of any Opt-out Statements not later than seven (7) days after receipt. The Settlement Claims Administrator will, within twenty-four (24) hours of the end of the Opt-out Period, send a final list of all Opt-out Statements to Class Counsel and Defendant's Counsel by both email and overnight delivery. The Settlement Claims Administrator shall retain the stamped originals of all Opt-out Statements and originals of all envelopes accompanying Opt-out Statements in its files until such time as the Settlement Claims Administrator is relieved of its duties and responsibilities under this Agreement.
- (D) Any Class Member who does not timely submit an Opt-out Statement pursuant to this Agreement will be deemed to have accepted the settlement and the terms of this Agreement, will be bound by the Final Approval Order, and will have any Released Class Claims released and dismissed with prejudice.

2.6 Objectors: Authorized Claimants who Object to the Settlement.

- (A) Class Members who wish to present objections to the settlement must first do so in writing and properly file a valid Claim Form by the Notice Response Deadline. To be deemed a valid objection, such statement must be mailed to the Settlement Claims Administrator via First Class United States Mail, postage pre-paid, and postmarked by the United States Postal Service on or before the Notice Response Deadline. The statement must include all reasons for the objection, and any supporting documentation. The statement must also include the name, address, email address, and telephone number of the Class Member making the objection. The Settlement Claims Administrator will stamp the date received on the original and send copies of each objection, supporting documents, as well as a copy of the Notice and Claim Form mailed to the Objector, to Class Counsel and Defendant's Counsel by email delivery no later than three (3) days after receipt of the objection. If the Objector requests in writing to appear at a hearing with the Court to state his or her objection, Class Counsel shall promptly file the date-stamped Objection with the Court. It is in the Court's discretion whether to allow the Objector or Objector's counsel to appear and/or speak at the hearing. If the Court schedules such a

hearing, Class Counsel shall notify the Objector via First Class United States Mail of the date, time, and location of the hearing. The Parties may file with the Court written responses to any filed Objections no later than three (3) days before the hearing. Any reasons for the Objections not included in the written objection shall not be considered by the Court. Any Class Member who has elected to opt-out may not submit objections to the settlement.

- (B) An Objector may withdraw his or her objections at any time.

2.7 List and Calculations.

- (A) No later than thirty (30) days after the Notice Response Deadline, the Settlement Claims Administrator shall certify jointly to Class Counsel and Defendant's Counsel: (a) a list of all Authorized Claimants, (b) a list of all Objectors, and (c) a list of all Class Members who timely submitted an Opt-out Statement. Throughout the period of claims administration, the Settlement Claims Administrator shall provide reports to the Parties upon their request regarding (i) the status of the mailing of the Notices and Claim Forms to Class Members, (ii) the status or progress of the claims administration process, (iii) anticipated or expected distribution of the Settlement Checks, and (iv) any other aspect of the claims administration process. Beginning the second Friday after Notice is mailed to Class Members, the Settlement Claims Administrator shall provide counsel for the Parties a weekly update on the number of Authorized Claimants, Objectors, and Opt-outs.
- (B) No later than thirty (30) days after the Notice Response Deadline, the Settlement Claims Administrator shall provide notice by email to Class Counsel and Defendant's Counsel of the Final Settlement Amount, together with an Excel spreadsheet that designates each Authorized Claimant, his or her Individual Settlement Allocation, and the appropriate totals and calculations to confirm the Final Settlement Amount ("Notice of Final Settlement Amount").

- ## **2.8 Motion for Final Approval and Final Approval.**
- No later than ten (10) days before the Fairness Hearing, Class Counsel shall file with the Court the Motion for Final Approval. At the Fairness Hearing, and in their Motion for Final Approval, the Parties shall request that the Court enter an order (a) approving the settlement and this Agreement as final, fair, reasonable, adequate, and binding on all Authorized Claimants and Class Members that have not timely opted out, (b) dismissing the Action with prejudice, subject to the Court's retention of jurisdiction to oversee enforcement of this Agreement, and (c) permanently enjoining Named Plaintiff and Class Members from pursuing and/or seeking to reopen claims that have been released by this Agreement. Further, at the Fairness Hearing and in the Motion for Final Approval, Named Plaintiff shall seek, and Defendant will not oppose, final certification of the Class for purposes of settlement. Class Counsel

will also seek an award of attorneys' fees and costs and Named Plaintiff will seek a service payment award.

