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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MARIA CASTILLO-RODRIGUEZ, an
individual on behalf of herself and all others
similarly situated,

Plaintiff,

vs.

HR OUTSOURCING ASSOCIATES,
LLC, a Delaware limited liability company;
CALIFORNIA DISTRIBUTION CENTER,
a business entity of unknown form; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 20STCV44138

REPRESENTATIVE ACTION

Assigned for All Purposes To:
Hon. Robert Broadbelt
Dept.: 53

**JOINT STIPULATION RE PAGA PENALTY
SETTLEMENT**

1 **JOINT STIPULATION RE PAGA PENALTY SETTLEMENT**

2 Plaintiff Maria Castillo-Rodriguez (“Plaintiff”) and Defendant California Distribution Center
3 (“Defendant”) (collectively with Plaintiff, the “Parties”), by and through their respective counsel of
4 record, hereby seek Court approval of their settlement of Plaintiff’s claim for civil penalties under the
5 Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code sections 2698, *et seq.*:

6 **PROCEDURAL HISTORY**

7 **WHEREAS**, Plaintiff was a non-exempt employee who worked for Defendant during the
8 PAGA Period.

9 **WHEREAS**, on September 11, 2020, Plaintiff provided written notice to the LWDA and
10 Defendant pursuant to Labor Code section 2699.3 of, *inter alia*, alleged violations of the California
11 Labor Code and Industrial Welfare Commission Orders.

12 **WHEREAS**, on November 17, 2020, Plaintiff filed the Action under the PAGA with the Court
13 on behalf of the State of California and other aggrieved employees alleging multiple violations of the
14 California Labor Code and Industrial Welfare Commission Wage Orders by Defendant.

15 **WHEREAS**, on May 18, 2022, the Parties participated in a mediation with Gail Glick. Ms.
16 Glick helped to manage the Parties’ expectations and provided a useful, neutral analysis of the issues and
17 risks to both sides. With Ms. Glick’s guidance, the Parties were able to negotiate a complete settlement
18 of Plaintiff’s PAGA claim. The terms of the settlement are now set forth in complete and final form in
19 the Private Attorneys General Act (Labor Code § 2698 Et Seq.) Settlement Agreement (“Settlement
20 Agreement” or “Settlement”),¹ attached as Exhibit 1. At all times, the Parties’ negotiations were
21 adversarial and non-collusive.

22 **WHEREAS**, the Parties have each independently analyzed and investigated the facts and law
23 relevant to this case through informal discovery, including, but not limited to, the employment policies,
24 procedures, and practices implicated by the Complaint and/or the LWDA Letter; a sampling of
25 timekeeping and payroll records relating to Plaintiff and other non-exempt employees on whose behalf
26 the Complaint and/or the LWDA Letter PAGA Representative Claims are asserted; and summaries of

27 ¹ Unless indicated otherwise, capitalized terms used herein have the same meaning as those
28 defined by the PAGA Settlement Agreement.

data pertaining to the number of employees allegedly affected by the policies, procedures, and practices implicated by the Complaint and/or the LWDA Letter.

WHEREAS, after evaluating the strengths and weaknesses of their respective positions, after considering the time, expense, and risk associated with litigating this case to judgment, and after engaging in arm's-length settlement negotiations through informed counsel, the Parties agreed to fully and finally, and exclusively, resolve the Released Claims as to Plaintiff and the Aggrieved Employees, subject to Court approval.

SETTLEMENT TERMS

Allocation of Settlement Proceeds: The Settlement provides that Defendant will pay a total of \$162,570.00 to settle this action. (Settlement Agreement, ¶ 4) No portion of this amount will revert to Defendant; rather, if, e.g., the Court does not grant the full amount of requested attorneys' fees/costs and/or the Enhancement Award, any amounts requested but not awarded will be added to the PAGA Penalties Fund. Settlement Agreement. (*Id.*) From this amount, payments will be made to the LWDA and the Aggrieved Employees, to Plaintiff for her service on behalf of the LWDA, to Plaintiff's Counsel for their attorneys' fees and litigation costs, and to the Settlement Administrator (CPT Group, Inc.) for settlement administration costs. (*Id.*)

Settlement Allocations	Amount
Gross Settlement Amount	\$162,570.00
Attorneys' Fees	\$56,899.50
Litigation Costs	\$6,457.44
Enhancement Award Payment to Plaintiff	\$5,000.00
Administration Costs	\$6,000.00
Net Settlement Amount	\$88,213.06

The resulting balance, approximately \$88,213.06, will be distributed to the LWDA and Aggrieved Employees. The LWDA will receive approximately \$66,159.80. Aggrieved Employees will receive approximately \$22,053.26. The Aggrieved Employees encompassed by the proposed Settlement are "all individuals who worked for Defendant in the State of California as hourly-paid and/or non-exempt employees at any time from September 11, 2019 through August 16, 2022. There are approximately 190 Aggrieved Employees. (Settlement Agreement, pg. 2, ¶ 1)

Allocations to the LWDA and Aggrieved Employees: Payments to Aggrieved Employees

1 will be made from the 25% portion of the PAGA Payment. The individual allocations will be calculated
2 on a pro-rata basis using the number of pay periods worked by each Aggrieved Employee during the
3 PAGA Period. (Settlement Agreement, ¶ 5) This is a fair and equitable means of allocating the penalties.
4 Aggrieved Employees who worked for a longer duration during the Settlement Period will receive
5 proportionally larger payments than those employees who worked for shorter durations.

6 As the Settlement payments to the Aggrieved Employees are for the compromise of claims for
7 alleged PAGA civil penalties, the payments will be treated as non-wage income with no taxes withheld,
8 and will be reported by the Settlement Administrator on IRS Form 1099s to the respective Aggrieved
9 Employees and governmental authorities. (*Id.*)

10 **The Settled PAGA Claims:** Upon entry of the Order and Judgment, it is expressly understood
11 and agreed that the PAGA Settlement only include a full release of the PAGA claim for penalties in the
12 period of September 11, 2019 through August 31, 2021 based on the following underlying Labor Code
13 violations: 201, 202, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2698, *et seq.*,
14 2800, and 2802, as well as the applicable provisions of the Industrial Wage Orders and for any other
15 PAGA violations that could have been asserted in the action based on the factual assertions and legal
16 assertions in the Complaint. (“Released Claims”). (Settlement Agreement, ¶ 2.) Aggrieved Employees,
17 other than Plaintiff, will not be deemed to have released any individual wage and hour claims by virtue
18 of this Settlement.

