

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION
CASE NO: 2:10-CV-10-F

Marlen Guadalupe Landeros)
Covarrubias, Sandivel Villanueva)
Flores, Rita Dorali Curiel Sandoval)
and all others similarly situated,)
)
Plaintiffs)
)
v.)
)
Capt. Charlie's Seafood, Inc., Phillip)
Carawan and Tara Foreman,)
)
Defendants)
)

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (the "Agreement") is made and entered into this the 13th day of June, 2011, by and between Marlen Guadalupe Landeros Covarrubias, Sandivel Villanueva Flores and Rita Dorali Curiel Sandoval, and the classes they seek to represent under Rule 23, Fed. R. Civ. Proc. ("Plaintiffs") and Capt. Charlie's Seafood, Inc., Phillip Carawan and Tara Foreman ("Defendants").

WITNESSETH:

WHEREAS, Capt. Charlie's Seafood, Inc., is a seafood processing plant located in Columbia, North Carolina; and,

WHEREAS, Phillip Carawan is Corporate President of Capt. Charlie's Seafood, Inc.; and,

WHEREAS, Tara Foreman is the manager at Capt. Charlie's Seafood, Inc.; and

WHEREAS, Plaintiffs are former and/or current employees of Capt. Charlie's Seafood, Inc. who provide or provided services to Capt. Charlie's Seafood, Inc.; and,

WHEREAS, Plaintiffs instituted an action in the United States District Court for the Eastern District of North Carolina, Northern Division, which is now captioned *Landeros Covarrubias, et al. v. Capt. Charlie's Seafood, Inc., et al.*, and denominated as Civil Action No.: 2:10-CV-10-F ("Action"); and,

WHEREAS, in the Action, Plaintiffs sought relief arising under the Fair Labor Standards Act, the North Carolina Wage and Hour Act, (the "Acts"), and the North Carolina common law; and,

WHEREAS, the named Plaintiffs have filed charges of discrimination against the Defendants with the United States Equal Employment Opportunity Commission (EEOC); and,

WHEREAS, the EEOC has made a determination but has not yet issued a right to sue letter; and,

WHEREAS, Defendants have denied all of Plaintiffs' claims and denied any liability to Plaintiffs or any putative class members; and,

WHEREAS, Plaintiffs and Defendants recognize the risk and expense associated with litigation; and,

WHEREAS, Plaintiffs and Defendants desire to settle all matters in controversy between the parties arising out of the above-referenced Action and the EEOC investigation;

NOW, THEREFORE, in consideration of the mutual covenants, the promises and other good and valuable considerations, the sufficiency of which hereby are acknowledged, the undersigned parties agree as follows:

1. Joint Motion for Class Certification, Settlement Approval and Class

Notice. Within ten (10) days of the execution of this Settlement Agreement, the parties agree to file a joint motion for Rule 23, Fed. R. Civ. P., class certification of the NCWHA claims as described in Paragraphs 47 through 56 of the Complaint, approval of this Settlement Agreement, and for permission to send class members notice of the settlement. The parties agree that this Settlement Agreement is only valid if the Court certifies the NCWHA Rule 23 classes and agrees to retain jurisdiction over the Consent Decree.

2. Payment to the Plaintiff Class Members.

a. Defendants agree to pay Marlen Guadalupe Landeros Covarrubias, Sandivel Villanueva Flores and Rita Dorali Curiel Sandoval the gross sum of Three thousand dollars (\$2,900) each. Two thousand five-hundred dollars (\$2,500) of each of the Named Plaintiffs' payments shall be for alleged violations of Title VII of the Civil Rights Act and accounted as backpay damages. These payments shall be subject to normal and appropriate employment taxes and withholding based on a 365-day miscellaneous pay period by Defendants and Defendants shall timely issue Forms W-2. Four hundred dollars (\$400) of each of the Named Plaintiffs' payments shall be accounted as an incentive payment for serving as class representatives. This payment shall be subject to issuance of Forms 1099 by Defendants for each of the named Plaintiffs in which this income is listed in line 3 as "other income." Each of these payments to named Plaintiffs

shall be made by check payable to the North Carolina Justice Center Client Trust Account within thirty (30) days of the Court's final approval of this Settlement Agreement.

b. Defendants agree to pay each Plaintiff included in the list of Class Members, attached as Exhibit 1 to this Settlement Agreement, who does not opt out of this settlement, the gross amount listed next to each individual's name in Column A. These payments are to be accounted as reimbursement for a portion of the costs they incurred in order to obtain H-2B visas and/or to travel to North Carolina to work for Defendants through the H-2B visa program. These payments shall be subject to issuance of Forms 1099 in which this income is listed on line 3 as "other income." Payment shall be made within one hundred and eighty (180) days of the Court's final approval of the Settlement Agreement. Payment to class members who are not employees of Defendants at the time of the payment shall be made by check payable to the North Carolina Justice Center Client Trust Account. Defendants will pay class members who are current employees directly. Defendants shall provide proof of these payments to the Plaintiffs' attorneys within ten (10) days after all such payments are completed, and Plaintiffs' counsel shall have the right to request reasonable periodic reports on the status of such payments during the 180-day period.

