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11 Robert Navarro

12
13 SUPERIOR COURT OF CALIFORNIA

14 COUNTY OF LOS ANGELES

15 ROBERT NAVARRO, on behalf of himself
16 and all other Aggrieved Employees

17 Plaintiff,

18 v.

19 ALLIED PRIVATE INVESTIGATION &
20 SECURITY SERVICES, INC. and DOES 1 to
21 100, inclusive,

22 Defendants.

) NO. 20STCV16481

)
) **NOTICE OF PLAINTIFF'S MOTION**
) **FOR COURT APPROVAL OF PAGA**
) **SETTLEMENT**

)
) *Assigned to Hon. Judge Timothy Patrick*
) *Dillon*

) Date: June 15, 2021

) Time: 8:30 a.m

) Dept: 73

) Reservation No.: 403583638683

)
) Action Filed: April 30, 2020
)

23 PLEASE TAKE NOTICE that on June 15, 2021, at 8:30 a.m., or as soon thereafter as the
24 matter may be heard before the Honorable Judge Timothy Patrick Dillon of the Superior Court of
25 California, Country of Los Angeles, located at 111 N. Hill Street, Los Angeles, CA 90012.
26 Plaintiff Robert Navarro ("Plaintiff") will and hereby does move for entry of an order of judgement
27 as follows:
28

1 1. Granting approval, pursuant to California *Labor Code* §2699, subd. (1)(2) of the
2 proposed settlement between Plaintiff and Defendant Allied Private Investigation & Security
3 Services, Inc., (“Allied”) of the claims brought pursuant to the Private Attorneys General Act of
4 2004 (“PAGA”) as set forth in the PAGA Settlement Agreement (“Settlement Agreement”),
5 attached as Exhibit 1 to the Declaration of Manny Starr;

6 2. Approving the Net Distribution Amount payable to the State of California and
7 Aggrieved Employees as authorized by California *Labor Code* §2699(i);

8 3. Appointing Phoenix Settlement Administrators as the Settlement Administrator;

9 4. Directing Defendant to transmit the settlement funds to the Settlement
10 Administrator in the total amount of \$120,000.00 as set forth in the Settlement Agreement;

11 5. Directing the Settlement Administrator to distribute the settlement funds to the
12 Aggrieved Employees under a cover letter in the form and content substantially similar to Exhibit
13 A of the [proposed] Order, and distributing funds to the Labor and Workforce Development
14 Agency (“LWDA”), Plaintiff’s Counsel, and for Settlement Administration Costs, in accordance
15 with the terms of the Settlement Agreement;

16 6. Awarding Plaintiff’s Counsel the amount of \$40,000.00 as compensation for
17 reasonable attorneys’ fees (“Attorneys’ Fees Payment”), \$7,440.80 as reimbursement of litigation
18 costs and expenses (“Litigation Costs Payment”), \$4,250.00 for Settlement Administration Costs,
19 and \$12,000.00 to Plaintiff as a Representative PAGA Plaintiff.

20 This motion is based on this Notice of Motion and Motion, the Memorandum of Points and
21 Authorities, the Settlement Agreement, the Declaration of Manny Starr, the pleadings and other
22 records on file with the Court in this matter, and such evidence and oral argument as may be
23 presented at the hearing on this motion.

24
25 Date: May 19, 2021


Manny Starr
Attorney for Plaintiff,
Robert Navarro

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12 SUPERIOR COURT OF CALIFORNIA

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14 ROBERT NAVARRO, on behalf of himself and
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16 Plaintiff,

17 v.

18 ALLIED PRIVATE INVESTIGATION &
19 SECURITY SERVICES, INC. and DOES 1 to
20 100, inclusive,

21 Defendants.

) NO. 20STCV16481

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) **MEMORANDUM OF POINTS AND**
) **AUTHORITIES ISO PLAINTIFF'S**
) **MOTION FOR COURT APPROVAL OF**
) **PAGA SETTLEMENT**

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) *Assigned to Hon. Judge Timothy Patrick*
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This Private Attorneys General Act (“PAGA”) representative action relates to the
4 Aggrieved Employees’ work for Defendant Allied Private Investigation & Security Services, Inc.
5 (“Allied” or “Defendant”). The Aggrieved Employees, as defined herein, were allegedly subject to
6 violations of Labor Code sections 201, 201.3, 202, 203, 204, 210, 226, 510, 558, 1174, 1194, 1197,
7 1197.1, 1198, 2802, and 2699 regarding: (1) Defendant’s failure to provide suitable seating; (2)
8 Defendant’s failure to pay Plaintiff and the Aggrieved Employees on a weekly basis as required by
9 Labor Code section 201.3; (3) Defendant’s failure to pay minimum, or overtime, wages for all
10 hours worked; (4) Defendant’s failure to provide accurate wage statements; (5) Defendant’s failure
11 to reimburse their employees for work-related expenses; and (6) Defendant’s failure to pay their
12 employees all wages due and payable either at the time of termination, or within 72 hours of an
13 employee’s resignation.

14 Plaintiff Robert Navarro (“Plaintiff”) was formerly employed by Allied as a security guard
15 from January 2019 through January 2020. (Declaration of Manny Starr (“Starr Decl.”) ¶2).

16 The parties agreed to go to mediation, and attended mediation, on April 6, 2021. Through the
17 combination of informal discovery, extensive negotiations, and mediation, the parties were able to
18 reach an agreement.¹ (Starr Decl. ¶10). The case settled for \$120,000.00. (Starr Decl. ¶11).

19 Under Labor Code section 2699(1)(2), “The superior court shall review and approve any
20 settlement of any civil action filed pursuant to this part.” By this unopposed motion, Plaintiff
21 requests the Court to approve the settlement of the PAGA claims asserted in this action.

22 **II. FACTUAL BACKGROUND**

23 This action was originally filed as an individual action in the Los Angeles Superior Court
24 on April 30, 2020. (Starr Decl. ¶3). Plaintiff’s Cause of Action asserted that Allied had violated
25 Labor Code sections 201-203, 204, 210, 226, 510, 558, 1194, and 2802. (Starr Decl. ¶4).

26 On June 1, 2020 Plaintiff sent a PAGA letter to Defendant and the Labor and Workforce

27 _____
28 ¹ The Settlement Agreement and General Release is attached to the Starr Declaration as Exhibit 1 and filed as part of
this motion.

1 Development Agency (“LWDA”) which explained the Plaintiff’s claims against Defendant
2 (LWDA Case No. LWDA-CM-791903-20). (Starr Decl. ¶5).

3 On September 1, 2020, Plaintiff filed a First Amended Complaint (“FAC”) seeking PAGA
4 penalties based on violations of Labor Code sections 201, 202, 203, 204, 210, 226, 510, 558, 1174,
5 1194, 1197, 1197.1, 1198, and 2802. (Starr Decl. ¶6).

6 On December 8, 2020, Plaintiff sent a supplemental PAGA notice, alleging that Allied was
7 a temporary service employer (“TSE”), and failed to pay the Aggrieved Employees on a weekly
8 basis as required by Labor Code section 201.3. (Starr Decl. ¶7). On February 19, 2021, Plaintiff
9 filed a Second Amended Complaint (“SAC”) adding an additional PAGA claim based on the
10 violation of Labor Code section 201.3. (Starr Decl. ¶8). Defendant filed an answer on March 4,
11 2021. (Starr Decl. ¶9).

12 Under Labor Code section 2699(1), “[t]he Superior Court shall review and approve any
13 penalties sought” as part of the resolution of a case that involved PAGA claims.” Labor Code
14 section 2699(1). By this unopposed motion, the parties jointly request that the Court approve the
15 settlement of the PAGA-related claims asserted in this action. ²

16 **III. ARGUMENT AND BASIS FOR PAGA PENALTIES**

17 PAGA permits an aggrieved employee to sue an employer for civil penalties associated
18 with the employer’s alleged violation of various California Labor Code provisions. Labor Code
19 section 2699(a). Pursuant to the statute, of the amount paid to settle a claim for PAGA penalties,
20 twenty-five percent (25%) is payable to the Aggrieved Employees and seventy-five percent (75%)
21 is payable to the California Labor and Workforce Development Agency (LWDA). Labor Code
22 section 2699(i). Under Labor Code section 2699(1), “[t]he Superior Court shall review and
23 approve any penalties sought” as part of the resolution of a case that involved PAGA claims.”
24 Labor Code section 2699(1).

25 The PAGA period covers June 1, 2019 through April 13, 2021. This settlement covers the
26 estimated 8,528 pay periods where a violation allegedly occurred and the 809 Aggrieved

27 _____
28 ² Plaintiff will file and serve this Settlement Agreement and motion with the LWDA at the same time that
Plaintiff files the same with the Court pursuant to the requirements of Labor Code section 2699(i)(2).

1 Employees which were impacted by the violation. Of the 809 Aggrieved Employees, 296 are
2 former employees.

3 **a) Failure to Provide Suitable Seating**

4 Industrial Welfare Commission Wage Order 4-2001 paragraph 14(B) states:

5 When employees are not engaged in the active duties of their employment and the
6 nature of the work requires standing, an adequate number of suitable seats shall be
7 placed in reasonable proximity to the work area and employees shall be permitted to
8 use such seats when it does not interfere with the performance of their duties.