19 STANDARD FOR APPROVAL

20 PAGA provides that “[t]he superior court shall review and approve any settlement of any civil
21 action filed pursuant to this part.” Lab. Code §§ 2699(l)(2). Aside from the requirement that the Court
22 “review and approve” a settlement in a civil action filed under PAGA (§ 2699(l)(2)), PAGA itself does
23 not provide a standard for this review and approval in the majority of PAGA cases. *Flores v. Starwood*
24 *Hotels & Resorts Worldwide, Inc.*, 253 F. Supp. 3d 1074, 1075 (C.D. Cal. 2017) (“[PAGA] is
25 surprisingly short on specifics”). However, given PAGA’s purpose to protect the public interest, the
26 California Court of Appeal has recently articulated a standard—the Court should satisfy itself that the
27 settlement is “fair, adequate, and reasonable” in view of PAGA’s “purposes and policies.” *See Moniz v.*
28 *Adecco USA, Inc.*, No. A159410, 2021 WL 5578298, at *9 (Cal. Ct. App. Nov. 30, 2021).

1 In addition to the above standard, certain policy considerations should also guide the Court's
2 analysis of whether the relief provided by the settlement is "genuine and meaningful." First, a "proposed
3 settlement is not to be judged [strictly] against a hypothetical or speculative measure of what might have
4 been achieved by the negotiators." See *Officers for Justice v. Civil Serv. Comm'n of City & Cty. of San*
5 *Francisco*, 688 F.2d 615, 625 (9th Cir. 1982). This is because, "[i]t is well-settled law that a cash
6 settlement amounting to only a fraction of the potential recovery will not per se render the settlement
7 inadequate or unfair." *Id.* at 628.

8 Second, in weighing the strength of a plaintiff's case against the benefits provided by the
9 settlement, courts are not required to balance the "scales with the nicety of an apothecary." See *Weiss v.*
10 *Drew Nat. Corp.*, 465 F. Supp. 548, 551 (S.D.N.Y. 1979). Rather, the very object of compromise "is to
11 avoid the determination of sharply contested and dubious issues." See *In re Prudence Co.*, 98 F.2d 559,
12 560 (2d Cir. 1938). The court's analysis generally should not go beyond, "an amalgam of delicate
13 balancing, gross approximations, and rough justice." *Cho v. Seagate Tech. Holdings, Inc.*, 177 Cal. App.
14 4th 734, 743 (2009); see also *In re Microsoft I-V Cases*, 135 Cal. App. 4th 706, 723 (2006).

15 For the reasons discussed in more detail below, the civil penalties secured by the settlement
16 represent a fair compromise of the PAGA claims in view of the risks of continued litigation, PAGA's
17 overall goals, and the hotly contested issues of law and fact relating to the PAGA claims. The settlement
18 accomplishes PAGA's objectives by imposing sufficient civil penalties effectuate the goals of labor law
19 enforcement via PAGA, and PAGA's overall purposes, while also not being "unjust, arbitrary and
20 oppressive, or confiscatory." Cal. Lab. Code § 2699(e)(2) [allowing for court reduction of civil penalties
21 if, in its discretion, it deems them to be "unjust, arbitrary and oppressive, or confiscatory"]; *Iskanian v.*
22 *CLS Transp. Los Angeles, LLC*, 59 Cal. 4th 348, 384 (2014).

23 **Plaintiff's Position On Why the Penalties Secured by the Settlement Are Genuine and**
24 **Meaningful:** The civil penalties secured by the settlement represent a fair compromise of Plaintiff's
25 PAGA claim in view of the risks of continued litigation and the hotly contested issues of law and fact
26 relating to PAGA claims. The Settlement accomplishes PAGA's objectives by imposing sufficient civil
27 penalties "to punish and deter" Defendant from committing any of the Labor Code violations alleged,
28 while also ensuring that the penalties are not "unjust, arbitrary and oppressive, or confiscatory." Cal. Lab.

Code § 2699(e)(2); *Iskanian v. CLS Transp. Los Angeles, LLC*, 59 Cal. 4th 348, 384 (2014).

This result was reached after good-faith negotiation between the parties. The amount was valued as follows: Based on information and evidence produced by Defendant during discovery, Plaintiff determined that aggrieved employees worked a combined total of approximately 5,419 pay periods during the PAGA statute of limitations period (“PAGA Period”). Statutory penalties would be calculated according to Labor Code 2699(f)(2): If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

However, a number of courts have found that the “subsequent” penalty under PAGA applies only after a court or the Labor Commissioner determines that the employer has violated the Labor Code. *See Bernstein v. Virgin Am., Inc.*, 990 F.3d 1157, 1173 (9th Cir. 2021) (reversing judgment as to “heightened civil penalties” because the defendant was not given notice by the Labor Commissioner when the “subsequent” violations occurred); *Vieyara-Flores v. Sika Corp.*, No. EDCV19606JVSKKX, 2019 WL 2436998, at *5 (C.D. Cal. June 10, 2019) (“employers are not subject to heightened penalties . . . until a court or commissioner notifies the employer that it is in violation of the Labor Code . . . [Plaintiff] has not offered evidence that the Labor Commission or a court has notified them of PAGA violations [thus] PAGA’s heightened penalty of \$200 for subsequent violations will not be calculated to determine the amount in controversy”); *Chen v. Morgan Stanley Smith Barney, LLC*, No. 8:14-CV-01077 ODW (FFMx), 2014 WL 4961182 (C.D. Cal., October 2, 2014) (“Under the Labor Code, if an employer does not have notice that they are committing a violation, they are not subject to the heightened penalties.”); *Trang v. Turbine Engine Components Technologies Corp.*, No. CV 12–07658 DDP (RZx), 2012 WL 6618854 (C.D. Cal. Dec. 19, 2012) (“courts have held that employers are not subject to heightened penalties for subsequent violations unless and until a court or commissioner notifies the employer that it is in violation of the Labor Code”), citing *Amaral v. Cintas Corp.* No. 2, 163 Cal. App. 4th 1157 (2008). Under this line of cases, Defendant’s exposure would be approximately \$541,900 = 5,419 violative pay periods × \$100.

