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Attorneys for Plaintiff PAOLA VILLALVAZO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

PAOLA VILLALVAZO, an individual, on
behalf of herself, and on behalf of all persons
similarly situated,

Plaintiff,

vs.

SK MARKET, INC., a California corporation;
ADVANCE FOOD MARKET, INC., a
California corporation; JAY'S MARKET INC.,
a California corporation; and DOES 1 through
50, Inclusive;

Defendants.

Case No. 21STCV39911

**SUPPLEMENTAL DECLARATION OF
JEAN-CLAUDE LAPUYADE, ESQ. IN
SUPPORT OF PLAINTIFF'S MOTION TO
APPROVE PAGA SETTLEMENT**

Date: February 1, 2024

Time: 8:30 a.m.

Reservation ID: 123666307933

Dept.: 34

Judge: Michael P. Linfield

1 I, Jean-Claude Lapuyade, Esq., declare as follows:

2 1. I am over eighteen years of age and if called as a witness, I could and would competently
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner
4 of the law firm of JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am co-counsel of record for
5 Plaintiff PAOLA VILLALVAZO (hereafter "Plaintiff") in this action filed against SK MARKET, INC.
6 (hereinafter "Defendant").

7 2. This supplemental declaration is being submitted in support of Plaintiff's Motion to
8 Approve PAGA Action Settlement.

9 3. On January 8, 2024, Plaintiff filed her Motion to Approve PAGA Settlement.

10 4. The PAGA Settlement Agreement ("Agreement"), which was attached as Exhibit 1 to the
11 Declaration of Jean-Claude Lapuyade, Esq. was not fully executed.

12 5. A true and correct copy of the fully executed Agreement is attached hereto as Exhibit #1.

13 6. A true and correct copy of the proof of filing with the Labor and Workforce Development
14 Agency of the Fully Executed Agreement dated January 9, 2024, is attached hereto as Exhibit #2.

15 I declare under the penalty of perjury under the laws of the State of California that the foregoing
16 is true and correct. Executed this 9th day of January 2024, at San Diego, California.

17
18 **JCL LAW FIRM, APC**

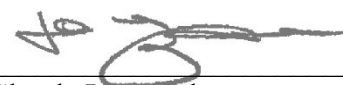
19 By: 
20 Jean-Claude Lapuyade
21 Attorneys for Plaintiff
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EXHIBIT 1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Paola Villalvazo (“Plaintiff”) and defendant SK Market, Inc., (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s PAGA lawsuit alleging wage and hour violations against Defendant captioned Villalvazo v. SK Market, Inc., et al. initiated on October 29, 2021, and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means Apex Class Action LLC, located at 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4. “Aggrieved Employee” means all current and former non-exempt employees who worked for Defendant and performed work in California during the PAGA Period.
- 1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods worked.
- 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. “Court” means the Superior Court of California, County of Los Angeles.
- 1.8. “Defense Counsel” means Brian D. Peters, Esq., and Laura P. Birnbaum, Esq., of Kaufman Dolowich & Voluck, LLP.
- 1.9. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment.
- 1.10. “Funding Date” means the date on which Defendants shall fund the Gross Settlement Amount to the Administrator.

- 1.11. “Gross Settlement Amount” means \$125,000.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator’s Expenses Payment, and Service Award.
- 1.12. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.13. “Judgment” means the judgment entered by the Court based upon the Court Approval of the Settlement.
- 1.14. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.15. “LWDA PAGA Payment” means the 75% of the PAGA Payment paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.16. “Notice of PAGA Settlement” means the notice to be provided to the Aggrieved Employees by the Claims Administrator in the form set forth as **Exhibit A** to this Agreement.
- 1.17. “PAGA Counsel” means Jean-Claude Lapuyade, Esq., of JCL Law Firm, APC and Shani Zakay, Esq., of Zakay Law Group, APLC, the attorneys representing the Plaintiff in the Action.
- 1.18. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.19. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.20. “PAGA Period” means the period from August 25, 2020, to September 15, 2023.
- 1.21. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.22. “PAGA Notice” means Plaintiff’s August 25, 2021 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.23. “PAGA Payment” means the amount remaining from the Gross Settlement Amount after deducting the Administration Expenses Payment, PAGA Counsel Fees Payment, Litigation Expenses Payment, and Plaintiff’s Service Award. The PAGA Penalties shall be used to satisfy claims for civil penalties under PAGA asserted on behalf of herself,

the Aggrieved Employees, and the LWDA. The total amount of PAGA civil penalties to be paid from the Gross Settlement Amount in the amount of \$44,933.33, allocated 25% to the Aggrieved Employees (\$11,233.33) and the 75% to LWDA (\$33,699.99) in settlement of PAGA claims.

- 1.24. "Plaintiff" means Paola Villalvazo, the named plaintiff in the Action.
- 1.25. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.26. "Released PAGA Claims" means all released PAGA claims alleged in the operative complaint in the Action and Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period, including but not limited to, claims under Labor Code sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2802, 2804 and 2698, et seq., California Code of Regulations, Title 8, Section 1 1070(14), the applicable Industrial Welfare Commission Wage Order(s), and any resulting claim for attorneys' fees and costs and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.
- 1.27. "Released Parties" means: Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.
- 1.28. "Service Award" means the payment of \$10,000.00 to Plaintiff for initiating the Action and providing services in support of the Action.
- 1.29. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS.

