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L.A. SUNSET 7600, INC., and

AMIN BADRUDIN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR
THE COUNTY OF LOS ANGELES – CENTRAL – STANLEY MOSK COURTHOUSE**

MOHAMED MAREY, an individual, on behalf
of himself, other current and former aggrieved
employees, and the State of California, as a
private attorneys general,

Plaintiff,

vs.

L.A. SUNSET 7600, INC., a California
corporation; AMIN BADRUDIN, an individual;
and DOES 1 through 25, Inclusive,

Defendant.

Case No. 21STCV18019

*[Assigned for all purposes before the
Honorable Richard Fruin, Department 15]*

**JOINT STIPULATION REQUESTING
COURT APPROVAL OF THE
PARTIES' PAGA SETTLEMENT**

COME NOW, Plaintiff, MOHAMED MAREY (“Plaintiff”), and Defendants L.A. SUNSET 7600, INC., and AMIN BADRUDIN (collectively “Defendants”) (hereinafter Plaintiffs and Defendants are collectively referred to as “the Parties”), by and through the Parties’ respective counsel of record, pursuant to *California Labor Code* section 2699(k)(2), hereby submit the foregoing

1 stipulation to this Court for the Parties' Private Attorneys General Act (hereinafter referred to as
2 "PAGA") settlement be approved by this Court.

3 **RECITALS**

4 WHEREAS on or around December 4, 2020, Plaintiff sent a notice letter to the California
5 Labor and Workforce Development Agency ("LWDA"), and L.A. SUNSET 7600, INC., and AMIN
6 BADRUDIN, alleging violations of the *California Labor Code*, including sections 1197; 1182.12;
7 1194; 1194.2; 1197.1; 510; 204.3; 204; 210; 512; 226.7; 2802; 1198; 1199; 558; 226; 226.3; 1174;
8 1174.5; 201; 202; 203; 208; 558.1; 226(c); 1198.5, and seeking civil penalties pursuant to *Labor*
9 *Code* 2699 et. seq., Labor Code Private Attorneys General Act of 2004 ("PAGA Claims").
10

11 WHEREAS, the LWDA did not notify Plaintiff within the statutorily required time that it
12 intended to further investigate or pursue the allegation of the PAGA Claims.

13
14 WHEREAS on or around May 13, 2021, Plaintiff filed his complaint as an individual, on
15 behalf of himself, other current and former aggrieved employees, and the State of California as a
16 private attorney general, against L.A. SUNSET 7600, INC., and AMIN BADRUDIN in the Superior
17 Court for the State of California, County of Los Angeles, Case No. 21STCV18019, alleging causes of
18 action for alleged the following causes of action; (1) Violations of Cal. Labor Code sections 1194 &
19 LAMC 187.02; (2) Violations of Cal. Labor Code section 1194.2; (3) Violations of Cal. Labor Code
20 section 510; (4); Violations of Cal. Labor Code section 512; (5) Violations of Cal. Labor Code
21 section 226.7; (6) Violations of Cal. Labor Code section 2802; (7) Violations of Cal. Labor Code
22 section 226; (8) Violations of Cal. Labor Code sections 204 & 210; (9) Violations of Cal. Labor Code
23 section 203; (10) Violations of Cal. Labor Code section 226(c); (11) Violations of Cal. Labor Code
24 section 1198.5; (12) Violations of Cal. Bus. & Prof. Code section 17200; and (13) Violations of Cal.
25 Labor Code section 2698, et. seq. ("Lawsuit").
26

27 WHEREAS, Defendants deny any liability or wrongdoing of any kind associated with the
28

1 claims alleged in the Lawsuit, denies liability for the PAGA Claims, and further denies that this
2 action is appropriate for representative treatment for any purpose other than settling this Lawsuit.
3 Defendants contend, among other things, that it/they has/have complied at all times with the
4 California Labor Code, the related California Wage Orders and the California Business & Professions
5 Code, all other state and federal wage laws, and further contend that all of its respective employees
6 were and are paid properly and that the Lawsuit is without merit. Defendant has denied and continues
7 to deny each and every material factual allegation and alleged claim asserted against it in the Lawsuit.
8

9 WHEREAS pursuant to *Labor Code* section 2699.3, subsection (d), Plaintiff's PAGA period
10 of recovery begins March 6, 2020 (one year and sixty-five (65) days back from the date of Plaintiff's
11 complaint¹).
12

13 WHEREAS after filing of Defendants' Answer, the Parties initiated settlement discussions,
14 including informal disclosures of information (in lieu of high-cost formal discovery) regarding
15 Defendants' time-keeping records, and the total number of non-exempt employees (*i.e.*, an average of
16 8 full-time and 4 part-time per pay period) ("PAGA Class").
17