c. Defendants agree to pay to each Plaintiff Subclass Member, identified with an asterisk ("*") in the list of Class Members attached as Exhibit 1 to the Settlement Agreement, who does not opt out of the settlement, in the following manner:

i. The gross sums listed in Column B for each Subclass Member shall be accounted as alleged back wages. These payments shall be subject to normal and

appropriate employment taxes and withholdings based on a 365-day miscellaneous pay period by Defendants and Defendants shall timely issue Forms W-2.

ii. The gross sums listed in Column C shall be accounted as alleged liquidated damages pursuant to N.C.G.S. § 95-25.22(a or a1 or d). These payments shall be subject to issuance of Forms 1099 in which this income is listed in line 3 as “other income.”

iii. Payments under this subparagraph 2(c) shall be made no later than one hundred and twenty (120) days of the Court’s final approval of the Settlement Agreement and shall be for the total amount listed in Column B, minus applicable taxes and withholdings, plus the total amount listed in Column C. Payment to class members who are not employees of Defendants at the time of the payment shall be made by check payable to the North Carolina Justice Center Client Trust Account. Defendants will pay class members who are currently their employees directly. Defendants shall provide proof of these payments to the plaintiffs’ attorneys within ten (10) days after all such payments are completed, and Plaintiffs’ counsel shall have the right to request reasonable periodic reports on the status of such payments during the 120-day period.

iv. The payments included in Columns B and C are based on good faith calculations done by counsel. In the event that the issue is raised by a class member that there is a discrepancy between the actual amount owed and the amounts listed in Columns B and C, counsel will confer in good faith to determine the actual amount owed and Defendants will be permitted to pay that amount.

In exchange for the payment described in paragraphs 2.b and c, each Plaintiff class member receiving payment pursuant to this Agreement will execute a release of his

or her claims against Defendants under the Acts for allegedly failing to pay the promised wage from 2008 to the present (attached as Exhibit 4). Each individual release will not be valid until that individual has received all payments due to him or her under this Agreement.

Plaintiffs' counsel may deduct the reasonable cost of sending money to class members through money orders or wire transfers from each class members' settlement payment.

If within two years of final approval of this Settlement Agreement, it comes to the attention of the parties that any individual who should have been included in the attached list of class members was not included, and both Defendants and Plaintiffs agree that such individual(s) falls within the Class and/or Subclass definition, Defendants agree to pay such individual(s) in accordance with paragraphs 2(b) and (c) above.

3. Payment of Costs and Attorneys' Fees. The Defendants agree to pay to the North Carolina Justice Center, the American Civil Liberties Union of North Carolina Legal Foundation and the American Civil Liberties Union Foundation Women's Rights Project, collectively, the total sum of Twenty-eight Thousand and 00/100 Dollars (\$28,000) accounted as attorneys' fees in this matter. Defendants agree to make this payment to the North Carolina Justice Center Trust Account within thirty (30) days of the final approval of this Settlement Agreement by the Court.

4. Cy Pres Award. In the event that all of the class members listed in the attached list of class members cannot be located within a reasonable time period, not to exceed two years from the date this agreement is finally approved by the Court, any funds remaining from those discussed in Paragraph 2 b. and c. shall be distributed as a *cy pres*

award to the North Carolina Farmworker Health Program for use toward providing health education, health care access and/or health services to seafood processing workers in North Carolina.

5. **EEOC Charges.** Within ten (10) days of the Court's final approval of this Settlement Agreement, the named Plaintiffs will advise the EEOC that the parties have settled their claims and request withdrawal of their respective EEOC charges.

6. **Consent Decree.** Within thirty (30) days of the Court's final approval of this Settlement Agreement, Defendants and Plaintiffs agree to execute and file with the Court a Consent Decree in the form attached hereto as Exhibit 2.

7. **Release.** In consideration of the mutual covenants and promises set forth herein, the named Plaintiffs shall execute a General Release, in the form of Exhibit 3 attached hereto and incorporated herein by reference, which Release shall be translated into Spanish by Plaintiffs' counsel. The class members shall execute a Class Member Release, in the form of Exhibit 4 attached hereto and incorporated herein by reference, which release shall be translated into Spanish by Plaintiffs' counsel.

8. **Stipulation of Voluntary Dismissal With Prejudice.** The parties have authorized their respective attorneys to execute and file a Stipulation of Voluntary Dismissal with Prejudice in this Action as soon as reasonably practical, and no later than fourteen (14) days after this Agreement has been finally approved by the Court and the Consent Decree has been entered.

