

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Civil Complex Center
751 W. Santa Ana Blvd
Santa Ana, CA 92701

SHORT TITLE: VELAZQUEZ vs. MODERN WIRELESS, INC.**CLERK'S CERTIFICATE OF MAILING/ELECTRONIC
SERVICE****CASE NUMBER:**
30-2020-01166897-CU-WT-CXC

I certify that I am not a party to this cause. I certify that the following document(s), Order - Other dated 12/09/21, have been transmitted electronically by Orange County Superior Court at Santa Ana, CA. The transmission originated from Orange County Superior Court email address on December 14, 2021, at 1:43:47 PM PST. The electronically transmitted document(s) is in accordance with rule 2.251 of the California Rules of Court, addressed as shown above. The list of electronically served recipients are listed below:

ALEXIS LAW FIRM
DALEXIS@ALEXISLAWFIRM.COM

JAURIGUE LAW GROUP
SEAN@JLGLAWYERS.COM

KO LEGAL, INC.
KIM@KO-LEGAL.COM

Clerk of the Court, by: V. Harting, Deputy

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

DEC 09 2021

DAVID H. YAMASAKI, Clerk of the Court

BY: _____, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

JESUS VELAZQUEZ and KRYSTLE
GARCIA, in their individual capacities and
as aggrieved employees under the California
Labor Code Private Attorneys General Act
of 2004;

Plaintiffs,

vs.

MODERN WIRELESS, INC., a California
corporation;

Defendant.

Case No. 30-2020-01166897-CU-WT-CXC

**ORDER ON MOTION FOR COURT
APPROVAL OF THE SETTLEMENT OF
THE CALIFORNIA LABOR CODE
SECTION 2699 *ET SEQ.*, PRIVATE
ATTORNEYS GENERAL ACT (PAGA),
CLAIM**

DATE: December 2, 2021
TIME: 2:00 p.m.
DEPT: CX102
JUDGE: Hon. Peter J. Wilson

1 The Complaint filed by Jesus Velasquez and Krystle Garcia ("Plaintiffs") contains a
2 claim for relief under the California Labor Code Private Attorneys General Act of 2004, Labor
3 Code §§ 2698, *et seq.* (the "PAGA"), for civil penalties based on alleged violations of Labor
4 Code sections 201, 202, 204, 226(a), 226.7, 510, 512, 1174(d), 1198, 2800, and 2802.

5 The allegedly Aggrieved Employees are all California-based non-exempt employees and all
6 exempt employees in the "Outside Field Representative" position at Modern Wireless, Inc., as
7 such employees are identified in Defendant's personnel and payroll records as such, during the
8 PAGA Period. The PAGA period shall refer to the period commencing May 21, 2019 and
9 ending on the date this Order is signed.

10 Having considered Plaintiffs' Motion for Court Approval of the PAGA Settlement (the
11 "Motion"), and all legal authorities and documents submitted in support thereof, including the
12 Settlement Agreement and Release of All Claims (the "Settlement Agreement") and the Notice
13 of Settlement attached to the Settlement Agreement as Exhibit A, and for good cause
14 appearing, IT IS HEREBY ORDERED that, pursuant to California Labor Code § 2699(1)(2),
15 this Court approves the settlement and ORDERS THE FOLLOWING:

16 1. The settlement of the PAGA claim is approved as fair, adequate and reasonable
17 under the circumstances.

18 2. The Court hereby approves the gross settlement amount described in the
19 Motion and the Settlement Agreement and finds that the payment of \$28,750 in settlement of
20 the claims for PAGA civil penalties and attorneys' fees and costs thereon, is, in all respects,
21 fair, adequate and reasonable. The Court finds that the PAGA settlement has been reached as
22 a result of informed and non-collusive arm's length negotiations. The Court further finds that
23 the Parties have conducted extensive investigation and research and their attorneys were able
24 to reasonably evaluate their respective positions. The Court also finds that the settlement now
25 will avoid additional and potentially substantial litigation costs, as well as delay and risks if
26 the Parties were to continue to litigate the case.

27 ///

1 3. Neither the Settlement, nor any terms of the Settlement Agreement, are an
2 admission of liability or of any alleged Labor Code violations by the Releasees, nor is the
3 Court's instant Order a finding of the validity of any claims in this action or of any
4 wrongdoing by any of the Released Parties. The term Released Parties has the meaning as
5 provided in the Settlement Agreement.

6 4. The Parties are directed to consummate the Settlement Agreement in
7 accordance with its terms, including the payment plan and order of payments as listed therein.
8 A true and correct copy of the Settlement Agreement is attached hereto as Exhibit A.

9 5. The Court further appoints Plaintiffs' counsel ALEXIS LAW FIRM and KO
10 LEGAL, INC. as representative counsel and approves payment of \$11,356.24 in attorneys'
11 fees and \$1,008.05 in litigation costs on the PAGA claim.

12 6. The Court approves the payment of PAGA civil penalties in the amount of
13 \$16,385.71, to be divided as follows: (i) 75% to the Labor and Workforce Development
14 Agency ("LWDA"), which equals \$12,289.28, and (ii) 25% to Aggrieved Employees, which
15 equals \$4,096.43.

16 7. The Court approves the proposed Notice to Aggrieved Employees of the
17 settlement, attached to the Settlement Agreement as Exhibit A, to be sent along with the
18 payments by Defendant.

19 8. The Court further orders, adjudges and decrees that, upon payment of the Gross
20 Settlement Amount, as described in the Motion and the Settlement Agreement, Plaintiffs and
21 the Aggrieved Employees shall be deemed to have fully, finally, and forever released,
22 relinquished, and discharged the Released Parties (as defined in the Settlement Agreement)
23 from any and all claim for PAGA civil penalties relating to any and all facts and claims
24 asserted in the Action or any other action under PAGA that could have been asserted in the
25 Action based on the facts alleged, including but not limited to any and all claims for PAGA
26 civil penalties for violations of the California Labor Code sections 201, 202, 204, 226(a),
27 226.7, 510, 512, 1174(d), 1198, 2800, and 2802 governing meal and rest periods, overtime

1 wages, any and all theories for or related to unpaid wages for “off the clock” work, the keeping
2 of payroll records of time worked, wage statement violations, the timing of wage payments,
3 the final payment of wages upon termination of employment, and the reimbursement of
4 business expenses.