9 When an employer fails to provide their employees with access to seating during lulls in
10 operation, as Plaintiff alleges occurred in this case, that employer violated IWC Wage Order 4-
11 2001 14(B). (*Kilby v. CVS Pharmacy, Inc.*, (2016) 63 Cal.4th 1, 19).

12 **i. Suitable Seating Penalties**

13 The applicable PAGA penalties for Defendants' failure to provide Plaintiff and the
14 Aggrieved Employees with suitable seating, in violation of IWC Wage Order 4-2001, 14(B) Labor,
15 are found in Labor Code section 2699(f), which are \$100 per pay period for the initial violation and
16 \$200 per pay period for each subsequent violation; Conservatively attributing only the initial
17 violation rate, Plaintiff estimated the total exposure to be approximately (8,528 initial violations *
18 \$100 per initial violation) **\$852,800.00**.

19 **b) Failure to Pay Weekly Pursuant to Labor Code section 201.3**

20 Labor Code section 201.3 requires a TSE to pay their employees on a weekly basis.
21 Plaintiff alleges that Allied was a TSE, but failed to pay their employees on a weekly basis, in
22 violation of Labor Code section 201.3.

23 **i. Labor Code Section 201.3 Penalties**

24 The applicable PAGA penalties for Defendants' failure to provide Plaintiff and the
25 Aggrieved Employees with weekly pay, in violation of Labor Code section 201.3, can be found in
26 Labor Code section 210, which are \$100 per pay period for the initial violation and \$200 per pay
27 period for each subsequent violation. Conservatively attributing only, the initial violation rate,
28 Plaintiff estimated the total exposure to be approximately (8,528 initial violations * \$100 per initial
violation) **\$852,800.00**.

1 **c) Failure to Pay all Minimum and Overtime Wages**

2 Labor Code sections 510, 1194, and 1197 operate to prohibit an employer from paying an
3 employee less than one-and-one-half times their regular rate of pay for “any work in excess of
4 eight hours in one workday and any work in excess of 40 hours in any one workweek...” and
5 prohibits an employer from paying an employee less than minimum wage for all hours worked.
6 These codes further provide the employee with a legal right to recover those wages in a civil
7 action. In the present case, Plaintiff alleges that the Aggrieved Employees were required to arrive
8 early, prior to the start of their shift, to perform various tasks including preparing their radios and
9 participating in briefings. Plaintiff further alleges that Allied failed to pay the Aggrieved
10 Employees for this time. As a result, Plaintiff and the Aggrieved Employees were not paid for all
11 hours worked. The net result of Defendant’s policies was to pay Plaintiff and the Aggrieved
12 Employees a wage less than the minimum fixed by Labor Code 510 and 1197.

13 **i. Minimum and Overtime Wage Penalties**

14 The applicable PAGA penalties for Defendant’s failure to pay Plaintiff and the Aggrieved
15 Employees all minimum and overtime wages are found in Labor Code section 1197.1, which are
16 one hundred dollars (\$100) for each underpaid employee for each pay period for which the
17 employee is underpaid and two hundred fifty dollars (\$250) for each subsequent violation for the
18 same specific offense. Plaintiff alleges that Defendants failed to fully compensate a subsection of
19 the Aggrieved Employees who worked in retail stores. This subsection of Aggrieved Employees
20 worked approximately 1,868 payroll periods of the total 8,528 payroll periods during the PAGA
21 Period. As such, Plaintiff estimated the total exposure to be approximately (1,868 initial violations
22 * \$100 per initial violation) **\$186,800.00.**

23 **d) Failure to Reimburse Work-Related Expenses**

24 Labor Code section 2802 requires an employer to reimburse their employees for
25 expenditures incurred in direct consequence of the discharge of their duties. In the present case,
26 Plaintiff and the Aggrieved Employees were required to show up to work in a clean and neatly
27 pressed suit. Plaintiff alleges that Allied failed to reimburse Plaintiff and the Aggrieved Employees
28

1 for the costs of maintaining their work uniforms. Defendant's failure to reimburse the Aggrieved
2 Employees for these work-related expenses constitutes a violation of Labor Code 2802.

3 **i. Failure to Reimburse Work Related Expenses Penalties**

4 The applicable PAGA penalties for Defendants' failure to reimburse Plaintiff and the
5 Aggrieved Employees for their work-related expenses are found in Labor Code section 2699(f)(2):
6 "If, at the time of the alleged violation, the person employs one or more employees, the civil
7 penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
8 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
9 subsequent violation." Plaintiff alleges that Defendant failed to reimburse work expenses for a
10 subsection of the Aggrieved Employees who worked in retail stores. This subsection of Aggrieved
11 Employees worked approximately 1,868 payroll periods of the total 8,528 payroll periods during
12 the PAGA Period. Furthermore, Plaintiff alleges that Defendant failed to reimburse work expenses
13 for these employees every other pay period, as opposed to every pay period. As such, Plaintiff
14 estimated the total exposure to be approximately (934 initial violations * \$100 per initial violation)
15 **\$93,400.00.**

16 **e) Failure to Provide Complete and Accurate Wage Statements**

17 Labor Code sections 226(a)(1) through (9) requires an employer to provide Plaintiff and the
18 Aggrieved Employees with wage statements that, among other things, list "total hours worked by
19 the employee" and "all applicable hourly rates in effect during the pay period and the
20 corresponding number of hours worked at each hourly rate by the employee." As noted previously,
21 Defendant failed to notate, or compensate, all hours Plaintiff and the Aggrieved Employees
22 worked, regular and overtime. As such, Defendant failed to comply with the requirements of Labor
23 Code sections 226(a)(1) through (9).

24 **i. Wage Statement Penalties**

25 The applicable PAGA penalties for Defendant's failure to provide Plaintiff and the
26 Aggrieved Employees with proper wage statements, in violation of Labor Code 226(a), are found
27 in Labor Code section 226.3: "Any employer who violates subdivision (a) of Section 226 shall be
28 subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per

1 violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in
2 a subsequent citation, for which the employer fails to provide the employee a wage deduction
3 statement or fails to keep the records required in subdivision (a) of Section 226.” Plaintiff alleges
4 that Defendant failed to provide the Aggrieved Employees with accurate wage statements because
5 the wage statements did not reflect the unpaid overtime and minimum wage, as alleged above. The
6 group of Aggrieved Employees who were subject to this violation were those that worked in retail
7 stores. Therefore, Plaintiff estimated the total exposure to be approximately (1,868 initial
8 violations \$250 per initial violation) **\$467,000.00.**

9 **f) Failure to Timely Pay All Final Wages**

10 Labor Code sections 201 through 203 requires an employer to provide an employee with all
11 wages due and owing at the time of separation, or within seventy-two (72) hours of resignation.
12 “All wages due and owing” are comprised of, among other things: unpaid wages, unpaid premium
13 pay, and reimbursement under 2802. Since Plaintiff alleges Defendant failed to pay all wages due
14 to the Aggrieved Employees during their employment, it follows that Defendant failed to comply
15 with Labor Code sections 201 through 203.

16 **i. Waiting Time Penalties**

17 The PAGA penalties for Defendant’s failure to provide Plaintiff and the Aggrieved
18 Employees with all wages due and owing at the time of separation are found in Labor Code section
19 2699(f)(2), which are one hundred dollars (\$100) for each initial violation and two hundred dollars
20 (\$200) for each subsequent violation. There are 296 former Aggrieved Employees. Therefore,
21 Defendants’ *maximum* PAGA penalty exposure for failure to pay their employees all wages due
22 and payable upon separation is (296 initial violations * \$100 per initial violation) **\$29,600.00.**

23 **IV. DESCRIPTION OF THE SETTLEMENT TERMS**

24 The gross amount of the settlement is \$120,000.00. The settlement is broken down as follows:

- 25 - \$12,000.00 to Robert Navarro as an enhancement payment and in exchange for a
26 general release of all claims;
- 27 - \$40,000.00 to Frontier Law Center for attorney fees;
- 28 - \$7,440.80 to Frontier Law Center as reimbursement for costs;

- \$4,250.00 to Phoenix Administrators to administer the settlement; and
- \$56,309.20 in PAGA Penalties, of which 75% will go to the LWDA and 25% will be distributed to the Aggrieved Employees on a pro rata basis.

V. THE COURT IS AUTHORIZED TO APPROVE THE SETTLEMENT

Labor Code section 2699(e)(2) states: “In any action by an aggrieved employee seeking recovery of a civil penalty available under subdivision (a) or (f), a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” Indeed, as shown in the Court of Appeal’s decision in *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504 (2018), while the plaintiff prevailed on his PAGA claim at trial, the trial court reduced the maximum PAGA penalty amount by 90%, citing the employer’s good faith attempt at complying with the law. *Id.* at 517. Upon review, the Court of Appeal found such reduction to be proper. *Id.* at 539.

