

**SETTLEMENT AGREEMENT**

This Settlement Agreement (the "Agreement" or "Settlement Agreement") is entered into by plaintiff Kushtrim Lajqi ("Plaintiff"), on behalf of himself and all those similarly situated, and Bar Taco Port Chester, LLC, d/b/a "bartaco" ("Defendant").

**RECITALS**

A. Plaintiff has made claims against Defendant and filed a class action complaint ("the litigation") against Defendant in the Supreme Court of Westchester County, New York.

B. Class Plaintiff, Kushtrim Lajqi, is a resident of Bronx, New York. Mr. Lajqi purchased and consumed food and/or drink at the Bartaco Restaurant, located at 1 Willett Avenue, Port Chester, New York 13165, on October 20, 2017.

C. The Westchester County Department of Health ("WCDOH") announced on October 25, 2017, that it was recommending that customers who had visited the defendant's restaurant between October 12, 2017 and October 23, 2017 receive preventive treatment against Hepatitis A. Following the announcement, a large number of persons (estimated to be over 3,000), including the named plaintiff, obtained the recommended treatment.

D. The Plaintiff has asserted in this litigation class claims for strict products liability, breach of warranties, and negligence to recover damages for physical injury and economic loss arising from obtaining IG and/or HAV vaccinations, in response to an alert by the WCDOH that the Plaintiff was potentially exposed to the HAV virus by consuming food or drink from Bartaco between October 12, 2017 and October 23, 2017.

E. Counsel for the Plaintiff have conducted a thorough examination and evaluation of the relevant law and facts to assess the merits of the Plaintiff's claims and potential claims, and to determine how best to serve the interests of the Plaintiff and the class as defined below

(the "Class").

F. Based upon the investigation and evaluation of the facts and law relating to these matters, the Plaintiff, the Plaintiff's counsel, and the Class have agreed to settle the litigation pursuant to the provisions of this Agreement after considering such factors as: (1) the benefits to the Plaintiff and the Class under the terms of this Agreement; (2) the attendant risks and uncertainty of litigation as well as the difficulties and delays inherent in such litigation; and (3) the desirability of consummating this Agreement promptly, in order to provide prompt relief to the Plaintiff and the Class.

G. The Defendant expressly denies any wrongdoing and does not admit or concede any actual or potential fault, wrongdoing or liability in connection with any facts or claims that have been or could have been alleged against it in the litigation but considers it desirable for this litigation to be settled and dismissed. This Agreement and any documents executed or filed in connection with this Agreement are not admissions and may not be used as evidence in any proceeding of the Defendant's liability or wrongdoing.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the Plaintiff and Defendant, acting in good faith and subject to the approval of the Court, that all class claims alleged against Defendant in the litigation above are hereby compromised, settled, released and discharged in accordance with the terms and conditions set forth below.

#### **THE SETTLEMENT**

In consideration of the respective covenants and undertakings set forth below, the Plaintiff and Defendant (together, the "Parties") agree as follows:

**1. Recitals Incorporated:**

The foregoing Recitals are hereby expressly incorporated by reference as part of this

settlement between the Parties.

**2. Effective Date:**

This Agreement shall become effective upon its execution by all parties hereto, following approval by the court, which may be done in counterparts in accordance with Paragraph 22 below.

**3. The Settlement Class:**

For purposes of this settlement, the parties agree that the class (the "Class") shall be defined as follows:

All persons (a) who were potentially exposed to Hepatitis A virus ("HAV") as a result of the consumption of food or drink prepared at a restaurant owned by the Defendant Bar Taco Port Chester, LLC, known as "bartaco" restaurant, located at 1 Willett Avenue, Port Chester, New York 13165 (the "Restaurant"), between October 12, 2017, and October 23, 2017 (the "Class Period"), and (b) who obtained a blood test, HAV vaccine, or immune globulin (IG) shot within 14 days after such potential exposure.

Persons Employed at the Restaurant during the Class Period are excluded from the class.