After calculating Defendant’s maximum exposure under PAGA, Plaintiff then discounted that

1 exposure for settlement purposes to account for the risks of continued litigation, including: (i) the
2 strength of Defendant’s defenses on the merits; (ii) the risk of losing at trial; (iii) the risk that the Court
3 would exercise its discretion under PAGA to significantly reduce the maximum civil penalties available
4 by statute;² (iv) the chances of a favorable verdict being reversed on appeal; and (v) the difficulties
5 attendant to collecting on a judgment. Taking into account the above contingencies, Plaintiff determined
6 that a settlement for approximately \$162,570 in PAGA penalties was warranted by the circumstances of
7 the case.

8 It should be noted that PAGA gives the Court wide latitude to reduce the amount of civil
9 penalties “based on the facts and circumstances of a particular case” when “to do otherwise would result
10 in an award that is unjust, arbitrary and oppressive, or confiscatory.” Cal. Lab. Code § 2699(h). In
11 reducing PAGA penalties, courts have considered issues including whether the employees suffered
12 actual injury from the violations, whether the defendant was aware of the violations, and the employer’s
13 willingness to fix the violation. *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 528 (2018)
14 (awarding PAGA penalties of only 0.2% of the maximum); *see also Cotter v. Lyft, Inc.*, 193 F. Supp. 3d
15 1030, 1037 (N.D. Cal. 2016); *Fleming v. Covidien Inc.*, No. ED CV 10-01487 RGK (OPX), 2011 WL
16 7563047, at *4 (C.D. Cal. Aug. 12, 2011).

17 For example, during the penalty phase of trial in *Carrington*, the plaintiff requested PAGA
18 penalties in the amount of approximately \$70 million. The trial court instead awarded only \$150,000—
19 **or 0.21% of the maximum**—and stated that this reduction was warranted because imposing the
20 maximum penalty would be “unjust, arbitrary, and oppressive” based on Starbucks’s “good faith
21 attempts” to comply with meal period obligations and because the court found the violations were
22 minimal. *Carrington*, 30 Cal. App. 5th at 517. The Court of Appeal affirmed the lower court’s reduced
23 award of a \$150,000 penalty under PAGA. *Id.* at 529. If a similar reduction had been applied here,
24 Plaintiff would have recovered only approximately \$1,138 ($\$541,900 \times 0.0021$ reduction).

25 Likewise, in *Covidien*, the court reduced the potential penalties by over 82%, awarding \$500,000

26 ² See Lab. Code § 2699(e) (“In any action by an aggrieved employee seeking recovery of a civil
27 penalty available under subdivision (a) or (f), a court may award a lesser amount than the maximum civil
28 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.”).

1 instead of maximum penalties of \$2.8 million. *Covidien*, 2011 WL 7563047 at *4; *see also Thurman v.*
2 *Bayshore Transit Mgmt.*, 203 Cal. App. 4th 1112, 1135-36 (2012) (affirming 30% reduction under
3 specified PAGA claim where the employer produced evidence that it took its obligations seriously);
4 *Elder v. Schwan Food Co.*, No. B223911, 2011 WL 1797254, at *5-*7 (Cal. Ct. App. May 12, 2011)
5 (reversing trial court decision denying any civil penalties where violations had been proven, remanding
6 for the trial court to exercise discretion to reduce, but not wholly deny, civil penalties); *Li v. A Perfect*
7 *Day Franchise, Inc.*, No. 5:10-CV-01189-LHK, 2012 WL 2236752, at *17 (N.D. Cal. June 15, 2012)
8 (denying PAGA penalties for violation of California Labor Code section 226 as redundant with recovery
9 on a class basis pursuant to California Labor Code section 226, directly); *Aguirre v. Genesis Logistics*,
10 No. SACV 12-00687 JVS (ANx), 2013 WL 10936035 at *2-*3 (C.D. Cal. Dec. 30, 2013) (reducing
11 penalty for past PAGA violations from \$1.8 million to \$500,000, after rejecting numerous other PAGA
12 claims).

13 Considering the issues, defenses, and the risks, a \$162,570 settlement for a limited release of
14 PAGA penalties—no individual wage and hour claims will be extinguished by the Settlement—is a fair
15 and just result and furthers PAGA’s objectives, and is not “unjust, arbitrary, and oppressive.”

16 **Defendant’s Position on Why the Penalties Secured by the Settlement Are Genuine and**
17 **Meaningful:** Defendant maintains that they had, and continue to have, legally-compliant employment
18 policies and practices. Defendant does not admit that they ever violated any provision of the California
19 Labor Code, including, but not limited to, those sections for which Plaintiff seeks penalties pursuant to
20 PAGA, during the Settlement Period. Defendant recognizes the expense and length of continued
21 proceedings necessary to litigate the disputes through trial and through any possible appeals, and have
22 also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties
23 and delays inherent in such litigation.

24 **Plaintiff’s Position on Why the Negotiated Attorneys’ Fees and Costs Are Fair and**
25 **Reasonable:** The PAGA provides that a plaintiff is entitled to recover reasonable attorneys’ fees,
26 expenses, and costs. Section 2699(g)(1) of the California Labor Code provides that “[a]ny employee who
27 prevails in any action shall be entitled to an award of reasonable attorney’s fees and costs.” In a *qui tam*
28 action, reasonable attorneys’ fees and costs are typically awarded under the common fund doctrine

1 where, as here, the litigation creates a common fund of money in a specific amount for the benefit of
2 others. PAGA “is a type of qui tam action.” See *Iskanian*, 59 Cal. 4th at 382. “A *qui tam* action ‘is a type
3 of private attorney general lawsuit’ [citation], in which ‘the *qui tam* plaintiff stands in the shoes of the
4 state or political subdivision [citation].” *People ex rei. Stratham v. Acacia Research Corp.*, 210 Cal.
5 App. 4th 487, 501 (2012).