5 9. Plaintiffs are ordered, within five (5) court days of the date of this Order is
6 received by Plaintiffs’ counsel, to submit the signed Order to the LWDA.

7 10. This Action is stayed in its entirety, except for the steps necessary for the
8 Parties to effectuate their settlement, as set forth in this Order.

9 11. A final accounting hearing will take place on August 5, 2022 at 9:00 a.m. in
10 Department CX102. Defendant will file a final report at least 5 court days prior to the final
11 accounting hearing, which shall include the actual amounts paid to aggrieved employees and
12 the other amounts distributed under the settlement, including uncashed checks. After the final
13 accounting hearing, Plaintiffs’ counsel shall then file a Request for Dismissal of the Action
14 upon receipt of written confirmation from counsel for Defendants that all payments made as
15 ordered hereunder have been made.

16 12. Plaintiffs, the LWDA, and the PAGA Aggrieved Employees as defined in the
17 Settlement Agreement are (to the fullest extent allowed under the law) bound by the release of
18 PAGA civil penalties set forth in the Settlement Agreement regardless of whether they
19 negotiate or cash their settlement check. As a result of this Order, except as expressly set forth
20 in the Settlement Agreement filed in conjunction with Plaintiff’s Motion for Approval of
21 PAGA Settlement, they shall take nothing from Defendants and Released Parties regarding the
22 Released Claims.

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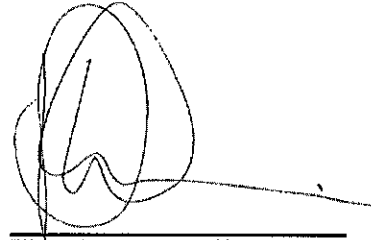
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1 13. Pursuant to California Code of Civil Procedure § 664.6, the Court shall have
2 and retain continuing jurisdiction over this Action and the Parties, including after entry of this
3 Order, to the fullest extent necessary to interpret, enforce and effectuate the terms and intent of
4 the Settlement Agreement and this Order.

5
6 IT IS SO ORDERED.

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8 Dated: December 9, 2021

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10 By:

A handwritten signature in black ink, appearing to read "Hon. Peter J. Wilson", written over a horizontal line.

Hon. Peter J. Wilson
Judge of the Superior Court

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EXHIBIT A

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release ("Agreement") is made and entered into by and between Jesus Velazquez ("Velasquez"), an individual, and Krystle Garcia ("Garcia"), an individual (collectively, "Plaintiffs"), individually and on behalf of all Aggrieved Employees, defined below, and Modern Wireless, Inc., a California corporation, ("Defendant"). Plaintiffs and Defendant are collectively referred to as the "Parties".

RECITALS

A. On May 21, 2020, Plaintiff filed a notice with the California Labor and Workforce Development Agency (LWDA) under the California Labor Code Private Attorneys General Act of 2004, California Labor Code § 2699 et seq. ("PAGA") of intent to pursue civil penalties against Defendant under the PAGA, which the LWDA assigned Case No. LWDA-CM-787580-20 (the "PAGA Notice").

B. On October 23, 2020, Plaintiff filed a civil complaint in the Superior Court of the State of California, for the County of Orange, against Defendant, entitled JESUS VELAZQUEZ and KRYSTLE GARCIA, in their individual capacities and as aggrieved employees under the California Labor Code Private Attorneys General Act of 2004 v. MODERN WIRELESS, INC., a California corporation, Case No. 30-2020-01166897-CU-WT-CXC (the "Civil Complaint"). Specifically, within the Civil Complaint, Plaintiff alleged the following causes of action:

(1) First Cause of Action for Failure to Pay Wages, which was a cause of action on behalf of Plaintiffs only;

(2) Second Cause of Action for Failure to Pay all Wages at Termination, which was a cause of action on behalf of Plaintiffs only;

(3) Third Cause of Action for Failure to Provide Meal Breaks, which was a cause of action on behalf of Plaintiffs only;

(4) Fourth Cause of Action for Failure to Provide Rest Breaks, which was a cause of action on behalf of Plaintiffs only;

(5) Fifth Cause of Action for Failure to Provide Accurate Itemized Wage Statements, which was a cause of action on behalf of Plaintiffs only;

(6) Sixth Cause of Action for Failure to Reimburse Business Expenses in Violation of California Labor Code § 2802, which was a cause of action on behalf of Plaintiffs only;

(7) Seventh Cause of Action for Sexual Harassment in Violation of California Government Code §12940, which was a cause of action on behalf of Plaintiff Jesus Velazquez only;

(8) Eighth Cause of Action for Sex Discrimination in Violation of California Government Code § 12940, which was a cause of action on behalf of Plaintiff Jesus Velazquez only;

(9) Ninth Cause of Action for Retaliation in Violation of California Government Code § 12940, which was a cause of action on behalf of Plaintiff Jesus Velazquez only;

SETTLEMENT AGREEMENT AND GENERAL RELEASE

(10) Tenth Cause of Action for Failure to Prevent Discrimination in Violation of Fair Employment and Housing Act, which was a cause of action on behalf of Plaintiff Jesus Velazquez only;

(11) Eleventh Cause of Action for Wrongful Termination in Violation of Public Policy, which was a cause of action on behalf of Plaintiff Jesus Velazquez only; and

(12) Twelfth Cause of Action for Violation of California Labor Code § 2699 *et seq.* (i.e., the California Labor Code Private Attorneys' General Act of 2004, which was a cause of action on behalf of Plaintiffs and all other Aggrieved Employees, (the "PAGA Claim").

C. The Parties desire to avoid further costs of litigation and agreed to resolve all potential or actual claims that Plaintiffs have or may have against Defendant, including the PAGA Claim filed on behalf of the Plaintiffs and the other Aggrieved Employees, as defined below.

