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7 Attorneys for Plaintiff(s),

8 SIMONETTE VILLENA, and all others similarly situated

(Additional attorneys for Plaintiff(s) on following page)

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF SAN DIEGO**

12 **(UNLIMITED JURISDICTION)**

13 SIMONETTE VILLENA, on behalf of herself  
14 and as an “aggrieved employee” on behalf of  
15 other “aggrieved employees” under the Labor  
Code Private Attorneys General Act of 2004,

16 *Plaintiff(s),*

17 vs.

18 MIDWAY VENTURE LLC, a California limited  
19 liability company; PETER BALOV, an  
20 individual; and DOES 1–50, inclusive,

21 *Defendant(s).*

Case No. 37-2021-00005970-CU-OE-CTL

**NOTICE OF PLAINTIFF’S MOTION  
AND MOTION FOR APPROVAL OF  
PAGA SETTLEMENT**

Hearing Date: April 14, 2023

Hearing Time: 1:30 p.m.

Hearing Dept.: C-72, The Honorable  
Timothy Taylor

Action filed: February 09, 2021

Trial Date: Not Set

**Submitted Herewith Under Separate  
Cover:**

1. Memorandum of Points and Authorities;
2. Declaration(s) of David Spivak, Walter L. Haines, and
3. [Proposed] Order and Judgment Approving PAGA Settlement



**SPIVAK LAW**  
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1 **ADDITIONAL ATTORNEYS FOR PLAINTIFF(S)**

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10 Attorneys for Plaintiff(s),  
11 SIMONETTE VILLENA, and all others similarly situated  
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1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on April 14, 2023 at 1:30 p.m., or as soon thereafter as the  
3 matter may be heard, in Department C-72 of the San Diego County Superior Court, located at  
4 Superior Court of the State of California, County of San Diego, Hall of Justice, 330 W Broadway,  
5 6th fl., San Diego, CA 92101, Plaintiff Simonette Villena (“Plaintiff”) will and hereby does move  
6 this Court for an order approving the First Amended Settlement and Release Agreement (the  
7 “Settlement”)<sup>1</sup> between Plaintiff and Defendants Midway Venture LLC and Peter Balov  
(collectively “Defendants”) (Plaintiff and Defendants are collectively the “Parties”).

8 The First Amended Settlement and Release Agreement is on behalf of Simonette Villena  
9 and all current and former all current and former Adult Entertainers misclassified as independent  
10 contractors and who performed at Defendant’s venue at any time during the PAGA Period (the  
11 “Aggrieved Employees”). The “PAGA Period” means the period from December 03, 2019  
12 through the date of Court-approval of the Settlement. Plaintiff alleges that Defendant is liable to  
13 her and other Aggrieved Employees for misclassification as independent contractors, failure to  
14 pay employees all earned wages, failure to provide meal periods, failure to authorize and permit  
15 rest periods, failure to indemnify for business expenses, failure to issue proper wage statements,  
16 failure to timely pay wages, and any other Labor Code violations that were alleged in the Action,  
17 or that could have been alleged in the Action based on the facts alleged in the Action, which  
18 includes, but is not limited to, alleged violations of Labor Code sections 201, 202, 203, 204, 210,  
212, 221, 225.5, 226, 226.2, 226.7, 226.8, 350, 351, 353, 510, 511, 512, 558, 558.1, 1174.5, 1194,  
1194.2, 1197, 1197.1, 450, and 2698 *et seq.* (“PAGA Released Claims”).

19 The Plaintiff seeks division of the \$74,000.00 Gross Settlement Amount as follows:

| Item                                         | Amount             |
|----------------------------------------------|--------------------|
| PAGA Settlement Members Counsel Fees         | \$24,666.67        |
| PAGA Settlement Members Counsel Costs        | 10,000.00          |
| Settlement Administration Expenses           | \$4,700.00         |
| PAGA civil penalties (Net Settlement Amount) | \$34,633.33        |
| 25% to Aggrieved Employees                   | \$8,658.34 \$      |
| 75% to LWDA                                  | \$25,974.99        |
| <b>Gross Settlement Amount</b>               | <b>\$74,000.00</b> |

26  
27 <sup>1</sup> The Settlement is attached as Exhibit 1 to the Declaration of David Spivak (“DS”), which is  
28 submitted herewith under a separate cover.



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1 The Motion is based on this Notice of Motion and Motion, the attached Memorandum of Points  
2 and Authorities, the declarations of David Spivak and Walter L. Haines, the First Amended  
3 Settlement and Release Agreement, all papers and pleadings on file with the Court in this action,  
4 all matters judicially noticeable, and on such oral and documentary evidence as may be presented  
5 in connection with the hearing on the Motion.

6 Respectfully submitted,

7 THE SPIVAK LAW FIRM

8  
9 Dated: March 21, 2023

By:



10 DAVID G. SPIVAK, Attorneys for  
11 Plaintiff, SIMONETTE VILLENA  
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