While Plaintiff estimates Defendant’s total potential exposure for the above-referenced violations to be approximately **\$2,748,800**, the facts and circumstances particular to this case allow for a reduced settlement amount to avoid an award that is unjust, arbitrary, oppressive, or confiscatory.

a) PAGA Penalties Applicable to Wage Statement Violations

There is significant legal debate as to whether the penalties in Labor Code section 226.3 apply to the present case, or whether this penalty only apply in cases where the Defendants failed to provide *any* wage statements whatsoever. (See *Lopez v. Friant & Assoc.* (2011) 192 Cal.App.4th 75.) Should a Court determine that the penalty amounts set forth in Labor Code section 226.3 do not apply, and applies the penalties set forth in Labor Code section 2699 instead, then Defendants’ exposure for wage statement penalties would be reduced from \$467,000 to \$186,800; this would reduce Defendants’ *maximum* exposure to \$2,468,600.

b) Suitable Seating, Reimbursement, and Unpaid Wages Defenses

If this case were to proceed, Defendant was prepared to argue that security guards could not competently do their job while seated or that the nature of the job allowed security guards to

1 sit while actively working. Furthermore, Defendant was prepared to argue that its clients required
2 their security guards to be standing, or on patrol at all times, and that by allowing its guards to sit,
3 they would breach their contracts with their customers. Additionally, Defendant took the position
4 that the Aggrieved Employees were not required to spend money to maintain their uniforms.
5 Lastly, as it relates to unpaid wages, Defendant was prepared to argue that the Aggrieved
6 Employees were not required to arrive at the worksite before their shift, and to the extent that they
7 did arrive early, they would be paid for that time. While Plaintiff strongly contests these positions,
8 the fact remains that there is a risk Defendant could prevail on these issues. Furthermore, even if
9 Plaintiff prevailed on these issues, the Court could reduce the penalties attributable to these
10 violations if Defendant could show a good faith attempt to comply with the law.

11 **c) The Court May Choose Not to Stack PAGA Penalties**

12 Courts are hesitant to award full PAGA penalties where those penalties are derivative of
13 other claims that were subject to PAGA penalties in the first instance; the basis for this is the
14 Court's concerns about double-recovery. (See *Naranjo v. Spectrum Security Services, Inc.* (2019)
15 40 Cal.App.5th 444.) In this case, the court may choose not to stack the PAGA penalties
16 attributable to wage statement violations and waiting time penalties, since those penalties are
17 derived from the unpaid wages claims. If the Court chooses not to stack these penalties, then these
18 PAGA penalties would be eliminated altogether. In the event the Court were to go this route,
19 Defendants' *maximum* exposure would be reduced from \$2,748,800 to \$1,985,800; this amount
20 could be further reduced by the Court based on Defendant's showing of good faith attempts to
21 comply with the law.

22 **VI. THE COURT SHOULD APPROVE THE PROPOSED PAGA SETTLEMENT**

23 **a. The PAGA Penalties Being Recovered are Reasonable Under the**
24 **Circumstances**

25 The terms of the parties' settlement are reasonable under the circumstances and serve the
26 purpose of PAGA. (*O'Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110,
27 1135.) Although Defendant's total maximum liability could result in \$2,748,800 in penalties, the
28 court has discretion to award a lesser amount than the maximum civil penalty allowed under

1 PAGA. Labor Code section 2699(e)(2). Here, the PAGA penalties being recovered are reasonable
2 for the reasons set forth above.

3 **b. Plaintiff's Requested Fees and Costs Should be Approved**

4 PAGA allows a prevailing plaintiff to obtain attorneys' fees and costs. (Lab. Code, §
5 2699(g).) In class actions, California state and federal courts have recognized that an appropriate
6 method for determining an award of attorneys' fees is based on a percentage of the total value of
7 benefits to class members by the settlement. (*Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th
8 224, 254 (2001); *Serrano v. Priest*, 20 Cal. 3d 25, 34 (1977) ("*Serrano III*"); *Boeing Co. v. Van*
9 *Gemert*, 444 U.S. 472, 478 (1980); *Vincent v. Hughes Air West, Inc.*, 557 F. 2d 759, 769 (9th Cir.
10 1997). One of the purposes of this equitable doctrine is to "spread litigation costs proportionally
11 among all the beneficiaries so that the active beneficiary does not bear the entire burden
12 alone." (*Vincent*, 557 F. 2d at 769.) Although this is not a class action, the same logic holds true
13 since a PAGA case is also a representative action.

14 The Common Fund doctrine is predicated on the principle of preventing unjust enrichment.
15 When a litigant's efforts create or preserve a fund from which others derive benefits, he may
16 require the passive beneficiaries to compensate those who created the fund. Both California state
17 and federal courts have embraced this doctrine. *Serrano III*, 20 Cal. 3d at 35; *Vincent*, 557 F.2d at
18 769. Similarly, in *City and County of San Francisco v. Sweet*, 12 Cal. 4th 105, 110 (1995), the
19 California Supreme Court recognized that the common fund doctrine has been applied
20 "consistently in California when an action brought by one party creates a fund in which other
21 persons are entitled to share." The reasons for applying the common fund doctrine include:
22 "...fairness to the successful litigant, who might otherwise receive no benefit because his recovery
23 might be consumed by the expenses; correlative prevention of an unfair advantage to the others
24 who are entitled to share in the fund and who should bear their share of the burden of its recovery;
25 encouragement of the attorney for the successful litigant who will be more willing to undertake and
26 diligently prosecute proper litigation for the protection or recovery of the fund if he is assured that
27 he will be properly and directly compensated should his efforts be successful." *Id.*

27 Indeed, the California Supreme Court has also held that the award of attorneys' fees in
28 common fund wage and hour class action settlements should start with the percentage method. *See*

1 *Laffitte v. Robert Half Int'l*, 1 Cal. 5th 480, 503 (2016) (“We join the overwhelming majority of
2 federal and state courts in holding that when class action litigation establishes a monetary fund for
3 the benefit of the class members, and the trial court in its equitable powers awards class counsel a
4 fee out of that fund, the court may determine the amount of a reasonable fee by choosing an
5 appropriate percentage of the fund created.”). The California Supreme Court in *Laffitte* affirmed a
6 fee award representing 33 1/3 percent of the fund.

7 Here, Plaintiff’s counsel requested fees are reasonable, as it represents 33 1/3 percent of the
8 fund. Furthermore, Plaintiff’s counsel has spent a significant amount of time litigating this case,
9 including time spent communicating with the clients, evaluating and analyzing the relevant legal
10 theories, drafting and filing various PAGA letters, drafting and filing the complaint and first
11 amended complaint, engaging in discovery, preparing for and attending mediation, and drafting the
12 instant motion. (Starr Decl. ¶16). In sum, Plaintiff’s counsel has spent approximately 183.75 hours
13 litigating this case to date, resulting in billable fees of approximately \$79,311.25. (Starr Decl. ¶17).
14 Therefore, Plaintiff’s counsel requested fees of \$40,000.00 is reasonable. (Starr Decl. ¶18).

15 Plaintiff has incurred \$7,440.80 in costs litigation this case. (Starr Decl. ¶20). These costs
16 include filing fees, service costs, costs to retain an expert to evaluate the time and payroll records,
17 mediation costs, and various other litigation costs. (Starr Decl. ¶21). The \$7,440.80 requested for
18 costs reimbursements should be granted, because it represents Plaintiff’s actual costs in relation to
19 this case.

20 **c. Plaintiff’s Requested Enhancement Payment Should be Approved**

21 Plaintiff participated in the discovery process, provided numerous documents to his counsel
22 for review, sat for a full day deposition and spent several hours collectively on the phone
23 answering questions about the case. (Starr Decl. ¶22). It is because of his willingness to participate
24 in the litigation process which ultimately resulted in this settlement. Furthermore, Plaintiff
25 provided a general release of all claims as part of the settlement, which Plaintiff’s counsel
26 calculated to be worth approximately \$15,483.30. (Starr Decl. ¶23). Therefore, the amount
27 attributed to Plaintiff as an enhancement payment is reasonable.

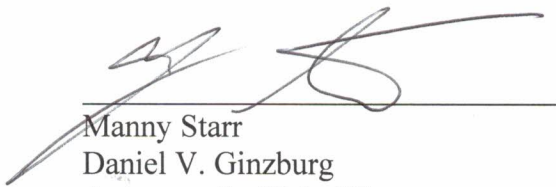
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1 **VII. CONCLUSION**

2 Based on the above facts and arguments, Plaintiff respectfully requests the court to approve
3 the PAGA settlement and enter an order dismissing this action with prejudice.
4

5 Date: May 19, 2021

FRONTIER LAW CENTER

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8 Manny Starr
9 Daniel V. Ginzburg
10 Attorneys for Plaintiff
11 Robert Navarro
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) NO. 20STCV16481

) **DECLARATION OF MANNY STARR**
) **IN SUPPORT OF PLAINTIFF'S**
) **MOTION FOR COURT APPROVAL OF**
) **PAGA SETTLEMENT**

) *Assigned to Hon. Judge Timothy Patrick*
) *Dillon*

) Date: June 15, 2021
) Time: 8:30 a.m.
) Dept: 73
) Reservation No.: 403583638683
) Action Filed: April 30, 2020
)
)

21
22 DECLARATION OF MANNY STARR

23 I, Manny Starr, declare the following:

24 1. I am an attorney duly licensed to practice law in the State of California. I am one of the
25 attorneys representing Plaintiff Robert Navarro in the above captioned action. I am one of the
26 managing partners of Frontier Law Center. Employment law is my primary area of practice. I have
27 personal knowledge of the facts in this declaration and if called on to testify about the facts I could
28 and would competently do so.