18 WHEREAS Defendant employed on average eight (8) full time employees and four (4) part-
19 time employees in each pay period during the relevant period.
20

21 WHEREAS the Parties reached a settlement of the PAGA Claims on December 13, 2021,
22 based on weekly pay periods worked by the PAGA Class between March 6, 2020 to December 13,
23 2021 (93 weeks between March 6, 2020 and December 13, 2021 for an average of 8 full time
24 employees and 4 part time employees in each period)) ("PAGA Period" or "Relevant Period").
25

26 WHEREAS using the preceding and detailed input from Plaintiff, Plaintiff's counsel
27
28

26 ¹ See also Cal. Civ. Code § 340; *Brown v. Ralphs Grocery Co.*, 28 Cal.App.5th 824, 835 (Cal. Ct. App. 2018)
27 "finding the 65 calendar days discussed in 2699.3(d) "are not counted as part of the time limited for the
28 commencement of the civil action to recover penalties").

1 conducted a thorough investigation of the factual and legal issues affecting the strengths and
2 weaknesses of Plaintiff's PAGA Claims, concluding the following:

3 MINIMUM WAGES (*Labor Code* sections 1194 and 1194.2; Los Angeles Municipal Code
4 ("LAMC") section 187.02(B)): During the PAGA Period, Plaintiff and the PAGA Class earned
5 \$13.50 hourly. Thus, Plaintiff's minimum wage claims are predicated on allegations that Defendants
6 paid a minimum wage less than required by the LAMC (section 187.02(B)) (\$13.25, \$14.25 and
7 \$15.00 during the PAGA Period), not the *California Labor Code* (section 1194) (\$12.00 and \$13.00
8 during the PAGA Period). The LAMC cannot underlie a PAGA claim; thus, these claims only
9 support an individual recovery for Plaintiff, not PAGA civil penalties.
10

11 OVERTIME WAGES (*Labor Code* sections 510 and derivative *Labor Code* sections 203, 204
12 and 210): Plaintiff's overtime claims are predicated on allegations that Defendants paid overtime at
13 Plaintiff's regular rate of pay, and not time and one-half his regular rate. These claims are predicated
14 on circumstances specific to Plaintiff's position as the night-shift attendant at Defendants'
15 convenience store, making his and one other co-worker's hours worked and experience unique to
16 those of their daytime co-workers. Specifically, as the night-shift attendants, they worked longer
17 hours than the other 10 employees (including the 4 part-time employees whom never eclipsed 40
18 hours worked in any given week) who covered the day-time hours, causing Plaintiff and the other
19 night-shift attendant greater exposure to the alleged underpaid overtime. In addition to greater
20 underpaid overtime exposure to only 2 of the average 12 PAGA Class members per pay period, the
21 lack of timekeeping records will necessarily require extensive and costly individualized testimonial
22 assessments regarding the number of hours worked daily, and weekly by each of the PAGA Class
23 members, including Plaintiff, dating back nearly two (2) years.
24

25 WAGE STATEMENTS (*Labor Code* section 226): Plaintiff's wage statement claims are
26 predicated on the allegation that Plaintiff's overtime wages were paid separate from his other wages
27
28

1 via a money order. Thus, like the overtime claims, the wage statement claims will necessarily require
2 extensive and costly individualized testimonial assessments regarding the number of hours worked
3 daily, and weekly by each of the PAGA Class members, including Plaintiff, dating back nearly two
4 (2) years. Additionally, Plaintiff's allegations regarding Defendants' failure to include the
5 employer's name on the wage statement appears unfounded as the wage statements include "LA
6 Sunset 7600, Inc." Also, Plaintiff's allegations regarding Defendants' failure to include the
7 employer's address on the wage statements appear tenuous as Defendants can use their physical
8 address instead of the address registered with the secretary of state's office so long as the address is
9 correct and can be used to contact the employer in the even any issues arose. *See Savea v. YRC Inc.*,
10 34 Cal.App.5th 173, 180 (Cal. Ct. App. 2019); *Mejia v. Farmland Mut. Ins. Co.*, No. 2:17-cv-00570-
11 TLN-KJN, at *12-13 (E.D. Cal. June 25, 2018).
12

