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11 Attorneys for Plaintiff,

12 Claudia Villalpando Bedolla

13 **SUPERIOR COURT OF CALIFORNIA**

14 **COUNTY OF FRESNO**

15 CLAUDIA VILLALPANDO BEDOLLA, an)
16 individual, on behalf of herself and all similarly)
17 aggrieved employees,)

18 Plaintiff,

19 vs.

20 ENVIRONMENT CONTROL BUILDING)
21 MAINTENANCE COMPANY, dba)
22 ENVIRONMENT CONTROL – FRESNO, a)
23 California corporation; and DOES 1-100,)
24 inclusive,)

25 Defendants.)
26)
27)
28)

CASE NO. 20CECG03532

**MOTION FOR APPROVAL OF PAGA
SETTLEMENT**

Action Filed: December 4, 2020

Assigned to Hon. Judge Gabriel Brickey
Dillon

Date: January 4, 2022

Time: 3:27 PM

Dept: 402

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This Private Attorneys General Act (“PAGA”) representative action relates to the Aggrieved
4 Employees’ work for Defendant ENVIRONMENT CONTROL BUILDING MAINTENANCE
5 COMPANY, dba ENVIRONMENT CONTROL – FRESNO (“Environmental” or “Defendant”).
6 Plaintiff Claudia Villalpando Bedolla (“Plaintiff”) has been employed by Environmental,
7 performing janitorial services, since January 2020. (Declaration of Manny Starr (“Starr Decl.”) ¶2).

8 Plaintiff alleges that the Aggrieved Employees, as defined herein, were subject to violations
9 of Labor Code sections 201.3, 210, 226, 1174, 2802, and 2699 regarding: (1) failure to pay Plaintiff
10 and the Aggrieved Employees on a weekly basis as required by Labor Code section 201.3; (2)
11 failure to provide accurate wage statements; and (3) failure to reimburse their employees for work-
12 related expenses.

13 The parties attended mediation on June 28, 2021, with experienced employment law
14 mediator Laurie Quigley Saldana. (Starr Decl. ¶7). Through formal discovery, extensive
15 negotiations, and mediation, the parties were able to reach an agreement. (*Id.*). The case settled for
16 \$60,000.00¹. (Starr Decl. ¶9).

17 For the reasons set forth below, the Settlement Agreement is fair to all parties, including the
18 State and the Aggrieved Employees, based on the facts of this case.

19 **II. PROCEDURAL BACKGROUND**

20 On September 11, 2020, Plaintiff sent a PAGA letter to Defendant and the Labor and
21 Workforce Development Agency (“LWDA”) which explained the Plaintiff’s claims against
22 Defendant (LWDA Case No. LWDA-CM-805965-20). (Starr Decl. ¶5). The PAGA letter indicated
23 that Plaintiff was seeking PAGA penalties based on violations of Labor Code sections 201.3, 210,
24 226, 1174, and 2802, (seeking penalties under 2699).

25 This action was filed on December 4, 2020, pursuing individual claims as well as PAGA
26 penalties, in the Fresno County Superior Court (Starr Decl. ¶3). Plaintiff’s Cause of Action asserted

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 that Environmental had violated Labor Code sections 201.3, 210, 226, 1174, and 2802² (Starr Decl.
2 ¶4). On March 3, 2021, Plaintiff dismissed all individual claims, and elected to pursue her claims on
3 a PAGA-only basis. (Starr Decl. ¶6).

4 **III. DATA REVIEWED AND DISCOVERY OBTAINED PRIOR TO MEDIATION,**
5 **WHICH SUPPORTED THE PARTIES' SETTLEMENT**

6 Through formal discovery, Plaintiff asked for, and Defendant produced, applicable
7 employee handbooks which contain various relevant company policies, and a representative
8 sample of Aggrieved Employees' time records, payroll records, and wage statements through
9 February 2021. Defendant also provided information regarding pay periods worked by Aggrieved
10 Employees and documents relating to clients of Defendant such as client contracts and length of
11 those contracts. (Starr Decl. ¶8). Plaintiff, with the assistance of experienced employment law
12 mediator Laurie Quigley Saldana, considered all of the information gathered through discovery,
13 and the documents. (Starr Decl. ¶10).

14 **IV. ARGUMENT AND BASIS FOR PAGA PENALTIES**

15 The PAGA period covers October 1, 2019, through the date the Court enters the order
16 approving the Settlement. This settlement covers the estimated 3,301 pay periods where a violation
17 potentially occurred and the 188 Aggrieved Employees which were impacted by the potential
18 violation. The Labor Code violations alleged, and the basis for PAGA Penalties associated with
19 those Labor Code violations, follows.

20 **a) Failure to Pay Weekly Pursuant to Labor Code section 201.3**

21 Labor Code section 201.3 requires a Temporary Service Employer ("TSE") to pay their
22 employees on a weekly, and in some circumstances more frequent than weekly, basis. Plaintiff
23 alleges that Environmental was a TSE but failed to pay their employees on a weekly basis, in
24 violation of Labor Code section 201.3.

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

26 The applicable PAGA penalties for Defendant's failure to provide Plaintiff and the
27

28 ² The Complaint also alleged retaliation in violation of FEHA and Labor Code §1102.5, and Unfair Competition.

1 Aggrieved Employees with weekly pay, in violation of Labor Code section 201.3, can be found in
2 Labor Code section 210, which are \$100 per pay period for the initial violation and \$200 per pay
3 period for each subsequent violation. Here, Plaintiff only attributed the initial violation rate because
4 Plaintiff is unlikely to succeed on an argument for subsequent violation rates where Defendant was
5 not aware they were non-compliant with the Labor Code until the present suit was filed, there is a
6 dearth of relevant case law discussing what entities fall within the definition of TSE, and where as
7 discussed below, Defendant has a good faith reason to believe it is not a TSE. Therefore, Plaintiff
8 estimated the maximum total exposure to be approximately (3,301 initial violations * \$100 per
9 initial violation) **\$303,100.00³**.