1 2. Plaintiff was formerly employed by Allied as a security guard from January 2019 through
2 January 2020.

3 3. This action was originally filed as an individual action in the Los Angeles Superior Court
4 on April 30, 2020.

5 4. Plaintiff's Cause of Action asserted that Allied had violated Labor Code sections 201-203,
6 204, 210, 226, 510, 558, 1194, and 2802.

7 5. On June 1, 2020 Plaintiff sent a PAGA letter to Defendants and the Labor and Workforce
8 Development Agency ("LWDA") which explained the Plaintiff's claims against Defendant
9 (LWDA Case No. LWDA-CM-791903-20).

10 6. On September 1, 2020, Plaintiff filed a First Amended Complaint ("FAC") seeking PAGA
11 penalties based on violations of Labor Code sections 201, 202, 203, 204, 210, 226, 510, 558, 1174,
12 1194, 1197, 1197.1, 1198, and 2802.

13 7. On December 8, 2020, Plaintiff sent a supplemental PAGA notice, alleging that Allied was
14 a temporary service employer ("TSE") and failed to pay the Aggrieved Employees on a weekly
15 basis as required by Labor Code section 201.3.

16 8. On February 19, 2021, Plaintiff filed a Second Amended Complaint ("SAC") adding an
17 additional PAGA claim based on the violation of Labor Code section 201.3.

18 9. Defendants filed an answer on March 4, 2021.

19 10. The parties agreed to go to mediation, and attended mediation, on April 6, 2021. Through
20 the combination of informal discovery, depositions of Plaintiff and Defendant's persons most
21 knowledgeable, extensive negotiations, and mediation, the parties were able to reach an agreement.

22 11. The case settled at mediation for \$120,000.00. A true and correct copy of the Settlement
23 Agreement and General Release is attached hereto as **Exhibit 1**.

24 12. I believe this settlement is fair and reasonable given the facts of the case, Defendants'
25 affirmative defenses, the risks that Plaintiff faced in litigating this case to trial and based on my
26 assessment as an experienced employment law attorney.

27 13. In terms of my experience in this field, I have been named as Class Counsel in several class
28

actions, and have been lead counsel in several significant PAGA settlements that have been granted final approval by the Superior Courts of California, including the following:

- a. *Joshua Albright, et al. v. Loma Linda Shared Services*, Case No. CIVDS1818361: Class action and PAGA case involving failure to pay wages, meal and rest break violations, and failure to indemnify work related expenses; \$600,000.00 settlement; final approval granted;
- b. *Tri Nguyen v First Alarm Security & Patrol, Inc.*, Case No. 18CV332369: class action and PAGA case on behalf of security guards involving various wage and hour issues; \$7,250,000 settlement; final approval granted;
- c. *Ronnie McNeal v. Platinum Security, Inc.*, Case No. 19STCV05709: PAGA action on behalf of security guards involving meal and rest break violations and failure to pay wages in a timely manner; \$300,000 settlement; PAGA settlement approved;
- d. *Adolph Cruz, et al v. Holder Construction Group, LLC*, Case No. 19CV341862: PAGA action on behalf of construction workers involving off the clock work and meal and rest break violations; \$500,000 settlement; PAGA settlement approved;
- e. *Mervyn Cole v. Saucey, Inc.* Case No. BC707895: class action and PAGA case involving misclassification of employees and other wage and hour issues; \$590,000 settlement; final approval granted;
- f. *Kevin Hernandez v. Contemporary Services Corporation*, Case No. BC684206: PAGA action on behalf of security guards involving various wage and hour issues; \$795,000 settlement; PAGA settlement approved;
- g. *Keosia Green v. American Guard Services, Inc.* Case No. BC688437: PAGA action on behalf of security guards involving wage and hour issues; \$315,000 settlement; PAGA settlement approved;
- h. *James Rushing v. Security Intelligence Specialist Corporation*, Case No. 18-civ-1808, class action and PAGA case on behalf of security guards for breaks and wage statement violations; \$480,000 settlement; final approval granted;
- i. *Veronica Espinoza v. Sharp HealthCare*, Case No. 37-2018-00034031-CU-OE-

CTL, class action and PAGA case on behalf of hospital employees relating to meal and rest break violations, among other things; \$2,125,000 settlement; final approval granted; and

- j. *Anthony Gaines, et al. v. Triple Canopy, Inc.*, 1 Case No. 9CV345169, class action and PAGA case on behalf of approximately 550 security guards relating to meal and rest break violations and other wage and hour issues; \$2,300,000 settlement; final approval granted.

14. Plaintiff will file and serve this Settlement Agreement and motion with the LWDA at the same time that Plaintiff files the same with the Court pursuant to the requirements of Labor Code section 2699(i)(2).

15. Defendants have denied, and continue to deny, any liability for the above-mentioned labor code violations.

16. Plaintiff's counsel has spent a significant amount of time litigating this case, including time spent communicating with the clients, evaluating and analyzing the relevant legal theories, drafting and filing various PAGA letters, drafting and filing the complaint and first amended complaint, engaging in discovery, taking and defending depositions, preparing for and attending mediation, and drafting the instant motion.

17. In sum, Plaintiff's counsel has spent approximately 183.75 hours litigating this case to date, resulting in billable fees of approximately \$79,311.25.

18. Plaintiffs' counsel expects to spend additional time on the settlement approval and administration process as well.

19. The attorneys' fees sought are therefore reasonable in light of the work put into this case, the strong public policy furthered by litigating PAGA cases, and the general complexity of litigating PAGA cases.

20. To date, Plaintiff's counsel has incurred \$7,440.80 in costs.

21. These costs include filing fees, service costs, deposition costs, mediation costs, and various other litigation costs.

22. Plaintiff participated in the discovery process, provided numerous documents to their

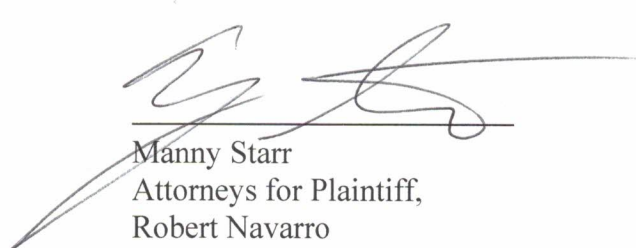
1 counsel for review, and spent several hours collectively on the phone answering questions about
2 the case.

3 23. Furthermore, Plaintiff provided a general release of all claims as part of the settlement,
4 which Plaintiff's counsel calculated to be worth approximately \$15,483.30.

5 24. Based on the foregoing, the court should thus approve the PAGA settlement and enter an
6 order dismissing this action with prejudice.

7 I declare under penalty of perjury under the laws of the State of California that the foregoing
8 is true and correct.

9
10 Date: May 19, 2021



Manny Starr
Attorneys for Plaintiff,
Robert Navarro

EXHIBIT 1

PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698, ET SEQ.)
SETTLEMENT AGREEMENT AND GENERAL AND LIMITED RELEASE And
INDIVIDUAL CLAIMS RELEASE

Robert Navarro v. Allied Private Investigation & Security Services, Inc.
Superior Court of California County of Los Angeles Case No. 20STCV16481

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that settlement shall be effectuated upon and subject to the following terms and conditions. Capitalized terms used herein shall have the meanings set forth in Section 1 or elsewhere in this Private Attorneys General Act (Labor Code § 2698, *et seq.*) Settlement Agreement and General and Limited Release ("Agreement").

This Agreement is made by and between Allied Private Investigation & Security Services, Inc. ("Defendant") and Robert Navarro ("Plaintiff"), for himself and on behalf of the State of California and other aggrieved employees pursuant to the California Private Attorneys General Act ("PAGA") (Defendant and Plaintiff, as defined herein, are sometimes collectively referred to as the "Parties").

The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and concluded by this Agreement, which is intended to effect and complete settlement of this matter.

Section 1. Definitions.

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- (a) "Action" means *Robert Navarro v. Allied Private Investigation & Security Services, Inc.*, Superior Court of California County of Los Angeles Case No. 20STCV16481.
- (b) "Aggrieved Employees" means any and all current and former non-exempt employees of Defendant who worked within the State of California at any time during the Settlement Period. Defendant represents that as of the date of signing this Agreement, there are approximately 809 Aggrieved Employees.
- (c) "Complaint" means the April 30, 2019 Complaint Plaintiff filed in *Robert Navarro v. Allied Private Investigation & Security Services, Inc.*, Superior Court of California County of Los Angeles Case No. 20STCV16481; the First Amended Complaint filed by Plaintiff on September 1, 2020 in the same matter; and the Second Amended Complaint filed by Plaintiff on February 19, 2021 in the same matter. This action and the claims, causes of actions, and primary rights alleged therein, are also collectively referred to herein as the "Litigation."
- (d) "Court" means the Superior Court of California County of Los Angeles.