2.9 Default.

- (A) **Notice of Default.** If Defendant fails to make payment as required pursuant to Section 3.1(A), then Class Counsel shall provide notice of such missed payment to Defendant's Counsel, via email ("Notice of Default"). After receipt of the Notice of Default, Defendant shall have fourteen (14) days to cure such default. If such default is not cured within fourteen (14) days of receipt of the Notice of Default ("Default"), then Class Counsel shall be permitted to request relief from the Court, including but not limited to reasonable attorneys' fees and costs associated with applying for such relief.
- (B) The Parties agree that the Court will have continuing jurisdiction over any breach of the Agreement, and that the party that successfully pursues an action for any breach of this Agreement shall be entitled to the reasonable costs, attorneys' fees, and expenses of pursuing such action.

2.10 Termination of Agreement.

- (A) **Effect of Termination or Failure to Obtain Preliminary or Final Approval.** In the event that this Agreement is not approved in its entirety by the Court, or in the event that this Agreement is terminated, cancelled, declared void, or fails to become effective in accordance with its terms, the Parties shall proceed as follows:
 - (1) Defendant shall have no obligation to make any payments provided for by this Agreement, except for such costs already expended or committed to from the QSF, such as costs of administration;
 - (2) This entire Agreement shall be deemed null and void, and its terms and provisions shall have no further force or effect;
 - (3) Neither this Agreement, nor any other related papers, nor the negotiations leading to this Agreement or documents or disclosures shared with Class Counsel outside of discovery in the Action shall be cited to, used, or deemed admissible in any judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue, whether substantive or procedural;
 - (4) The Action shall proceed without prejudice as if this Agreement had not been executed, unless the Parties jointly agree to seek reconsideration or appellate review of the decision denying Final Approval, or attempt to renegotiate the settlement and seek Court approval after such renegotiation;

- (5) If the Class has already been certified for settlement purposes, the class shall be decertified and the Parties shall jointly move as soon as practicable to obtain an order granting decertification, and the fact of certification for settlement purposes shall not be cited to, used, or admissible in any judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural.
- (B) In the event that a Court alters or otherwise orders the Parties to modify any of the material terms of this Agreement, including but not limited to, the release or claims-made provisions, or any other similar provision or provision relating to the Gross Settlement Fund, Defendant will, at its sole discretion, have the right to revoke its acceptance of this Agreement rendering it null and void, without being in breach of this Agreement, and will have no obligation to make any payments under this Agreement.

3. SETTLEMENT TERMS

3.1 Amount. Defendant agrees to pay up to Ninety Thousand Dollars and Zero Cents (\$90,000.00) to fully resolve the Action and satisfy any and all amounts to be paid to all Authorized Claimants and any Court-approved Costs and Fees.

- (A) **Funding the QSF.** Within thirty (30) days after the Final Effective Date, Defendant shall fund the QSF in an amount necessary to satisfy the Final Settlement Amount. Defendant can, in its sole discretion, make deposits into the QSF at earlier times.
- (B) **Reserve Fund.** The Settlement Claims Administrator shall set aside One Thousand Five Hundred Dollars and Zero Cents (\$1,500.00) of the amount funded in Section 3.1(A) to cover any errors, late claims, or omissions (e.g., individual Authorized Claimants who dispute the amounts allocated to them, or individuals who allege they should be part of the Class). Any Authorized Claimant who wishes to challenge any error or omission shall provide a signed, sworn and notarized written statement to Class Counsel, the Settlement Claims Administrator, or Defendant's Counsel as to why such error or omission should be corrected, along with supporting documents, if available. Any Party or Settlement Claims Administrator who receives such a statement must provide a copy to all Parties and the Settlement Claims Administrator within five (5) days by email. Defendant's Counsel shall notify any challenging individual, along with Class Counsel, within ten (10) days whether such error or omission will be corrected and paid from the Reserve Fund. To the extent the Parties are unable to agree on an error or omission, such error or omission may be submitted to a mutually agreed upon mediator who shall issue a binding decision on the issue. The Parties shall endeavor to resolve all errors and omissions within one hundred eighty (180) days from the final mailing of the Settlement Checks.

- (C) **Reversion.** Any monies other than the Reserve Fund and monies allocated for Authorized Claimants remaining in the QSF fifteen (15) days after mailing of Settlement Checks shall revert to Defendant. Any monies remaining in the Reserve Fund on or after (i) the Void Date, or (ii) the resolution of all errors and omissions, shall revert to Defendant.