- 2.1. On October 29, 2021, Plaintiff commenced this Action by filing a Class and Representative Complaint alleging nine (9) causes of action against Defendants for (1) Unfair Competition in Violation of Bus. & Prof. Code sections 17200 *et seq*; (2) Failure to pay overtime wages in violation of California Labor Code sections 510 *et seq*; (3) Failure to pay minimum wages in violation of California Labor Code sections 1194, 1197 and 1197.1; (4) Failure to provide required meal periods in violation of California Labor Code sections 226.7 and 512 and the applicable IWC wage order; (5) Failure to provide required rest periods in violation of California Labor Code sections 226.7 and 512 and the applicable IWC wage order; (6) Failure to provide accurate itemized wage statements in violation of California Labor Code section 226; (7) Failure to provide wages when due in violation of California Labor Code sections 201, 202 and 203; (8) Failure to reimburse employees for required expenses in violation of California Labor Code section 2802; and (9) Violation of the Private Attorneys General Act [Labor Code §§ 2698 *et seq*]. The Complaint is the operative complaint in the Action (the

“Operative Complaint.”)

- 2.2. On March 15, 2022, the Court dismissed the putative class action allegations from the operative complaint without prejudice, dismissed Plaintiff’s individual claims without prejudice, and reassigned the matter as a PAGA only non-complex case. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.3. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.4. On May 22, 2023, the Parties participated in an all-day mediation presided over by Hon. Carl J. West (Ret.), a retired judge and experienced mediator of wage and hour class and representative actions, which subsequently led to this Agreement to settle the Action.
- 2.5. Prior to mediation, Plaintiff obtained, through informal discovery, timekeeping records, and payroll records for the Aggrieved Employees. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.6. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay One Hundred, Twenty-Five Thousand Dollars and Zero Cents (\$125,000.00) and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Approval:
 - 3.2.1. To Plaintiff: A Service award to Plaintiff of not more than \$10,000.00. Defendant will not oppose Plaintiff’s request for a service award that does not exceed this amount. As part of the motion for settlement approval, Plaintiff will seek Court approval for any Service Award no later than sixteen (16) court days prior to the Settlement Approval Hearing. If the Court approves a Service Award less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Service Award using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Service Award.

- 3.2.2. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be Forty-One Thousand, Six Hundred and Sixty-Six Dollars and Sixty-Seven Cents (\$41,666.67) and PAGA Counsel Litigation Expenses Payment of not more than Twenty Thousand Dollars and Zero Cents (\$20,000.00). Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment no later than sixteen (16) court days prior to the Approval Hearing. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.
- 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed Eight Thousand and Four Hundred Dollars and Zero Cents (\$8,400.00) except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less than \$8,400.00 or the Court approves payment less than \$8,400.00, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.4. To the LWDA and Aggrieved Employees: PAGA Payment in the amount of \$44,933.33 to be paid from the Gross Settlement Amount, with 75% (\$33,699.99) allocated to the LWDA PAGA Payment and 25% (\$11,233.33) allocated to the Individual PAGA Payments. Defendant's payment of the PAGA Payment does not constitute the payment of any actual civil penalties imposed on Defendant, but rather constitutes a payment made by Defendant to settle a disputed claim for civil penalties.
- 3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$11,233.33) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.
- 3.2.4.2. If the Court approves a PAGA Payment of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 363 Aggrieved Employees who worked a total of 19,893 PAGA Pay Periods.
- 4.2. Aggrieved Employee Data. Within fifteen (15) days after the Court grants Approval of the Settlement, Defendant will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.
- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount to the Administrator, including payment for all claims, payment of Claims Administration Expenses, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, Service Award, and PAGA Payment in 10 monthly installments of \$12,500 each, beginning within 30 days after entry of the court order approving the settlement.
- 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendant funds the 10th monthly installment, thereby fully funding the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, , and the Service Award.
 - 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
 - 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are

returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the Community Law Project in accordance with CCP § 384 and subject to Court approval.

4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff's General Release. In consideration for the payment of the Service Award, Plaintiff releases Defendant and the Released Parties from all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted prior to the approval of the Settlement, whether in tort, in contract, or for violation of any state or federal statute, rule or regulation arising out of, relating to, or in connection with Plaintiff's prior employment with Defendant or any act or omission by or on the part of Defendant. (The release set forth in this Paragraph shall be referred to hereinafter as "Plaintiff's General Release.") In addition, Plaintiff acknowledges that she has no intent to apply and/or re-apply for employment at Defendant. Plaintiff further acknowledges that Defendant or any related, successor, parent, or subsidiary companies has the right to refuse rehire of Plaintiff for nondiscriminatory and non-retaliatory reasons. Plaintiff's General Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's General Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's General Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