To be a **Qualified Claimant**, all Class Members will be required to submit: a declaration signed under penalty of perjury that the claimant meets all the requirements in the definition of a Class Member. The receipt of IG, HAV vaccine, or blood tests shall be shown as follows: (a) through documentation and/or verification by the Westchester County Department of Health or New York State Department of Health (collectively the "DOH") or (b) if the treatment was not provided by the DOH by providing documentation from a health care provider, pharmacy or health insurer. Claimants shall also attest they have not previously had HAV or previously received a HAV vaccination prior to their potential exposure at bartaco.

**4. Relief to the Class:**

**General Damages:**

The proposed General Damages Settlement provides for payment of general damages to each Class member who submits a timely, qualified claim for general damages ("Claimant"). Each Claimant will receive as general damages a pro-rata shares of the aggregate class amount of \$100,000.00. Per person compensation will not exceed \$100.00.

**Special Damages:**

The proposed Special Damages Settlement provides for payment of special damages to each Class member who submits a timely, qualified claim for special damages (*i.e.* reimbursement to a Claimant who did not receive a free vaccine from a health department and submits proof of payment for having received such treatment). Each Claimant will receive 100% their special damages, unless the total amount of special damages claims submitted by all Class Members exceeds \$25,000.00; then each Class Member who submits a claim for special damages would receive a pro-rata share of the aggregate Special Damages Settlement of \$25,000.00.

**Fund Adjustments:**

Any remainder from the Special Damages fund will be added to the General Damages fund if the per person compensation amount is less than \$100.00. Any remainder from the General Damages fund will be added to the Special Damages fund if the aggregate of Special Damages claims exceeds \$25,000.00. Any remaining funds in either the General Damages fund or the Special Damages fund that are not distributed in accordance with the terms set forth above will be returned to Defendant.

**Compensation for Class Representatives:**

In addition to the above, Class Plaintiff Lajqi will receive an additional \$1,000.00 in compensation paid by Defendant.

**5. Settlement Process:**

Subject to Court oversight and any prior agreed upon process, Plaintiff's counsel will prepare initial drafts of all settlement documents, including notice to the class, and will supervise the claims administration process. The Notice Company, Inc., 94 Station Street, Hingham, MA (the "Class Administrator"), will provide written notice to Defendant of the claims scheduled to be paid. The preliminary approval shall be submitted by joint motion or stipulation. Defendant agrees to join in Plaintiff's Motion or Stipulation for Final Approval if such Motion or Stipulation conforms with the terms set forth herein or other terms that have been agreed to by Defendant.

**6. The Plaintiff's Counsel's Fees:**

The Plaintiffs' counsel has waived its fees and costs.

**7. Settlement Administration:**

The Class Administrator will handle the notice and claims administration for this Settlement as follows: The printing, handling, mailing, and re-mailing, as required by the Notice of Settlement, including all related personnel and operating costs, and the processing of any requests for exclusion and other documents submitted.

Defendant shall be responsible for any and all fees and charges owed to the Class Administrator with respect to the foregoing administration of the Settlement, including media publication. The maximum amount the defendant will be required to pay for notice and administration expenses shall be \$35,000.00. Defendant shall not be responsible, and shall not pay, for any time or costs incurred by Class Members or their counsel with respect to the

negotiation, implementation, or administration of the Settlement, or any costs incurred by any Class Member in connection with participating in the Settlement.

**8. Claim Form:**

A. The claim form to be used by persons who qualify as Class Members shall be in the form attached hereto as **Attachment 1** (the “Claim Form”).

B. Claim Forms may be submitted by a legally authorized guardian or representative of an incapacitated or minor Class Member or on behalf of a deceased Class Member.

**9. No Other Financial Obligations of Defendant:**

Neither Defendant nor any of its past, present, or future affiliates shall be liable or obligated to pay any fees, expenses, costs, or disbursements to, or incur any expense on behalf of, any person, either directly or indirectly, in connection with the litigation, this Agreement, or this Settlement, other than the amount or amounts expressly provided for in this Agreement.

**10. Procedure for Implementation of Settlement:**

After this Agreement has been fully executed, the Parties shall present this Agreement, including all attached exhibits, to the Court for “preliminary approval”. Specifically, the Plaintiff shall file a Joint Motion for Preliminary Class Settlement Approval, which will seek entry of the “Order Preliminarily Approving Class Settlement” in the form attached hereto as **Attachment 2**.