10 **b) Failure to Reimburse Work-Related Expenses**

11 Labor Code section 2802 requires an employer to reimburse their employees for
12 expenditures incurred in direct consequence of the discharge of their duties. In the present case,
13 Plaintiff and the Aggrieved Employees allege that they were required to use their personal cell
14 phones to clock in, and out, of work. Plaintiff alleges that Environmental failed to reimburse
15 Plaintiff and the Aggrieved Employees a reasonable percentage of the actual costs of their cell
16 phone bills. Defendant's failure to reimburse the Aggrieved Employees for these work-related
17 expenses constitutes a violation of Labor Code 2802.

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

19 The applicable PAGA penalties for Defendant's failure to reimburse Plaintiff and the
20 Aggrieved Employees for their work-related expenses are found in Labor Code section 2699(f)(2):
21 "If, at the time of the alleged violation, the person employs one or more employees, the civil penalty
22 is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation
23 and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
24 violation." As such, Plaintiff estimated the total exposure to be approximately (3,301 initial
25 violations * \$100 per initial violation) **\$303,100.00⁴**

26 _____
27 ³ For the sake of reasonableness, Plaintiff is only applying the penalty for an initial violation; it is unlikely Plaintiff
would prevail on claims for subsequent violations.

28 ⁴ *Id.*,

1 **c) Failure to Provide Complete and Accurate Wage Statements**

2 Labor Code sections 226(a)(1) through (9) requires an employer to provide Plaintiff and the
3 Aggrieved Employees with wage statements that, among other things, list “total hours worked by
4 the employee” and “all applicable hourly rates in effect during the pay period and the corresponding
5 number of hours worked at each hourly rate by the employee.” Plaintiff alleges that Defendant
6 failed to provide Plaintiff and the Aggrieved Employees with wage statements that reflected the
7 total number of hours for each assignment they worked, or the corresponding rate of pay. Moreover,
8 Plaintiff alleges that the wage statements provided by Defendant failed to list their legal name or the
9 total number of hours worked by Plaintiff and the Aggrieved Employees. As such, Defendant failed
10 to comply with the requirements of Labor Code sections 226(a)(1) through (9).

11 **i. Wage Statement Penalties**

12 The applicable PAGA penalties for Defendant’s failure to provide Plaintiff and the
13 Aggrieved Employees with proper wage statements, in violation of Labor Code 226(a), are found in
14 Labor Code section 226.3: “Any employer who violates subdivision (a) of Section 226 shall be
15 subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per
16 violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a
17 subsequent citation, for which the employer fails to provide the employee a wage deduction
18 statement or fails to keep the records required in subdivision (a) of Section 226.” Plaintiff alleges
19 that Defendant failed to provide the Aggrieved Employees with accurate wage statements because
20 the wage statements did not reflect the unpaid overtime and minimum wage, as alleged above. The
21 group of Aggrieved Employees who were subject to this violation were those that worked in retail
22 stores. Therefore, Plaintiff estimated the total exposure to be approximately (3,301 initial violations
23 \$250 per initial violation) **\$825,250.00**

24 **V. RISKS AND FACTORS THAT THE PARTIES CONSIDERED IN**

25 **DETERMINING THAT THE \$120,000.00 SETTLEMENT WAS FAIR**

26 While the settle amount of \$60,000.00 represents approximately 4% of the \$1,431,450.00,
27 the *maximum* amount Plaintiff and the Aggrieved Employees could recover, that *maximum* liability
28 rests on a number of assumptions that could be disproven at trial. For the reasons explained below,

1 the civil penalties imposed on Defendant would likely decrease significantly were the matter
2 litigated to trial.

3 **a) The Risks Associated with Plaintiff's Failure to Pay Weekly Pursuant to Labor Code**
4 **section 201.3 Claim**

5 Defendant maintains it is not a TSE and produced during discovery data and documents
6 confirming that the majority of Defendant's clients have been serviced by Defendant for years,
7 with many having contracted for services with Defendant for a decade or more. In calculating
8 Defendant's *maximum* liability for failure to pay weekly pursuant to Labor Code section 201.3,
9 Plaintiff assumed: (1) that Defendant was properly classified as a TSE pursuant to Labor Code
10 section 201.3; (2) that Defendant failed to pay 100% of the Aggrieved Employees on a weekly basis
11 throughout the PAGA Period, in violation of Labor Code section 201.3(b)(2); and (3) that none of
12 the Aggrieved Employees were exempted from the weekly pay provision of Labor Code section
13 201.3(b)(2) because they had been assigned to work for a client for over 90 consecutive calendar
14 days as set forth in Labor Code section 201.3(b)(6).

15 The applicability of the Labor Code section 201.3(b)(6) exception is highly contested.
16 Plaintiff would argue that the exemption is only triggered when an employee receives a contract
17 assigning them to a job for 90 days, and Defendant would argue that the exemption is triggered
18 when either (a) an employee has worked for the same client for 90 consecutive calendar days, or (b)
19 when Defendant *intended* for the employee to remain at their post for 90 consecutive calendar days.

20 Out of an abundance of caution, after Plaintiff filed this lawsuit, Defendant switched its
21 payroll to weekly. The Court has discretion to reduce PAGA penalties where assessing those
22 penalties would be unjust, arbitrary, and oppressive or confiscatory. Under the facts of this case,
23 and in particular that Plaintiff and Aggrieved Employees were always paid wages due and owing to
24 them on regularly scheduled paydays demonstrating a good faith attempt to comply with the law
25 and Defendant changed its payroll practice, there is a high likelihood that the Court would exercise
26 discretion to reduce any penalties if Plaintiff prevailed at trial.

27 After analyzing the relative strength of the Parties' positions and discussing the matter with
28 employment law mediator Laurie Quigley Saldana, the Parties agreed that attributing \$303,100.00

1 in damages for violations of Labor Code section 201.3 wasn't reasonable.