6 A PAGA action is a *qui tam* action because the statute allows the employee plaintiff, acting as
7 the proxy of the State’s labor law enforcement agency, to sue his or her employer for Labor Code
8 violations and recover civil penalties that otherwise would have been assessed and collected by the
9 LWDA. See *Iskanian*, 59 Cal. 4th at 382. Indeed, majority of the civil penalties recovered in a PAGA
10 action are paid to the State, with a smaller portion paid to the aggrieved employees (e.g., 75% paid to the
11 state; 25% paid to the aggrieved employees). See Cal. Lab. Code § 2699(i). Where, as here, a common
12 fund is created in a *qui tam* action by the successful litigation of a plaintiff and her attorneys, the
13 plaintiff’s attorneys are entitled to recover their fees from the common fund:

14 Those benefiting from the recovery of the fund, in this case some depositors and
15 eventually the People of the State of California, must bear their share of the cost of
16 litigation. Fees for taxpayers’ attorneys will be deducted from the judgment, and each
17 claimant’s share reduced proportionately. To the extent the judgment relies upon section
1021.5 for recovery of attorney fees, it must be modified to confine the award of fees to
the common fund theory.

18 *Bank of America v. Cory*, 164 Cal. App. 3d 66, 91 (1985) (authorizing common fund fees in a *qui tam*
19 taxpayer suit against certain banks).

20 Likewise, through the successful efforts of Plaintiff and their attorneys, a common fund was
21 created in the amount of \$162,570 for the benefit of the employees and the State of California. Thus,
22 these beneficiaries must bear their share of the costs and attorneys’ fees, to be deducted from the gross
23 settlement fund under the common fund theory. *Id.* Such fees are deducted as a percentage of the
24 settlement amount. See, e.g., *Boeing Co. v. Van Gernert*, 444 U.S. 472, 478-482 (1980); *Six (6) Mexican*
25 *Workers v. Arizona Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990); *Williams v. MGM-Pathe*
26 *Communications Co.*, 129 F.3d 1026, 1027 (9th Cir. 1997); *Staton v. Boeing Co.*, 327 F.3d 938, 967 (9th
27 Cir. 2003).

28 The California Supreme Court recently upheld the use of the common fund theory of recovery

1 for attorneys' fees in *Laffitte v. Robert Half Int'l Inc.*, 1 Cal. 5th 480, 506 (2016). In *Laffitte*, the
2 settlement created a common fund of \$19 million. The Court approved the award of attorneys' fees in
3 the amount of one third of the gross \$19 million settlement (e.g., an award of \$6.33 million) under the
4 common fund theory. *Id.* By awarding counsel a percentage of the total recovery, rather than fees based
5 on hours worked, the common fund method encourages attorneys to efficiently litigate to achieve the
6 best results possible. *See Laffitte*, 1 Cal. 5th at 492-494. Indeed, "the percentage method is generally
7 favored in common fund cases because it allows courts to award fees from the fund in a manner that
8 rewards counsel for success and penalizes it for failure. *Id.* at 493 (quoting *In re Rite Aid Corp. Securities*
9 *Litig.*, 396 F.3d 294, 300 (3d Cir. 2005) (internal quotations omitted)).

10 As a California appellate court very recently confirmed, "fee awards in class actions average
11 around one-third of the recovery' regardless of 'whether the percentage method or the lodestar method is
12 used." *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal. App. 5th 521, 545 (2021) (quoting *Chavez v.*
13 *Netflix, Inc.*, 162 Cal. App. 4th 43, 66, fn. 11 (2008)).

14 Consistent with that observation, California state and federal courts routinely award attorneys'
15 fees equaling one-third of the common fund. *See, e.g. Laffitte v. Robert Half Internat. Inc.*, 231 Cal. App.
16 4th 860, 871 (2016) ("33 1/3 percent of the common fund is consistent with, and in the range of, awards
17 in other class action lawsuits"); *Chavez*, 162 Cal. App. 4th at 66 n.11 ("Empirical studies show that,
18 regardless whether the percentage method or the lodestar method is used, fee awards in class actions
19 average around one-third of the recovery."); Eisenberg & Miller, *Attorney Fees in Class Action*
20 *Settlements: An Empirical Study*, J. of Empirical Legal Studies, Vol. 1, Issue 1, 27-78, March 2004, at 35
21 (independent studies of class action litigation nationwide conclude that fees representing one-third of the
22 total recovery is consistent with market rates). Notably, the California Supreme Court in *Laffitte v.*
23 *Robert Half Internat. Inc.* affirmed a fee award representing one-third of the fund. *Laffitte*, 231 Cal. App.
24 4th at 506.

25 A one-third common fund³ attorneys' fee award is also consistent with what courts have

26
27 ³ Court have also approved fees in amounts greater than one-third of the common fund. *See*
28 *Charles v. JPMorgan Chase Bank*, No. CGC-14-538933 (San Francisco County Superior Court June 18,
2019) (awarding plaintiffs \$2.88 million in attorneys' fees on PAGA penalties totaling \$2.7 million);

awarded in other representative action cases. The following list shows PAGA actions where attorneys' fees were awarded on a common fund basis:

- *Cruz v. Wal-Mart Associates, Inc.*, Los Angeles Superior Court, No. 18STCV03128 (May 28, 2021) (approving fee award from PAGA-only settlement of \$5 million against a common fund of \$15 million);
- *Jones v. J.C. Penney Corporation*, Los Angeles Superior Court, Case No. BC451823 (April 20, 2017) (approving fee award from PAGA-only settlement of \$1.375M against a common fund of \$3.2M (42%));
- *Garcia v. Macy's*, San Bernardino County Superior Court, Case No. CIVDS1516007 (Sept. 13, 2017) (33.33% fee awarded on \$12,500,000 settlement of a PAGA only case);
- *Garcia v. Pep Boys*, Orange County Superior Court, Case No. 30-2014-00720574-CU-OE-CJC (July 14, 2016) (33.33% fee awarded on a \$1,030,000 settlement of a PAGA only case);
- *Brewer v. Connell Chevrolet*, Orange County Superior Court, Case No. 30-2016-00852123-CU-OC-CXC (June 15, 2017) (33.33% fee awarded on a PAGA only case);
- *Perez v. Staffmark Investment, LLC*, Riverside County Superior Court, Case No. MCC1401137 (May 23, 2016) (33.33% fee awarded on a \$650,000 settlement of a PAGA only case).