9. **No Admission of Liability.** It is understood and agreed that this Agreement is a full and final compromise of disputed claims as to both questions of liability and as to the nature and extent of any damages, and that neither this Agreement, nor the terms and

provisions contained herein, shall be construed as an admission of liability by any party to this Agreement, and any such liability is expressly and unequivocally denied by Defendants.

10. Taxes. Other than as set forth above, Plaintiffs agree that they shall be solely responsible for all taxes, insurances, penalties, and other charges, if any, which may be owed to or assessed by governmental agencies as a result of the payments made to them and their counsel. Plaintiffs further agree to indemnify and hold harmless the Defendants and their attorneys from any claims, demands, deficiencies, levies, assessments, judgments or recoveries by any governmental authority asserted against the Defendants because of the Plaintiffs' failure to pay applicable taxes.

11. Costs and Attorneys' Fees. Other than as set forth above, all parties hereto shall bear their own costs and attorneys' fees in connection with the disputes and the claims raised in the Action that are the subject of this Agreement.

12. Governing Law and Venue. This Agreement shall be construed and governed in accordance with the laws of the State of North Carolina. Any action relating to this Agreement shall be instituted and prosecuted only in the United States and, specifically, exclusively in an appropriate state court within Tyrrell County, North Carolina, or in an appropriate federal court within the Eastern District of North Carolina.

13. Severability. The invalidity of any particular provision of this Agreement shall not affect the other provisions hereof, which nevertheless shall continue in full force and effect.

14. **Successors in Interest.** This Agreement shall be binding upon and shall inure to the benefit of the successors, assigns, heirs, and personal representatives of the parties hereto.

15. **Originals.** This Agreement is to be signed in one (1) or more counterparts, each of which, when executed with the same formality and in the same manner as the original, shall constitute an original.

16. **Descriptive Headings.** The descriptive headings of the various sections hereof were formulated and inserted for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

17. **Authority.** The parties warrant that they are legally competent and fully empowered and authorized to execute this AGREEMENT; that they have not conveyed or assigned, pledged, hypothecated, or otherwise disposed of any interest in the claims or causes of action being released herein; and that there are no additional entities or persons affiliated with any party who are necessary to effectuate this AGREEMENT and the releases contained herein.

18. **Careful Reading and Voluntary Execution.** Each Plaintiff and Defendant, through their respective attorneys, acknowledges:

a. The terms of this Agreement are the product of mutual negotiations and compromise between each of the parties;

b. Each has been afforded a reasonable opportunity to consider the meaning and effect of this Agreement, and has had sufficient time to read and consider its terms and provisions, and each in fact has read the Agreement in its entirety and has considered its terms and provisions. Each has had the opportunity to comment upon, request

interpretation of, and make or suggest changes to the Agreement, and each has been represented by counsel of their own choice throughout the negotiations and settlement of the matter;

c. Each executes this Agreement freely and voluntarily, and has relied on its or his/her own attorney for advice and has not been induced or influenced in any way to enter into or execute this Agreement.

19. **Entire Consideration for this Agreement.** This document sets forth the entire consideration for this Agreement, which consideration is contractual and not a mere recital. All agreements and understandings between the parties are embodied and expressed herein.

20. **General.**

a. Each party agrees to perform any further acts and deliver any additional documents that reasonably may be requested to carry out the provisions of this Agreement.

b. The recitals contained in the preceding WHEREAS paragraphs are incorporated herein by reference.

c. The terms of this Agreement are contractual and not a mere recital.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under seal in such form as to be binding, as of the day and year first above written.

Signed and executed this 13 day of June, 2011.

Capt. Charlie's Seafood, Inc.

By: Tara Foreman

Printed name: Tara Foreman

Title: Bookkeeper

Signed and executed this 13 day of June, 2011.

Phillip Carawan
Phillip Carawan

Signed and executed this 13 day of June, 2011.

Tara Foreman
Tara Foreman

Signed and executed this 13 day of June, 2011 by counsel for Plaintiffs on behalf of Plaintiffs, having received full and complete authorization to execute this document on their behalf.