The Joint Motion for Preliminary Settlement Approval will request that the Court: (a) preliminarily approve the proposed settlement; (b) approve the Claim Form substantially in the form attached hereto as **Attachment 1**; (c) approve the Summary Notice of Settlement for publication substantially in the form attached hereto as **Attachment 3** (“Summary Notice”);

(d) approve the Detailed Notice of Settlement for mailing substantially in the form attached hereto as **Attachment 4** (“Detailed Notice”); (e) direct that Plaintiffs’ counsel and Defendant’s counsel provide to the Class Administrator the names and addresses of potential Class Members known to them within ten (10) days of entry of the Preliminary Approval Order; (f) direct, pursuant to the Qualified HIPAA Order issued March 28, 2019, attached hereto as **Attachment 5**, the WCDOH and New York State Department of Health to provide to the Class Administrator the names and addresses of potential Class Members known to them within ten (10) days of entry of the Preliminary Approval Order; (g) establish a deadline for responses (“Response Deadline”) to be set at seventy (70) days from the date of entry of a Preliminary Approval Order (provided that if such period would end on a Saturday, Sunday, or legal holiday, then the deadline would be the next day that is not a Saturday, Sunday, or legal holiday) for: the Claims Forms to be received by the Claims Administrator; written requests for exclusion from the Class to be received by the Claims Administrator; and written notices of intent to appear and/or object to the terms of the settlement to both be received by the Settlement Administrator and be filed with the Court; and (h) conduct a final approval hearing (“Final Approval Hearing”) approximately 90 days after Preliminary Approval Order.

**Class Notice.**

Class Notice shall proceed in accordance with the following schedule:

- A. **Settlement Website.** Within 14 days of entry of Preliminary Approval Order, the Class Administrator shall establish a settlement website for the purposes of effectuating notice. The website shall be available at *www.PortChesterHepA.com* (the “Settlement Website”) and shall remain operational through the scheduled date for the Fairness Hearing. Copies of the

Claim Form, Summary Notice, and Detailed Notice shall be available at the Settlement Website.

- B. **Mailing of the Detailed Notice.** Within 30 days of entry of Preliminary Approval Order, the Class Administrator shall cause to be mailed via first-class mail the Detailed Notice and Claim Form substantially in the forms attached hereto as Attachment 4 and 1, respectively, to persons identified on the DOH List and to other members of the Class identified by the parties and their counsel. The Class Administrator may delay such mailings if necessitated by delays in obtaining the mailing lists as described above.
- C. **Publication of the Summary Notice.** Commencing within 30 days of entry of Preliminary Approval Order, the Class Administrator shall cause the Summary Notice, substantially in the form attached hereto as Attachment 3, to be published once a week for two consecutive weeks in the *Westmore News* serving the Villages of Port Chester and Rye Brook and in the *Greenwich Sentinel* as paid advertisements and to cause an online notice of the Class Settlement to appear at *westmorenews.com* and *greenwichsentinel.com*.
- D. **Toll-free Telephone Number.** Within 30 days of entry of Preliminary Approval Order, the Class Administrator shall establish a dedicated toll-free telephone number for the Settlement from which Class Members may obtain information about the Settlement. Said telephone number shall remain operational through the scheduled date for the Fairness Hearing.
11. **Request for Exclusion.**
- A. Any person who would otherwise be a member of the Class may be excluded



from the Class and from the Settlement set forth herein by mailing a written request for exclusion to the Class Administrator pursuant to the Preliminary Approval Order, postmarked no later than the Response Deadline or as the Court may otherwise direct. Copies of requests for exclusion shall be filed with the Court by the Plaintiff's counsel, and served on Defendant's counsel, at least seven (7) calendar days before the Final Approval Hearing. A member of the Class filing such a timely request shall be deemed excluded from the Class and from this Settlement with respect to all of the matters released.

B. Any potential member of the Class who does not file a timely written request for exclusion as provided in the preceding section shall be bound by this Settlement Agreement and all subsequent proceedings, orders, and judgments in this Lawsuit, even if that potential member of the Class subsequently initiates litigation against Defendant relating to any of the matters released.