An award of fees from the gross settlement amount under the common fund doctrine prevents unjust enrichment of those who benefit from the common fund created through the successful efforts of plaintiff's counsel and furthers the important goal of attracting competent counsel to handle representative actions enforcing minimum labor standards. *Laffitte*, 1 Cal. 5th at 503. In affirming the use of the common fund doctrine in California, the California Supreme Court summarized the benefits of the percentage method of recovery stating: "The recognized advantages of the percentage method—including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation [citations]—convince us the percentage method is a valuable tool that should not be denied our trial courts." *Id.*

Plaintiff's Position on Why the Enhancement Award Payment Is Fair and Reasonable:

Boseman v. VXi Global Solutions, LLC, No. BC602442 (Los Angeles County Superior Court Jan. 3, 2019) (awarding plaintiff \$750,000 in attorneys' fees and costs on general PAGA penalties totaling \$585,000); *Salas v. Hallmark Aviation Services LP*, No. BC586585 (Los Angeles County Superior Court February 17, 2017) (awarding plaintiff \$600,000 in attorneys' fees on PAGA penalties totaling \$605,000); *Monroe v. Continental Design Co., Inc.*, No. RG16817667 (Alameda County Superior Court June 21, 2017) (awarding plaintiff \$110,000 in fees on PAGA penalties totaling \$90,000); *Ramirez v. Benito Valley Farms, LLC*, No. 16-CV-04708-LHK, 2017 WL 3670794, at *6 (N.D. Cal. Aug. 25, 2017) (awarding attorneys' fees under the lodestar method with no regard to the proportion of the fees to civil penalties).

1 The PAGA Settlement Agreement provides that Defendant will pay Plaintiff \$5,000, for her service on
2 behalf of the LWDA and Aggrieved Employees.

3 The Enhancement Award Payment is reasonable because Plaintiff “remained fully involved and
4 expended considerable time and energy during the course of the litigation.” *See In re Toys ‘R’ Us-Del*
5 *FACTA Litig.*, 295 F.R.D. at 471 (citation omitted). Plaintiff devoted her time and effort toward assisting
6 her attorneys with the prosecution of the claims, and assisted counsel with finalizing the settlement.

7 The Enhancement Award Payment is also appropriate because Plaintiff otherwise “will not gain
8 any benefit beyond that [she] would receive as an ordinary [Aggrieved Employee].” *In re Toys “R” Us*
9 *FACTA Litig.*, 295 F.R.D. at 472; *Van Vranken*, 901 F. Supp. at 299 (holding that a substantial award is
10 appropriate where a [representative’s] claim made up “only a fraction of the common fund.”). Here,
11 absent the separate payment, Plaintiff will recover no more than other Aggrieved Employees, despite
12 undergoing personal sacrifice in bringing this suit on behalf of the State of California and Aggrieved
13 Employees.

14 Lastly, because PAGA is a “type of qui tam action,” it is appropriate for the Plaintiff to receive a
15 modest additional payment from the settlement as a “bounty” for their special effort in vindicating the
16 State’s interests by enforcing its labor laws. *See Iskanian v. CLS Transp. Los Angeles, LLC*, 59 Cal. 4th
17 348, 382 (2014) (“A PAGA representative action is therefore a type of qui tam action.”); *see also People*
18 *ex rel. Strathmann v. Acacia Research Corp.*, 210 Cal. App. 4th 487, 500 (2012) (“The person who
19 brings the qui tam action, called the ‘relator,’ stands in the shoes of the People of the State of California,
20 who are deemed to be the real party in interest . . . The relator in a qui tam action under section 1871.7
21 does not personally recover damages but, if successful, receives [a portion] of the recovery as a bounty.”)
22 (internal citations omitted).

23 Such a payment incentivizes employees to step forward to enforce the Labor Code. *See MMM*
24 *Holdings, Inc. v. Reich*, 21 Cal. App. 5th 167, 180 (2018) (“The bounty advances the public purpose and
25 benefit by encouraging private qui tam actions; indeed, this prospect of reward may be the only means of
26 inducing such private parties to come forward with their information.”) (internal quotations omitted).
27 This is especially important in this context, as “the lack of government resources to enforce the Labor
28 Code led to a legislative choice to deputize and incentivize employees uniquely positioned to detect and

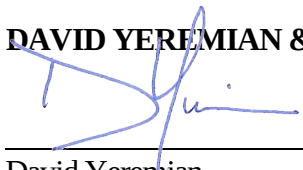
1 prosecute such violations through the PAGA.” *Iskanian*, 59 Cal. 4th at 390. Absent the incentive
2 payment, fewer employees would be willing to step forward, and PAGA’s primary purpose—
3 enforcement of the Labor Code—would be substantially undermined.

4 **NOW THEREFORE**, the Parties stipulate to settle this matter according to the terms and
5 conditions set forth in the PAGA Settlement Agreement attached hereto as Exhibit 1.

6 **IT IS SO STIPULATED.**

7
8 Dated: January 10, 2023

9 **DAVID YEREMIAN & ASSOCIATES, INC.**

10 
11 _____
12 David Yerehian
13 Natalie Haritoonian
14 Attorneys for Plaintiff Maria Castillo-Rodriguez

15
16 Dated: January 9, 2023

17 **BLACKSTONE LAW, APC**

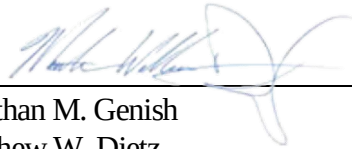
18 
19 _____
20 Jonathan M. Genish
21 Matthew W. Dietz
22 Attorneys for Defendant California Distribution
23 Center
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EXHIBIT 1

PRIVATE ATTORNEYS' GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE

This Private Attorneys General Act Settlement Agreement and Release (“Agreement”) is made by and between Plaintiff Maria Castillo-Rodriguez (“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 California Distribution Center (“Defendant”) on the other hand. Plaintiff and Defendant are collectively referred to herein as “the Parties.”