Clermont Fraser
Clermont Fraser, Esq.
North Carolina Justice Center

Carol Brooke
Carol Brooke, Esq.
North Carolina Justice Center

EXHIBIT 1**Class Members**

Last Name	First Name	A	B	C
*Acosta	Marina V.	0.00	48.51	48.50
Aguinaga Gomez	Juan Carlos	100.00		
Agulo Villa	Evangelina	100.00		
Agulo Villa	Maria de la Luz	100.00		
Agulo Villa	Maria Reyes	100.00		
Ahumada	Maria de la Luz	100.00		
Ahumada Cervantes	Refugio	100.00		
*Albarran	Francisca V.	0.00	98.93	98.92
*Aldana Alvarez	Catalina	200.00	132.13	132.12
*Altamirano Gonzalez	Camerina	100.00	80.50	80.50
*Andrade Torres	Irma	100.00	68.36	68.35
*Banuelos Martinez	Josefina	100.00	70.23	70.22
*Barraza Garcia	Martina	100.00	123.98	123.98
*Barrios Mancera	Claudia Alejandra	200.00	187.50	187.50
*Barrios Talavera	Aracelia	100.00	113.01	113.00
*Bernal Plateado	Andrea	100.00	86.74	86.73
*Bernal Sandoval	Martha	0.00	165.25	165.24
*Carillo Barrios	Francisco Javier	200.00	406.42	406.41
*Carillo Sanchez	Regina	100.00	204.02	204.02
*Cisneros Paredes	Agustin	200.00	645.12	645.11
*Corona Ramirez	Gloria	100.00	87.97	87.97
*Corrales Tapia	Dora Alicia	100.00	57.59	57.58
*Cortes Topete	Maria Concesa	100.00	160.78	160.77
Cruz	Elia P	100.00		
*Curiel Sandoval	Rita Dorali	100.00	85.67	85.67
de Avila Duran	Maria del Carmen	100.00		
*De la O Ruiz	Sebastiana	100.00	121.13	121.12
De Tovar	Maria Socorro	100.00		
Esqueda Oliva	Norma Mireya	100.00		
Felix Gomez	Fabiola	100.00		
Flores	Zulema V	0.00		
*Flores Galindo	Maria Carolina	100.00	75.08	75.08
*Flores Hernandez	Maria Senida	100.00	187.57	187.57
Flores Topete	Maria Evangel.	0.00		
*Franco Soto	Noe Salvador	0.00	1,363.35	1,363.34
*Fuentes Torres	Julio	100.00	383.80	383.79
*Galmiche Segura	Mignella	100.00	232.75	232.75
*Garcia Calderon	Gladys Jaqueline	100.00	94.26	94.25
*Garcia Marquez	Rosa Maria	100.00	113.08	113.08
Garcia Morgan	Miriam Cristina	100.00		
*Gomez Rodriguez	Norberta	100.00	66.69	66.69
*Gomez Rodriguez	Ofelia	100.00	280.47	280.46
*Gonzalez Garcia	Victoria	100.00	68.27	68.26

*Gonzalez Montano	Monica Adilene	0.00	41.49	41.49
Gonzalez Rivera	Sergio	100.00		
*Gutierrez Navarro	Baudelia	100.00	361.65	361.65
*Guzman Becerra	Felipe	200.00	1,045.84	1,045.84
Guzman Ibarra	Isabel del Rocio	200.00		
*Haro de Martinez	Virginia	100.00	153.59	153.58
*Healy Rubio	Hector Rommel	200.00	595.26	595.25
*Hernandez Garcia	Rosario Araceli	100.00	119.71	119.70
*Hernandez Hernandez	Soila	100.00	129.96	129.95
*Herrera Jimenez	Maria del Rosario	200.00	74.31	74.31
*Jara Rivera	Catalina	100.00	43.82	43.81
Jimenez	Angela R	100.00		
Jimenez Castillo	Ignacio	100.00		
*Jimenez Hernandez	Sonia	0.00	122.19	122.19
*Jimenez Ibarra	Daniela Yeraldin	100.00	68.17	68.17
*Juarez Montes	Luz Maria	200.00	133.07	133.07
*Landeros Covarrubias	Marlen Guadalupe	100.00	86.52	86.51
Leyva Acosta	Laura Elena	100.00		
*Lopez Alvarez	Arturu	100.00	378.87	378.87
Lopez Armenta	Maria Lourdes	100.00		
*Lopez Bernal	Maria de Jesus	100.00	75.94	75.93
*Lopez Hernandez	Sabas Yazmin	100.00	54.69	54.69
*Lopez Martinez	Briceida Francisca	100.00	74.31	74.31
Lora Gomez	Ofelia Beatriz	200.00		
*Martinez Bernal	Oscar	0.00	1,921.14	1,921.14
Martinez Perez	Maria Concepcion	100.00		
*Matus Gonzalez	Milan Dicla	100.00	102.58	102.58
*Medrano Moreno	Evangelina	200.00	160.30	160.30
*Mercado Limon	Maria Cristina	100.00	176.39	176.39
*Mojaró	Juan Carlos S	0.00	1,277.46	1,277.45
*Montes Morelos	Norma Alicia	100.00	114.72	114.72
*Montes Polanco	Maria Enedina	100.00	319.88	319.88
*Mora Godoy	Estela	100.00	146.49	146.49
*Mora Ramirez	Gema	100.00	105.55	105.54
*Morales Alvarado	Plutarco	100.00	947.13	947.13
*Morales Moreno	Cynthia Erika	100.00	180.12	180.12
*Morelos Martinez	Maria Guadalupe	100.00	89.77	89.76
*Moreno	Victoria	100.00	97.41	97.40
*Muro Corona	Martha	100.00	65.34	65.33
*Muro Corona	Monica	100.00	72.67	72.67
*Nunez Jarra	Consepcion	100.00	60.80	60.79
*Ochoa Ruiz	Amalia	100.00	13.81	13.80
Pachco Baez	Rosario Leticia	100.00		
*Perez Rodriguez	Luz Maria	100.00	241.20	241.19
*Pollorena Valenzuela	Maria Elodia	100.00	54.57	54.56
*Ponce Guitierrez	Livier	100.00	262.98	262.98
*Ramirez Jimenez	Fredelminda	100.00	10.68	10.67
*Ramos Gonzalez	Guillermina	100.00	86.12	86.12