C. Neither party shall encourage any potential Class Member to file a request for exclusion or encourage or provide any material assistance for any potential Class Member to file an objection to this Settlement or to file any other action, except as expressly provided herein.

**12. Objection to Settlement.**

A. Any potential Class Member who has not filed a written request for exclusion and who wishes to object to the fairness, reasonableness, or adequacy of this Agreement or the proposed settlement must serve on the Plaintiff's counsel and on counsel for Defendant, and must file with the Court, no later than the Response Deadline or as the Court may otherwise direct, a notice of intention to appear and/or object, together with copies of any papers such member of the Class intends to present to the Court in connection with such objection.

Potential Class Members may make such appearances or objections either on their own or through attorneys hired at their own expense.

B. If an attorney will represent any such potential Class Member, he or she must (i) file an appearance with the Court no later than thirty (30) days from the date of last publication of notice or as the Court otherwise may direct, and (ii) serve on the Plaintiff's counsel and on counsel for Defendant a notice of the filing of the appearance. Any such potential Class Member or counsel thereto may, with notice, obtain access at the offices of Heisman Nunes & Hull LLP, 69 Cascade Drive, Suite 102, Rochester, New York 14614, to the complaints and answers thereto, if any, filed in this litigation and any orders entered in this litigation, and to such additional pleadings as may be agreed by Defendant's counsel and the Plaintiff's counsel. Defendant's counsel will inform the Plaintiff's counsel promptly of any requests received by Defendant's counsel by potential Class Members or their attorneys for access to such documents.

C. Only those potential Class Members who follow the procedures set forth in the foregoing paragraph may appear at the Final Approval Hearing and/or have their objections considered by the Court, unless otherwise directed by the Court.

D. Any potential Class Member who does not appear individually or through counsel and/or who does not challenge or comment upon the fairness and adequacy of this Agreement shall waive and forfeit any and all rights that she or he may have to appear separately and/or object. All potential Class Members (whether or not they object to the fairness of this settlement) other than those requesting exclusion pursuant to the procedures described above shall be bound by all the terms of this Agreement and by all proceedings, orders and judgments in this litigation.

**13. Final Approval, Final Approval Order, and Post-Settlement Notice.**

If the Court approves of this Agreement and enters a Preliminary Approval Order, the Parties shall then seek and use their best efforts to obtain from the Court a "Final Approval Order" which shall, among other things:

A. Find that the Court has personal jurisdiction over all potential Class Members and that the Court has subject matter jurisdiction to approve this Agreement and all exhibits thereto;

B. Approve this Agreement and the proposed settlement as fair, reasonable and adequate, and consistent and in compliance with the applicable provisions of the laws of the State of New York and the United States Constitution, as to, and in the best interests of, each of the Parties and the potential Class Members; direct the Parties and their counsel to implement and consummate this Agreement according to its terms and provisions; and declare this Agreement to be binding on, and have *res judicata* and preclusive effect in, all pending and future lawsuits or other proceedings maintained by or on behalf of the named plaintiff and all other potential Class Members, as well as their heirs, executors and administrators, successors and assigns;

C. Find that the Plaintiff and the Plaintiff's counsel represented the Class for purposes of entering into and implementing the Settlement;

D. Find that the Notice of Settlement and the notice methodology implemented pursuant to this Agreement: (i) constitute the best practicable notice, (ii) constitute notice that is reasonably calculated, under the circumstances, to apprise potential Class Members of the pendency of the litigation and of their right to object to the proposed settlement and to appear at the Final Approval Hearing; (iii) are reasonable and constitute due, adequate and sufficient

notice to all persons entitled to receive notice; and (iv) meet all applicable requirements of § 904 of the New York Civil Practice Law & Rules, the Rules of the New York Court of Appeals, and the Due Process Clause of the United States Constitution.