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

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 herself and the State of California as well as on behalf of a group of aggrieved employees (the “PAGA Notice”).

WHEREAS, On November 17, 2020, Plaintiff filed a representative action in the Superior Court of California County of Los Angeles entitled *Maria Castillo-Rodriguez vs. HR Outsourcing Associates, LLC et al.*, Case No. 20STCV44138 alleging ten causes of action against Defendant for: (1) Failure to Pay Minimum Wages, (2) Failure to Pay Wages and Overtime Under Labor Code § 510, (3) Meal Period Liability Under Labor Code § 226.7, (4) Rest-Break Liability Under Labor Code § 226.7, (5) Violation of Labor Code §226(a) and 1174; (6) Violation of Labor Code § 203; and (7) Failure to Reduce Excessive Heat to a Degree Providing Reasonable Comfort, and (10) Violation of Business & Professions Code § 17200, *et seq.* (“PAGA Action” or Plaintiff’s “Representative PAGA Claims”)

WHEREAS, On May 18, 2022, the Parties attended an all-day mediation with experienced wage-and-hour mediator Gail Glick. At the mediation, the Parties agreed to settle Plaintiff’s Representative PAGA claims 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, for purposes of this Settlement, the PAGA Period is defined as the period commencing on September 11, 2019 through August 16, 2022.” (“PAGA Period”)

WHEREAS, for purposes of this Settlement, the Aggrieved Employees are defined as: “all individuals who worked for Defendant in the State of California as hourly-paid and/or non-exempt employees at any time from September 11, 2019 through August 16, 2022.” (“Aggrieved Employees”)

WHEREAS, Defendants represent that there are approximately 190 Aggrieved Employees and approximately 5,419 pay periods. If the number of pay periods encompassed within the PAGA Period exceeds 5,419 by more than 10% (i.e. by more than 541 pay periods), then, at Defendant's election, either (a) the Gross Settlement Amount shall be increased in proportion to the percentage increase in the number of pay periods encompassed in the PAGA Period in excess of 10% or (b) the ending date of the PAGA Period shall be changed to a date as of which the number of PAGA Periods encompassed within the PAGA Period does not exceed 5,419 by more than 10%.

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 Aggrieved Employees have against Defendant and Defendant's past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers. 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 Defendant of any wrongdoing or liability. Specifically, Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Complaint. Defendant, among other things, contends that it has complied at all times with the California Labor Code and all applicable California laws.

WHEREAS, the Parties believe and agree that this Agreement provides for a fair, adequate, and reasonable resolution of the Representative PAGA Claims, 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 amount and terms of the Settlement are fair, reasonable, and adequate and are in the best interests of the Plaintiff, the Aggrieved Employees, and Defendant in light of all known facts and circumstances, including the financial condition of Defendant, and the risks inherent in litigation, including the potential appellate issues. Further, counsel for Plaintiff, David Yeremian of David Yeremian & Associates Inc. and Sahag Majarian II of Law Offices of Sahag Majarian II believe that the settlement amount entered into is in the best interests of the Aggrieved Employees and that the settlement for each Aggrieved Employee is fair, reasonable, and adequate, given the inherent risk of litigation.

WHEREAS, the Parties: (1) believe and agree that this Agreement provides for a fair, adequate, and reasonable resolution of the Representative PAGA Claim, (2) 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 (3) 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(I), Court approval is required in the event of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement through a motion for preliminary or final approval. *See also Mendoza v. Nordstrom, Inc.*, 2 Cal. 5th 1074 (2017) (“PAGA authorizes a representative action without the need for class certification.”); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1123 (9th Cir. 2014) (“a PAGA suit is fundamentally different than a class action” in that PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out of a PAGA action); *Williams v. Sup. Ct.*, 3 Cal. 5th 531, 546-47 (2017) (“PAGA does not make other potentially aggrieved employees parties or clients of plaintiff’s counsel, does not impose on a plaintiff or counsel any express fiduciary obligations, and does not subject a plaintiff or counsel to scrutiny with respect to the ability to represent a large class.”).

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:

1. **Effective Date.** The effective date (“Effective Date”) of this Agreement shall mean the following: (a) if no timely objections are filed or if all objections are withdrawn, the date upon which the Court enters an order approving the Settlement; (b) if an objection is filed and not withdrawn, the date for filing an appeal and no such appeal being filed; (c) if any timely appeals are filed, the date of the resolution (or withdrawal) of any such appeal in a way that does not alter the terms of the settlement..

2. **Released Claims/Effect of Judgment on Aggrieved Employees and LWDA** The Parties agree and acknowledge that, to the maximum extent permitted by law, the final judgment entered pursuant to this settlement will bind all those who would be bound by a judgment if the action had been brought by the California Labor & Workforce Development Agency (“LWDA”), including Plaintiff, the LWDA, and the Aggrieved Employees, with respect to the recovery of civil penalties under the California Private Attorneys General Act, California Labor Code § 2698, *et. seq.* only, against Defendant and its past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers (“Released Parties”). It is expressly understood and agreed that this settlement only includes a full release of the PAGA claim for penalties the period of September 11, 2019 through August 31, 2021 for violations of Labor Code §§ 201, 202, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2698, *et seq.*, 2800, and 2802 as well as the applicable provisions of the Industrial Wage Orders and for any other PAGA violations that could have been asserted in the action based on the factual assertions and legal assertions in the Complaint. This settlement agreement shall not impact Aggrieved

Employees ability to assert Labor Code claims other than PAGA claims specifically identified herein.

3. **Notice to LWDA.** Pursuant to California Labor Code § 2699(k)(2), the Parties shall submit to the LWDA a copy of this Agreement at the same time that the Parties submit it to the Court for approval.