3.2 Payments from the QSF. At any point following the Final Effective Date, the Claims Administrator shall make the following payments from the QSF, once the QSF is funded as described in Section 3.1: (i) mailing all Settlement Checks to Authorized Claimants in an amount equal to their Individual Settlement Allocation, (ii) mailing any Service Award to Named Plaintiffs, (iii) mailing or wire-transferring payment to Class Counsel in the amount of Court-approved costs plus attorney's fees, and (iv) any other required payments. To avoid ambiguity, the QSF need not be fully funded for a partial distribution to occur. Settlement Checks issued to Authorized Claimants shall be valid until the Void Date. Settlement Checks not cashed by Authorized Claimant by the Void Date shall revert to Defendant. Authorized Claimants who do not cash their Settlement Checks by the Void Date shall remain bound by the Final Approval Order, and shall have released the Released Class Claims as provided in this Agreement. The provisions of any unclaimed property statute or law do not apply to this Agreement.

3.3 Amounts Payable as Attorney's Fees, Costs, and Expenses.

- (A) In connection with the Motion for Final Approval, Class Counsel will petition the Court for a fee award from the QSF of no more than Thirty Thousand Dollars and Zero Cents (\$30,000.00), which represents $\frac{1}{3}$ of the Gross Settlement Fund as and for attorney's fees, plus up to \$809.15 for costs and expenses actually incurred in connection with the Action. For settlement purposes only, Defendant shall not oppose this application, including any appeal or request for reconsideration if the application is denied or modified by the Court, except for the circumstances described in Section 2.4(E).
- (B) The substance of Class Counsel's application for attorney's fees, expenses and costs is to be considered separately from the Court's consideration of the fairness, reasonableness, adequacy, and good faith of the settlement of the Action. The outcome of any proceeding related to Class Counsel's application for attorney's fees, expenses and costs shall not terminate this Agreement or otherwise affect the Court's ruling on the Motion for Final Approval.

3.4 Service Award to Named Plaintiff.

- (A) In return for services rendered to the Settlement Class, in the Motion for Final Approval, Named Plaintiffs may apply to the Court to receive a Service Award of up to Two Thousand Five Hundred Dollars and Zero

Cents (\$2,500.00) each for a total Service Award of up to Five Thousand Dollars and Zero Cents (\$5,000.00).

- (B) The application for a Service Award is to be considered separately from the Court's consideration of the fairness, reasonableness, adequacy, and good faith of the settlement of the Action. The outcome of the Court's ruling on the application for a Service Award will not terminate this Agreement or otherwise affect the Court's ruling on the Motion for Final Approval. The amount of service award sought but not awarded shall remain part of the Gross Settlement Fund to be distributed to Authorized Claimants. If approved by the Court, the service award shall be paid from the Gross Settlement Fund. The service award is separate from Named Plaintiffs' entitlement to their pro rata share of the Net Settlement Fund as an Authorized Claimant. Named Plaintiffs are automatically considered Authorized Claimants and shall not be required to submit a Claim Form.

3.5 Allocation to Class Members. Each Class Member's award shall be based on the actual weeks worked by the Class Member for Defendant during the Settlement Period, as follows:

- (A) **Weeks Worked.** First, the total number of weeks worked by all Class Members during the Settlement Period, to the extent identifiable, shall be determined ("Total Weeks Worked").
- (B) **Percentage Allocation.** Second, each Class Member's percentage allocation shall be determined by (i) taking the number of weeks worked by the Class Member during the Settlement Period ("Individual Weeks Worked"), and (ii) dividing it by the Total Weeks Worked.
- (C) **Individual Settlement Allocation.** The Net Settlement Fund shall be multiplied by each Authorized Claimant's Percentage Allocation as calculated in Section 3.5(B). This represents the individual amount allocated to each Authorized Claimant – or Individual Settlement Allocation.
- (D) **Modification.** The parties may, in their discretion, modify Section 3.5 as necessary so as to ensure the intent of the parties in reaching the instant Agreement is honored.

3.6 Tax Characterization.

- (A) The Settlement Claims Administrator making any such payments to Authorized Claimants for their Individual Settlement Allocation shall report 50% of the total payment made to the Authorized Claimant to the United States Internal Revenue Service and to other appropriate taxing authorities ("Taxing Authority") on an IRS Form W-2. This portion of the Settlement Check (the "Wage Portion") shall be subject to applicable employment

taxes and withholding taxes, as determined by the Settlement Claims Administrator making any such payments.