2 **b) Risks Associated with Plaintiff's Failure to Reimburse Work Related Expenses Claim**

3 As a matter of written policy and practice, Defendant instructed Plaintiff and Aggrieved
4 Employees to use phones at the customer's location to clock in and out and Defendant's customers
5 agree as part of the services contract to allow Aggrieved Employees to use the customers' phones.
6 Thus, Defendant contends employees were not required to use their personal mobile phones but did
7 so as a matter of their own convenience and therefore Defendant had no obligation to reimburse
8 Aggrieved Employees for any voluntary use of their personal phones. In calculating Defendant's
9 *maximum* liability for failure to reimburse the Aggrieved Employees for the costs of utilizing their
10 cell phones to clock in, and out, of work, Plaintiff assumed that a "reasonable percentage" of their
11 cell phone bills, as measured by the percentage of time Plaintiff and the Aggrieved Employees
12 utilized their phones for work, would amount to \$100 per pay period. Given that Plaintiff and the
13 Aggrieved Employees utilized their phones to clock in, and out, of work a handful of times per day
14 for a matter of seconds each time, it is highly unlikely that a Court would be persuaded to award
15 such a substantial amount in penalties.

16 Given the weakness of Plaintiff's section 2802 claim, it was reasonable to reduce their
17 damages in the context of a settlement in favor of avoiding costly litigation.

18 **c) Risks Associated with Plaintiff's Failure to Provide Accurate Wage Statements Claim**

19 This claim is derivative of, and wholly dependent on, the alleged violation of Labor Code
20 201.3, i.e., not providing weekly wage statements. There is significant legal debate as to whether
21 the penalties in Labor Code section 226.3 apply to the present case, or whether this penalty only
22 applies in cases where the defendants failed to provide *any* wage statements whatsoever. (See
23 *Lopez v. Friant & Assoc.* (2011) 192 Cal.App.4th 75.) Should a Court determine that the penalty
24 amounts set forth in Labor Code section 226.3 do not apply, and applies the penalties set forth in
25 Labor Code section 2699 instead, then Defendant's exposure for wage statement penalties would
26 be reduced from \$825,200.00 to \$330,100.00. Plaintiff has determined that applying the initial
27 violation rate, set forth in section 226.3, is appropriate because assuming liability on Labor Code
28 section 201.3 is found, Defendant would likely succeed in their argument that they could not be

1 penalized for subsequent violations when they never received notice that they were non-compliant
2 until the present case.

3 This amount could be further reduced by the Court based on Defendant's showing of good
4 faith attempts to comply with the law. In fact, it is not uncommon for courts to reduce damages by
5 up to 90% where a good faith effort to comply has been made; thus, the \$330,100.00 could be
6 further reduced to \$33,100.00. Also, because this penalty is derivative of the Labor Code section
7 201.3 cause of action, it is possible that an even further reduction would be given since Courts are
8 reluctant to "stack" penalties for the same substantive violation.

9 **d) Risks Associated with Plaintiff's Claims as a Whole and Basis for a Reduced**
10 **Settlement**

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

20 **VI. DESCRIPTION OF THE SETTLEMENT TERMS**

21 The gross amount of the settlement is \$60,000.00⁵. The settlement is broken down as follows:

- 22 - \$1,000.00 to Claudia Villalpando Bedolla as an enhancement payment;
- 23 - \$20,000.00 to Frontier Law Center for attorney fees;
- 24 - \$2,755.60 to Frontier Law Center as reimbursement for costs;
- 25 - \$2,750.00 to Phoenix Administrators to administer the settlement; and
- 26 - \$33,494.40 in PAGA Penalties, of which 75% will go to the LWDA and 25% will be

27 _____
28 ⁵ Pursuant to a separate settlement agreement, Plaintiff is receiving \$12,000.00, as part of an individual settlement, in exchange for her claims of retaliation in violation of Labor Code §1102.5 and FEHA.

distributed to the Aggrieved Employees on a pro rata basis.

VII. THE COURT SHOULD APPROVE THE PROPOSED PAGA SETTLEMENT

Under Labor Code section 2699(1), “[t]he Superior Court shall review and approve any penalties sought” as part of the resolution of a case that involved PAGA claims.” For the reasons set forth below, Plaintiff respectfully requests that the Court approve this PAGA Settlement.

a) The PAGA Penalties Being Recovered are Reasonable Under the Circumstances

Although Defendant’s total maximum liability *could* result in \$1,431,450.00 in PAGA penalties, there are many risks and factors that, when considered, support a settlement of \$60,000. Here, as set forth above, the terms of the parties’ settlement are reasonable under the circumstances and serve the purpose of PAGA. (*O’Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1135.)

b) Plaintiff’s Requested Fees and Costs Should be Approved

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

The Common Fund doctrine is predicated on the principle of preventing unjust enrichment. When a litigant’s efforts create or preserve a fund from which others derive benefits, he may require the passive beneficiaries to compensate those who created the fund. Both California state and federal courts have embraced this doctrine. *Serrano III*, 20 Cal. 3d at 35; *Vincent*, 557 F.2d at 769. Similarly, in *City and County of San Francisco v. Sweet*, 12 Cal. 4th 105, 110 (1995), the California Supreme Court recognized that the common fund doctrine has been applied “consistently in

1 California when an action brought by one party creates a fund in which other persons are entitled to
2 share.” The reasons for applying the common fund doctrine include: “...fairness to the successful
3 litigant, who might otherwise receive no benefit because his recovery might be consumed by the
4 expenses; correlative prevention of an unfair advantage to the others who are entitled to share in the
5 fund and who should bear their share of the burden of its recovery; encouragement of the attorney
6 for the successful litigant who will be more willing to undertake and diligently prosecute proper
7 litigation for the protection or recovery of the fund if he is assured that he will be properly and
8 directly compensated should his efforts be successful.” *Id.*

9 Indeed, the California Supreme Court has also held that the award of attorneys’ fees in
10 common fund wage and hour class action settlements should start with the percentage method. *See*
11 *Laffitte v. Robert Half Int’l*, 1 Cal. 5th 480, 503 (2016) (“We join the overwhelming majority of
12 federal and state courts in holding that when class action litigation establishes a monetary fund for
13 the benefit of the class members, and the trial court in its equitable powers awards class counsel a
14 fee out of that fund, the court may determine the amount of a reasonable fee by choosing an
15 appropriate percentage of the fund created.”). The California Supreme Court in *Laffitte* affirmed a
16 fee award representing 33 1/3 percent of the fund.