“Defense Counsel” means:

Joshua Z. Feldman, Esq.
Alexandra Bernstein, Esq.
LITTLER MENDELSON
2049 Century Park East, 5th Floor
Los Angeles, CA 90067
Tel: (310) 553-0308 / Fax: (310) 553-5583

(e) “LWDA” means the State of California, Labor and Workforce Development Agency.

(f) “Plaintiff’s Counsel” means:

Manny M. Starr
Daniel V. Ginzburg
Frontier Law Center
23901 Calabasas Road, STE #2074
Calabasas, CA 91302
Tel: (818) 914-3433 / Facsimile: (818) 914-3433

(g) “Effective Date” means the date this Agreement is approved as provided herein and the Court’s order granting approval of the Settlement and entry of Final Judgment becomes final and is no longer appealable. For purposes of this Agreement, “becomes final and is no longer appealable” shall mean the later of: (a) the day after the last date by which a notice of appeal to the applicable Court of Appeal of the order and judgment approving this Agreement may be timely filed and none is filed (*i.e.*, 61 days from notice of entry of judgment); (b) if an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or in any other manner that confirms the validity of the order and judgment, the day after the last date for filing a request for further review of the order and judgment approving this Agreement passes, and no further review is requested; or (c) if an appeal is filed and the order approving this Agreement is affirmed and further review of the order is requested, the day after the review is finally resolved and the order and judgment approving this Agreement is affirmed.

(h) “Employee PAGA Portion” is the total amount to be paid to the Aggrieved Employees, which will be 25% of the Net PAGA Fund, unless the Court determines otherwise.

(i) “Gross PAGA Settlement Fund” means the maximum sum of One Hundred Twenty Thousand Dollars and No Cents (\$120,000) that Defendant has agreed to pay pursuant to Section 3, below.

(j) “Individual PAGA Payment” is the amount to be paid to each individual Aggrieved Employee from the Employee PAGA Portion, unless the Court determines otherwise.

(k) “LWDA Payment” is the amount to be paid to the LWDA, which will be 75% of the Net PAGA Fund, unless the Court determines otherwise.

(l) “Net PAGA Fund” means the amount remaining from the Gross Settlement Fund after the deduction of the Settlement Administration Costs, the service award to Plaintiff, and Attorneys’ Fees and Costs.

(m) “Released Claims” means any and all claims for civil penalties that were or could have been assessed upon or collected from the Released Parties under California Labor Code § 2698, *et seq.*, arising from, based on, or related to the factual allegations of the Complaint, including, but not limited to, alleged violations of California Labor Code §§ 201, 201.3, 202, 203, 204, 210, 226, 226.3, 510, 558, 1174, 1194, 1197, 1197.1, 1198, and 2802 and the applicable Industrial Wage Order(s), including the primary rights of each provision of the State of California under PAGA, and including the PAGA penalty claims described in the PAGA letters of Robert Navarro dated June 1, 2020 and December 8, 2020. In addition, on an individual basis, any and all claims as they relate to Navarro that are not already listed including, but not limited to California Civil Code of Procedure 382, and business and Professions Code section 17200, *et seq.*, and the applicable Wage Orders, regulations, and statutes. The Released Claims do not include any underlying claims or causes of action that Aggrieved Employees may have, and relief that they may seek, against Released Parties with respect to violations of the California Labor Code.

(n) “Released Parties” means Defendant and each of its past, present, and future parents, affiliates (including, but not limited to: subsidiaries, divisions, predecessors, successors, partners, joint venturers, affiliated organizations, shareholders, insurers, reinsurers and assigns, and each of their past, present and future officers, directors, managers, members, trustees, agents, employees, attorneys, contractors, representatives, benefits plans sponsored or administered by the Released Parties, divisions, units, and branches, and any other persons or entities acting on behalf of or in concert with any of the foregoing.

(o) “Settlement” means the terms and conditions memorialized in the Agreement.

(p) “Settlement Administrator” means Phoenix Settlement Administrators, a third-party administrator who shall administer the settlement in accordance with this Agreement. The costs of the Settlement Administrator to perform its duties under this Agreement are currently estimated not to exceed \$4,250.00 (“Settlement Administration Costs”).

(q) “Settlement Period” means the time period beginning from June 1, 2019 through April 13, 2021.

Section 2. Background.

(a) On April 30, 2019, Plaintiff filed a Complaint in Los Angeles Superior Court alleging the following in his individual basis: failure to pay hourly and overtime wages; failure to reimburse required business expenses; failure to provide suitable seating; failure to furnish itemized wage statements; failure to pay all wages upon conclusion of employment; and unlawful and/or unfair business practices. On June 1, 2020, Plaintiff filed a letter with the LWDA alleging on behalf of Aggrieved Employees from underpayment of wages, failure to pay minimum wage, wage statement violations, and suitable seating. On September 1, 2020, Plaintiff

amended his First Amended Complaint to include a PAGA claims for all claims (including reimbursements, failure to pay all wages upon conclusion of employment, and overtime pursuant to Labor Code 510). On December 8, 2020, Plaintiff submitted another letter to the LWDA alleging that Allied was a Temporary Services Employer and that Allied failed to pay Aggrieved Employees weekly as required by California Labor Code section 201.3. On February 19, 2021 Plaintiff filed his Second Amended Complaint to include a PAGA claim for failing to pay weekly as required by Labor Code section 201.3.

(b) Defendant denies all of the allegations in the Complaint and denies that it has committed or is liable for any misconduct, statutory or regulatory violation, wrongdoing, or any other actionable conduct of any kind.

(c) The Parties reached this settlement only after conducting extensive investigation of the facts and law. The Parties believe and agree this Settlement provides for a fair, adequate, and reasonable resolution of the Litigation and have arrived at the Settlement after extensive, arms-length negotiations, including use of a private mediator, taking into account all relevant factors, present and potential.

(d) The Parties understand, acknowledge, and agree this Agreement constitutes a compromise of the Released Claims. It is also the desire and intention of the Parties to implement a final and complete resolution of the Litigation. The Parties further acknowledge nothing in this Agreement shall be construed as an admission by Defendant of liability.

(e) This Agreement contemplates (1) entry of an Order by the Court approving this settlement; (2) an Order entering Judgment; and (3) all parties bearing their respective fees and costs except as expressly provided in this Agreement.

Section 3. Terms of Agreement.

(a) Gross Settlement Fund. Defendant agrees to pay \$120,000 on a non-reversionary basis as a full, complete and final settlement of the Action.

(b) Net PAGA Fund. The Net PAGA Fund shall represent California Labor Code Section 2699 penalties, of which 75% of the amount will be paid to the LWDA as the LWDA Payment and 25% will be paid to Aggrieved Employees as Individual PAGA Payments (i.e., Employee PAGA Portion), unless the Court determines otherwise. A reallocation of the Net PAGA Fund directed by the Court shall not be a basis for either side to void the Agreement. Aggrieved Employees will be issued Form 1099 (if applicable) for their Individual PAGA Payment. The Individual PAGA Payment for each Aggrieved Employee will be based on the number of biweekly payroll periods that each Aggrieved Employee was actively employed during the Settlement Period ("Pay Periods"). Subject to Court approval of the Attorney Fees, Costs, Plaintiff's individual payment, and Settlement Administrator Costs, the Net PAGA Fund equals \$55,750, of which \$13,937.50 will be distributed among the Aggrieved Employees as set forth above, and the remaining \$41,812.50 will be paid to the LWDA.

(c) Escalator Clause. Defendant represents that from June 1, 2020 to March 3, 2021, there were approximately 8,528 total Pay Periods for all Aggrieved Employees. If the actual

number of Pay Periods during the Settlement Period is more than 10% above 8,528, the Gross Settlement Fund shall be increased by the percentage that the actual number exceeds 8,528.

(d) Attorneys' Fees and Costs and Plaintiff's Individual Claims. Plaintiff's Counsel and Plaintiff will request and be paid, subject to approval by the Court, an amount of \$40,000 for attorneys' fees ("Attorneys' Fees") and reimbursement of actual litigation costs of \$8,000 as approved by the Court ("Costs") (together, "Attorneys' Fees and Costs") and payment of \$12,000 to Plaintiff for his individual claims from the Gross Settlement Fund. Defendant will not oppose these requests. Any reduction in this payment by the Court is not grounds to void this Agreement and any funds requested but not awarded as Attorneys' Fees and Costs will become part of the Net PAGA Fund pursuant to the distribution terms of the Agreement or any terms imposed by the Court. Plaintiff shall not have the right to revoke the Agreement if the Court reduces or does not approve the requested Attorneys' Fees and Costs, although Plaintiff shall retain the right to appeal any reduction of Attorneys' Fees and Costs.

(1) The Settlement Administrator will issue IRS Forms 1099 to Plaintiff's Counsel as required by IRS regulations. Plaintiff's Counsel shall bear full responsibility for the payment of any taxes or withholdings arising from the Attorneys' Fees and Costs. Such Attorneys' Fees and Costs shall include and satisfy all past and future fees and costs incurred to prosecute and settle the Litigation and obtain the order of approval and judgment.