*Ramos Gonzalez	Mercedes	0.00	81.23	81.22
*Ramos Jimenez	Rosaura	0.00	119.94	119.93
*Renteria Salas	Maria Cristina	100.00	284.85	284.84
Rico Hernandez	Leticia	100.00		
*Rodriguez Ibarra	Luz Adriana	200.00	134.76	134.76
*Rodriguez Javier	Edaena	100.00	162.09	162.09
*Rodriguez Nunez	Maria Dolores	200.00	125.92	125.92
*Rosales Sanchez	Beatriz Adriana	100.00	22.87	22.87
Ruiz Oregon	Cecilia	100.00		
*Ruiz Renteria	Adriana	100.00	104.80	104.80
*Salazar Covarrubias	Martha I	100.00	63.22	63.22
*Salcedo de la Torre	Bibiana	100.00	77.32	77.31
Sanchez Araujo	Catalina	100.00		
Serrano Villa	Rosa Maria	100.00		
Silvas Martinez	Maria Digna Mar.	100.00		
*Simental Frausto	Maria Concepcion	100.00	22.53	22.52
*Simental Frausto	Ofelia	200.00	65.62	65.62
Soto	Maria Antonia	100.00		
*Soto Rufino	Maria Teresa	100.00	224.13	224.12
*Soto Rufino	Maria Isidra	100.00	108.83	108.82
T. Tovar	Erika Yaneth	100.00		
*Talavera Marquez	Aricela	100.00	131.90	131.90
*Tamayo Chvez	Luz Maria	100.00	57.16	57.16
*Tiznado Renteria	Griselda Azucena	100.00	157.76	157.75
Valenzuela Valenzuela	Araceli	100.00		
*Verdin Garcia	Candelaria	200.00	226.26	226.26
*Villanueva Flores	Sandivel	100.00	82.82	82.81
*Villanueva jimenez	Irenea	100.00	60.61	60.61
*Villanueva Jimenez	Catalina	0.00	135.24	135.24
*Villela Gomez	Odalys	100.00	157.62	157.61
Villela Rivas	Francisco	100.00		
*Zavala Olmedo	Yolanda Praxedes	100.00	135.46	135.45
Total		12,500.00	18,618.60	18,618.14

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION
CASE NO: 2:10-CV-10-F

Marlen Guadalupe Landeros)
Covarrubias, Sandivel Villanueva)
Flores, Rita Dorali Curiel Sandoval)
and all others similarly situated,)
)
Plaintiffs)
)
v.)
)
Capt. Charlie’s Seafood, Inc., Phillip)
Carawan and Tara Foreman,)
)
Defendants)
_____)

CONSENT DECREE

Marlen Guadalupe Landeros Covarrubias, Sandivel Villanueva Flores and Rita Dorali Curiel Sandoval (“Plaintiffs”), instituted this action pursuant to 29 U.S.C. § 216(b), 29 U.S.C. § 1800, N.C. Gen. Stat. §§ 95-25.8, 95-25.22., and common law wrongful discharge in violation of public policy. The Plaintiffs were certified to represent a class and subclass for violations of the North Carolina Wage and Hour Act under Rule 23, Fed. R. Civ. P., on [DATE], The Plaintiffs’ Complaint alleged that Defendants Capt. Charlie’s Seafood, Inc., Phillip Carawan, and Tara Foreman engaged in certain employment practices which violated the Fair Labor Standards Act, the North Carolina Wage and Hour Act and the North Carolina common law. Defendants have denied, and continue to deny, the allegations.

In addition, the named Plaintiffs each filed charges with the U.S. Equal Employment Opportunity Commission (EEOC) alleging that the Defendants discriminated on the basis of sex in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S. §§ 2000e *et seq.* (hereinafter "Title VII"), which the Defendants have denied and continued to deny. The Plaintiffs indicated in their Complaint their intention to amend their Complaint to include claims of discrimination under Title VII.