17 Here, Plaintiff’s counsel requested fees are reasonable, as it represents 33 1/3 percent of the
18 fund. Furthermore, Plaintiff’s counsel has spent a significant amount of time litigating this case,
19 including time spent communicating with the client, evaluating and analyzing the relevant legal
20 theories, drafting and filing various PAGA letters, drafting and filing the, engaging in discovery,
21 preparing for and attending mediation, and drafting the instant motion. (Starr Decl. ¶15). In sum,
22 Plaintiff’s counsel has spent approximately 45.2 hours litigating this case to date, resulting in
23 billable fees of approximately \$19,052.50 (Starr Decl. ¶16). Therefore, Plaintiff’s counsel requested
24 fees of \$20,000.00, a 1.05 multiplier, is reasonable. (Starr Decl. ¶17).

25 Plaintiff has incurred \$2,755.60 in costs litigation this case. (Starr Decl. ¶20). These costs
26 include filing fees, service costs, and various other litigation costs. (Starr Decl. ¶21). A detailed
27 breakdown of Plaintiff’s costs is attached to the Starr Declaration. (Starr Decl. ¶22). The \$2,755.60
28 requested for costs reimbursements should be granted, because Plaintiff’s requested costs are lower

1 than the amount that was allowed for in the Settlement Agreement.

2 **a. Plaintiff's Requested Enhancement Payment Should be Approved**

3 Plaintiff participated in the discovery process, provided numerous documents to her counsel
4 for review, and spent several hours collectively on the phone answering questions about the case.
5 (Starr Decl. ¶23). It is because of her willingness to participate in the litigation process which
6 ultimately resulted in this settlement. Therefore, the amount attributed to Plaintiff as an
7 enhancement payment, in addition to the \$12,000 she received in exchange for the release of her
8 individual claims is reasonable.

9 **VIII. CONCLUSION**

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

12
13 Date: November 15, 2021

FRONTIER LAW CENTER

14
15 /s/ Manny Starr
16 Manny Starr
17 Sarah K. Sterling
18 Attorneys for Plaintiff
19 Claudia Villalpando Bedolla
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Attorneys for Plaintiff,

Claudia Villalpando Bedolla

SUPERIOR COURT OF CALIFORNIA

COUNTY OF FRESNO

CLAUDIA VILLALPANDO BEDOLLA, an
individual, on behalf of herself and all
similarly aggrieved employees,

Plaintiff,

vs.

ENVIRONMENT CONTROL BUILDING
MAINTENANCE COMPANY, dba
ENVIRONMENT CONTROL – FRESNO, a
California corporation; and DOES 1-100,
inclusive,

Defendants.

NO. 20CECG03532

DECLARATION OF CLAUDIA
VILLALPANDO BEDOLLA IN SUPPORT
OF MOTION FOR APPROVAL OF PAGA
SETTLEMENT

Assigned to Hon. Judge Gabriel Brickey
Action Filed: December 4, 2020

Date: 1/4/2022
Time: 3:27 PM
Dept: 402

I, CLAUDIA VILLALPANDO BEDOLLA, declare under penalty of perjury as follows:

1. I am the Plaintiff in this action.

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

3. I was formerly employed by for Defendant ENVIRONMENTAL ENTERPRISES, LLC.,

1 d/b/a ENVIRONMENT CONTROL – FRESNO (“Environmental” or “Defendant”) performing
2 janitorial services, beginning in January 2020.

3 4. While employed by Defendant, weekly pay pursuant to Labor Code section 201.3,
4 reimbursement for work-related expenditures, 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 the
10 company’s policies surrounding overtime, reimbursement, seating, and frequency of pay. Further, I
11 was involved in the negotiations that lead to the settlement in this matter. I also reviewed and signed
12 the MOU, Settlement Agreement, and this Declaration. Throughout this case, I have continuously
13 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 Seal’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.

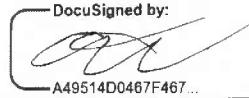
18 8. I believe that the settlement is fair, adequate, and reasonable for the Aggrieved Employees
19 and the State of California. I am proud of the result and accomplishment of this lawsuit. I feel that it
20 is a positive accomplishment and understand that other Aggrieved Employees and the State of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

22 9. I believe my requested enhancement of \$1,000 is reasonable because I took the time, effort,
23 and risks to come forward regarding the violations alleged, which resulted in a fair settlement for
24 the Aggrieved Employees and the State of California. Also, I understand that, in exchange for this
25 payment, I am providing a general release of all claims that I may have against the Defendants.

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

28 ///

1 I declare under penalty of perjury under the laws of the State of California that the foregoing
2 is true and correct. Executed on this ⁹ _____ day of November, 2021 in Madera _____,
3 California.

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6 CLAUDIA VILLALPANDO BEDOLLA
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7 Attorneys for Plaintiff,

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9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF FRESNO

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ENVIRONMENT CONTROL – FRESNO, a

17 California corporation; and DOES 1-100,

inclusive,

18 Defendants.

) CASE NO.: 20CECG03532

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

) *Action Filed: December 4, 2020*

) Assigned to Hon. Judge Gabriel Brickey

) Date: January 4, 2022

) Time: 3:27 PM

) Dept: 402

19
20 DECLARATION OF MANNY STARR

21 I, Manny Starr, declare the following:

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

27 2. Plaintiff Claudia Villalpando Bedolla ("Plaintiff") has been employed by Environment
28

1 Control, performing janitorial services, since January 2020.

2 3. This action was filed on December 4, 2020, pursuing individual claims as well as PAGA
3 penalties, in the Fresno County Superior Court

4 4. Plaintiff's Cause of Action asserted that Environment Control had violated Labor Code
5 sections 201.3, 210, 226, 1174, and 2802.