(2) Any expenses for the purchase of an annuity by the Settlement Administrator shall be paid separately by Plaintiff's Counsel and shall not be included within the Settlement Administration Costs. Defendant and Defendant's counsel shall not be liable for any expenses associated with the purchase of an annuity by the Settlement Administrator.

(3) Except as expressly provided herein, Defendant and Plaintiff shall each bear their own attorneys' fees and costs.

(e) Settlement Administration Costs. The Settlement Administration Costs shall not exceed \$4,250.00, subject to Court approval, and shall include all costs of administering the settlement, including, but not limited to, all tax document preparation, custodial fees, and accounting fees incurred by the Settlement Administrator; all costs and fees associated with preparing, issuing and mailing any and all notices and other correspondence to Aggrieved Employees; all costs and fees associated with communicating with Aggrieved Employees, Plaintiff's Counsel, and Defendant's Counsel; all costs and fees associated with computing, processing, reviewing, and making payments to Aggrieved Employees; costs and fees associated with preparing any tax returns and any other filings required by any governmental taxing authority or agency; and any other cost and fees incurred and/or charged by the Settlement Administrator in connection with the execution of its duties under this Agreement.

Section 4. Cooperation.

The Parties will cooperate in obtaining through written stipulation or unopposed motion, an Order from the Court approving the terms of this Agreement at the earliest possible date. The Parties agree to use their best efforts to expedite the preparation and submission of the settlement documents. The Parties further agree to fully cooperate in the drafting and/or filing of any further

documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to the approval of this Agreement.

Section 5. Submission to LWDA and Court Approval.

The Parties will seek to obtain Court approval of this Agreement by way of a stipulation or unopposed motion to be filed by Plaintiff's Counsel. If approval is sought by way of motion, Plaintiff's Counsel shall prepare, file, and serve the motion for approval of the Agreement and proposed judgment and order, which shall declare that Plaintiff, the LWDA, and the Aggrieved Employees (to the fullest extent allowed under law) are bound by the release of the Released Claims as defined in Section 1(m) and set forth herein. Plaintiff's Counsel shall submit the Agreement to the Court and LWDA, as necessary under California Labor Code § 2699(1) and any other applicable provision. Should either Party fail to act and/or facilitate submission of this Agreement for approval by the Court, the other party may seek to obtain court approval of the Agreement. The Court's approval of this Agreement shall be embodied in a written Order, which shall be submitted to the LWDA. Should the Court not grant approval of this Agreement, then the entirety of the Agreement shall be null and void, unless otherwise agreed upon in writing by the Parties.

Section 6. Notice to Aggrieved Employees and Settlement Payment Procedures.

(a) List of Aggrieved Employees:

(1) No later than twenty (20) calendar days after the Court enters an Order approving the terms of this Agreement, Defendant shall provide the Settlement Administrator with a list of the Aggrieved Employees (the "Aggrieved Employees List"). The Aggrieved Employees List shall include each Aggrieved Employee's (1) full name, (2) last known address, (3) last known phone number, (4) pertinent dates of employment and corresponding number of Pay Periods, and (5) Social Security number. This information shall be treated as and remain confidential and shall be used solely to manage the notice and settlement administration process described herein, shall not be disclosed to anyone other than the Settlement Administrator, except as necessary to applicable taxing authorities, or pursuant to express written authorization of Defendant, the individual in question, or by order of the Court.

(2) The Settlement Administrator shall conduct one National Change of Address ("NCOA") search for all Aggrieved Employees identified on the Aggrieved Employees List. No later than ten (10) business days after the Effective Date, the Settlement Administrator shall mail the Cover Letter (attached hereto as "Exhibit A") and each Individual PAGA Payment (together, "Payment Packet") to all Aggrieved Employees by first-class United States mail, postage prepaid, to the last known address of each Aggrieved Employee with directions to the Postmaster to forward the Payment Packet and return all undeliverable Payment Packets to the Settlement Administrator. For each Payment Packet that is returned as undeliverable, the Settlement Administrator shall promptly attempt to locate the Aggrieved Employee by using an address refresher database.

(3) All costs incurred by the Settlement Administrator in connection with the current settlement, whether foreseen or not, shall be paid out of the Gross Settlement Fund.

(b) Payments to Aggrieved Employees

(1) All Individual PAGA Payments to Aggrieved Employees will be calculated according to each of their number of Pay Periods, by dividing each Aggrieved Employee's individual number of Pay Periods by the total number of Pay Periods of all Aggrieved Employees, and multiplying the resulting figure by the Employee PAGA Portion.

(2) Individual PAGA Payments are considered 100% penalties and will not be subject to local, state or federal tax withholdings. All Aggrieved Employees who cash, deposit, or negotiate their Individual PAGA Payment check may receive an IRS Form 1099 reflecting this portion of the Settlement.

(3) The Individual PAGA Payment checks issued to Aggrieved Employees shall remain valid and negotiable for one hundred eighty (180) calendar days. Thereafter, all checks that have not been cashed, deposited, or otherwise negotiated shall be voided and the funds represented thereby shall be paid to The State Bar of California Justice Gap Fund by the Settlement Administrator.

(4) In no event will any funds or payment be due by Defendant prior to the Effective Date of this Agreement.

(c) Payments to the LWDA, Plaintiff's Counsel, Plaintiff, and the Settlement Administrator

Payments to Plaintiff's Counsel for Attorneys' Fees and Costs, payment to Plaintiff, and payment to the Aggrieved Employees will be deposited with the Settlement Administrator in the following manner from the date of Court approval of the Settlement.

Payment (1) due 15 days from Court approval of the Settlement in the amount of \$29,000.

Payment (2) due 45 Days from Court approval of the Settlement in the amount of \$25,000.

Payment (3) due 75 days from Court approval of the Settlement in the amount of \$24,187.50.

Upon receipt of payments 1, 2, and 3 in full by the Settlement Administrator, the Settlement Administrator will disburse the Attorneys' Fees, Costs, payment to Plaintiff, Settlement Administration Costs, and payment to the Aggrieved Employees in the manner described in section 6(b) above.

No later than Three Hundred and Sixty-Five (365) days from Court approval of the Settlement, the Defendant shall mail the Court-approved LWDA Payment of \$41,812.50 to the LWDA.

///

Section 7. Disputes Relating to Settlement Administration.

Any disputes concerning administration of the Settlement which cannot be resolved by the Parties shall be submitted to and resolved by the Court.

Section 8. Judgment.

Upon payment of the entire Gross Settlement Fund by Defendant and distribution of the Gross Settlement Fund by the Settlement Administrator in accordance with this Agreement, Plaintiff and Defendant will jointly submit a Notice of Satisfaction of Judgment.

Section 9. No Admission of Wrongdoing.

This Agreement and compliance with the Agreement shall not constitute an admission by Defendant of any liability whatsoever, or an admission by Defendant of any violations of Plaintiff's rights, violation of any order, law, statute, duty or contract whatsoever. Defendant specifically disclaims any liability to Plaintiff or any other allegedly Aggrieved Employee for any alleged violation of his/her rights, or for any alleged violation of any order, law, statute, duty or contract.

Section 10. Non-Evidentiary Use.

Neither this Agreement nor any of its terms shall be offered or used as evidence by any of the Parties, or their respective counsel in the Litigation or in any other action or proceeding provided, however, this shall not prevent this Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize this Agreement, including use by Defendant to attempt to establish that an Aggrieved Employee or the LWDA has resolved or has been compensated for any claims made by that employee or the LWDA.

Section 11. Impact of Non-Approval by Court.

(a) Should the Court not approve this Agreement in its entirety, the Parties shall request leave and work jointly to make reasonable efforts to remedy the settlement in order to obtain the Court's approval.

(b) If the Court ultimately fails to approve this Agreement after the Parties' joint attempt to remedy the issues, then this Agreement shall be considered null and void and neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect and shall not be referred to or used for any purpose whatsoever. All Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court.

(c) Invalidation of any material portion of this Agreement shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect. Material terms of this Agreement include: the definition of Aggrieved Employees (Section 1(b)); the definition of Effective Date (Section 1(g)); the definition of Settlement Period (Section 1(q)); the definition of Released Claims (Section 1(m)); the definition of Released Parties (Section 1(n)); the definition of Gross

Settlement Fund (Section 3(a)); the requirement for entry of an Order by the Court approving this Agreement and entering Judgment as contemplated in Section 5.