4. **Gross Settlement Amount.** Defendant agrees to pay, in accordance with the terms set forth herein, the total sum of One Hundred Sixty-Two Thousand Five Hundred Seventy Dollars and Zero Cents (\$162,570.00) (the “Gross Settlement Amount”) in full settlement of this Lawsuit. The Gross Settlement Amount will be allocated as follows:

a. PAGA Counsel’s attorneys’ fees request of up to 35% of the Gross Settlement Amount which is Fifty Six Thousand Eight Hundred Ninety Nine Dollars and Fifty Cents (\$56,899.50) (“PAGA Counsel’s Fees”) and PAGA Counsel’s separate request for reasonable litigation costs incurred in this matter of up to Ten Thousand Dollars and Zero Cents (\$10,000.00) (“PAGA Counsel’s Costs”). Defendant will not oppose these requests. Any attorneys’ fees and costs not approved by the Court shall become part of the PAGA Fund.

b. Administration costs of no more than Six Thousand Dollars and Zero Cents (\$6,000.00) to be paid to the Settlement Administrator (“Administration Costs”). To the extent that the Administration Costs are less than the amount of the quote provided by the selected Settlement Administrator, the remainder shall become part of the PAGA Fund.

c. For an enhancement award to Plaintiff in the amount of Five Thousand Dollars and Zero Cents (\$5,000.00). This amount is in addition to Plaintiff’s pro rata share of the Aggrieved Employees PAGA Portion. Defendant will not oppose this request. Any amount of the enhancement award not approved by the Court shall become part of the PAGA Fund.

d. The remainder of the Gross Settlement Amount (the “PAGA Fund”) after deducting items (a) and (b) is approximately Eighty Four Thousand Six Hundred Seventy Dollars and Fifty Cents (\$84,670.50), 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% (\$63,502.88) paid to the LWDA (the “LWDA PAGA Portion”) and 25% (\$21,167.62) paid to the Aggrieved Employees (the “Aggrieved Employees’ PAGA Portion”) on a pro-rata basis.

5. **Allocation and Calculation of the PAGA Penalties.** Each Aggrieved Employee shall receive a portion of the PAGA Penalties on a pro-rata basis. The allocation among the Aggrieved Employees shall be determined by dividing the entire PAGA Fund allocated to the Aggrieved Employees (*i.e.* approximately \$21,167.62 by dividing the number of paychecks each individual Aggrieved Employee received during the applicable time period by the total number of paychecks received by all Aggrieved Employees during the applicable time period. All Individual Settlement Payments made to Aggrieved Employees will be reported on an IRS Form 1099.

6. **Tax Treatment of Settlement Amounts.** With regard to settlement payments to Aggrieved Employees, IRS Form 1099s will be issued, if applicable. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Plaintiff acknowledges that they have obtained no tax advice from Defendant and that neither Defendant nor its attorneys have made any representation concerning the tax consequences, if any, of the Settlement Amount in this Agreement or any payment to be made pursuant to this Agreement. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any state or federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Defendant is not responsible for any employee tax obligations regarding the allocation of the settlement payments. Payment of the portion allocated to Plaintiff counsel's fees and costs will be reflected in a Form 1099 to counsel who shall assume full responsibility and liability for the payment of taxes due on such payments.

7. **Circular 230 Disclaimer.** EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX ADVISERS FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

8. **PAGA Settlement Payment Procedures.**

a. Within 14 days of the Effective Date, Defendant shall deposit the Gross Settlement Amount with the Settlement Administrator.

b. Within 14 calendar days after the Effective Date, Defendant shall provide the Settlement Administrator with a Microsoft Excel spreadsheet containing the following information for each Aggrieved Employee: (1) full name; (2) last known home address; (3) last known telephone number; (4) social security number; (5) state and end dates of active employment as a non-exempt employee of Defendant in the State of California; (6) total pay periods during the PAGA Period; and (7) any other information required by the Settlement Administrator in order to effectuate the terms of the Settlement (“Aggrieved Employee List”). The Settlement Administrator shall run all the addresses of Aggrieved Employees through the United States Postal Service NCOA database to obtain current address information

Within 10 business days of Defendant depositing the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator shall:

i. Remit a total of Twenty-Five percent (25%) of the PAGA Fund to the Aggrieved Employees, along with the employee letter (attached hereto as **Exhibit A**). Aggrieved Employees shall not be required to make claims, but shall simply be delivered a check for their share of the PAGA settlement. The payment checks shall be sent to each Aggrieved Employee by U.S. First Class mail to the Aggrieved Employee’s address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. If Settlement Checks are returned to the administrator, either within 30 days from the mailing, or thereafter, the Settlement Administrator will attempt to locate an updated address for the Aggrieved Employee and re-mail the check if an updated address is located.

ii. Remit a total of Seventy Five percent (75%) of the PAGA Fund to the LWDA;

ii. Remit PAGA Counsel’s Fees and Costs, as approved by the Court;

iii. Remit Plaintiff’s enhancement award, as approved by the Court; and

iv. Remit the Administration Costs, as approved by the Court.

c. Settlement Checks issued to Aggrieved Employees pursuant to this Agreement will expire one hundred and eighty (180) days from the date they are mailed by the Settlement Administrator. All uncashed settlement checks shall be sent to the State of California Controller Unclaimed Property Fund.

d. Neither Defendant nor Plaintiff shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

9. Settlement Administrator. As set forth in Paragraph 9, the Settlement Administrator shall be responsible for sending notices and for calculating Settlement Shares and preparing all checks and mailings and comply with all requirements set forth in Paragraph 9. The costs of the Settlement Administrator shall be paid out of the Gross Settlement

Amount. The Parties agree to use CPT Group, Inc. as Settlement Administrator. Defendant is not responsible or liable for any errors in the calculation of paystubs or settlement amount to be awarded to each Aggrieved Employee. Defendant is also not liable or responsible for any errors made by the Settlement Administrator in the administration of the settlement.