6 5. On September 11, 2020, Plaintiff sent a PAGA letter to Defendant and the Labor and
7 Workforce Development Agency ("LWDA") which explained the Plaintiff's claims against
8 Defendant (LWDA Case No. LWDA-CM-805965-20).

9 6. On March 3, 2021, Plaintiff dismissed all individual claims, and elected to pursue her
10 claims on a PAGA-only basis.

11 7. The parties attended mediation on June 28, 2021, with experienced employment law
12 mediator Laurie Quigley Saldana. Through formal discovery, extensive negotiations, and
13 mediation, the parties were able to reach an agreement.

14 8. Prior to mediation, through formal discovery, Plaintiff asked for, and Defendant produced,
15 applicable employee handbooks which contain various relevant company policies, and a
16 representative sample of Aggrieved Employees' time records, payroll records, and wage statements
17 through February 2021. Defendant also provided information regarding pay periods worked by
18 Aggrieved Employees and documents relating to clients of Defendant such as client contracts and
19 length of those contracts.

20 9. The case settled for \$60,000.00. A true and correct copy of the Settlement
21 Agreement and General Release is attached hereto as **Exhibit 1**.

22 10. Plaintiff, with the assistance of experienced employment law mediator Laurie Quigley
23 Saldana, considered all of the information gathered through discovery, and the documents.

24 11. 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 12. In terms of my experience in this field, I have been named as Class Counsel in several class
28

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

- 3 a. *Joshua Albright, et al. v. Loma Linda Shared Services*, Case No. CIVDS1818361:
4 Class action and PAGA case involving failure to pay wages, meal and rest break
5 violations, and failure to indemnify work related expenses; \$600,000.00
6 settlement; final approval granted;
- 7 b. *Tri Nguyen v First Alarm Security & Patrol, Inc.*, Case No. 18CV332369: class
8 action and PAGA case on behalf of security guards involving various wage and
9 hour issues; \$7,250,000 settlement; final approval granted;
- 10 c. *Ronnie McNeal v. Platinum Security, Inc.*, Case No. 19STCV05709: PAGA action
11 on behalf of security guards involving meal and rest break violations and failure to
12 pay wages in a timely manner; \$300,000 settlement; PAGA settlement approved;
- 13 d. *Adolph Cruz, et al v. Holder Construction Group, LLC*, Case No. 19CV341862:
14 PAGA action on behalf of construction workers involving off the clock work and
15 meal and rest break violations; \$500,000 settlement; PAGA settlement approved;
- 16 e. *Mervyn Cole v. Saucey, Inc.* Case No. BC707895: class action and PAGA case
17 involving misclassification of employees and other wage and hour issues;
18 \$590,000 settlement; final approval granted;
- 19 f. *Kevin Hernandez v. Contemporary Services Corporation*, Case No. BC684206:
20 PAGA action on behalf of security guards involving various wage and hour
21 issues; \$795,000 settlement; PAGA settlement approved;
- 22 g. *Keosia Green v. American Guard Services, Inc.* Case No. BC688437: PAGA
23 action on behalf of security guards involving wage and hour issues; \$315,000
24 settlement; PAGA settlement approved;
- 25 h. *James Rushing v. Security Intelligence Specialist Corporation*, Case No. 18-civ-
26 1808, class action and PAGA case on behalf of security guards for breaks and
27 wage statement violations; \$480,000 settlement; final approval granted;
- 28 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.

13. 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).

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

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

16. In sum, Plaintiff's counsel has spent approximately 45.2 hours litigating this case to date, resulting in billable fees of approximately \$19,052.50.

17. Therefore, Plaintiff's counsel requested fees of \$20,000.00, a 1.05 multiplier, is reasonable.

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. Plaintiff has incurred \$2,755.60 in costs litigation this case.

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

22. Attached as **Exhibit 2** is a true and correct copy of a summary of the costs Plaintiff

1 incurred throughout this case.

2 23. Plaintiff participated in the discovery process, provided numerous documents to their
3 counsel for review, and spent several hours collectively on the phone answering questions about
4 the case.

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

10
11 Date: November 15, 2021

/s/ Manny Starr
Manny Starr

EXHIBIT 1

PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698 ET SEQ.)
SETTLEMENT AGREEMENT

This Private Attorneys General Act Settlement Agreement and Release (“Agreement”) is made by and between Plaintiff Claudia Villalpando Bedolla (“Plaintiff”) on behalf of the other aggrieved employees (the “Aggrieved Employees” as described below), and as a private attorney general on behalf of the State of California pursuant to Labor Code section 2699 *et seq.*, the Private Attorneys General Act (“PAGA”) on the one hand, and Defendant Seals Enterprises, LLC., (“Defendant”), on the other hand. Plaintiff and Defendant are collectively referred to herein as “the Parties.” (Capitalized terms used herein shall have the meanings set forth in Article I.)

This Agreement, and the settlement embodied herein shall be binding on Plaintiff and the Aggrieved Employees they represent and, on the Defendant, subject to the approval of the Court.

Recitals

WHEREAS, on September 11, 2020, Plaintiff sent notice to the Labor and Workforce Development Agency (“LWDA”) of her intent to pursue a representative action pursuant to the Private Attorneys General Act of 2004, as codified in California Labor Code §2698 *et seq.* (“PAGA”), on behalf of themselves and the State of California as well as on behalf of a group of aggrieved employees (the “PAGA Notice”).