Section 12. Releases.

a) Release by Plaintiff, Aggrieved Employees, and the State of California. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge disputes and claims arising from or related to the Action. Upon entry of the Order approving the Settlement and payment of the Gross Settlement Fund as described in this Agreement, Plaintiff, the Aggrieved Employees, and the State of California shall be bound by this Agreement and shall have recourse exclusively to the benefits, rights, and remedies provided hereunder. Plaintiff, the Aggrieved Employees and the State of California shall be deemed to have, and by operation of the Order granting approval of this Agreement, shall have fully, finally, and forever released, relinquished, and discharged each and all of the Released Parties from the Released Claims.

b) Release by Plaintiff. Upon entry of the Order approving the Settlement and payment of the Gross Settlement Fund as described in this Agreement, and except as to the rights and obligations created by this Settlement Agreement, Plaintiff, individually and on behalf of his heirs, executors, administrators, representatives, attorneys, successors and assigns, will be deemed to have knowingly and voluntarily released and forever discharged Released Parties, to the full extent permitted by law, from any and all claims of every nature whatsoever, known or unknown, suspected or unsuspected, arising out of or related to Defendant's employment of Plaintiff, which Plaintiff has or may have during the Settlement Period. This broader release includes, but is not limited to, all claims arising directly or indirectly from Plaintiff's employment with Defendant and the termination of that employment, including without limitation claims arising under federal, state or local laws and claims for unpaid wages, penalties, liquidated damages, breach of contract, breach of the implied covenant of good faith and fair dealing, infliction of emotional distress, wrongful or retaliatory discharge, harassment, discrimination, defamation, impairment of economic opportunity, and violations of public policy, the Fair Labor Standards Act, the California Labor Code, the California Fair Employment and Housing Act, the California Business and Professions Code, the California Constitution, the Civil Rights Act of 1866, Title VII of the Civil Rights Act of 1964, Americans with Disabilities Act of 1990, and the Age Discrimination in Employment Act.

Section 13. Voluntariness.

This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of any of the Parties, or of any other person, firm or other entity.

Section 14. Representations and Warranties.

Plaintiff represents and warrants that he has the right and exclusive authority to execute this Agreement. Each Party to this Agreement also represents and warrants to, and agrees with, each other Party hereto as follows:

(a) Each Party has carefully read and knows and understands the full contents of this Agreement and is voluntarily entering into this Agreement after having received independent legal advice from his or its attorneys with respect to the advisability of making the Settlement provided for herein and the advisability of executing this Agreement.

(b) Each Party to this Agreement has investigated the facts relevant to this settlement and this Agreement, and all matters pertaining thereto, to the fullest extent that each Party deems necessary.

(c) Each separately-numbered section or paragraph in this Agreement is contractual, not merely a recital.

(d) Each of the Parties has participated in the drafting of all provisions of this Agreement, has had an adequate opportunity to read, review, and consider the effect of the language of this Agreement, and has agreed to its terms.

Section 15. Revocation.

Plaintiff agrees that his waiver and release of rights and claims as set forth herein is knowing and voluntary and that Plaintiff is receiving consideration herein which may be in addition to anything of value to which he is already entitled. Plaintiff acknowledges the following: (a) Plaintiff are represented by and consulted with his attorneys prior to executing this Agreement; (b) this Agreement has been written in a manner calculated to be understood by Plaintiff, and Plaintiff has consulted his attorneys if Plaintiff does not understand any provisions contained in this Agreement; (c) the individual release and waiver in this Agreement specifically covers any claims of age discrimination; (d) this Agreement does not waive rights or claims that may arise after Plaintiff executes it; (e) Plaintiff had twenty-one (21) days to consider this Agreement but can elect to sign it sooner; and (f) Plaintiff is provided with a seven (7) day period to revoke this Agreement by delivering written notification of revocation in person or by messenger addressed to counsel for Defendant, which will expire seven (7) days after they execute this Agreement. Plaintiff acknowledges and agrees that, in the event that Plaintiff revokes this Agreement pursuant to this provision, Plaintiff will not be entitled to receive any payments, and this Agreement will be null and void *ab initio*.

Section 16. Amendments and Waiver.

This Agreement may not be changed, altered, or modified, except in writing signed by counsel for the Parties and approved by the Court. Any waiver of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement, unless expressly stated otherwise.

Section 17. Successors and Assigns.

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Aggrieved Employee, Plaintiff's Counsel, or Defense Counsel without the express written consent of each other Party and their respective counsel hereto. The representations, warranties, covenants, and agreements contained in this Agreement are for the

sole benefit of the Parties under this Agreement, and shall not be construed to confer any right or to avail any remedy to any other person. Plaintiff expressly warrants that she has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

Section 18. Governing Law.

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, and in all cases shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the Parties hereto. The Court will retain continuing jurisdiction to enforce the Agreement.

Section 19. Entire Agreement.

This Agreement, including the Exhibit referred to herein, which forms an integral part hereof, contains the entire understanding of the Parties hereto in respect of the subject matter contained herein. This Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the settlement of the Action.

Section 20. Counterparts.

The Parties may execute this Agreement in counterparts, and execution of counterparts will have the same force and effect as if all Parties signed the same instrument. Electronic, facsimile or .pdf copies of any such signed counterparts may be used in lieu of the original for any purpose.

Section 21. Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, the Parties agree to submit any such dispute(s) to the Court.

IN WITNESS WHEREOF, the Parties have executed this Private Attorneys General Act Settlement Agreement and Limited Release on the date set forth.

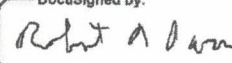
APPROVED AND ACCEPTED.

PLAINTIFF

Dated: May __, 2021

05/17/21 | 12:17 PDT

By _____

DocuSigned by:

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Robert Navarro

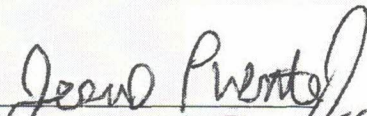
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DEFENDANT: Allied Private Investigation &
Security Services, Inc.

Dated: May 18, 2021

By 
Name: JESUS PUEENTES
Title: CEO

On behalf of Allied Private Investigation & Security
Services, Inc.

APPROVED AS TO FORM:

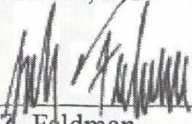
Dated: May __, 2021
05/17/21 | 11:38 PDT

Frontier Law Center

DocuSigned by:
By 
6D656F47D51F483...
Manny M. Starr
Daniel V. Ginzburg
Attorneys for Plaintiff Robert Navarro

Dated: May 20, 2021

Littler Mendelson, P.C.

By 
Joshua Z. Feldman
Alexandra Bernstein

*Attorneys for Allied Private Investigation &
Security Services, Inc.*

EXHIBIT A

Robert Navarro v. Allied Private Investigation & Security Services, Inc.
Superior Court of California County of Los Angeles Case No. 20STCV16481

[Claims Administrator Name]

[Address]

[Phone Number]

«Barcode»

«BarcodeString»

SIMID «SIMID»

«FirstName» «LastName»

XXX – XX - ____ - ____

«Address1» «Address2»

Social Security Number

«City» «State» «Zip»

Plaintiff Robert Navarro (“Plaintiff”), in his capacity as a private attorney general, sued Allied Private Investigation & Security Services, Inc. (“Defendant”) for civil penalties pursuant to the California Private Attorney General Act of 2004 (“PAGA”). Plaintiff claims Defendant violated the California Labor Code with respect to Defendant’s non-exempt employees in California between June 1, 2019 and April 13, 2021 (“Settlement Period”) by, among other things, failure to properly compensate at proper rate of overtime pay, failure to provide reimbursement, failure to provide suitable seating, failure to provide accurate wage statements, failure to pay wages upon conclusion of employment, and failing to pay weekly as required by Labor Code section 201.3. Defendant denies all liability, and asserts that it has fully complied with all applicable wage-and-hour laws, and the Court has made no finding of liability or violation. Nevertheless, the Parties have entered into a settlement with Plaintiff solely for purposes of resolving this dispute on his behalf and on behalf of non-exempt employees of Defendant who worked in California at any time during the Settlement Period (the “Aggrieved Employees”). The settlement has been approved by the Superior Court of California County of Los Angeles in the above case (the “Settlement”).

The Parties have agreed that a portion of the settlement will be distributed on a pro rata basis to Aggrieved Employees (“Employee PAGA Portion”). Defendant’s records show that you worked at Defendant’s or a related entity, as a non-exempt employee in California for some period of time during the Settlement Period. As an Aggrieved Employee, you will receive a pro rata share of the Employee PAGA Portion based on Defendant’s records of the number of pay periods you worked during the Settlement Period, which in your case is [insert number of pay periods]. Based on Defendant’s records, you are receiving approximately \$ ____.

The Settlement settles and permanently resolves any and all claims for civil penalties that were or could have been assessed upon or collected from the Released Parties under California Labor Code § 2698, *et seq.*, arising from, based on, or related to the factual allegations of the Complaint, including, but not limited to, alleged violations of California Labor Code §§ 201, 201.3, 202, 203, 204, 210, 226, 226.3, 510, 558, 1174, 1194, 1197, 1197.1, 1198, 2802, and the applicable Industrial Wage Order(s) including the primary rights of each provision of the State of California under PAGA, and including the PAGA penalty claims described in the PAGA letters of Robert Navarro dated June 1, 2020 and December 8, 2020. The Released Claims do not include any underlying claims or causes of action that Aggrieved Employees may have, and relief that they may seek, against Released Parties with respect to violations of the California Labor Code. The “Released Parties” are Defendant and each of its past, present, and future parents, affiliates, subsidiaries, divisions, predecessors, successors, partners, joint venturers, affiliated organizations, shareholders, insurers, reinsurers and assigns, and each of their past, present and future officers, directors, managers, members, trustees, agents, employees, attorneys, contractors, representatives, benefits plans sponsored or administered by the Released Parties, divisions, units, and branches, and any other persons or entities acting on behalf of or in concert with any of the foregoing.