13
14 MEAL AND REST PERIOD CLAIMS (*Labor Code* sections 512 and 226.7): Plaintiff's meal
15 and rest period claims are predicated on circumstances specific to Plaintiff's position as the night-
16 shift attendant at Defendants' convenience store, making his and one other co-worker's experience
17 unique to those of their daytime co-workers. Specifically, as the night-shift attendants, they did not
18 have the benefit of overlapping employee shifts existing during the day-time shifts (the day-time
19 shifts were covered by 10 people), causing Plaintiff and the other night-shift attendant greater
20 exposure to lack of coverage for lawful meal and rest periods. And like the overtime claims, and
21 derivative wage statement claims, the meal and rest period claims will necessarily require extensive
22 and costly individualized testimonial assessments regarding the provision, or lack thereof, of meal
23 and/or rest periods by each of the PAGA Class members, including Plaintiff, dating back nearly two
24 (2) years.
25

26 BUSINESS REIMBURSEMENTS (*Labor Code* section 2802): Defendants never contacted
27 Plaintiff via his personal cellular phone. Determining whether or not other PAGA Class members
28

1 were required to use their personal cellular phones will necessarily require extensive and costly
2 individualized testimonial assessments as well as subpoenas to the various cellular carriers to
3 determine the existence and frequency of any contact requiring reimbursement dating back nearly two
4 (2) years.

5
6 RECORD KEEPING (*Labor Code* section 1174): Defendants' apparent failure to keep
7 complete and/or accurate timekeeping records in violation of *Labor Code* section 1174. A violation
8 of Section 1174 carries a one-time civil penalty of \$500.00 per impacted employee pursuant to
9 Section 1174.5.²

10 WHEREAS, the Parties recognize that the issues presented in this case are likely only to be
11 resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause
12 inconvenience, distraction, disruption, delay and expense disproportionate to the potential benefits of
13 litigation. The Parties, having taken into account the risk and uncertainty of the outcome inherent in
14 any litigation, and that PAGA gives the Court broad discretion to award or reduce the PAGA
15 penalties, reached a confidential settlement after an arm's-length negotiations, including a total of
16 \$11,000.00 specifically as and for Plaintiff's PAGA Claims.

18 WHEREAS, In many cases, courts approve PAGA settlements that are a small fraction of the
19 potential verdict value of a PAGA claim while also being a small fraction of the total settlement
20 amount. For example, the case of *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-
21 CV-02198-EMC) 2016 WL 5907869, at *1 . involved a \$6 million settlement and the court approved
22 allocating \$20,000 to the PAGA claim; this represented less than one percent (0.15% specifically) of
23 the potential PAGA verdict value. *Id.* In doing so, the court noted that the PAGA statute affords a
24 trial court broad discretion in this regard and noted that the parties had identified various other cases

26
27 ² "Any person employing labor who willfully fails to maintain the records required by subdivision (c) of
28 Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any
member of the commission or employees of the division to inspect records pursuant to subdivision (b) of
Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500)." *California Labor Code* §
1174.5.

1 in which PAGA awards were reduced by approximately 30% to 80%. *Id.*; see also, *In re Uber FCRA*
2 *Litig.*, 2017 WL 2806698, at *7 n.4 (N.D. Cal. 2017) (in \$7.5 million total settlement, approving
3 \$7,500 PAGA claim allocation representing 1/10th of one percent of the total settlement amount);
4 *Sarinana v. DS Waters of America, Inc.*, 2014 WL 12709948, at *2 (N.D. Cal. 2014) (approving
5 \$5,000 PAGA penalty payment in \$2 million class action settlement, representing 0.25% of the total
6 settlement amount).
7

8 WHEREAS the reasonableness of the settlement amount must not be solely assessed against
9 the theoretical maximum that could be recovered assuming a clean sweep at trial; rather, it must be
10 viewed in light of the particular challenges of each case. “The proposed settlement is not to be
11 judged against a hypothetical or speculative measure of what might have been achieved had
12 plaintiffs prevailed at trial.” *Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at p. 246. A
13 settlement need not obtain 100 percent of the damages sought in order to be fair and reasonable. (See
14 *Rebney v. Wells Fargo Bank*, 220 Cal.App.3d at p. 1139 [settlements found to be fair and reasonable
15 even though monetary relief provided was “relatively paltry”].) *Id.* at 250. See also *Officers for*
16 *Justice v. Civil Serv., Commission* (9th Cir. 1982) 688 F.2d 615, 624, 628 (recognizing that “the very
17 essence of a settlement is compromise, a yielding of absolutes and an abandoning of highest hopes”
18 and that “[i]t is well-settled law that a cash settlement amounting to only a fraction of the potential
19 recovery will not per se render the settlement inadequate or unfair.”) (internal quotation omitted).
20
21

22 WHEREAS the violations Plaintiff is claiming appear to be predicated on night shift work,
23 and that the number of full-time employees is relatively small, and that many part-time employees
24 may not be subject to violations, Plaintiff’s proposed allocation is fair and reasonable. Moreover,
25 there is substantial risk in the waste of judicial resources in proceeding with litigation where there
26 are potentially *deminimus* violations restricted to only night shift full time employees.
27

28 WHEREAS, based on their own independent investigations and evaluations, Defendants and

1 Plaintiff and their respective counsel are of the opinion that the settlement for the consideration and
2 on the terms set forth in this Stipulation are fair, reasonable and adequate in light of all known facts
3 and circumstances and the risks inherent in litigation, including the potential appellate issues.