D. Accordingly, in consideration of the promises and mutual covenants set forth in this Agreement, and for other good and valuable consideration, receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

TERMS OF AGREEMENT

1. This is a compromise general release of all claims, known or unknown and, therefore, this Agreement does not constitute an admission of liability on the part of any of the Parties or an admission, directly or by implication, that any of them have violated any law, rule or regulation, or any contractual right, or any other duty or obligation of any kind, including any duty or obligation owed to or allegedly owed to anyone.

2. This Agreement shall not in any way be construed as an admission that the Parties or any of their representatives have acted wrongfully with respect to the other or any other person but shall be construed strictly as an instrument to avoid litigation. This Agreement is not admissible to prove liability for, or the validity of, any claims that relate, refer, or pertain to the subject matter of this Agreement.

3. Pursuant to California Evidence Code § 1152, this Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret or enforce this Agreement. If final approval does not occur, the Parties agree that this Agreement is void, but remains protected by Evidence Code § 1152.

4. **Limited Disclosure.**

A. Plaintiffs agree that they will not publicize or disclose or cause or knowingly permit or authorize the publicizing or disclosure of the fact of this Agreement, the contents of this Agreement, including the amount paid in settlement, or of the negotiations leading up to this Agreement, or of the basis for any claims or allegations which were or could have been made against Defendant which concern and are within the scope of this Agreement (hereafter collectively referred to as "Confidential Information") to any person, firm, organization, or entity of any and every type, public or private, for any reason, at any time, without the prior written consent of Defendant; except that, the following disclosures are expressly permitted:

SETTLEMENT AGREEMENT AND GENERAL RELEASE

- i. in any documents submitted to the Court in connection with the proceedings to seek approval of the settlement of the PAGA Claim;
- ii. to enforce the terms of this Agreement; or
- iii. in response to any official inquiries from a federal, state, or local government agency, or as otherwise compelled by operation of law.

B. Plaintiffs also are permitted to disclose Confidential Information to their respective, if any, spouse, health care providers, tax advisors, and attorneys with whom Plaintiffs choose to consult regarding Plaintiffs' consideration of this Agreement. However, each such person to whom Plaintiffs disclose Confidential Information shall be bound to the confidentiality provisions hereof and any disclosure of Confidential Information by any such person so informed shall constitute a breach by the respective plaintiff of this Section. In response to inquiries from third parties concerning the status of this dispute or which would require the disclosure of Confidential Information, Plaintiffs only will state that the dispute has been resolved and that they cannot talk about it.

C. Nothing in this Agreement or this Section prohibits or prevents Velasquez from disclosing factual information related to any of the following complaints alleged in the DFEH Complaint or claims alleged in the Civil Complaint: Sexual Harassment in Violation of California Government Code § 12940; Sex Discrimination in Violation of California Government Code § 12940; Retaliation in Violation of California Government Code § 12940; Failure to Prevent Discrimination in Violation of Fair Employment and Housing Act.

D. It is agreed that in the event of a breach of the provisions of this Section by Plaintiffs and a finding of liability, it would be impractical or extremely difficult to fix actual damages to Defendant. Therefore, Plaintiffs agree that in the event of such a breach, the offending plaintiff(s) (i.e., Velasquez and/or Garcia) shall pay to Defendant, as liquidated damages, and not as penalty, the sum of Two Thousand Five Hundred Dollars (\$2,500), per breach, which represents reasonable compensation to Defendant for the loss incurred because of such a breach.

E. All Parties and their respective counsel agree that the Agreement shall not be publicized (other than by the letter to the Aggrieved Employees described in Section 17 herein) in any way, and no Party shall issue or cause to be issued a press release relating to the Agreement. However, counsel for the Plaintiffs may refer to the Agreement in declarations submitted to the court in connection with proceedings to seek approval of the PAGA Settlement.

5. Plaintiffs agree that they will not, individually or collectively, orally or in writing, make defamatory or otherwise injurious statements concerning Defendant (including Defendant's employees) or its business affairs. Plaintiffs further agree that they will not, individually or collectively, take any action or make any statement, oral or written, which has the purpose or effect of injuring or in any way detracting from the reputation of the Defendant, and their known present or former employees, clients, contractors, agents, or affiliates. Defendant, as a company, and Jeyson Sanchez and Katherine Cardani, individually, agree that each of them will not, either orally or in writing, make defamatory or otherwise injurious statements concerning either or both of Plaintiffs, and further agree that they will not, individually or collectively, take any action or make any statement, oral or written, which has the purpose or effect of injuring or in any way detracting from

SETTLEMENT AGREEMENT AND GENERAL RELEASE

the reputation of either or both of Plaintiffs. The requirements of this Section shall not apply in response to any official inquiries from a federal, state, or local government agency, or as otherwise compelled by operation of law.

6. For the purposes of this Agreement only, the Parties stipulate that the following group constitutes the Aggrieved Employees:

All California-based non-exempt employees and all exempt employees in the "Outside Field Representative" position at Modern Wireless, Inc., as such employees are identified in Defendant's personnel and payroll records as such, during the PAGA Period (the "Aggrieved Employees").

7. For the purposes of this Agreement only, the Parties stipulate that the "PAGA Period" shall refer to the period commencing on May 21, 2019 and ending on the date of final approval of the settlement of the PAGA Claim.

8. Defendant has represented that there are 34 Aggrieved Employees in the PAGA Period, with, on average only between 16 and 23 Aggrieved Employees working for Defendant during each pay period from May 21, 2019 to the date of execution of this Agreement.

9. This Agreement is only applicable to those Aggrieved Employees in the PAGA Period. This Agreement is contingent upon approval of the settlement of the PAGA Claim by the Orange County Superior Court, Civil Complex Center.

10. The Parties and their counsel agree to cooperate in good faith in the preparation of any documents (including any revised such documents) that are or become necessary to secure Court approval.

11. Counsel for Plaintiffs will, as required by law, submit a copy of this signed Agreement to the California Labor and Workforce Development Agency (the "LWDA") at the same time as counsel for Plaintiffs files a motion for approval of the settlement of the PAGA Claim and submit a copy of the Order approving the settlement of the PAGA Claim to the LWDA at such time as it is signed by the Court and available to Plaintiffs' counsel.

12. If for any reason, this Agreement is not granted final approval by the Court or is terminated, in whole or in part, this Agreement will be inadmissible in relation to the claims brought and will have no effect in this matter or in any claims brought on the same or similar allegations.