- (B) The remaining 50% of the Settlement Checks to Authorized Claimants constitutes compensation for alleged liquidated damages and interest, and the Settlement Claims Administrator shall report such amounts as such to the respective payees and to the Taxing Authorities on an IRS Form 1099. This portion of the settlement (the “Non-Wage Portion”) shall not be subject to backup withholding or other applicable tax withholding unless required by law, as determined by the Settlement Claims Administrator.
- (C) If any Taxing Authority subsequently determines that any payee owes any additional taxes with respect to any money distributed under this Agreement, it is expressly agreed that liability for such taxes rests exclusively with that payee and that Defendant will not be responsible for the payment of such taxes, including any interest and penalties.
- (D) Settlement Claims Administrator shall report to the Named Plaintiff and to the Taxing Authority on an IRS Form 1099 any Service Award provided for in the Final Approval Order. Such payment, if any, shall not be subject to backup or other tax withholding unless required by law.
- (E) Settlement Claims Administrator, as the administrator of the QSF making such payments, shall report to Class County, and to the Taxing Authority on an IRS Form 1099, under Class Counsel’s federal taxpayer identification number, the fees and costs paid to Class Counsel, and such payments will not be subject to backup or other tax withholding unless required by law, and provided that Class Counsel has provided a validly completed current IRS Form W-9 to the Settlement Claims Administrator.
- (F) Defendant has provided no advice as to the taxability of the payments received pursuant to this Agreement.

4. RELEASE OF CLAIMS.

- 4.1** By operation of the entry of the Final Approval Order and upon the Final Effective Date, and except as to such rights or claims as may be created by this Agreement, each Class Member who does not timely opt-out pursuant to this Agreement forever and fully releases and discharges Defendant, and its present, past, and future owners, affiliates, related business entities, parent companies, subsidiaries, predecessors, successors, assigns, divisions, directors, officers, trustees, members, employees, shareholders, representatives, insurers, reinsurers, business managers, accountants, attorneys, heirs, agents, executors, and administrators, in their individual and representative capacities, and all persons acting by, through, and under, or in concert with any of these, from all Released Class Claims from the beginning of time through the date of the Preliminary Approval Order.

- 4.2 By operation of the entry of the Final Approval Order and upon the Final Effective Date, and except as to such rights or claims as may be created by this Agreement, Named Plaintiffs forever and fully release and discharges Defendant from all Released Class Claims as well as any and all other claims of any kind under federal, state, city, local law or common law based on events that took place from the beginning of time through the date of the Preliminary Approval Order.
- 4.3 Except as provided in this Agreement, upon payment of all Costs and Fees as approved by the Court, Class Counsel, on behalf of the Authorized Claimants and Class Members, irrevocably and unconditionally release, acquit, and forever discharge any claim that he, she or they may have against Defendant for attorney's fees, expenses, disbursements and all other costs and fees associated with Class Counsel's representation of the Class. Class Counsel further understands and agrees that any fee payments approved by the Court will be the full, final and complete payment of all attorney's fees, expenses, disbursements and all other costs and fees associated with Class Counsel's representation in the Action.

5. INTERPRETATION AND ENFORCEMENT

- 5.1 **Non-Admission of Liability.** By Defendant entering into this Agreement, Defendant in no way admits any violation of law or any liability whatsoever to Named Plaintiff and/or the Class Members, individually or collectively, all such liability being expressly denied. Rather, Defendant enters into this Agreement to avoid further protracted litigation and to fully and finally resolve and settle all disputes with Named Plaintiff and Class Members. Settlement of the Action, negotiation and execution of this Agreement, and all acts performed and documents executed pursuant to or in furtherance of this Agreement or the settlement: (1) are not, shall not be deemed to be, and may not be used as an admission or evidence of any wrongdoing or liability on the part of Defendant, or any person acting on behalf of Defendant, or of the truth of any of the factual allegations in any and all complaints or other papers filed by Named Plaintiff in the Action; and (2) are not, shall not be deemed to be, and may not be used as an admission or evidence of fault or omission on the part of Defendant in any civil, criminal, administrative, or arbitral proceeding. The Parties understand and agree that this Agreement is a settlement document and shall be inadmissible in evidence in any proceeding, except an action or proceeding to approve, interpret, or enforce the terms of the Agreement.
- 5.2 **No Publicity.** The Parties and Class Counsel agree that they will not in any manner publicize the terms of this Agreement in a manner that specifically identifies Defendant, except only as a "Restaurant Chain", which includes notifying any member of the media regarding the terms and conditions of the settlement and includes posting or disseminating the terms and conditions of the settlement on any social media (including Facebook, X (formerly Twitter), Instagram, Law 360, Above the Law, or similar media outlets). Dissemination of this Agreement and the terms set forth herein shall be limited to filing documents with the Court as is necessary to effectuate the Agreement. Notwithstanding the foregoing, nothing

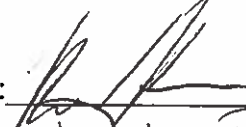
herein shall prevent Defendant from discussing the settlement with its accountants, financial advisors or other third-parties as necessary for business reasons. Likewise, nothing herein shall prevent disclosures by Defendant as required by law and rules of the New York Stock Exchange.