WHEREAS, on December 8, 2020, Plaintiff filed a representative action entitled *Claudia Villalpando Bedolla v. Environment Control Building Maintenance Company, dba Environment Control - Fresno*, Case No. 20CECG03532, in the Superior Court of California, Fresno County (the “Lawsuit”), asserting a representative claim for civil penalties payable to themselves, other aggrieved employees, and the State of California pursuant to the California Private Attorneys General Act (“PAGA”) based on allegations that Defendant (1) failed to pay all wages on a weekly basis, as required by Labor Code §201.3; (2) failed to reimburse Plaintiff and the Aggrieved Employees for work-related expenses, in violation of Labor Code §2802; and (3) failed to furnish accurate itemized wage statements in violation of the Labor Code §226 (“Representative PAGA Claims”)

WHEREAS, on June 28, 2021, the Parties attended an all-day mediation with experienced wage-and-hour mediator Laurie Quigley Saldana. At the conclusion of mediation, the Parties agreed to resolve the Lawsuit, which was negotiated in light of all known facts and circumstances—including the difficulty of proving some of Plaintiff’s claims, potential defenses asserted by Defendant, the uncertainty associated with litigation, the risks of significant delay, and numerous potential appellate issues.

WHEREAS, the Parties agree to dismiss the Lawsuit and all claims alleged therein with prejudice.

WHEREAS, the Parties understand, acknowledge, and agree that this PAGA settlement constitutes a compromise of Plaintiff’s Representative PAGA Claims, and that it is the desire and

intention of the Parties to effect a final and complete resolution of the Representative PAGA Claims that Plaintiff and the PAGA Members have against the Defendant. The Parties further acknowledge that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission by the Defendant of liability.

WHEREAS, the Parties believe and agree that this Agreement provides for a fair, adequate, and reasonable resolution of the Representative PAGA Claim, and have arrived at the settlement in extensive, arms-length negotiations, taking into account all relevant factors, present and potential.

WHEREAS, California Labor Code § 2699(k)(2) requires Court review and approval of any settlement of a civil action filed pursuant to PAGA.

WHEREAS, based on their own independent investigations and evaluations, Defendant and Plaintiff and their respective counsel are of the opinion that the settlement for the consideration and on the terms set forth in this Settlement is fair, reasonable, and adequate and is in the best interests of the Plaintiff, the PAGA Members, and the Defendant in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Further, PAGA Counsel believes that the settlement amount entered into is in the best interests of the PAGA Members and that the settlement for each PAGA Member is fair, reasonable, and adequate, given the inherent risk of litigation.

WHEREAS, the Parties believe and agree that this Agreement provides for a fair, adequate, and reasonable resolution of the Representative PAGA Claim, have investigated the facts relevant to this settlement and this Agreement, and all matters pertaining thereto, to the full extent that each Party deems necessary, and have arrived at the settlement in extensive, arms-length negotiations, taking into account all relevant factors, present and potential.

WHEREAS, the Parties recognize that in accordance with Labor Code Section 2699(l), Court approval is required in the event of a settlement of a PAGA action on a representative basis.

THEREFORE, in consideration of the promises and agreements contained herein, and to avoid the uncertainty, risks, costs, and delays associated with further litigation, the Parties agree and covenant as follows:

Article I.

Definitions

Section 1.01 Definitions.

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

- (a) **“Lawsuit”** shall refer to the lawsuit entitled: *Claudia Villalpando Bedolla v. Environment Control Building Maintenance Company, dba Environment Control - Fresno*, Case No. 20CECG03532, in the Superior Court of California, Fresno County
- (b) **“Aggrieved Employees”** are defined as: all janitorial employees of Defendant employed in California from October 1, 2019, through the date the Court enters the order approving the settlement as described in the Agreement.
- (c) **“Court”** means the Superior Court for the State of California, County of Fresno.
- (d) **“Defense Counsel”** or **“Counsel for Defendant”** is:

Christina C. Tillman
Justin G. Donner
MCCORMICK, BARSTOW, SHEPPARD, WAYTE & CARRUTH, LLP.
7647 North Fresno Street
Fresno, California 93720
- (e) **“Effective Date”** means the date the Court enters the order approving the settlement as described in this Agreement.
- (f) **“Plaintiff’s Counsel”** is:

Sarah K. Sterling
Manny M. Star
Daniel Ginzburg
FRONTIER LAW CENTER
23901 Calabasas Road, #2074
Calabasas, CA 91302
- (g) **“Release Period”** means the time period from October 1, 2019 through the date the Court enters the order approving the settlement as described in the Agreement.
- (h) **“Released Claims”** means: Any and all facts and claims asserted in the Action or any other claims, under PAGA, that could have been asserted in the Action based on the facts alleged, including but not limited to any and all claims for PAGA penalties for violations of the California Labor Code governing: frequency of pay, reimbursement of work-related expenses, and wage statement violations, including but not limited to violations of Labor Code §§ 201.3, 210, 226, 226.3, and 2802 and IWC Wage order 5-2001, Sections 3, 7, 11 and 12.
- (i) **“Released Parties”** means Seals Enterprises, LLC.
- (j) **“Settlement Administrator”** refers to Phoenix Settlement Administrators.

- (k) “**Settlement**” or “**Agreement**” refers to the settlement of the PAGA Claims reached by the Parties of the Action.
- (l) **Total Settlement Amount** means: the amount Defendant agrees to pay, in accordance with the terms set forth herein full settlement of this Action, which is the total sum of \$60,000.00 (Sixty Thousand Dollars and No Cents), subject to the Escalator Clause set forth in section 2.06 below. The Total Settlement Amount includes payments to Plaintiff and the Aggrieved Employees, attorneys’ fees, litigation costs, any enhancements to Plaintiff, administration fees, PAGA civil penalties, and any employer tax contributions deemed necessary.

Article II.

Approval and Implementation of Settlement.

Section 2.01 Allocation of the Total Settlement Amount.