- 5.2 Release by Aggrieved Employees: Upon entry of final judgment and funding of the Gross Settlement Amount, all Aggrieved Employees and the State of California will fully release and discharge Defendant and all Released Parties from the Released PAGA Claims. The Parties agree there is no statutory right for any Aggrieved Employee to object, opt out or otherwise exclude himself or herself from the Settlement. The Parties further agree there is no right or opportunity for any Aggrieved Employee to appeal the approval of the PAGA settlement by the Court. This Agreement shall not be subject to collateral attack by any Aggrieved Employee.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

- 6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (iv) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (v) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.2 Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than seventy-five (75) days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Approval to the Administrator.
- 6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's

concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1. Selection of Administrator. The Parties have jointly selected Apex Class Action LLC, to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action LLC agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of providing reports state and federal tax authorities.
- 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR CLAUSE

Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 363 Aggrieved Employees who worked 19,893 Pay Periods during the PAGA Period. Should the number of Pay Periods increase by more than 10% of what was represented at the mediation during the PAGA Period, the Gross Settlement Amount will increase proportionally for the number of Pay Periods over 110% of 19,893. For example, if the total Pay Periods in the PAGA Period are 115% of 19,893, the Gross Settlement Amount shall increase by 5%. Defendants will provide a declaration under penalty of perjury confirming the number of applicable Aggrieved Employees and Pay Periods they worked during the applicable PAGA Period one week prior to Plaintiff's deadline to file their motion for Settlement approval.

9. CONTINUING JURISDICTION OF THE COURT. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

- 9.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the

Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. ADDITIONAL PROVISIONS.

- 10.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 10.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 10.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

- 10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.11 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 10.1 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.
- 10.12 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.13 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.14 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

JCL LAW FIRM, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
T: 619-599-8292
F: 619-599-8291
jlapuyade@jcl-lawfirm.com

ZAKAY LAW GROUP, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
T: 619-892-7095
F: 858-404-9203
Shani@zakaylaw.com

To Defendant:

KAUFMAN DOLOWICH & VOLUCK, LLP
21515 Hawthorne Blvd, Suite 450
Torrance, CA 90503
T: 310-540-2000
F: 310-540-6609
bpeters@kaufmandolowich.com
lbinbaum@kaufmandolowich.com

- 10.15 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 10.16 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

[REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK.]

IT IS SO AGREED TO AS TO FORM AND CONTENT BY PLAINTIFF:

Dated: 12/27, 2023


Paola Villalvazo (Dec 27, 2023 18:48 PST)

Plaintiff Paola Villalvazo

Dated: Dec. 28, 2023



Jean-Claude Lapuyade
The JCL Law Firm, APC
Attorney for Plaintiff

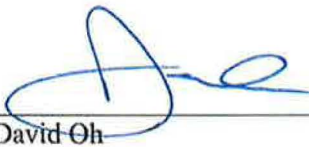
Dated: Dec. 28, 2023



Shani O. Zakay
Zakay Law Group, APLC
Attorney for Plaintiff

IT IS SO AGREED TO AS TO FORM AND CONTENT BY DEFENDANT:

Dated: _____, 2023



David Oh
For Defendant
SK MARKET, INC.

Dated: Jan 9⁴, 2023



Brian D. Peters, Esq.
Laura P. Birnbaum, Esq.
Kaufman Dolowich & Voluck, LLP
Attorney for Defendant

EXHIBIT A

[Administrator Notice]

You are receiving this payment because of a lawsuit brought by a former California employee against SK Market, Inc., (“Defendant”) for civil penalties pursuant to the Private Attorneys General Act of 2004, Labor Code § 2698 et seq. (“PAGA”). Plaintiff Paola Villalvazo (“Plaintiff”) claimed that she and other employees were not provided legally compliant meal and rest periods, not provided suitable seating, not paid for all time worked, not properly paid overtime, not properly paid minimum wages, not paid at the correct regular rate of pay, not provided with accurate wage statements, not reimbursed for business expenses, and not timely paid wages.

Defendant denies these claims and denies that it owes any penalties, but to avoid further time and expense in litigation, Defendant and Plaintiff have agreed to settle the case. The settlement resolves the claims asserted in the lawsuit on behalf of the State of California and all current and former non-exempt employees who worked for Defendant and performed work in California at any time between August 25, 2020, and September 15, 2023. (“Aggrieved Employees”).

According to Defendant’s records, you are an Aggrieved Employee and are therefore entitled to a share of the settlement. This settlement check shall remain valid until **[insert date]**.

This check is issued pursuant to the terms of the PAGA settlement in Los Angeles Superior Court Case No. 21STCV39911. The PAGA settlement settles and releases only claims for PAGA penalties and no other claims against Defendant.

This payment is taxable income for federal, state, and local tax purposes and may be reported to the appropriate taxing authorities. You may be required to make additional tax payments. Please consult a tax advisor to determine your individual tax payment and reporting situation. You will be mailed appropriate tax forms in **[insert date]**. Please notify us of any address changes so that any necessary tax forms can be mailed to your most current address.

If you have any questions about your award, please contact the **[insert administrator information]**.

EXHIBIT 2