Please Note: You have one hundred eighty (180) calendar days to cash the enclosed check or it will be null and void and the settled claims from the Settlement will remain binding and enforceable as to you. Individual settlement payments are subject to taxation and will be reported to the IRS and state tax authorities. You will receive appropriate tax forms pertaining to your individual settlement payment.

Do not call or write the Court or Office of the Clerk to ask questions about the settlement or to ask

questions about the claims process. Contact the settlement administrator at **[insert]** with any questions.

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 2 Daniel Ginzburg (327338)
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 3 FRONTIER LAW CENTER
 23901 Calabasas Road, #2074
 4 Calabasas, CA 91302
 Telephone: (818) 914-3433
 5 Facsimile: (818) 914-3433

6 Attorneys for Plaintiff
 Robert Navarro
 7
 8
 9

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

12 ROBERT NAVARRO, on behalf of himself and
 13 all other Aggrieved Employees

14 Plaintiff,

15 v.

16 ALLIED PRIVATE INVESTIGATION &
 SECURITY SERVICES, INC. and DOES 1 to
 17 100, inclusive,

18 Defendants.

) NO. 20STCV16481

)
)
) **DECLARATION OF ROBERT**
) **NAVARRO IN SUPPORT OF MOTION**
) **FOR APPROVAL OF PAGA**
) **SETTLEMENT**

) *Assigned to Hon. Judge Timothy Patrick*
) *Dillon*

) Date: June 15, 2021

) Time: 8:30 a.m

) Dept: 73

) Reservation No.: 403583638683

)
) Action Filed: April 30, 2020

23 I, ROBERT NAVARRO, declare under penalty of perjury as follows:

24 1. I am the Plaintiff in this action.

25 2. I have personal knowledge of the facts set forth below and if called to testify I could and
 26 would do so competently.
 27

28 3. I was formerly employed by Defendant Allied Private Investigation & Security Services,

1 Inc., (“Allied”) as a security guard from January 2019 through January 2020.

2 4. While employed by Defendant, I was deprived of suitable seating, weekly pay pursuant to
3 Labor Code section 201.3, proper compensation for all hours worked, reimbursement for work-
4 related expenditures, full compensation upon termination, and compliant wage statements.

5 5. I understood that this action was being prosecuted on behalf of the State of California as a
6 private attorney general on my behalf and other aggrieved employees. During the pendency of this
7 lawsuit, I was required to provide assistance to my attorneys, including frequently discussing the
8 case with them and providing them with information. I have spent a significant amount of time
9 discussing this matter with my attorneys on many occasions and explaining my understanding of
10 the company’s policies surrounding overtime, reimbursement, seating, and frequency of pay.
11 Further, I was involved in the negotiations that lead to the settlement in this matter. I also reviewed
12 and signed the MOU, Settlement Agreement, and this Declaration. Throughout this case, I have
13 continuously been kept apprised of the case status.

14 6. I am aware and have been aware from the inception of the case, that there is the risk that if I
15 do not win, then I could be liable for Allied’s costs. I accepted that risk in this case.

16 7. I understood from the inception of the case that a representative lawsuit could take longer
17 than an individual action and I accepted that burden.

18 8. I believe that the settlement is fair, adequate, and reasonable for the Aggrieved Employees
19 and the State of California. I am proud of the result and accomplishment of this lawsuit. I feel that
20 it is a positive accomplishment and understand that other Aggrieved Employees and the State of
21 California will benefit because of the actions that I have taken.

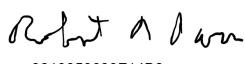
22 9. I believe my requested enhancement of \$12,000 is reasonable because I took the time,
23 effort, and risks to come forward regarding the violations alleged, which resulted in a fair
24 settlement for the Aggrieved Employees and the State of California. Also, I understand that, in
25

1 exchange for this payment, I am providing a general release of all claims that I may have against
2 the Defendants.

3 13. Based on the above, I reiterate my full support for the entirety of the settlement and request
4 that the Court enter a Final Approval Order.
5

6 I declare under penalty of perjury under the laws of the State of California that the
7 foregoing is true and correct.

8 Executed on this 19th day of May 2021 in 05/20/21 | 1:25 PDT, California.

9
10 DocuSigned by:

3219858633E14B2...

11 ROBERT NAVARRO
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28

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10 Attorneys for Plaintiff
11 Robert Navarro

12 SUPERIOR COURT OF CALIFORNIA

13 COUNTY OF LOS ANGELES

14 ROBERT NAVARRO, on behalf of himself and
15 all other Aggrieved Employees

16 Plaintiff,

17 v.

18 ALLIED PRIVATE INVESTIGATION &
19 SECURITY SERVICES, INC. and DOES 1 to
20 100, inclusive,

21 Defendants.

) NO. 20STCV16481

) **[PROPOSED] ORDER APPROVING**
) **PAGA SETTLEMENT AND DISMISSAL**
) **OF ACTION WITH PREJUDICE**

) *Assigned to Hon. Judge Timothy Patrick*
) *Dillon*

) Date: June 15, 2021

) Time: 8:30 a.m

) Dept: 73

) Reservation No.: 403583638683

) Action Filed: April 30, 2020

22 The Court, having considered the facts and arguments before it and being fully advised, and
23 good cause appearing, hereby ORDERS that:

- 24 1) The request to approve the parties Private Attorneys General Act settlement for the gross
25 amount of \$120,000.00 is granted.
- 26 2) The settlement funds are to be distributed by the Settlement Administrator in accordance
27 with the terms set forth in the Settlement Agreement, broken down as follows:
- 28 • \$12,000.00 to Robert Navarro as an enhancement payment;

- 1 • \$40,000.00 to Frontier Law Center for attorney fees;
2 • \$7,440.80 to Frontier Law Center as reimbursement for costs;
3 • \$4,250.00 to Phoenix Settlement Administrators to administer the settlement; and
4 • \$14,077.30 in PAGA Penalties to be distributed to the Aggrieved Employees on a pro
5 rata basis.
- 6 3) Defendants are ordered to make a payment of PAGA Penalties to the LWDA in the amount
7 of \$42,231.90 in accordance with the terms set forth in the Settlement Agreement.
- 8 4) Having considered the application for settlement approval put before it, finds that the
9 settlement is fair, adequate, and effectuates the purpose of PAGA. Therefore, the Court
10 grants approval of the settlement.
- 11 5) All sums referred to above shall be funded by Defendant and distributed in accordance with
12 the terms of the Settlement Agreement.
- 13 6) The claims on behalf of the aggrieved employees, are hereby dismissed with prejudice.
14 Thus, the entire action is ordered dismissed with prejudice.

15
16
17 Dated: _____

Honorable Judge Timothy Patrick Dillon

1 Manny M. Starr (319778)
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2 Daniel V. Ginzburg (327338)
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6 Attorneys for Plaintiff
Robert Navarro

7
8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF LOS ANGELES

10) CASE NO. : 20STCV16481
11)
12 ROBERT NAVARRO)
13 Plaintiff,)
14)
15 v.)
16)
17 ALLIED PRIVATE INVESTIGATION &)
18 SECURITY SERVICES, INC. and DOES 1)
19 through 100, inclusive,)
20)
21 Defendants.)
22)
23)
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28)

CERTIFICATE OF SERVICE

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to this action; my business address is 23901 Calabasas Rd., #2074, Calabasas, CA 91302. On May 21, 2021, I electronically served the interested parties in this action the following document(s) by attaching courtesy copies via electronic mail: heather@frontierlawcenter.com

Document(s) Served: Notice Of Plaintiff's Motion For Court Approval Of PAGA Settlement; Memorandum of Points & Authorities In Support Of Plaintiff's Motion For Court Approval Of PAGA Settlement; Declaration Of Robert Navarro In Support Of Motion For Approval Of PAGA Settlement; Declaration Of Manny Starr In Support Of Plaintiff's Motion For Court Approval Of PAGA Settlement; and [Proposed] Order Approving PAGA Settlement And Dismissal Of Action With Prejudice

Person(s) Served: Online portal - Labor and Workforce Development Agency;

Alexandra Bernstein
Joshua Z. Feldman
LITTLER MENDELSON, P.C
2049 Century Park East 5th Floor
Los Angeles, CA 90067.3107
Tel: 310.772.7208
E-mails: jfeldman@littler.com;
abernstein@littler.com
rpitts@littler.com

*Attorneys for Defendants,
Allied Private Investigation & Security
Services, Inc*

XX (By EMAIL or ELECTRONIC TRANSMISSION): Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the person(s) at the e-mail address(es) listed on the attached service list or above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

____ (BY MAIL) I deposited such envelope in the mail at Calabasas, California. The envelope was mailed with postage thereon fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

EXECUTED at Calabasas, California on May 21, 2021.

/s/ Heather Bourne

Heather Bourne