E. Authorize Defendant at its sole discretion, but in consultation with the Plaintiff's counsel and without approval from the Court, to implement the settlement;

F. Dismiss the litigation (including all individual claims and Class claims presented thereby) on the merits and with prejudice, without fees or costs to any party except as provided in this Agreement;

G. Bar and permanently enjoin all potential Class Members from (i) filing, commencing, prosecuting, intervening in, or participating (as Class Members or otherwise) in, any lawsuit in any jurisdiction based on or relating to the claims and causes of action within the scope of the Release (as set out in paragraph 15 below), and (ii) organizing potential Class Members who have not been excluded from the Class into a separate class for purposes of pursuing as a purported class action any lawsuit (including by seeking to amend a pending complaint to include class allegations, or seeking class certification in a pending action) based on or relating to the claims and causes of action within the scope of the Release;

H. Authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications, and expansions of this Agreement and all exhibits attached hereto as (i) shall be consistent in all material respects with the Final Approval Order, or (ii) do not limit the rights of potential Class Members;

I. Without affecting the finality of the Final Approval Order for the purposes of appeal, retain the Court's jurisdiction as to all matters relating to administration,

consummation, enforcement, and interpretation of this Agreement and the Final Approval Order, and for any other necessary purpose; and

J. Incorporate any other provisions as the Court deems necessary and just.

**14. Payment of Settlement Checks:**

The Defendant shall send to the Class Administrator the amount required for distribution within fourteen (14) calendar days after the Approval Order becomes final and upon receipt of a completed Form W-9 Request for Taxpayer Identification Number and Certification for the Class Administrator, where final means that the appeal period has passed, and no appeals have been filed or, if filed, such appeals have been dismissed. The Class Administrator shall mail settlement checks to approved claimants within 30 calendar days after the Approval Order becomes final. Settlement checks must be cashed within 6 months of the date of the mailing (the "Payment Period"). Any claimant who does not cash his/her check within the Payment Period foregoes his/her claim to the funds. Any proceeds from checks not cashed by the deadline shall be returned to Defendant.

The Class Administrator shall send payment to the Class Representatives within 20 calendar days and to Class Counsel within 20 calendar days after the Approval Order becomes final, provided that such persons or entities shall be required to submit a completed IRS Form W-9 to the Class Administrator prior to the issuance of such payment.

**15. Releases:**

Upon payment of the amount agreed upon, the Plaintiff and each potential Class Member (except a potential Class Member who has obtained proper and timely exclusion from the class) hereby releases and discharges, with prejudice, Defendant and present, former, and subsequent subsidiaries, parent companies, shareholders, officers, directors, employees, agents, servants,

registered representatives, attorneys, insurers, affiliates, successors and assigns ("Released Parties") of and from any and all liabilities, claims, damages, and/or penalties of any nature whatsoever that were or could have been alleged based on the facts, circumstances, transactions, errors, omissions, obligations, and/or rights alleged in the Class Action and/or relating in any way to any alleged exposure to the HAV virus as set out in the Recitals to this Agreement, regardless of whether based on federal or state law and regardless of whether based upon tort, contract, statute or any other theory of recovery, and regardless of whether for compensatory, punitive, statutory, interest or any other forms of damage or relief, whether legal or equitable, which currently exist or which may accrue in the future, whether known or unknown, latent or patent, whether asserted or un-asserted in the Class Action, based upon or arising out of the acts, errors, or omissions.

**16. Integration and Drafting:**

The Parties agree that this Agreement is clear and unambiguous, that it was drafted by respective counsel for the Parties at arm's length and sets forth the entire agreement among the Parties with respect to its subject matter, and that no parole or other evidence may be offered to explain, construe, contradict, or clarify its terms, the intent of the Parties or their counsel, or the circumstances under which the Agreement was made or executed. The Parties further agree that no party shall be deemed to have drafted this Agreement. This Agreement constitutes and represents the complete and entire agreement among the Parties. This Agreement merges and supersedes any and all prior agreements, discussions, negotiations, and communications among the Parties. The Parties acknowledge and expressly represent and warrant that they have relied solely on their own judgment, together with advice of counsel when deciding whether to enter into this Agreement. Each party further agrees, acknowledges, and expressly warrants that no

information, statement, promise, representation, warranty, condition, inducement, or agreement of any kind, whether oral or written, made by or on behalf of any other party shall be, or has been, relied upon by it unless specifically contained and incorporated herein.

