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8 SIMONETTE VILLENA, and all others similarly situated

(Additional attorneys for parties 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,*

17 vs.

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

20 *Defendants.*

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

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

RESERVATION: 2883081

Hearing Date: January 6, 2023

Hearing Time: 1:30 p.m.

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

Action filed: February 09, 2021

Trial Date: October 14, 2022

**Submitted Herewith Under Separate
Cover:**

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



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1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on January 6, 2023 at 1:30 p.m., or as soon thereafter as
3 the 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 Settlement and Release Agreement (the “Settlement”)¹
7 between Plaintiff and Defendants Midway Venture LLC and Peter Balov (collectively
8 “Defendants”) (Plaintiff and Defendants are collectively the “Parties”).

9 The PAGA Settlement is on behalf of Simonette Villena and all current and former Adult
10 Entertainers misclassified as independent contractors and who performed at Defendant's venue in
11 California at any time during the PAGA Period (the “PAGA Members”). The “PAGA Period”
12 means the period from December 03, 2019 through the date of Court-approval of the Settlement.
13 Plaintiff alleges that Defendant is liable to her and other PAGA Members for failure to pay
14 employees all earned wages, failure to provide meal periods, failure to authorize and permit rest
15 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,
19 212, 221, 225.5, 226, 226.2, 226.7, 226.8, 350, 351, 353, 510, 511, 512, 558, 558.1, 1174.5, 1194,
20 1194.2, 1197, 1197.1, 450, and 2698 *et seq.* (“PAGA Released Claims”).

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28 ¹ The Settlement is attached as Exhibit 1 to the Declaration of David Spivak (“DS”), which is 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
2 Points and Authorities, the declarations of David Spivak, Walter L. Haines, and Simonette
3 Villena, the PAGA Settlement, all papers and pleadings on file with the Court in this action, all
4 matters judicially noticeable, and on such oral and documentary evidence as may be presented in
connection with the hearing on the Motion.

5 Respectfully submitted,

6 THE SPIVAK LAW FIRM

7
8 Dated: September 15, 2022

By:



DAVID G. SPIVAK, Attorneys for
Plaintiff, SIMONETTE VILLENA



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