13. Plaintiffs and the Aggrieved Employees will fully release and discharge all past and present officers, directors, owners, shareholders, investors, employees, agents, attorneys, insurers, predecessors, successors, and assigns, direct and indirect subsidiaries, affiliated companies and any parent company of Defendant (collectively, the "Released Parties") from all claims under the PAGA, to the broadest extent under the law, for civil penalties that arise solely under the specific theories asserted by Plaintiffs in the PAGA Claim in the Civil Complaint, as follows:

A. Claims under the PAGA for civil penalties for Defendant's alleged failure to pay Plaintiffs and the Aggrieved Employees all earned compensation for performing work off-the-clock before their scheduled shifts, after their scheduled shifts, during off-the-clock meal periods and/or during their rest periods;

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B. Claims under the PAGA for civil penalties for Defendant's alleged failure to pay Plaintiffs and the Aggrieved Employees overtime compensation owed under California Labor Code §§ 510 and 1198, (i) when employees worked off-the-clock (as noted in 13.A. above) and (ii) by not paying overtime compensation at the appropriate overtime rate required by California law, including by failing to include commissions, bonus, piece rate wages and other non-discretionary incentive earnings in the regular rate of pay used to calculate overtime.

C. Claims under the PAGA for civil penalties for Defendant's alleged failure to provide Plaintiffs and the Aggrieved Employees with duty-free meal periods and rest periods and by failing to pay meal and rest period premiums as required by California Labor Code §§ 226.7 and 512.

D. Claims under the PAGA for civil penalties for Defendant's alleged failure to pay all wages due at the time of termination for those Aggrieved Employees' whose employment ended during the PAGA Period as required by California Labor Code §§ 201 and 202.

E. Claims under the PAGA for civil penalties for Defendant's alleged failure to pay all wages earned by Plaintiffs and the Aggrieved Employees during regular pay periods as required by California Labor § 204.

F. Claims under the PAGA for civil penalties for Defendant's alleged failure to provide Plaintiffs and the Aggrieved Employees with proper itemized wage statements at the time of payment of wages during the PAGA Period as required by California Labor Code § 226(a).

G. Claims under the PAGA for civil penalties for Defendant's alleged failure to keep accurate records of hours worked by the Plaintiffs and the Aggrieved Employees during the PAGA Period as required by California Labor Code § 1174(d).

H. Claims under the PAGA for civil penalties for Defendant's alleged failure to reimburse Plaintiffs and the Aggrieved Employees for all necessary and reasonable business expenses incurred by the employees in direct consequence of the discharge of their job duties or in direct consequences of their obedience to the directions of Defendant during the PAGA Period as required by California Labor Code §§ 2800 and 2802.

14. Plaintiffs and the Aggrieved Employees will fully release and discharge such claims as specified in Section 13 herein that arise solely during the PAGA Period as defined herein as to the Released Parties.

15. As consideration to resolve the Civil Complaint and in exchange for (i) approval by the Court of the settlement of the PAGA Claim and (ii) dismissal with prejudice of the entire action as set forth herein following such approval, Defendant agrees to pay the amount of Two Hundred Sixteen Thousand Three Hundred Thirty-Four Dollars and Seventy-Nine Cents (\$216,334.79) (the "Gross Settlement Amount"). The Gross Settlement Amount shall further be separated into two distinct portions, an amount agreed-upon to settle the Plaintiffs individual claims (the "Individual Claims Settlement Amount") and an amount agreed-upon to settle the PAGA Claim on behalf of the Plaintiffs, Aggrieved Employees and the LWDA (the "PAGA Claim Settlement Amount") as follows:

A. The Individual Claims Settlement Amount shall be One Hundred Eight-Seven Thousand Five Hundred Eighty-Four Dollars and Eighty-Eight Cents (\$187,584.79); and

SETTLEMENT AGREEMENT AND GENERAL RELEASE

B. The PAGA Claim Settlement Amount shall be Twenty-Eight Thousand Seven Hundred Fifty Dollars and No Cents (\$28,750.00).

PAGA Claim Settlement Details

16. The PAGA Claim Settlement Amount shall include the following amounts (the amounts for which Defendant agrees not to contest):

A. Four Thousand Ninety-Six Dollars and Forty-Three Cents (\$4,096.43), representing all payments to be made to the Aggrieved Employees for, pursuant to California Labor Code Section 2699(i), 25% of the amount of civil penalties in connection with the PAGA Claim Settlement Amount;

B. Twelve Thousand Two Hundred Eighty-Nine Dollars and Twenty-Eight Cents (\$12,289.28), representing all payments to be made to the LWDA for, pursuant to California Labor Code Section 2699(i), 75% of the amount of civil penalties in connection with the PAGA Claim Settlement Amount;

C. Eleven Thousand Three Hundred Fifty-Six Dollars and Twenty-Four Cents (\$11,356.24), representing 39.5% of the PAGA Claim Settlement Amount in attorneys' fees to Plaintiffs' counsel in connection with the prosecution of the PAGA Claim; and

D. One Thousand Eight Dollars and Five Cents (\$1,008.05) in costs and expenses incurred in connection with the prosecution of the PAGA Claim.

17. For the portion of the PAGA Claim Settlement Amount listed in Section 16.A. herein to be paid to Aggrieved Employees, Defendant will calculate each Aggrieved Employee's individual settlement payment (the "Employee PAGA Civil Penalty Share") based on the following formula: Each Aggrieved Employee will receive a pro rata portion of the PAGA Claim Settlement Amount listed in Section 16.A. based on the number of pay periods that the Aggrieved Employee worked in the PAGA Period in proportion to the number of pay periods worked by all Aggrieved Employees during the PAGA Period. Within thirty (30) calendar days following approval by the Court of the settlement of the PAGA Claim and service of notification of the same to Defendant by the Court and/or Plaintiff (hereafter, "Court Approval and Notification"), Defendant agrees to prepare and send, via U.S. regular mail, these amounts to the Aggrieved Employees. Defendant will provide copies of all checks and letters sent to the Aggrieved Employees to counsel for Plaintiffs and verify in a declaration under penalty of perjury that each such Aggrieved Employee has been mailed his/her Employee PAGA Civil Penalty Share within five (5) business days of the expiration of this thirty (30) calendar day period. Payments of the Employee PAGA Civil Penalty Share will be reported on IRS Form 1099s issued to each Aggrieved Employee in the amount of his/her share of the penalty and no withholdings shall be taken from these amounts.