- 5.3 Effect of Non-Approval.** In the event this Agreement is not approved by the Court on substantially the same terms as it was submitted for approval, or if an appellate court reverses and/or modifies the Approval Order, then the Parties shall first endeavor to resolve the matter jointly and in good faith, including jointly or individually seeking reconsideration of the Court's ruling if necessary or potentially involving a mutually agreed mediator. If such efforts to do not result in a new agreement between the Parties, then the Parties will resume litigation of the Action as of the date of this Agreement with all rights and defenses intact as if no agreement had occurred, including, but not limited to, revocation of the certification of the Settlement Class.
- 5.4 Cooperation Between the Parties; Further Acts.** The Parties shall reasonably cooperate with each other and shall use their reasonable best efforts to obtain the Court's approval of this Agreement and all of its terms. Each Party, upon the request of any other Party, agrees to perform such other and further acts and to execute and deliver such other documents as are reasonably necessary to carry out the provisions of this Agreement.
- 5.5 No Assignment.** Class Counsel and Named Plaintiff, on behalf of the individual Class Members, represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the Action, or any related action.
- 5.6 Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with regard to the subject matter contained herein, and all prior and contemporaneous negotiations and understandings between the Parties shall be deemed merged into this Agreement.
- 5.7 Binding Effect.** This Agreement shall be binding upon the Parties and, with respect to Named Plaintiffs and all Class Members, their families, representatives, heirs, administrators, executors, beneficiaries, conservators, insurers, attorneys, and assigns. Notwithstanding the passage of any legislation, bill, regulation, or other change in the law that may materially affect the rights of Named Plaintiff and all Class Members in the Action, this Agreement is binding.
- 5.8 Arms' Length Transaction; Materiality of Terms.** The Parties have negotiated all the terms and conditions of this Agreement at arms' length. All terms and conditions of this Agreement in the exact form set forth in this Agreement are material to this Agreement and have been relied upon by the Parties in entering into this Agreement, unless otherwise expressly stated.


- 5.9 Captions.** The captions or headings of the sections and paragraphs of this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.
- 5.10 Governing Law.** This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the State of New York, without regard to choice of law principles.
- 5.11 Continuing Jurisdiction.** The Parties shall request the Court to retain jurisdiction over the interpretation and implementation of this Agreement as well as any and all matters arising out of, or related to, the interpretation or implementation of this Agreement and of the settlement contemplated thereby. The Parties may not unilaterally petition the Court to modify this Agreement or to increase Defendant's payment obligations, except to the extent provided in this Agreement.
- 5.12 Waivers or Revisions to Be in Writing.** No waiver, modification, or amendment of the terms of this Agreement, whether purportedly made before or after the Court's approval of this Agreement, shall be valid or binding unless in writing, signed by or on behalf of all Parties and then only to the extent set forth in such written waiver, modification, or amendment, subject to any required Court approval. Any failure by any Party to insist upon the strict performance by the other Party of any of the provisions of this Agreement shall not be deemed a waiver of future performance of the same provisions or of any of the other provisions of this Agreement, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.
- 5.13 When Agreement Becomes Effective; Counterparts.** This Agreement shall become effective upon its full execution. The Parties may execute this Agreement in counterparts, and execution in counterparts shall have the same force and effect as if all Parties had signed the same instrument.
- 5.14 Facsimile and Email Signatures.** Any Party may execute this Agreement by causing its counsel to sign on the designated signature block below and transmitting that signature page via facsimile or email to counsel for the other Party. Any signature made and transmitted by facsimile or email for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding upon the Party whose counsel transmits the signature page by facsimile or email.
- 5.15 Construction.** The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties. Each Party participated jointly in the drafting of this Agreement, and therefore the terms and conditions of this Agreement are not intended to be, and shall not be, construed against any Party by virtue of draftsmanship.

AGREED TO BY THE PARTIES:

PCR STORE 501 LLC

By: 
Print: Debra Rose
Title: Director of HR
Dated: 11/11/2024

RYMEL LEONARD

By: 
Rymel Leonard
Dated: 10/16/24

CHAUNDA LEE

By: _____
Chaunda Lee
Dated: _____

AGREED TO BY THE PARTIES:

PCR STORE 501 LLC

RYMEL LEONARD

By: _____

By: _____

Print: _____

Rymel Leonard

Title: _____

Dated: _____

Dated: _____

CHAUNDA LEE

By: Chaunda Lee _____

Chaunda Lee

Dated: 09/30/2024 _____