The Parties will cooperate in obtaining through written stipulation, application, or unopposed motion if a motion is required, an Order from the Court approving the payment of the Total Settlement Amount as follows:

- i) Plaintiff’s Counsel shall request and be paid up to one third of the Total Settlement Amount or \$20,000.00 (Twenty Thousand Dollars and No Cents) for attorneys’ fees (“Plaintiff’s Counsel’s Fees”). If Plaintiff’s Counsel’s request of a third of the Total Settlement Amount is not approved and is reduced by the Court, any amount not approved and/or reduced by the Court will revert to the Aggrieved Employees. Defendant agrees not to oppose a fee request by Plaintiff’s counsel in the foregoing amount.
- ii) Plaintiff’s Counsel shall request up to \$5,000.00 (Five Thousand Dollars and No Cents) of the Total Settlement Amount as reimbursement of expenses incurred in the Lawsuit. If Plaintiff’s Counsel’s request for reimbursement of litigation costs is not approved and is reduced by the Court, any amount not approved and/or reduced by the Court will revert to the Aggrieved Employees. Defendant agrees not to oppose a request for reimbursement of litigation costs in the foregoing amount.
- iii) Plaintiff’s Counsel shall request up to \$1,000.00 (One Thousand Dollars and No Cents) for Plaintiff (“Plaintiff’s Enhancement”). If Plaintiff’s Counsel’s request for the Enhancement is not approved and is reduced by the Court, any amount not approved and/or reduced by the Court will revert to the Aggrieved Employees.
- iv) Plaintiff’s counsel shall request \$2,750.00 (Two Thousand and Seven Hundred Fifty Dollars and No Cents) of the Total Settlement Amount as

payment to the Settlement Administrator for costs incurred by the Settlement Administrator in connection with the Settlement, including mailing of the Notice of PAGA Settlement described herein. These costs shall not exceed \$2,750.00. To the extent they exceed this amount, they shall be paid from the Total Settlement Amount. To the extent they fall below this amount, they shall be added to the amount distributable to the Aggrieved Employees and the LWDA.

- v) The remainder of the Gross Settlement Amount (the “Net Settlement Amount”) after deducting the items (i-v) herein is approximately \$31,250.00 (Thirty One Thousand Two Hundred Fifty Dollars and No Cents) and shall be designated as PAGA Penalties to be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i) with 75% paid to the LWDA (the “LWDA PAGA Portion”) and 25% paid to the Aggrieved Employees (the “Aggrieved Employees’ PAGA Portion”) on a pro-rata basis, based on the amount of pay periods worked by each Aggrieved Employee.

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 and implementation of the payment of PAGA penalties as described in this Agreement.

Section 2.02 Court Approval.

The Parties will seek to obtain the Court’s approval of the payment of PAGA penalties as described in this Agreement by way of a stipulation, unopposed application, or unopposed motion to be filed by Plaintiff’s Counsel or as directed by the Court. Plaintiff’s Counsel and Defense Counsel will jointly lodge this Agreement with the Court for its approval. The Court’s approval of the payment of the Total Settlement Amount as described in this Agreement shall be embodied in a written Order.

Section 2.03 Notice to Aggrieved Employees.

(a) Notice.

Notice shall be provided to the Aggrieved Employees in the following manner:

- (1) No later than thirty (30) days after the Court approves this Agreement, Defendant shall provide the Settlement Administrator with a list of all Aggrieved Employees (“Aggrieved Employees List”). The Aggrieved Employees’ List shall state the first name and last name in separate columns for each Aggrieved Employee; the last known home address for each Aggrieved Employee; each Aggrieved Employee’s social security number, and the periods of time during the Release Period during which each held a non-exempt

position during the Release Period, and each Aggrieved Employee's respective number of pay periods worked for Defendant during the Release Period.

- (2) No later than sixty (60) days after the Effective Date, the Settlement Administrator shall mail the Notice of PAGA Settlement (attached hereto as Exhibit "A") together with a settlement payment to all Aggrieved Employees by first-class United States mail, postage prepaid, to the last known address of each recipient with directions to the Postmaster to forward the Notice of PAGA Settlement and return all undeliverable Notices to the Settlement Administrator. For each Notice of PAGA Settlement that is returned as undeliverable, the Settlement Administrator shall promptly attempt to locate the Aggrieved Employee by using an address refresher database.

Section 2.04 Settlement Payment Procedures.

(a) Deposit of Settlement Sum with Settlement Administrator.

No later than ten (10) days after the Effective Date, Defendant shall deposit the Total Settlement Amount with the Settlement Administrator.

(b) Net Settlement Amount Payments.

Seventy-five percent (75%) of the Net Settlement Amount shall be paid to the LWDA; the remaining twenty-five percent (25%) of the Net Settlement Amount (the "Aggrieved Employees' PAGA Portion") shall be paid to Aggrieved Employees based on the following formula:

The total Aggrieved Employees' portion of the Net Settlement Amount shall be divided by the total pay periods worked by all Aggrieved Employees during the Release Period to yield the "California Employee Settlement Share Value." Each Aggrieved Employee shall be paid their individual total pay periods worked for Defendant in California during the Release Period multiplied by the California Employee Settlement Share Value.

All Aggrieved Employees who cash their settlement check may receive an IRS Form 1099 for their portion of the settlement, if deemed required by the Settlement Administrator (in compliance with IRS guidelines).

The settlement checks issued to Aggrieved Employees shall remain valid for one hundred eighty (180) days. Any settlement checks remaining uncashed after one hundred eighty (180) days shall cause that an Aggrieved Employee's payment to be distributed to Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code section 1500 et seq., for the benefit of that Aggrieved Employee. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code section 384, as the entire Net Settlement will be paid out to Aggrieved Employee. Therefore, Defendant will not be required to pay any interest on said amount. In the event that an Aggrieved Employee's Individual Settlement Payment is distributed to the Controller of the State of California, the terms of the final judgment and the Release of Claims will nevertheless be binding upon that Aggrieved Employee.

(c) Attorneys' Fees and Costs and Enhancement Payment.

Within twenty-one (21) days of receipt of the first deposit of the Total Settlement Amount by the Settlement Administrator from Defendant, the Settlement Administrator shall pay the court approved attorneys' fees and costs to Plaintiff's Counsel and the enhancement to Plaintiff.

(d) Settlement Administrator Expenses.

Within twenty-one (21) days of receipt of the first deposit of the Total Settlement Amount by the Settlement Administrator from Defendant, the Settlement Administrator shall pay itself up to the \$2,750.00 allocated to it for administration fees.