4 WHEREAS, pursuant to *Labor Code* section 2699, the Parties are required to obtain approval
5 of the settlement of the a PAGA Claims from this Court.

6
7 WHEREAS, as explained by the California Supreme Court in *Arias v. Superior Court* (2009)
8 46 Cal.4th 969, the Parties are not obligated to follow the class action procedural rules in PAGA
9 cases and therefore do not need to follow the class action procedures for obtaining an approval of the
10 settlement.

11 WHEREAS, the Parties seek to obtain the Court's approval of the PAGA settlement and
12 resolve this matter in the most efficient manner possible.

13
14 WHEREAS, if the Court does not approve the proposed allocation, the Parties agree to fully
15 cooperate with each other to submit revised joint stipulation(s) in an effort to obtain Court approval a
16 revised PAGA settlement.

17 WHEREAS on the same date Plaintiff filed this stipulation on behalf of the parties,
18 PLAINTIFFS submitted this Joint Stipulation and [Proposed] Order electronically to the LWDA
19 (<https://dir.tfaforms.net/315>).

20
21 **IT IS HEREBY STIPULATED AND PROPOSED BY THE PARTIES HERETO AS**
22 **FOLLOWS:**

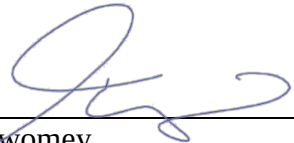
23 The Parties request this Court approve \$11,000.00 for settlement of Plaintiff's PAGA Claims,
24 with (1) \$2,355.00 to the Third-Party Administrator, ILYM Group, Inc. as and for administrative costs,
25 (2) \$956.98 to Plaintiff's counsel, J.B. Twomey Law ("Plaintiff's Counsel"), as and for actual out-of-
26 pocket costs, (3) \$3,667.00 to Plaintiff's Counsel as and for reasonable attorneys' fees, and (5) \$3,015.76
27 to the (i.e., 75% of \$4,021.02) to the LWDA, and (6) \$1,005.26 (i.e., 25% of \$4,021.02) to Plaintiff
28 MOHAMED MAREY and Defendants' other current and former California employees ("PAGA

1 Settlement Group Members”) by calculating the total number of pay periods worked by all PAGA
2 Settlement Group Members during the period March 6, 2020 and December 13, 2021 to get the “Total
3 Pay Periods.” \$1,005.26 will then be divided by the Total Pay Periods, yielding the amount to be paid to
4 each PAGA Settlement Group Member for each pay period. Each PAGA Settlement Group Member’s
5 share of the settlement will be calculated by multiplying the amount to be paid to each PAGA Settlement
6 Group Member for each pay period by the number of pay periods worked by that PAGA Settlement
7 Group Member during the PAGA Period.
8

9
10 **IT IS SO STIPULATED.**
11
12

13 Dated: March 1, 2022

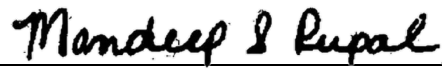
J.B. TWOMEY LAW

14
15 By: 

16 J.B. Twomey
17 Attorney for Plaintiff,
18 MOHAMED MAREY

19 Dated: February 28, 2022

RUPAL LAW

20
21 By: 

22 Mandeep S. Rupal
23 Attorneys for Defendants,
24 L.A. SUNSET 7600, INC.; AMIN BADRUDIN
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10 **[PROPOSED] ORDER**

11 Plaintiff, MOHAMED MAREY (“Plaintiff”), and Defendants L.A. SUNSET 7600, INC., and
12 AMIN BADRUDIN (collectively “Defendants”) (hereinafter Plaintiffs and Defendants are
13 collectively referred to as “the Parties”), by and through the Parties’ respective counsel of record,
14 pursuant to *California Labor Code* section 2699(k)(2), submitted a Joint Stipulation to this Court for
15 the Parties’ Private Attorneys General Act (hereinafter referred to as “PAGA”) settlement be
16 approved by this Court.
17

18 Plaintiff submitted the same Joint Stipulation and this [Proposed] Order electronically to the
19 Labor and Workforce Development Agency / Department of Industrial Relations (hereinafter
20 referred to as “LWDA”) (<https://dir.tfaforms.net/315>) on the same date Plaintiff filed this stipulation
21 on behalf of the Parties.
22

23 Upon review of the Parties’ Joint Stipulation, the Court hereby **ORDERS** as follows:

24 1. The Parties’ \$11,000.00 PAGA settlement is approved.