Plaintiffs and Defendants hereby consent to the entry by the Court of the following Consent Order, in order to resolve their differences expeditiously, to do justice for all, and to minimize further legal expense. The Plaintiffs and the Plaintiff Class and Defendants agree that this Consent Order is being entered into for purposes of enforcement under Rule 71 of the Federal Rules of Civil Procedure and to ensure compliance with North Carolina law and federal law.

The terms of this Order shall apply to Defendants, their heirs, representatives, successors, and assigns, and shall be implemented immediately where not otherwise specifically stated.

The Plaintiffs and Defendants (collectively, the "Consenting Parties") have stipulated to jurisdiction of the Court over them and agree that the subject matter of this action is properly before the Court.

The Consenting Parties have advised this Court that they desire to resolve the allegations in the Complaint without the burden, expense, and delay of further litigation. It is understood and agreed that this settlement is the compromise of disputed claims (which Defendants have denied) and is not an admission of liability or wrongdoing by any Defendant.

It is therefore the finding of this Court, made on the pleadings and the record as a whole, that: (1) the Court has jurisdiction over the Consenting Parties and the subject matter of this action and (2) the purposes and provisions of the Fair Labor Standards Act, the North Carolina Wage and Hour Act and the common law will be promoted and effectuated by the entry of the Consent Decree.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. Defendants will make all payments to the Plaintiff class, to the named Plaintiffs, and to counsel for Plaintiffs as agreed to in the Settlement Agreement. Defendants will make the payments in the manner specified in the Settlement Agreement, less appropriate withholdings, within the time periods set forth in the Settlement Agreement.
2. Defendants will pay for, and will not seek reimbursement from their H-2B employees for, any visa fees, third-party visa processing fees, Department of Homeland Security fees, border crossing fees, or transportation costs to the United States incurred by employees relocating to the U.S. to work. Defendants shall bear such fees and costs unless and until there is contrary pronouncement by the U.S. Supreme Court or the Fourth Circuit, or an amendment of law or regulation, or a contrary interpretation by the U.S. Department of Labor stating that these expenses are for the benefit of the H-2B employee and may bring their wages below minimum wage. Plaintiffs' counsel may inspect Defendants' H-2B application materials and Defendants' records of paying the costs described herein no more than twice per year. Plaintiffs' counsel must notify Defendants in writing at least thirty (30) days before they intend to inspect the records.

3. Defendants will keep complete and accurate records of all time worked by employees and shall include this information on the paystubs provided to employees. When paying hourly wages, Defendants will compensate employees for each hour or part of an hour worked during each pay period in accordance with applicable law.

4. Defendants will maintain all required EEOC postings, including contact information in English and Spanish.

5. Within thirty (30) days of the Court's approval of this Settlement Agreement, Defendants will inform all current employees that every employee is free to work in any job for which they are qualified, regardless of gender or any other protected category. Defendants will inform all other employees that every employee is free to work in any job for which they are qualified, regardless of gender or any other protected category within a reasonable time after the employee begins work. Defendants will offer on-the-job paid training to employees interested in learning how to do different jobs. During the relevant seasons, this training will include training and opportunities to work in the preparing of crab traps and oyster shucking. Defendants will not classify any job based on gender and will not discriminate on the basis of sex when assigning jobs.

6. Defendants will maintain a list of all employees who ask for on-the-job training or who apply for any new position, including their name, gender, date of request or application, and the whether such training or application for a new position was accepted or denied, and the reasons for any denial. Upon request by Plaintiffs' counsel, this list will be made available for inspection two (2) times per year so that Plaintiffs' counsel may monitor the results of Defendants' implementation of paragraphs 5 through 7. Any concerns about

the impact of the policy or practices discussed in paragraphs 5 or 6 on the part of Plaintiffs' counsel should be addressed by the parties pursuant to paragraph 12 of this Decree.

7. Defendants will promulgate a written policy prohibiting discrimination on the basis of sex in the workplace, including a complaint procedure, within sixty (60) days of the Court's approval of the Settlement Agreement. The complaint procedure will specify both mechanisms for reporting discrimination internally as well as reporting such discrimination to the EEOC, including EEOC contact information. Within ninety (90) days of the Court's approval of the Settlement Agreement, Defendants will provide a copy of this policy and complaint procedure in English and Spanish to Plaintiffs' counsel.

8. Within ninety (90) days of the Court's approval of the Settlement Agreement, Defendants will explain the non-discrimination policy and complaint procedure to all current employees and provide each employee with a copy of the policy and complaint procedure in English and Spanish. Defendants will provide a copy in English and Spanish and explain the non-discrimination policy and complaint procedure to all future employees during each employee's first work week.

9. Capt. Charlie's shall require each officer and employee to attend an anti-discrimination training provided by a mutually agreeable outside provider that addresses sex discrimination. Employees will be paid for the time they spend attending the training at their normal hourly wage. The training shall be provided twice a year, once during the crab season and once during the oyster season, for each year that the consent decree is in effect. The first training shall occur between October 1, 2011 and December 31, 2011.