Defendant shall send each Aggrieved Employee a letter to accompany the check on Defendant's formal letterhead and signed by an officer or director of Defendant using the template attached hereto as Exhibit A.

18. Aggrieved Employees will be solely responsible for the reporting and payment of any federal, state and/or local income taxes due, if any, on their Employee PAGA Civil Penalty Share.

SETTLEMENT AGREEMENT AND GENERAL RELEASE

19. Defendant shall use its best efforts to track any Aggrieved Employee whose letter and check are returned to Defendant as undeliverable and will re-send the letter and check to any such Aggrieved Employee promptly upon identifying updated mailing addresses. Defendant will attempt to contact any such Aggrieved Employee using any personal email address and personal home or cell phone number in Defendant's records upon receipt of an undeliverable letter to inquire as to the Aggrieved Employee of his/her current address and then re-send the letter and check to such Aggrieved Employee at the address provided.

20. Each Aggrieved Employee must cash the above checks within one hundred eighty (180) days from the date the check is mailed to the Aggrieved Employee by Defendant. Checks returned as undeliverable (following the process identified in Section 19 herein) or uncashed for more than the one hundred eighty (180) day period specified herein shall be promptly tendered by the Defendant to the State of California's Controller's Office, Unclaimed Property at P.O. Box 942850, Sacramento, CA 94250-5873.

21. For the portion of the PAGA Claim Settlement Amount listed in Section 16.B. herein to be paid to the LWDA by check (made payable to the "Labor and Workforce Development Agency"), within thirty (30) calendar days of Court Approval and Notification, Defendant agrees to prepare and send, via regular U.S. mail, the amount to the LWDA at the following address:

Department of Industrial Relations
Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

Defendant agrees that the check must be accompanied either by a copy of the order or judgment awarding the penalties or by other documentation identifying the court case and parties to which the payment applies. Defendant further agrees to provide copies of the check and letter sent to the LWDA to counsel for Plaintiffs and verify in a declaration under penalty of perjury that Defendant has mailed to the LWDA its share of the civil penalty within five (5) business days of the expiration of the thirty (30) calendar day period.

22. For the portion of the PAGA Claim Settlement Amount listed in Sections 16.C. and 16.D. herein, Defendant, within thirty (30) calendar days of Court Approval and Notification agrees to prepare and send, via U.S. regular mail, these amounts to Plaintiffs' counsel in one check made payable to the Alexis Law Firm, 100 W. Broadway, Suite 250, Long Beach, CA 90802. Plaintiffs' counsel will be issued an IRS Form 1099 for the amounts so paid, and no withholdings shall be taken from these amounts.

23. The Parties agree that, because the number of Aggrieved Employees is small, no settlement administrator needs to be appointed to administer the payments to the LWDA and the Aggrieved Employees, and that not incurring the costs of a settlement administrator benefits the LWDA and the Aggrieved Employees as more of the amount designated to settle the PAGA Claim inures to the benefit thereof as a result of not having this additional cost applied. The Parties agree, however, that to the extent the Court requires the appointment of a settlement administrator in order to approve the settlement of the PAGA Claim, the costs of settlement administration shall be paid as follows: (i) 50% shall come from the PAGA Claim Settlement Amount (i.e., the \$28,750 allocated

SETTLEMENT AGREEMENT AND GENERAL RELEASE

by this Agreement), and the allocations provided in subsections 16.A, B and C, respectively, shall be recalculated and reduced on a proportional basis accordingly, and (ii) 50% shall be paid for by the Defendant. The Parties further agree that in the event the Court requires the appointment of a settlement administrator in order to approve the settlement of the PAGA Claim, that the settlement administrator will be mutually agreed to by the Parties or as ordered by the Court.

Individual Claim Settlement Details

24. The Individual Claim Settlement Amount shall include the following amounts (the amounts for which Defendant agrees not to contest):

A. Sixty-Three Thousand Three Hundred Twenty-Three Dollars and Forty-Eight Cents (\$63,323.48) to Plaintiff Jesus Velazquez in two checks as follows:

1. One check in the amount of Twenty-Three Thousand Three Hundred Twenty-Three Dollars and Forty-Eight Cents (\$23,323.48) as a payroll check, subject to applicable federal and state taxes and withholdings and reportable on a Form W-2, to compensate Plaintiff Jesus Velazquez for alleged lost/unpaid wages.

2. One check in the amount of Forty Thousand Dollars and No Cents (\$40,000.00) as a check from which no federal or state taxes and withholdings are deducted and reportable on a Form 1099, to compensate Plaintiff Jesus Velazquez for his alleged emotional distress damages, waiting time penalties, interest and punitive damages.

B. Forty-Nine Thousand One Hundred Fifty-Seven Dollars and Twenty-Seven Cents (\$49,157.27) to Plaintiff Krystle Garcia in two checks as follows:

1. One check in the amount of Twenty-Nine Thousand One Hundred Fifty-Seven Dollars and Twenty-Seven Cents (\$29,157.27) as a payroll check, subject to applicable federal and state taxes and withholdings and reportable on a Form W-2, to compensate Plaintiff Krystle Garcia for alleged lost/unpaid wages.

2. One check in the amount of Twenty Thousand Dollars and No Cents (\$20,000.00) as a check from which no federal or state taxes and withholdings are deducted and reportable on a Form 1099, to compensate Plaintiff Krystle Garcia for her alleged emotional distress damages, waiting time penalties, interest and punitive damages in connection with claims asserted and which she intended to assert by way of a first amended complaint to add a claim for alleged retaliation under the California Fair Employment and Housing Act (FEHA).

C. Seventy-Four Thousand Ninety-Five Dollars and Ninety-Nine Cents (\$74,095.99), representing 39.5% of the Individual Claims Settlement Amount in attorneys' fees to Plaintiffs' counsel in connection with the prosecution of said claims; and

D. One Thousand Eight Dollars and Five Cents (\$1,008.05) in costs and expenses incurred in connection with the prosecution of the individual (non-PAGA) claims.