25 a. Defendants shall pay \$2,355.00 to the Third-Party Administrator, ILYM Group, Inc. as and
26 for administrative costs.

27 b. Defendants shall pay \$956.98 to Plaintiff’s counsel, J.B. Twomey Law, as and for out-of-
28 pocket costs.

- 1 c. Defendants shall pay \$3,667.00 to Plaintiff's Counsel, J.B. Twomey Law, as and for
2 reasonable attorney's fees.
- 3 d. Defendants shall pay \$3,015.76 to the to the LWDA (*i.e.*, 75% of \$4,021.02).
- 4 e. Defendants shall pay \$1,005.26 to Plaintiff MOHAMED MAREY and Defendants other
5 current and former California employees ("PAGA Settlement Group Members") (*i.e.*, 25% of
6 \$4,021.02) by calculating the total number of pay periods worked by all PAGA Settlement
7 Group Members during the period March 6, 2020 and December 13, 2021 to get the "Total
8 Pay Periods." \$1,005.26 will then be divided by the Total Pay Periods, yielding the amount to
9 be paid to each PAGA Settlement Group Member for each pay period. Each PAGA
10 Settlement Group Member's share of the settlement will be calculated by multiplying the
11 amount to be paid to each PAGA Settlement Group Member for each pay period by the
12 number of pay periods worked by that PAGA Settlement Group Member during the PAGA
13 Period.
14

15 2. Plaintiff is to give Notice of this Order.
16

17
18 **IT IS SO ORDERED.**
19

20 DATED: _____, 2022

21 _____
22 Hon. Richard Fruin, Judge Superior Court State
23 of California, Los Angeles County
24
25
26
27
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1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA**

3 I am a resident of or employed in the county where the mailing took place. At the time of
4 service, I was at least 18 years old and not a party to this action. My business address is: 10866
Wilshire Boulevard, Floor 4, Los Angeles, California 90024.

5 On March 1, 2022, I served the following documents described as:

6 **JOINT STIPULATION REQUESTING COURT APPROVAL OF THE PARTIES' PAGA**
7 **SETTLEMENT**

8 by placing true copies thereof enclosed in sealed envelopes and/or packages addressed to the
9 persons listed in **SERVICE LIST** attached and

10 [] **BY MAIL:** in Conroe, Texas, I deposited the sealed envelope in a United States Postal
11 Service outbound box with postage fully prepaid. I am aware that on motion of the party
served, service is presumed invalid if postage cancellation date or postage meter date is
more than one day after date of deposit for mailing in affidavit.

12 [] **BY FACSIMILE:** I served said document(s) to be transmitted by facsimile pursuant to
13 Rule 2008 of the *California Rules of Court*. The telephone number of the sending facsimile
14 machine was (818) 937-6897. The name(s) and facsimile machine telephone number(s) of
the person(s) served are set forth in the **SERVICE LIST** attached. A transmission report
was properly issued by the sending facsimile machine, and the transmission was reported as
complete and without error.

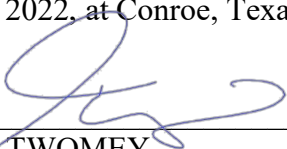
15 [] **BY HAND DELIVERY:** I caused such envelope(s) to be delivered by hand to the office of
16 the addressee(s) listed in **SERVICE LIST** attached.

17 [xx] **BY ELECTRONIC MAIL:** I caused the herein described document(s) to be delivered
electronically to the addressee(s), whose name(s) and electronic mail address(es) are set
forth in the **SERVICE LIST** attached.

18 [xx] **BY ELECTRONIC UPLOAD:** I caused the herein described document(s) to be uploaded
19 electronically to the recipient whose name(s) and web address are set forth in the
SERVICE LIST attached.

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

22 Executed on this March 1, 2022, at Conroe, Texas.

23 
24 _____
25 J.B. TWOMEY

SERVICE LIST

BY ELECTRONIC MAIL:

MANDEEP S. RUPAL
mrupal@rupallaw.com
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State of California, Labor and Workforce Development Agency /
Department of Industrial Relations

<https://dir.tfaforms.net/315>