10. Duties of the Parties Prior to Approval. Promptly upon execution of this Settlement, Plaintiff shall apply to the Court for approval of the proposed Settlement. Plaintiff shall apply to the Court for the entry of an order approving this Settlement as required by Labor Code section 2699(1). The Approval Stipulation will request Court approval of the following: (1) the terms of this Agreement, (2) the amount of fees and costs to Plaintiff's counsel, (3) final Judgment, and (4) request dismissal of the class action claims without prejudice pursuant to California Rules of Court Rule 3.770. In conjunction with the Motion for Approval, Plaintiff shall submit a proposed Final Judgment requesting the entry of judgment.

11. Duties of the Parties After Approval. Promptly upon the Court's entry of an order approving this Settlement and dismissing the Class Action claims without prejudice, Plaintiff Graves shall file a motion in her respective action requesting dismissal of the Class Action claims without prejudice pursuant to California Rules of Court Rule 3.770.

12. Non-Admission of Wrongdoing. The Parties agree that this Agreement does not constitute an admission by Defendant or any Released Party, of any of the matters alleged in the Lawsuit or of any violation by any of them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. Neither this Agreement nor anything in this Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Plaintiff, Defendant, or Defendant's parents, subsidiaries, divisions, affiliated corporations, trustees, directors, officers, shareholders, agents, attorneys, insurers, or employees.

13. Waiver and Amendment. The Parties may not waive, amend, or modify any provision of this Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

14. 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: Matthew Dietz, Blackstone Law, APC, 8383 Wilshire Blvd., Suite 745, Beverly Hills, California 90211.

To Plaintiff: David Yeremian, David Yeremian & Associates Inc., 2540 Foothill Blvd., Suite 201, La Crescenta, California 91214 and Sahag Majarian II, Law Offices of Sahag Majarian II, 18250 Ventura Blvd., Tarzana, California 91356.

15. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts and writings prior to the date hereof relating to the subject matters hereof. Any representation, promise or agreement not specifically included in this Agreement shall not be binding upon or enforceable against either Party. This is a fully integrated agreement. No other promises or agreements shall be binding or shall modify this Agreement unless in writing and signed by the Parties.

16. **Severability.** If any provision of this Agreement or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of the Settlement Agreement which can be given effect without the invalid provisions or application and to this end the provisions of this Agreement are declared to be severable. Notwithstanding the foregoing, no portion of any release contained herein may be deemed severed or deleted from this Agreement, except upon waiver in writing by the applicable Released Party.

17. **No Construction Against the Drafter.** Each Party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any Party on the basis that the Party was the drafter.

18. **Choice of Law.** This Agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

19. **Counterparts.** This Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

20. **Enforcement of Settlement.** This Agreement is admissible and subject to disclosure for purposes of enforcing this Agreement pursuant to California Code of Civil Procedure Section 664.6, or any other procedure permitted by law. The Parties agree that, under California Code of Civil Procedure Section 664.6, the Court shall retain jurisdiction to enforce the terms of this Settlement Agreement, specifically including the acceleration and stipulated judgment in Section 4(c), *supra*.

21. **Cooperation.** Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees that they will abide by this Agreement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Agreement.

Dated: June 2, 2022

DocuSigned by:



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Maria Castillo-Rodriguez, PAGA
Representative

Dated: June __, 2022

California Distribution Center

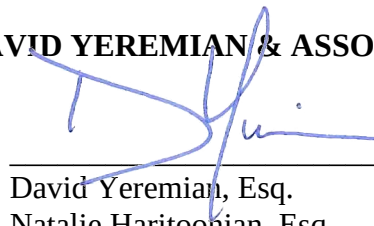
By: _____

Its: _____

APPROVED AS TO FORM AND CONTENT:

Dated: June 2, 2022

DAVID YEREMIAN & ASSOCIATES, INC.



David Yeremian, Esq.
Natalie Haritounian, Esq.
Attorneys for Plaintiff Maria Castillo-
Rodriguez

Dated: June __, 2022

BLACKSTONE LAW, APC

Matthew Dietz, Esq.
Attorneys for Defendant California
Distribution Center

Dated: June __, 2022

Maria Castillo-Rodriguez, PAGA
Representative



Dated: June 7, 2022

California Distribution Center

By: Ronnie Moya

Its: President

APPROVED AS TO FORM AND CONTENT:

Dated: June __, 2022

DAVID YEREMIAN & ASSOCIATES, INC.

David Yeremian, Esq.
Natalie Haritonian, Esq.
Attorneys for Plaintiff Maria Castillo-
Rodriguez

Dated: June 7, 2022

BLACKSTONE LAW, APC



Matthew Dietz, Esq.
Attorneys for Defendant California
Distribution Center

EXHIBIT A

Check

[DATE]

Dear [NAME]:

The enclosed check is your proportional share of the California Private Attorneys General Act (“PAGA”) settlement payment in the case entitled *Maria Castillo-Rodriguez v. HR Outsourcing, LLC, et al.* (Los Angeles County Superior Court Case No. 20STCV44138). As relevant to the enclosed check, the lawsuit alleged that California Distribution Center failed to pay for all time worked, failed to pay all overtime wages, failed to provide appropriate meal and rest breaks, failed to provide accurate itemized wage statements, failed to timely pay upon termination, and failed to reduce excessive heat to a degree providing reasonable comfort. California Distribution Center denied the allegations but reached a settlement to avoid the expense and disruption of further litigation.

You are receiving this check because you worked for California Distribution Center as an hourly-paid and/or non-exempt employee at any time from September 11, 2019 through August 16, 2022. The settlement includes a full release of the PAGA claim for (1) violations of Labor Code §§ 201, 202, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2698, *et seq.*, 2800, and 2802; and (2) as well as the applicable provisions of the Industrial Wage Orders.

Enclosed you will also find an IRS Form 1099 for 100% of this payment. California Distribution Center will report this payment to the IRS through form 1099 and you are responsible for tax payments, if any, that result from this payment. Please cash or deposit the check on or before its printed void date. Checks will not be re-issued after the void date. If you have any questions about this payment, contact the Settlement Administrator at _____. Please note that the Settlement Administrator cannot provide tax advice. If you have questions about the tax treatment of this payment, we suggest that you consult your tax advisor or accountant.

Regards,

_____, Settlement Administrator for *Maria Castillo-Rodriguez v. HR Outsourcing, LLC, et al.*