Defendants shall arrange for the training and shall pay for the cost of the training. In the event any officer or employee is absent or unavailable on the date(s) of training, he or she must be provided training as soon as reasonably practicable thereafter, which training may be conducted by an officer or manager of the Capt. Charlie's. Within two weeks of each anti-discrimination training, Defendants will report to Plaintiffs' counsel that the training took place and will provide a list of all employees and officers who attended and those officers and employees who did not attend.

10. During the term of this Decree, Defendants shall report the following information in electronic format to counsel for Plaintiffs in Excel or the equivalent searchable, sortable format for each H-2B worker hired by Capt. Charlie's and Capt. Neill's:

- Gender
- Years of experience with Capt Charlie's and/or Capt. Neill's
- Job functions performed
- Number of hours worked per week for each job function
- Payment per week.

This information shall be provided in April and October of each year, with the first report provided by October 31, 2011. This information shall be deemed to be confidential and proprietary business information of Defendants and shall not be published, disclosed or used by Plaintiffs or Plaintiff's counsel for any purpose other than ensuring compliance with this Decree.

11. The term of this Decree shall be for three (3) years from its entry by the Court.

12. The Court shall have jurisdiction to monitor the Consent Decree, enter any necessary orders, and over any action to enforce the Consent Decree. However, if any of the parties believe there has been a violation of this Consent Decree, counsel for the parties shall notify each other in writing and thereafter confer in good faith to resolve any perceived violation(s) of its terms before seeking judicial intervention.

SO ORDERED:

Date

United States District Judge

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION
CASE NO: 2:10-CV-10-F

Marlen Guadalupe Landeros)
Covarrubias, Sandivel Villanueva)
Flores, Rita Dorali Curiel Sandoval)
and all others similarly situated,)
)
Plaintiffs)
)
v.)
)
Capt. Charlie’s Seafood, Inc., Phillip)
Carawan and Tara Foreman,)
)
Defendants)
_____)

GENERAL RELEASE

WHEREAS, _____ (hereinafter “Plaintiff”) is a named plaintiff in the above-captioned lawsuit (the “Lawsuit”); and

WHEREAS, the parties to the Lawsuit have agreed to resolve the disputes between them pursuant to the Settlement Agreement and Release approved by the Court;

THEREFORE, in consideration of the mutual covenants and promises made by the parties in the Settlement Agreement and Release approved by the Court, into which this General Release is incorporated by reference, and for other good and valuable consideration, the adequacy and sufficiency of which are expressly acknowledged, it is agreed as follows:

1. **General Release by Plaintiff.** Plaintiff, for herself, her heirs, representatives, successors, and assigns, does hereby irrevocably and unconditionally release, acquit, and forever discharge Capt. Charlie’s Seafood, Inc., Phillip Carawan and Tara Foreman, as well as Capt. Charlie’s Seafood Inc.’s past, present, and future parent companies, subsidiaries, affiliates, related companies, officers, directors, employees, agents, attorneys, representatives, successors, and assigns from any and all claims, demands, causes of action, suits, and liabilities from the beginning of time until the date of this Agreement, including but not limited to claims arising from, out of, or otherwise relating to the Lawsuit. This general release includes any and all claims, demands,

grievances, causes of action, suits, and liabilities of every kind, character, and description whatsoever, both legal and equitable, under federal or state statutes or common law, whether known or unknown, including but not limited to claims for compensatory damages, punitive damages, back pay reinstatement, attorneys' fees, expenses and costs, including but not limited to all claims arising under the Fair Labor Standards Act, 29 U.S.C. 201, *et seq.*, the North Carolina Wage and Hour Act, N.C. Gen. Stat. § 95-25.1 *et seq.*, Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 *et seq.*, Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, the Family and Medical Leave Act, as amended, 29 U.S.C. § 2601 *et seq.*; the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Employee Retirement Income Security Act of 1974 ("ERISA"), and the North Carolina Retaliatory Employment Discrimination Act, N.C. Gen. Stat. § 95-240 *et seq.*, as well as those claims which were or could have been included in the Lawsuit. Plaintiff agrees that Plaintiff is waiving Plaintiff's right to any monetary recovery should any governmental agency or entity, including but not specifically limited to, the Equal Employment Opportunity Commission and the Department of Labor, pursue any claims on Plaintiff's behalf in connection with any charge or allegation of discrimination, or any claim or allegation in the Lawsuit. Nothing herein purports to release claims which may arise after the date on which this Agreement is executed or which cannot be released by law.

2. **Covenant Not to Sue.** Plaintiff hereby covenants and agrees that s/he will not file or permit to be filed on his/her behalf, any action, suit, or administrative proceeding, or take any other action which seeks to pursue or enforce any claim, demand, cause of action, suit, or liability which she has released herein.