Section 2.05 Dismissal.

Plaintiff and Defendant will jointly submit an order to be entered by the Court to enforce this Agreement, the Order granting approval of the Settlement, and dismissing this case with prejudice. The Final Dismissal Order will be submitted concurrently with the documents asking the court to approve the settlement.

Section 2.06 Escalator Clause.

Defendant represents that the Aggrieved Employees collectively worked approximately 3,301 pay periods from October 1, 2019 through April 9, 2021. Extrapolated through the Effective Date, Plaintiff estimates that there will be a total of 4,345 pay periods at issue. If the number of pay periods increases by more than 10% when the Settlement Administrator receives the Aggrieved Employees List, the amount of the Gross Settlement Fund shall increase by a proportionate amount.

Article III.
Limitations On Use of This Settlement.

Section 3.01 No Admission.

Defendant denies liability or any wrongdoing to Plaintiff and to the Aggrieved Employees upon any claim or cause of action. This Agreement does not constitute, and is not intended to constitute, an admission by Defendant as to the merits, validity, or accuracy of any of the allegations or claims made against it in the Action.

Nothing in this Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the negotiations leading to this Agreement, is intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. The Parties

themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding, as purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other purpose. Notwithstanding the foregoing, this Agreement may be used in any proceeding before the Court that has as its purpose the interpretation, implementation, or enforcement of this Agreement or any orders or judgments of the Court entered in connection with the Agreement.

None of the documents produced or created by Plaintiff or the Aggrieved Employees in connection with the claims procedures or claims resolution procedures constitute, and they are not intended to constitute, an admission by Defendant of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.

Section 3.02 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 Action 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.

Section 3.03 Nullification.

- (a) If the Court should for any reason fail to approve the payment of PAGA penalties as described in this Agreement, then (a) this Agreement shall be considered null and void, (b) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect, and (c) 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.
- (b) 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.

Article IV.
Release and Waiver of Claims.

Section 4.01 Aggrieved Employees' Release of PAGA Claims

Upon the approval by the Court of this Settlement, Plaintiff and each Aggrieved Employee, shall, for the Release Period, fully release and forever discharge Defendant and the Released Parties of the Released Claims.

Article V.
Miscellaneous Provisions.

Section 5.01 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 5.02 Amendments.

The terms and provisions of this Agreement may be amended only by a written agreement that is both (a) signed by the Plaintiff, Plaintiff's Counsel, Defendant and Defense Counsel who executed this Agreement and (b) 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 so indicated otherwise.

Section 5.03 Assignment.

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 he has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

Section 5.04 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.

Section 5.05 Entire Agreement.

This Agreement 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 Lawsuit.

Section 5.06 Waiver of Compliance.

Any failure of any Party, Defense Counsel, and/or Plaintiff's Counsel hereto to comply with any obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties and their respective counsel hereto entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

Section 5.07 Counterparts.

This Agreement, and any amendments hereto, may be executed in any number of counterparts and any Party and/or their respective counsel hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

Section 5.08 Attorneys' Fees and Costs.

Except as expressly provided herein, Defendant and Plaintiff shall each bear their own attorney's fees and costs.

Section 5.09 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. To the extent any Party seeks to enforce any of the terms of this Agreement in Court or before the Court, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

Section 5.10 Binding.

This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.

Section 5.11 Continuing Jurisdiction.

The Parties agree that upon the occurrence of the dismissal of this case pursuant to the terms of this Agreement, this Agreement shall be enforceable by the Court pursuant to Code of Civil Procedure Section 664.6 and the Court shall retain exclusive and continuing equity jurisdiction of this Action over all Parties and Aggrieved Employees to interpret and enforce the terms, conditions and obligation of the Agreement.

Section 5.12 Communications

All communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

To Defendant Seals Enterprises, LLC.: Christina C. Tillman, McCormick, Barstow, Sheppard, Wayte & Carruth, LLP, 7647 North Fresno Street, Fresno, California 93720

To Plaintiff: Manny Starr, Frontier Law Center, 23901 Calabasas Road, #2074, Calabasas, CA 91302.

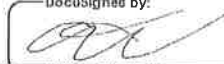
Article VI.

Confidentiality

IN WITNESS WHEREOF, the Parties have executed this Private Attorney General Act Settlement Agreement on the date set forth.

APPROVED AND ACCEPTED.

Dated: 09/28/21 | 1:06 PDT

DocuSigned by:

A19514D0407F467
Claudia Villalpando Bedolla, Plaintiff

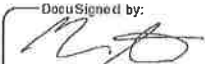
Dated: 10/13/21


By: Kit Seals, authorized rep. of Defendant

APPROVED AS TO FORM AND CONTENT:

Dated: 09/28/21 | 12:19 PDT

FRONTIER LAW CENTER

DocuSigned by:

B2E9DC9ABF654A6
Sarah K. Sterling
Manny M. Starr
Daniel Ginzburg
Attorneys for Plaintiff and Aggrieved Employees

Dated: Nov. 9, 2021
~~October 13, 2021~~

MCCORMICK BARSTOW LLP

for 
Christina C. Tillman
Attorneys for Defendant

EXHIBIT 2

Bedolla v. Seals Enterprises, LLC DBA Environment Control - Fresno

As of 2021-11-11 09:32:34 Pacific Standard Time/PST

Cost: Created Date	Costs for:	Cost Amount
4/7/2020	CERT records request	\$6.90
5/22/2020	Cert Records Request (2)	\$6.90
9/11/2020	Mailing PAGA Notice to DEF via Certified Mail	\$6.90
9/15/2020	PAGA Fee Check	\$75.00
12/4/2020	Confirmation #24550194- S&C	\$448.70
1/11/2021	Confirmation #24677887- POS Efiling	\$15.60
1/11/2021	United legal	\$85.00
3/3/2021	RFD and service Confirmation #24869350	\$16.60
4/7/2021	CourtCall Appearance - CMC 4.6.21	\$94.00
6/16/2021	Mediation Central	\$2,000.00
		\$2,755.60