25. For the portion of the Individual Claims Settlement Amounts listed in Sections 24.A. and 24.B. herein to be paid to the Plaintiffs, within thirty (30) calendar days of Court Approval and

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Notification, Defendant agrees to prepare and send, via U.S. regular mail, these four checks to the Alexis Law Firm, 100 W. Broadway, Suite 250, Long Beach, CA 90802 for distribution to the Plaintiffs.

26. For the portion of the Individual Claims Settlement Amounts listed in Sections 24.C and 24.D herein to be paid to the counsel for Plaintiffs, within thirty (30) calendar days of Court Approval and Notification, Defendant agrees to prepare and send, via U.S. regular mail, these two checks (or one check combining the two amounts listed therein) made payable to the Alexis Law Firm, to the Alexis Law Firm, 100 W. Broadway, Suite 250, Long Beach, CA 90802.

27. The Plaintiffs and counsel for Plaintiffs shall, upon full execution of this Agreement by both Parties, send counsel for Defendant IRS Form W-9s as needed to process the checks made payable on a Form 1099 basis.

28. Defendant also agrees to reimburse Plaintiffs for the cost of the mediator's fee borne by Plaintiffs to mediate this matter before Steve Mehta. The amount that Plaintiffs paid Mr. Mehta was \$7,000. Within thirty (30) days of Court Approval and Notification, Defendant shall issue and send a check to the Mediation Offices of Steven G. Mehta for \$7,000, and Mr. Mehta will in turn reimburse to counsel for Plaintiffs that same amount.

Plaintiffs acknowledge and agree that Defendant has not made any representations to Plaintiffs regarding the tax consequences of any amounts received by the Plaintiffs pursuant to this Agreement. Plaintiffs agree to pay all federal, state and local taxes and any other legal obligations, if any, which are required by law to be paid by the Plaintiffs as a result of any amount paid to Plaintiffs under this Agreement.

29. Subject to the express exclusions in this Agreement, Plaintiffs, on behalf of themselves and their heirs, administrators, representatives, executors, successors, and assigns, hereby knowingly and voluntarily release, acquit, and forever discharge Defendant, on behalf of itself and on behalf of its present and former parents, subsidiaries, affiliates, members, managers, directors, officers, employees, agents, advisors, consultants, representatives, shareholders, insurers, successors, assigns and attorneys (whether or not acting within the scope of their duties), (collectively, the "**Released Parties**") from all claims of any nature whatsoever which Plaintiffs now have or assert to have, or which Plaintiffs at any time heretofore had, or asserted to have against the Released Parties and others released in this Section arising out of or in any way related in any way to any acts, circumstances, facts, transactions, omissions or other subject matters, based on facts occurring prior to the date the Parties execute this Agreement. Subject to the exclusions in this Agreement, this release includes, but is not limited to any and all claims concerning any aspect of Plaintiffs' employment with Defendant. The term "**Claims**" includes any claim or cause of action, regardless of the forum in which it may be brought, and includes, but is not limited to, any alleged breach of express or implied contract, breach of the covenant of good faith and fair dealing, breach of any obligation arising out of any law or public policy of the United States of America, the State of California or any other governmental entity, discrimination or harassment on the basis of race, sex, sexual orientation, pregnancy, gender, gender identity, age, national origin, religion, medical condition, disability, marital status, sexual orientation, or otherwise, claim for violation of the California Labor Code, or any other federal, state, county or local law, ordinance, regulation or order relating to employment, loss of wages, expenses and benefits, retaliation, intentional or negligent infliction of emotional distress, fraud, misrepresentation,

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defamation, interference with contract or other interests, or any other claims or causes of action for damages of any nature, including without limitation, actual, compensatory, punitive, and liquidated damages, statutory penalties, and attorneys' fees, costs and expenses. Plaintiffs also waive and release to the maximum extent allowed by law all monetary and other relief that may be sought on Plaintiffs' behalf by other persons or agencies.

If any claim is not subject to release, to the extent permitted by law, Plaintiffs waive any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective or multi-party action or proceeding based on such a claim in which Defendant is a party. This includes specifically, but is not limited to, Plaintiff's agreement not to file any future civil complaint against Defendant under the California Labor Code Private Attorneys General Act.

However, notwithstanding the foregoing, nothing in this Agreement shall be construed to waive any right that is not subject to waiver by agreement including, without limitation, any claims arising under state workers' compensation law. Nor shall anything in this Agreement affect the rights and responsibilities of the Equal Employment Opportunity Commission ("EEOC") or Department of Fair Employment and Housing ("DFEH") to enforce the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, as amended, California Fair Employment and Housing Act or any other applicable law, nor shall anything in this Agreement be construed as a basis for interfering with Plaintiffs' protected right to file a timely charge with, or participate in an investigation or proceeding conducted by the EEOC or DFEH, or any other state, federal or local government entity; provided, however, if the EEOC, DFEH, or any other state, federal or local government entity commences an investigation on Plaintiffs' behalf, Plaintiffs specifically waive and release their right, if any, to recover any monetary or other benefits of any sort whatsoever arising from any such investigation or otherwise.

30. Defendant, on behalf of itself and on behalf of its present and former parent companies, subsidiaries, affiliates, partners, managers, officers and attorneys (whether or not acting within the scope of their duties), individually and in their business capacities, hereby knowingly and voluntarily releases, acquits and forever discharges Plaintiffs and their heirs, administrators, representatives, executors, successors, assigns and attorneys (collectively, the "**Employee Released Parties**"), to the full extent permitted by law, of and from any and all claims known and unknown, asserted and unasserted, which Defendant has or may have against the Employee Released Parties as of the date of execution of this Agreement, including, but not limited to, any alleged violation of federal, state or local law, ordinance, rule, regulation, any public policy, contract, tort or common law, or any basis for recovering costs, fees or other expenses including attorneys' fees.