**17. Modification, Court Approval, Extensions:**

This Agreement is not subject to modification without the written consent of all Parties and approval of the Court; provided, however, that, after entry of the Final Approval Order, the Parties may by agreement effect such modification of this Agreement and its implementing documents (including all exhibits hereto) without notice to or approval by the Court if such changes are consistent in all material respects with the Court's Final Approval Order or do not limit the rights of potential Class Members. The Parties also reserve the right, subject to the Court's approval, to make any reasonable extensions of time that might be necessary to carry out any of the provisions of this Agreement.

**18. Termination of Agreement:**

This Agreement will terminate at the sole option and discretion of Defendant or the Plaintiff if: (i) the Court, or any appellate court(s), rejects, modifies or denies approval of any portion of this Agreement or the proposed settlement that the terminating party in its (or their) sole judgment and discretion believes is material; or (ii) the Court, or any appellate court(s), does not enter or completely affirm, or alters or expands, any portion of the Final Approval Order, or any of the Court's findings of fact or conclusions of law, that the terminating party in its (or their) sole judgment and discretion believes is material. The terminating party must exercise the option to withdraw from and terminate this Agreement, as provided in this paragraph no later than twenty (20) days after receiving notice of the event described in this paragraph. Notwithstanding the foregoing, the Plaintiff may not terminate this Agreement solely because of the amount of

attorneys' fees awarded by the Court or any appellate court(s). Defendant, however, may elect to terminate this Agreement if the amount of attorneys' fees awarded exceeds the amount agreed upon by the Parties in Paragraph 6 hereof. If the Agreement is terminated, then the Agreement, its terms, and its exhibits shall be null and void and shall have no force or effect, no party shall be bound by any of its terms (except for the terms of this Paragraph) and the Agreement shall not be admissible in any further or different proceedings.

**19. Attachments:**

All of the attachments hereto are incorporated herein by reference as if set forth herein verbatim, and the terms of all attachments are expressly made a part of this Agreement.

**20. Waiver:**

The waiver by any Party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior or subsequent to, or contemporaneous with, this Agreement.

**21. Authorization of Signatories:**

William D. Marler and Paul V. Nunes represent that (i) they are authorized to enter into this Agreement on behalf of the respective Plaintiff and any other attorneys who have represented or who now represent the Plaintiff, and (ii) they are seeking to protect the interests of the entire Class. Phillip A. Oswald represents that he is authorized to enter into this Agreement on behalf of Defendant and any attorneys who have represented or who now represent Defendant in the litigation.

**22. Agreement Executable in Counterparts:**

This Agreement may be executed in any number of actual or tele-copied counterparts and by each of the different Parties on several counterparts, each of which when so executed and



delivered shall be an original. The executed signature page(s) from each actual counterpart may be joined together and attached to one such original and shall constitute one and the same instrument.

**23. Confidentiality:**

The Parties and their counsel agree to keep the existence and contents of this Agreement confidential until the filing of a Motion for Preliminary Approval, provided, however, that this paragraph shall not prevent the disclosure of such information prior to the filing of such Motion to insurance carriers, regulators, rating agencies, financial analysts, sales representatives and brokers, or any other person or entity (such as experts, courts, and/or Class Administrators) to whom the Parties agree disclosure must be made in order to effectuate the terms and conditions of this Agreement. The Parties agree that communications exchanged during settlement negotiations shall remain confidential. The Parties further agree that no further press release or public statement (including any internet publication by anyone other than the Class Administrator) shall be made, issued or posted on the internet announcing this settlement or discussing the litigation until 30 days after Preliminary Approval.

**24. Interest of the Class:**

The Plaintiff's counsel and the Plaintiff represent that they are seeking to protect the interests of the entire Class and believe that this Agreement is in the best interests of the Class. The Plaintiff and the Plaintiff's counsel agree not to request exclusion from the Class or to object to the proposed settlement, and they further agree to support and urge the Court approve the Notice of Settlement.