3. **Severability.** If any provision of this General Release as applied to any party or to any circumstance shall be deemed to be illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect the remainder hereof or its validity or enforceability in any jurisdiction.

4. **Entire Agreement; Modification.** This General Release, along with the Settlement Agreement and Release into which it is incorporated by reference, constitute the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements, whether written or oral. This General Release may be amended, modified, supplemented, waived, discharged, or terminated only by a written document signed by all parties hereto and approved by the Court.

5. **Choice of Law.** This Agreement is intended and shall be construed in accordance with the laws of the State of North Carolina, or applicable federal law.

6. **Acknowledgment.** Plaintiff represents and warrants that she has been given a reasonable period of time to consider this Agreement; that she has read the entire Agreement; that she has been provided with a translation into Spanish by her counsel; that she has consulted her attorney about the meaning and intent of the Agreement; and that she enters into this Agreement of her own free will, without coercion, undue

influence, threat, or intimidation of any kind, with the intention of being legally bound to its terms. Plaintiff acknowledges and agrees that she has not previously assigned or transferred any claims that she has released by this Agreement.

THE UNDERSIGNED HEREBY STATES THAT SHE HAS CAREFULLY READ THE FOREGOING AGREEMENT, KNOWS THE CONTENTS THEREOF, AND SIGNS THE SAME OF HER OWN FREE ACT.

Name

Date

My mailing address: _____

Telephone number: _____

EXHIBIT 4

Class Member Release

WHEREAS, I, _____ have been identified as a potential class member in a lawsuit pending in United States District Court for the Eastern District of North Carolina Northern Division, captioned *Marlen Guadalupe Landeros Covarrubias, Sandivel Villanueva Flores, Rita Dorali Curiel Sandoval and all others similarly situated v. Capt. Charlie's Seafood, Inc., Phillip Carawan and Tara Foreman*, Case No. 2:10-CV-10-F (the "Lawsuit"); and

WHEREAS, the parties to the Lawsuit have agreed to resolve the disputes between them pursuant to the Settlement Agreement and Release approved by the Court;

THEREFORE, in consideration of the mutual covenants and promises made by the parties in the Settlement Agreement and Release approved by the Court, into which this Release is incorporated by reference, and for other good and valuable consideration, the adequacy and sufficiency of which are expressly acknowledged, it is agreed as follows:

1. I, _____, sign and execute the following release for the purpose of fully settling any and all claims for violations of the North Carolina Wage and Hour Act, N.C. Gen. Stat. §§ 95-25.6 and 95-25.22 from March 17, 2008 to December 31, 2010 in the Lawsuit.
2. In return for my portion of the payment from Capt. Charlie's Seafood, Inc, Phillip Carawan and Tara Foreman ("Defendants") as set forth in Exhibit 1 to the Settlement Agreement and Release approved by the Court in the Lawsuit, I hereby irrevocably and unconditionally release, acquit, and forever discharge Capt. Charlie's Seafood, Inc., Phillip Carawan and Tara Foreman, as well as Capt. Charlie's Seafood Inc.'s past, present, and future parent companies, subsidiaries, affiliates, related companies, officers, directors, employees, agents, attorneys, representatives, successors, and assigns from any and all claims, demands, causes of action, suits, and liabilities from any and all liability for any violations of the Fair Labor Standards Act, 29 U.S.C. 201 *et seq.*, and/or the North Carolina Wage and Hour Act, N.C. Gen. Stat. §§ 95-25.1 *et seq.*, from March 17, 2008 to December 31, 2010. I hereby covenant and agree that I will not file or permit to be filed on my behalf, any action, suit, or administrative proceeding, or take any other action which seeks to pursue or enforce any claim, demand, cause of action, suit, or liability which I have released herein.
3. If any provision of this Release as applied to any party or to any circumstance shall be deemed to be illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect the remainder hereof or its validity or enforceability in any jurisdiction.
4. This Release, along with the Settlement Agreement and Release of the Lawsuit into which it is incorporated by reference, constitute the entire agreement

between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements, whether written or oral. This Release may be amended, modified, supplemented, waived, discharged, or terminated only by a written document signed by all parties hereto and approved by the Court.

5. This Agreement is intended and shall be construed in accordance with the laws of the State of North Carolina, or applicable federal law.

6. I represent and warrant that I have been given a reasonable period of time to consider this Agreement; that I have read the entire Agreement; that I have been provided with a translation into Spanish by counsel for the Plaintiffs in the Lawsuit; and that I enter into this Agreement of my own free will, without coercion, undue influence, threat, or intimidation of any kind, with the intention of being legally bound to its terms. I acknowledge and agree that I have not previously assigned or transferred any claims that I have released by this Agreement.

This the ____ day of _____, 201_.

Signature

Printed Name