31. Subject to the exclusions set forth in this Agreement, the Parties expressly waive all other individual and/or collective rights, if any, whether or not set forth in this Agreement, notwithstanding California Civil Code § 1542, which the Parties have read and acknowledge that they fully understand. Civil Code § 1542 provides as follows:

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 her or her settlement with the debtor or released party.

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This waiver is not a mere recital but is a knowing waiver of rights and benefits. This is a bargained-for provision of this Agreement and is further consideration for the covenants and conditions contained herein. Thus, notwithstanding the provisions of Civil Code § 1542 and to implement a full and complete release and discharge, the Parties expressly acknowledge this Agreement is intended to include in its effect, without limitation, all claims the Parties do not know or suspect to exist in their favor at the time of the signing of this Agreement and that this Agreement extinguishes any such claims. The Parties acknowledge that they later may discover facts different from or in addition to those they now know or believe to be true regarding the matters described or release in this Agreement, and even so, the Parties agree that the release and agreements contained in this Agreement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts. The Parties expressly assume any and all risk of any mistake in connection with the facts involved in the matters, disputes or controversies described or released in this Agreement or with regard to any facts now unknown to them relating thereto.

32. Following execution of this Agreement by all Parties, Plaintiffs will apply to the Court for the entry of an Order approving the settlement of the PAGA Claim as fair, reasonable and adequate for the above referenced 34 Aggrieved Employees as well as approving the attorneys' fees and costs, which shall be filed as soon as practicable after execution of his Agreement by all Parties.

33. Following the Court's approval of the settlement of the PAGA Claim and issuance and delivery of the checks required to be issued by Defendant pursuant to this Agreement, Plaintiffs shall dismiss the Civil Complaint with prejudice, but the Court shall retain exclusive and continuing jurisdiction over the action and the Parties for purposes of interpreting or enforcing the Agreement under California Code of Civil Procedure § 664.6 until the time all terms and conditions have been fully performed. For purposes of clarity, the Request for Dismissal shall be filed following delivery of the initial checks to be delivered by Defendant in accordance with Sections 17, 21, 22, 25 and 26 and shall not be delayed by the return to Defendant as undeliverable of any checks delivered to Aggrieved Employees for their portion of the Employee PAGA Civil Penalty Share.

34. The Parties may not waive, amend, or modify any provision of this Agreement except by a written agreement signed by all of the Parties hereto and subject to any necessary Court approval.

35. A waiver or amendment of any provision of this Agreement will not constitute a waiver of any other provision.

36. All notices, demands, and other communications to be provided to the Parties concerning this Agreement shall be in writing and delivered by U.S. Mail or electronic mail to the counsel for the Parties at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

Plaintiffs C.E. Kimberly Lind (kim@ko-legal.com)
KO Legal, Inc., 100 W. Broadway, Suite 250, Long Beach, CA 90802

and

Andrew L. Alexis (dalexis@alexislawfirm.com)

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Alexis Law Firm, 100 W. Broadway, Suite 250, Long Beach, CA 90802

Defendant S. Sean Shahabi (sean@jlglawyers.com)
JAURIGUE LAW GROUP, 300 West Glenoaks Blvd, Suite 300
Glendale, CA 91202

37. This Agreement constitutes the entire agreement of the Parties relating to the rights herein granted and the obligations assumed. The terms of this Agreement are contractual and not a mere recital. This Agreement is executed without reliance upon any representation by the Parties, or any representative of them, regarding the subject matter, basis or effect of this Agreement or otherwise, other than as specifically stated in this written Agreement.

38. In the event of a breach of any provision of this Agreement, any Party may institute an action specifically to enforce any term or terms of this Agreement or seek damages for breach. In an action to enforce any term or terms of this Agreement or to seek damages for breach of this Agreement, the prevailing party in that action shall be entitled to recover reasonable attorney's fees.

39. Should any of the provisions in this Agreement be declared or be determined to be illegal or invalid, all remaining parts, terms or provisions shall be valid, and the illegal or invalid portion or provision shall be deemed not to be a part of this Agreement.

40. Velasquez and Garcia affirm that as of the date they have signed this Agreement that they are not Medicare eligible (i.e., is not 65 years of age or older; are not suffering from end-stage renal failure; have not received Social Security Disability Insurance benefits for twenty-four (24) months or longer, etc.). Nonetheless, if the Centers for Medicare & Medicaid Services (the "CMS") (this term includes any related agency representing Medicare's interests) determines that Medicare has an interest in the payments to Velasquez and/or Garcia under this Agreement, Velasquez and/or Garcia, as applicable, agree to indemnify, defend, and hold the Released Parties harmless from any action by the CMS relating to medical expenses of Velasquez and/or Garcia, as applicable. Velasquez and Garcia further agree to reasonably cooperate with the Released Parties upon request with respect to (i) any information needed to satisfy the reporting requirements under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007, if applicable, and (ii) any claim the CMS may make and for which Velasquez and/or Garcia are required to indemnify the Released Parties under this Section. Further, Velasquez and Garcia agrees to waive any and all future actions against the Released Parties for any private cause of action for damages pursuant to 42 U.S.C. § 1395y(b)(3)(A).

41. This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same Agreement. A faxed or electronically transmitted signature shall bear the same force and effect as an original signature.

THE PARTIES REPRESENT THAT THEY FULLY UNDERSTAND THEIR RIGHT TO DISCUSS ALL ASPECTS OF THIS AGREEMENT WITH THEIR PRIVATE ATTORNEYS, INCLUDING THE WAIVER OF CALIFORNIA CIVIL CODE § 1542, AND THAT THEY HAVE, PRIOR TO EXECUTING THIS DOCUMENT, FULLY INFORMED THEMSELVES OF ITS CONTENTS THROUGH ATTORNEYS, ADVISORS AND/OR SOURCES OF THEIR OWN SELECTION, INCLUDING SPECIFICALLY, THE WAIVER OF

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CALIFORNIA CIVIL CODE § 1542. THE PARTIES ALSO REPRESENT THAT THEY HAVE CAREFULLY READ AND FULLY UNDERSTAND ALL THE PROVISIONS OF THIS AGREEMENT AND ARE VOLUNTARILY ENTERING INTO THIS AGREEMENT.