**25. No Evidence:**

In no event shall this Agreement, any of its provisions, or any negotiations, statements, or

proceedings relating to it in any way be construed as, offered as, received as, used as, or deemed to be evidence of any kind in the litigation, any other action, or in any judicial, administrative, regulatory, or other proceeding, except in a proceeding to enforce this Agreement. Without limiting the foregoing, neither this Agreement nor any related negotiations, statements, or proceedings shall be construed as, offered as, used as, or deemed to be evidence or an admission or concession by any person of any matter, including but not limited to any liability or wrongdoing on the part of Defendant or as a waiver by Defendant of any applicable defense, including without limitation any applicable statute of limitations, or as evidence of the appropriateness of certification of any class or of defense against any such certification.

**26. Tax Consequences:**

No opinions concerning the tax consequences of the proposed settlement to individual claimants is given or will be given by Defendant, the Plaintiff, or the Plaintiff's counsel, nor are any representations in this regard made by virtue of this Agreement. Each claimant's tax obligations, if any, and the determination thereof, are the sole responsibility of the claimant, and the tax consequences, if any, may vary depending on the particular circumstances of each individual claimant. Defendant shall act as it determines is required by the United States Internal Revenue Code and the Regulations of the Internal Revenue Service thereunder, and by any applicable state law or regulations thereunder, in reporting any settlement benefit provided to any claimant pursuant to this Agreement.

**27. Media Communications:**

The Plaintiff's counsel, the Plaintiff, and Defendant agree to cooperate in good faith to ensure that descriptions of the proposed settlement in the media or in any other public forum are fair and accurate. The parties agree that the Court-approved notice and publication to potential

Class Members will serve as adequate and sufficient notice to Class Members, and that no party intends to engage in alternate notice and publication regarding the settlement in the media or any other public forum that has not been approved by the Court.

**28. The Plaintiff's Assertion of Good Faith:**

The Plaintiff expressly affirms that the allegations he made in pleadings filed in the litigation were made in good faith and does not admit or concede that any of the claims alleged in the Complaint lack merit.

**29. Cooperation in Effecting Settlement:**

The Parties, their successors and assigns, and their attorneys undertake to implement the terms of this Agreement in good faith, to use good faith in resolving any disputes that may arise in the implementation of terms of this Agreement, to cooperate fully with one another in seeking Court approval of this Agreement, and to use their best efforts to effect the prompt consummation of this Agreement and the proposed settlement.

**30. Conditions to Obligation to Conclude Settlement:**

The obligation, although not the ability, of the Parties to conclude the proposed settlement is and will be contingent upon each of the following:

- A. Execution of this Agreement by the Parties;
- B. Entry by the Court of the Final Approval Order approving the settlement, from which the time to appeal has expired or which has remained unmodified after any appeal(s); and
- C. Any other conditions stated in this Agreement.

**31. Governing Law:**

This Agreement and any ancillary agreements shall be governed by, and interpreted according to, the law of the State of New York.

**32. Forum for Enforcement of Settlement:**

Any action to enforce this Agreement shall be commenced and maintained only in the Seneca County Supreme Court of New York. If any Class Member hereafter sues or commences an arbitration against Defendant for the purpose of enforcing any claims that are released under this Agreement, this Agreement shall be and constitute a complete defense thereto.

**33. Parties Bound:**

This Settlement Agreement shall be binding upon and inure to the benefit of the Plaintiff, all potential Class Members, the Plaintiff's counsel, Defendant, and the respective heirs, successors and assigns of each of the foregoing.

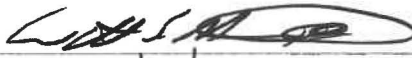
PLAINTIFF KUSHTRIM LAJQI:

\_\_\_\_\_  
Dated: \_\_\_\_\_

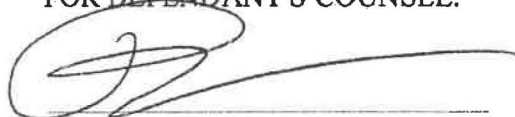
FOR PLAINTIFF'S COUNSEL:

\_\_\_\_\_  
Dated: \_\_\_\_\_

FOR BAR TACO PORT CHESTER, LLC, d/b/a "bartaco":

  
\_\_\_\_\_  
Dated: 2/6/2020

FOR DEFENDANT'S COUNSEL:

  
\_\_\_\_\_

Dated: 2/3/2020