EACH PERSON SIGNING BELOW ON BEHALF OF ANY ENTITY HEREBY PERSONALLY AND EXPRESSLY REPRESENTS AND WARRANTS THAT HE OR SHE IS SIGNING ON BEHALF OF SUCH ENTITY WITH FULL LEGAL AUTHORITY TO BIND SUCH PARTY TO EACH AND EVERY PROVISION OF THIS AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto hereby execute this Agreement as of the dates set forth opposite their names.

DATED: 7/22/2021, 2021

DocuSigned by:

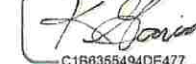


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JESUS VELAZQUEZ

DATED: 7/22/2021, 2021

DocuSigned by:



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KRYSTLE GARCIA

DATED: 7-22, 2021

MODERN WIRELESS, INC.

By: JEYSON SANCHEZ

Its: CEO

DATED: 7-22, 2021

JEYSON SANCHEZ

DATED: 7-22, 2021

KATHERINE CARDANI

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Prepared and Approved as to Form By:

DATED: 7/22/2021, 2021

KO LEGAL, INC.

DocuSigned by:

Kimberly Lind

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C.E. KIMBERLY LIND
Counsel for Plaintiffs

DATED: July 22, 2021

ALEXIS LAW FIRM



ANDREW L. ALEXIS
Counsel for Plaintiffs

DATED: July 22, 2021

JAURIGUE LAW GROUP

Sean Shahabi

S. SEAN SHAHABI
Counsel for Defendant

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EXHIBIT A – TEMPLATE FOR LETTER TO AGGRIEVED EMPLOYEES

NOTICE OF SETTLEMENT OF CLAIM UNDER THE CALIFORNIA LABOR CODE PRIVATE ATTORNEYS GENERAL ACT.

On October 23, 2020, a lawsuit was filed in the Superior Court of the State of California, for the County of Orange, against Modern Wireless, Inc. entitled Jesus Velazquez and Krystle Garcia, in their individual capacities and as aggrieved employees under the California Labor Code Private Attorneys General Act of 2004 v. Modern Wireless, Inc., a California corporation, which the Court assigned Case No. 30-2020-01166897-CU-WT-CXC. In the lawsuit, the plaintiffs (Jesus Velazquez and Krystle Garcia) filed several causes of action, one of which was an action on behalf of the State of California and other “Aggrieved Employees” as defined below, and which sought civil penalties under the California Labor Code Private Attorneys General Act of 2004 (the “PAGA”).

The Court has not issued any decisions as to whether the claims have any merit, and Modern Wireless, Inc. denies any liability or wrongdoing at all. However, a settlement agreement was reached and, per the terms of the agreement, you are entitled to receive the enclosed payment of civil penalties as part of the settlement.

The term “Aggrieved Employees” refers to all California-based non-exempt employees and all exempt employees in the “Outside Field Representative” position at Modern Wireless, Inc., as such employees are identified in Defendant’s personnel and payroll records as such, during the “PAGA Period”. The “PAGA Period” refers to the period commencing on May 21, 2019 and ending on [insert date of approval of the settlement of the PAGA Claim].

On [insert date of approval of the settlement of the PAGA Claim], the Court approved a settlement of the PAGA claim pled in the lawsuit. The settlement releases and discharges all PAGA claims for civil penalties alleged in the lawsuit. Specifically, the settlement releases all claims for civil penalties under the PAGA for the following:

- Claims under the PAGA for civil penalties for Modern Wireless, Inc.’s alleged failure to pay the Aggrieved Employees all earned compensation for performing work off-the-clock before their scheduled shifts, after their scheduled shifts, during off-the-clock meal periods and/or during their rest periods;
- Claims under the PAGA for civil penalties for Modern Wireless, Inc.’s alleged failure to pay the Aggrieved Employees overtime compensation owed under California Labor Code §§ 510 and 1198, (i) when employees worked off-the-clock (as discussed above) and (ii) by not paying overtime compensation at the appropriate overtime rate required by California law, including by failing to include commissions, bonus, piece rate wages and other non-discretionary incentive earnings in the regular rate of pay used to calculate overtime.
- Claims under the PAGA for civil penalties for Modern Wireless, Inc.’s alleged failure to provide the Aggrieved Employees with duty-free meal periods and rest periods and by failing to pay meal and rest period premiums as required by California Labor Code §§ 226.7 and 512.

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- Claims under the PAGA for civil penalties for Modern Wireless, Inc.'s alleged failure to pay all wages due at the time of termination for those Aggrieved Employees' whose employment ended during the PAGA Period as required by California Labor Code §§ 201 and 202.
- Claims under the PAGA for civil penalties for Modern Wireless, Inc.'s alleged failure to pay all wages earned by the Aggrieved Employees during regular pay periods as required by California Labor § 204.
- Claims under the PAGA for civil penalties for Modern Wireless, Inc.'s alleged failure to provide the Aggrieved Employees with proper itemized wage statements at the time of payment of wages during the PAGA Period as required by California Labor Code § 226(a).
- Claims under the PAGA for civil penalties for Modern Wireless, Inc.'s alleged failure to keep accurate records of hours worked by the Aggrieved Employees during the PAGA Period as required by California Labor Code § 1174(d).
- Claims under the PAGA for civil penalties for Modern Wireless, Inc.'s alleged failure to reimburse the Aggrieved Employees for all necessary and reasonable business expenses incurred by the employees in direct consequence of the discharge of their job duties or in direct consequences of their obedience to the directions of Modern Wireless, Inc. during the PAGA Period as required by California Labor Code §§ 2800 and 2802.

The claims released by this settlement do not include any claim by any individual that does not arise under the PAGA or any PAGA claim for civil penalties for any alleged Labor Code violation not listed in this letter.

Please note that the payment under this settlement may be subject to federal, state or local tax withholdings and will be reported by Modern Wireless, Inc. to the Internal Revenue Service and state tax authorities on IRS Form 1099. You should rely on your own tax advisors as to the tax consequences of your individual payment. Nothing within this notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended). The IRS Form 1099 will be sent to you by no later than January 31, 2022.

You do not need to take any action. The enclosed payment concludes your involvement in the settlement.

Very truly yours,

Modern Wireless, Inc.

By: _____
Its: _____

Encl.